

EXHIBIT LL DUDUZANE ZUMA



JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE

2nd floor, Hillside House 17 Empire Road, Parktown Johannesburg 2193 Tel: (010) 214 to 0651

Email: <u>inquiries@sastatecapture.org.za</u>
Website: <u>www.sastatecapture.org.za</u>

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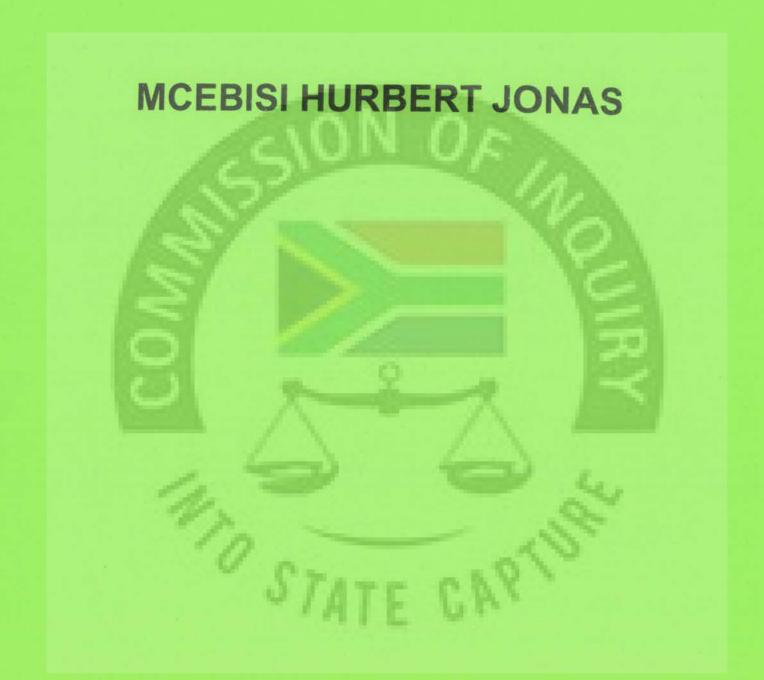
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Tel: (010) 214-0651 Email: inguíries@sastatecapture.org.za

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MR. MCEBISI JONAS- EVIDENCE BUNDLE

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STATEMENT TO THE INQUIRY INTO STATE OF CAPTURE

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MCEBISI HUBERT JONAS

state as follows:

INTRODUCTION

- I provide this statement in order to assist the inquiry into State of Capture (the Commission of Inquiry) which is chaired by Deputy Chief Justice Raymond Zondo.
- 2. I was appointed as the Deputy Minister of Finance of South Africa on 26 May 2014 and was relieved of my position of Deputy Minister of Finance on 31 March 2017. I was also, during this period, a member of the South African Parliament. I was appointed as Deputy Minister at the same time as Mr Ninlanhia Nene was appointed as the Minister of Finance. On 9 December 2015, it was announced that Mr Nene was removed as Minister of Finance and replaced by Mr Des van Rooyen. It was announced on 13 December 2015 that Mr van Rooyen was, in turn, to be replaced by Mr Pravin Gordhan as Minister of Finance. Mr Gordhan served as Minister of Finance until the evening of 31 March 2017, when he was removed as Minister of Finance and I was removed as Deputy Minister of Finance on the same day.

EVENTS LEADING UP TO THE MEETING ON 23 OCTOBER 2015

- 3. On approximately 27/28 August 2015, when I was in Luanda at an African caucus of Finance Ministers, I recall being contacted by Mr Fana Hlongwane, whom I knew relatively well telling me that Mr Duduzane Zuma would like to speak to me to invite me to an awards ceremony.
- 4. I subsequently met Mr Hlongwane during October 2015 in Johannesburg in the presence of Mr Bongani More and he told me that Mr Duduzane Zuma wanted to meet me. During the course of the conversation he mentioned that the Guptas were important to him. I indicated that I would not want to be associated with the Guptas.
- I asked Mr Hlongwane to provide me with Mr Duduzane Zuma's number. I had not previously met Mr Duduzane Zuma, nor had any previous interactions with him.
- 6. At approximately 5.30pm on 17 October 2015, after arriving in Cape Town from Port Elizabeth, I sent Mr Zuma a text message stating "Hi Cde. Tried 2 call u. Mcebisi Jonas". At approximately 5.36pm I had a short telephone with Mr Duduzane Zuma.
- 7. Mr Duduzane Zuma requested me to attend what I recall to be the South African of the Year Awards hosted by Africa News Network 7 (ANN7), on Saturday 17 October 2015, in Johannesburg. I ultimately indicated that I would not be able to attend, telling him that my schedule would not permit it. Mr Zuma said that he would like to talk to me and asked whether we could meet some time after the awards ceremony.

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- On Monday 19 October 2015 at approximately 12.38, I sent Mr Duduzane
 Zuma a text message which read "Can we talk when I [land]" in response to a
 missed call from Mr Zuma. I was about to fly from Johannesburg to Cape
 Town.
- 9. I received two missed calls from Mr Hlongwane that evening at approximately 9.37pm / 9.38pm. At approximately 9.43pm, I sent Mr Duduzane Zuma a further text message which stated "Called". I then received a call from Mr Zuma at 9.43pm about arranging a meeting and I indicated to him that I would be in Johannesburg later in the week and that it may be possible to meet then.
- 10. On 22 October 2015, I flew from Cape Town to Johannesburg. On landing in Johannesburg, I noticed that I had received a text message from Mr Duduzane Zuma which read "Good morning Sir, I trust that you made it out of the Parliament building unscathed. I tried to call, please return my call when. Kindest regards, Duduzani". I also saw that I had received a missed call from Mr Zuma.
- 11. I received a call from Mr Duduzane Zuma at approximately 9.58am on 23

 October 2015. I told him that I would be attending a meeting in Rosebank that morning and that we could meet briefly before I flew to Port Elizabeth in the late afternoon of 23 October 2015. We agreed to meet at the Hyatt Hotel in Rosebank, before I left for the airport.
- On 23 October 2015, I attended a Nedlac meeting at Nedlac House in Rosebank, which I left early.
- 13. I sent Mr Duduzane Zuma a text message at approximately 11am, to change our agreed upon time, which stated "Can we make it 1.30 same place". He

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responded by text stating "Agreed Sir". I arrived earlier and at approximately 1pm, I sent him a text message stating "Can you call me". I then received a short call from Mr Zuma at approximately 1.03pm and at 1.13, I sent a further message saying "Here already". He responded at 1.21 stating (by text) "I am on my way up Sir".

- 14. When Mr Duduzane Zuma arrived at the Hyatt hotel we had a brief discussion. He appeared quite nervous and spoke in very vague terms. He said nothing of substance, except to say that his father, then-President Jacob Zuma, liked me. After a while, I indicated that I was under time pressure. He said that the place was crowded and that he had important matters to discuss, but that he wanted other people to join the discussion and that he wanted to drive to a more private place, which he said was close by. I assumed that we would be going to an office nearby, so I said "let's go". I had received a call from Fana Hongwane while Lwas with Mr Duduzane Zuma and I told him that I was with Mr Zuma.
- 15. We drove in Mr Duduzane Zuma's car, which appeared to be a two-door Mercedes Benz. I did not know the surrounding area very well and only gathered when we arrived at our destination that we had driven to the Gupta's residence in Saxonwold. Mr Duduzane Zuma had not suggested to me when we left the Hyatt hotel that we were going to the Gupta residence or that we were to meet the Guptas. As Mr Duduzane Zuma parked his car, I noticed that Mr Fana Hlongwane had also arrived at the Gupta residence.
- 16. We went into the house and Mr Duduzane Zuma and Mr Hlongwane led me into a lounge where we sat down and started chatting. Neither Mr Duduzane

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Zuma nor Mr Hlongwane suggested that the meeting would involve any members of the Gupta family.

- 17. We had not spoken for very long, when one of the Gupta brothers walked into the room and sat down. I had not previously met any of the Gupta brothers, but I recognised him as one of the Gupta brothers from media reports. At the time, I did not know his name as he did not introduce himself, but simply started talking to me. I have subsequently looked at press articles which depict the various Gupta brothers. Based on these photographs, I am relatively certain that the Gupta brother at the meeting was Ajay Gupta; but I cannot exclude (based simply on the photographs) the possibility that it might have been Mr Rajesh Gupta;
- 18. Mr Duduzane Zuma and Mr Fana Hlongwane both remained silent while Mr Gupta spoke and did not participate in the interaction which followed, although they both remained in the room.
- 19. Mr Gupta opened the conversation by stating that "we know you" and that he had been told that I was being blackmailed by Mr Hlongwane. I replied that this was not true. He responded by stating that was not why he had called for me anyway. He said that "we" have been gathering intelligence on me including those closest to me, such as my friend, Rustum Mohamed, and my chief of staff, Mr Nkosohlanga Mboniswa. He described both Mr Mohamed and Mr Mboniswa as being "poor and useless". He emphasised that they (which I understood to be the Gupta family) have the capability to gather such information and that they had gathered a lot of information on me, which they could use against me. He said that as far as he was concerned, "this meeting never happened" and that if I were one day to suggest that this meeting had

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occurred, they would destroy my political career. I understood him to be creating the impression that they had information on me that they would use to destroy my political career, if I revealed that the meeting had taken place.

- 20. Furthermore Mr Gupta said that they were well aware of my activities and that I was working with the ANC's Secretary General, Mr Gwede Mantashe, Treasurer General and Dr Zweli Mkhize. He said that these activities were not good for me and that these were "bad guys". He expressed the view that I was part of what he referred to as a "thing" within the ANC and/or Government. I can only assume that he was suggesting that I formed part of a faction or process intended to undermine then President Jacob Zuma. I interjected and refuted his view and stated that I was nothing more or less than a part of the ANC and that my activities in the ANC and my work in Government had nothing to do with him. I asked directly what the purpose of the meeting was.
- 21. Mr Gupta said that the 'Old Man' seemed to like me and that they "have called me to check [me] out" and to see "whether you can work with us". He also said that the President was going to fire Mr Nene because he could not work with them (I understood this again to be a reference to the Guptas).
- 22. He said that "you must understand that we are in control of everything", the National Prosecution Authority, the Hawks and the National Intelligence Agency and that "the old man will do anything we tell him to do". He said that "the old man" intended appointing me as the Minister of Finance. I was shocked and angered by this statement and I said that I was not interested in becoming the Minister of Finance.

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- Mr Gupta ignored what I had said. He said emphatically that I must become Minister of Finance because that is what "we" want, by that I would have to work with them. He also said that if I worked with them I would become very rich and that he could immediately offer me R600 million. He pointed at Mr Duduzane Zuma and said that they had made him a billionaire and that he had bought a house in Dubai. He said that they worked closely with a number of people including Lynne Brown and Brian Molefe and, as a result, they were protected. He said that Mr Molefe is very safe and that his career path was very clear. He said nobody would touch me and I would be safe.
- 24. I said that I was going to leave and stood up to leave. I said that I was not interested in being the Minister of Finance and if he thought I would work with them, he would have to tell me precisely what it is that they do. At that point, he, Mr Zuma and Mr Hiongwane also stood up. I was angry at this stage and he was also emotional.
- 25. He said something along the lines of "look, do you know who you are dealing with". He was also agitated and said "you think it is illegal?" He said that everything that they do is legal and that they create jobs and contribute to the economy.
- 26. He said that at the moment "we" (which I understood to be the Gupta family) earn about R6 billion from the fiscus through various entities including Eskom, Transnet and other Government Departments. He said that they wanted to increase this amount to R8 billion and that they thought that I could be helpful in this regard. Mr Gupta said that they had determined that the National Treasury was a stumbling block for their growth and that they wanted to "clean up Treasury". He said that when I am appointed as Minister of Finance I would

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have to remove Director-General Lungisa Fuzile, Head of Tax and Financial Sector Policy Mr Ismail Momoniat, the Deputy Director General, Mr Andrew Donaldson and the then Chief Procurement Officer, Mr Kenneth Brown. Further, he said that they would provide me with replacements for all of these people and that they would provide me with the necessary support including advisors.

- 27. I said that I was under time pressure and again encouraged him to set out precisely what they do, suggesting that this would allow me to take an informed decision. For the sake of clarity, my question was not intended for the purpose of seriously considering his offer, but was intended as a provocation to seek to draw him out in the context of the unfolding state capture phenomenon that we were, at that point in time, trying to make sense of and to determine who was involved.
- 28. I began to walk away and Mr Gupta motioned to both Mr Zuma and Mr Hlongwane to hang back. As I was walking to the door of the house, Mr Gupta directed me to a bar area and said that they were serious about offering me the R600 million and it would be deposited into an account of my choice or that they could open an account for me and I could "stash it in Dubai". He said that to show they were serious "I can give you R600 000 now and asked "do you have a bag or can I give you something to put it in". He seemed to want to show the cash to me. I said to him that I did not want money and I thought he was going to tell me what it is that they do.
- 29. I said that I was in a rush to catch my plane, but that I was returning from the Eastern Cape on Sunday and he could provide me with a list of what they do on Tuesday of the following week. He told Mr Duduzane Zuma to arrange for

me to come back the following Tuesday and that he should tell me to bring a bag. I asked Mr Zuma to take me back to my car. Mr Gupta said he wished to continue his meeting with Mr Zuma and another car would take me to the airport. At the end of the meeting, Mr Gupta repeated that they had information on me and that if I suggested that the meeting had occurred, they would "kill" me.

30. I was then driven to the airport by what I assumed to be one of the Gupta vehicles.

EVENTS SUBSEQUENT TO THE MEETING ON 23 OCTOBER 2015

- 31. I was very shaken by what had happened at the meeting. Due to the sensitive and threatening nature of what had transpired at this meeting, and because of the uncertainty of the events that were playing themselves out on a national basis, I decided I would initially discuss what had occurred with the people I felt I could trust. Later that day, I contacted Minister Nhlanhla Nene and advised him that I had a something serious to tell him about. He was on his way to KwaZulu-Natal, so we agreed to meet on his return on Sunday, 25 October 2015.
- 32. Upon landing in Port Elizabeth, I spoke telephonically to Mr Hlongwane and expressed my disgust about what had transpired, particularly in respect of the manner in which he had deliberately misled me. I told him he should never again do what he had done to me or to any other person. He suggested we should have a meeting to discuss what I had raised.
- 33. On Sunday, 25 October 2015, Mr Nene contacted me and suggested we should meet the following day, Monday 26 October 2015.

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- 34. I returned to Johannesburg from Port Elizabeth on Sunday 25 October 2015 at approximately 4.37pm. I spoke to Minister Pravin Gordhan and asked if I could see him to seek his advice and guidance. I went to his house in Pretoria and when I arrived, he was sitting with his wife. Given that his wife was present, I decided to provide him with a high level outline of what had happened. I told him that I had been invited to a meeting and that the individuals present at the meeting had told me that I would be made Minister of Finance and that they had offered me money and that I had refused their offer. I was still deeply shocked, angered and dispirited and I told him that I thought I should submit my resignation the following day.
- 35. Mr Gordhan suggested that I should not resign at that time, but should wait until we had some time to consider the matter further and get into more details and also to decide what would be in the best interests of the country. I told him that I would discuss the matter with Mr Nene, which he said was important. We agreed to keep the matter confidential.
- 36. I received three missed calls from Mr Hlongwane between 6.49pm and 7.57pm, as well as one missed call from Mr Duduzane Zuma at 8.18pm.
- 37. On Monday, 26 October 2015 at 6.58am, I sent Mr Duduzane Zuma a text message stating "Hi broer. Can we postpone today's session to Thursday. did not realise how hectic my official schedule is. Jonas". I did not meet him again.
- 38. At 8.22pm, on 25 October 2015, I received a text message from Mr Duduzane Zuma in which he stated: "Good evening Sir, I tried to call. Please return my call when you can".

39. On the moming of 26 October 2015, I met and briefed Mr Nene. We met on the balcony of my National Treasury office because we were concerned that our offices might be being monitored. I told Mr Nene exactly what had happened at the Saxonwold meeting, including that I had been told in clear terms that he was to be removed from office. He suggested that he should resign, because he was going to be fired in any event. Having considered Mr Gordhan's advice, and in the face of the open hostility towards National Treasury in the Cabinet, especially from the then President, and particularly in relation to the nuclear procurement programme, I told him that I thought we should remain in our positions and "fight on", if only to hold the line for the finance department. He agreed with my proposal in this regard.

October 2015 - December 2015

At this point in time, I did not see any point in reporting the matter to either the police or the Hawks, as I believed that these institutions were seriously compromised and I saw no reasonable prospect of this matter being properly and fairly investigated. This was both at a general level (by then the former President Zuma had secured a loyal intelligence and security apparatus by weeding out most of the experienced and technical capability in the various institutions) and at a personal level (given the threatening statements which had been made by Mr Gupta during the course of the meeting). I anticipated that any reporting of the matter would simply result in reprisals against me. My concerns in this regard, were subsequently amply underscored by my later interactions with Major General Mnonopi in relation to complaints which had been laid by Mr David Maynier of the Democratic Alliance and Mr Dennis Bloem of COPE.

- 41. My experience was also, to some extent, taken over by national events, which subsumed Mr Nene and me, over the period leading to the firing of Mr Nene as Minister of Finance on 9 December 2015. This time was, in my experience, one of the most intense periods in South Africa's democratic history as we in the National Treasury were trying to hold the fine, without Presidential or Cabinet support, against an economy teetering on the edge of a recession, while various crises at some of the State-Owned entities unfolded. In retrospect a number of these events appear to have been linked to the capture of various state institutions by the Gupta family. Simultaneously, the pressure on us from former President Zuma and other members of the Cabinet to approve the nuclear deal was immense, and was ultimately the trigger for Mr Nene's dismissal on 9 December 2015, after he again refused to back the deal at a Cabinet meeting that day.
- 42. I was on a flight to Port Elizabeth when Mr Nene was removed from office.

 When I landed I had messages from Mr Nene and also received a separate message indicating that the President had attempted to contact me. Mr Nene sent me a text message in which he said that the "axe had fallen" and suggested that we should meet when I returned from the Eastern Cape.
- 43. When I spoke to then President Zuma, he told me that he had removed Mr Nene as Minister of Finance and that he had appointed Mr Des van Rooyen.
 I asked him how he thought Mr van Rooyen would be capable of performing the job and cope with the financial markets. President Zuma said that I was there to help him.

- 44. After the brief tenure of Mr Des van Rooyen as Minister of Finance, Mr Gordhan was appointed as the Minister of Finance. I remained as Deputy Minister of Finance.
- 45. Shortly after Mr Gordhan was appointed as Minister of Finance, we met and discussed the various pressure points that the Treasury was facing, particularly how we would deal with the aftermath of the removal of Mr Nene and the appointment of Mr van Rooyen. We also discussed in detail in this context the events which had taken place at the Gupta residence on 23 October 2015.

January 2016 - March 2016

- 46. Subsequently, in January 2016 I had a meeting with Dr Zweli Mkhize in Johannesburg, then the ANC Treasurer General, about another matter. During the course of this meeting, he said he had heard a rumour about the Gupta's offering me an inducement to take up the position of the Finance Minister and he asked me whether this was true. I told him what had occurred and I also mentioned the role played by Mr Fana Hlongwane and Mr Duduzane Zuma in facilitating the meeting. Dr Mkhize indicated that he was shocked and advised that he noted my concerns regarding the matter including in respect of the role of Mr Duduzane Zuma.
- 47. Subsequently the Financial Times (of London) published an article on Wednesday 8 March 2016, which reported "the family also denied a claim, made to the FT, that weeks before Mr van Rooyen's appointment they had asked Mcebisi Jonas, deputy finance minister, if he was interested in the Treasury's top post at a meeting at the Gupta home. 'There have been an

extraordinary number of allegations around the Gupta family in recent weeks, several of which have involved the finance ministry,' a family spokesman says. 'To be absolutely clear: there was no meeting at all'". The article did not immediately receive a great deal of attention in South Africa, although News24 and some other online news sites reported the story on Thursday 10 March 2016. On Friday 11 March 2016 I travelled to a SADC meeting in Gaborone, Botswana which lasted until Monday 14 March 2016.

- 48. While I was in Gaborone, on Sunday 13 March 2016, the Sunday Times carried a story, which stated that "President Jacob Zuma's son, Duduzane was present when members of the Gupta family offered Deputy Minister Mcebisi Jonas then-finance minister Nhlanhla Nene's job, the Sunday Times can reveal".
- 49. I arrived back in South Africa on Monday 14 March 2016 and noticed that I had calls from Mr Zizi Kodwa the then spokesperson of the ANC. I went to Luthuli House to discuss the matter with him. He agreed that I should make a statement explaining what had happened.
- 50. I released a media statement on Wednesday 16 March 2016. Before doing so, I discussed what I was going to do with the then Secretary General of the ANC, Mr Gwede Mantashe, who supported my stance in this regard. For ease of reference, I have quoted the content of the statement below:

"MEDIA STATEMENT BY DEPUTY MINISTER OF FINANCE MR. MCEBISI JONAS (MP)

I have decided to respond to and clarify certain questions that have been in the public domain recently. I do so in accordance with my conscience, my political values and the best traditions of my organisation, the ANC, of which I have been a member since my early teens.

I regard our Constitution as being sacrosanct and it embraces the values that South Africans struggled for, and what we live by. I was appointed Deputy Minister in terms of the Constitution by the President of the Republic. Any practice that conflicts with the prescripts of the constitution must be challenged in the interest of our democracy and the accountability we have to our people. The ANC that we have been and continue to be proud members of, has offered us the opportunity to serve our country, an honour that I do not take for granted. My historical commitment to the liberation of our people has not waned.

My daily decisions and actions are informed by the understanding that true political freedom will be achieved through deliberate and active management of a transformed yet inclusive growing economy. The current economic climate presents many risks for our country, which requires responsible leadership to avoid a fullblown crisis. We have to unite on the key issues relating to managing the macroeconomic risks, while urgently unlocking new sources of growth and job creation. South Africa requires "all hands on deck".

The extent to which we are able to navigate the current macro-economic challenges, restore investor confidence and rapidly stimulate growth, will depend on heightened levels of political leadership.

The narrative that has grown around the issue of "state capture" should be of concern to all responsible and caring South Africans, particularly those of

us who have accepted the task to lead our people. We cannot afford to ignore the obvious impact these sentiments may have on our country and the resultant potential of undermining our moral authority. Neither can we afford to allow the attempts to capture the state to divert us from dealing with the challenges that our country faces. We have made to our people through our public pronouncements and private conduct.

Therefore let me state the facts on the matter of whether I was approached by nongovernmental individuals in respect of the position of Minister of Finance. Members of the Gupta family offered me the position of Minister of Finance to replace then. Minister Nene. I rejected this out of hand. The basis of my rejection of their offer is that it makes a mockery of our hard earned democracy, the trust of our people and no one apart from the President of the Republic appoints ministers. Let me also place it on record that there was no discussion between the Deputy Secretary General of the ANC Ms Jessie Duarte and myself on this matter.

I have hesitated to speak out publicly on this matter until now, but I feel it is no longer possible to remain quiet. Of primary concern to me is that this issue has a real danger of diverting attention away from the real and urgent challenges we face as a country.

I am committed to good governance, abiding by the constitution of our country and being accountable to our people who repeatedly express their confidence and trust in us, election after election. It is this constant state of awareness and consciousness drummed into most of us throughout our service in the national democratic revolution led by the ANC that has provided us with the moral capital and tools to apply sound judgement to

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navigate challenges that emerge in the natural course of societal leadership.

It is only through these values and moral covenants that I serve my organisation, my fellow country men and women, my beloved South Africa.

Finally, I remain confident that the challenges that we face as a nation will be overcome if we collectively use our efforts for the benefit of all. I am resolute in playing my part in preserving the integrity of National Treasury as an institution in my capacity as Deputy Minister. I'm also committed to in making my contribution towards building a prosperous South Africa led by the glorious movement of our people, the African National Congress."

Issued on behalf of the Ministry of Finance

Date: 16 March 2016"

INTERACTIONS WITH THE HAWKS

- 51. A further article appeared in the Sunday Times on 3 April 2016, which reported that I had alleged that the Gupta family had offered me the position of Minister of Finance in the place of Minister Nene in 2015.
- of the Priority Crime Investigation (the Hawks) pursuant to a complaint which had been made by Mr Bloem and Mr Maynier. He asked me to provide a statement and said that "we need a statement from you to help us finalise this case". He later told me that they were working on a statement for me and that Major General Mnonopi would contact me in this regard.
- 53. I was subsequently approached by Major-General Mnonopi, also of the Hawks.

 She initially phoned me on 20-June 2016 and informed me that she was

investigating the complaints which had been laid by Mr Bloem and Mr Manier. She said that the complaints related to allegations of corruption and that the complaint by Mr Manier referred to the Sunday Times article of 3 April 2016 and the complaint of Mr Bloem referred to my media statement.

- 54. She said she was coming to see me at the Treasury with a prepared statement. I called Mr Max Boqwana, my attorney to ask him to be present at this meeting. Major General Mnonopi told us that this was a "DA matter" and that I did not want to help the DA and that they wanted to kill the case. She said that the statement had been settled by an Advocate who was a prosecutor (I assumed within the National Prosecution Authority), who believed that it would kill the case. She said to us that "we, need your statement as a formality as there is no case here, it is necessary in order for us to close the matter. Your statement must state that you are not a witness for anyone and that you do not want to make a statement as such".
- ANNEXURE 'A' and the draft statement contained the following paragraphs "During our engagement she informed me that I am cited as a witness in both cases and for that reason, a detailed statement is required from me. I responded to her that I am not prepared to submit any statement as I never opened any case against anyone and I don't intend opening any, further, I'm not a witness to any person. We (the investigating officer and myself) later made an agreement to meet for such an affidavit. Today I met with the investigating officer as arranged and I still maintain my position that I don't have any statement I this regard. That is all I wish to say".

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- 56. I refused to sign the prepared statement which she had brought with her. I was, at that point not surprised by the approach adopted by the Hawks, given the extent to which I believed the institution to be compromised. I did not accede to the request that I should not provide an affidavit. On 19 July 2016, I provided the Hawks with a short affidavit confirming the content of the media statement which I had made on 16 March 2016.
- 57. The Directorate of the Priority Crime Investigation (The Hawks), through Major General Minonopi then subsequently requested me to respond to certain specific questions on 5 September 2016 (followed up with an e-mail on 20 (September 2016). I accordingly provided a supplementary affidavit which was signed on 2 May 2017 and contained the following statements:
 - 57.1. The purpose of the offer was not communicated to me:
 - 57.2. Mr Ajay Gupta was present at the meeting which was held on 23 October 2015;
 - 57.3. The other persons present at the meeting were Mr Duduzane Zuma and Mr Fana Hlongwane;
- 57.4. As stated in the Statement submitted to the Media, the only person who spoke was Mr Ajay Gupta;
- 57.5. There are no records of the meeting of which I am aware;
- Duduzane Zuma and from there Mr Duduzane Zuma suggested a more quiet place which transpired to be Gupta's residence, though I did not become aware of this until after arriving at the premises;

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- 57.7. I was contacted telephonically to arrange the meeting; and
- 57.8. the meeting was scheduled at the Hyatt Hotel and moved to the Gupta residence as stated above.

CONCLUSION

58. I have reflected in this short statement what appears to me to be the relevant facts. However, I am prepared to provide further detail should it be required and also reserve the right to amplify and supplement this statement.

Signed:

M. H. Jonas

& August 2018

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Meeting held between the Public Protector South Africa & Mr Mcebisi Jonas 11 August 2016

[Opening of Meeting // 11 August 2016]

Adv T Madonsela: Advocate Bogwana and team, thank you for this opportunity to interact with you today. We are sincerely grateful and then I understand that you haven't been well. I also do understand that we are all entering space that is not necessarily the easiest (indistinct) of whatever happened. We are here DM ... as I once spoke to you, together with Minister Gordhan, we are here to gather evidence in support of allegations of improper and unethical conduct by the President and State officials in the appointment of Cabinet Ministers, and the allegations transcend Cabinet Ministers.

> The allegation is that the Cabinet has unethically allowed non-State actors who are in business with his family, to get involved in the appointment of Cabinet Ministers and members of boards. The complaint Sir, is made by Father S Maibe on behalf of the Dominican Order, a group of Catholic Priests and the second complaint was made later by the Democratic ... by the leader of the Democratic Alliance on the 8th of March. The first complaint was on the 8th of March by the Dominican Order.

They claimed that they made investigations after the media published allegations attributed to Deputy Minister of Finance, Mr Mcebisi Jonas and former Parliamentary Portfolio Committee on Public Enterprises Chairperson, Ms Vytjie Mentor. The allegation was that the two public functionaries were offered Cabinet posts in exchange of executive decisions to favour or to benefit the business interests of the Gupta Family. Then in particular it was reported ... in

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Family was interested in acquiring a route in the SAA, a route to India by the SAA and that her appointment was supposed to be a condition to that. At this stage DM, we are at the stage of gathering evidence. However, we are still putting you on the record. I spoke to you when I spoke to the Minister of Finance, I didn't put you on the record at that time. I was just getting a mind map of what happened.

We have now since interviewed Ms Mentor extensively on the record and we have started with her investigation in terms of our other areas of gathering information. Because of that we would like to put you on the record, Sir and secondly, if you don't mind we would also like to put you under oath. We are grateful that you brought Advocate, that you brought Mr Boqwana, who I hope will not advise you otherwise, so if it is okay for you? So these are the two complaints basically.

The main complaint against the President is that he has acted in violation of the Executive Ethics ... I mean in violation of the Executive Members Ethics Act by basically outsourcing his job as Head of State and getting other people to get involved, but there is also an allegation of corruption in that these State positions are being dispensed for gratification, you have to do this so that you can receive this. So there are two Acts that are alleged to have been violated, the Executive Members Ethics Act and the ... we now have also ... it turns out that we also have a third complaint from a Mr S Kochman, who also alleged ... made similar allegations based on





media reports on this matter and then asked us if we could investigate. Just to indicate that the Public Protector has the power to decline investigations and in respect of each case if it is in jurisdiction you can decide not to take it, if it is older than two years or even if it is current, as in this one, even if the matter is supposed to have happened recently, but if we feel that there is another institution that can handle the complaint or the report of the alleged impropriety, the Public Protector may also decline if there doesn't seem to be enough information warranting an investigation.

We are at a stage now where after the initial information gathering, where we spoke to you and we spoke to other people, and we are doing our own investigation in terms of just data collection, we are at that point where we feel firmly that we are doing an investigation, not a preliminary investigation, a fully-fledged investigation.

That being the case then Sir, I'm going to request that Adv Kanyane will take you through the oath, but before we do so, just for the record I am Adv Thuli Madonsela, the Public Protector and the person who is supervising the investigation with a view that eventually I will do the adjudication of facts, but with me there is an investigation team that is actually doing a lot of the information gathering. That is why you will wonder why did I bring this army of people. Mr Dhlamini is my Chief of Staff and Mr ...

Adv N Kanyane : Naidoo.

Adv T Madonsela: ... Adv Kanyane is the Supervisor. She is the Head of Good

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1	(Governance electing Head of Good Governance & Integrity Branch.	
2	2	She is the one who is then the overall Supervisor of the investigation	
3	ŧ	and sitting next to her are the actual Investigators. Although she is	
4	(deeply involved in the investigation, but she is still the Supervisor	
5	á	and I'm going to ask the two young Investigators to introduce	
6	3	yourselves?	
7	Mr I Naidoo : 1	I'm Inbin Naidoo.	
8	Adv T Madonsela :	Yes, Sir?	
9	Mr F Lekubo :	I'm Frans Lekubo.	1
10	Adv T Madonsela:	Thank you, Sir and Advocate Sir, would you want to introduce	
11		yourself?	
12	Adv M Boqwana :	I am Max Boqwana, representing the Deputy Minister.	
13	Adv T Madonsela :	Right. Before we then go and ask the Deputy Minister to state his	
14	NEA	name in full under oath, I just want to clarify what we have said to	
15		you before is, in our investigations you have the right to legal	
16	1	support, you have the right to legal assistance, but we prefer to speak	
17	1/2	to you, because we still it is an internal Government process and	
18	16	we want the person who has the information to speak themselves on	
19		their own, but if there is any legal technicality you think we are	
20		overstepping or there is something that you think needs legal clarity,	
21		you are free to indicate to me that you would like to interrupt the	
22		proceedings so that you may advise the DM or so that you may clarify	
23		something, or that you may want him to reconsider anything that he	
24		would like to tell us. You are just coming here as a you are not the	
25		Complainant. You are just coming to us as somebody who under the	



Meeting held between the Public Protector South Africa & Mr Mcebisi Jonas 11 August 2016



	Act you are coming through a subpoena, because under the Act you
	are somebody who has information that may assist us in this
	investigation. Can we then take the Deputy Minister through the
	oath, Advocate Kanyane?
:	Adv N Kanyane : Thank you, Madam. Just for the record today is the 11th of August
ć	2016. Deputy Minister, could you just state your full names for the
7	record please?
, (K)	Mr M Jonas : Mcebisi Jonas.
9	Adv N Kanyane : Okay, do you have an objection in taking the oath?
10	Mr M Jonas : (No audible answer given).
11	Adv N Kanyane : Do you consider it binding or perhaps you should speak for the
12	record.
13	Mr M Jonas : Well, I don't have a problem.
14	Adv N Kanyane : Okay. Do you consider it binding on your conscience?
15	Mr M Jonas : Yes.
((5	Adv N Kanyane : Okay, if so, please put your right hand up and say, "So help me God"?
17	Mr M Jonas : So help me God.
18	Adv N Kanyane : Thank you.
19	Adv T Madonsela: Thank you, Advocate Kanyane. Deputy Minster, we are going to
20	maybe go through a set of questions with you and perhaps the first
21	one is to just confirm that you are the Deputy Minister of Finance?
22	Mr M Jonas : For now.
23	Adv T Madonsela: Unless it is something you don't know (indistinct). The second
24	question is, the allegation is that you had a meeting with the Gupta
25	Family. Did you have any meeting with the Gupta Family?



Meeting held between the Public Protector South Africa & Mr Mcebisi Jonas 11 August 2016



: Yes, I did. Mr M Jonas 1 Adv T Madonsela: When, Sir? 2 I will not look at the problem with dates now, but I can confirm the 3 Mr M Jonas date later. It is somewhere in October. I kept it on my cell phone 4 because there was a message on that day, so I could just show you 5 the ... 6 Adv T Madonsela : Okay, thank you. 7 : Not September, October. 8 Mr M Jonas Adv T Madonsela: October 2015? 9 Yeah, I think it is 21st if I'm not mistaken, but I can confirm that later Mr M Ionas 10 because I have got it on my cell phone. 11 Okay, we would appreciate it, Sir. Who was present at that meeting? Adv T Madonsela: 12 I don't know the names of these guys, the Gupta guys, but I mean the Mr M Jonas 13 meeting was arranged by Duduzane Zuma and after long messages 14 and calls requesting to see me, so I eventually agreed to see him. We 15 were supposed to meet ... I thought it was a meeting with him on the 16 message. When I arrived at the venue of our meeting, which was at 17 Hyatt Hotel in Rosebank ... 18 Okay, Adv Tshiwalule is an Can we have a pause? Sorry Sir. Adv T Madonsela: 19 Investigator who is sort of my personal Investigator, who works with 20 me on all investigations that I'm involved. Right, please proceed 21 then, Sir. 22 At Hyatt Hotel he suggested that ... after almost like talking things Mr M Jonas 23 that were not very clear and I was getting irritated, I said, "Chief, I'm 24 rushing to the plane", so he said, "No, there are other people that you 25





1	have to meet". I said, "Where are they?", he said, "Let's go".	So we
2	jumped into his car and we went to this compound somewhe	ere in
3	that area, it is an area, which in that place then I found	Fana
4	Hlongwane, I think (indistinct) and then it was Duduzane, and w	ho is
5	this	
6	Mr F Lekubo : Ajay.	
7	Mr M Jonas : Ajay. Yeah, I think it is Ajay. I just saw him on pictures. I didn't	even
11(1)	know his name (indistinct) at the time. Just looking at the pict	ıres,
9	thereafter I realised it was Ajay who was there.	
10	Adv T Madonsela: Okay, the person who picked you up was	
11	Mr M Jonas : Duduzane Zuma.	
12	Adv T Madonsela: Duduzane. Where did he pick you up from?	
13	Mr M Jonas : At Hyatt. I was supposed to meet him at Hyatt. I mean I said, "L	et's
14	meet at Hyatt and have our discussion". On arrival he said, "No,	no,
15	no, I have important things to discuss, but there are other people t	hat
(()	I want to join in the discussion", so I said, "Okay, let's go".	
17	Adv T Madonsela: Okay and then you went to this other place where you found	Mr
18	Hlongwane you found him at the second place?	
19	Mr M Jonas : Yeah, as we were getting in he was moving in also, almost arriving	at
20	the same time.	
21	Adv T Madonsela: Okay. Where was that place where you found Mr Hlongwane a	nd
22	Ajay Gupta?	
23	Mr B Dhlamini : At Saxonwold?	
24	Mr M Jonas : It is Saxonwold, the compound where the Guptas stay.	
25	Adv T Madonsela: So this was somebody's house?	



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1	Mr M Jonas :	Yes.
2	Adv T Madonsela:	Was it a residence?
3	Mr M Jonas :	Yes, it is a residence, it is yeah.
4	Adv T Madonsela :	Yes. Okay, have you ever been to that house, Sir?
5	Mr M Jonas	No, never before.
6	Adv T Madonsela :	You have never been to that house?
7	Mr M Jonas	Never.
8	Adv T Madonsela:	Do you know remember what the house looks like? I'm sorry to we
9		have done that to the other witness, because we have to get a sense
10		of do you know the house, what does it look what do you
11		remember about the house, Sir?
12	Mr M Jonas :	A huge a building and there is another one on the side of it.
13	Adv T Madonseia:	So it is a huge building?
14	Mr M Jonas :	It is a huge building, a massive building and ugly, I must say.
15	Adv T Madonsela:	Strike that off the record.
16	Mr M Jonas :	There was a lot of bodyguards, that struck me. I mean there was a lot
17	1/2	of armed people around you know as we were walking in, as I was
18	1	walking in. So we sit down and
19	Adv T Madonsela:	What were the bodyguards wearing or the armed people? Were they
20		wearing any uniforms?
21	Mr M Jonas :	No, no, no, they weren't not (indistinct).
22	Adv T Madonsela:	Okay, so you went into the house?
23	Mr M Jonas :	Went into the house and then
24	Adv T Madonsela :	Where did the meeting take place?
25	Mr M Jonas :	It was I assumed a lounge.





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Adv T Madonsela: It looked like a lounge? It looked like a lounge. So we sat in that lounge and then after a few minutes of chitchat suddenly this Indian fellow chubby and then he walked in. Adv T Madonsela: The chubby one it is not the same one that we spoke about not make the material of the same one of the same of the same one of the same one of the same one of the same one	came in,
after a few minutes of chitchat suddenly this Indian fellow chubby and then he walked in. Adv T Madonsela: The chubby one it is not the same one that we spoke about n Mr M Jonas: No, that is the one.	came in,
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Adv T Madonsela: The chubby one it is not the same one that we spoke about n Mr M Jonas: No, that is the one.	ow?
6 Mr M Jonas : No, that is the one.	ow?
A COUNTY OF THE PARTY OF THE PA	
7 Adv T Madonsela : It is not Ajay?	
8 Mr M Jonas : It is Ajay.	
9 Adv T Madonsela: Ajay, okay. So you went into the house with only Duduzane?	
10 Mr M Jonas : With Duduzane, yeah.	
11 Adv T Madonsela: You sat and then Ajay joined?	
12 Mr M Jonas : Yeah, Ajay came in.	
13 Adv T Madonsela : And then Hlongwane?	
14 Mr M Jonas : Hlongwane was inside also (indistinct).	
15 Adv T Madonsela: Okay, Hlongwane was already there?	
Mr M Jonas : Yeah.	
17 Adv T Madonsela : Okay.	
18 Mr M Jonas : So we were busy chitchatting. This guy came in and he was lik	e he
just interrupted the discussion and started saying, "I have been	we
have been following you, we have been investigating you, we	know
everything about you" and so on and so on. He told me that "Th	ie old
man seems to like you" and so and so on, "so we called you ju	st to
check you out", I mean and so on and so on, "and whether you	can
work with us". The old man and they talked a little bit about	ANC
politics and (indistinct) critical with this person and that o	ther

person. Then he kind of went further to say, "You must understand that we are in control of everything. We are in control of NPA, we are in control of the Hawks, we are in control of NIA, so we are in full control and the old man will do anything that you tell him to do". So I was actually a bit puzzled, taken aback and he said to me, "So the old man wants to make you the Minister of Finance". So I said, "Unfortunately I don't want to be Minister of Finance".

because we want that and you would have to work with us, and if you work with us you will be very rich, and we can immediately offer you 600 million". He pointed to Duduzane and said, "He has a house now, we built him a house in Dubai. He has already been there. The offer is safe, whatever happens to you is safe" and so on. So he went on really in that kind of fashion. So I said to him, "Listen, I think I have to go, but let me just assure you I am not interested in working for you" and he kind of ... it became a bit emotional and I think (indistinct) at that point and he said, "Listen, do you know whom you are dealing with?".

So I stood up at that point and so he followed me. Just as I took a few steps he followed me and everybody stood up. It was like ... I must confess at that time he was on the verge of punching me in the face, but I took a few steps and then he says to me ... and it struck me that let me go back, let me turn, I said, "Listen, by the way what do you do? Maybe it is easy to work with you, but tell what you do?". So he said, "At the moment" ... and this guy sounded very stupid I must



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say, because he said, "At the moment we have about 6 billion from Fiscus in different sources that we are getting from Fiscus, 6 billion. We want to push it to 8 billion and we think you can be helpful in that regard". So I said, "Can I suggest something?". I asked, "I will come back only when I'm not in a rush you know, break it down what exactly do you do? That would be nice to look at what you do, so that I can take a proper decision" and he said, "No, no, no, it is not ... you think it is illegal?".

He raised his voice, he said, "You think it is illegal? Every

He raised his voice, he said, "You think it is illegal? Every (indistinct) that we do in this country it is legal, we create jobs" and blah, blah, he went on. So I stood up and walked. So he followed me and pushed everybody to sit down, and he said everybody must sit down. So he followed me, he drags me into another ... I thought it was a bar. He dragged me into this bar, he says, "Do you have a bag? I can give you 600 000 now". So I said, "Listen, I don't want money, I don't want your money and I'm leaving now and I'm rushing for a plane you know, so let's talk when you are ready.

Tuesday I'm coming ... I'm coming back from the Eastern Cape on Sunday, we can meet next Tuesday, so that you give me an outline of exactly what exactly do you do?". He said, "Okay, okay, okay". He calls Duduzane, he says, "No arrange that he comes back on the Tuesday, tell him to bring a bag". So I walked out and said, "Duduzane, can you take me back to my guys?" and I ... so they gave me this ... they said, "No, no, no, Duduzane is still ... they are still

having a meeting", so I should jump into another car. So I left that place in that car, but I phoned Nene immediately actually after that. I said, "Hey, I want to talk to you, man, there is something strange that happened". Unfortunately Nene had left for KZN, so I said, "I will see you on Sunday", but we eventually met on Monday. So I gave him the account, I said, "Listen chief, these guys told me in no uncertain terms that we are going" and I just gave him a rough outline.

Just to go back, on Sunday, because I was thinking let me test this thing with somebody, because in my mind I was still not resigning at the time, so I went, I phoned Pravin. He was in (indistinct) at the time, so I said, "Please can I quickly see you?". So I went to him, I just gave him a broad outline, saying, "Something happened" and in broad terms, "This is it and I'm thinking about just tomorrow submitting my resignation and move out of this thing".

So he said, "No, no, no, you can't do that, you can't do that. Let's just sit and wait and see what happens". So on Monday I informed Nene about the incident and so on and so on, so he equally jumped and said, "I want to resign". I said, "No, no, no, you can't resign. Let's stick around and see how this thing goes". So that is in a nutshell and I can give you the dates I think, and you can see there a couple of texts from Duduzane, etcetera.

Adv T Madonsela:

this.

Okay, can you show us any texts from Duduzane? Are you able to take screenshots of the texts?

24 Mr M Ionas

: Yeah, I can do that for you. I will give you my phone. I can do it after

1-11 1-1 1-10-1-10-1



34

1			and this guy says, "You will have to come in our car", so I said, "Fine",
2			you know. I thought it made sense you know, I jumped into his car.
3	Mr F Lekubo	;	Do you remember the type of car he was travelling in?
4	Mr M Jonas	i.	I don't even know cars. I remember the doors opening this way.
5	Mr F Lekubo	:	A silver (indistinct)?
6	Mr M Jonas	:	A white (indistinct).
7	Mr F Lekubo	:	Funny opening of the door?
9.8	Mr M Jonas	:	Yeah, funny (indistinct).
9	Mr F Lekubo	:	Seats how many people, just the two of you?
10	Mr M Jonas	:	Two people.
11	Mr F Lekubo	:	Only two people sit in the vehicle?
12	Mr M Jonas	:	Yes.
13	Mr B Dhlamini	:	Have you been in that car?
14	Mr F Lekubo	:	I have seen him around Jo'burg with it, yeah.
15	Adv T Madonsela	a :	Well, but you can't assume that it is the car, he has to be the one who
16	11		concluded (indistinct).
17	Mr F Lekubo	ŀ	No, no, absolutely.
18	Mr M Jonas	:	No, it is a Mercedes Benz, it is creamish/whitish I think, yeah.
19	Adv T Madonsel	a :	Is that the creamish Mercedes Benz is the one that took you from
20			the Hyatt?
21	Mr M Jonas	:	Yes, to that house.
22	Mr F Lekubo	•	And at the compound any indication that the old man was there?
23	Mr M Jonas	:	No, he wasn't there. Well, I didn't think he was there. I think it was a
24			strange meeting, in a sense that only when these guys came in, that
25			is the level of control that he had, he was the only one who spoke.



Adv T Madonsela: He was the only one who spoke? 1 2 Mr M Jonas Yeah. Adv T Madonsela: Young Mr Zuma didn't say a thing? 3 : He didn't say a thing. I mean he kept on referring to him, pointing to 4 Mr M Jonas him to say (indistinct) this guy was sitting there like as if he is a 5 zombie, I mean and then he was making references to his father. He 6 was like completely like ... I was really puzzled, I must say I was 7 taken aback. So you could see I mean this guy was like in command I 9 mean, but very stupid I must say though. Adv T Madonsela: What would help DM, is we would need the cell number of Mr Zuma, 10 11 the young one. 12 Mr M Jonas We can give you (indistinct). Adv T Madonsela: 13 And then we will then see if there is a correlation. The second thing that we would like to know is who asked for that meeting? You have 14 15 just said it was him who had requested the meeting? What happened, Fana phoned me a couple of weeks before that and I Mr M Ionas know because I was kind of going somewhere with a friend of mine, so (indistinct) to see him. So we spoke a little bit and so on and so on, 19 and then we left, he didn't saying anything serious about that. Then 20 he called me to say Duduzane wants to talk to me. So I said to him, 21 "No, give him my number" and at the time my interpretation was that 22 ... it was when I eventually spoke to him, he said, "No, no, no, we want 23 to invite you to the awards". I think there was some awards. So 24 again if you see in my text I said, "Okay, I'm going, I'm coming to your 25 awards", but I thought about it and ...



1	Adv T Madonsela :	Who offered the awards, was it Zuma?	
2	Mr M Jonas :	Duduzane.	
3	Adv T Madonsela	Duduzane, okay.	
4	Mr M Jonas	Yeah and then he said, "No, we can talk there", so I said, "Okay", but	
5		then I decided not to go to that thing. I sent him a text to say, "Listen,	
6		I'm unable to go to your thing" and that is when he then called to say,	
7		"No, it is important that we meet". So I think a week passed if I'm not	
8		mistaken, but he was like really consistent, I mean, "We need to talk,	
9		we need to talk", yeah.	ţ
10	Adv T Madonsela	: Yes?	
11	Adv N Kanyane	: Yes, PP. DM, you ended up at where you then called you had a	
12	Part	meeting with Minister Nene on the Monday?	
13	Mr M Jonas	: Yeah.	
14	Adv N Kanyane	: I'm also interested in what happened thereafter?	
15	Mr M Jonas	: Look, I mean there was look, in my mind I kind of waited and then	
,16	10	until Nene was fired, so it is	
17	Adv N Kanyane	: Yes, was that in December then?	1
18	Mr M Jonas	: Yes, it was in December and	
19	Mr B Dhlamini	: 9/1 2 ?	
20	Adv N Kanyane	: Yes.	
21	Mr M Jonas	: I did raise it with one or two people, this thing, but I mean in my	
22		mind I thought there is no (indistinct). Quite frankly I was at bit	
23		look, I mean the best you can (indistinct) is just to keep this thing and	
24		then I got Pravin told me that "You know that this thing is in the	
25		media?" and then I said to him at the time when he said, I said,	



	1 "Really?", I said, "We will see what goes on".
	2 Adv T Madonsela: When did it break in the media? This thing happened in October?
	3 Mr M Jonas : Break in I don't know.
	4 Adv T Madonsela: It broke after Minister Nene was already fired?
	Mr M Jonas : Yes, yes, yes.
	Adv T Madonsela: Do you remember exactly when did you go?
	Mr B Dhlamini : We have got the dates, it is totally different. The first one is the
il e	finance on the Financial Times on the 9th of March.
9	Adv T Madonsela: 9 March?
10	Mr B Dhlamini : Yeah and then the second day it was
11	Adv T Madonsela: Was that the first time the story had broke in the media?
12	Mr B Dhlamini : Yes.
13	Adv T Madonsela: On 9th of March. When did we have the judgment at the Con Court?
14	Adv N Kanyane : No, it was in February. The court was in February.
15	Adv T Madonsela: No, no, the judgment?
.110	Adv N Kanyane : The judgment was then in March.
17	Adv T Madonsela: Oh, okay, the court was in?
18	Adv N Kanyane : In February, yeah. It was on the 8th or 9th.
19	Adv T Madonsela: 8th or 9th of February?
20	Adv N Kanyane : February and it was at the end of that month when we got judgment.
21	Adv T Madonsela: Okay, no, no, but the day we went to court was Monday, 8th of
22	February?
23	Adv N Kanyane : Court, yes.
24	Adv T Madonsela: Okay. No, then I related this there is an incident that I had that I'm
25	trying to see whether it had anything to do with this, but I will just





1		pass it through the investigation team. Okay.
2	Mr M Jonas :	So when it started I mean I first heard that there is going to be
3		there are Journalists who have the story. At the time I just said,
4		"Well, I mean it happened", so you know and then there was the
5		article. So I decided I mean when the article came out we
6		discussed it a little bit and I took a view that look, you can't go and lie
7		and say it never happen. It is impossible, you can't do that. So you
8	4	might as well acknowledge that it did happen as it were. So there
9	(A)	was a bit of a discussion, we consulted (indistinct) and I said, "Look,
10	ASI	we will cross that bridge when we get there".
11	Adv T Madonsela :	So you never consulted anyone from the ANC at all?
12	Mr M Jonas :	I wouldn't say I consulted. I did tell the ANC, I did
13	Adv T Madonsela:	Did you tell the General Secretary?
14	Mr M Jonas :	We spoke with the General Secretary when it was reported in the
15		media.
16	Adv T Madonsela :	Well, (indistinct) did you ever tell the President that these people
17	190	were having something (indistinct)?
18	Mr M Jonas	I still don't see the point now, I didn't see it then.
19	Adv T Madonsela	You never so you never ever spoke to him about whether or not
20		those people had his permission to
21	Mr M Jonas	: No, I didn't, I didn't.
22	Adv T Madonsela	: Did you believe they have been sent by him?
23	Mr M Jonas	: Look, I mean I wouldn't to be honest I never thought about it, I
24		never thought about it in that sense.
25	Adv T Madonsela	: And then had the President ever indicated he was considering you as

Mr M Jonas : Not really, not really. Look, I get on well now I used to get on well with him, so. Adv T Madonsela : Pardon? Mr M Jonas : I used to get on well with him, you know. Adv T Madonsela : Yes, but at no stage did he ever say Mr M Jonas : No, no. I know that he did complain about Nene a lot. Adv T Madonsela : Did he complain to you? Mr M Jonas : Yeah, he did, he did. Adv T Madonsela : Okay. What were the things that the President Adv T Madonsela : Sorry, just a minute. What were the things that the President had complained about? Mr M Jonas : No, you know the biggest issues I mean at the time was they are genetic issues to begin with, I mean the issues that relate to the role that Treasury plays. So they were always at loggerheads obviously with all departments and one of them is that you have to manage expansion of departments, sometimes we can be heavy-handed in that. I mean the biggest area was the issue of nuclear procurement and again I mean that has been a big issue between Treasury and so and so on. So you have got those and there are many others also I think which could be a story for another day, but I'm saying Adv T Madonsela : Yeah. No, I just want to know which ones were regular (indistinct), it was just it was the nuclear? Mr M Jonas : That the nuclear was the whole thing and the handling of the nuclear		
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25 Mr M Jonas : That the nuclear was the whole thing and the handling of the nuclear	24	was just it was the nuclear?
	25	Mr M Jonas : That the nuclear was the whole thing and the handling of the nuclear





1		thing, the way we were doing it and the approach that was being
2		taken by others, and so on and so on.
3	Adv T Madonsela:	Yes. Was there any complaint about SAA at all from the President?
4	Mr M Jonas :	No, no, no.
5	Adv T Madonsela :	It was just the nuclear?
6	Mr M Jonas :	Yeah.
7	Adv T Madonsela :	Okay. Okay, Advocate Kanyane?
8	Adv N Kanyane :	I wanted to ask, the Deputy Minister spoke in the past tense when
9	A	he
10	Mr M Jonas	With what?
11	Adv N Kanyane	When you were referring to your relationship with the President.
12	Mr M Jonas	No, I haven't really engaged him, to be honest, since the time I
13	P261	mean
14	Adv T Madonsela	: Of (indistinct).
15	Mr M Jonas	: I mean we kind of greet and say, "Hi, how are you?" and so on. We
, 16	10	have not really engaged at the (indistinct). I would be surprised if the
17	197	relations are not good I think, yeah, I think so.
18	Adv T Madonsela	: That for me is a direct question, after the story broke and you issued
19		the statement, did the President ever call you and ask you
20	Mr M Jonas	: No, nothing.
21	Adv T Madonsela	: about these people that used his name and offered you a job, and
22		ask you who are these people and is there anything he can do about
23		it?
24	Mr M Jonas	: He didn't ask.
25	Adv T Madonsela	: (Indistinct) these people in the event it is true. He never asked you if

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Meeting held between the Public Protector South Africa & Mr Mcebisi Jonas 11 August 2016

1 it was true? 2 Mr M Ionas : Never called me or whatever. Adv T Madonsela: If there was anything he could do about it? 3 Mr M Ionas 4 No. 5 Adv T Madonsela: Who asked you ... did anybody in authority who are in the ANC just ask you to assist, to clarify if there was this (indistinct) and if there is 7 truth in it? Well, this thing was in the media. Gwede called and I must say that Mr M Jonas even the day I told him ... in fact initially I said to him, "Listen, I didn't 10 talk to you because this thing is in the media already and the chances 11 are you guys might want ... might not want me to say it happened, and I want to tell you now I'm going to defy you, because I'm going to 12 say it happened". So he said, "No, no, no, we can't say that and go 13 14 ahead and tell the truth, if it happened it happened". 15 After that I said, "Let's talk". I mean so we talked about it. I mean we met at a meeting just a day ... on the day of releasing the statement I just gave him the broad outline of what I intend to say 18 and I gave him a bit of a picture of what exactly happened. So he was comfortable, he said, "Go ahead" and then Zizi Kodwa also is another one I gave detailed (indistinct) to, and they all said, "No, go ahead and release the statement". Adv T Madonsela: Mr F Lekubo If I may ask? Adv T Madonsela: Yes. : DM, just to take you back to the concourse events, (indistinct) it was Mr F Lekubo





1			Duduzane, you say it was Fana Hlongwane and then Ajay came in to	
2			speak to you. Was there anybody else in there?	
3	Mr M Jonas		No, I don't remember no, there was nobody else.	
4	Mr F Lekubo	:	And then just to understand, you had not been talking to Duduzane	
5			prior to that meeting? You had spoken to him because he was	
6			introduced to you by Fana Hlongwane, Hlongwane called to say	
7			Duduzane wanted to speak to you?	
8	Mr M Jonas		Yeah, initially it was in relation to the awards if I remember.	.
9	Mr F Lekubo	:	The awards, yeah.	10
10	Mr M Jonas	:	Then I realised thereafter that actually there was something	
11	PSI		beyond	
12	Mr F Lekubo	:	It was something but prior to that you had not had communication	
13	1		with him?	
14	Mr M Jonas	;	No, no.	
15	Mr F Lekubo	:	Okay, alright.	
16	Adv T Madonsela	:	Did you know him?	
17	Mr M Jonas	:	No, no.	
18	Adv T Madonsela	d	You didn't know Duduzane at all?	
19	Mr M Jonas	:	No.	
20	Adv T Madonsela	:	Was that the first time you ever had a conversation with him, at the	
21			Hyatt?	
22	Mr M Jonas	٠	Yeah, it was the first, apart from the telephone call.	
23	Adv T Madonsela	:	Apart from arranging the meeting?	
24	Mr M Jonas	:	Yeah.	
25	Mr F Lekubo	:	And I presume you knew Hlongwane beforehand. Did you were	



	1	you aware that he had a relationship with the Guptas?
	2 Mr M Jonas	: No, I didn't. I mean I suspected that they I always assumed they
	3	hated each other, so it was news.
	4 Mr F Lekubo	: Okay, when you got the information?
:	Mr M Jonas	: Yeah, it was new.
(Mr i Naidoo	: Sorry. You said you raised this with a few other individuals after it
7	1 1	happened?
1 8	Mr M Jonas	: Yes.
9	Mr I Naidoo	: Okay. One, are you willing to give us their names and do you think
10	AS	they will cooperate with us?
11	Mr M Jonas	: No, I wouldn't give you their names.
12	Mr i Naidoo	: Okay, no problem.
13	Mr F Lekubo	: And then lastly, when Ajay spoke about obviously his offer, you say
14	1	he mentioned a number of things, people in the ANC that need to
15	1	understand that they are in charge, they control all these institutions.
(5	4	Did he give practical examples and is there something that he
17		indicate that he want (indistinct)?
18	Mr M Jonas	: Well, the person that is (indistinct) people by the way, Brian Molefe
19		(indistinct) Brian and they said Brian, nobody would ever do
20		anything to Brian, he is so safe and his career path is very clear.
21		Then Lynne Brown I think is another person that he mentioned and
22		so and so on. Of course I mean he mentioned institutions after that
23		and he said the institution I must say that at the beginning a little
24		bit of a rough thing when we started, because he started by saying
25		when he said they followed they had been following me and so he





1		started by saying that I am there is a suspicion that I work with	
2		Gwede, so I took him on on this thing. I said, "Listen, I'm nobody's	
3		person in any way" you know and so on and so on, so that was	
4		actually at the beginning.	
5	Mr F Lekubo :	Did he mention what he wanted from you over and above obviously	
6		"We we are offering you a specific position"?	
7	Mr M Jonas :	No, this guy was very blunt, he detailed it there, he detailed it.	
8	Mr F Lekubo :	Oh, it is (indistinct)?	
9	Adv T Madonsela:	So what did he say, what was the quid pro quo?	1
10	Mr M Jonas :	The guy was saying that look, they want to take as I'm saying they	
11		said they have about 600 6 billion at the moment, they want to	
12		increase it to 8 billion from Fiscus.	
13	Adv T Madonsela :	But where is it going to come from?	
14	Mr M Jonas :	That (indistinct) discussion, but let me continue and it comes from	
15		Eskom, Transnet, as well as some other departments and so on and	
16	10	so on, this 6 billion that they have, they want to increase it to	
17	90	8 billion.	(
18	Mr F Lekubo	So that is the entire procurement from the State?	
19	Mr M Jonas	: The whole procurement from the State that they are in control of.	
20		Secondly, that they want to clean up Treasury, they want to remove	
21		in fact one of the things they were saying, "If you when you	
22		become Minister you would have to fire the DG" and they mentioned	
23		the people they want out actually in detail. They said the DG and	
24		then Nomo Ismail Momoniat and then the Head of Procurement, I	
25		think if I'm and then Andrew Donaldson.	

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Mr F Lekubo



Meeting held between the Public Protector South Africa & Mr Mcebisi Jonas 11 August 2016

		11 August 2016
	1 Adv N Kanya	ne : Brown? Lynne Brown?
	2 Mr M Jonas	: Brown.
	3 Adv T Madon	sela: So it was going to be the DG?
	4 Mr M Jonas	: Yeah.
	Adv T Madons	sela: And Brown?
•	Mr M Jonas	: Brown and then
_ 7	Mr B Dhlamin	i : And Donaldson.
r ik \$	Mr M Jonas	: Andrew Donaldson and Momoniat I think is another one.
9	Adv T Madons	ela: What is Momoniat, is she the
10	Mr M Jonas	: He is the Head of almost Fiscal Policy, but he is in charge of SARS and
11	1000	those kinds of things.
12	Mr F Lekubo	: Is he not the Acting Accountant General at the moment?
13	Mr M Jonas	: No, he was until yesterday.
14	Mr F Lekubo	: Until yesterday? Oh, okay.
15	Mr M Jonas	: Yeah, Ismail Momoniat who is in charge of he is probably the
5	1	longest serving person and I could I mean I could relate to that I
17		think because he is in SARS, he is the main guy from a policy taxation
18		and those kinds of things, the areas that he is and then they said,
19		"We will give you a new team". That is what they said.
20	Mr F Lekubo	: So there was no mention of specific contracts?
21	Mr M Jonas	: No, no, no.
22	Mr F Lekubo	: And then with regards to Hlongwane did they not say what they are
23		doing for him, why is he
24	Mr M Jonas	: No, no, no, they didn't, they didn't.
25	Mu II I abusha	

: They just ... okay.





Look, I will tell you when I went and when this guy walked in, all the 1 Mr M Jonas other people were not ... as if they weren't in the room. They like 2 kept quiet, I mean like as if this guy ... they are not in that room. He 3 was the only person speaking. 4 Were there other individuals that he mentioned? Mr I Naidoo 5 No, I gave you the names that (indistinct). Mr M Ionas DM, what if ... the version that has been given by Mr Duduzane Zuma Adv T Madonsela: 7 to his father, which version has been given by the father to the ANC, 8 is that yes, there was a meeting between you and Duduzane. Yes, when you met at Hyatt you had a conflict - they had said what the 10 conflict is about - but you had a conflict with Mr Hlongwane over 11 something and Mr Duduzane Zuma offered to mediate between you 12 and Mr Hlongwane. 13 Then he took you from the Hyatt to Mr Hlongwane where he 14 was going to mediate and it just so happened that when he was 15 called, wherever he was by his partner ... Ajay is a partner of young 16 Mr Zuma in Mapenge(?) and his partner called him and asked where 17 he was, and he said this is where he was and the partner came to the 18 meeting, but not to talk to you, to talk to Mr Zuma and he duly talked 19 to Mr Zuma and left. He never said a word to you, but that is what 20 explains you, young Zuma, Hlongwane and Mr Gupta being at the 21 same place. 22 That is rubbish. I never had conflict with Hlongwane. I don't have 23 Mr M Jonas conflict now, I never had then, so it is impossible. 24 Adv T Madonsela: Have you not heard that story? 25



	1 Mr M Jonas : I have heard that story. I have heard even more serious stories than
	2 that.
	3 Adv T Madonsela : Do you deny that?
	4 Mr M Jonas : No, I never had conflict with him.
	Adv T Madonsela: If you don't mind, they said you owed him money?
	6 Mr M Jonas : I know, but (indistinct).
	Adv T Madonsela: And young Mr Zuma was there to mediate.
i lg	Mr M Jonas : No, that is impossible.
9	Adv T Madonsela: It is not true?
10	Mr M Jonas : That is not true.
11	Adv T Madonsela: So before that day you didn't know young Mr Zuma?
12	Mr M Jonas : No, I didn't know him from a bar of soap.
13	Adv T Madonsela: Because as a mediator normally you would know the parties?
14	Mr B Dhlamini : You can't have a mediator that you don't know.
15	Mr M Jonas : I have never seen him, I have never Fana gave me the number and I
(1)	recall very well I was in Kangwala the first time he called me to talk
17	about this thing, that this guy wants to talk to me desperately.
18	Adv T Madonsela: So if it is true, if the ANC bought(?) that story, why would the ANC
19	have bought it then?
20	Mr M Jonas : I can't you know I have an opinion why, but I can't say. I would say
21	it off record I think. It would be a matter of opinion for me.
22	Adv T Madonsela: Not, but forgive me, I thought I had to put because that is
23	information that has been given to me.
24	Mr M Jonas : No
25	Mr B Dhlamini : That is important, we need to know that.





1	Adv T Madonsela :	Or the team also I hadn't given that storyline to you, but my other
2		source gave me that story and that is the well, that source claimed
3		that is the official version that has been accepted.
4	Adv M Boqwana :	Yeah, but I think just even the chronology of that story is very
5		clumsy, I mean it just
6	Adv T Madonsela:	Why is it clumsy, Sir?
7	Adv M Boqwana :	No, but the question is that if the very same Hlongwane because it
8	A.	is Hlongwane that says to Mcebisi, "Duduzane wants to meet with
9		you". It is not Duduzane that says, "I understand there is a dispute
10	ASI	between the two of you", but I mean why would Mcebisi agree to a
11	E	mediation by somebody that he doesn't know?
12	Adv T Madonsela	Right, it would help then DM, if we can have some kind of text that
13	Part I	show that you spoke, there was a direct link between you and
14	P.S.V	Hlongwane and you didn't need a third party to facilitate
15		communication between you and Hlongwane?
16	Mr F Lekubo	: I wonder if I could just following on that PP, that the DM have
17	14	mentioned that I think a couple of days after that he had sent a text
18		to Fana to say
19	Mr B Dhlamini	: Not phoned.
20	Adv N Kanyane	: Spoke, he said he called him.
21	Mr F Lekubo	: "Never do that to somebody else again". I mean did he respond to
22		that?
23	Mr M Jonas	: Yeah, he said, "Let's have a meeting", so I said, "There is no need for a
24		meeting".
25	Mr F Lekubo	: Oh okay, so there is that evident communication?

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Adv N Kanyane : Yeah, but he says it is a phone call. It was a phone call, not a text. 1 Mr M Ionas 2 : Yeah. Mr F Lekubo 3 : Oh, it was a phone call? 4 Adv N Kanyane It was a phone call. : The only other person ... I'm just thinking, Bongani More(?) was there 5 Mr M Jonas 6 when Fana first said we must ... Duduzane wants to see me. Adv T Madonsela : It really would help, Sir ... 7 Mr M lonas Bongani More was there. I think he can verify. Adv T Madonsela: It would help, because this is not Mr Zuma's story to me. It is a 9 totally different thing (indistinct). That is the story that was given to 10 11 the MEC. Again I haven't checked it with anybody, but I thought it is better to check it with you now, so that if we then check the other 12 people, because that for them then explains the four of you being at 13 the same place, but nullifying that there were any improper motives 14 15 behind you ... the four of you being at the same place. Adv M Boqwana : Alright, I think when we make the further submissions Sis Thuli, we can give a statement from Bongani that was ... 18 Adv T Madonsela: It would really help. 19 Adv M Boqwana : ... that he was with DM whilst he was talking to Fana first. Adv T Madonsela: Yes and anything that just shows that there has been a telecomm ... 20 we don't need the content of the conversation, but a line from you to him that shows there was a direct link between you and Hlongwane, and then after that the link with young Mr Zuma. Okay, are you aware of any offers ... okay, you have already said that you that did discuss the matter with the Minister of Finance, the then Minister of

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Finance. You also had a discussion of this matter with the Minister of GoGTA, who when I met with him, he confirmed that to me, this that was discussed at the meeting. Then I will confirm the date.

The Sunday meeting? Adv N Kanyane

Mr M lonas Yeah.

The meeting where I met with them, yes. Okay and now you have Adv T Madonsela: confirmed you never met with the ... you never discussed this matter with the President and you said you never saw a reason. Why did you not see ... so here is somebody who claims to be speaking on behalf of someone and you think that this third party is doing something improper, why wouldn't you ask the person they claim to be the principal whether or not these people were doing something

you think is improper, have his permission?

Mr M Jonas

It is not as if it didn't cross my mind, you know because it did cross my mind that I should ... I in fact was thinking seriously about doing it and I just thought about it quite seriously, and I ended up saying no, maybe there is no need. Two reasons, one was that I didn't trust that he would do anything about it. I mean Government, by the way and in the political circles I hear people saying they have been approached by these guys.

I know that, I mean there are many people who say that. I mean I cannot mention their names here, but I know they always say, "You know?". I mean it is a common thing in the system that that happens in the first instance, but the second problem I had is that what guidance was I going to take from him on a matter like that,

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	because it is his son and I thought I can't take guidance from him
	when I think he is conflicted on the matter.
	3 Mr B Dhlamini : And in any event he is the principal, so if he has to change the
	portfolio, that is within his right to do that.
;	Adv T Madonsela: Thank you, Sir.
(Mr M Jonas : It is a matter that also we discussed with Nene(?) by the way on that
~	Monday and I think both of us said no, don't do it. We also said no,
(1)	let's not do it because it just would be a waste of time.
9	Adv T Madonsela: Okay, but which then brings me to another question. Are you aware
10	of any approach by the Gupta Family to any other person about any
14	job offer?
12	Mr M Jonas : That is a difficult one I think, because we would (indistinct).
13	Adv T Madonsela: Has anybody ever told you that?
14	Mr M Jonas : Yeah, they have, but they will all deny. I mean I have seen that thing
15	today
	Adv T Madonsela: No, but tell us. We won't say you said so, if you know anybody. 1
17	know one who came to me, a former CEO of some place, who told me
18	that he is prepared to talk to me, but he doesn't want his name
19	involved and we are going to we will have to, Sir I will have to go
20	back to him to say is he prepared to work with the whole team or can
21	I get a full statement all by myself.
22	Mr M Jonas : Well, there are many, I mean this Deputy Minister of Administration
23	who
24	Mr F Lekubo : Administration?
25	Mr M Jonas : What is his name? I forget the name now, but there are a couple of





people who kind of ... from time-to-time we hear that they were told 1 and this and that, but I know the people are just ... 2 Adv T Madonsela: Alright, if you can put them on a piece of paper, not on your 3 statement. When you give us the statement you can silently then ... 4 But that is also maybe probably not right to put it here, in case Mr B Dhlamini 5 anybody asks for this. 6 Adv T Madonsela: Yeah, that is why I'm saying it is better ... yes. Then you can ... yeah, 7 we can deal with it along those lines and then we will just follow it up 8 with the people without saying who said what. The second which ... Themba (indistinct) neh, Themba Maseko also would probably Mr M lonas 10 (indistinct). 11 Adv T Madonsela: Okay, Themba Maseko, yes, his name ... 12 Yeah and I know he is prepared to give a statement. Mr M Jonas 13 Adv T Madonsela: Yes, Themba Maseko, okay. No, that is wonderful. Do you think the 14 President knew about what was happening? 15 I think ... Mr M Jonas 16 Adv T Madonsela: No, I'm just ... now this is an opinion. I'm not saying do you ... did you 17 know? I'm just asking your opinion. We will work out our own 18 connections, but in your opinion did you think that the President was 19 aware, because he has now ... I think you must understand Sir, that 20 we investigate improper conduct in State affairs and our main focus 21 is on the conduct of State actors. So with the other people if we 22 found that they did something improper, we will obviously take it to 23 the Criminal Justice System, but we would not be able to find any 24 maladministration in the absence of anybody within the State who 25



did anything wrong.

I Look, I don't have a reason to think that he didn't know. I mean my logic told me I mean that it will be ... I'm just thinking that I call somebody and I know that my strength is the father of ... my father is the President and so and so on. I don't think he might ... I don't have reason to think he didn't know, I really don't, I really don't, but also judging from the statements. I have seen the responses and I remember in the Eastern Cape when he was asked about the Guptas ... I don't know if you saw that clip (indistinct)?

Adv N Kanyane : Yes, it is, his statement that he issued here.

Adv T Madonsela: We are now going to go to that statement, because it implies that he thinks whatever you are saying is wrong, which means he implies he thinks they didn't do what you say they did, but this is what he says:

"If Jonas says he was offered a Ministerial position by the Guptas,
I think you would be well placed to ask the Guptas or Jonas.

Don't ask me. Where do I come in? I had no business with that.

I'm in charge of Government. I appoint in terms of the

Constitution. There is no Minister who is here that was ever

appointed by the Guptas or by anybody else. Ministers who are
here were appointed by me."

So that is basically his statement. What do you say about that?

Mr M Jonas : I mean that is a logical thing to say for anybody, but I'm (indistinct).

Adv T Madonsela: Do you doubt the truthfulness of that statement?

Mr M Jonas : Can I put it differently probably, because I don't underestimate the

influence of these guys on the President, I don't for any moment.





1	Adv T Madonsela :	But who are they influencing, because for them to influence
2		Government they have to have an entry point. In your view where is
3		that entry point?
4	Mr M Jonas :	No, I mean there is a direct relationship with the President. It is a
5		pity you don't have the statement released in the Eastern Cape,
6		because he was asked about what is the correlation, what is the
7		relationship
38	Mr B Dhlamini :	Yeah, but this one is in Parliament.
9	Mr M Jonas :	It is in Parliament, I mean and probably
10	Adv T Madonsela :	Okay, can we get the statement from the Eastern Cape then? We can
11	EY	get it from the media or if you have it, if you can give it. Okay, what
12	6	were you saying, Sir?
13	Mr M Jonas	No, all what I'm saying is that I mean I just listening to accounts
14	150	and all accounts, I mean listening to Themba Maseko and the
15		Minister, it is very clear that they are directly linked. It is very clear
16	10	that they have
17	Adv T Madonsela	: But what if they are using his name the same way that they allegedly
18		used his name for the Waterkloof landing, because there they
19		allegedly claimed to have his blessing? What if here now they are
20		looking for control over people and they claim he is onboard, but
21		they because they want you to think they appointed you.
22		Duduzane is the President's son. The President might discuss
23		something at the dinner table that "So and so has given me so much".
24		If maybe the President is talking to somebody else on the phone,
25		because Duduzane lives there, he gets the information, tells the

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Mr M Jonas

Mr M Jonas

Mr B Dhlamini

Mr M Jonas



Meeting held between the Public Protector South Africa & Mr Mcebisi Jonas 11 August 2016 Gupta fellow. Then the Gupta fellow thinks here is an opportunity and goes to that person and says, "I want you appointed in that position", so that that person would think that the Guptas had anything to do with that appointment. Is that impossible, is that scenario impossible? : It is not impossible, but however the matters(?) that are in the public space are so strong and heavy, that if there was this scenario, at least you (indistinct) reaction, you would have ... Adv T Madonsela : So what would be the reaction ... do you think ... They would either institute an investigation (indistinct) or whatever. Adv T Madonsela: So you think if the President was not party to these guys' alleged shenanigans, he should have instituted an investigation? : He would have rebuked it. Yeah, something more stringent than even rebuking, because these things are (indistinct). Adv T Madonsela: And rebuke staff? Adv M Boqwana : But in this one Sis Thuli, yes, there is a logic here again. No one, accept the people in that meeting knew that Nhlanhla Nene was not going to be a Minister of Finance in the very near future and indeed he didn't become the Minister of Finance. He was removed. Adv T Madonsela: Right, then the question then is for us, how do we get any evidence that you knew before he was removed, because the story in the media broke after he was removed, so that was already public

Adv N Kanyane

The timeline that is what we are interested in.

knowledge?





1	Adv M Boqwana :		No, but the events occurred before.
2	Adv N Kanyane :		Before he was fired?
3	Adv M Boqwana :	:	Before he was fired.
4	Adv N Kanyane :		Yes. The meeting happened in October?
5	Adv M Boqwana :	;	The meeting happened in October.
6	Mr M Jonas :	:	And I spoke to Nene around the same time, I spoke to Pravin around
7			the same time (indistinct).
8	Adv N Kanyane :	:	And then first week of
9	Adv M Boqwana	:	So they can you have got two people that can confirm that this
10	POS		thing was it is not the first time that this thing was spoken to, to a
11	EX		third party in March the following year.
12	Mr M Jonas	:	Yeah.
13	Mr F Lekubo	•	(Indistinct) on the PP, that there was no media the media didn't
14	PEN.		know. Before Minister Nene was removed from his position this
15			story neither you nor Pravin
16	Adv T Madonsela	:	There was no media speculation.
17	Mr F Lekubo	:	nor Minister Nene went to the media about it at all. There was no
18			record of it anywhere. It was a resent yeah.
19	Adv T Madonsela	:	So is there anybody who could confirm that? Okay, we know that
20			maybe probably Minister Gordhan would corroborate your version
21			that you knew about Nene's removal before 9/12, but it is all going to
22			be oral evidence and Minister and then the other person who
23			(indistinct) confirmed
24	Adv N Kanyane	:	Nene, Nene.
25	Adv T Madonsela	:	is Nene, because we still he invited me for something for August,



	11 August 2016	_
	never had an interest (indistinct).	
	2 Mr M Jonas : Because it was interesting, I mean the Nene meeting, because when I	
:	spoke to Nene, Nene said he also knows because someone else told	
4	him the same thing.	
4	Adv T Madonsela: Okay, if he can assist, because at this stage Mister Boqwana, you	
6	understand our difficulty, is that it is his word against them and	
7	AND THE THE RESIDENCE OF A SHIP THE AND A SHIP THE	
8 1,1	ADD, 100 AP	
9	team here we don't know what happened. We would love to believe	
10	you. We don't think ordinarily people like you stick out their names	
11	for lies, but at the same time we have to show we have to have	
12	something tangible that makes us take your story, because there will	
13	be many people on the other side as well that are saying this never	
14	happened.	
15	Adv N Kanyane : Yes, they also issued a statement.	
d	Adv T Madonsela: Oh, yes, we are coming to the next statement. This is what the Gupta	
17	Family said in a statement issued on	
18	Adv N Kanyane : I don't have the date.	
19	Adv T Madonsela: Okay, we will confirm the date. This is what they said, DM:	
20	"The latest allegations are just more political point scoring	
21	between rival factions within the ANC. To be clear, any	
22	suggestion that the Gupta Family or any of our representatives or	
23	associates have offered anyone a job in Government is totally	
24	false. We challenge Minister Jonas to provide a full account of the	
25	supposed meeting that took place under oath in a Court of Law.	



Minister Jonas is attempting to cover up and divert attention away from his own relationships and practices. We are confident questions about his own ethical standards will be exposed."

You see this statement corroborates in a way ... or not corroborates, resonates with that other storyline about how you ended up with Mr Hlongwane and young Mr Zuma in the same place, some relationships were being mended, but that is the story I have heard from a ... and this is the statement they issued. What is your response to that statement?

Mr M lonas

It is going to be difficult, because part of the difficulty with this whole thing from the beginning I must say, apart from many other things, was that you get caught in a situation where you are not taking tapes, you are not recording what is being said. So I mean I didn't ... to be honest I did not even think ... I thought that this will come to a point where you have to give evidence, you know (indistinct) and so on. That is why I just dismissed, because I knew that it would be ultimately your word against somebody's word. So that is the difficulty anyway inherently in the whole thing you know, because I really didn't ... you know I didn't.

Adv T Madonsela:

So but do you confirm that it was in Saxonwold, because that other storyline – at least in the version that I heard it – says the ultimate meeting was not in Saxonwold?

Mr M Jonas : No, it (indistinct).

Adv T Madonsela: Which would then help if you would just remember as much as

possible some details about the house.





1 Mr M Jonas : Yeah, okay. Adv T Madonsela: Just any little detail, that they have got a chair there, they have got a 2 3 ... where did you sit, who said what? Okay, yes? : Madam, I was going to say if you go back to the ANC story, does the Mr B Dhlamini 4 5 ANC story say the mediation was taking place at Saxonwold? Adv T Madonsela: No, the storyline ... again I didn't get the storyline from the ANC. I got 6 7 it from ... Mr B Dhlamini No, no, I'm just calling it that. Adv T Madonsela: ... some other channel, much earlier, much earlier, the beginning of this. The story was that it didn't happen at Saxonwold, because it 10 was ... you just happened to be in a car somewhere where you had 11 12 stopped to do the mediation. I just need to confirm where. Then Ajay, is it Ajay, who is a business partner for young Mr Zuma, called 13 him to find out where he was and naturally he then came over to him 14 to discuss something, and according to that version that Ajay fellow 15 said nothing to you, but it explains (indistinct) him, Mr Hlongwane and Mr Zuma being in the same place, because Mr Zuma was 18 mediating between you and Mr Hlongwane. Mr Gupta only came to 19 have a brief business discussion with Mr Zuma and then left. Adv M Boqwana : But I think Sis Thuli, in the end this goes to the whole credibility 20 21 issue. I mean why would Mcebisi risk everything that he has, even 22 including the position, to cook up something like this? Adv T Madonsela: Well yes, I think those are things we don't know. Okay, I can give you 23 24 a scenario and remember I have to be fair with you guys ... 25 Adv M Bogwana : No, no, sure, sure.





1	Adv T Madonsela :	because this is going to be one of the most difficult investigations
2		we have. The scenario may well be he is part of this group that Mr
3		Gupta is referring to, that he is trying to get rid of the President and
4		he is not risking everything if his understanding is that if he blows
5		this whistle and Mr Zuma is removed, he does get the Minister of
6		Finance post anyway, but not via the Zuma gate, via some other gate.
7	1	So there is it is very easy to find a motive for his actions, not that I
8	45	doubt you, Sir.
9	Mr M Jonas :	No, no, no, I understand that.
10	Adv T Madonsela:	I am just saying
11	Mr M Jonas :	No, it is a difficult thing.
12	Adv T Madonsela :	if people are issuing statements themselves, they are staking their
13	Post	own integrity and they are issuing those statements because they
14	150	have a storyline that would back their those statements, so it is going
15		to be your statement and their statement. For us then to determine
₃ 16	10	this matter in favour of anyone we will need more than the
17	190	convergence of Heads at one particular point.
18	Mr F Lekubo	When I read that statement, "Minister Jonas is attempting to cover up
19		and divert attention away from his own relationships and practices.
20		We are confident questions about his own ethical standards will be
21		exposed", it sort of creates an impression that they know you, that
22		they know something about you.
23	Adv T Madonsela	: That you have smolanyana skeletons in the closet.
24	Adv N Kanyane	: Yes.
25	Adv T Madonsela	: Because remember then what happened, they followed that with that





	smolanyana skeletons.
	2 Mr F Lekubo : Yeah, so but I mean you are saying
	3 Adv N Kanyane : It was a comment after this.
	4 Adv T Madonsela: It was. The smolanyana skeletons had exactly it was in reaction to
,	5 this story.
54	6 Mr F Lekubo : So I mean I think if this is not the case, you didn't know these people,
1	you had never entertained
19	Mr M Jonas : No, I have never worked I have never I must say that when I met
9	them they said they have investigated me, they have got intelligence
10	information and what, what, what, and so on and so on. I mean there
11	was a lot of information (indistinct).
12	Adv T Madonsela: Did you owe Mr Hlongwane something?
13	Mr M Jonas : No, I don't. I don't owe anything.
14	Mr F Lekubo : Is there something tangible that they said to demonstrate to you that
15	they actually did background checks on you, to say, "This is where
	you live, we have got this"?
17	Mr M Jonas : No.
18	Adv M Boqwana : And the fact that at least they mentioned Rasta was your friend
19	Mr M Jonas : Rasta, they mentioned Rasta.
20	Adv M Boqwana : and they mentioned the Chief of Staff by name, so.
21	Mr M Jonas : By name, yeah.
22	Adv N Kanyane : Oh, the staff?
23	Mr M Jonas : He mentioned the Chief of Staff by name, he mentioned Rasta, one of
24	my friends.
25	Adv T Madonsela: Who is Rasta?

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1	Mr M Jonas	:	He is a friend of mine. He mentioned Rasta, etcetera, etcetera.
2	Mr F Lekubo	:	So to demonstrate
3	Mr M Jonas	:	So one thing that they I mean I remember that there was the
4			Eastern one thing that they leaked through, remember they leaked
5			the
6	Adv T Madonsela	:	The ECDC matter?
7	Mr M Jonas	:	Yeah.
98	Adv T Madonsela		Yes, which we were investigating that, I mean we have a different
9	Mr M Jonas	:	Yeah.
10	Adv T Madonsela	:	But I'm saying, DM - and again this I'm just saying now purely,
11			purely from being now an investigator pulling out - if it is true that
12			you owed Mr Hlongwane any money, it is going to be important that
13	1		you clean that up or you I'm not saying you are not telling the
14	S		truth. There is nothing wrong with owing people money
15	Mr M Jonas	:	No, I don't owe anybody.
16	Ádv T Madonsela	1 :	but that is what they said or these other storylines there. So
17	1/		whatever if you have a relationship with Mr Hlongwane, whatever
18			it is, it will be important that that relationship is clarified.
19	Adv M Boqwana	:	But let me just move to the third issue, Sis Thuli. If you have got this
20			Mcebisi as the first scenario around this finance story, that indicate
21			that there is change that is coming and part of how that change will
22			come is that Mcebisi will have a team that he will work with, and
23			without all of these Donald's and then everybody else, then following
24			that you have got Nhlanhla Nene removed.
25	Adv T Madonsel	a :	Yes.

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Adv M Boqwana : Now following that you have got Van Rooyen with a team that is 1 2 directly linked with the Guptas. Adv T Madonsela: But by the time he goes to the media Sir, we already know that ... 3 4 Mr M Jonas : That those things are already public. Adv T Madonsela: ... those are public knowledge. 5 6 Mr M Ionas : Yes. Adv T Madonsela: So what we need is something that can confirm that you were aware 7 of those ... what eventually became a fact before it goes to the media, because that is the problem, is the sequencing of events, is that your - event comes after we all knew who the advisors of Van Rooyen were, 10 11 you know? 12 Mr M Jonas : It is a difficult scenario, I mean it is tough. Adv T Madonsela: That is the sad thing about law, you know that at the end of the day 13 we know ... in your head you know exactly what is true and 14 unfortunately for us to make a determination we have to have 15 tangible corroboration of your ... because they will also say whatever they are saying is true and for us to tender this in favour of any particular version of truth we have to have rational, reasonable 18 19 grounds for choosing a particular version. Yes, Sir? : Yes, thanks PP. Tell me Sir, just two questions from me. Firstly, the Mr F Lekubo African National Congress I think invited everybody who is alleged to have had dealings with the ... being offered positions by the Gupta Family to come forward and make written submissions or submit reports. They have gone to media to say ... but only received one report and it was not yours, because obviously they would use that



Mr M Jonas

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to ... one of the reasons to discredit you, to say, "He didn't come 1 forward with a report", so maybe reasons for that. If is there any 2 other ... 3 Adv T Madonsela: (Indistinct). 4 And then the second one, as the Deputy Minister of Finance, Mr F Lekubo 5 especially looking at the issues for which they wanted to remove Minister Nene for, were you part of a decision making group that consistently perhaps had conflict with the President regarding certain things, like as you have mentioned the nuclear procurement deal, where you know you could say, "I'm aware that there were 10 tensions regarding this"? 11 I know you talked about the heavy-handed approach with 12 regards to (indistinct) measures and I mean Minister Nene is world-13 renowned for that, we all commended him for that, to say he cut 14 down the (indistinct) bid, but you know is it ... could you say that you 15 consistent as Treasury (indistinct) the President about these things, 16 because he could may as well come out and say, "I have never had 17 issues with Treasury, I had no issues with the nuclear procurement 18 deal, I have no issues with how they are managing the Fiscus, so why 19 would I" ... 20 But even if I did, I mean what has that got to do with the Guptas? Adv T Madonsela: 21 Yeah, so ... Mr F Lekubo 22 What was the first question there? Mr M Jonas 23 The submissions ... the report (indistinct)? Mr F Lekubo 24

No, I ... you know we debated with Lawyers that thing. There were

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two problems with it and I spoke to Gwede about it. The first was that whatever you submit there, ultimately the decision making body was going to be the NSC. Now I mean it is obvious, I mean if you look at the balance of forces in the NSC, they are likely to take a decision that is different from supporting an opposite view on the matter. So that was my first thing.

The second issue that I raised was, if you heard at the time the

The second issue that I raised was, if you heard at the time the Hawks and then this thing was with the Hawks, and then it was with the Public Protector, so I was saying, "How different those processes are and what I give you and what I give the Public Protector, and how can you protect the information that you give?". I remember we approached Max and he advised me, "Let's just ignore this thing, because ultimately you are just going to be in a mess more than anything".

Adv M Bogwana

There were two things that came out of that, Sis Thuli. It is exactly what you are raising, the word against the other. Remember at that stage Ajay had actually sent out a ... they had actually sent out a stamped passport to say they are not in ... they were not in South Africa on the day. Now how they can ... I mean they can manage to get that stamp?

Adv N Kanyane

Like Customs stamp?

22 | Adv M Boqwana :

Customs stamp. Yeah, it was a Customs stamp. So I'm saying you issue ... I'm saying Mcebisi, you issue a statement like this in the face of a Custom stamp, these guys will sue you for deformation and you will ...

Adv N Kanyay

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Adv T Madonsela :	Are you serious, they do have a Custom stamp?
Mr M Jonas	Yes and it was published.
Adv M Boqwana :	So they approved the Custom stamp, so then that was one problem.
	The second problem was and maybe let's tell you about this.
Adv T Madonsela:	Wow.
Mr B Dhlamini :	Sorry, sorry, can l just
Adv T Madonsela :	But if you are going to say they were lying and the Custom stamp is
	not correct, then you are saying they are the real cheese, hey, if they
	are (indistinct)?
Adv M Boqwana :	Yeah, but still on the Customs remember on the Customs stamp,
	unless there was another one or wherever they were, because there
	should be two, I mean if you fly out, where you land it should be
	there, unless
Adv T Madonsela :	Yes, there should be a stamp from the other country, not just ours.
Adv M Boqwana :	Yeah, there shouldn't be one, because they couldn't fly all over, then
10	they come back again.
Mr B Dhlamini	Yeah, but if you deal with that with them, but (indistinct).
Adv M Boqwana	No, no, I'm just saying that even if they come with that, we need to
	see the
Mr B Dhlamini	: Yes.
Adv T Madonsela	: Okay, but I still want to know if there is that Custom stamp?
Adv M Boqwana	: So but for me I mean the Custom stamp is the best evidence, you
	know so if you have got something
Adv T Madonsela	: Yeah, it is a very good alibi.
Adv M Boqwana	: It is a very good alibi.
	Mr M Jonas : Adv M Boqwana : Mr B Dhlamini : Adv T Madonsela : Adv M Boqwana : Mr B Dhlamini : Adv M Boqwana : Mr B Dhlamini : Adv M Boqwana : Adv M Boqwana :



Adv T Madonsela: I mean if you have got that alibi, how do you make them here ... how 1 2 do you bring them back? I mean that is the problem. : But for me I would say okay, then the itinerary, where did they fly, 3 **Adv N Kanyane** 4 but they have jets, hey? 5 Adv M Boqwana : So you will realise that they ... Adv T Madonsela: But is it true that they have that Customs stamp on it? 6 Mr M Ionas : No, they did, they did. Adv T Madonsela : Is it all of them, including Ajay? 9 Mr M Jonas : It was Ajay. 10 Adv T Madonsela: Is it Ajay? 11 Adv M Bogwana : Yeah. Adv T Madonsela: So are you sure then ... no, but on a serious note then guys, I'm glad 12 13 you brought it up, are you sure it was Ajay? Adv M Boqwana : No, no, remember ... but you can investigate that Sis Thuli, but the 14 point is you know when they issued the statement, part of the 15 statement, they proved ... they wanted to prove that they were not in the country on the dates that Mcebisi is talking about. So I'm saying 18 if we do ... 19 Adv T Madonsela: But does it say which country were they in? 20 Mr M Jonas : No, they didn't. 21 Adv M Boqwana : No, they didn't. 22 Adv N Kanyane : It is from this side. 23 Adv M Bogwana : Yeah. : It is what Dlamini is saying, that then we should check if there is 24 Adv N Kanyane 25 another one (indistinct).



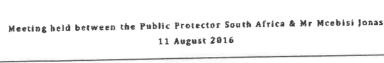


: No, that won't work ... I mean lots of countries don't stamp passports Mr F Lekubo 1 anymore. 2 **Adv N Kanyane** : Is t? 3 : Dubai, the Middle East they don't stamp, the UAE they don't stamp, Mr F Lekubo 4 they just scan. Remember their Visa is like a page (indistinct). 5 Mr B Dhlamini Yes. 6 **Adv N Kanyane** Is it? 7 And then there is that story in any event that says ... was it in April Adv T Madonsela: 8 where Gigaba, the President and other people they went to open a 9 factory in Dubai or in some other ... UAE, UAE, so. 10 In Abu Dhabi. Mr B Dhlamini 11 Yeah, I think they can do their own stamp. Mr F Lekubo 12 So you only need one side. Adv N Kanyane 13 So but let's ... so that ... Adv M Bogwana 14 So are you putting this as evidence that there is that? Adv T Madonsela: 15 No, but he is saying they are saying that in the statement. Adv N Kanyane 16 Adv M Boqwana : No, no, I'm still ... remember I'm still responding to your question 17 why we didn't respond to the ANC, because it is important, because I 18 was saying I was quite concerned that if these guys have got an alibi 19 like this and we make this thing, and Gwede is just going to release 20 that ... they are going to have access to that statement, you know and 21 there is no Constitutional provision of saying any statement issued to 22 Gwede is protected in any other way. So you will end up with a 23 deformation lawsuit that will stop any other thing from being done, 24 because this matter will be sub judice for the next 5 years, you know, 25

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è	Mr	Mcebisi	Jonas	61

so that is the first thinking. Then the second issue ... and I mean guys, 1 whether you proceed with this thing or not, the second issue was you 2 had/heard a very strange interpretation of Section 34 of the 3 Combating of the Corruption Act, you know. I mean if you look at 4 that Act, you go and read thoroughly you will understand what it 5 means, but we were very concerned about the mischievous interpretation of that Act. Remember the Act says if you are a person in an Executive Authority and there is a possibility of a corrupt activity that involves an amount in excess of R100 000.00, you must report it immediately 10 11 within 14 days, etcetera, etcetera. If you don't, that is an offence. 12 Adv T Madonsela: And he was offered 600? 13 Adv M Boqwana : And he was offered much more than that. 14 Adv T Madonsela: Was it 600 000? Adv N Kanyane : 15 600 000. Mr M Jonas : 600 000. 17 Adv N Kanyane : Or 6 million and then 600 000 cash. 18 Adv M Bogwana : Yeah. 19 Mr B Dhlamini 600 million. 20 **Adv N Kanyane** : 6 million. 21 Mr B Dhlamini No, it was 600 million. Adv M Boqwana : Yeah, but here is the point I'm making, the Act is not applicable to 22 Ministers, alright, but with the type of Hawks and everybody else 23 that we are dealing with, they could mischievously detain him for 24 25 that and I can say this, because eventually we met with the Hawks



and they simply asked us, because they have got exactly these 4 complaints that you guys are having ... 2 It is almost exactly. Mr M Jonas 3 They said, "Please help us close this case". So they are not saying, Adv M Bogwana ; 4 "Help us investigate the matter". 5 Investigate. Adv N Kanyane 6 So you have got these three processes, the process that you guys are Adv M Bogwana 7 dealing with and the process that the Hawks are dealing with, and 8 the ANC process. So that explains how we behave in the ANC process if that satisfy you, but we thought with the Hawks process let's 10 respond to them and actually we responded bluntly, to say, "We had 11 contact from Mr Ntlebeza(?), from Major General (indistinct). 12 They asked us to help them close the case by not providing the 13 statement and we are not providing the statement", and we gave 14 them an affidavit like that, because we were concerned that if we 15 don't cooperate with them and cooperate with this process, other 16 questions are going to be, "So why don't you cooperate?", in that line, 17 but we were given the line of march what is required there. So this 18 thing is much more difficult than what ... 19 What was the line of march? Adv T Madonsela: 20 The line of march is that firstly the Hawks gave us an indication that Adv M Bogwana : 21 they want to close the case, simply on the basis that the DM does not 22 cooperate, so ... 23 They put it differently, they said because I'm not the DA witness. Mr M Jonas 24 Adv M Bogwana : Yes.

	•	
1		Minister, Ajay and
2	Adv T Madonsela :	Which version allegedly has been accepted as a clean version?
3	Mr F Lekubo :	Yeah.
4	Adv T Madonsela :	Okay, because the version from where I got it was that that was
5		presented by the President himself to the MEC or not to the MEC,
6		to the top.
7	Mr F Lekubo :	Okay, but it is not (indistinct).
8	Adv T Madonsela :	I don't know if he did what you are saying.
9	Mr F Lekubo :	Okay, I hear you.
10	Adv T Madonsela :	That is the version I got, that he presented that version and from
11	E	their side they found that version plausible.
12	Mr F Lekubo :	Okay, so I guess yeah, that version perhaps at the moment because
13	Part I	they will adapt it as in depending on what comes out, but let's
14	REA.	suppose they stick to that version, if we can place you, Mr Ajay Gupta
15		and Duduzane in the same house and Fana Hlongwane, why would
16	1/4	they need to mediate at the Gupta's house? Why not
17	Adv T Madonsela	They can mediate any place, that if Hlongwane you were not there
18		at one story where we mediated last week where they were at
19		somebody's Penthouse and the person said, "She is my friend". I was
20		tired, I was tired of being in a hotel. We were at the penthouse and
21		then she just gave us the penthouse to use, and what has that got to
22		do with anything?
23	Mr l Naidoo	: What if we challenge Hlongwane to show that DM owes him money?
24	Mr F Lekubo	: He is not an official of Government, let's just leave him.
25	Mr i Naidoo	: But I'm just saying, because if that is the basis of their mediation

Adv T Madonsela: Well, if they do push that version, that is why I was saying we don't 1 want to intrude, but if there is something in there you will have to 2 play open cards as early as possible, because if there is anything, you 3 don't want it coming from Hlongwane. So I think you want to first 4 5 (indistinct). Mr F Lekubo : You know that Mr Nzimande and Mr Madisha's father (indistinct) 6 they will simply say (indistinct), you know ... yeah. Adv T Madonsela: So it is not a very clean storyline. Mr F Lekubo : Yeah, it is not a clean storyline. Adv T Madonsela: I think the storyline we ... the corroboration we need is ... it is really 10 two things, that there was a direct conversation between you and 11 Gupta, which at the moment they are saying you were in the same 12 place, but there was no communication between you and him, and 13 that is half our problem. The second problem is, the person they 14 claim to speak on behalf was involved, because that is how you know 15 the Government Task Team ended up with Waterkloof. It was this other person namedropped ... and if you namedrop using me, I can't 18 be held accountable, unless you can confirm that I gave you 19 permission to (indistinct). : I guess very systematic as well, all that times they know ... they knew 20 Mr F Lekubo (indistinct) been picking you up from the hotel and excluding your 21 22 security (indistinct) behind, because then you were also on your own, you don't have anybody to corroborate the story. Another ... being a 23 numbers person immediately I pick up the issue to say they were 24 25 bragging to say they have got R6 billion worth of contracts to the



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1		Fiscus, they want to increase it to 8 billion. You could latch on to that	
2		to try and prove the story, but they simply come out and say, "But	
3		you are the Deputy Minister of Finance, so you know how much	
4		business we are doing with the Government". So that also they will	
5		just say you made that up yourself. So it almost but yeah, but I	
6		suppose we can gather the telephone records and then the SMS' and	
7		then we will take it from there. I mean surely it is not the only thing.	
8	Mr M Jonas :	That is a difficult it is a when we thought	
9	Adv T Madonsela:	It is very difficult.	4
10	Adv N Kanyane :	But it is still possible I think.	
11	Mr M Jonas :	When we thought about it, I mean those are the questions that we	
12	6	had, that if you go and talk about this thing, how will you prove the	
13	P=1	things?	
14	Mr l Naidoo :	Just get it out in the public and see.	
15	Adv T Madonsela :	The young ones I like the young ones. I think you know some of us	
16	10.	being old you are always thinking about "I need a hundred percent".	
17	90	Then the young ones are still positive that we will find something.	
18	Adv M Boqwana :	PP, I'm just trying to think, because I mean if it will be established	
19		that this Gupta guy wasn't in the country actually on that day and	
20		then the question will be why did he then lie and create an alibi to	
21		say he was not in the country? I mean	
22	Adv T Madonsela	So you guys from that other corner you will still try and find out	
23		what is (indistinct).	
24	Adv N Kanyane	Exactly, PP, exactly.	
25	Adv M Boqwana	Because I will still believe I mean when you say the thing is	

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Adv N Kanvane

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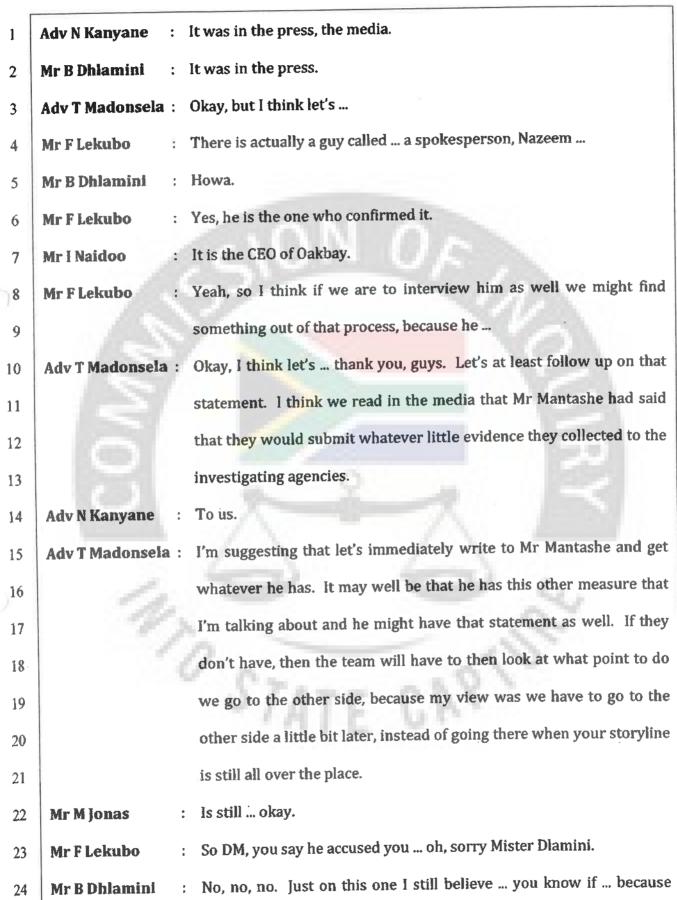
Meeting held between the Public Protector South Africa & Mr Mcebisi Ionas 11 August 2016

scanned, we can try, that one could be checked, whether in Dubai when he was there, whether it was scanned. Their system will actually say who was there and not with all these issues of terrorism and what have you. I mean the scanning does actually record the record. It is not like because it is not stamped. Adv T Madonsela: No, but if they go with jets ... you see with these people that are VIPs it is a very difficult thing, because if you look at Waterkloof for example, those things were not stamped. It was only the following day that they realised that those (indistinct) had not been stamped. Yes, PP, but that is a separate incident. But it will work against them. But by him showing the stamp he is showing that he went through the normal processes. : Yes. So it be very strong, the system and everything. Adv T Madonsela: Well, maybe in South Africa, but I'm saying when he goes the other side and he says oh they decided to treat them as VIPs, and in any event when you go into that VIP gate do you check that stamp of yours when it comes back and see whether they stamped it? So if they forgot to stamp it, how do we then ... : But he will not submit that to the PP or the PP's office, I don't think SO. Adv T Madonsela: You don't think so? The Deputy Minister when he ... was that what he showed to the

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when he met you and you say he was there, and he met you here in



	Johannesburg, this Gupta guy, obviously at the time you did not know
	that you may actually not go along with them. So he would not have
	gone to the airport to try and get the stamp or whatever before I
	mean on that particular on the day or before the day. He would
	have actually done that afterwards and I truly believe that if we were
	to check with the airport system, if it was cooked, I mean it is worth
	7 checking that thing, because it was never like a plan.
10	3 Adv T Madonsela: Or there should be footage.
9	Mr B Dhlamini : There should be footage, there could be a lot of stuff there that he
10	cannot actually escape, because he never thought that you are going
11	to then turn around and say and go, so there was no plan. It could
12	have only happened afterwards.
13	Adv T Madonsela: So I think then okay, we are hearing that from the Chief of Staff that
14	even if we get the stamp we will check, like you said that other side
15	and then will check whatever this side.
ιÚ	Mr F Lekubo : We will corroborate the entry or exit points and all of that
17	information. You say he accused you of working with Gwede?
18	Mr M Jonas : Yeah, he did.
19	Mr F Lekubo : What did he imply by that and what (indistinct)?
20	Mr M Jonas : No, I didn't pursue it. I still (indistinct).
21	Mr F Lekubo : Or what he meant? Oh okay, it is a political talk, okay, alright.
22	Mr M Jonas : I understood what (indistinct).
23	Adv T Madonsela: It really would help if we had any other Minister who says they were
24	ever approached as well.
25	Adv N Kanyane : Barbara Hogan made statements in public about pressure she

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received from the Guptas, so.

Adv T Madonsela: Okay, then let's follow up on that.

Adv N Kanyane : Yes, we are meeting ... I'm going to meet with her.

Adv T Madonsela: Okay. It really would ... because I mean at the end of the day we

might have ...

Mr M Jonas : (Indistinct).

Adv T Madonsela: Yes, we would then have to just look at the weight of the evidence on

that side and the weight of the evidence on this side, but if we can

find anything tangible, I mean you know as a team that my personal

preference - I know it is not a requirement of the law - is instead of

saying the majority of people are saying this as opposed to this one, I

would prefer to find something tangible.

Mr B Dhlamini : Okay.

Mr F Lekubo : Was the meeting with Duduzane (indistinct)?

Adv T Madonsela: Especially on such a controversial case as this one, but we are not

going to push it, because you are saying DM, at the point when this

thing was happening you had not anticipated it and you had not

anticipated this process where ... we are not doubting you as a

person. It is just a (indistinct) that we will have to walk, but from our

side I think we will explore these other avenues that we ordinarily

use to (indistinct).

Mr B Dhlamini : I think the continuing difficulty I mean in all of those things, even

with (indistinct) and all of that is the fact that Zuma says, "No, these

are my friends", but he denies that he has instructed them to do

anything, you know so really that one it is tough. We can only deal

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	with it in the manner that you are talking about, that you let the
	public be the judge.
	3 Adv T Madonsela: Well, it didn't help much okay.
	4 Adv N Kanyane : Okay.
	Adv T Madonsela: Let's see, can we ask the last question? Did you receive any
(threatening SMS, DM from anybody? Level with us on this one.
1	Mr M Jonas : I don't know, there was a funny SMS that I received, but I don't know,
1	1005, Name 200
, 9	Adv T Madonsela: Was it from somebody you know?
10	Mr M Jonas : Yes, yes.
11	Adv T Madonsela : Was it from Fana Hlongwane?
12	Mr M Jonas : No, it was from Mickey Khaye(?).
13	Adv T Madonsela : A different business person?
14	Mr M Jonas : Yeah, but to my (indistinct) I understand a different interpretation of
15	it.
(1)	Adv T Madonsela: Are you prepared to share it with us, what you are saying?
17	Mr M Jonas : Yeah, I should have it you know, I should have it you know.
18	Adv N Kanyane : So we will get a screenshot of that as well?
19	Mr I Naidoo : What did he say?
20	Mr M Jonas : I'm just recollecting it.
21	Adv T Madonsela: It was from Mr who?
22	Mr M Jonas : Mr Khaye(?), so it was not a
23	Adv T Madonsela : Mr Kaye?
24	Mr M Jonas : Khaye.
25	Adv T Madonsela : Khaye.





Mr M jonas

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It was a strange message anyway. It was ... I'm just trying to recall again properly the words. I mean it said something like ... let me just say this, because I was flying to Botswana on a Friday when this thing was in the media a lot and in the media and all, so I got a call from him and he asked, "What are you going to do? Are you going to tell the truth or what are you going to do?". So I said, "Hey man, at the moment I'm not ... I'm still very cautious about this thing" and so on and so on, "I'm thinking about it, but it is very clear that I will tell the truth ultimately.

I mean I'm not going to lie as (indistinct), but I'm still thinking about the whole thing, because political ramifications of it, etcetera and see where it can (indistinct) in my mind". So I left for Botswana and then I came back, met Gwede, met Size and so on, and then on the day I was supposed to ... I thought I have taken a very clear view of saying I'm releasing a statement you know on this thing just to end the speculation, a message came in and it was something like "Don't I think he said, "Martyrdom is only for Jesus Christ", do it". something like that.

Adv N Kanyane

Yeah.

Mr M Jonas 20

So I didn't ... I mean I looked at this and I said ... to be honest I kept it and I just showed it to my Chief of Staff, said, "What does this mean? I'm not sure what this means" and I forwarded it to him because he was not next to me, and I said "What do you think this means?". Then the next thing I know this thing was in the media and that kind of stuff, and so on and so on. I (indistinct), so I didn't really ... I don't





1 know. Adv T Madonsela: Thank you. 2 : Your meeting with Duduzane was it in your dairy, he arranged it 3 Mr F Lekubo 4 directly ... or he arranged directly with you (indistinct)? 5 : Yeah, you can see in the SMS' and in the ... I remember the day, Mr M Ionas because I mean that day was ... I had ... we had a big ... there was 6 tension between COSATU and Treasury on some ... was it the Pension Fund? 9 Adv M Boqwana : That was the pension. So I was ... I went early to Nedlac just to kind of talk to these guys in 10 Mr M Jonas COSATU, just pursue them to say (indistinct). So I drove ahead 11 everybody and I said various things. So after consulting with them 12 then I had time and I thought why don't I just quickly finish this 13 meeting, but when I was just about to go and then there was ... the 14 guys arrived, so I sat in the meeting, because the meeting collapsed 15 very quickly. So I phoned this guy, Duduzane, said, "Can we meet here at Hyatt, I'm on my way to the airport". So he says okay, he is coming. 18 So I arrived there and sent a message, "I'm here". He says, "I'm 19 20 coming" and then he came in and we sat and talked, and so on and so 21 on. Adv T Madonsela: Alright. DM, something has come to my attention. In the statement 22 you say "members of the Gupta Family". Was that a misprint? 23 24 : Yeah, it was a misprint. There is only one person there, it is Mr M Jonas 25 Duduzane and this guy.





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1	Adv T Madonsela :	It was only Duduzane?	
2	Mr M Jonas :	Uhm (positive).	
3	Adv T Madonsela :	Because they might just pick issue with that, that you said "members	
4		of the Gupta Family".	
5	Adv N Kanyane :	But he was speaking with the royal "we" also at that meeting.	
6	Mr F Lekubo :	At the time when you spoke to him did you know it was Ajay or Atul	
7		or you didn't (indistinct)?	
8	Mr M Jonas ;	I didn't actually. To be honest I kind of looked at the guy and then	
9		after the event I looked at the pictures, and then	U
10	Mr F Lekubo :	Then you got to see that that is Ajay?	
11	Mr M Jonas :	I didn't even know him.	
12	Adv T Madonsela :	Did he say he was speaking on behalf of his family?	
13	Mr M Jonas :	No.	
14	Adv T Madonsela :	Or did he say it is his (indistinct) position (indistinct)?	
15	Mr M Jonas :	This guy was talking (indistinct). No, now he was offering everything	
,16	10	else and then saying, "Do this and do that".	
17	Adv T Madonsela	Okay, is Ajay the young one?	1
18	Mr B Dhlamini	That is the boss.	
19	Adv N Kanyane	: The eldest.	
20	Adv T Madonsela	: Oh, it is the same one who came up in the other storyline?	
21	Adv N Kanyane	: Uhm, the bigger one.	
22	Adv T Madonsela	: The Cape Town one?	
23	Adv N Kanyane	: The bigger one.	
24	Adv T Madonsela	: No, I'm saying is it that same one?	
25	Mr F Lekubo	: Yeah.	





	1 Adv T Madonsela : Okay.
	2 Adv N Kanyane : But I mean there were two of them in that encounter.
	3 Mr F Lekubo : I think the other one so he said he built a house for Duduzane in
	4 Dubai?
	Mr M Jonas : Yeah, that is what he said.
(Adv T Madonsela: Oh, yes. Thank you so much. I had flagged that one about the house.
- ·	Does Duduzane have a house in Dubai?
1	Mr M Jonas : I don't know.
. 9	Mr F Lekubo : He does, he does.
10	Adv T Madonsela: Because this other source they went there, these ones that were told
11	this other story went there, couldn't find that house. So have we
12	found it?
13	Mr F Lekubo : Well, according to well social media reports he does have a house in
14	Dubai.
15	Adv T Madonsela: Okay, but that story
10	Mr F Lekubo : It needs to be proven I mean, but there is an indication.
17	Adv T Madonsela: No, we still need to find because no, a whole team from a media
18	house went there, they couldn't find that house.
19	Mr F Lekubo : Perhaps just likes going there and
20	Adv T Madonsela: So unless the house is registered in the name of a trust
21	Adv N Kanyane : In a trust and somebody gets there
22	Adv T Madonsela: or somebody else's name.
23	Mr F Lekubo : A Trust in somebody's name (indistinct).
24	Adv T Madonsela: No, yeah, they do. With international if you look at the information
25	that you get from the Bersal(?) Institute, with these things all of





1		those things that are held in Cayman Islands, Lasenberg(?) they are
2		in trust funds. Only fools put it in their first names.
3	Mr M Jonas :	But it is even worse in Dubai, because they have got (indistinct)
4		houses.
5	Adv T Madonsela:	Okay.
6	Mr M Jonas :	So literally it is physical cash.
7	Adv T Madonsela :	You charter the (indistinct). So the house then might not be in
8		somebody's name?
9	Mr B Dhlamini :	They (indistinct) transferred it.
10	Mr F Lekubo	Yeah.
11	Adv T Madonsela	Because no, there was a team that went there physically, yeah.
12	Adv N Kanyane	: Is it?
13	Mr F Lekubo	: Is it and they couldn't find it?
14	Adv T Madonsela	Yeah, they paid immediately after the story broke they went there,
15		they spent a whole weekend.
16	Mr B Dhlamini	: Also I mean an Estate Agent is enough to sign and (indistinct).
17	Mr F Lekubo	: They couldn't find it?
18	Adv N Kanyane	: And that is it?
19	Mr B Dhlamini	: That is it.
20	Adv N Kanyane	: But there are no deeds, there are no deeds.
21	Mr F Lekubo	: Yeah, there is reports that he does have a
22	Mr M Jonas	: But the difficulty with this thing is that unless you have a full-blown
23		investigation on the activities and everything else
24	Adv T Madonsela	: Well, we are having a full-blown investigation, Sir. You just tell us
25		pointers. That is why I'm glad he raised this issue of the house,



	because from that other from your other in your forensic then
	follow the house. All I know is that somebody hasn't found it, but
	maybe our forensic might be will be better than theirs.
	4 Mr I Naidoo : How soon will we be able to have the statement and the details from
	5 you?
•	Adv T Madonsela: This statement? It will (indistinct) by the end of this week.
1	Adv M Boqwana : It is almost done. The end of this week is tomorrow.
, d 8	Adv T Madonsela: Can we have it on Monday?
. 9	Adv M Boqwana : Yeah.
10	Adv T Madonsela: Because it is our roadmap. We should have had this conversation
11	right at the beginning, because it is helping us now to know where to
12	look, but you know what it has also done DM, it has confirmed what l
13	always thought, that it is going to be a difficult case.
14	Mr M Jonas : No, it is difficult.
15	Adv T Madonsela: So at least then we go there knowing that we have to look harder,
	because from your side because we needed to know from your side
17	what do we have that is tangible before we then use our own
18	sources.
19	Mr F Lekubo : DM, what made you reject the offer, because I'm thinking somebody
20	may say, "Who would reject such a (indistinct)"?
21	Adv M Boqwana : I could have enriched myself I'm saying I would have enriched
22	myself if he had taken the offer.
23	Adv T Madonsela: But you are hitting your own colleague, you are stabbing your own
24	colleague at the back.
25	Mr M Jonas : That is the first thing. The second thing is that I work in Treasury, I





know what it means to be a Minister of Finance, if you want to be a 1 proper one, unless you are going in there for something else, but if 2 you want to be a proper Minister of Finance I know what it means. 3 You felt you are ready? Mr F Lekubo 4 Adv T Madonsela: So you were not ready for it? 5 No, I don't think I was there (indistinct). Mr M Ionas 6 And secondly (indistinct), yeah. Mr F Lekubo 7 Adv T Madonsela : Okay. 8 Because politically it means you have to like stand against the tide Mr M Jonas 9 basically. 10 Mr F Lekubo Okay. 11 Oh, (indistinct) it is going to be Deputy President and Adv T Madonsela: Wow. 12 President (indistinct) another one who prefers that, right. Okay, 13 thank you for asking that question. So now we know then why the 14 offer was rejected, but did it also not bother them, the fact that it was 15 being offered by these people who in your version claim to own the 16 Hawks, the NPA and some key parastatals? 17 And NIA. Adv N Kanyane 18 NIA and some key parastatals? Adv T Madonsela: 19 Look, I mean it is ... you know I don't know, I mean sitting in Treasury Mr M Jonas 20 you see a lot of stuff happening, you know you have a (indistinct) 21 view of everything happening in Government, you know. So I have 22 always known ... I mean to be honest deep down in my heart when I 23 was there I kind of was so convinced, I have never been so convinced 24 that actually we have enough (indistinct) in the country. I mean that 25



is ... when I walked out of there it is ... the downs(?) with these guys and everything else and how they were saying they have got this one in control, and that one and that one. It actually convinced me very strongly that actually if we think we are far from the mafia still, we are kind of fooling ourselves. That is what we have. So that is why I mean for me the thing about going to public and saying this thing out there and so on, to be honest I mean were it not for the leakages I would not even have bothered. I would have found other means of excluding myself from the whole thing.

Mr F Lekubo

How did the story leak because it was only amongst the three people, you, the current Minister of Finance and Mr Nene?

Mr M Jonas

I wouldn't say. I mean I have my own views of how it leaked, but I think I wouldn't ... because my suspicion ... if you read the first article ... can I just maybe give you an analysis? If you read the first article, I don't know, the slant of that article was almost saying that I'm guilty. If I say I met them, you know if I'm correct, if I say I met them and didn't say anything, I'm guilty and so I should be prosecuted. By the way this thing has been repeated in a number of other memos in Government.

The latest was this one on the Oakbay Banks and stuff like that. They still repeat that same line, they keep that formulation. It is the same formulation that was in that thing, in that original article. So if you read the article it was almost like saying "Keep quiet", it was almost saying that "Keep quiet". Now when you trace back how that article ... I mean who wrote the article and so and so on, it is very





1			interesting, because it was produced by these guys who are
2			employed by the Guptas as their marketing people.
3	Adv T Madonsela	:	The first article?
4	Mr M Jonas	:	The first article was written by those (indistinct).
5	Adv T Madonsela	:	Which is who?
6	Mr M Jonas	:	What is this company? It is a British company, the one that worked
7			with most of the dictators in the world.
8	Adv T Madonsela	:	Is that a newspaper, Sir?
9	Mr M Jonas	:	Yeah, it is a financial
10	Mr B Dhlamini	:	It was of the financial matters, the first article.
11	Mr M Jonas	:	It was written in London, because subsequent to that article there
12			was a second article written in Financial Mail again where they were
13	1000		rehashing the (indistinct).
14	Mr B Dhlamini	:	So what you saw in the yeah, what you saw in the Sunday Times
15			was possibly the third or the fourth statement following those ones
,16	10		that came from outside South Africa?
17	Adv T Madonsela	:	But are you then implying that whoever wrote the first article was
18			pro them?
19	Mr M Jonas	:	Yeah, it was clear. I mean it was almost like saying so my sense
20			and my interpretation at the time was that these guys must have
21			known that this thing is somewhere lying out there, so kill it as it
22			were.
23	Mr F Lekubo	:	Strike first.
24	Adv T Madonsela	a :	Wow.
25	Mr M Jonas	;	But then there was media frenzy after that, I mean and so and so on,



and I kept quiet a little bit and then we debated a lot and with Pravin, 1 2 and with (indistinct) and so and so on. Ultimately they (indistinct) if ! 3 have to say anything it will be to confirm that meeting did take place and so on. To be honest I never even thought we will sit and make 4 5 statements and I'm not going to drag myself into that because I knew 6 it is going to be a very difficult thing. Adv T Madonsela: Right. Okay, just to confirm in your view you think these guys are 7 acting with the President's backing? 9 I mean again I'm saying I don't think they would ... the President is Mr M Jonas 10 not aware, I don't think he is unaware. 11 Adv T Madonsela: Okay. Any other questions? Mr F Lekubo 12 That is it from me. Adv T Madonsela: 13 Right, thank you, DM. We sincerely appreciate it. Remember any detail that will decrease the complexity of your evidence problem, 14 we would appreciate it and if you know any person who could assist 15 us, we would appreciate that information. Again thank to you (indistinct) and thank you to the team. We will continue ... we are 17 doing a fully-fledged investigation, but it is a very difficult 18 19 investigation just based on what we heard today. In fact it would 20 appear that from the other side there is a little bit more tangibles on 21 that other investigation than this one. Not to say (indistinct) it is just 22 you know ... 23 [Go off record // End of Meeting]

AMMEYURE E

Introduction

This is the timeline of events leading to and after the meeting between myself (Mcebisi Jonas) and Ajay Gupta

Before the meeting

Phone calls from Adv Fana Hlongwane (083 700 1260/-083 700 3228)

On several occasions Adv Hlongwann had initiated discussions regarding a need to meet with the Mr Duduzane Zuma and the Gupta family, I agreed to discuss the matter further as I had reservations.

Fana Hlongwane is a well-known to me as a comrade and a friend.

Meeting with Adv Fana Illungwane, Mr Tongani More and Mr. Mcebisi Jonas

I decided to meet with Adv Hlongwans to hear him out on this issue of meeting Mr. Duduzane Zuma and the Gupta Family and I went to see him with another friend Mr Bongani More, the discussion ensured briefly with reasons on why it is important to meet with Mr. Duduzane Zuma and the Gupta Family. We agreed to revisit this issue, as I was not really convinced that I neeped to meet them. I further expressed my view that I would never want to be associated with the Gupta Family. My impression was that he was working with them for financial gain.

Communication with Mr Duduzane Zuma (Sms received and replied to on October 17th, 19th and 23th, 2015)

Mr Duduzane Zuma (082/396/8210)

in 17# October 2015 | received several text messages from Mr Duduzane Zuma. The initial messages (Engagements) were about the invitation to attend the South African Awards ceremony hosted by the Gupta family. Consistently I had mentioned that my time schedule would prevent me from attending and besides I had a different opinion on functions. Ultimately I never attended the event.

This event was scheduled for the 18th October 2015

Later on I agreed to meet with Mr Duduzane Zuma and Adv Fana Hlongwane.

October 2314, 2015

The meeting started at the Hyatt hotel, I arrived early and waited for Duduzane, on his arrival we started talking, a short while into the meeting he indicated that the place was crowded and he needed to us to move to a more private place for a further discussion with a 3rd party.

At this stage I agreed to jump on his car to drive to this undisclosed quite place. At no stage did they disclosed that we were meeting members of the Gupta family in their Saxonworld residence, and since I was not familiar with the area and had never been to

the Gupta family residence it never occurred to me that we were driving to Saxonworld until we were driving into the complex.

As we arrived in this compound-like residence, with heavy security guards, Pana also alighted from his car to join us.

Content of the meeting

Saxonworld Residence

We arrived and the meeting started with Mr Ajay Gupta (I have never met him, my only recollection of him was on TV and photographs) leading the proceedings, there were no exchange of pleasantries. On the early part of the meeting Ajay told me that they have been gathering intelligence on me including those closest to me, being in their minds my friend Rustum Mohamed and my chief of Staff Mr Nkosohlanga Mboniswa who they both described as poor and useless.

He further indicated that they were well aware of my activities and connections with the ANC's Secretary General Mr Gwede Mantashe and the Treasurer General Dr Zweli Mkhize. The impression created was that I was part of what he called "a Thing" (Presumably a faction or a process towards undermining President Zuma), at this stage I interjected and strongly rehuffed the gentleman's view that I was part of nothing else other than the ANC and that my activities in the ANC and my work in Government had nothing to do with him.

I strongly asked him what was the purpose of the meeting and he indicated that they are going to make me the Minister of Pinance. I was shocked and irritated and I told him I don't want the position and moreover it is the ANC through the President of the Republic who can make such a decision not him/them and I indicated that I was leaving. At no stage that both Duduzane and Fana spoke in the meeting, they were simply told to sit down when I indicated that I was leaving.

Mr Gupta continued to disclosed names of cdes they were working with and providing protection to. He further mentioned that collectively as the family they make a lot of money from the state and they intend to increase that to about R 8 billion from about R 6 billion currently and bulk of their money is stashed up in Dubai.

He also indicated that they have determined that National Treasury is a stumbling block to their ambitions of making money from the South African government. Part of the offer by the Gupta Family member was a carefully orchestrated plan to destabilise National Treasury including removing the current Director General and other key members of the executive management at National Treasury.

Mr Gupta further indicated that they have made Mr Duduzane Zuma a billionaire including that he now has a house in Dubai. I started walking towards the door and Mr Gupta made a further offer of R 600 million to be deposited in an account of my choice. He also asked if I had a bag, which I would use to receive and carry R 600 000 right there on the spot. I voiced my displeasure on these offers and disclosures of people's names being revoked at will and I asked both Duduzane and Fana to take me to the airport as I was running late.





On the way to the airport I asked both Duduzane and Fana what was the purpose of the meeting and why they had not mentioned it to me that we were meeting a member of Gupta family in their house and we made arrangements to meet on the following Tuesday, this meeting never took place.

I called Fana to strongly express my disgust in the fact that he coxed me into attending a meeting with the Guptas against my expressed objection on meeting or working with the family.

Post Meeting

- In the after math of the meeting I was preoccupied with what was I going to do with this matter, I concluded that I would talk to various codes closest to me due to the sensitivities involved in the matter. On Monday 26th October 2015 I pulled aside the then Minister of Finance Mr Nhlanhla Nene to indicate what had happened and we decided that lets observe and see how the matter would pen out.
- Later on that day I decided to inform and seek advise from Mr Pravin Gordhan as my old
 cide on the matter and I expressed how irritated I was on the arrogance of that family to
 appropriate democratic power to themselves like that to a point of making such offers
 and disclosures. He similarly advise that lets not take any action and see what would be
 the outcome.
- In January I had a meeting with Dr Zweli Mkhize (ANC Treasurer General) on a separate matter and I mentioned to him that I had been approached by the Gupta Family through facilitation by Mr Duduzane Zuma and Adv Fana Hongwane with an offer to be made by them the Minister of Finance in October 2015. Zweli was shocked and he noted the concerns I raised on the matter including the role of Duduzane Zuma in the whole matter.
- Still in January I realised that there was an increased interest and speculation on the fact
 that I had been approached and offered the job of the Finance Minister by the Gupta
 Family.
- The Financial Times broke the story on Wednesday 09th March 2016, with little traction
 in the mainstream media in South Africa.
- Thursday 10th news25 and other wire news agencies carried the story with little reaction from main news media and the society in general.
- On Friday I had travel to a SADC meeting in Gaborone, Botswana that would last until Monday 13th March 2016
- Sunday 13th March 2016, the Sunday Times carried the story on its front page and my
 impression was that the story carried several inaccuracies and unfortunately since I did
 not release it I was unable to correct those mistakes.



- I arrived back in South Africa on Monday 14th March 2016; I went straight to the ANC Head Offices to discuss the matter with the Secretary General and the Spokesperson of the ANC. The meeting took place with the Spokesperson and we agreed on the approach to be taken including a need to talk to the nation as the story had griped South Africa.
- We started working on the statement on Monday and on Tuesday I consulted further the ANC through the SG and finalised the statement and released it on Wednesday 16th March 2016, such a statement is by now a public document.
- I will shortly submit a detailed statement if I am required to do so.



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I strongly asked him what was the purpose of the meeting and he indicated that they are going to make me the Minister of Finance. I was shocked and irritated and I told him I don't want the position and moreover it is the ANC through the President of the Republic who can make such a decision not him/them and I indicated that I was leaving. At no stage that both Duduzane and Fana spoke in the meeting, they were simply told to sit down when I indicated that I was leaving.

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VAN DER MERWE & ASSOCIATES

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097 654 0209 # 012 343 5466 #3 62 RIGEL AVE WATERIALOOF GT VD MERINE/YVd 1457 "OB22"

IN THE HIGH COURT OF SOUTH AFRICA [GAUTENG DIVISION, PRETORIA]

CASE NUMBER: 80978/16

In the matter between:

MINISTER OF FINANCE

and

OAKBAY INVESTMENTS (PTY) LTD

OAKBAY RESOURCES AND ENERGY LTD

SHIVA URANIUM (PTY) LTD

TEGETA EXPLORATION AND RESOURCES (PTY) LTD

JIC MINING SERVICES (1979) (PTY) LTD

BLACKEDGE EXPLORATION (PTY) LTD

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VR LASER SERVICES (PTY) LTD

ISLANDSITE INVESTMENTS ONE HUNDRED AND EIGHTY (PTY) LTD

CONFIDENT CONCEPT (PTY) LTD

JET AIRWAYS (INDIA) LTD (INCORPORATED IN INDIA)

SAHARA COMPUTERS (PTY) LTD

ABSA BANK LTD

APPLICANT

1ST RESPONDENT

2ND RESPONDENT

3RD RESPONDENT

4TH RESPONDENT

5TH RESPONDENT

6TH RESPONDENT

7TH RESPONDENT

8TH RESPONDENT

9TH RESPONDENT

10TH RESPONDENT

11TH RESPONDENT

12TH RESPONDENT

13TH RESPONDENT

14TH RESPONDENT

15TH RESPONDENT

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FIRST NATIONAL BANK LTD 16TH RESPONDENT

STANDARD BANK OF SOUTH AFRICA LIMITED 17TH RESPONDENT

NEDBANK LIMITED 18TH RESPONDENT

REGISTRAR OF BANKS

19TH RESPONDENT

DIRECTOR OF THE FINANCIAL INTELLIGENCE CENTRE 20TH RESPONDENT

GOVERNOR OF THE SOUTH AFRICAN RESERVE BANK 21ST RESPONDENT

AFFIDAVIT

I, the undersigned.

MR AJAY KUMAR GUPTA

hereby declare under oath and say:

1.

l am a major male businessman.

2.

The contents of this affidavit fall within my personal knowledge and belief and are both true and correct. Wherever I make any legal submissions herein I do so on advice of my legal representative.

Des RI

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3.

I depose of this affidavit in order to clarify a serious distortion of facts which caused me and my family severe hardship and unbelievable negative publicity.

4.

I have been informed by Ronica Ragavan, the Acting CEO of the Oakbay group of companies, that the Minister of Finance, Mr Pravin Jamnadas Gordhan, thought it wise to refer to an alleged incident with his Deputy Minister of Finance, Mr Mcebisi Jonas during October 2015.

5.

In light of the aforesaid I perused the replying affidavit of Mr Gordhan in his capacity as the Minister of Finance of the Republic of South Africa and I was obviously disturbed by allegations he presented as fact without even attempting to obtain a confirmatory affidavit from his Deputy who is, in all likelihood, occupying an office right next to him.

6

Before I deal with these mischievous allegations raised and presented by Mr Gordhan as fact, I need to reiterate and confirm that Mr Gordhan never instructed his attorneys to either enquire from me as to whether these allegations are true or to have these papers served on me for purposes of responding thereto.

....

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7.

When I was alerted to the efforts employed by the Applicant in his replying affidavit I took a decision to respond thereto and since Mr Gordhan chose not to refer to any credible supporting evidence and further failed to append a confirmatory affidavit from his Deputy which could have been obtained without any effort I submit that the version I intend to raise in these papers will be uncontested.

8.

I further submit that I will refer to certain extracts from the State of Capture Report compiled by the previous Public Protector, Advocate Thuli Madonsela.

9

I am advised that no person may disclose or share any information pertaining to such a report whilst it is in the process of being completed.

10.

It is a well-known fact and I record that I employed all reasonable efforts to be afforded an opportunity to address the then Public Protector (Advocate Thuli Madonsela) prior to the date of her issuing her report and I further submit that it was on my instance and my request that the then Public Protector afforded me a single opportunity to address her on or about 4 October 2016. The opportunity so afforded was insufficient and clearly rushed.

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11.

Advocate Madonsela undertook to furnish me with copies of the evidence given by the relevant witnesses and I was indeed furnished with the transcribed version of the evidence of Mr Mcebisi Jonas and his written statement regarding the alleged meeting at the house in Saxonwold.

12.

On a proper reading and interpretation of the information obtained from the offices of the Public Protector it is evident that the "incident" with Mr Mcebisi Jonas was created in order to support the wave of adverse media attention and to achieve the political advantage obviously gained from creating such a media hype from an incident which never occurred.

13.

I am of the view that it is important to deal with this allegation raised by the Applicant and I do so in order to ensure that nobody can ever say that I kept quiet towards the facts when I was confronted with these allegations and whilst I knew the truth.

14.

Let me commence this portion of my affidavit to clearly and unambiguously state under oath that I have never met Mr Mcebisi Jonas, not as alleged or at all.



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15.

The fact of the matter is that Mr Jonas is, with respect, blatantly dishonest when he suggests that he met with me or that I attended a meeting with him.

16

I have challenged Mr Jonas, and I do so again, to prove that he met with me as alleged.

17.

He was called to give evidence before Advocate Madonsela and I have read his evidence in detail. The afcresaid compared with his statements and the other documents he "prepared" are factually inconsistent, contradictory and flawed to an extent that I find it awkward that the Public Protector latched onto the version of Mr Jonas whilst simply refusing to properly investigate what actually happened.

18.

What seems to be clear from the evidence given by Mr Jonas (and this can be confirmed independently since it is his evidence presented to the Public Protector) is that he, on his own version, knew about the alleged "offer" since 25 October 2015, more than a month and a half prior to the alleged Nene gate incident.



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19.

What is further clear from his evidence is that he contacted Mr Gordhan on Sunday, 26 October 2015, via telephone and visited Mr Gordhan on that same day and shared with him the information regarding the alleged offer causing Mr Gordhan, the current Minister of Finance, to be well aware of the detail of the incident since at least 26 October 2015, a month and a half prior to the replacement of then Minister of Finance, Mr Nene.

20.

if there was any truth to these allegations or if either Mr Gordhan or Mr Jonas acted promptly and as suggested in Section 34 of the Prevention and Combating of Corrupt Activities Act 12 of 2004 the so called Nene Gate scandal and its adverse consequences could have been prevented by them. Why did they do nothing if they knew about this upcoming scandal and the corrupt core behind it?

21.

On their own version and with the common cause facts Mr Jonas waited for 5(Five) months to make a public statement, same coincidentally in concert with other political manoeuvres of which mention is made in the papers filed to this application.

22.

Since I am not at liberty to share the documentation submitted by Mr Jonas to the

1464

Public Protector (since there is a clear bar on me to do so pursuant to the provisions of the Public Protector Act) I can merely confirm that the different versions of Mr Jonas as to what, allegedly, happened at the meeting in Saxonwold in October 2015 are inconsistent, flawed and factually contradictory. It is within the disclosure of the Public Protector to release these documents.

23.

Mr Jonas thought it wise to implicate me repeatedly as the person who made an offer to him. This allegation is very serious. It is now almost one and a half years since the incident and still Mr Jonas persists with the view that I made the offer.

24

I have been in the Republic of South Africa since the aforesaid date and since then neither Mr Jonas nor Mr Gordhan thought it wise to report this serious allegation to any relevant authority under the provisions of Section 34 of the Prevention and Combating Corrupt Activities Act 12 of 2004. This is telling since it would expose the dishonesty of Mr Jonas. Mr Jonas is invited to lay these charges in order to secure an investigation.

25.

Since the Applicant chose to encumber the Court with a, at best for him, third hand hearsay allegation which he could have supported if he obtained an affidavit from his

1465

Deputy, I take the liberty of clearly setting out the events as far as they could ever relate to me.

26.

I have recorded hereinabove that I have never met Mr Jonas and until today I can honestly say that I have not spoken a single word to him (as he alleged or at all).

27.

In order to support what I have said herein I have approached Mr Duduzane Zuma to depose of a confirmatory affidavit with regards to involvement in the meeting conducted with Mr Jonas. Through his attorney, Mr Christo Stockenström, I contacted Mr Fana Hlongwane to depose of a confirmatory affidavit regarding my involvement at the meeting in October 2015. I append hereto as Annexures "AG1" and "AG2" the said affidavits to which the Honourable Court is kindly referred.

28.

I therefore deny the correctness of the allegations raised by Mr Jonas and even in the event of the Applicant being in a position to raise those allegations I submit that they are untrue and ill-intended.

29.

I have made it clear via my attorney that I am willing to partake in any inquiry which



1466

would afford me and my legal team the opportunity to cross-examine Mr Jonas and to the extent necessary the other "witnesses" he implicated in his evidence. I am advised that I am entitled to the aforesaid since these allegations are serious and in my view subject to being tested in an open forum. It has always been the view of the Family to partake in the proposed judicial inquiry and I still welcome same in order for the Family to clear its name and to disclose the true facts behind a sinister and ill-motivated campaign.

30.

In light of the aforesaid I beg the Honourable Court to take note of the aforesaid and consider same when taking a decision on the matters at hand.

DEPONENT

Signed and sworn before me at SANDION on this Office day of Contents of this statement and regards the prescribed oath as binding on his conscience and has no objection against taking the said prescribed oath.

COMMISSIONER OF OATHS:

COMMISSIONER OF OATHS (RSA)
Basanda Similo Mtembu - Practicing Attorney, RSA
1st Floor Block A. Grayston Ridge Office Park
144 Ketherine Street, Sandton
Tal: (011) 262 5078/66 Fax: (011) 262 5068



VAN DER MERING & **ASSOCIATES**

E2 62 RIGEL AVE WATERICLOOF GT VD MERNAENVO IN THE HIGH COURT OF SOUTH AFRICA [GAUTENG DIVISION, PRETORIAL

CASE NUMBER: 80978/16

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REGISTRAR OF BANKS 19TH RESPONDENT

DIRECTOR OF THE FINANCIAL INTELLIGENCE CENTRE 20TH RESPONDENT

GOVERNOR OF THE SOUTH AFRICAN RESERVE BANK 21ST RESPONDENT

CONFIRMATORY AFFIDAVIT

I, the undersigned,

FANA HLONGWANE

hereby declare under oath and say:

1

l am a major male businessman.

2

The contents of this affidavit fall within my personal knowledge and belief and are both true and correct.

3.

I have read the affidavit deposed to by Mr Ajay Kumar Gupta and confirm the contents

thereof in as far as it refers to any acts or conduct which I have been involved in and confirm the correctness thereof.

4.

Further to the aforesaid I confirm that Mr Ajay Kumar Gupta was not present at any time during the meeting with Mr M Jones held on 25 October 2017

DEPONENT

Signed and sworn before me at IrB Haysaw on this 99 day of

Feloverary 2017 after the Deponent declared that he is familiar with the
contents of this statement and regards the prescribed oath as binding on his
conscience and has no objection against taking the said prescribed oath.

COMMISSIONER OF OATHS:

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TABLE BAY MADROURE
021 403 (006/7



VAN DER MERWE & ASSOCIATES

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#: 087 654 (1209 #: 012 343 5456 #3 82 RIGEL AVE WATERIKLOOF GT VD MERWIEAGU

IN THE HIGH COURT OF SOUTH AFRICA [GAUTENG DIVISION, PRETORIA]

1470

CASE NUMBER: 80978/16

In the matter between:

MINISTER OF FINANCE

and

OAKBAY INVESTMENTS (PTY) LTD

OAKBAY RESOURCES AND ENERGY LTD

SHIVA URANIUM (PTY) LTD

TEGETA EXPLORATION AND RESOURCES (PTY) LTD

JIC MINING SERVICES (1979) (PTY) LTD

BLACKEDGE EXPLORATION (PTY) LTD

TNA MEDIA (PTY) LTD

THE NEW AGE

AFRICA NEWS NETWORK (PTY) LTD

VR LASER SERVICES (PTY) LTD

ISLANDSITE INVESTMENTS ONE HUNDRED AND EIGHTY (PTY) LTD

CONFIDENT CONCEPT (PTY) LTD

JET AIRWAYS (INDIA) LTD (INCORPORATED IN INDIA)

SAHARA COMPUTERS (PTY) LTD

ABSA BANK LTD

APPLICANT

1ST RESPONDENT

2ND RESPONDENT

3RD RESPONDENT

4TH RESPONDENT

5TH RESPONDENT

6TH RESPONDENT

7TH RESPONDENT

8TH RESPONDENT

9TH RESPONDENT

10TH RESPONDENT

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13TH RESPONDENT

14TH RESPONDENT

15TH RESPONDENT

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FIRST NATIONAL BANK LTD 16TH RESPONDENT
STANDARD BANK OF SOUTH AFRICA LIMITED 17TH RESPONDENT

NEDBANK LIMITED 18TH RESPONDENT

REGISTRAR OF BANKS 19TH RESPONDENT

DIRECTOR OF THE FINANCIAL INTELLIGENCE CENTRE 20TH RESPONDENT

GOVERNOR OF THE SOUTH AFRICAN RESERVE BANK 218T RESPONDENT

CONFIRMATORY AFFIDAVIT

i, the undersigned.

DUDUZANE ZUMA

hereby declare under oath and say:

1.

I am a major male businessman and investor in the Oakbay group of companies through an entity called Mabengela Investments (Pty) Ltd.

2.

The contents of this affidavit fall within my personal knowledge and belief and are both true and correct.

(the

i have read the affidavit deposed to by Mr Ajay Kumar Gupta and confirm the contents thereof in as far as it refers to any acts or conduct which I have been involved in and confirm the correctness thereof.

Further to the aforesaid I confirm that Mr Ajay Kumar Gupta was not present at any time during the meeting with Mr M Jonas held on 25 October 2017

DEPONENT

Signed and sworn before me at T. B. Mar. soul on this 29 day of Followy 2017 after the Deponent declared that he is familiar with the contents of this statement and regards the prescribed oath as binding on his conscience and has no objection against taking the said prescribed oath.

COMMISSIONER OF OATHS:

LULAMICE MXUNDELWA

TABLE BAY HARBOUL 021 403 1006/7

IN THE HIGH COURT OF SOUTH AFRICA (GAUTENG DIVISION, PRETORIA)

Case no: 90878/2016

in the matter between:

MINISTER OF FINANCE

Applicant

And

OAKBAY INVESTMENTS (PTY) LTD

First Respondent

OAKBAY RESOURCES AND ENERGY LTD

Second Respondent

SHIVA URANIUM (PTY) LTD

Third Respondent

TEGETA EXPLORATION AND RESOURCES (PTY)

Fourth Respondent

JIC MINING SERVICES (PTY) LTD

Fifth Respondent

BLACKEDGE EXPLORATION (PTY) LTD

Sixth Respondent

TNA MEDIA (PTY) LTD

Seventh Respondent

THE NEW AGE

Eighth Respondent

AFRICA NEWS NETWORK (PTY) LTD

Ninth Respondent

VR LASER SERVICES (PTY) LTD

Tenth Respondent

ISLANDSITE INVESTMENTS ONE HUNDRED AND

Eleventh Respondent

EIGHTY (PTY) LTD

Twelfth Respondent

CONFIDENT CONCEPT (PTY) LTD

1478

JET AIRWAYS (INDIA) LTD (INCORPORATED IN INDIA)

SAHARA COMPUTERS (PTY) LTD

ABSA BANK LTD

FIRST NATIONAL BANK LTD

STANDARD BANK OF SOUTH AFRICA LIMITED

NEDBANK LIMITED

GOVERNOR OF THE SOUTH AFRICAN

RESERVE BANK

REGISTRAR OF BANKS

DIRECTOR OF THE FINANCIAL INTELLIGENCE CENTRE

Thirteenth Respondent

Fourteenth Respondent

Fifteenth Respondent

Sixteenth Respondent

Seventeenth Respondent

Eighteenth Respondent

Nineteenth Respondent

Twentieth Respondent

Twenty-First Respondent

AFFIDAVIT

i, the undersigned.

MCEBISI HUBERT JONAS

do hereby state under oath that:

- i am the Deputy Minister of Finance. 1.
- The contents of this affidavit are, save where the context indicates otherwise, 2. within my personal knowledge or derived from records and information under



my control. They are true and correct. Where I make legal submissions this is based on advice by the legal representatives of National Treasury.

- I have been referred to affidavits sought to be filed by the Oakbay respondents, purportedly as a fourth set of affidavits. I understand that these follow not only the closing of affidavits, but also the heads of argument filed on behalf of the Minister, the Reserve Bank, and the banks cited as further respondents. The affidavits purport to deal with the Minister's replying affidavit, and the Report on State Capture by the Public Protector. The latter was published over 10 weeks ago, but after the founding affidavit was filed.
- 4. The Public Protector's report already formed the subject-matter of Oakbay's own answering affidavits. Similarly, my own public statement explaining my version forms part of the banks' affidavits. The Oakbay respondents elected not to address the banks' papers in Oakbay's answering papers. The latter were filed six weeks after the banks' affidavits.
- Solution of the Cakbay respondents' purported fourth set of affidavits, Mr Ajay Gupta criticises the Public Protector's report for accepting my version; or, to use the words Mr Ajay Gupta himself chose in the fourth set of affidavits, for having "latched onto" my version (para 17). What Mr Gupta does not disclose, however, let alone address, is that the Public Protector's report records evidence which contradicts Mr Gupta's version (see paras 5.24 and 5.25 of the report, attached marked "MHJ1"). Mr Gupta's purported affidavit does not deny or explain this. Nor did he do so in his previous affidavit filed together with Oakbay's main answering affidavit. Yet Mr Gupta now not only seeks to



imply that the Public Protector was wrong but also seeks to call me "blatantly dishonest" (para 15).

for it is a second of the second related reasons the application by the Oakbay respondents to file a fourth set of affidavits now to deal with these issues will be opposed by the Minister. In the event however that the further affidavits are allowed by the court, and certain parts thereof not being struck out as inter alia scurrilous and vexatious, and purely by way of what I am advised is termed pleading over, I have been asked to address in this, a fifth set, the allegations of dishonesty and falsity advanced by Mr Ajay Gupta and Ms Ronica Ragavan.

Ad paragraph 7

7. The contents of both Ms Ragavan and Mr Gupta's affidavits are denied to the extent that they are inconsistent with this affidavit, the Minister's previous affidavits, the Public Protector's report, and other papers previously filed – contradicting, as mentioned, the factual version now purportedly advanced in a fourth set of affidavits (but not previously sought to be addressed by Mr Gupta).

Ad paragraph 8

8. I note Mr Gupta's recordal that he "submit[s] that [he] will refer to certain extracts from the State of Capture Report compiled by the previous Public Protector, Advocate Thuli Madonsela". The problem with this approach, which is also the one which Ms Ragavan adopts in her affidavit, is that it is self-



servingly selective. Mr Gupta thus elides recordals of evidence which contradicts his own "denial[s]", while Ms Ragavan resorts to a recordal of "remedial action" which elides parts of the report which indeed qualify as conclusions based on evidence. That some or more of them are described in the report as "observations" does not detract from their nature. Some indeed constitute findings, ! am advised.

Ad paragraphs 9 to 11

- This paragraph purports to advance an excuse for failing to provide a proper factual foundation for Mr Gupta's bald allegation that I have provided a version which Mr Gupta variously describes as "inconsistent, flawed and factually contradictory" (para 22) and "blatantly dishonest" (para 15). The excuse is that Mr Gupta had been advised that "no person may disclose or share any information pertaining to such a report [i.e. a report by the Public Protector] whist it is in the process of being completed." The problem for Mr Gupta is that the report is already "completed". It is final and it was already published many months ago.
- 10. I myself do not have documents recording the "information" to which Mr Gupta refers, and therefore cannot adduce it. I deny that my version is subject to any of the criticisms Mr Gupta variously advances. The Public Protector did not doubt my version. She did, however, record that Mr Gupta denied visits of an identified individual to his (Mr Gupta's) residence, despite the fact that telephone records reflected numerous visits by this person to Saxonwold.; refer in this respect again to annexure "MHJ1".

11. Mr Gupta discloses that he has been "furnished with" the transcribed version of my evidence and written statement to the Public Protector (para 11). As I have mentioned, I am not. These documents are, I am advised, liable to disclosure pursuant to Rule 35(12) of the Uniform Rules of Court – despite the Oakbay respondents forbearing to disclose them. A notice pursuant to Rule 35(12) will be filed with this affidavit, I understand.

Ad paragraphs 12 to 14

- Mr Gupta does not suggest that the incident to which he refers involving me was "created" by the applicant or me. It was not "created" by either of us. The incident certainly did occur. This is confirmed by the confirmatory affidavits to Mr Gupta's own affidavit, deposed to by the two individuals who scheduled the meeting and took me to the Gupta residence.
- Occurred. All that they seek to do is to "confirm that Mr Ajay Kumar Gupta was not present" during the "25 October 2017" [sic] meeting. I refer in this respect to paragraphs 4 of the identical confirmatory affidavits. Apart from confirming the absence of Mr Ajay Gupta, they only "confirm the contents of Mr Gupta's affidavit in as far as it refers to any acts or conduct which I have been involved in" (para 3).
- The confirmatory affidavits do not suggest that any other member of the Gupta family was absent from that meeting. This is significant, because the Public Protector's report itself refers variously to the Gupta brother in attendance as



Atul (p 30 para 2.6, attached marked "MHJ2") and Ajay "among others" (p 5 para (vii), attached marked "MHJ3"). I did not previously encounter either of these two brothers. I am only able to identify them from photos and footage in the media. My own statement attached to some of the banks' affidavits (which, as mentioned, the Oakbay respondents elected not to address) only refer to "members of the Gupta family" (see e.g. Record vol 2 p 173 para 6). Therefore even were Mr Ajay Gupta's allegations which merely seek to absent himself from the meeting (but without explaining why the meeting was held at the Gupta residence, or suggesting that he was unaware that it would be held there or authorised that the Gupta residence be used for this purpose) to be truthful (which I deny), then the primary fact regarding the members of the Gupta family remains common cause.

The correct facts regarding Mr Ajay Gupta himself is, in short, as follows. I met him at his Saxonwold residence on 23 October 2015 together with Messrs Duduzane Zuma and Hlongwane. Mr Gupta indicated to me that "we" — I understood clearly, the Gupta family and its interests — had been gathering intelligence on me including those closest to me; they were aware of my activities and connections with senior members of the African National Congress; they are going to make me the Minister of Finance; collectively as a family they make a lot of money from the state, that they intend to increase that to about R8 billion from about R6 billion currently and that the bulk of their money is stashed in Dubai; they have determined that the National Treasury is a stumbling block to their ambitions of making money from the South African government; they have made Mr Duduzane Zuma a billionaire including the



house he has in Dubai; Mr Gupta is offering me R600 million to be deposited in an account of my choice; and if I had a bag that could carry R600 000 then I could get that amount there and then.

16. I have provided the same facts to the Public Protector. She recorded them at pp 91-95 of her report. Nothing in her report questions the integrity of my version. Instead, she received it favourably. Mr Gupta indeed accepts this in seeking to criticise the Public Protector for "latching onto" my version while clearly not giving any credence to this own.

Ad paragraphs 15 to 16

17. I accordingly deny Mr Gupta's version and reject his allegation that I am "blatantly dishonest" (para 15). It in any event falls to be struck out for being scandalous, vexatious and irrelevant. Since Mr Gupta has sought in his affidavit to "challenge" me to prove my version (para 16), which (he complains) the Public Protector already apparently accepted, his affidavit presupposes that if it is received so too should mine. I do not accept, however, that there is a proper basis for the admission of the fourth set of affidavits by the Oakbay respondents.

Ad paragraph 17

18. Mr Gupta signally fails here or anywhere else in his affidavit to specify the alleged inconsistency, contradictions and flaws: his assertion is denied. As mentioned, Mr Gupta's complaint that it is "awkward" that the Public Protector had "latched onto [sic]" my version is an own goal. Awkwardness evidently



lies in the eye of the beholder

Ad paragraphs 18 to 20

- 19. My untraversed statement already explains the timing and circumstances in which I have disclosed issues of grave concern and sensitivity. The matter has already been reported to the appropriate authorities. There is therefore no merit in the suggestion that the applicant or I should have raised the issue earlier. I had raised it already in March 2016.
- This criticism, too, is an own goal. For it is the Oakbay respondents which peddled for the first time a version in January 2017 regarding events Oakbay alleges occurred already in January 2018. They have belatedly hatched a conspiracy theory in papers purporting to oppose the Minister's application. Therefore if a delay of five months should warrant suspicion over the facts disclosed, then Oakbay's conspiracy theory (advanced for the first time twelve months after the alleged event) should be approached with grave suspicion.

Ad paragraph 21

21. I deny the vague allegation of political manoeuvres. It, too, falls to be struck out on the basis of being scandalous, vexatious and irrelevant.

Ad paragraph 22

22. By design or result Mr Gupta misconstrues the Public Protector Act. He claims that he is under some legal constraint to provide documents in his possession which he contends supports his version – but fails to disclose.



The Public Protector Act is clear. It refers to the non-disclosure of documents "during an investigation" (section 7(2)). The investigation leading to the State of Capture Report is concluded. Therefore Mr Gupta's excuse is contrived.

23. The correct factual version is as set out above, provided to the Public Protector, and accepted by her. That this is "awkward" for Mr Gupta says much.

Ad paragraphs 23 to 25

24. I indeed persist in my consistent statement. Allegations by Mr Gupta or any Oakbay deponent inconsistent with the factual exposition contained in this affidavit, my public statement of March 2016, and evidence before the Public Protector (recorded in her report without contradiction) are therefore denied. I also confirm the contents of the Minister's founding and replying affidavits, both of which I have read, to the extent that this may be necessary.

Ad paragraph 26

25. I reiterate that I met Mr Ajay Gupta at his Saxonwold residence on 23 October 2015 and that he did speak to me on that day. I accordingly deny also the averment advanced to the contrary in this paragraph.

Ad paragraph 27

26. This paragraph refers to the confirmatory affidavits of Messrs Duduzane Zuma and Hlongwane. They have been approached, Mr Gupta states, to confirm his "involvement at the meeting in October 2015". In turn, these affidavits state that "Mr Ajay Kumar Gupta was not present at any time during the meeting with Mr



M Jonas held on 25 October 2017" (para 4 of both confirmatory affidavits, both in identical terms, and both deposed at Table Bay Harbour). Even if one is to understand the reference to be to 25 October 2015 (instead of 2017), then the confirmatory affidavits remain materially defective. This is because, as I have stated and the Public Protector's report records, the relevant meeting occurred on 23 October 2015. Therefore, the absence of Mr Ajay Gupta at a meeting two days later, on 25 October 2015, fails to confirm the necessary allegation. In any event, as indicated above, as would be fully apparent to all three deponents, the key issue is that the meeting, with the events I have described, took place at the Saxonwold compound shared by the Gupta brothers and their families, and that a Gupta brother was present.

MCEBISI HUBERT JONAS

Signed and sworn to before me at PRETCEIN on this the 16 day of February 2017 by the deponent having acknowledged the he knows and understands the contents of this affidavit which was deposed to in accordance with the regulations governing the administration of oaths as more fully set out in Government Notice No R 1258 of July 1972 as amended.

POLICE SERVICE SOU AFRIC LITIGATION & ADMINISTRATION

2017 -02- 1 6

HEAD OFFICE

SUID-AFRIKAANSE POLISIEDIENS

COMMISSIONER OF OATHS

Name:

Address:

ELEANOR DELAINE GROENEWALD

COMMISSIONER OF OATHS

Capacity:

OLICE SERVICE LEGAL OFFICIAL

PRESIDIA BUILDING 256 PAUL KRUGER STREET

AFFIDAVIT

I, the undersigned,

MCEBISI JUBERT JONAS

pota 65

Do state under oath in English

-1

I am an adult male, a Member of Parliament holding a position of a Deputy Minister of Finance in the office of the Ministry of Finance, Corner Paul Kruger and Madiba Street, Church Square, Pretoria, with Telephone number: 012-3155559.

2

The facts deposed herein are, within my personal knowledge, true and correct and save where the context indicates otherwise.

3

I wish to state that on 2016/06/20 I had a telephonic conversation with Major General Mnonopi of the Directorate for Priority Crime Investigation who informed me that she is investigating two cases opened by one Mr Dennis Victor Bloem of the Congress of the People and Mr David John Maynier who is the member of the National Assemble of the Republic of South Africa. She further informed me that the allegations are of corruption emanating from the Sunday Times Article dated 13th April 2016 as cited by Mr Maynier where the Gupta family offered me the position of Minister of Finance to replace the then Minister Nene while Mr Bloem made reference to a Media Briefing made on the 16th of March 2016 on the same subject matter.

4

During our engagement she informed me that I am cited as a witness in both cases and for that reason, adetailed statement is required from me. I responded to her that I am not prepared to submit any statement as I never opened any case against anyone and I don't intend opening any, further, I'm not a witness to any person. We (the investigating officer and myself) later made an agreement to meet for such an affidavit.

5

Today I met with the investigating officer as arranged and I still maintain my position that I don't have any statement in this regard. That is all I wish to say.

I have no objection to taking the prescribed oath.

I consider the prescribed oath to be binding in my conscience.

COMMISSIONER OF OATH

ZINTLE LUTRICIA MNONOPI

DIRECTORATE FOR PRIORITY CRIME INVESTIGATION

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is confidential and cannot be divulged to any other

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27724154072	655014601472886	35836306513104	23-04-2015 08135:31	126		19194	3G Par 1	Ite.vod acom.			100.94.81.44	
27724154072	655014601472886	35836306513104	23-Oct-2016 09:35:31	0		19194	2.0	Ite.vod acom. za			100.94.81.44	3718
27724154072	655014601472886	35836306513104	23-06-2015 09:37:18	27	30512 926		1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (1				100.94.81.44	0
27724154072	655014601472886	35836306513104	23-Oct-2015 69 ST.40	26	/w	66),61	SGC Parklands		4		100,94,81,44	
27724154072	655014601472886	35836306513104	23-0ct-2015 09:37-40			85.0	3G Parklands SGC	Re.vod acom. za			100.94.81.44	40
27724154072	655014601472886	35836306513104	23-Oct-2015 09:38:48	40	28185 886		LTE_Bolton_S GC_3	fte.vod acom. za			100.94.81.44	380
27724154072	655014601472886	35836306513104	23-Oct-2015 09:39:28	55	28185 876		LTE_Bolton_S GC_2	lite.vod acom. za			100.79.145.221	31914
27724154072	655014601472886	35836306513104	23-Oct-2015 09:40:19	_		10105	3G_Bolton_SG C	lte.vod acom.	h.		100.79.145.221	11562
27724154072	655014601472886	35836306513104	23-Oct-2015 09:40:19	26		10105	3G_Bolton_SG C				100.79.145.221	
27724154072	655014601472886	35836306513104	23-Oct-2015 09:41:54	12	28861 726		LTE_The_Hyatt _Hotel_SGC_3				100.79.145.221	0
27724154072	655014601472886	35836306513104	23-Oct-2015 09:42:01	-		34364	3G_The_Hyatt_Ite.vod Hotel_Ext_SGC_acom.	lle.vod acom.			100.79.145.221	0

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MSISDN INSI 27724154072 6550 27724154072 6550 27724154072 6550											
		IME	Session Start	Duration	ECI	= 0 ₽	Cell Name	APN Charging ID	GGSN Address	PDP Address	Volume in Bytes
							2	28			
	655014601472886	35836306513104	23-Oct-2015 09:42:01	22		34364	3G_The_Hyatt_ Hotel_Ext_SGC	Ite.vod acom. za		100.79.145.221	
	655014601472886	35836306513104	23-Oct-2015 09:42:59	284	28861 706		LTE_The_Hyatt	ite.vod acom.		100.79.145.221	22069
	655014601472886	35836306513104	23-Oct-2015 09:47:38	Ţ-		34365	3G_The_Hyatt_ Hotel_Ext_SGC	Ite.vod acom. za		100.79.145.221	3509
27724154072 6550	655014601472886	35836306513104	23-0ci-2015 09:47:38	4		34365	3G_The_Hyatt Ite Hotel_Ext_SGC_za	lte.vod acom. Za		100.79.145.221	
27724154072 6550	655014601472886	35836306513104	23-Oct-2015 0g/47/53	418	28861		LTE The Hyatt te.	ite.vod acom. 28		100.79.145.221	1026
27724154072 6550	655014601472886	35836306513104	23-Oct-2016,00048-23	23	With the second	34365	3G The Hyatt Ite.voo Hotel Ext SGC acom.	tte.vod acom. za		100.79.145.221	
27724154072 6550	14601472886	655014601472886 35836306513104	23-0-1-01-01	-		34365	3G ne Hori	lte.vod acom. za		100.79.145.221	0
27724154072 6550	655014601472886	35836306513104	23-04-2015-09-48:57	360	28861 716		Hatel Sec 2	Ite.vod acom. za		100.79,145,221	3394
27724154072 6550	655014601472886	35836308513104	23-Oct 2016 00:54:53	46		34365	S S S S S S S S S S S S S S S S S S S	ite.vod acom.		100.79.145.221	
27724154072 6550	655014601472886	35836306513104	23-0c1-2815-02-5-53	ø	(*	130	Act The Hyalt Ne Hole Bo	tte.vod acom.		100.79.145.221	1596
27724154072 6550	655014601472886	35836306513104	23-Oct-2015 00:55:10	8			Hotel SGC 2 28	tte.vod acom. 28		100.79.145.221	6968
27724154072 6550	655014601472886	35836306513104	23-0at-2015 09:58:22	0		34365	3G_The_Hyatt le	Ite.vod acom. za		100.79.145.221	0
27724154072 6550	655014601472886	35836306513104	23-Oct-2015 09:58:22	40	.,	34365	3G The Hyatt Ite	Ite.vod		100.79.145.221	
27724154072 6550	655014601472886	35836306513104	23-Oct-2015 09:58:30	10	28861 716		LTE_The_Hyatt Ite. Hotel_SGC_2 za	tte.vod acom.		100.79.145.221	0
27724154072 65501	655014601472886	35836306513104	23-Oct-2015 09:58:35	1	10	34365 H	3G_The_Hyatt tte. Hotel_Ext_SGC_za	ite.vod acom.		100.79.145.221	40
	655014601472886	35836306513104	23-Oct-2015 09:58:35	06	60	34365 H	3G The Hyatt He Hotel Ext SGC ac	Re.vod acom,		100.79.145.221	
27724154072 85501	655014601472886	35836306513104	23-Oct-2015 09:59:36	144	28861 716		LTE_The_Hyatt Ite.vod Hotel SGC 2 acom.	.vod		100.79.145.221 19273	19273





				GPRS	GPRS Stream							
MSISDN	IMSI	IME	Session Start	Duration	ECI	I Cell	Cell Name	APN	Charging ID	GGSN Address	PDP Address	Volume in Bytes
27724154072	655014601472886	35836306513104	23-Oct-2015 10:01:55	1		34365	3G_The_Hyatt Hotel_Ext_SGC	Ite.vod acom.			100.79.145.221	9055
27724154072	655014501472886	35836306513104	23-Oct-2015 10:01:55	122		34365	3G_The_Hyatt_scom. Hotel_Ext_SGC_za	Ite.vod acom. za			100.79.145.221	
27724154072	655014601472886	35836306513104	23-Oct-2015 10:03:29	311	28861 716		LTE_The_Hyatt Hotel_SGC_2		d		100.79.145.221	24891
27724154072	655014601472886	35836306513104	23-Oct-2015 10:08:36	8		12744	3G_The_Hyatt_ Hotel_SGC				100.79.145.221	
27724154072	655014601472886	35836306513104	23-0ct-2015 10:06:36				C The Hyatt	Ite.vod acom. 2a			100.79.145.221	0
27724154072	655014601472886	35836306513104	23-Oct-2015 10009-07	16	28 861 728		TE The Hyatt	ffe.vod acom. za	S	ø	100.79.145.221	72581
27724154072	655014601472886	35836306513104	23-064-2015 10:09:18	4-		12744	20 1106 1106	tte.vod acom.			100.79.145.221	0
27724154072	655014601472886	35836306513104	23-621-2015 10:09:18	6		12744	008 F 8	Ite.vod acom. za	100		100.79.145.221	
27724154072	655014601472886	35836306513104	23-041-2015 10:09:28	255	288 61 706	-		Re.vod acom. za			100.79.145.221	0
27724154072	655014601472886	35836306513104	23-0ci-2015 (0)05-18	j.			3G The Math Hotel 9GC		Š		100.79.145.221	0
27724154072	655014601472886	35836306513104	23-Oct-2015 Withough	3.6	- 120		SG The Hyatt	Ite.vod acom.	ľ		100.79.145.221	
27724154072	655014601472886	35836306513104	23-Oct-2015 10:10:24	186	28861 726	- Se 199	LTE_The_Hyatt Hotel_SGC_3	lte.vod acom. za			100.79.145.221	60640
27724154072	655014601472886	35836306513104	23-Oct-2015 10:12:33	1		34364	3G_The_Hyatt Hotel_Ext_SGC	fte.vod acom. za	h		100.79.145.221	0
27724154072	655014601472886	35836306513104	23-Oct-2015 10:12:33	49		34364	3G_The_Hyatt	lle.vod acom.			100.79.145.221	
27724154072	655014601472886	35836306513104	23-Oct-2015 10:13:23	70	29058 836	300	LTE_Dunkeld_ SGC_2	lle.vod acom. za			100.79.145.221	4462
27724154072	655014601472886	35836306513104	23-Oct-2015 10:14:28	38		19194	3G_Parklands_ SGC	lte.vod acom.			100.79.145.221	
27724154072	655014601472886	35836306513104	23-Oct-2015 10:14:28	1		19194	3G_Parklands_ SGC	Ite.vod acom.			100.79.145.221	0

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MSISDN	IMSI	IMEI	Session Start	Duration	ECI	= E	Cell Name	APN Ch	Charging ID	GGSN	PDP Address	Volume in Bytes
27724154072	655014601472886	35836306513104	23-Oct-2015 10:15:07	155	30512 906		LTE_Parklands _SGC_1	Ite.vod acom.			100.79,145,221	
27724154072	655014601472886	35836306513104	23-0ct-2015 10:22:17	328	29058 846		LTE_Dunkeld_ SGC_3	Ite.vod acom.			100.84.77.125	415160
27724154072	655014601472886	35836306513104	23-Oct-2015 10:41:31	1287	29058 846		LTE_Dunkeld_ SGC_3	lte.vod acom.			10.135.63.147	407210
27724154072	655014601472886	35836306613104	23-0ct-2015 11:02:54	41		13515	3G_Dunkeld_S GC	tte.vod acom.	Ŕ		10.135.63.147	
27724154072	655014601472886	35836306513104	23-Oct-2015 11:02:54				de_Dunkeld_S	lte.vod acom. za			10.135.63.147	14525
27724154072	655014601472886	35836306513104	23-Oct-2015 11:03:05	1131	29058 846		LTE Dunkeld SGC 3	the.vod acom.	H		10.135.63.147	381528
27724154072	655014601472886	35836306513104	23-Oct-2015 11(21:53	-		13515	3G Dunkerd S	the.vod acom.			10.135,63.147	
27724154072	655014601472886	35836306513104	23-0;4-2016-11:21:53	4		13515	28	lle.vod acom. za			10.135.63.147	
27724154072	655014601472886	35836306513104	23-04/2016 11/21/58	1390	29058 846		ITE Dan eld. SGC 3	lte.vod acom. za			10.135.63.147	5669212
27724154072	655014601472886	35836306513104	23-0c/-2016 11-48:08	486	29058 846	, 3 · · · · · · · · · · · · · · · · · ·	Life Dankald SGC 3	Ite.vod acom.			10.135.63.147	1465127
27724154072	655014601472886	35836306513104	23-Oct-2015 11-48-09	88		1 4	36 Dunkeld_S	Ite.vod acom. za	ķ		10.135.63.147	
27724154072	655014601472886	35836306513104	23-0ct-2015 11:48:09			13515	3G_Dunkeld_S GC	lte.vod acom. za			10.135.63.147	9805
27724154072	655014601472886	35836306513104	23-Oct-2015 11:48:35	144	29058 846		LTE_Dunkeld_ SGC_3	lte.vod acom. za	h		10.135.63.147	13237
27724154072	655014601472886	35836308513104	23-Oct-2015 11:50:55	-		13515	3G_Dunkeld_S GC	ite.vod acom.			10.135.63.147	11020
27724154072	655014601472886	35836306513104	23-Oct-2015 11:50:55	54		13515	3G_Dunkeld_S	Ite.vod acom.			10.135.63.147	
27724154072	655014601472886	35836306513104	23-Oct-2015 11:51:20	735	29058 846	307	LTE_Dunkeld_ SGC_3	lte.vod acom. za		020	10.135.63.147	32490
27724154072	655014601472886	35836306513104	23-Oct-2015 12:03:30	1		13515	3G_Dunkeld_S	lte.vod			10.135.63.147	772





	Volume in Bytes		133500	0		233622	40		9631	0		0	0		0	0		
	PDP Address	10.135.63.147	10.135.63.147	10.135.63.147	10.135.63,147	10.135.63.147	10.135.63.147	10.135.63.147	10.135.63.147	10.135.63.147	10.135.63.147	10.135.63.147	10.135.63.147	10.135.63.147	10.135.63.147	10.135.63.147	10.135.63.147	
	GGSN Address																	
	Charging ID			d										h	b.			
	APN	Ite.vod acom.	Iffe.vod acom.	Ite.vod acom.	Ite.vod acom.	ite.vod acom.	the.vod	Ite.vod acom.	fte.vod acom.	Me.vod acom. za	lle.vod acom.	lle.vod acom.	lle.vod acom.	Re.vod acom. Za	Ite.vod acom.	Ite.vod acom.	lte.vod acom.	82
	Cell Name	3G_Dunkeld_S GC	LTE_Dunkeld_ SGC_3	3G Parklands_ SGC	3G_Parklands_ SGC	LITE Parklands	3G Parklands SGC				36 Dunkeld S	TE Parklands	3G_Parklands_ SGC	3G_Parklands_ SGC	LTE_Dunkeld_ SGC_2	3G_Dunkeld_S GC	3G_Dunkeld_S GC	
	= 3 ≥	13515		19194	19194			19191		13514	2		19194	19194		13515	13515	
Stream	ECI		29058 846			30512 906	A STATE OF THE STA		29058 836		3,3	30.542			29058 836			
GPRS Stream	Duration	34	552	-		620	0	50	374	-	£3		0	92	16	0	06	
	Session Start	23-Oct-2015 12:03:30	23-Oct-2015 12:03:36	23-004-2015 12:12:43	23-Oct-2015 12:12:43	23-0ci-2015 12/1481	23-Oct-2016 22-23-33	23-06-2018 12-21:33	23-0ci-2016 Tazzu:02	23-06-2015 12:30:12	La	23-Oct-2015 P33028	23-Oct-2015 12:32:10	23-Oct-2015 12:32:10	23-0cl-2015 12:33:42	23-Oct-2015 12:33:54	23-Oct-2015 12:33:54	
	IMES	35836306513104	35836308513104	35836306513104	35836306513104	35836306513104	35836306513104	35836306513104	35836306513104	35836306513104	35836306513104	35836306513104	35836308513104	35836306513104	35836306513104	35836306513104	35836306513104	
	IMSI	655014601472886	655014601472886	655014601472886	655014601472886	655014601472886	655014601472886	655014601472886	655014601472886	655014601472886	655014601472886	655014601472886	655014601472886	655014601472886	655014601472886	655014601472886	655014601472886	
	MSISDN	27724154072	27724154072	27724154072	27724154072	27724154072	27724154072	27724154072	27724154072	27724154072	27724154072	27724154072	27724154072	27724154072	27724154072	27724154072	27724154072	

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MSISDN	IMSt	IMEI	Session Start	Duration	ECI		Cell Name	APN	Charging ID	GGSN	PDP Address	Volume in Bytes
27724154072	655014601472886	35836306513104	23-Oct-2015 12:36:13	-		13512	3G_Dunkeld_S	Ife.vod acom.			10.135.63.147	5203
27724154072	655014601472886	35836306513104	23-0cf-2015 12:36:13	153		13512	3G_Dunkeld_S	the.vod			10.135.63.147	
27724154072	655014601472886	35836306513104	23-Oct-2015 12:38:42	1	30512 906		LTE_Parklands _SGC_1				10.135.63.147	0
27724154072	655014601472886	35836306513104	23-Oct-2015 12:38:49	0	/8 /3	13514	3G_Dunkeld_S GC	fte.vod acom.	ń		10.135.63.147	0
27724154072	655014601472886	35836306513104	23-Oct-2015 12:38:49	- 9		13514	36_Dunkeld_S	lite.vod acom.			10.135.63.147	
27724154072	655014601472886	35836306513104	23-Oct-2015 12:38:36	884	30812 906		LTE Perklands		Ņ		10.135.63.147	127512
27724154072	655014601472886 35836306513104	35836306513104	23-046-28/15-72-56-18	0		13515	36-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1	tte.vod acom.			10.135.63.147	10482
27724154072	655014601472886	35836306513104	23-Oct 2016 1254:18	40		13515	S President S	lle.vod acom.	K		10.135.63.147	
27724154072	655014601472886	35836306513104	23-00-2016 (2:54:28	477	29058 846			Ite.vod acom.			10.135.63.147	102356
27724154072	655014601472886	35836306513104	23-Oct-2015 9:02:21			19194	3G Parkhreis SGC	Ite.vod acom.			10.135.63.147	
27724154072	655014601472886	35836306513104	23-Oct-2015 1\$182-21				3G Parklands_ SGC	fte.vod acom.	F		10.135.63.147	0
27724154072	655014601472886	35836306513104	23-Oct-2015 13:02:28	39	28861 716		LTE_The_Hyatt _Hotel_SGC_2				10.135.63.147	10518
27724154072	655014601472886	35836306513104	23-Oct-2015 13:03:02	51		19194	3G_Parklands_ SGC	the.vod acom.	6		10.135.63,147	
27724154072	655014601472886	35836306513104	23-Oct-2015 13:03:02	1		19194 3	3G_Parklands_ SGC	Ite.vod acom. za			10.135.63.147	9671
27724154072	655014601472886	35836306513104	23-Oct-2016 13:03:24	89	29058 846	10	LTE_Dunkeld_ SGC_3	fte.vod acom. za			10.135.63.147	368
27724154072	655014601472886	35836306513104	23-Oct-2015 13:04:13	321		13512 ²	2G_Dunkeld_S GC_2	Ite.vod acom. za			100.79.225.48	23680
27724154072	655014601472886	35836306513104	23-Oct-2015 13:06:04	217	29058 846	_ (t)	LTE_Dunkeld SGC_3	Ite.vod acom.			10.207.194.104	14490

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				GPRS Stream	Stream							
MSISDN	INSI	IME	Session Start	Duration		3 =	Cell Name Al	APN Charging ID	ID GGSN Address	PDP Address		Volume in Butes
27724154072	655014601472886	35836306513104	23-0ct-2015 13:09:36	-		12744	3G_The_Hyatt Ite. Hotel_SGC ao	tte.vod acom.		10.207.194.104		8899
27724154072	655014601472886	35836306513104	23-Oct-2015 13:09:36	122		12744	3G The Hyatt Re. Hotel SGC 22	lte.vod acorn.		10.207.194.104	24.104	
27724154072	655014601472886	35836306513104	23-0ct-2015 13:11:25	22	28861 706		LTE_The_Hyatt tte_ Hotel_SGC_1 ac	lte.vod acom.		10.207.194.104		1450
27724154072	655014601472886	35836306513104	23-Oct-2015 13:11:43	-		12744	3G_The_Hyatt tte. Hotel_SGC za	lte.vod acom.		10.207.194.104	94.104	
27724154072	655014601472886	35836306513104	23-04-2015 13:(1)-43		- A-		3G The Hyatt le	lle.vod acom.		10.207.194.104		0
27724154072	655014601472886	35836306513104	23-Oct-2018 13 (2-36	223	28861 706		LTE HIS Hyatt No.	Ke.vod acom.		10.207.194.104		9031
27724154072	655014601472886	35836306513104	23-04-2016 13-18-13	T-	-	12744	SG-Tile Freit Bo	Re.vod acom.		10.207.194.104		5374
27724154072	655014601472886	35836306513104	23-04-2015 (3-16:13	205		12744	So The House Bo	He.vod acom.		10.207.194.104	47.104	
27724154072	655014601472886	35836306513104	23-04-2015 13:27:58	E E	6	34361		Ite.vod acom.		10.156.15.138		279264
27724154072	655014601472886	35836306513104	23-00-2015 19.2841	338	28861 726		The second second	Ite.vod acom.		10.156.15,138		22235
27724154072	655014601472886	35836306513104	23-Oct-2016 13 28 41	900	1988		LEE The Hyatt lie	He.vod acom.	h	10.156.15.138	3.138 0	
27724154072	655014601472886	35836306513104	23-Oct-2015 16:04:10	40	į, į	\$1 \$1 \$4	LTE_JHB_Inter Ite. n_Airport_SGC acc	Ite.vod acom.		41.26.94.109		212051
27724154072	655014601472886	35836306513104	23-Oct-2015 16:41:29	90	28610 826	- 00	LTE JHB Airp Ite. ort Domestic S acc	Ite.vod acom.		100.92.1.174		368001
27724154072	655014601472886	35836306513104	23-Oct-2015 16:42:25	0	e,	34021 0	3G_ORT_Mang Ite.vod o_Office_DAS_ acom. SGC	vod vm.		100.92.1.174		179454
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27724154072	655014601472886	35836306513104	23-Det-2015 16-43-51	36		14769	3G_JHB_Airpor	za Ite.vod				
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27724154072	655014601472886	35836308513104	23-Oct-2015 16:46:48	0		18631	3G_JHB_Airpor I_Runway_SG C	Ite.vod acom. za			100.92.1.174	118611
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27724154072	655014601472886	35836306513104	23-00-3015-19:10:26	que		27543	SG Tout Bason	Ite.vod acom. 2a			10.196.112.10	1596
27724154072	655014601472886	35836306513104	23-0-42015 19:10:26	56		27543		Ite.vod acom. za			10.196,112,10	
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27724154072	655014601472886	35836306513104	23-Oct-2015 19:13:08	62		27543	3G Reddisson	lle.vod acom. za	1		10.196.112.10	
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27724154072	655014601472886	35836306513104	23-Oct-2015 19:16:39	13		27543	3G Raddisson EAS	Ite.vod acom. za			10.196.112.10	
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27724154072	655014601472886	35836306513104	23-Oct-2015 19:19:06	0		27543	3G Raddisson EAS	lte.vod acom. za			10.196.112.10	2561
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27724154072	655014601472886	35836306513104	23-Oct-2015 07:03:10	MTC	40	77644004000	Inito Party	200	Cell Id Cell Name
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27724154072	655014601472886	35836306513104	23-Oct-2015 07-40-29	MTCMC		2	2014884000	9	No cell id in ticket
27724154072	655014601472886	35836306513104	23-Oct-2015 07:40:44	MTSMS				53022	Undefined
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27724154072	655014601472886	35836306513104	23-Oct-2015 07:41:43	MOC	257	27824176999		51765	Undefined 3G_Ashlea_Gardens_NG
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27724154072	655014601472886		23-Oct-2016 07:58:19	CF	8	27821472815407	27839228588	٥	No cell ld in ticket
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27724154072	655014601472886	35836306513104	23-Och-2015 08:03:25	MTSMS	0	16		53000 F3000	Underlined
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27724154072	655014601472886	35836306513104	23-04-2015 08:05:46	MOC	7			RER21	A 2G_PTA_Newlands_NGA
27724154072	655014601472886	35836306513104	23-04-2015 08:06:05	MOC	8			1000	2G PTA Newlands NGA
27724154072	655014601472886	35836306513104	23-Oct-2015 08:06:40	MTC	48			2000	0
27724154072	655014601472886	35836306513104	23-00-2018 08:07:41	MOC				51394	3G Waterkloof HS Cell
27724154072	655014601472886	35836306513104	23-Oct-2015-08:08:00	MOSMS	0	27614994BDB			C NGA
27724154072	655014601472886	35836306513104	23-Oct-2015 08:08;30	MOC	166			2000	Underlined
27724154072	655014601472886		23-Oct-2015 08:11:45	MOSMS	0	- Control		20000	3G Flying Saucer NGA
27724154072	655014601472886		23-Oct-2015 08:12:20	MOC	37			23302 5400E	Undenned
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27724154072	655014601472886	35836306513104	23-Oct-2015 08:19:42	MOC	96			16954	3G Mustek George Rd
27724154072	655014601472886	35836306513104	23-Oct-2015 08:21:23	MTC	27			16954	3G_Mustek_George_Rd_
27124154072	655014601472886	35836306513104	23-Oct-2015 08:22:42	MOC	1086	Supplement of the last of the		15035	3G Vorte Valley COC
27724154072	655014601472886	35836306513104	23-Oct-2015 08:37:45	R	-	27821472415407 2	27826245178	12311	2G Bramley Park SGC
27724154n72	GEE014501472005	35836306513104	23-Oct-2015 08:41:27	MOC	295	STATE STATE SALES		18704	3G Savov Betate COO
27724154072	655014601472888	35636306513104	23-Oct-2015 08:46:58	MOC	101			18704	3G Savov Estate SGC
27724454072	PEED44004470000	22020000012104	23-Oct-2015 08:49:42	MOC	40			T.	3G Wanderers SGC
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655014601472886	35836306513104	23-Oct-2015 08:56:54	MOSMS	0		Time Leady	_	Undefined
655014601472886	35836306513104	23-Oct-2015 08:58:37	MTSMS	o	British		26398	Undefined
655014601472886	35836306513104	23-Oct-2015 09:13:03	MOC	10	,24		13514	3G Dunkeld SGC
655014601472886	35836306513104	23-Oct-2015 09:14:34	MOSMS	0			26398	
655014601472886	35836306513104	23-Oct-2015 09:28:26	S. F.	on.	27821472415407 2	27614994806	19194	3G_Parklands_SGC
655014601472888	35836306513104	23-Oct-2015 09:35:38	MOC	96	- Characterists		19194	3G Parklands SGC
655014601472886	35836306513104	23-Oct-2015 09:37:50	MOC	55			19199	3G Parklands SGC
655014601472886	35836306513104	23-Oct-2015 09:40:02	MOSMS	0	2		5396	Undefined
655014601472886	35836306513104	23-Oct-2015 09:40:25	MOC	85	Spinston St.		10105	3G Bolton SGC
655014601472886	35836306513104	23-Oct-2015 09:42:09	MOC	47	27730013406		34364	3G_The_Hyatt_Hotel_Ext
655014601472886	35836306513104	23-Oct-2015 09:48:26	MITSME	0	THE REAL PROPERTY.		25876	Undefined
655014601472886	35836306513104	23-Oct-2015 BB:48:57	ÇF	35	27821472415407	27716807834	34365	3G_The_Hyatt_Hotel_Ext
655014601472886	35836306513104	23-Oct-2046 09:49:35	MTSMS	0			25876	Undefined
655014601472886	35836306513104	23-Oct-2015-09:58:38	MTC	52			-	3G_The_Hyatt_Hotel_Ext
655014601472886	35836306513104	23-Oct-2015 10:01:44	MOSMS	0			25876	Undefined
655014601472886	35836306513104	23-Oct-2015 10:01:57	MOC	88			1	3G_The_Hyatt_Hotel_Ext
655014601472886	35836306513104	23-Oct-2015 10:09:02	MOC	3	No. of Contract of		12744	3G_The_Hyatt_Hotel_SG
655014601472886	35836306513104	23-Oct-2015 10:00:52	MTC	23	1		12744	3G_The_Hyatt_Hotel_SG
655014601472886	35836306513104	23-Oct/2015 10:12:41	MOC	4			34364	3G_The_Hyatt_Hotel_Ext
655014601472886	35836306513104	23-Oct-2015 10:14:36	MOC	29	27614994806		19194	3G Parklands SGC
655014601472886	35836306513104	23-Oct-2015 10:16:24	MTSMS	10			26398	Undefined
655014601472886	35836306513104	23-Oct-2015/10:22:20	MTSMS	0			26398	Undefined
655014601472886	35836306513104	23-Oct-2015 10:24:36		. O	This same		26398	Undefined
655014601472886	35836306513104	23-Oct-2015 10:25:29	MOSMS	0	September 1		26398	Undefined
655014601472886	35836306513104	23-Oct-2015 10:27:27	WT-SAAB	0			26398	Undefined
655014601472886	35836306513104	23-Oct-2015 10:41:34	MTSMS	0			26398	Undefined
655014601472886	35836306513104	23-Oct-2015 11:01:28	MOSMS	0	27823968210		26398	Undefined
655014601472886	35836306513104	23-Oct-2015 11:04:52	MTSMS	0			26398	Undefined
655014601472686	35836306513104	23-Oct-2015 11:05:03	MTSMS	0			26398	Undefined
655014601472886	35836306513104	23-Oct-2015 11:09:54	MTSMS	0			26398	Undefined
655014601472886	35836306513104	23-Oct-2015 11:10:51	MOSMS	0			26398	Undefined
655014601472886	35836306513104	23-Oct-2015 11:11:05	MTSMS	0			26398	Undefined
655014601472886	35836306513104	23-Oct-2015 11:11:53	MOSMS	0	STATE OF STA		26398	Undefined
655014601472886	35836306513104	23-Oct-2015 11:12:39	MTSMS	0			26398	Undefined
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655014601472886	35836306513104	23-Oct-2015 11:17:26	MOSMS	0	8		26398	Undefined
65501460147288¢	35836306513104	23-Oct-2015 11:22:00	MOSMS	0	A STATE OF THE PARTY OF THE PAR		90000	



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NOCICE	IMISI		Call Date	Call Type	Call Duration	Call Duration Other Party	Third Party	Cell Id	Cell Name
27724154072	655014601472886		23-Oct-2015 14;10:45	Ŗ	60	27821472415407 2	27823356635		Undefined
27724154072	655014601472886		23-Oct-2015 14:16:07	CF	m	27821472415407 2	2782553551		Undefined
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27724154072	655014601472886		23-Oct-2015 14:32:30	CF.	2	27821472415407 2	27760735604		Undefined
27724154072	655014601472886		23-Oct-2015 15:20:17	F)	2	27821472415407	27715552932		Undefined
27724154072	655014601472886		23-Oct-2015 15:24:42	CF.	LO.	27821472415407	27614994806	0	No cell Id in ticket
27724154072	655014601472886	G	23-Oct-2015 16:02:40	5	rD.	27821472415407	27614994806	0	No cell 1d in ticket
27724154072	655014601472886	35836306513104	23-Oct-2015 16:04:25	MTSMS	0			4884	Undefined
27724154072	655014601472886	35836306513104	23-Oct-2015 16:04:30	MTSMS	0			4884	Undefined
27724154072	655014601472886	35836306513104	23-Oct-2016 16:04:31	MTSMS	0			4884	Undefined
27724154072	655014601472886	7	23-Oct-2015 16:11:04	CF	185	2782147241 5 407	27789694507	0	No cell Id in ticket
27724154072	655014601472886		23-Oct-20r8: 16:20:37	CF	SO.	27821472415407	27722527466		Undefined
27724154072	655014601472886		23-Oct-2015 18:27:10	CF	4	27821472415407	27614994806	0	No cell Id in ticket
27724154072	655014601472886		23-Oct-2015 16:21:40	QF.	8	27821472415407	27825551972		Undefined
27724154072	655014601472886	E	23-Oct-2046-16:22:11	CF.	2	27821472415407	27825551972		Undefined
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27724154072	655014601472886	35836306513104	23-Oct-2015 16:41:44	MTSMS	0	To Marie Land		37662	Undefined
27724154072	655014601472886	35836306513104	23-Oct-2015 16:41:54	MTSMS	3			37652	Undefined
27724154072	655014601472886	35836306513104	23-Oct-2015 16:42:33	MOC				13812	3G_ACSA_JHB_SGC
27724154072	655014601472886		23-Oct-2015 17:00:53	***		27821472415407	27730013406	0	No cell Id in ticket
27724154072	655014601472886	Q	23-Oct-2015 17:01:40		2	27821472415407	27824910435		Undefined
27724154072	655014601472886	1	23-Oct-2015 17:23:52	CF	-	27821472415407 2	27825551972		Undefined
27724154072	655014601472886		23-Oct-2015 18:55:48	F.	60	27821472415407	27838239333		No cell Id in ticket
27724154072	655014601472886	35836306513104	23-Oct-2015 19:07:23	MTSMS	0			61706	Undefined
27724154072	655014601472886	35836306513104	23-Oct-2015 19:07:35	MTSMS	0			49438	Undefined
27724154072	655014601472886	35836306513104	23-Oct-2015 19:07:36	MTSMS .	0			49438	Undefined
27724154072	655014601472886	35836306513104	23-Oct-2015 19:10:53	Ç.	4	2 2 4 5 4 5 4 5 4 5 4 5 4 5 4 5 4 5 4 5	27712071662	27543	3G_Raddisson_EAS
27724154072	655014601472886		23-Oct-2015 19:13:36	MOC	2			27543	3G_Raddisson_EAS
21/24154072	655014601472886		23-Oct-2015 19:19:17	MOC	5	27614994806		27543	3G_Raddisson_EAS
21124134012	0000140044000	35836306513104	23-Oct-2015 19:20:19	MOC	9			27543	3G Raddisson EAS
717401471	0007/61.0061.0000	35836306513104	23-Oct-2015 19:21:01	MTC	32	27614994806		27543	3G_Raddisson_EAS

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NEWS & ANALYSIS



Mcebisi Jonas: There was no meeting - Gupta family

Oakbay Investments | 13 March 2016

Atul Gupta not even in country on 27 November, faceless purveyors of these lies should produce evidence to support them

Statement from Oakbay Investments, on behalf of the Gupta family in response to The Sunday Times article 'How Guptas shopped for new minister', 13 March, 2016 Issued on behalf of the Gupta Family

Johannesburg, South Africa – Sunday 13 March 2016: "There have been an extraordinary number of allegations around the Gupta family in recent weeks, several of which have involved the Finance Ministry. As we have said countless times, our primary focus is on business, not politics (see Sunday Times report).

We challenge the faceless purveyors of these lies to provide evidence of any of these allegations.

To be absolutely clear: there was no meeting at all.

Further, Atul Gupta was not even in South Africa on the date of the alleged meeting.

About Oakbay Investments and the Gupta family

"South Africa has a robust constitution and a strict process governing appointment of Ministers and Deputy Ministers. We have every faith that if anybody tried to abuse power around appointments, they would be rebuffed by our constitution and our strong political leadership." Nazeem Howa, Chief Executive, Oakbay Investments

Oakbay Investments (<u>oakbayinvestments.co.za</u>) has invested more than R10 billion in South Africa. Oakbay Investments is 100% transparent - all numbers have been verified by one of the world's most respected accountancy firms.

The Gupta family has a 23-year history of strong business performance and turnaround skills. This strong performance has come almost entirely via successful activity in the private sector, with less than 1% of the Group's revenue coming from government contracts. Sector diversification has also enabled Oakbay companies to deliver consistent growth and job creation throughout times of both economic boom and bust. For example, 47,000 jobs have been lost in South Africa's mining sector between 2012 and 2015. In contrast, Oakbay's mining companies have created 3500 of jobs in the sector.

Statement issued by Oakbay Investments, 13 March 2016

STATEMENT BY ZWELINI LAWRENCE MKHIZE TO THE STATE CAPTURE COMMISSION

- I, Zwelini Lawrence Mkhize, state under oath and state that I am the Minister
 of Cooperative Governance and Traditional Affairs, having been appointed by
 the President His Excellency Cyril Ramaphosa on 27th February 2018. I was
 the Treasurer General of the African National Congress for the period 2012
 until December 2017.
- I have been requested by the commission to provide a statement regarding an allegation made by Mr Mcebisi Jonas in so far as they relate to my knowledge which specifically relates to paragraph 46 of Mr Jonas's statement.
- 3. The said paragraph states the following: "Subsequently, in January 2016 I had a meeting with Dr Zweli Mkhize in Johannesburg, the then ANC Treasurer-General, about another matter. During the course of the meeting, he said he had heard a rumour about the Guptas offering me an inducement to take up the position of the Finance Minister and he asked whether this was true. I told him what had occurred and I mentioned the role played by Fana Hlongwane and Mr Duduzane Zuma in facilitating the said meeting. Dr Mkhize indicated that he was shocked and advised that he noted my concerns regarding the matter including in respect of the role of Mr Duduzane Zuma"
- 4. Having read the above paragraph to Mr Jonas's statement, I hereby confirm the contents in its entirety. According to my recollection, it was on the following week that I met the then Secretary-General of the ANC, Mr Gwede Mantashe, at Luthuli House as he was also a fulltime ANC official with me. I shared with him what Mr Jonas had told me. He also indicated that he was aware of the allegation.
- 5. The matter was then discussed by senior officials and thereafter by the National Executive Committee. A resolution was subsequently taken that given the seriousness of the allegations of state capture that were being made, any ANC member who had more knowledge about, having been

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approached by the Gupta's in a similar manner to Mr Jonas or was in any way affected by this, must come forward and provide information to the Secretary-General. My understanding was that this was meant to avoid these allegations only being discussed informally and behind the scenes with no resolution, but rather to deal with them through a formal process and appropriate channels.

Zwelini Lawrence Mkhize

Thus signed and Sworn to before me at 126 FTU EIA

on this 9th

2019 by the deponent who has acknowledged and understand the contents of this statement. In administering the oath, the requirement of regulations R1258 dated 21st July 1972, as amended by regulation 1648 16th August 1977 have been fulfilled.

Commissioner of Oaths

BHADRISH DAYA

COMMISSIONER OF OATHS
PRACTISING ATTORNEY
852 ARCADIA STREET
ARCADIA PRETORIA 0083
TEL: 012 342 9815

STATE CAPTURE INQUIRY PARKTOWN, JOHANNESBURG

DAY 3

24 AUGUST 2018

SESSION 1 - 4

FINAL

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24 AUGUST 2018

Session 1

CHAIRPERSON: Yes Mr Pretorius?

ADV PAUL PRETORIUS SC: Mr Chair, as stated earlier this week, Advocate Mokoena will give a brief opening in relation to the evidence that we intend to lead at least for the present, in relation to terms of reference 1.1 to 1.3 and that will be followed by the evidence of Mr Jonas.

CHAIRPERSON: Thank you. Mr Mokoena?

ADV PHILLIP MOKOENA SC: Chairperson, in order to place this session of the proceedings in its proper context and for a sensible treatment of the issues to be canvassed during this phase, we deemed it necessary and prudent to outline a road map for this session. We will be ventilating and canvassing the issues neatly captured in the terms of reference 1.1, 1.2 and 1.3. Mr Chair, yourself and Mr Pretorius, in the most able manner, did traverse these terms of reference during your opening address. With your leave Mr Chair, may we remind ourself of the content, ambit and the scope of those terms of reference and I do so by referring the Chairperson to the terms of reference.

Starting with the Term of Reference:

1.1 The Commission is called upon to enquire whether and to what extent and by whom, attempts were made through any form of inducement or for any gain of whatsoever nature, to influence members of the National Executive, including Deputy Ministers, office bearers and/or functionaries employed by, or office bearers of any State institution or organ of State or directors of the boards of SOE's in particular, the Commission must investigate the veracity of allegations that former Deputy Minister of Finance Mr Mcebisi Jonas and Ms Mentor were offered Cabinet positions by the Gupta family.

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- 1.2 Whether the President, that is now the ex-President, had any role in the alleged offers of Cabinet, positions to Mr Mcebisi Jonas and Ms Mentor by the Gupta family as alleged.
- 1.3 Whether the appointment of any member of the National Executive, functionary and/or office bearer was disclosed to the Gupta family or any other unauthorised person before such appointments were formally made and/or announced and if so, whether the President or any member of the National Executive, is responsible for such conduct.

Mr Chair however, for the purpose of this session, we will be focusing and dedicating our attention to the following aspects of the terms of reference. We will interrogate and canvas the first portion of the term of reference 1.1, in as far as it relates to that conduct of inducement and influence pertaining to National Executive and Deputy Ministers.

And as far as it relates and that we also include in this session, reference to deal and investigate the veracity of the allegations that the former Deputy Minister of Finance Mr Mcebisi Jonas and Ms Mentor were offered Cabinet positions by the Gupta family and then also, we will be dealing with term of reference 1.2 in its entirety.

When it comes to term of reference 1.3, we will also be focusing mainly on those appointment or removals of the National Executive and those Mr Chair, in as far as the terms of reference pertains to office bearers and/or functionaries and/or the boards of the SOE's, that term of reference in its nature, is very broad. Documents are still being collated and the investigations are still ongoing.

In essence Mr Chair, that aspect of the term of reference will receive and be addressed not in this session or phase, but it will be given the attention in due course. Mr Chair in order to properly lay foundation to the evidence which will be adduced during this

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session, by the witnesses whilled forward by the Commission, with your leave, we seek to briefly deal with an interpretation issue which has a direct relevance to the testimony of the witnesses we intend calling.

We know Mr Chair what the terms of reference 1.1, 1.2 and 1.3 expressly provides. What these terms of reference do not expressly provide, is whether and/or to what extent and by whom attempts were made through any form of inducement or for any gain of whatsoever nature to influence the removal of the National Executive, the Deputy Ministers, office bearers and/or functionaries employed by or office bearers of any State institution or organ of State or directors of the boards of the SOE's.

Equally so Mr Chair, you will see that term 1.2 of the terms of reference does not expressly provide for the investigation pertaining to whether the former President had played any role in the removal of any member of government or organ of State or office bearers and/or functionary employed by any State institution and/or SOE.

The question therefore Mr Chairman is, whether terms of reference 1.1 and 1.2, should be interpreted literally, narrowly and limited only to the investigations pertaining to the unlawful and illegal inducement and influence made in the appointments without properly interrogating the obvious consequences being the removals.

It is our view Mr Chair, that the allegations in relation to the removal of government officials were directly investigated and dealt with in the report of the Public Protector. May we refer the Chair to the Public Protector's report and we find comfort on Page 29 with specific reference to Paragraph 2.5 under the heading: "Key Allegations", the Public Protector recorded the following, it is on Page 29 Mr Chair paragraph 2.5. The complaints followed media reports alleging that the Deputy Minister of Finance, Honourable Mr Mcebisi Jonas, was allegedly offered the post of Minister of Finance by the Gupta family

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long before his then colleague, Mr Nhlanhla Nene, was abruptly removed, and we put emphasis therein Mr Chair, removed by the Gupta family, which has a long-standing friendship with President Zuma's family and a business partnership with his son, Mr Duduzane Zuma. The offer took place at the Gupta residence in Saxonwold, City of Joburg, Gauteng. The allegation was that Atul Gupta, the oldest of the three Gupta brothers, who are business partners of President Zuma's son, Mr Duduzane Zuma, in a company called Oakbay, among others offered the position of Minister of Finance to Deputy Minister Jonas and must have influenced the subsequent removal of Mr Nene and his replacement with Mr Des van Rooyen on the 9th of December 2015, who was also abruptly shifted to the corporate governance and traditional affairs portfolio four days later following a public outcry.

May we also invite the Chair to have regard to Page 34 of the Public Protector's report in support of our interpretation to the terms of reference that they must include the removals, with particular reference Mr Chair to Paragraphs A to C under the heading: "Alleged Breach of Executive Member Ethics Act 1998", the following is recorded.

- (A) Whether President Zuma improperly and in violation of the Executive Ethics Code, allowed members of the Gupta family and his son, to be involved in the process of removal and appointment of Minister of Finance in December 2015.
- (B) Whether President Zuma improperly in violation of the Executive Ethics Code, allowed members of the Gupta family and his son, to engage or to be involved in the process of removal and appointing of various Cabinet ministers, we also emphasise therein the word "removal" as recorded by the Public Protector.

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(C) Whether President Zuma improperly in violation of the Executive Ethics Code, allowed members of the Gupta family and his son, to be involved in the process of appointing members of the boards of directors of SOE.

We submit Mr Chair that the allegation of state capture pertaining to the appointment and removal of government officials, were indeed investigated upon by the Public Protector and recorded in various portions of the Public Protector's report.

CHAIRPERSON: Mr Mokoena, until somebody comes up and argues the contrary before me, my inclination is that it is logical that the dismissal also needs to be investigated, so unless you need to do so for the purposes of completeness in terms of your opening statement, you don't need to persuade me that the dismissal falls within. My prima facie view is that it does, I remain open to anyone who might at any stage want to argue that it doesn't, I will look at that and make a decision at that time, but as of now, I think you can take it that my prima facie view is that it does.

ADV PHILLIP MOKOENA SC: Mr Chair we are then comfortable, we don't need to make any further submissions in that regard. We have prepared Mr Chair for ease of reference, a bundle that we will be canvassing with Mr Jonas. With your leave Mr Chairperson, we propose that it should be marked Exhibit C1. We further propose that additional documents which will be filed in relation to term reference 1.1, 1.2 and 1.3, should be marked chronologically from C2 until the last number. In that way Mr Chair, we would be able to navigate ourselves through the documents even at the stage whereby the record becomes voluminous. At least we will be knowing that in relation to term reference 1.1, 1.2 and 1.3, we will be having that C number specifically allocated to the documents to be filed by different parties in respect of those terms of reference and I beg

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leave to formally I am being told it is being formally handed, the bundle simply to be marked C1

CHAIRPERSON: is this the bundle?

ADV PHILLIP MOKOENA SC: That is the bundle Mr. Chair.

CHAIRPERSON: With reference to how other documents that will come under these terms of reference will be marked, of course as at when they are being handed up. whoever does that will bear in mind what you have just said.

ADV PHILLIP MOKOENA SC: Yes

CHAIRPERSON: Thank you.

ADV PHILLIP MOKOENA SC: Yes it will make it easy for all of us to be able to find the 10 documents as at when we are required to do so. You will see Mr Chair, we have also prepared an index to the bundle and simply to assist you to navigate through that bundle. From Page 1 to 20 is the statement of Mr Jonas and Item 2 Page 21 to 89, is the transcript from the Public Protector and then Item 3 is a document which was prepared by Mr Jonas. A timeline which is contained on Page 90 to 94 and then Item 4 deals with different affidavits which were filed in the matter between the Minister of Finance versus the Oakbay where the issue, the issues we are interrogating in this Commission were also raised therein and Item 5 is the affidavit of Mr Jonas in response to the allegations contained in the affidavit filed in the Minister of Finance versus Oakbay matter and then Annexure A, is a statement that was prepared on his behalf which he refused to sign by the officials which we will in due course refer to their names of the Hawks and Item 7, is the GPRS records and Item 8 Mr Chair is the telephone records which we will deal with same to the extent that it becomes necessary.

Mr Chair we are ready to lead the evidence of Mr Jonas.

<u>CHAIRPERSON</u>: Your bundle, your index talks about Items number 1,2,3,4 to 8, but when I look at how the bundle is divided, I see A,B,C,D,E. I would have thought that your dividers would have 1,2,3,4, so that if I want to go to Item 5, the divider tells me this is where Item 5 is.

ADV PHILLIP MOKOENA SC: We understand.

CHAIRPERSON: But am I missing something that I should be seeing?

ADV PHILLIP MOKOENA SC: You're not, the file dividers were put there for ease of reference, not referring to the item itself, but we take the point that during the adjournment what we will do, instead of the C numberings, we will put the item numbers. However, for the purpose of following the evidence of Mr Jonas, it might be appropriate for us to refer to the page numbering. Then in that regard Mr Chair, we won't lose one another.

CHAIRPERSON: Okay thank you, you may proceed?

REGISTER: Do you have any objection to making the prescribed oath?

MR MCEBISI JONAS: None whatsoever.

REGISTRAR: Do you consider the oath to be binding on your conscience?

MR MCEBISI JONAS: Yes it is.

REGISTRAR: Please raise your right hand? Do you swear that the evidence you shall give today shall be the truth, the whole truth and nothing but the truth, so help you God?

MR MCEBISI JONAS: I do. So help me God.

REGISTRAR: Thank you.

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ADV PHILLIP MOKOENA SC: Mr Chair before proceeding with leading the evidence of Mr Jonas, Mr Trengove is here to register his presence. He is part of the legal team of Mr Jonas.

CHAIRPERSON: Thank you.

ADV WIM TRENGOVE SC: May I confirm that Chair? My name is Wim Trengove, I appear for Mr Jonas, instructed by attorneys Boqwana, Burns and Nortons.

CHAIRPERSON: Thank you very much Mr Trengove. You may proceed Mr Mokoena?

ADV PHILLIP MOKOENA SC: Mr Jonas, during this phase of the hearings, the Commission will be addressing the terms of reference 1.1, 1.2 and 1.3 and are you aware of that?

MR MCEBISI JONAS: Yes I am.

<u>CHAIRPERSON</u>: Before you proceed, Mr Mokoena, I see somebody next to Mr Jonas, I don't know who he is, I don't know what he is doing there.

ADV PHILLIP MOKOENA SC: He might be sitting to wait for cross-examination Mr Chair, I am not sure.

CHAIRPERSON: You also don't know? Well maybe I should adjourn and you people sort this thing out. I am going to adjourn for 5 minutes.

REGISTRAR: All rise.

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Session 2

CHAIRPERSON: Thank you Mr Mokoena?

ADV PHILLIP MOKOENA SC: Mr Chair we did clarify the issue, it was Mr Jonas's attorney of records, he was merely sitting there to assist him to navigate through the documents, but he has since now joined the rest of us.

CHAIRPERSON: I think he has done the right thing, thank you, you may proceed?

ADV PHILLIP MOKOENA SC: Mr Jonas for your benefit, may I repeat the question that, are you aware that for this phase of the inquiry, we will be interrogating term of reference 1.1, 1.2 and 1.3?

10 MR MCEBISI JONAS: I do.

ADV PHILLIP MOKOENA SC: And we have placed the terms of reference next to you for your benefit. If you may go to Page 5 and that is where you will find term of reference 1 up until Page 6 and towards the middle of the page that is where you will find term of reference 1.3 and are you familiar with those terms of reference?

MR MCEBISI JONAS: With all respect, I do Chair.

ADV PHILLIP MOKOENA SC: In order to assist this Commission, you had provided and furnished us with a witness statement Mr Jonas?

MR MCEBISI JONAS: I did.

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ADV PHILLIP MOKOENA SC: Yes may I refer you to the bundle C1, a document contained from Page 1 to Page 20 of the bundle. Are you there?

MR MCEBISI JONAS: I am with you Chair.

ADV PHILLIP MOKOENA SC: May I refer you to Page 20? Is that your signature?

MR MCEBISI JONAS: It is.

<u>ADV PHILLIP MOKOENA SC</u>: Before confirming your statement under oath, are there any portions of the statement which you wish to correct?

MR MCEBISI JONAS: With respect Chair, there are a couple.

ADV PHILLIP MOKOENA SC: Could you please take us through those corrections, slowly as we want also to make notes?

MR MCEBISI JONAS: On Page 20, Paragraph 57 and sub-section 57.6.

ADV PHILLIP MOKOENA SC: On which page?

MR MCEBISI JONAS: Page 19.

10 ADV PHILLIP MOKOENA SC: yes and you were referring to paragraph 57.6?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: And then which corrections would you wish us to effect?

MR MCEBISI JONAS: It says: "I was invited and hired by Hlongwane", that is incorrect. It reads in the actual statement signed as by Mr Duduzane Zuma.

ADV PHILLIP MOKOENA SC: Yes, is that the only correction on that page?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: And then the next paragraph?

<u>CHAIRPERSON</u>: I'm sorry Mr Mokoena and Mr Jonas, so in Paragraph 57.6, what words should we delete and in which line?

MR MCEBISI JONAS: In Line 1 Chair with due respect. "I was invited to the meeting at the Hyatt by", it says by Mr Hlongwane. You delete by "Mr Hlongwane" and then you say "by Mr Duduzane Zuma".

<u>CHAIRPERSON</u>: Okay, I think we should delete "Mr Hlongwane and", and then we leave "by", so that it says "by Mr <u>Duduzane Zuma</u>".

MR MCEBISI JONAS: Thank you chair.

CHAIRPERSON: Okay thank you, you may proceed.

ADV PHILLIP MOKOENA SC: And then where else?

MR MCEBISI JONAS: The second one is on Paragraph 37 and 38.

10 ADV PHILLIP MOKOENA SC: On page?

MR MCEBISI JONAS: On Page 10 of the...

ADV PHILLIP MOKOENA SC: So we say paragraph 37 and 38 on page 10 of your statement.

MR MCEBISI JONAS: It is just the order of the paragraph. 38 should be 37 and 37 should be 38.

ADV PHILLIP MOKOENA SC: In order for them to follow chronologically?

MR MCEBISI JONAS: In order for it to follow chronologically, yes.

ADV PHILLIP MOKOENA SC: And where else Mr Jonas?

MR MCEBISI JONAS: At Page 4, Paragraph 14, with respect Mr Chair, the last line of that paragraph.

<u>ADV PHILLIP MOKOENA SC</u>: The one starting with the following "I had received a call from Fana Hlongwane"?

MR MCEBISI JONAS: And the rest should read "as Mr Duduzane was arriving".

ADV PHILLIP MOKOENA SC: So the words "while I was with" must be deleted?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: And replaced with the word "as"?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: And then we must add "after Mr Duduzane Zuma was arriving"?

10 MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: Before the word "and"?

MR MCEBISI JONAS: Yes. How the English make sense, I am not sure now.

ADV PHILLIP MOKOENA SC: You have the captured the essence Mr Jonas. Any other place?

MR MCEBISI JONAS: I think that's it.

ADV PHILLIP MOKOENA SC: Other than that, you are happy with the rest of your statement?

MR MCEBISI JONAS: With all respect, yes I am.

ADV PHILLIP MOKOENA SC: Do you confirm the contents of your statement under oath?

MR MCEBISI JONAS: Yes I do.

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ADV PHILLIP MOKOENA SC: Mr Jonas, I propose [intervene]...

<u>CHAIRPERSON</u>: I am sorry Mr Mokoena, and it may or may not have something to do with the statement by Mr Jonas that he hoped that the English makes sense. The last portion of that line says, "and I told him that I was with Mr Zuma". Now the earlier part is now saying, "as Mr Duduzane Zuma was arriving", so it may or may not be that it's still fine, I don't know.

ADV PHILLIP MOKOENA SC: Its fine.

CHAIRPERSON: Okay thank you.

ADV PHILLIP MOKOENA SC: Mr Jonas, I propose to relate your evidence by referring to specific topics and things. I will deal with your evidence by addressing the following topics. The first one, I will ask you [intervene]...

CHAIRPERSON: I am sorry Mr Mokoena, I don't know whether it might not be good for the sake of completeness, I think it is implied or if you are going to lead him on the basis of certain topics whether he shouldn't at this stage just confirm that other than the errors that he had picked up, which he has now corrected, he confirms that this statement is correct and he stands by it or something to that effect?

ADV PHILLIP MOKOENA SC: Yes, he did confirm Mr Chair, but for completeness yes, he did confirm that other than those changes that he effected, that he does confirm his statement under oath.

20 CHAIRPERSON: Okay thank you, I may have missed that.

ADV PHILLIP MOKOENA SC: Now the topics which I propose to canvas with you, are the following Mr Jonas.

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Firstly, I will request you to deal with the events leading up to the meeting of the 23rd of October 2015 and then secondly, we will deal with the events subsequent to the meeting of the 23rd October 2015. Thirdly, we will deal or I will request you to address the period, between, October 2015, to December 2015. We will then move on to canvas events which took place from January 2016 to March 2016. We will then also deal in detail with your media statement which was released on the 16th of March 2016. We will then move on to canvas with you and highlight your interaction with the officials of the Hawks. Thereafter, I will refer you to the portions of the transcripts of the Public Protector wherein your interview with the Public Protector is captured.

I will also deal with you with the document that you have prepared, styled the timeline document and then we will also dedicate some time in dealing with those affidavits which were filed in the matter between the Minister of Finance and Oakbay. You would recall that Mr Gupta, Ajay Gupta, filed an affidavit in those proceedings in relation to the offer made to you at the Gupta residence and Mr Fana Hlongwane as well as Mr Duduzane Zuma filed confirmatory affidavits in support of that affidavit, but you also filed your own affidavit in order to respond to those allegation. We will in due course canvas those affidavits in much more detail and finally and to the extent that it becomes necessary, we will deal with the cell phone records. That is how I propose to deal with your evidence.

As a prelude to your evidence, may I request you to turn to Page 1 of your witness statement, that is the bundle Mr Chair that I am referring to with specific reference to Paragraph 2 of your statement and if you can read same into the record?

MR MCEBISI JONAS: Thank you very much Chair.

"I was appointed as the Deputy Minister of Finance of South Africa on the 26th May 2014 and I was relieved of my position of Deputy Minister of Finance on the 31st March 2017. I

was also during this period, a member of the South African Parliament. I was appointed as a Deputy Minister at the same time as Mr Nhlanhla Nene was appointed as the Minister of Finance. On the 9th December 2015, it was announced that Mr Nene was removed as the Minister of Finance and replaced by Mr Des van Rooyen. It was announced on the 13th December 2015 that Mr van Rooyen was in turn to be replaced by Mr Pravin as Minister of Finance. Mr Gordhan served as Minister of Finance until the evening of the 31st March 2017, when he was removed as Minister of Finance and I was removed as Deputy Minister of Finance on the same day."

ADV PHILLIP MOKOENA SC: There are two important aspects arising from that

10 Paragraph 2 which would require clarification from you. The first one, could you share with us, the circumstances upon which you were appointed on 26 May 2014?

MR MCEBISI JONAS: Mr Chair, I received a call from the Office of the President, inviting me to his residence Mahlamba Ndlopfu and formally informed that I have been appointed as Deputy Minister of Finance. Thank you Chair.

ADV PHILLIP MOKOENA SC: Then the second issue that arises, you are saying in your statement that you were removed as Deputy Minister of Finance the same day when Minister Gordhan was removed. Can you also share with us the circumstances which led to your removal and how you were removed?

MR MCEBISI JONAS: Of course the removal, there was no formality around it from the

President. I actually saw it on TV and probably to date I never received any formal information about my removal. I suspect the same for Mr Gordhan.

ADV PHILLIP MOKOENA SC: So you say that you only saw it on TV that you were removed?

MR MCEBISI JONAS: And then subsequent media statements.

ADV PHILLIP MOKOENA SC: Can you then take us through very slowly, take us through the events leading up to the meeting on the 23rd October 2015?

MR MCEBISI JONAS: In difference Mr Chair, I would try to move closely as well as written in the statement just to ensure that I capture all the details.

ADV PHILLIP MOKOENA SC: Yes, it's important because there are time references specific to that statement.

MR MCEBISI JONAS: On approximately the 27th, 28th August 2015, I was in Luanda at an African caucus of finance ministers. I recall being contacted by Mr Fana Hlongwane whom I knew relatively well, telling me that Mr Duduzane Zuma would like to speak to me, to invite me to an awards ceremony, which I will explain later.

I subsequently met Mr Hlongwane during 2015 in Johannesburg in the presence of Mr Bongani More and he told me that Mr Duduzane Zuma wanted to meet me.

ADV PHILLIP MOKOENA SC: Mr Jonas, who is Mr Bongani More?

MR MCEBISI JONAS: It's a friend of mine. It was not a formal meeting, it was a casual meeting. During the course of the conversation, he mentioned that the Gupta's were important to him. I indicated that I would not want to be associated with the Gupta's.

ADV PHILLIP MOKOENA SC: What prompted that discussion? Why would he say to you?

MR MCEBISI JONAS: It was a general discussion on the politics of the country and that's how it came in. I asked Mr Hlongwane to provide me with Mr Duduzane's number, I had not previously met Mr Duduzane, nor had any previous interaction with him. At approximately 5:30 pm, on the 17th October 2015, after arriving in Cape Town from Port Elizabeth, I sent Mr Duduzane a text stating, "Hi Comrade", I quote, "I tried to call you.

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this is Mcebisi Jonas". Approximately at 5:36 pm, I had a short telephone conversation with Mr Duduzane Zuma. Mr Duduzane Zuma requested me to attend what I recall to be the South African of the Year Awards hosted by ANN7 on the Saturday, 17th October 2015 in Johannesburg.

I ultimately indicated that I would not be able to attend, telling him that my schedule would not permit it. Mr Duduzane Zuma said that he would like to talk to me nonetheless and asked whether we could meet some time after the awards.

ADV PHILLIP MOKOENA SC: At that point, did he indicate to you why he wanted to talk to you?

10 MR MCEBISI JONAS: There was no indication.

ADV PHILLIP MOKOENA SC: Okay, please proceed?

MR MCEBISI JONAS: On the Monday the 19th October 2015, at approximately 12:38, I sent Mr Duduzane Zuma a text message which read "can we talk when I in response to a missed call", there was a missed call by Mr Duduzane and I responded to him by saying "can, we talk?" I was about to fly from Johannesburg to Cape Town. I received two missed calls from Mr Hlongwane that evening at approximately 9:37 pm and 9:38. At approximately 9:43 pm, I sent Mr Duduzane a further text message which stated "called". I then received a call from Mr Duduzane at 9:43 about arranging a meeting and I indicated to him, that I would be in Johannesburg later in the week and that it may be possible to meet then.

On the 22nd October 2015, I flew from Cape Town to Johannesburg. On landing in Johannesburg, I noticed that I had received a text message from Mr Duduzane Zuma, which read, "good morning Sir, I trust you made it out of the Parliament building unscathed. I tried to call you, please return my call, kindest regards, Duduzane".

I also saw that I had received another missed call from Mr Zuma.

ADV PHILLIP MOKOENA SC: Mr Zuma there, are you referring to Duduzane?

MR MCEBISI JONAS: Duduzane. I received a call again from Mr Duduzane Zuma at approximately 9:58 am on 23rd October 2015. I told him that I would be attending a meeting in Rosebank that morning and that we could meet briefly before I flew to Port Elizabeth in the late afternoon of the 23rd October 2015.

We agreed to meet at Hyatt Hotel in Rosebank before I left to the airport. On the 23rd of October 2015, I attended NEDLAC briefly and I left the meeting after that. I sent Mr Duduzane a text message at approximately 11:00 am to change our agreed upon time which stated "can we make it 1:30 same place" which is Hyatt. He responded with a text saying "agreed".

I arrived earlier at approximately 1:00, I sent him text message stating, "can you call me". I then received a short call from Mr Duduzane Zuma at approximately 1:03 pm and at 1:13. I sent a further message saying "here already" and he responded at 1:21 stating by text, "I am on my way up soon".

When Mr Duduzane arrived at Hyatt Hotel, we had a brief discussion. He appeared pretty nervous and spoke in very vague terms. He said nothing of substance except to say that his father, the then President Jacob Zuma, liked me. After a while, I indicated that I was under time pressure. He said that the place was too crowded and that he had important matters to discuss, but that he wanted other people to join the discussion and that he wanted to drive to a more private place, which he said was close by.

ADV PHILLIP MOKOENA SC: But did he tell you who are these other people that he wanted to join the discussion?

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MR MCEBISI JONAS: With all due respect, he didn't Mr Chair. I assumed we would be going to an office nearby, so I said let's go. I had received a call from Fana Hlongwane as Duduzane was arriving, that is the correction that I made. We drove in Mr Duduzane's car which appeared to be a 2-door Mercedes Benz. I did not know the surrounding area very well and only gathered when we arrived at our destination, that we had driven into the Gupta residence in Saxonwold.

ADV PHILLIP MOKOENA SC: Did you know that residence before the Gupta's?

MR MCEBIS! JONAS: No I didn't.

ADV PHILLIP MOKOENA SC: Was this the first time that you?

MR MCEBISI JONAS: It was the first time yes. Mr Duduzane had not suggested to me when we left Hyatt, that we were going to the Gupta residence or that we had to meet the Gupta's. As Mr Duduzane passed the car, I noticed that Mr Fana Hlongwane had also arrived at the Gupta residence. We went into the house and Mr Duduzane Zuma and Mr Hlongwane led me to a lounge where we sat down and started chatting.

None of them suggested that the meeting would involve any of the Gupta family members. We had not spoken for a very long time when one of the Gupta brothers walked into the room and sat down. I had not previously met any of the Gupta brothers, but I recognised him as one of the Gupta brothers from media reports. At the time, I did not know his name as he did not introduce himself, but simply started talking. I have subsequently looked at press articles which depict the various Gupta brothers and based on these photographs, I am relatively certain that the Gupta brother at the meeting, was Ajay Gupta, but I cannot exclude based simply on the photograph, the possibility that it might have been Mr Rajesh Gupta.

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Mr Duduzane Zuma and Mr Fana Hlongwane both remained silent while Mr Gupta spoke and they did not participate in the interaction which followed although they both remained in the room. Mr Gupta opened the conversation by stating that we know you and that he had been told that I was being blackmailed by Mr Hlongwane. I replied that that was not true. He responded by stating that that was not why he had called me anyway.

ADV PHILLIP MOKOENA SC: Did Mr Hlongwane at this stage, respond?

MR MCEBISI JONAS: No response.

ADV PHILLIP MOKOENA SC: Or reacted to these remarks from Mr Ajay Gupta?

MR MCEBISI JONAS: No he just shook his head and no response really, no words. He said that we have been gathering intelligence on you, including those closest to you, such as my friend Rustum Mohamed and my chief of staff Mr Nkosohlanga Mboniswa. He described both as being poor and useless. He emphasised that they, which I understood to be the Gupta family, have the capability to gather such information and that they had gathered a lot of information on me which they could use against me. He said that as far as he was concerned, this meeting never happened and that if I would one day to suggest that this meeting had occurred, they would destroy my political career.

I understood him to be creating the impression that they had information on me that they would use to destroy my political career if I reveal that the meeting had taken place.

ADV PHILLIP MOKOENA SC: Did you at that stage, interact with him, or say anything to him in view of those remarks?

MR MCEBISI JONAS: No, I listened, he was talking like a radio.

ADV PHILLIP MOKOENA SC: Yes, proceed.

MR MCEBISI JONAS: Should I proceed?

ADV PHILLIP MOKOENA SC: Yes you may proceed.

MR MCEBISI JONAS: Furthermore, Mr Gupta said that they were well aware of my activities and that I was working with the ANC General Secretary, Mr Gwede Mantashe, Treasurer General Doctor Zweli Mkhize, he also said that these activities were not good for me and these were bad guys.

He expressed the view that I was part of what he referred to as a thing within the ANC and government. I can only assume that this was suggesting that I form part of a faction or a process intended to undermine the then President Zuma. I must state in this regard that my relationship with President Zuma at the time was pretty good.

10 I interjected and refuted his view and stated that I was nothing more or less than a part of ANC and that my activities in the ANC and my work in government had nothing to do with anything other than the interest of the country.

ADV PHILLIP MOKOENA SC: Had nothing to do with him?

MR MCEBISI JONAS: With him. I asked him directly what was the purpose of the meeting. Mr Gupta said, "the old man", referring to the President, "seemed to like me and that they have called me to check me out and to see, and I quote "whether you can work with us". He also said that the President was going to fire Mr Nene because he could not work with him. I understood again this to be reference to the Gupta family.

ADV PHILLIP MOKOENA SC: At that time, what portfolio was Mr Nene holding?

20 MR MCEBISI JONAS: Mr Chair, Mr Nene was the Minister of Finance.

<u>CHAIRPERSON</u>: I am sorry Mr Jonas and Mr Mokoena, it might be easier to deal with this here now than much later. In Paragraph 20 of Mr Jonas's statement where he refers to the ANC Secretary General Mr Gwede Mantashe, from what he has said, it seems to

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me that it should not be saying, "Treasurer General and Doctor Zweli Mkhize". It should be saying "Mr Gwede Mantashe and Treasurer General, Doctor Zweli Mkhize" rather than "and".

ADV PHILLIP MOKOENA SC: It makes sense that way Mr Chair thank you. We will change that correction accordingly.

CHAIRPERSON: Thank you.

MR MCEBISI JONAS: Mr Gupta said that the old man, the President, was going to fire Mr Nene because he could not work with him, which I understood to refer in reference to the Gupta family. He said that and I quote, "you must understand that we are in control of everything", the National Prosecuting Authority, the Hawks, the National Intelligence Agency and the old man, and I quote, "will do anything we tell him to do."

He said that the old man intended appointing me as the Minister of Finance. I was at this stage shocked and angered by this statement and I said that I was not interested in becoming the Minister of Finance.

ADV PHILLIP MOKOENA SC: Now at this stage, where is Mr Fana Hlongwane and where is Mr Duduzane Zuma?

MR MCEBISI JONAS: They are in the room quiet as if they don't exist. Mr Gupta ignored what I said. He said emphatically that I must become the Minister of Finance because that is what "we want" and by that, I would have to work with them. He also said that if I worked with them, I would become very rich and that he could immediately offer me 600 million. He pointed at Mr Duduzane and said that they have made him a billionaire and that he had bought a house in Dubai. He said that they worked closely with a number of people including Lynn Brown and Brian Molefe and as a result, they were protected. In other words, those people who work for them are protected.

He said that Mr Molefe is very safe and that his career path is very clear and that nobody would touch him and I would be safe too.

ADV PHILLIP MOKOENA SC: Now when you referred to, I just want to make sure that your evidence is accurately captured, when you refer to the offer, is that 600 million that you were offered?

MR MCEBISI JONAS: R600 Million yes.

ADV PHILLIP MOKOENA SC: In Rand's?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: Okay, you can proceed?

10 <u>CHAIRPERSON</u>: Before he proceeds, Mr Jonas

ADV PHILLIP MOKOENA SC: 600 million.

CHAIRPERSON: Yes, thank you. That last sentence of Paragraph 23, I seem to be hearing you to say touch "him" and not "me", it is written "me".

MR MCEBISI JONAS: Oh touch "him" yes.

CHAIRPERSON: Is it supposed to be "me" or is it supposed to be "him"?

MR MCEBISI JONAS: No, no it's "me". He said assuming that I work with him, nobody would touch "me" and I would be safe.

<u>CHAIRPERSON</u>: I corrected that you may have said "him" earlier on. You don't know it but I heard correctly.

20 MR MCEBISI JONAS: It might be a slip of tongue.

<u>CHAIRPERSON</u>: No I just want to make sure that where what you say might be different from what is written here, you are aware of it and you can explain. You may proceed?

MR MCEBISI JONAS: I said that I was going to leave and stood up to leave. I said that I was not interested in becoming a Minister of Finance and if he thought I would work with them, he would have to tell me precisely what it is that they do. At that point, he, Mr Zuma, and Mr Hlongwane also stood up, I was angry at this stage and he was also emotional. He said something along the lines of, I quote, "look, do you know who you are dealing with?" He was agitated and said "do you think it is illegal". He said that everything that they do, is legal and that they create jobs and contribute to the economy.

He said that at the moment, we, which I understood again to be the Gupta family, earn about 6 billion from the fiscas through various entities, including Eskom, Transnet and government departments. He said that they wanted to increase this amount to 8 billion and that they thought I could be helpful in this regard. Mr Gupta said that they had determined that the National Treasury was a stumbling block for their growth and that they wanted, and I quote again, "to clean up Treasury". He said that when I am appointed as Minister of Finance, I would have to remove the Director General Lungisa Fuzile, Head of Tax and Financial Sector Policy, Mr Ismail Momoniat, the Deputy Director General, Mr Andrew Donaldson and the then Chief of Procurement, Kenneth Brown.

Further, he said that they would provide me with replacement of all of these people and that they would provide me with the necessary support including advisors.

<u>CHAIRPERSON</u>: Before you proceed, Mr Jonas, I noted that in that paragraph which you have just finished, when you came to the R6 billion, you just said 6 billion and I think when you read 600 million, you also left out the Rand. I think try as much as possible to

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read it as is, except if you pick up that it is incorrect in which case you must just state that on record. Thank you.

MR MCEBISI JONAS: I said that I was under time pressure and again encouraged him to set out precisely what they do, suggesting that this would allow me to take an informed decision. For the sake of clarity, my question was not intended for the purposes of seriously considering his offer, but it was intended as a provocation to seek to draw him out in the context of the unfolding state capture phenomenon that we were at that point, trying to make sense of and to determine who was involved and it was in a sense, trying to flush them out.

10 ADV PHILLIP MOKOENA SC: Did he answer your question as to what were they doing?

MR MCEBISI JONAS: I am coming to that. I began to walk away and Mr Gupta motioned to both Mr Zuma and Mr Hlongwane to hang back and as I was walking to the door of the house, Mr Gupta directed me to a bar area and said that they were serious about offering me R600 million and that it would be deposited into an account of my choice and that they could open an account for me, I could stash it in Dubai. He said that to show that they were serious, I quote, "I can give you R600 000 now" and asked again, I quote, "do you have a bag or can I give you something to put it in" unquote. He seemed to want to show the cash to me. I said to him that I did not want money and I thought he was going to tell me what it is that they do. I said that I was in a rush to catch a plane, but I was returning from the Eastern Cape on Sunday and he could provide me with a list of what they do on Tuesday of the following week. Then he told Duduzane to arrange that I come back the following Tuesday and that he should tell me to bring a bag.

I asked Mr Zuma to take me back to my car. Mr Gupta said he wished to continue the meeting with Mr Zuma and another car would take me to the airport. At the end of the

meeting, Mr Gupta repeated that they had information on me and if I suggested that the meeting had occurred, they would kill me.

ADV PHILLIP MOKOENA SC: Can I refer you back to Paragraph 28? Now at that stage, when Mr Gupta is talking to you and saying that I can give you R600 000 now, where was Mr Duduzane Zuma and Mr Hlongwane?

MR MCEBISI JONAS: They were standing a bit back away from the scene.

ADV PHILLIP MOKOENA SC: Okay.

MR MCEBISI JONAS: I was then driven to the airport by what I assumed to be one of their vehicles, the Gupta vehicles.

10 ADV PHILLIP MOKOENA SC: Now as you say that they were standing back, could they hear what he was saying?

MR MCEBISI JONAS: Indeed, they were very close, so they heard.

ADV PHILLIP MOKOENA SC: Now Mr Jonas, can we then move on to deal with the events subsequent to the meeting of the 23rd of October 2015, but before you do that, may I enquire from the Chair, that now that we did begin with our hearing at 9:30, I am not sure when will be the opportune time to take a tea adjournment?

CHAIRPERSON: Maybe we should take it at 11:00, is that convenient to everybody?

ADV PHILLIP MOKOENA SC: It would be.

CHAIRPERSON: It will be, okay alright, we will take it at 11:00.

20 <u>ADV PHILLIP MOKOENA SC</u>: You may proceed Mr Jonas to deal with the events subsequent to the meeting of the 23rd October 2015?

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MR MCEBISI JONAS: I was very shaken by what happened at the meeting, due to the sensitive and threatening nature of what had transpired at this meeting and because of uncertainty of events that were playing themselves out on the national basis. I decided I would initially discuss what had happened with people I felt I could trust. Later that day, I contacted Mr Nhlanhla Nene and advised him that I had something serious to tell him. He was on his way to Kwazulu Natal so we agreed to meet on his return, on Sunday the 25th October.

ADV MOKOENA: You are also referring there to uncertainty of events that were playing themselves out on a national basis. What were you referring to?

MR MCEBISI JONAS: It was probably the most turbulent time which I will deal with later. It was a very turbulent time and I will give details later if you will allow me.

ADV PHILLIP MOKOENA SC: Yes you may do that.

MR MCEBISI JONAS: Upon landing in PE, I spoke telephonically to Mr Hlongwane and expressed my disgust about what had transpired, particularly in respect of the manner in which he had deliberately misled me. I told him he should never again do what he had done to me or to any other person. He suggested that we should have a meeting to discuss what I had raised. On Sunday 25th October 2015, Mr Nene contacted me and suggested we should meet the following day Monday 26th October. I returned to Johannesburg on the Sunday the 25th October 2015 at approximately 4:37. I spoke to Mr Gordhan again whom I trusted wholly and asked if I could see him to seek his advice and guidance. I went to his house in Pretoria and when I arrived, he was sitting with his wife. Given that his wife was present, I decided to provide him with a high level outline of what happened. I told him that I had been invited to a meeting and that the individuals present

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at the meeting, had told me that I would be made Minister of Finance and that they offered me money and that I had refused their offer.

I was still deeply shocked, angered and dispirited and I told him that I thought I should submit my resignation the following day. Mr Gordhan suggested that I should not resign at that time, but should wait until we had some time to consider the matter further and get into more details and also to decide what would be in the best interest of the country. I told him that I would discuss the matter with Mr Nene which he said was important. We agreed to keep the matter confidential. I received three missed calls from Mr Hlongwane between 6:49 pm and 7:57 pm as well as one missed call from Mr Duduzane Zuma at 8:18 pm.

ADV PHILLIP MOKOENA SC: Do you know the date, are you able to relate us in terms of the date?

MR MCEBISI JONAS: I think it was on the 25th, deal with or the 28th I think. On Monday the 26th October.

ADV PHILLIP MOKOENA SC: Maybe here you might want to start first with Paragraph 38?

MR MCEBISI JONAS: At 8:22 pm on 25 October 2015, I received a text from Mr Duduzane Zuma in which he stated "good evening sir, I tried to call you, please return my call". On Monday the 26th October, at 6:58 am,I sent Mr Duduzane Zuma a text message stating "hi broer, can we postpone today's session to Thursday, did not realise how hectic my official schedule is, Jonas". I did not meet him again.

ADV PHILLIP MOKOENA SC: But do you know why he wanted to talk to you?

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MR MCEBISI JONAS: I assume that because I said they should give a list of what they do, maybe he was trying to arrange that.

CHAIRPERSON: Sorry Mr Jonas, this is important, you might not appreciate its importance, I think in that paragraph, Paragraph 38 or the one starting at 8:22 pm, when you read the message from Mr Duduzane Zuma, I think you just said "please return my call" and you left out "when you can" or I don't know if you swallowed that part of the sentence? So it's important that if the quotation is written here the way it is, when you read it, you read it complete, otherwise it might create the impression that you are not agreeing that it was as is shown here and that you are saying it was different. So I just want you to appreciate those things that might seem small.

MR MCEBISI JONAS: Thank you very much Mr Chair. The "please return my call when you can" was part of the quote. On the morning of the 26th October 2015, I met and briefed Mr Nene. We met on the balcony of my national Treasury office because we were concerned that our offices might be monitored. I told Mr Nene exactly what had happened at Saxonwold meeting, including that I had been told in clear terms, that he was to be removed from office. He suggested that he should resign because he was going to be fired in any event. Having considered Mr Gordhan's advice and in the face of the open hostility towards National Treasury in Cabinet, especially from the then President and particularly in relation to the nuclear procurement programme, I told him that I thought we should remain in our positions and fight on if only to hold the line for the Finance Department. He agreed with my proposal in this regard.

ADV PHILLIP MOKOENA SC: We are now moving to deal with those events that occurred between October 2015 to December 2015, if you may please take us through those events?

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MR MCEBISI JONAS: At this point in time, I did not see any point in reporting the matter to either the police or the Hawks, as I believed that these institutions were seriously compromised and I saw no reasonable prospect of this matter being properly and fairly investigated. This was both at a general level (by then the former President Zuma had secured a loyal intelligence and security apparatus by weeding out most of the experienced and technical capability in the various institutions) and at a personal level (given the threatening statements which had been made by Mr Gupta during the course of the meeting). I anticipated that reporting of the matter, would simply result in reprisals against me. My concern in this regard, were subsequently amply underscored by my later interaction with Major General Mnonopi in relation to the complaints which had been laid by David Maynier of the Democratic Alliance and Dennis Bloem of COPE.

ADV PHILLIP MOKOENA SC: And this interaction you are dealing with it later in your statement?

MR MCEBISI JONAS: I deal with it Mr Chair later. My experience was also to some extent, taken over by national events, which subsumed Mr Nene and me over the period leading to the firing of Mr Nene as Minister of Finance. This time, in my experience, was one of the most intense periods in South Africa's democratic history as we in National Treasury were trying to hold the line without presidential or Cabinet support, against an economy teetering on the edge of a recession whilst various crisis at State owned enterprises unfolded.

Can I emphasise one point? I think it's important to state that National Treasury's role is defined in the Constitution in part Mr Chair, but execution of that role, largely depend on the Constitution in part, but also it depends on absolute support from the President and the Cabinet, because some of the issues we deal with, are regulatory issues and you

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have to guide expenditure of departments and sometimes you have to sanction departments for irregular expenditure and many other things, so that is a very critical part. You also have to manage fiscas broadly to ensure that it escalating into a fiscal crisis. So both political and the legal Constitutional framework are important for that and what we were lacking at the time was the political part, because it was clear that both the Cabinet and the President, there was huge hostility towards National Treasury in general.

In retrospect, a number of these events appear to have been linked to the capture of various State institutions by the Gupta family. Simultaneously, the pressure on us from the former President and other members of Cabinet to approve the nuclear deal was immense and was ultimately the trigger of Mr Nene's dismissal on the 9th December 2015, after he again refused to back the deal at a Cabinet meeting on that day.

ADV PHILLIP MOKOENA SC: Do you still recall which deal was that that he refused to back?

MR MCEBISI JONAS: I am saying the nuclear deal. The nuclear deal in this period was a big issue I must say, for everybody's information. It was a big issue Mr Chair at the time. I recall that we were in and out of meetings, we were making presentations and so on and so on and that was the big pressure and so on, we can deal with that later, I mean. I was on a flight to Port Elizabeth when Mr Nene was removed from office. When I landed, I had a message from Mr Nene and also received a separate message indicating that the President had attempted to contact me. Mr Nene sent me a text message in which he said "the axe has fallen" and suggested that we should meet when I returned from the Eastern Cape.

When I spoke to the then President Zuma, he told me that he had removed Mr Nene as Minister of Finance and that he had appointed Mr Des van Rooyen. I asked him how he

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thought Mr van Rooyen would be capable of performing the job and cope with the financial markets. President Zuma responded by saying that I was there to help him. After the brief tenure of Mr Des van Rooyen as Minister of Finance, Mr Gordhan was appointed as Minister of Finance. I remained Deputy Minister of Finance.

Shortly after Mr Gordhan was appointed as Minister of Finance, we met and discussed various pressure points that the Treasury was facing, particularly how we would deal with the aftermath of the removal of Mr Nene and the appointment of Mr van Rooyen and you will remember that the financial markets just plummeted at the time and that probably was the immediate task to kind of pacify the markets and give certainty on policy direction and a whole range of those issues.

We also discussed in detail, in this context, the events which had taken place at the Gupta residence on the 23rd of October 2015.

ADV PHILLIP MOKOENA SC: Now when you say you discussed them, did you pave any way forward as to how you are going to deal with that event that occurred on the 23rd of October 2015 at the Gupta's residence?

MR MCEBISI JONAS: No we just discussed it and said listen, let's continue the fight. I think that's what we intended saying.

ADV PHILLIP MOKOENA SC: Now, can we, move on to deal with the period between, January 2016 to March 2016?

MR MCEBISI JONAS: Subsequently, in January 2016, I had a meeting with Dr Zweli Mkhize in Johannesburg, then the ANC Treasury General, about another matter. During the course of this meeting, he said that he had heard a rumour about the Gupta's offering me an inducement to take up the position of Finance Minister and he asked me whether this was true. I told him what had occurred and I also mentioned the role played by Mr

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Hlongwane and Mr Duduzane Zuma in facilitating the meeting. Dr Mkhize indicated that he was shocked and he advised that he noted my concerns regarding the matter including in respect, the role of Duduzane Zuma.

Subsequently, the Financial Times (of London), published an article on Wednesday 8 March 2016, which reported, I quote, "the family also denied a claim made to the Financial Times that weeks before Mr van Rooyen's appointment, they had asked Mr Mcebisi Jonas, Deputy Minister of Finance, if he was interested in the Treasury's top post at a meeting at the Gupta's home." I continue with the quote. "There have been an extraordinary number of allegations around the Gupta family in recent weeks, several of which involved the Finance Ministry, a family spokesman says." I continue with the quote "to be absolutely clear, there was no meeting at all." The article did not immediately receive great attention in South Africa although News24 and some other online news sites, reported the story on Thursday 10 March 2016. On Friday 11 March 2016. I travelled to a SADEC meeting in Gabarone, Botswana which lasted until Monday the 14 March 2016. Whilst I was in Gabarone, on the Sunday, 13 March 2016, the Sunday Times carried a story which stated that, I quote, "President Jacob Zuma's son Duduzane was present when members of the Gupta family offered Deputy Minister Mcebisi Jonas then Finance Minister Nhlanhla's new job. The Sunday Times can reveal." I arrived back in South Africa on Monday the 14 March 2016 and noticed that I had calls from Mr Zizi Kodwa, then the spokesperson of the ANC. I went to Luthuli House to discuss the matter with him. He agreed that I should make a statement explaining what had happened, I released a statement on Wednesday 16 March 2016. Before doing so, I discussed what I was going to do when the Secretary General of the ANC, Mr Gwede Mantashe, who himself supported my stance in this regard. For ease of reference, I have quoted the content of the statement below.

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ADV PHILLIP MOKOENA SC: Mr Jonas, for importance and centrality of the issues relevant to this Commission and with the indulgence from the Chair, could you please read the contents of that statement that you made into the record?

MR MCEBISI JONAS:

"MEDIA STATEMENT BY DEPUTY MINISTER OF FINANCE MR MCEBISI JONAS

(MP) I have decided to respond and clarify certain questions that have been in the public domain recently. I do so, in accordance with my conscience, my political values and the best traditions of my organisation, the African National Congress, of which I have been a member since my early teens.

I regard our Constitution as being sacrosanct and it embraces the values that South
Africans struggled for and what we live by. I was appointed Deputy Minister in terms of
the Constitution by the President of the Republic of South Africa. Any practice that
conflicts with the prescripts of the Constitution must be challenged in the interest of our
democracy and the accountability we have to our people. The African National Congress
that we have been and continue to be proud members of, has offered us the opportunity
to serve our country, an honour that I do not take for granted. My historical commitment
to the liberation of our people has not waned.

My daily decisions and actions are informed by understanding that true political freedom will be achieved through deliberate and active management of a transformed, yet inclusive growing economy. The current economic climate presents many key risks for our country which require responsible leadership to avoid a full blown crisis. We have to unite on the key issues relating to managing macro-economic risk while urgently unlocking new resources of growth and jobs, all hands on the deck.

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The extent to which we are able to navigate the current macro-economic challenges, restore investor confidence and rapidly stimulate growth, will depend on heightened levels of political leadership.

The narrative that has grown around the issue of state capture should be of concern to all responsible and caring South Africans, particularly those of us who have accepted the task to lead our people. We cannot afford to ignore the obvious impact these sentiments may have on our country and the resultant potential of undermining our moral authority. Neither can we afford to allow the attempts to capture the State to divert us from dealing with the challenges that our country faces. We have made through our public pronouncement and private conduct.

Therefore let me state the facts on the matter of whether I was approached by non-governmental individuals in respect of the position of the Minister of Finance. Members of the Gupta family offered me the position of Minister of Finance to replace the then Minister Nene. I rejected this out of hand. The basis of my rejection of their offer is that it makes mockery of our hard-earned democracy, the trust of our people and no one apart from the President of the Republic, appoints Ministers. Let me also place it on record that there was no discussion between the Deputy Secretary General of the ANC Ms Jessie Duarte and myself on this matter.

I have hesitated to speak out publicly on this matter until now, but I feel it is no longer possible to remain quiet. Of primary concern, to me is that this issue has a real danger of diverting attention away from the real and urgent challenges we face.

I am committed to good governance, abiding by the Constitution of our country and being accountable to our people who repeatedly express their confidence and trust in us, election after election. It is this constant state of awareness and consciousness

drummed into most of us throughout our service in the national democratic revolution led by the ANC that has provided us with the moral capital and tools to apply sound judgement, navigate challenges that emerge in the natural course of society and leadership. It is only through these values and moral governance, that I serve my organisation, my fellow country men and women and my beloved South Africa.

Finally, I remain confident that the challenges that we face as a nation will be overcome if we collectively use our efforts for the benefit of all. I am resolute in playing my part in preserving the integrity of National Treasury as an institution in my capacity as Deputy Minister. I am also committed to making my contribution towards building a prosperous South Africa led by our glorious movement the African National Congress.

Issued on behalf of the Minister of Finance, date 16 March 2016."

ADV PHILLIP MOKOENA SC: Chairperson I see that it's 11:00.

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CHAIRPERSON: Okay we will take the short adjournment for tea and we will be back at 11:15.

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ADV PHILLIP MOKOENA SC: Mr Chair, we apologise for the delay, the admin staff was trying all their best to correct your file so that it must measure up to the Chairperson's standards.

CHAIRPERSON: Yes, no that's fine, I don't know whether they had finished or not but I didn't want us to delay longer than 5 minutes because I have said we would be back here, it's quarter past and I didn't want us to delay too long because when we say we are going to be back at quarter past, we must be back at quarter past unless we announce a further delay properly. So if they didn't finish then they can use the lunch break to try and finish.

Mr Jonas, you are still under oath, I won't be reminding you each time we have had a break but just do know the oath you have taken will apply until you have finished your evidence. Thank you, you may proceed Mr Mokoena.

ADV PHILLIP MOKOENA SC: Mr Chair, Mr Jonas, I am going to request you to please when you read the documents, read them slowly and then please also when you give your clarities on another issue, please do that slowly so that we can be able to follow your evidence. At some point Mr Jonas, you did interact with the Hawks, is that correct?

MR MCEBISI JONAS: That's correct.

ADV PHILLIP MOKOENA SC: Could you please share with us your interaction and the circumstances that led to you interacting with the Hawks.

MR MCEBISI JONAS: Thank you Mr Chair. A further article appeared in the Sunday Times on the 3rd April, 2016 which reported that I had alleged that the Gupta family had offered me the position of Minister of Finance in the place of Mr Nene on 2015. I was

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subsequently contacted by General Berning Ntlemeza of the Directorate of Priority Crime Investigations, the Hawks, pursuant to complaint which had been made by Mr Bloem and Mr Maynier. He asked me to provide a statement and said that we need a statement from you to help us finalise this case. He told me that they were working on a statement for me and that Major General Mnonopi would contact me in this regard.

ADV PHILLIP MOKOENA SC: Did you ask him at that stage what he meant by saying that to finalise the case?

MR MCEBISI JONAS: I didn't at the moment at that point. I was subsequently approached by Major General Mnonopi, also of the Hawks, she initially phoned on the 20th June, 2016 and informed me that she was investigating the complaints that have been laid by Mr Bloem and Mr Maynier, the spelling of Maynier is wrong, if you will allow me to.

ADV PHILLIP MOKOENA SC: Yes, could you please correct it, should it be spelled as the one in paragraph 52?

MR MCEBISI JONAS: Yes, it should be M-A-Y-N-I-E-R, and she said that the complaints related to allegations of corruption in that the complainant, Mr Maynier, referred to the Sunday Times article of the 3rd, 2016 and the complainant Mr Bloem referred to my media statement. She said she was coming to see me at Treasury with a prepared statement. At that point I called Mr Max Boqwana my attorney to ask him to be present at this meeting. Major General Mnonopi told us that this was (a), I quote: "A DA matter", and that I did not want to help at the DA and that they wanted to kill the case.

ADV PHILLIP MOKOENA SC: What is this matter that was referred to as "A DA matter"?

MR MCEBISI JONAS: I assumed that Maynier's complaint. She said that the statement had been settled by the Advocate who was Prosecutor I assumed within the National

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Prosecution Authority who believed that it will kill the case. She said to us, but when I say "us", I mean to me and my lawyer, that we need your statement as a matter of formality as there is no case. It is necessary in order for us to close the matter. Your statement must state that you are not a witness for anyone and that you do not want to make a statement as such.

A copy of the draft statement which she brought with her, is attached, marked "Annexure A."

ADV PHILLIP MOKOENA SC: Mr Jonas, let me take you back to paragraph 54. When Major General Mnonopi said all these things, was she aware that she was saying them in front of your attorney, Mr Max Boqwana.

MR MCEBISI JONAS: I was always up front when she came in and introduced Mr Max Boqwana as my attorney. In addition to that she apparently know Mr Boqwana from the Eastern Cape so there was no unclarity about Mr Boqwana's presence in the meeting.

ADV PHILLIP MOKOENA SC: Do you have paragraph 55?

MR MCEBISI JONAS: A copy of the draft statement as I was saying which she brought with her is attached, marked "Annexure A" and the draft statement contained the following paragraph. I quote:

"During our engagement, she informed me that I am cited as a witness in both cases and for that reason, a detailed statement is required from me. I responded to her that I am not prepared to submit a statement as I never opened a case against anyone and I do not intend opening any case. Further, I am not a witness to any person. We, the investigating officer and myself, later made an agreement to meet as for such affidavit. Today I met with the investigating officer as arranged and I still maintain my position that I do not have

any statement in this regard. That is all I wish to say." And that was the statement we were asked to sign.

ADV PHILLIP MOKOENA SC: Before you proceed, in that paragraph you are referring to the "Annexure A". If you may please turn with me to page 122 of the bundle Mr Chair. Are you there?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: Is this the statement that you were required to sign that was brought by General Mnonopi?

MR MCEBISI JONAS: Yes it is.

ADV PHILLIP MOKOENA SC: Now, it is important to record the contents of that statement because this statement I take it was contracted by yourself or by your attorney, am I correct?

MR MCEBISI JONAS: Yes it was.

ADV PHILLIP MOKOENA SC: You were simply meant to sign this statement?

MR MCEBISI JONAS: Yes I was.

ADV PHILLIP MOKOENA SC: And by signing it, it would have meant that you agreed to the contents of that statement?

MR MCEBISI JONAS: Now could you share with the Chairperson the contents of the statement which you were required to sign by General Mnonopi. If you can start from paragraph 3.

MR MCEBISI JONAS: Is this, "during our engagement"?

ADV PHILLIP MOKOENA SC: Page 122.

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MR MCEBISI JONAS: Yes, okay.

<u>CHAIRPERSON</u>: I am sorry Mr Mokoena. I am struggling with my bundle here as you know it hasn't been arranged in a way that is going to make things easy. Just help me again where that statement is?

ADV PHILLIP MOKOENA SC: It's on page 122, Mr Chair.

<u>CHAIRPERSON</u>: Well, there is a pagination that has been done with a marker, is that the one?

ADV PHILLIP MOKOENA SC: If you go towards the end of the bundle itself, Mr Chair, and follow the pagination on the top right-hand corner of the page.

10 <u>CHAIRPERSON</u>: You say the pagination that has been done by marker goes up to page 94 and after that on to 95. It's just that for a number of pages it was done on the right-hand corner.

ADV PHILLIP MOKOENA SC: It is yes, the pagination was rightly signed, it's there.

CHAIRPERSON: Then it went on the left-hand side so that's confusing.

ADV PHILLIP MOKOENA SC: I thought it was correct, Mr Chair.

CHAIRPERSON: Ja, not yet. You said 122?

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ADV PHILLIP MOKOENA SC: 122 and that would be on the top right-hand corner of the page.

<u>CHAIRPERSON</u>: Maybe the pagination was written by a right-handed person and later on a left-handed person over (everyone laughs).

<u>ADV PHILLIP MOKOENA SC</u>: The old pagination reflects that the pagination is at the Court papers position.

CHAIRPERSON: Oh, okay, now I have got it, thank you.

ADV PHILLIP MOKOENA SC: We apologise for that. Jonas is upset that, I hope that you are having a correct pagination, you have page 122?

MR MCEBISI JONAS: I have.

ADV PHILLIP MOKOENA SC: Yes, is that the statement which was brought by General Mnonopi which you were required to sign?

MR MCEBISI JONAS: Yes, it is.

ADV PHILLIP MOKOENA SC: Can you please read on the record from paragraph 3 of the statement for us to appreciate what you were required to sign.

- MR MCEBISI JONAS: "I wish to state that on 2016-06-20, I had a telephonic conversation with Major General Mnonopi of the Directorate of Priority Crime Investigation who informed met that that she was investigating two cases opened by one Mr Dennis Victor Bloem of the Congress of the People and Mr David John Maynier, who is a member of the National Assembly of the Republic of South Africa. She further informed me that the allegations out of corruption emanating from Sunday Times article dated the 13th April, 2016, as cited by Maynier where the Gupta family offered me a position of Minister of Finance to replace the then Minister Nene while Mr Bloem made reference to the media briefing made on the 16th March, 2016, on the same subject matter."
- 20 CHAIRPERSON: I am sorry Mr Jonas, before you proceed. I see that paragraph, the article in the Sunday Times that they refer to is said to have been on the 13th April, 2016.

 I think in your statement you may have referred to a Sunday Times article that appeared on the 3rd April, do you know that? You are not sure?

MR MCEBISI JONAS: I think you might settle the date, I don't recall the date Mr Chair.

"During our engagement, she informed me that I am cited as a witness in both cases and for that reason, a detailed statement is required from me. I responded to her that I am not prepared to submit any statement as I never opened any case against anyone and I don't intend opening any. Further, I am not a witness to any person. We (the investigating officer and myself) later made an agreement to meet for such an affidavit. Today I met with the investigating officer as I arranged and I still maintain my position that I don't have any statement in this regard. That is all I wish to say."

ADV PHILLIP MOKOENA SC: And this is the statement that you refused to sign?

10 MR MCEBISI JONAS: Yes.

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ADV PHILLIP MOKOENA SC: Yes. Now, if you may go back to paragraph 4, you have referred, she also informed you that the statement was settled by an Advocate. Was the identity of that Advocate revealed to you?

MR MCEBISI JONAS: It was but I don't recall the name, it was an Afrikaans name.

ADV PHILLIP MOKOENA SC: Alright, you may proceed. Paragraph 56.

MR MCEBISI JONAS: "I refused to sign the prepared statement which she brought with her. I was at that point not surprised by the approach adopted by the Hawks given the extent to which I believed the institution to be compromised. I did not accede to the request that I should not provide enough data. On the 19th July, 2016 I provided the Hawks with a short affidavit confirming the content of the media statement which I had made on the 16th. Then I must also state that in that affidavit we also stated up front that since the stated intention was to kill the case within that media statement was enough proof to that and it was still part of our view that we could not continue to interact with

them. The Directorate of Priority Crime Investigations, the Hawks, through Major General Mnonopi then subsequently requested me to respond to certain specific questions on the 5th September, 2016, followed up with an email on 20 September, 2016, I accordingly provided a subsequent affidavit which was signed."

ADV PHILLIP MOKOENA SC: It's "supplementary", I think you meant to say.

MR MCEBISI JONAS: "...supplementary affidavit which was signed and contained the following statements:

- 5.7.1 The purpose of the offer was not communicated to me.
- 5.7.2 Mr Ajay Gupta was present in the meeting which was 23rd October.
- 10 5.7.3 The persons present at the meeting with Mr Duduzane Zuma and Mr Fana Hlongwane,
 - 5.7.4 As stated in the statement submitted to the media, the only person who spoke was Ajay Gupta.
 - 5.7.5 There was no records of the meeting of which I am aware.
 - 5.7.6 I was invited to the meeting by Mr Duduzane Zuma and from there Mr Duduzane Zuma suggested a more quiet place which transpired to be the Gupta residence though I did not become aware of this until arriving at the premises.
 - 5.7.7 I was contacted telephonically to arrange a meeting, and
 - 5.7.8 The meeting was scheduled at Hyatt and moved to Gupta residence as stated."
- 20 ADV PHILLIP MOKOENA SC: Now what you have just read into the record, where are the answers to the questions that is physically asked by the Hawks?

MR MCEBISI JONAS: Subsequent questions she asked.

ADV PHILLIP MOKOENA SC: You were also interviewed by the previous Public Protector, Advocate Thuli Madonsela, do you recall it?

MR MCEBISI JONAS: Yes I do.

ADV PHILLIP MOKOENA SC: I will be referring you to certain questions on the transcript of your interview to confirm some of the aspects of your testimony. May I refer you to the bundle, page 25, Mr Chair?

CHAIRPERSON: Yes, I do, is that the one at 21?

ADV PHILLIP MOKOENA SC: 25.

CHAIRPERSON: 25.

10 ADV PHILLIP MOKOENA SC: Yes.

CHAIRPERSON: Okay, thank you.

<u>ADV PHILLIP MOKOENA SC</u>: The interview Mr Jonas starts on page 21, can you see that and this is a transcript of your interview which was held between yourself and the previous Public Protector?

MR MCEBISI JONAS: Correct.

ADV PHILLIP MOKOENA SC: Yes. Now I was referring to page 25 with particular reference to line number 3 where, if you ignore the first sentence, the second sentence, the Public Protector pose a question to you to say: "The second question is the allegation that you had a meeting with the Gupta family, did you have any meeting with the Gupta family?" and if you turn to page 26, are you there?

MR MCEBISI JONAS: I am lost actually.

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ADV PHILLIP MOKOENA SC: Are you lost?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: I don't want to lose you.

CHAIRPERSON: Well I was lost too.

ADV PHILLIP MOKOENA SC: Let's go back to page 25.

MR MCEBISI JONAS: I am on page 25.

ADV PHILLIP MOKOENA SC: Let's go on the left-hand side, there is numbering, I was referring you to line 23, right at the bottom of the page. Are you there?

CHAIRPERSON: Okay, maybe it's going to help, maybe Mr Jonas has got something similar to what I have. You see, at page 25, at what appears to be page 25, on the top right-hand corner of the page you have 25 written there with a marker, on the right-hand side 25, on the left-hand side is something that seems to have been like page 26 but is not very clear. Next to where 25 is written, you have got 5.

ADV PHILLIP MOKOENA SC: Attachment 5.

CHAIRPERSON: So, Mr Jonas, do we have the same thing, you and I?

MR MCEBISI JONAS: Okay, so is that where you are?

ADV PHILLIP MOKOENA SC: That's where I am Chair.

CHAIRPERSON: Okay, alright thank you and you are reading from the bottom of the page.

ADV PHILLIP MOKOENA SC: And the margins are on the left-hand side.

20 MR MCEBISI JONAS: I have got it.

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ADV PHILLIP MOKOENA SC: And those are the folio numbers and what I was referring to is folio no 23, line number 23, are you there Mr Jonas and I have already read the question that was posed to you by the Public Protector and also, if you go to page 26, the next page, it's double-sided, on the top, what was your response?

MR MCEBISI JONAS: Yes I did.

ADV PHILLIP MOKOENA SC: Now, if I may refer you to the same page, page 26. Go to line number 12 and the Public Protector poses a question to you which were a benefit, I will read to you, it says that, "Okay, we would appreciate it Sir, who was present at that meeting?" Then on line number 13 – 18, you answered, what was your answer?

MR MCEBISI JONAS: "I don't know the names of these guys, the Gupta guys, but I mean the meeting was arranged by Duduzane Zuma and after a long messages and calls, requesting to see me, so I eventually agreed to see him. We were supposed to meet, I though it was a meeting with him on the message. When I arrived at the venue of the meeting which was at Hyatt Hotel."

ADV PHILLIP MOKOENA SC: Now you continue to answer that question on line no 23?

MR MCEBISI JONAS: "At Hyatt he suggested that after almost like talking things that were not very clear and I was getting irritated, I said chief, I am rushing to the plane, so he said, no, there are other people that you have to meet. I said, where are they, he said, let's go, so we jumped into his car and we went to this compound somewhere in that area, it is in an area which in that place then I found Fana Hlongwane and then it was Duduzane who, and I can't read this, and I said, who is this?"

ADV PHILLIP MOKOENA SC: And the compound that you are referring to, which compound is that?

MR MCEBISI JONAS: It's the Saxonwold, the Gupta compound.

ADV PHILLIP MOKOENA SC: Now the Public Protector apparent from the transcript, did interview also in relation to what happened at the Gupta residence and I am referring also to the content of the conversation that took place at that place. May I refer you to page 29 and if you go to the bottom of the page, from line no 18, are you there?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: Could you please share with the Chair what was your responses in that regard up until page 32, I will tell you where to stop.

MR MCEBISI JONAS: "So we visited [inaudible], this guy came in and he was like, he just interrupted the discussion and started saying, we have been following you, we have been investigating you, we know everything about you and so on, and so on. He told me that the old man seems to like me and so on and so on, so we called you just to check you out."

ADV PHILLIP MOKOENA SC: And what was the reference to the "old man", who is the "old man"?

MR MCEBISI JONAS: President Zuma.

ADV PHILLIP MOKOENA SC: Yes.

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MR MCEBISI JONAS: "The old man and they talked a little bit about the ANC politics, critical with this person and that person, then he kind of went further, you must understand that we are in control of everything, we are in control of NPA, we are in control of the Hawks, we are in control of National Intelligence Agency, so I am in full control and the old man will do everything that we tell him to do. So I was actually a bit

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puzzled, taken aback and he said, so the old man wants to make you Minister of Finance, so I said, unfortunately I do not want to be Minister of Finance."

ADV PHILLIP MOKOENA SC: And thus far, this is what you have consolidated to the Chairperson today.

MR MCEBISI JONAS: Yes I did.

ADV PHILLIP MOKOENA SC: Please proceed?

MR MCEBISI JONAS: "So he said, no-no, no-no, you have to be a Minister of Finance because we want that and you would have to work with us and if you work with us, you will be very rich and we can immediately offer you R600 million, he pointed to Duduzane. and then he said, he has a house now. We built him a house in Dubai, he has already been there, the offer is safe, whatever happens to you is safe and he continues on that light, so he went on really in that kind of fashion. So I said to him, listen, I think I have to go but let me just assure you, I am not interested in working for you and he kind of became a bit emotional and I think at that point he said, listen, do you know whom you are dealing with? So I stood up and at that point and so he followed me, just as I took a few steps he followed me and everybody stood up. It was like I must confess at the time. he was on the verge of punching me in the face but I took a few steps and then he says and instruct me that let me go back, let me tell. I said, listen, by the way, what do you do. maybe it's easy to work with you but tell me what you do. So he said, at the moment, and this guy sounded very stupid I must say, because he said, at the moment, we have about 6 billion from fiscus in different sources that we are getting from fiscus R6 billion. We want to push it to R8 billion and we think you can be helpful in that regard. So I said, can I suggest something I asked, I will come back only when I am not in a rush you know. break it down, what exactly do you do, that would be nice to look at what you do so that I

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can make a proper decision. And he said, no-no-no-no, it is not, you think it is illegal? He raised his voice, he said, do you think it is illegal? Everything we do in this country, it is legal, we create jobs, bla-bla-bla, he went on, so I stood up and walked. So he followed me and pushed everybody to sit and then he said, everybody must sit down so he followed and dragged me into another, I felt it was a bar, he dragged me into this bar, he says, do you have a bag, I can give you 600,000 now. So I said, listen, I don't want money, I don't want your money, I am leaving now and I am rushing for a plane. So let's talk when you are ready."

ADV PHILLIP MOKOENA SC: If I recall your evidence, we see that at that stage

10 Duduzane Zuma and Fana Hlongwane were in the vicinity where they were able to hear what you were saying.

MR MCEBISI JONAS: They were hearing all of this but the guy was very boastfull and loud by the way, it was not a long voice. I said, "Tuesday I am coming, I am coming back from Eastern Cape on Sunday, we can meet on Tuesday so that he can give me an outline of exactly, what to do. He said, okay, okay, okay because Duduzane now arranged that he comes back on Tuesday. Tell him to bring a bag. So I walked out and said, Duduzane can you take me back to my guys and so they gave me this, and they said no-no-no, Duduzane is still basically in the meeting, they are still having a meeting so I should jump into another car. So I left the place in that car but I phoned Nene immediately actually after that and I said hey, I want to talk to you man, there is something strange that happened. Unfortunately Nene had left for KZN, so I said I will see him here on Sunday but we eventually met on Monday. So I gave him the account, I said listen chief, these guys told me in no uncertain terms that we are going and I just gave him a rough outline. Just to go back on Sunday because I was thinking, let me test this thing with somebody because in my mind I was still not resigning at the time. So I

went, I phoned Pravin, he wasn't at the time so I said, please can you quickly see me, so I went to see him, I just gave him a broad outline, saying something happened and then in broad terms, this is it and I am thinking about just tomorrow submitting my resignation and move out of this thing. So he said, no-no, you can't do that, you can't do that, let's just sit and wait and see what happens. So on Monday, he phoned Nene about the incident and so on and so on and equally jumped and said, I want to resign. I said no-no-no, you can't resign. Let's stick around and see how these things go". So that is it in a nutshell and I can give you the dates, I think you can see there are a couple of text from Duduzane."

ADV PHILLIP MOKOENA SC: Yes, and that's what you informed the Public Protector at the time during the interview. May I also refer you to some submissions of the transcript of your interview in order to clarify some aspects of your evidence so as to confirm what you have shared with the Chairperson today. May you please refer to page 41? You will see page 41, there is a typed page 21, are you there? Are you there Mr Jonas?

CHAIRPERSON: Page 41 or 21?

ADV PHILLIP MOKOENA SC: No 41, was simply making easy for him that there is also a typed page 21 and numbered typed page 21 but paginated 41.

CHAIRPERSON: I think is the same Mr Jonas, arrainment like a page 25.

MR MCEBISI JONAS: I have got it, I have got it Mr Chairman.

20 <u>CHAIRPERSON</u>: Thank you but before you proceed Mr Mokoena, to the extent that the witness said before the former Public Protector what he has already told us, if would there by any need for him to repeat, shouldn't you only ask him if there is something to clarify. I saw quite a substantial part of what he was reading earlier on is something that he had already told us in his statement.

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ADV PHILLIP MOKOENA SC: Mr Chair, one is simply anticipating what would happen in the future when one is taken through his statement today and what he has said before the Public Protector but if we are comfortable that need those issues not arise, what we would have to deal with those specific paragraphs.

CHAIRPERSON: No, it is important that if he has a related his story or he has related to different people on different occasions what happened to him in regard to that meeting and what happened at that meeting, it is important that his attention be drawn to all of those occasions but what I am suggesting is that it might not be necessary for him to read again exactly the same thing. What you might wish to do is to let him confirm that for example, the transcript relating to his interview with the Public Protector correctly reflects what he said before the Public Protector, save in the following respects if those have been picked up or you can pick them up and then ask him about those so that he can just clarify those.

ADV PHILLIP MOKOENA SC: That will short-circuit his evidence Mr Chair.

CHAIRPERSON: Ja thank you. Mr Jonas, if you can go to page 21, back to page 21,

MR MCEBISI JONAS: Page 21 of the transcript?

ADV PHILLIP MOKOENA SC: The documents that's from page 21. That's where your interview begins with the Public Protector and it goes up until page 89. Did you have an opportunity to read that transcript?

20 MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: Did, I mean, does it accurately capture you interview with, I know that there are places where it says "indistinct" we understand that their might be typing errors but does it capture the essence of the interview between yourself...

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MR MCEBISI JONAS: Okay, yes, broadly yes.

CHAIRPERSON: Maybe because one knows what happens with these things, if Mr Jonas hadn't had a chance to carefully go through that transcript and identify if there are areas that do not accurately reflect what he said, if he had not got that chance, maybe he should be given a chance to do so at some stage that need not impact what we are doing just like that because if cross-examination is allowed he would be asked if there are discrepancies between what he has told this Commission and what he may have told the Public Protector. So he needs to be given a chance to look at it very carefully and be able to say it is correct in the following respects, it is not correct in the following respects but as I say, that need not derail what we are doing as long as he gets the chance at some stage.

ADV PHILLIP MOKOENA SC: Yes Mr Chair, he has already confirmed acception to what Mr Chair have indicated that he be given the opportunity to deal with it comprehensively at some point. May I refer you to page 90, Mr Jonas, nine zero, and if you go to page 93, you will see that it was the middle of page 93, it is written there on 93, Mr Jonas, is this a document which you have prepared?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: What was the purpose of preparing this document?

MR MCEBISI JONAS: It was meant to be a follow-up to the Public Protector's interview basically to just outline the timelines and the facts.

ADV PHILLIP MOKOENA SC: And you will see if I may refer you back to page 90, there are two cell phone numbers reflected therein to be belonging to Mr Fana Hlongwane, can you see them?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: And if you go towards the middle of the page, there is another cell phone number which is indicated to be the one of Mr Duduzane Zuma.

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: We won't mention them into the record in order to respect their privacy. Are these the numbers which they used when they called you or when they sms you as you referred to in the statement?

MR MCEBISI JONAS: Yes they are the numbers.

ADV PHILLIP MOKOENA SC: Now, in that document, you are dealing with the events, you have seen that before the meeting. For clarity sake, which meeting are you referring to if you go to page 90. It says "before the meeting".

MR MCEBISI JONAS: That is before the 23rd meeting.

ADV PHILLIP MOKOENA SC: 23rd, which month?

MR MCEBISI JONAS: October.

ADV PHILLIP MOKOENA SC: 2015 meeting?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: Then thereafter, if you go to page 91, you are saying, it's reflected there, "in content of the meeting", is that the same meeting of the 23rd October 2015?

20 MR MCEBISI JONAS: The same meeting.

ADV PHILLIP MOKOENA SC: and you record therein what transpired at that meeting?

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MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: Now if you go to page 92 to avoid you having to read these documents again but simply confirming what you did and if you go to page 92, you have a heading also that says, "post the meeting". This is the post the meeting which you have already testified before the Chairperson in terms of your statement?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: And do you confirm also the contents?

MR MCEBISI JONAS: Yes I do.

ADV PHILLIP MOKOENA SC: Now, may I refer you to page 95 of the bundle Chair. On the left-hand side there are two numberings. The right-hand side numbering which you can ignore it, it was the pagination when the matter was before the High Court so we are now referring to the left-hand side pagination. Mr Jonas, do you follow?

MR MCEBISI JONAS: Yes I do.

ADV PHILLIP MOKOENA SC: For those affidavits Mr Jonas, they run from page 95 and they go up until page 121 and simply to familiarise yourself with them, those were the affidavits which are filed in the High Court matter between the Minister of Finance against Oakbay and other companies associated with the Gupta family. Now if you may turn to page 96 you would see that is the affidavit that was deposed to by Mr Ajay Gupta, are you there? I need to traverse with you some of the issues arising from these court papers which bears relevance to the sequal. Now, will you please turn to page 97. At page 97 could you please read paragraph 4 so as we can appreciate the context upon which these papers were filed.

MR MCEBISI JONAS: "It is a well knowned fact."

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ADV PHILLIP MOKOENA SC: Page 97, paragraph 4.

MR MCEBISI JONAS: "Before I deal with this mischievous allegation raised and presented by Mr Gordhan"

ADV PHILLIP MOKOENA SC: Page 97.

CHAIRPERSON: You are at paragraph 6, according to my bundle.

ADV PHILLIP MOKOENA SC: Paragraph 4.

CHAIRPERSON: Ja, para 4.

MR MCEBISI JONAS: "I have been informed by Ronica Ragavan, the acting CEO of Oakbay Group of Companies, that Minister of Finance, Mr Pravin Jamnadas Gordhan, thought it wise to refer to an alleged incident with his Deputy Finance Minister, Mcebisi Jonas during October 2015."

ADV PHILLIP MOKOENA SC: Before I deal with your affidavit responding to these affidavits, I need to capture the essence of Mr Gupta's allegations in these Court papers, may I refer you to page 98 and then could you please read paragraph 10.

MR MCEBISI JONAS: "It is a well known fact that I record that I employed all reasonable efforts to be afforded an opportunity to address the then Public Protector, Advocate Thuli Madonsela prior to the date of the issue of her report. I further submit that it was on my instance and my request that the then Public Protector afforded me a single opportunity to address her on or about 4 October 2016. That opportunity so afforded was insufficient and clearly rushed."

ADV PHILLIP MOKOENA SC: Yes, before we deal with your answers can you also turn to page 98 and read in paragraph 11.

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MR MCEBISI JONAS: "As Advocate Madonsela undertook to furnish me with copies of evidence given by relevant witnesses, I was indeed furnished with a transcribed version of evidence of Mr Mcebisi Jonas and his written statement regarding the alleged meeting at the house in Saxonwold."

ADV PHILLIP MOKOENA SC: Yes, so he is raising the issues that we are conversing with the purpose of this inquiry. Now, can you go on the same page to paragraph 14 and read same into the record.

MR MCEBISI JONAS: "Let me commence this portion of my affidavit by clearly and unambiguously state under oath, I have never met Mcebisi Jonas, not as alleged or at all."

ADV PHILLIP MOKOENA SC: Yes, and the next page?

MR MCEBISI JONAS: "The fact of the matter is that Mr Jonas with respect blatantly dishonest when he suggest that he met with me or that I attended a meeting with him."

ADV PHILLIP MOKOENA SC: Now thus far that captures the gist or the essence of the allegations by Mr Gupta and how he is dealing with those allegations pertaining to the meeting of the 23rd October, 2015. May I refer you to page 13 and let's deal with paragraph 27.

MR MCEBISI JONAS: "In order to support that, I have sat here and I have approached Mr Duduzane Zuma to depose a confirmatory affidavit with regards to the involvement in the meeting conducted by Mr Jonas with Mr Jonas through his attorney, Mr Christo Stockenström. I contacted Mr Fana Hlongwane to dispose a confirmatory affidavit regarding my involvement on the meeting I append hereto as Annexures HD1 and HD2 the said affidavits to which the Honourable Court is kindly referred."

ADV PHILLIP MOKOENA SC: Now in that paragraph, Mr Gupta places reliance on the confirmatory affidavit of Mr Hlongwane and Mr Duduzane Zuma, am I correct?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: Before we deal with those confirmatory affidavits could you please again remind us the date of the meeting at Saxonwold?

MR MCEBISI JONAS: It was the 23rd of October in 2015.

ADV PHILLIP MOKOENA SC: Now, could you please turn to page 16. It goes up until 17, that is the confirmatory affidavit of Mr Fana Hlongwane in support of the affidavit of Mr Gupta as referred to in the paragraphs that I dealt with you, do you recall?

10 MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: Now, please read paragraph 3 and 4 into the record.

MR MCEBISI JONAS: "I have read the affidavit posed to Mr Ajay Kuma Gupta and confirm the contents thereof in as far as it refers to any acts of conducts which I have been involved in and confirm the correctness thereof."

Paragraph 4: "Further to therefore said confirm that Mr Ajay Kuma Gupta was not present at any time during the meeting with Mr Jonas held on the 25th October, 2017."

ADV PHILLIP MOKOENA SC: Now, that confirmatory affidavit refers to the 25th October, 2017. Did you hold any meeting with the Mr Hlongwane?

MR MCEBISI JONAS: No, I didn't.

20 ADV PHILLIP MOKOENA SC: On the 25th October, 2017. May I refer you to page 109.

That is the confirmatory affidavit of Mr Duduzane Zuma. If you turn to page 110 Mr

Chairperson, paragraph 3 and 4. Mr Jonas, do you agree that they are identical to that one of Mr Hlongwane?

MR MCEBISI JONAS: They are identical yes.

ADV PHILLIP MOKOENA SC: Fundamentally paragraph 4 also refers to a meeting with Jonas held on the 25th October, 2017 and you have already testified that you have never referred to any meeting of the 25th October, 2017.

MR MCEBISI JONAS: Yes, it is correct.

ADV PHILLIP MOKOENA SC: Now, may I refer you to page 112.

CHAIRPERSON: I am sorry Mr Mokoena, before you move to another page. Paragraph 3

of the affidavit of Mr Duduzane Zuma and I think if I am correct, paragraph 3 of Mr Fana

Hlongwane's affidavit, they also both seem to be identical, is that correct?

MR MCEBISI JONAS: It's correct.

CHAIRPERSON: Now paragraph 3 of those two affidavits, in each one of them says they have read the affidavit deposed to by Mr Ajay Kuma Gupta and confirm the contents thereof and I quote: "In so far as it refers to any acts or conduct which I have been involved in and confirm the correctness thereof," you may or may not be able to say this, but do you understand what they say they are confirming there having regard to the contents of Mr Gupta's affidavit. Does it make sense?

MR MCEBISI JONAS: It doesn't, it doesn't.

20 CHAIRPERSON: Because I didn't pick up, I may be mistaken, anything that Mr Gupta says in his affidavit they did, maybe I have misread but they are saying in this paragraph 3, what they are confirming is the context of his affidavit, "in as far as it refers to any acts

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of conduct which I have been involved in." I don't know what at some stage in the life of this Commission you might wish to make of that but my eye caught that.

ADV PHILLIP MOKOENA SC: Yes, you would recall Mr Chair that, in an introduction to this question we referred to the context actually mentioned these affidavits were made and more importantly emphasize the meeting and the offer which was made at Saxonwold. Now Mr Hlongwane and Mr Duduzane Zuma seem to be confirming a date that does not support what is only supported by Mr Gupta and submitted. That is the essence but it will become much more clearer because we are now going into specific answers proferred by Mr Jonas in relation to those confirmatory affidavits and allegations in question.

CHAIRPERSON: Thank you.

ADV PHILLIP MOKOENA SC: May I refer you to page 112 Mr Jonas in order to clarify the issues for the Chair. Are you there?

MR MCEBISI JONAS: I am there.

ADV PHILLIP MOKOENA SC: And then that document goes up to page 121 and go to page 121, the numbering its on the left-hand side this time. And is that your signature?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: And is this affidavit that you filed in response to the affidavit of the said Ajay Gupta?

20 MR MCEBISI JONAS: I do.

ADV PHILLIP MOKOENA SC: Now may I refer you to page 113, if you may read for the Chair paragraph 3 and skip paragraph 4 and read paragraph 5.

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MR MCEBISI JONAS: "I have been referred to affidavits such to be filed by Oakbay respondents purportedly as fourth set of affidavits. I understand that this follow not only the closing of affidavits but also the Heads of Argument filed on behalf of the Minister and the Reserve Bank and the bank cited as further respondents. The affidavits purport to deal with the Minister's replying affidavit and the report on State Capture by Public Protector. The latter was published over 10 weeks ago but after the Founding Affidavit was filed."

ADV PHILLIP MOKOENA SC: And then let's go to paragraph 5.

MR MCEBISI JONAS: "Now in the Oakbay respondents purported forth setup affidavit, Mr Ajay Gupta criticizes the Public Protectors' report for accepting my version or to use the words Mr Ajay himself chose in the 4th set of affidavits for having latched onto my version, paragraph 17. What Mr Gupta does not disclose however, let alone address, is that the Public Protector's Report records evidence which contradicts Mr Gupta's version, see paragraphs 5.24 and 5.25 of the report attached, marked MJ1. Mr Gupta purported affidavit does not deny or explain this, nor did it do so in his previous affidavit filed together with the Oakbay's main answering affidavit, yet Mr Gupta now not only seeks to imply that the Public Protector was wrong but also seeks to call me blatantly dishonest in paragraph 15."

ADV PHILLIP MOKOENA SC: You also dealt with the confirmatory affidavits which were filed by Mr Hlongwane and Mr Duduzane Zuma. May I refer you to page 116 starting from paragraph 12 to page 118, paragraph 16, that would clarify some of the questions that it share where secure clarity upholds.

MR MCEBISI JONAS: "Mr Gupta does not suggest that the incident to which he refers, involving me was created by the applicant or me. It was not created by either of us. The

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incident certainly did occur. This is confirmed by the confirmatory affidavit to Mr Gupta's own affidavit deposed by the two individuals who scheduled the meeting and took me to the Guptas residence. Both confirmatory affidavits confirm explicitly that the meeting indeed occurred. All that they seek to do is to confirm that Mr Ajay Gupta was not present during the 25th October, 2017. I refer in this respect to paragraph 4 of the identical confirmatory affidavit. Apart from confirming absence of Mr Ajay Gupta, they only confirm the contents of Mr Gupta's affidavit in as far as it refers to any acts conduct which I could have been involved in paragraph 3. The confirmatory affidavits do not suggest that any other member of the Gupta family was absent from the meeting. This is significant because the Public Protector's Report itself refers variously to Gupta brother in attendance Atul in paragraph 27, paragraph 26, paragraph 30, paragraph 26, attached marked MJ2 and Ajay amongst others in page 5, paragraph 4, attached marked MJ3. I did not previously encounter either of these two brothers. I am only able to identify them from photos and footage in media. My own statement attached to some of the bank affidavits which as mentioned, the Oakbay respondents elected not to address, only to refer to members of the Gupta family, see record volume 2, page 173, paragraph 6. Therefore even where Mr Ajay Gupta's allegation which merely seek to absent himself from the meeting. But we can't explain why the meeting was held at the Gupta residence or suggesting that he was unaware that it would be held there or authorised that the Gupta residence be used for this purpose. To be truthful, which I deny, then the primary factor regarding the members of the Gupta family remains a common cause. The correct facts regarding Mr Ajay Gupta himself is in short as follows. Met him at Saxonwold residence on 23 October 2015 together with Mr Duduzane Zuma, Mr Hlongwane and Mr Gupta indicated to me, I understood clearly that the Gupta family had its interest had been gathering intelligence of me including those close to me. They were aware of my

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activity and connections with senior members of the African National Congress. They were going to make me Minister of Finance collectively as the family. They make a lot of money from the State that they intend to increase that to about R8 billion from R6 billion currently and that the bulk of their money is stashed in Dubai. They have determined that National Treasury is a stumbling block to their ambitions of making money from the South African Government. They have made Mr Duduzane a billionaire including a house he has in Dubai, Mr Gupta is offering him R600 million to be deposited in an account of my choice and if I had a bag that could carry R600,000 then I could get that amount there and then."

10 ADV PHILLIP MOKOENA SC: And you also dealt with paragraph B7 of the Gupta's affidavit. May I refer you to page 120 and the last paragraph 26.

MR MCEBISI JONAS: "This paragraph refers to the confirmatory affidavit of Messrs Duduzane Zuma and Hlongwane. They have been approached Mr Gupta states, to confirm his involvement at the meeting in October 2015. In turn this affidavit state that Mr Ajay Kuma Gupta was not present at any time during the meeting with Mr Jonas held on the 25th October, 2017. Paragraph 4 of both confirmatory affidavit, both identical in terms and both deposed at Table Bay Harbour. Even if one is to understand the reference to be, 25th October, 2015 instead of 2017, then the confirmatory affidavit remain materially defective. This is because as I have stated in the Public Protector Report records, the relevant meeting occurred on the 23th October, 2015, therefore the absence of Mr Ajay Gupta at a meeting two days later in October 2015, fails to confirm the necessary allegations. In any event as indicated above, as would be fully apparent to all three deponents, the key issue is that the meeting with the events I have described took place at Saxonwold compound shared by the Gupta brothers and their families and that a Gupta brother was present."

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ADV PHILLIP MOKOENA SC; Now, I want to take you back to your evidence that you adduced before the Chairperson earlier on and I am testing that against the fact that you know, South Africa, it's a democratic Constitutional state. If you may turn back to your statement in paragraph 2, you referred to the removals and appointments of certain officials including yourself. What I want to know from you, is there any protocol that has to be observed, you know, pertaining to the appointments of members of Cabinet?

MR MCEBISI JONAS: Yes, there is. In the normal course, the normal process is a consultative process upon winning the elections of course Mr Chair. There is a consultative process between the ruling party leadership and the President of the ruling party and therefore the President of the country around who are the individuals who would be deployed in Government and out of that process normally you would get probably whatever number or list the names but then ultimately that responsibility lies with the President and he will choose from that and under normal circumstances the President will inform the individuals they have appointed in their positions. In the case of dismissal, normally the same procedure happens, I mean, you have to normally whether it's a phone call sometimes and whether you are called to be told but there is some courtesy accorded to the persons appointed.

ADV PHILLIP MOKOENA SC: And you are now referring to what is expected or under normal circumstances.

20 MR MCEBISI JONAS: Under normal circumstances.

ADV PHILLIP MOKOENA SC: That's would should happen. And also you know, can you share with us whether is there any protocol in the announcement of the appointments.

MR MCEBISI JONAS: Really I don't think there is a strict protocol except that normally the announcement is made after the individuals would be known that they are not making

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it or they are making it into, it's normally not a surprise, that's the whole point of [indistinct].

ADV PHILLIP MOKOENA SC: Now let's deal with the removals. Is there any protocol in relation to the removal.

MR MCEBISI JONAS: It's the same phenomenon, public courtesy prevails that you have to be prone, that you are no longer in that position, you are being removed before the announcement is made.

ADV PHILLIP MOKOENA SC: I am asking these questions against the background whereby either the removals or the appointments would usually happen at midnight or at 2.00 am. The question is whether from your own experience, do you know if in relation to the one that you have referred to in paragraph 2, whether such protocol was observed?

MR MCEBISI JONAS: Look I mean, probably in terms of appointments there were but in the dismissals my recollection is that probably Minister Nene was accorded the opportunity of being told after a Cabinet meeting but my recollection is that the Minister Gordhan and myself were never informed so in the midnight in the comfort of our beds probably we were woken up by telephone call saying, watch TV.

ADV PHILLIP MOKOENA SC: Yes, now may I refer you to paragraph, if I am not mistaken, it's paragraph 43 of your statement. In fact I need a paragraph where you are referring to the turbulence period in our country. You did not really specify to the Chairperson what you meant by that, what was the country experiencing at the time. What was that, paragraph 45, I am indebted to my colleague. Paragraph 45 you are saying that shortly after Mr Gordhan was appointed as Minister, we met and discussed the various pressure points that the Treasury was facing, particularly how we would deal with the aftermath of the removal of Mr Nene and appointment of Mr van Rooyen. We

also discussed in detail in this context the events which had taken place at the Gupta residence but I just want you to expand more as to what the country was experiencing at the time.

MR MCEBISI JONAS: Look, I mean, in the first instance I think the big issue was clearly the removal of Minister Nene itself had dealt a blow to the credibility of South Africa and the State.

ADV PHILLIP MOKOENA SC: Then what was the response of the market to this.

MR MCEBISI JONAS: The markets tumbled, we lost billions of Rands as a country and in fact the economy and the business confidence in the country tumbled.

10 ADV PHILLIP MOKOENA SC: What was the performance of the Rand at the time?

MR MCEBISI JONAS: It probably tumbled itself and it increased, I mean the Rand weakened quite substantially and a whole range of things happened after that. Low confidence normally lead to low investment and, and, and.

ADV PHILLIP MOKOENA SC: And what was the effects that such a conduct had on the credit ratings of South Africa?

MR MCEBISI JONAS: It really dashed them actually badly. We were probably in the worst state since the dawn of democracy as it were in that period as it were but also more importantly I think it also created a downward path for the country economically from that period, I don't think we have since recovered quite frankly from that.

20 <u>ADV PHILLIP MOKOENA SC</u>: And how did this now also affect the ability of South Africa to borrow on capital markets?

MR MCEBISI JONAS: It had a negative effect across the board in financial markets and I think what also aggravated it is that some of the factors that led to Nene's firing, which is

the nuclear deal which was a big issue because essentially from where we are sitting as Treasury, we felt that South Africa could just not afford the nuclear deal as it was structured but secondly also there was also a moral ethical question about public finance whether what kind of debt can you raise for future generations and is it justifiable, is it ethical and if from our view we thought that it was also not justifiable or ethical to actually raise that amount of debt for South Africa.

ADV PHILLIP MOKOENA SC: And how did these events play themselves out within the Treasury Departments, what was the moral of the staff of the Treasury when these things were happening and functions of Treasure?

MR MCEBISI JONAS: It really knocked the moral quite substantially. I think were it not for probably the enthusiasm of the Minister Gordhan, we could have probably been in a worst situation I think in that kind. But I also think the functionality of the Ministry of Finance was seriously affected in the sense that I mean, in that period Mr Chair, it was a pitch but where it was clear, I mean, you didn't have to guess that confidence in the Minister of Finance was lost and the Ministry of Finance were increasingly isolated in Government business.

ADV PHILLIP MOKOENA SC: May I refer you to page 14 of the bundle just towards to clarify some of the issues. Page 14.

MR MCEBISI JONAS: My bundle seems to have collapsed now, erupted.

20 ADV PHILLIP MOKOENA SC: Don't collapse now Mr Jonas.

CHAIRPERSON: I am sorry, what page did you say Mr Mokoena.

ADV PHILLIP MOKOENA SC: 14 of the bundle Mr Chair.

CHAIRPERSON: Oh okay.

ADV PHILLIP MOKOENA SC: There is only numbering I hope on that page, typed.

<u>CHAIRPERSON</u>: I think what may have happened with Mr Jonas's bundle is what may arise how the pages have been put together, it may well be that it might be more convenient if it was maybe a small lever arch file where it would be easy to page through without papers coming out of the bundle.

ADV PHILLIP MOKOENA SC: We take note of that Mr Chair. Are you there Mr Jonas?

MR MCEBISI JONAS: Page 14.

ADV PHILLIP MOKOENA SC: Yes, one four, one four, 14, 14. Are you there Mr Jonas?

MR MCEBISI JONAS: 40?.

10 ADV PHILLIP MOKOENA SC: No, one four, not four zero.

MR MCEBISI JONAS: I'm there.

ADV PHILLIP MOKOENA SC: You recall that when you testified, you informed the Chairperson that you were made an offer on the 23rd October, 2015, you recall that?

MR MCEBISI JONAS: Yes I do.

ADV PHILLIP MOKOENA SC: Now, we know also from your evidence that the first time that you released a media statement was around the 16th March, 2016 and the question is that why did it take you such a long time before you went public with the offers and asking that against, you know, your Constitutional obligations at least to deal with these things squarely.

MR MCEBISI JONAS: Look, I mean, in the first instance I think I stated earlier on that my confidence in the criminal justice system was very low at the time and it probably has improved much I must say but it was very low at the time, it was completely low, I mean, I

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was having in Government absent cases been given, charges been sent, nothing happening and so and so and so. I was very clear that what you have, I mean, was a criminal justice system that was in a crisis actually. The second problem was that, I was that I think, remember at the end of the day, I mean we were operating in a political environment so I had to kind of think I mean, about the tensions and the dynamics that were there and so on and so on and trying to ensure that I do not find myself being compromised. To be honest, if you record the way their reaction to the statement actually still confirms that actually by the time when the whole sway politically was in favour of State Capture and corruption actually at a political level but frankly I think we, in that course, we consulted lawyers and by the way to actually ask them whether are we, is the pressure to do this now at the particular point immediately or whether we should kind of let the ride and eventually see and we got legal opinion to say there was no real obligation in terms of time when we do it and remember that also there was a reality of possibility of reprisals around the State. So we have another problem.

ADV PHILLIP MOKOENA SC: Now may I refer you to page 134 of the bundle. Whenever I am referring to you page numbers I become nervous that you might not be on the same page.

MR MCEBISI JONAS: I have got it.

ADV PHILLIP MOKOENA SC: You will see page 134, that document goes up until page 137. Is that your cell phone record Mr Jonas?

MR MCEBISI JONAS: Where is that now?

ADV PHILLIP MOKOENA SC: Page 134. That document starts from 134 to 137, is that document your cell phone record?

CHAIRPERSON: I think it is the last document in the bundle.

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MR MCEBISI JONAS: Ja, it is.

ADV PHILLIP MOKOENA SC: Now, you recall that there are certain numbers which you have identified to be the one's belonging to Mr Hlongwane and the one also belonging to Mr Duduzane Zuma, you recall?

MR MCEBISI JONAS: Yes I do.

ADV PHILLIP MOKOENA SC: With reference to page 90 which was your timeline document. I don't want to go through a laborious way of dealing with this thing. If you go to those pages you will see that we have taken the liberty through you as we are guided by you that certain numbers were marked and there are markings in blue and there are markings in orange, can you see that?

MR MCEBISI JONAS: Yes I do.

ADV PHILLIP MOKOENA SC: The numbers in relation to that are marked in blue, would those be the one's of Mr Hlongwane?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: And the one's that are marked in orange, would those be the one's of Mr Duduzane Zuma?

MR MCEBISI JONAS: Yes, it is.

ADV PHILLIP MOKOENA SC: And they appear throughout these 4 pages that you have annexed to the bundle?

20 MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: Mr Chair, Mr Trengove has indicated that there might be some clarification questions that he wants to pose. We also intend to address the Chair in

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not closing the evidence of this witness, we will explain the reasons why. May this be an opportune time to offer Mr Trengove that opportunity. Mr Chair?

CHAIRPERSON: Well, if Mr Trengove wishes to put some questions to the witness, he would have to apply number 1, number 2, I am open to persuasion but I would be disinclined to allow witness' Counsel to just put clarificatory questions as I say that is my inclination and I am open to persuasion. I would think that probably the clarificatory questions could be passed on to Counsel for the Commission's Legal Team to put through but as I say I am open to persuasion on the matter and maybe during the lunch break there might be a way to discuss the matter among between the Commission's Legal Team and Mr Trengove. Let me also say that the Democratic Alliance had requested that they be allowed to as they put it, participate in the proceedings of this Commission and when they were asked exactly what they meant by participating in these proceedings, one of the things they said was that they wanted an opportunity or permission to examine witnesses who came before the Commission to give evidence. I made a decision which I believe was made public and distributed where I said that I didn't think that the grounds which they advanced conferred upon them the right to be able to examine witnesses who came before the Commission. Of course the ground that they advanced was that they had been one of the complainants who had lodged complaints with the Public Protector and basically that complaint that they had lodged, this investigation had not been finalised and would continue to be investigated by this Commission. That of course is not the same ground on which Mr Trengove if he seeks to put certain questions to the witness would be advancing, it would be a different ground but I am mentioning these things to just let Mr Trengove and everyone concerned, 1. about a decision that was made, 2, about the facts, about what my inclination is, 3, about the fact that I am open to persuasion but it is much better I know as Counsel when you

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know what the Judges thinking might be so my suggestion would be that during the lunch break maybe some discussion as may be necessary would be taken and then maybe when we resume, we can take it from there.

ADV WIM TRENGOVE SC: Chair, if I may just for clarification say that my client has been so thoroughly led that I don't have any further questions to ask him.

<u>CHAIRPERSON</u>: Well, Mr Trengove, after that statement by you, I think that really other Counsel will realise that the Legal Team of the Commission is doing a good job. Thank you very much. We are grateful to you Mr Trengove for your co-operation. Thank you.

ADV WIM TRENGOVE SC: Thank you Mr Chairman.

ADV PHILLIP MOKOENA SC: Mr Chair that leaves us with one aspect and that is the issue pertaining to whether or not to close the evidence in chief of this witness. We would want to make submissions, either we can do them now or we can do them after lunch.

CHAIRPERSON: Well, on my watch we are at 12:51. One, we want to use every time that we have to do the work that we have we are called upon to do but two, it might not make in certain circumstances much sense to try and use 10 minutes if you are going to a new issue so I am quite happy to let you decide whether you want to deal with that now or whether we should take an early lunch break or continue after lunch.

ADV PHILLIP MOKOENA SC: We would prefer to adjourn at this stage Mr Chair in order to see also whether did they canvass on the all the issues.

20 <u>CHAIRPERSON</u>: Okay thank you very much. Mr Jonas, we are going to adjourn and return here at 2.00 so we will adjourn the proceedings until 2.00.

REGISTRAR: Please rise.

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Session 4

CHAIRPERSON: Mr Mokoena, as I was trying to switch off my phone my wife decided to phone me.

ADV PHILLIP MOKOENA SC: Then Chair you must answer the phone.

<u>CHAIRPERSON</u>: I think if I am faced with a divorce summons I will have to get Counsel from around Counsel here. I did not answer the phone.

ADV PHILLIP MOKOENA SC: I would have answered it Chair.

CHAIRPERSON: Thank you very much. Okay, let me hear what you have to say.

ADV PHILLIP MOKOENA SC: Mr Chair prior to making submissions pertaining to why the evidence of Mr Jonas should be kept open and not be closed at this stage, there is only one issue which we need to deal Mr Jonas. It's a matter, oh it is a question which disturb us at a very different level, as members of the legal profession and members of the Bar. That is in relation of what Mr Jonas have informed the Chairperson that there was Counsel who was involved in what appears to be a cover-up conduct by drafting an affidavit, which goes against the values and you know the ethics of our profession and I want Mr Jonas to commit to you that he will ensure that he provide us with the name of the Advocate who have actually drafted the statement which was presented to you by Major-General Mnonopi. Mr Jonas?

CHAIRPERSON: Well he previous said he could not remember the name, it was an
 Afrikaans name, unless he has since remembered it.

MR MCEBISI JONAS: No, I haven't Your Honour.

CHAIRPERSON: Yes.

ADV PHILLIP MOKOENA SC: But I am sure that we can take the necessary steps in order for him to establish the person who was referred to.

MR MCEBISI JONAS: We will try, we will try Mr Chair. I am looking at my lawyer because... CHAIRPERSON: Ja, I know. Well he can try but you do have the name of the person from the Hawks who told him the name and of course apart from him trying, I am sure that you can also see if you can find information. Maybe you will be told that no such name was given but at least you can also try. He can try, everybody can try. It's very important that it be established, the identity be established.

ADV PHILLIP MOKOENA SC: Thank you Mr Chair.

CHAIRPERSON: Of course, apart from that, it is a matter of concern if the evidence given by Mr Jonas is ultimately accepted to be correct. It is a matter of concern that members of the Hawks played the role that it would seem they play it in that regard as well.

ADV PHILLIP MOKOENA SC: Yes, Mr Chair. Mr Chair other than that, we then wish to persuade the Chairperson that the evidence of chief of Mr Jonas must not be closed and the reason is that Mr Jonas in his witness statement implicates a number of individuals. He implicates Mr Hlongwane, Mr Duduzane Zuma and Major General Mnonopi, those are the ones that I can remember for now. We know that Major General Mnonopi has made an application through her legal team in terms of Rule 34. It may be that there might be additional statements or affidavits that are going to be filed. It might be necessary for Mr Jonas also to react to those affidavits or statements or whatever that might be placed before the Chairperson. The same goes to the legal team of Mr Hlongwane that has reserved their right to bring an application in due course. It will be unfair for one to close the evidence of Mr Jonas without affording the opportunity to react to any allegations of

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fact which might be made in those affidavits and the other thing is that Mr Jonas was provided with an opportunity, Mr Chair, that he must go and read the Public Protector's Report for him to be able to ...[intervened]

CHAIRPERSON: I think the transcript of his interview.

ADV PHILLIP MOKOENA SC: Transcript of the interview Mr Chair and those are the basis why we say that he may be temporarily excused without having to close his evidence in chief.

CHAIRPERSON: Okay well and I thank you. I do have some questions for him. So, I guess I will ask him some questions and then at the end of that we can take it from there.

10 ADV PHILLIP MOKOENA SC: Yes, Mr Chair.

CHAIRPERSON: Yes.

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ADV PHILLIP MOKOENA SC: Mr Chair, the other thing that we might also seek your guidance is that there might be a legal representative of those implicated parties. They might want to put themselves on record and to indicate in order for us to be able to plan accordingly as to what choices have they made, are they going to participate in this proceedings and in what manner they are going to participate or are they going to bring formal applications so that we know how to prepare for those applications or any eventuality, and also for the Chair to give directions in order to save time to indicate as to by when would the Chair be ready to hear those applications, because should we leave it in the hands of the lawyers, we might hear those applications sometime next year.

<u>CHAIRPERSON</u>: Okay, let me ask my questions to the witness and then at the end of that then we can attend to those matters. When I ask those question feel free to take a seat if you would like to do that.

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ADV PHILLIP MOKOENA SC: I would sit Mr Chair but I am far much more younger than my colleague who indicated that because of age he could not stand for that long time, but I will sit.

CHAIRPERSON: Okay, thank you. Mr Jonas, some of the questions that I may ask you may be seeking information that you know nothing about in which case you must just say that you don't know. Some of them might be seeking information where you are not sure, all you need to do is just to indicate that you are not sure. Some may be seeking information of which you are sure in which case you can then respond in a manner that shows that you know about that part, okay, and this is quite important because if you do get cross-examined, you know, attention would be given to what you said, you know and what you said you didn't know. Now, you were told at the beginning of your evidence about the terms of reference to which your evidence would relate, but apart from the clauses of the terms of reference to which your attention was drawn, there are others as well which require this Commission to, among other things, investigate the nature and extent of corruption in the country. So there may be questions that are meant to look at the extent and nature of state capture, the extent and nature of corruption, but as I said. what you know you say, you answer and you say you know and what you don't know, you don't know. You gave evidence that at a certain time there was a hostility towards, as I understood your evidence, the Ministry of Finance in Cabinet. Would you like to elaborate on that in the sense of telling us what form the hostility took and who in the Cabinet exhibited this hostility and what your own understanding was why that hostility was shown.

MR MCEBISI JONAS: Thank you very much, Mr Chair. I will deal with it in general terms for now. Maybe I could deal in details later. I think, and I started off that explanation by saying that Treasury has a very unique role within the Government

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in law and in the Constitution, but in order to exercise that role there is a component that really relies on the extent of support that you get from the President. So, if you think about it successful periods where Treasury was effective in doing and executing its role and for macro-economic management, for managing fiscals and driving the strategy and do all those things and regulatory role that it plays, it's moments when there is strong support from the President. Now, we could go back in history and say if you look at South Africa from this year to that year and so and so but in general it's the truth is in that those two components are critical in defining and our ensuring that the Treasury is effective in its role, Constitutional responsibility and legal responsibility.

Now the period that we are talking about was actually a very unique period and I am being subjective on this in this point in the sense that I think it was probably one of those rare moments where you would actually visibly see and I am sure officials from Treasury would testify palpable hostility towards Treasury on a whole range of issues, from budgets and then I mean, by the time we kind of, Mr Linde was there, there were attempts to even break down Treasury, aspects of Treasury take budget offers to the Presidency and so on and so on. Things that when I think of, spaces that Treasury would probably have the full control of like borrowing, for instance, which is a very crucial component of fiscal management because if you don't manage your debt levels it means that you are creating chaos in your financial system and the reality of the matter, if you look at where we are now, in terms of the debt level in South Africa, public debt in South Africa is like really big and from personally I believe that we cannot continue in that trajectory. Now you could really say that were moments when the borrowing authority that is supposed to be treasury, was literally undermined in some instances where you have departments thinking that they can just go to China, walk to China and just borrow from

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China and implement programmes that never grow, so the whole range of examples that we can show and we can do that if it was given opportunity to do that later. But the point I am making is that it was increasingly becoming difficult to perform the Constitutional role precisely because one component of performing that role was lessening over time and I think the culmination of it was the firing of Minister Nene and which was very in itself interesting I mean if you and I am sorry if we could submit something around that too. because it actually shows and then when Des came in, another fiasco, and then kind of a fiasco of incapability which was stopped three days or so and then Minister Pravin came in, the hostility continued. So, that's the context and this hostility is linked, in a sense, to what was happening in state owned enterprises and because then you have to monitor state owned enterprises because they are part of the fiscal system. If they are not reigned you are likely to have chaos in our economy and the state in which they are now, I am sure but you will get testimony around that is in part a reflection of the fact that you had a weakened Treasury that could not in fact reign in some of those exorcises in those areas. but the last point I think you had some of the most gifted and talented members of staff in Treasury beginning to think about leaving Treasury and some left, probably they can't say for greener pastures but the reality is that it was becoming untenable to actually sit in an environment where your Constitutional role is so constrained and there is hostility all the time against you.

CHAIRPERSON: You see, I want to hear a lot about that. I appreciate that you may not have been prepared for that and therefore for that reason at another stage you know I would appreciate it if we could get evidence. You know the evidence is very important, because whatever may read in the newspapers, when I have to make findings, when I have to make recommendations I can't base them on what I read in newspapers. I have got to base that on what I hear in evidence. Now, you are a member of the Executive.

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You probably know a lot more than somebody like me and many people, members of the public in terms of what was happening and our terms of reference do require this Commission to look at how deep did this phenomenon of state capture go, if indeed there was state capture. I say if indeed there was state capture, because our terms of reference says these are allegations of state capture. We must investigate them and establish whether there was state capture and in effect we must establish also how deep state capture went. Now, and so therefore and of course the legal team for the Commission is listening and I am sure the investigators will get to know, I really would like as much information as possible, as to that aspect because from what you have said it seems that the Ministry of Finance or Treasury was trying to have things done in a certain way, but they were not getting the support they expected from, among others, the President and that was having a certain impact on National Treasury and the Minister of Finance. We need to know that if we are going to know how deep state capture went in the country and of course one can also refer to what you said, you said that Mr Gupta said at that meeting, said that they controlled everything. Now at some stage I will weigh up the evidence whether what you have said is true or not. Maybe other people will come and say that that was not said, but if that was said then we should also be looking, as a Commission, to saying if this statement was made by Mr Gupta that they control everything. Does it include that they were saying they controlled the Executive as well? We need to look into that and see how deep the problem was. Then the other thing I wanted to ask so I will let you have time to look at that aspect and in due course you could come back and give us more evidence. Mr Hlongwane and Mr Duduzane Zuma. you have given evidence that they were present at that meeting, but they were quiet throughout, but the person who had called you to say he needed to have a meeting with you was Mr Duduzane Zuma. So, when you stood up and had to leave he didn't say

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anything like what he had really wanted to discuss with you. He had not had a chance to discuss yet or anything like that.

MR MCEBISI JONAS: No, I didn't. I only said I have to leave, they must take me back.

CHAIRPERSON: I guess it might have left the impression that what had been raised by Mr Gupta maybe is what he wanted to discuss with you.

MR MCEBISI JONAS: The was the assumption.

CHAIRPERSON: Ja, ja. Since the media statement that you made are you aware that either Mr Duduzane Zuma or Mr Fana Hlongwane or both have they ever put their version anywhere that talks about one admitting that this meeting of the 23 October did take place and whether, in terms of content, they have anything to say about whether what was discussed at that meeting.

MR MCEBISI JONAS: There were various versions, I think in the letter contained in the Public Protector's Report around that.

<u>CHAIRPERSON</u>: Yes. Okay. No thank you. I think a lot of my questions will relate to the aspect on which you might wish to do some homework and then later on talk to us. Mr Mokoena will indicate whether there is anything that he still wants to ask.

ADV PHILLIP MOKOENA SC: Mr Chair, I do not have any further questions for now.

CHAIRPERSON: Yes.

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ADV PHILLIP MOKOENA SC: With the *proviso* that we have made that he will have an opportunity to read his witness statement is the transcript of the Public Protector and also having to have regard to any other statements or applications or affidavit that might be filed in due course.

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<u>CHAIRPERSON</u>: So, at this stage you have no idea when you might require him to come back?

ADV PHILLIP MOKOENA SC: Mr Chair, at this stage it is not yet clear, up until we finalise those application, but Mr Pretorius wanted to address you on those.

CHAIRPERSON: Okay. Let us do that then. Thank you.

ADV PAUL PRETORIUS SC: Thank you Mr Chair. We have received from various parties a number of applications. These applications have not yet been prepared for presentation to you, but they relate to responses in terms of the rules to notices to implicated persons. We will in due course, in fact during the course of the weekend or today even prepare these applications in proper format and then place them on record on Monday during the course of Monday's proceedings and then ask you for directions as to when these applications may be heard. It may be appropriate for you, Mr Chairman now if we can place these before you today to allow us to give notice to the parties concerned and their legal representatives when you might hear those applications.

CHAIRPERSON: Maybe let us allow Mr Jonas to be excused. Mr Jonas your evidence is not finalised but you are excused and arrangements will be made with you as to when you are going to come back. We are sorry that we are going to ask you to come back again. You might have hoped that you would be done today, but I think circumstances are such that we will need you again. Arrangements will be made for you to come back, but for today, thank you very much.

MR MCEBISI JONAS: Thank you very much.

CHAIRPERSON: Yes, Mr Pretorius. Now we can talk about other things.

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ADV PAUL PRETORIUS SC: Yes. Thank you Mr Chair. So, applications have been received.

CHAIRPERSON: Ja.

ADV PAUL PRETORIUS SC: They need to be properly prepared to be placed before you, for your consideration.

CHAIRPERSON: Ja.

ADV PAUL PRETORIUS SC: That will be done either during the course of today or over the weekend and they will be formally placed on record on Monday.

CHAIRPERSON: Ja.

ADV PAUL PRETORIUS SC: Some of the legal representatives are however here, in court and it may be that you wish to direct a day next week that you will hear these applications so that they can have due notice to be prepared and present here before you.

CHAIRPERSON: Well I think I would be in a better position to make that direction when I know what the applications are about and when I have seen them. So, I think the procedure should be that at a certain stage that they must be given to me and once I have looked at them then I can direct when they can be dealt with.

ADV PAUL PRETORIUS SC: They will be placed before you on Monday morning.

CHAIRPERSON: On Monday morning.

20 <u>ADV PAUL PRETORIUS SC</u>: Then there is a second issue, I have a request from the legal team this morning. The South African Communist Party presented a memorandum

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to the Commission and the request from the legal team is that that be placed on record and we read it on record if by your leave Mr Chair.

CHAIRPERSON: Yes. You may do so.

ADV PAUL PRETORIUS SC: The memorandum was delivered this morning to the secretary of the Commission, it's entitled: "Memorandum of Demands delivered by the South African Communist Party in Gauteng Province to the Judicial Commission of Inquiry into State Capture on 24 August 2018, Johannesburg."

It reads as follows, Mr Chair:

"We, the members of the South African Communist Party in Gauteng Province appreciating that the SACP was the first and consistently the only organisation that called for the establishment of Judicial Commission of Inquiry on corporate capture of the state. Further appreciating the fact that the then Public Protector Adv Thuli Madonsela came to the same conclusion and called for the establishment of what is now known as the Judicial Commission of Inquiry on State Capture in her report entitled State of Capture. We welcome and extol the fact that the Judicial Commission of Inquiry on state capture has commenced with its work and therefore present the following list of demands for your urgent, prompt and swift response:

1) Investigate corporate capture of the state without fear or favour and without prejudice. We appeal to your oath of office, moral and ethical conscience to uphold the fundamental values in our country's Constitution and to act within the profound principle of the rule of law to conduct the investigation, We are fully aware of the real dangers of intimidation, threats and untold pressure that you may face, including those of corporate capture of the Commission itself. We however call on all of you as

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highly respected and trusted Commissioners to conduct the investigation without fear, favour, or prejudice and with utmost integrity.

- 2) Defend the sovereignty of our country, its economy and the working class and the poor. As fellow citizens of our country we believe that you have a rare opportunity and are placed in a privilege position to make your contribution, to protect, defend and advance our Constitutional Democracy, our economy and national sovereignty. Our democracy did not come cheap and therefore may not be sold to the highest bidder. Our economy is exposed to high risks in international financial markets and therefore effective and efficient governance of its state organs and state owned enterprises is critical to its growth, job creation, complete eradication of poverty and inequalities. We therefore call on you to defend our Democracy, it is the highly vulnerable people, the working-class and the poor who depend on the state and its organs for a better quality of life. Your work stands between defence of our country and its liquidation as a sovereign democratic state.
- entities. State owned institutions it reads. We call and appeal to your conscience to ensure a deeper robust frank and thorough investigation that will deter and send a clear message to corrupt elements and provide a solid and sustainable basis for sound and good governance of our state organs and SOE's. This we believe your investigation if conducted in good faith and with good intentions can certainly achieve. We believe that our state organs and in particular state owned enterprises constitute the key pillars upon which stands our hard-won democracy. These institutions employ many of our people, provide critical and strategic services, impact various sectors of the economy and therefore their management, governance, and full compliance with the laws of our country is critical. We therefore urge you to send a clear a message

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that our SOE's and entities are not playgrounds for corrupt and morally bankrupt looters and thieves.

- 4) Dismantle the parasitic network of corporate capture of the state, corruption, looting and maladministration. We urge you as investigators to leave no stone unturned to unearth, uproot and dismantled deep seated parasitic networks that are still lingering within organs of the democratic government and SOE's. We believe that your investigation has a great potential to empower the work of law enforcement agencies and the judiciary to finally bring to book, hold accountable and clear out our state organs and SOE's of any doggie, I presume that should read dodgy, corrupt and looting thieves in state institutions. We therefore call on you to be professional and clinical in your work and not to sabotage the work of law enforcement and judicial agencies to enforce the rule of law. We are aware of allegations that criminal cases are sometimes deliberately and consciously corrupted to ensure that they never come before a court of law. This is apparently done to ensure that if finally they do, they are immediately thrown out of court for reasons that were clearly pre-determined and planned to undermine the profound principle of the rule of law. We hope this will not happen.
- 5) Complete the investigation within a reasonable time and save taxpayer's limited financial resources that are desperately required for service delivery and social security for the working class and the poor. We deliver this memorandum demands based on the high level of trust and confidence our people have placed on you and the expectation that you will not fail them. We have every reason to believe that you will uphold the highest level of moral, ethical and honest leadership in line with your oath of office and discharging your obligations. We therefore appeal to your moral consciousness as citizens of our beloved country and hope you will take advantage

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of the privilege you have to save our country, its people and the economy. We will continue until completion of your work to stage pickets and further protest to act as the vanguard of our Constitutional democracy, the country's sovereignty and better quality of life through economic growth to fight poverty, inequality and unemployment.

We will appreciate your response within the next fourteen days. In you we trust. You dare not fail us.

Handed over and signed on behalf of the South African Communist Party in Gauteng Province to the Secretary of the Commission on the 24th of August 2018."

Thank you Mr Chair, may we adjourn?

10 <u>CHAIRPERSON</u>: Before we adjourn let me say something about the demands and the petition in the memorandum.

One, we appreciate the support for the Commission expressed in the memorandum from the South African Communist Party that Mr Pretorius has just read. I accept that it probably represents or some parts of it represent the sentiments shared by many people in our country. I have said before in media briefings that we have had and I will repeat today that this Commission will do its job properly. Not that I needed to say this to the legal team and investigators but I have said that the investigations must leave no stone unturned and then that it does not matter who you are if the evidence suggest or points towards you, you must be followed. It does not matter what your position is. It does not matter what your position may have been. This job must be done and must be done properly.

I have assembled a very strong legal team, people who have a track record of integrity.

They are not going to start doing dodgy things and they will do their work properly.

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I have a team of investigators whose leaders I trust and they know exactly what is expected of them. No attempt must be made to try and implicate somebody who is not involved, but no attempt must be tried to avoid getting to somebody where the evidence suggest that that person is implicated. They understand that, all of us understand that.

This is a very important national task. We intend to do it properly to the best of our abilities. It does not mean we won't make mistakes but if we do it would just be because we are human too. But we are very clear in terms of the job I had. We see it as a privilege that we are been given this task to assist the country and we will do all we can to do it to the best of our ability and to do it properly and we appreciate the support we get from the public. Ordinary South Africans give us support wherever we go. Whether I am in a mall or in the streets I get a lot of support. People who say they support the work of this Commission, people who say they pray for this Commission, they want us to do well.

So, I just want to assure the SACP and everyone again as I have done a few times before in media briefings, that we intend doing a proper job.

Thank you very much. We will adjourn and on Monday do we start at 10:00 or do we need to, at what time?

ADV PAUL PRETORIUS SC: 10 o'clock.

CHAIRPERSON: 10 o'clock. We will then adjourn these proceedings until Monday
10 o'clock.

20 ADV PAUL PRETORIUS SC: Thank you Chair.

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COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

PARKTOWN, JOHANNESBURG

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15 MARCH 2019

DAY 67

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15 MARCH 2019 - DAY 67

PROCEEDINGS HELD ON 15 MARCH 2019

CHAIRPERSON: Good morning Mr Mokoena, good morning everybody.

ADV PHILLIP MOKOENA SC: Good morning Chair.

CHAIRPERSON: Good morning Mr Jonas.

MR MCEBISI JONAS: Good morning Chair.

CHAIRPERSON: Thank you. Just before you say anything Mr Mokoena we have started a little late - later than we should have. In the main I think that is because of me I arrived at about twenty-five past which left five minutes for counsel to see me so that had I arrived a little earlier, much earlier we would have been able to start on time. So I

10 apologise for that. Yes Mr Mokoena.

ADV PHILLIP MOKOENA SC: Thank you Chair. Chair today we will be proceeding with the testimony of Mr Jonas as a reminder to ourselves Mr Jonas will be completing his evidence focussing mainly on the terms of reference 1.1, 1.2 and 1.3. And subsequent to that he will then be cross-examined by the legal teams of Mr Duduzane Zuma as well as Mr Fana Hlongwane who were granted leave to cross-examine Mr Jonas. You will also recall Mr Chair that Mr Jonas testified on the 24 August 2018 at that time he was not afforded an opportunity to react to the versions of the implicated parties which only came after his testimony. And it is for that reason that he is here today to complete that evidence and to also proffer his own version in relation to what the implicated parties are saying in their Rule at 3.4 applications. Mr Chair the legal teams of both Mr Jonas and Mr Duduzane Zuma are currently – are present maybe I should afford them an opportunity to place themselves on record?

CHAIRPERSON: Yes thank you.

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ADV WIM TRENGROVE: May it please you Chair my name is Wim Trengrove I appear for the witness instructed by attorneys Nortons.

CHAIRPERSON: Thank you Mr Trengrove.

ADV PIET LOUW: Mr Chair I am Piet Louw and I appear with Mr Joubert to my left on instructions from Messrs Krause and Van der Merwe to his left.

CHAIRPERSON: Thank you very much.

ADV PHILLIP MOKOENA SC: Mr Chair we are ready to proceed may the witness be sworn in?

CHAIRPERSON: Yes please do that Registrar?

REGISTRAR: Please state your full names for the record?

MR MCEBISI JONAS: Mcedbisi Jonas.

10 **REGISTRAR**: Do you have any objections to taking the prescribed oath?

MR MCEBISI JONAS: No.

REGISTRAR: Do you consider the oath to be binding on your conscience?

MR MCEBISI JONAS: Yes I do.

REGISTRAR: Do you swear that the evidence you give will be the truth; the whole truth and nothing but the truth if so please raise right hand and say, so help me God.

MR MCEBISI JONAS: Help me God.

CHAIRPERSON: Thank you. You may proceed Mr Mokoena.

ADV PHILLIP MOKOENA SC: Mr Jonas the last time when we parted ways there were some assignments which were given to you to undertake and let me remind you the first one, the first assignment that you were supposed to do was to read the transcript of the Public Protector containing your interview with the Public Protector. The second assignment which you were supposed to do was to read the version of - different versions of the implicated parties in order to afford you an opportunity to react to those versions and the third assignment arises from the questions which were posed by the Chair when you testified you informed the Chair that there was general hostility towards

the Minister of Finance and the Department of Finance or the Treasury and the Chair requested you to ponder around that evidence and for you to give much more details. And lastly I will canvass with you a specific issue that arises from your interview with the Public Protector before being handed over for cross-examination. Do you recall that those were the four main assignments which you were required to undertake?

MR MCEBISI JONAS: Yes I do.

ADV PHILLIP MOKOENA SC: Yes. Now let us deal with the first assignment. Did you have an opportunity to peruse the transcript of your interview with the Public Protector?

MR MCEBISI JONAS: Yes I did Chair.

10 ADV PHILLIP MOKOENA SC: Does it fairly record the substance of your interview with her?

MR MCEBISI JONAS: Generally consistent with the conversation. I must also add that it was a free flowing conversation guided by the questions raised.

ADV PHILLIP MOKOENA SC: Yes. Are there any serious inaccuracies which you may wish to highlight to the Chair arising from that transcript?

MR MCEBISI JONAS: No major inconsistencies probably there are a few grammatical and spelling errors like Luanda is spelt wrongly.

ADV PHILLIP MOKOENA SC: Yes.

MR MCEBISI JONAS: But generally I think the content remains.

20 ADV PHILLIP MOKOENA SC: But you are happy with the substance and the content at

MR MCEBISI JONAS: Generally the substance reflects the conversation.

ADV PHILLIP MOKOENA SC: Yes. Now let us deal with the second issue which you were required to undertake. On the 24 August 2018 you testified before the commission. You told the Chair that there was that general hostility towards the

Minister of Finance and the Department itself by some of the executive members. You were requested to reflect on that evidence Mr Jonas and to provide more details on that topic. Are you ready to do so?

MR MCEBISI JONAS: I am ready to do that.

ADV PHILLIP MOKOENA SC: Yes. Could you please proceed Mr Jonas?

MR MCEBISI JONAS: The – essentially I will probably focus on a few points just to underline and underscore the importance of and the effect of that hostility. Firstly I think we must understand the hostility as arising in the very nature of Treasury and the Minister of Finance.

CHAIRPERSON: Maybe before you proceed it would help to indicate up front whether what you said was hostility towards the Minister of Finance or hostility towards the Ministry of Finance or hostility towards National Treasury I seem to have understood it was National Treasury.

MR MCEBISI JONAS: Yes.

CHAIRPERSON: But I am just mentioning this so that you appreciate the importance of making it clear as to who the hostility was directed at.

MR MCEBISI JONAS: It was directed primarily at Treasury but also at the Ministry of Finance. So probably I – probably navigate in and out to...

CHAIRPERSON: Yes no that is fine.

MR MCEBISI JONAS: So I think the first is to understand that the hostility is probably inherently imbedded in the very constitutional and legal rule that Treasury has to play.

Now you have many government departments. Treasury is probably the only department where it is I mean constitutionally determined what its role should be. Now part of that role entails managing budgets and managing fiscal – [indistinct] managing generally fiscal allocation and expenditure. It also managing revenue generally but it

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also relates to managing macroeconomic policy. And these are all probably sensitive issues and I will try to show that later.

ADV PHILLIP MOKOENA SC: Yes.

MR MCEBISI JONAS: Now inherent in that responsibility is always an ever existing possibility of people raising concerns about what Treasury does or the implications of Treasury on their work. I will give a few examples to just to

ADV PHILLIP MOKOENA SC: To illustrate it.

MR MCEBISI JONAS: To illustrate the point.

ADV PHILLIP MOKOENA SC: Yes.

MR MCEBISI JONAS: The first would be there was a time when provinces expenditures – expenditure of provinces went through the roof. They were overspending hugely. Free State at some point the Department of Health was runaway train and Eastern Cape and different other provinces were facing the same problems. Essentially the role of Treasury was actually to step in and try to manage that and block that and redirect expenditure and refocus those provinces but also build capacity in some instances. Now if you look at the political landscape in the country and I always say that we are in a state where there is no national leadership. You have provincial leadership playing national rule essentially. Because what you find in ministers and probably everybody that they see they tend to be in the national executives and national government because they have been supported by provinces. So over the last ten years this - the importance of provinces has been - has grown so tremendously. That actually naturally opens up Treasury to hostility at a political level from both in the political organisation but also generally from all sorts of angles and provinces etcetera. I will use another second example just to demonstrate this and I am – there was I mean at Treasury manages amongst other things borrowing, government borrowing. Now the

formula for government borrowing is such that you must not break the fiscal ceiling basically you cannot borrow to a point where you cannot pay. And in fact South Africa as we stand has a crisis of debt already. So you had examples I will take the Department of Water and for that matter all most ministers in the Department of Water had this novel idea of having a dam in the Eastern Cape they call Umzimvubu dam in the Eastern Cape and all of them think which probably different times it ranges between 20 billion and 30 billion. Now obviously I mean at different points you – as Treasury you have to step in and say how do you finance that? And sometimes more enthusiastic ministers will say no, no, no, we will talk to China. They will give the 30

10 billion and we will sort out...

CHAIRPERSON: They will talk to who?

MR MCEBISI JONAS: They have spoken to China.

CHAIRPERSON: Oh.

MR MCEBISI JONAS: The government of China they will give us the 30 billion and we will sort it. And effectively you have to tell you have – as Treasury you have to say to them by the way there is a process of borrowing it entails the following steps. So in the – because of that misunderstanding generally about the role of Treasury generally people respond with hostility to Treasury. That is the first point. I could give a number of other examples just I am trying to be brieg

20 ADV PHILLIP MOKOENA SC: Yes.

MR MCEBISI JONAS: But that is the first point. The second point I think I would raise around the hostility is can I call it for lack of a better word the political and ideological context which is probably ...

ADV PHILLIP MOKOENA SC: Can you explain what you mean by that?

MR MCEBISI JONAS: I am about to get into that.

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ADV PHILLIP MOKOENA SC: Yes.

MR MCEBISI JONAS: And I think there - if you look at the - our notions of transformation, our notions of the state, our notion of service delivery as in the politically and in South Africa at the moment they all lend to an expansive fiscal framework basically. So in other words most of the things that we say we want to do either whether it is transformation, whether it is service delivery, everything else it does in a sense the trust of it is an expansive fiscal framework. Now this is easy I mean if your economy is growing and therefore you have in a sense revenue because you can easily fund your expansive growth. The problem is that since 2012 our economy has not been growing and in fact if you look at our figures we have been spending continuing the trend of spending in that space. So located in Treasury you are essentially seen as the one who holds back this whole process. And I want to give an example again on this point just to illustrate it. There was a huge debate I understand that some people erred the thing. There was a huge debate that says take away the budget office from Treasury to the Presidency. Now the more - if you look at a more naïve explanation was because expenditure is not aliant to the national development plan. That was the – if you look at the simplistic explanation. But at the core of that injunction was an understanding that - an understanding that you need to place it at a point where regulation is not taken seriously. So the regulational - so ultimately the law says the financial regulatory.

ADV PHILLIP MOKOENA SC: Yes.

ADV PHILLIP MOKOENA SC: Responsibility ultimately sits with the Minister of Finance. So I mean the idea was that – so we had a whole process by the way that runs from the cabinet right into the ANC structures where people were saying you need to restructure and the restructuring must actually take the budget office into the

Presidency.

ADV PHILLIP MOKOENA SC: What time period are you talking about there more or less, the years?

MR MCEBISI JONAS: Oh, It is actually – it happened over an extended period I mean before I got fired or I probably – that was the time when they had the document to outline this.

ADV PHILLIP MOKOENA SC: Yes.

MR MCEBISI JONAS: How that was to happened.

ADV PHILLIP MOKOENA SC: Alright.

MR MCEBISI JONAS: And it led by the way it led to a lot of senior officials in Treasury leaving Treasury because they thought it is absurd you have to – the constitution says you manage expenditure and revenue on the other hand you have a policy that says you are taking away budgeting from you. Which is a constitutionally assigned responsibility as it were.

CHAIRPERSON: It might – I am sorry – it might be difficult to answer this but maybe you can if you are able to. Did this idea emanate from within the governing party or did it emanate from within different structures of government?

MR MCEBISI JONAS: It emanated from government.

CHAIRPERSON: Okay.

20 MR MCEBISI JONAS: But then it went into party structures and people started talking about that and had the regulation.

CHAIRPERSON: Okay.

MR MCEBISI JONAS: Now the – this was very useful on it by the way because if you manage budget this thing of state capture becomes very easy. I mean it becomes easy to discharge and dispense with resources. But the third point and I am raising this point

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very cautiously Chair in all respects because I think I am - I have been grappling with raising it because in part I am actually asking myself it is within the ambit of the commission but I think it is fundamentally important in understanding state capture and corruption in our system. And this is the - what again for lack of a better word it the overall developmental framework of South Africa. Can I put it differently some people would use the term the growth strategy. Some people will say the accumulation strategy whatever term you use. I want to simplify it and the way I understand it. It is essentially and again it is embedded in the deal we made in 1994. If you look at the deal and cut out the frills of who are the best constitution and everything else that – and cut them out it is essentially entails the following. One it is a deal that says ensure that the established elite remains protected. You do not disrupt it. And I mean you understand why because it is crucial for continuing with growth and everything else. So you have instruments like protection of property rights and all of other things that you use to do that. The second element of it is also about – is also about ensuring that you strengthen the new elite. Again you kind of use all sorts of instruments to build and strengthen and grow the new elite so that is why you have BEE policies, you issue licences, mining licences and you do all other sorts – procurement, public procurement to actually booster that as it were. The third element is ensure that the working class the under-class and the poor are serviced through re-distribution. Now that is the model that we have if you think about it. Now looked at it differently it is a patronage model because you actually dispensing patronage across these three layers effectively. But that model depends effectively on three things to work. One it depends on a strong state and an efficient state. It is a state that is able to manage resources very well and dispense them more efficiently. But secondly it also depends on growth because and without growth then you would not be able to do that things. The third one is revenue,

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consistent revenue that you have. Now what you see now I think is a = in many - so in many ways what has come to happen over particularly over the last ten years has been that model unravelling. It unravels because your state is weak and sometimes it is consciously weakened I mean if you think about the Eskom's and the SOE's and what has been happening in SOE's but growth has not happened. And therefore you do not have the revenue to service this. Now the manner in which it unravels it actually means you have tensions across all those three layers that you normally service and support. I mean you start having - at the bottom people started talking - start talk about we need more houses, we need more this and you have like the new elite also rumbling that transformation is not happening at the pace that it is supposed to happen. Procurement is still astute to white companies etcetera, etcetera, etcetera. And that is the crisis. Now if you – and for me that is the basis the structural basis of corruption and state capture in the current context. It is the unravelling of this model that we have so to speak. So your - you take a case in point then you have then somebody at Eskom saying we need to procure to companies that are 51% black and coal from companies that are 51% black. I mean the fact that of course they end up being Gupta's that is another story. But essentially then that you can easily say that because the atmosphere is incensed and people are not looking at the structural issues they are looking at the challenges they are facing inequalities rising, jobs are not there because of the unravelling of the model. Now we could use a couple of examples to show the impact of that. But it also means that it also means that racism becomes bigger, stronger because people start looking at okay who owns more and people start thinking about oh it is - they happen to be white and you have all sorts of other things. Tribalism by the way rises because people start saying ag if you stay in a particular province you get more etcetera, etcetera. So it is an unravelling of this. Why am I saying all this

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because again the hostility on Treasury arises out of that because the response if normally a populous response to say spend and spend and spend? Sitting in Treasury then your role is to say who can spend the money that we do not have and that naturally creates all sorts of problems for Treasury as it were. But I am also raising it to say that – to say that it will be amiss of the commission not to talk about growth issues at some point, not to talk about - not to look at this kind of growth issues, these developmental challenges because ultimately they are embedded in the narrative that you guys we are currently dealing with Chair about state capture and so on and so on. The last two points Chair I will not be long. It is what I would call the political system that we have. Now and I am again I will be crude and less sophisticated in articulating it. Essentially what you have I mean in our system if you kind of cut out the frills again you – it is – you have a particular relationship between the state and the party. Now firstly the - you go into elections and elect a party. And normally whilst the party gets elected of course the party goes to its own conference. Once it goes to its own conference it takes power to in provinces it takes to provisional executives it nationally takes it to the national executive. Ultimately power then gets taken to the working committee and at a later point then power gets taken to another committee the top six. Then later on it gets taken to the President basically. Now effectively what it actually means is that there again I do not know whether this is in the ambit of the commission but I think ultimately you going to have a problem where - a problem where capturing the party is the easy vehicle of capturing the state. Because the relationship between the party and the state is so - it is not - there is no kind of lines that are as strong as you would want to have. So again part of I think again I am being [indistinct] part of the things that I think as we think constructively about this is actually to revisit our political system particularly how do you draw a wall between the political party and the state

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and how do you build institutions of the state that go beyond political cycles like election cycles for instance I mean and so on and so on. And I mean there is a clear example institutions in South Africa that have survived it is because they are not linked to political cycles. The judiciary survives, it survives simply because it is not – when you have a new president you do not jump and fire all judges etcetera. I wish you do that but I mean if you do not do that.

CHAIRPERSON: Well it is good that we know your weakness Mr Jonas.

MR MCEBISI JONAS: Ja that was a joke.

CHAIRPERSON: Yes.

MR MCEBISI JONAS: The same with the Reserve Bank you do not change government there is no change of government you fire the Reserve Bank as it were but all those institutions that are like that have been durable. Now think about it most institutions where the monetary of a new minister walking in they have to change have become unsustainable and in fact have been part of a problem as it were. So part of I think the thinking around this separation should be about the - how do you kind of effectively separate the state from the political party. How do you build institutions that not just institutions some of them macroeconomic institutions, some of them economic institutions. I mean SARS for instance I mean it will be a sad story that you have a SARS that links with the – it is linked with political cycle. And DG's get fired when new minister comes in by the way if you look at the turnover of DG's it is a normal case. Boards are fired because you have a new minister. So those are the kinds of things that I would think that in exploring solutions to this problem win it. My last point Chair is that we have in South Africa an over personalised political system. Our politics are so over personalised that we hardly talk structural issues that is why we cannot resolve these issues of racism is nice if it is said by Mcebisi Jonas or somebody else. I mean if

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somebody else says racist remarks we tolerate because of the personality. But even our political cycles I mean we kind of - and that is why I think the days I would still argue with the process of state capture is can I use the term "to-over-zuma-nise" it. To think that it was about Zuma. That is - that would be a biggest mistake because it is bigger, it is structural, it is systemic because we will miss the point and then if you do that. And again I mean because whether you can have I mean there is an interesting story somebody talking to a chief in one country of the president and he asked the chief of the president he was asking the chief of the president are you worried that you have a new president in your country because your menu might change. So this guy responded he says, actually I am not worried because normally the visitors of the C so effectively what I am saying is that I think we must also avoid a danger where we do not look at the structure relations. We do not give attention to them and fortunately I think looking at the way things are going presently in the country it seems there is a focus on trying to resolve them. I think I - there is something that we need to say around how do you decouple our politics and structures from personalities and actually make them embedded in the system. Sorry for being long with it.

CHAIRPERSON: No no it is — it was important but certainly some of the points you have made you know are points that I have raised with some of the people particularly Ministers who or past Ministers or present Ministers to say when this commission looks at the issues that it must look at one of the things that it must do is to ask the question what is the environment that made it easy for certain things to happen? And it may well be that we must look at what our political or constitutional arrangements are because it may well be that some of them made it easy for certain things to happen and if we are looking at taking measures to make sure that for example state capture never happens again and we do not address things. Whatever measures we might come up with might

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not assist and in that regard one of the things one looks at is what structures and what bodies and what functionaries were supposed to take certain steps once they realise that certain things were happening and if they did not take those steps is it that held them back, because certainly if I conclude in the end that there was state capture. I will have to look at why certain bodies or what role certain bodies may have played in either facilitating it or in looking away and not doing what they should have done and in this regard it may well be that one must thing about the oversight function of Parliament. Did Parliament play the kind of role that it was supposed to play? The governing party is not a statutory body, but in our system it has an important role to play. Is there something that it ought to have done? Did it do it and if it did not do it why? Was there an environment or is there something in our systems that made it possible or that prevented it from doing what maybe it ought to have done. So I think part of what you say raises those issues and I think they are very important issues. So I do not know whether you want to say anything or?

MR MCEBISI JONAS: Thank you Chair. I agree Chair [indistinct] that that is probably the direction we should be taking.

CHAIRPERSON: Thank you very much.

ADV PHILLIP MOKOENA SC: Mr Jonas.

CHAIRPERSON: Mr Mokoena.

ADV PHILLIP MOKOENA SC: You have raised very important issues which I have no doubt that the Chair will take into consideration when he ultimately makes his recommendations. However to sum up on this issue just before you were fired are you able simply to sum up for us the type of hostility that you experienced within Treasury?

MR MCEBISI JONAS: Again I mean there; I think we were at a point where before we kind of and I am talking for most of the officials and myself and the Minister, before we

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even attend any meeting of Government we used to kind of think very hard about what is likely to be, to come out because I think it was becoming; I think it was most of it centred around the nuclear like I mean particularly the nuclear deal, but it also centred around issues of expenditure management and the other more difficult one was the revenue management just to ensure that revenue comes in and so and so and; so the tension was almost I mean reaching personal proportions basically. I mean it was and I was surprised recently I went to some function and I saw some Ministers and they hugged me and greeted me and I said wow, because I think there is time when I felt, you felt like we were ostracised and it was almost palpable. So like ostracised in a subtle manner that you will greet. You were ostracised in a palpable manner in a sense and the pressure on officials meant that also we were like worried about almost tittering on the brink of losing most of the technical capacity that we had in Treasury at the time. So it was at a personal level very serious. I mean I think at a personal level very serious and when I say serious to the point where I think some of us were even worried for our lives actually because it was real. It was very serious and the way it was panning out to be and it was also, I mean, I remember that there were also investigations on Ministers and investigations by this and this and this and I was listening, I mean, if you watch some of these things there were, intelligence was being used to pursue some of the people and I think the intelligence report that came out now shows that that was real. It was not just imaginary. I see that some of the witnesses quoted their big intelligence report that depicted Treasury to be what it has and what it was not by the way and I think by the time we got fired I think again there was some intelligence report used to fire us saying that, I think I remember they said they were going to go and mobilise against the country etcetera. So in summary I think the pressure was like at a personal level, at a professional level very palpable I think. The

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most excruciating experience being the whole charging of Minister Gordhan and I am not arguing about the content of that, but I am just saying the whole process that we went through in that process was probably, it reminded me of the apartheid era basically. I mean in the way it was so vicious. It was so vicious absolutely vicious as it were.

ADV PHILLIP MOKOENA SC: Where was this pressure coming from?

MR MCEBISI JONAS: Look I mean it was clear. I mean at all different points. I mean clearly I mean as I have mentioned in the thing, in my earlier submission I think I mentioned that apart from being constitutionally mandated to do A, B, C, D your success relies on political support and political support by the Head of State. So if you do not have that I mean forget it and quite frankly I will advise any Minister of Finance that does not have that must just resign, because it does not work. It just does not work as it were. So that was one part of it, but the security parenthesis were in how they were looking at Treasury was not fun. It was not so bad in that period.

ADV PHILLIP MOKOENA SC: Yes.

CHAIRPERSON: Of course it might be something that should be taken as normal that if any Minister does not have political support they should resign, but based on the evidence that has been given by previous Ministers of Finance. I think it [indistinct] at a certain stage if some or other Minister of Finance has resigned some people would say another Minister might have been put in who might not have been seen to be on that would be strict with regard to compliance with regulations and legislation and policies and that may have resulted in certain problems for the country economically and financially.

MR MCEBISI JONAS: I would say yes. I mean in part that is true, but again I mean I am saying I was actually, I keep on, we had a long debate in Treasury at some point. I

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mean in one strategic planning session and my attitude was that we were essentially stalling or slowing down the pace of destruction essentially. I mean that was what we were doing and because I mean we were allocated you could manage our expenditure. You can do all of those things. So it helped I mean to a certain extent, but imagine if we did not reach a point were society gets alarmed about what was happening and acted and so and so if we did not reach that point. I would not and we were not fired. Would we still be trying to play that role? Personally as Mcebisi Jonas I would not.

CHAIRPERSON: Thank you.

ADV PHILLIP MOKOENA SC: Yes. Now let us move to the third assignment that you were required to do. At the time when you testified Mr Jonas you were not afforded an opportunity to react to the versions of the implicated parties, Mr Duduzane Zuma and Mr Fana Hlongwane has since applied to cross-examine you and they have furnished the Chair with their versions in terms of Rule 3 and four and they were subsequently also granted leave to cross-examine you. May I refer you to an exhibit before you, you will see. It is marked EXHIBIT D3. If you look at the spine of the file you will be able to easily locate it. Now let me assisted you to navigate that file and only refer you to the relevant portions which we will be conversing. The affidavit of Mr Fana Hlongwane commences from page 57 and it runs up until page 67 and the affidavit of Mr Duduzane Zuma runs from page 171 to page 177. For completeness Mr Jonas what I will do also I will refer you to the affidavit of Mr Ajay Gupta which is on page 165 and it runs up until 170 for you to be able to react to some of the allegations that he says about you and I will also refer you to the affidavit of Mr Rajesh Gupta which you will locate on page 178 and it runs up until page 181. Even though they were not afforded the right to cross-examine but it is important for you to react to some of the

specific allegations which are made about you in those affidavits. Now if we may start with the one of Mr Fana Hlongwane on page 59. Without having to read the contents you will see that from paragraphs 3 to 3.2 Mr Hlongwane states that your evidence which you have adduced before this Commission is untrue and has an effect of serious damage to his reputation. Do you wish to comment before we proceed on other specific paragraphs?

MR MCEBISI JONAS: In my understanding everything that I said and presented to this Commission is true.

ADV PHILLIP MOKOENA SC: Yes. Now may I refer you to page 62 with particular reference to paragraph 11, because of it is importance I will read it to you and allow you to comment thereafter. In paragraph 11 Mr Hlongwane says that:

"During October 2015 I had been made aware by Mr Duduzane Zuma that Mr Jonas had made allegations to the effect that I was blackmailing him. These allegations seemed incredible and completely at odds with our relationship and true affects. In view of our relationship I was very perturbed by the allegations and decided to address the issue. I therefore asked Mr Duduzane Zuma to urgently convene a meeting between the three of us."

Now are you aware of any allegations which you have made to the effect that Mr Hlongwane was blackmailing you?

MR MCEBISI JONAS: Chair we dealt with the issue now our affidavit. There are no allegations. They talked about rumours and there were no rumours that I ever heard and denied that.

ADV PHILLIP MOKOENA SC: Yes.

<u>CHAIRPERSON</u>: Okay. I am sorry. I just want to make sure I understood. One, you never said that Mr Hlongwane was blackmailing you?

MR MCEBISI JONAS: Yes, I did not.

CHAIRPERSON: And two, you said something and I do not know whether it was that there were no rumours or I am not sure. There was something that you said.

MR MCEBISI JONAS: No, I never heard of the rumours.

CHAIRPERSON: You have never heard? Oh, you had never heard of any rumours.

MR MCEBISI JONAS: Both from Duduzane and from Fana.

CHAIRPERSON: Yes. Let me ask this question before Mr Mokoena proceeds. Prior

10 to October 2015 as far as you recall had you had any discussion with Mr Duduzane Zuma?

MR MCEBISI JONAS: I do not, I did not know Duduzane at all and.

CHAIRPERSON: Yes.

MR MCEBISI JONAS: The only time I knew about him was in October when Fana Hlongwane indicated to me that he wanted to talk to me.

CHAIRPERSON: Yes.

MR MCEBISI JONAS: At that point I requested the cell number, the cell phone number.

CHAIRPERSON: Yes.

20 MR MCEBISI JONAS: We had a couple of telephone calls and text messages right through that period until we have ultimately arranged a meeting at the Hyatt.

CHAIRPERSON: Yes.

MR MCEBISI JONAS: So I do not know. I did not know him personally at all.

CHAIRPERSON: So certainly prior to October you had never had any?

MR MCEBISI JONAS: I never had.

CHAIRPERSON: Discussions with him, you had never met him?

MR MCEBISI JONAS: Ja.

CHAIRPERSON: As such, but sometime during October you did speak to him following upon what Mr Hlongwane said to you and you asked for Mr Duduzane Zuma's number?

MR MCEBISI JONAS: [No audible reply].

CHAIRPERSON: Okay, thank you.

ADV PHILLIP MOKOENA SC: Now having regard to what Mr Hlongwane stated in this paragraph were you at any stage informed about the nature or the extent of these rumours?

10 MR MCEBISI JONAS: No.

ADV PHILLIP MOKOENA SC: Or the content of it?

MR MCEBISI JONAS: No.

<u>ADV PHILLIP MOKOENA SC</u>: Yes and when was the first time you heard about these allegations of rumours, of blackmailing?

MR MCEBISI JONAS: And I state in my affidavit that when the Gupta brother who entered when we were at Saxonwold the first thing that he talked about is that I hear that Fana Hlongwane is blackmailing you, but he then quickly proceeded. I responded quickly to say that is nonsense. That is not there. That is not true and he responded quickly, but anyway that is not the purpose of the meeting and he proceeded with whatever conversation he wanted.

CHAIRPERSON: Just refresh our memory again going back to the phone call that you received from Mr Hlongwane in October as you have said. Can you just tell me the content, remind me of the content of that discussion between the two of you?

MR MCEBISI JONAS: The phone call was that they, the first phone call I remember very well. I was in Luanda and he called to say Duduzane was looking for me.

CHAIRPERSON: Yes.

MR MCEBISI JONAS: And it had to do with an event which was the ANN7 awards.

CHAIRPERSON: Yes.

MR MCEBISI JONAS: That were happening in a few weeks from there and the second time I was, it was a physical meeting where I went there with a friend of mine and I state the name in the affidavit.

CHAIRPERSON: Yes.

MR MCEBISI JONAS: In the presence of him he then said by the way Duduzane would want to talk to you and wants to invite you to this event [intervenes].

10 CHAIRPERSON: Yes.

MR MCEBISI JONAS: And I said to him listen let me take his number so that he contacts me directly.

CHAIRPERSON: Yes.

MR MCEBISI JONAS: And we can talk directly [intervenes].

CHAIRPERSON: Yes.

MR MCEBISI JONAS: And that is how then.

CHAIRPERSON: Yes.

MR MCEBISI JONAS: The contact happened.

CHAIRPERSON: Okay, thank you.

20 <u>ADV PHILLIP MOKOENA SC</u>: And you have now told the Chair that the first time you heard about these blackmailing rumours were on 23 October 2015?

MR MCEBISI JONAS: Yes.

<u>ADV PHILLIP MOKOENA SC</u>: Prior to that Mr Hlongwane did not even call you or discuss with you about these rumours?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: No one else had done that?

MR MCEBISI JONAS: No one else.

ADV PHILLIP MOKOENA SC: Now may I refer you to page 63 paragraph 13 and there Mr Hlongwane says to the Chair that:

"I was subsequently informed by Mr Duduzane Zuma that he convened a meeting at the Rosebank Hyatt on that day. Prior to my arrival I decided that because of the private nature of the discussions and possible confrontation that the Hyatt might not be a suitable venue due to the fact that it was not private. I therefore called Mr Duduzane Zuma and also spoke to Mr Jonas. I proposed to them that we move the meeting to a more private venue. Mr Duduzane Zuma informed me that he has a venue available in the vicinity. I was provided with an address and arranged to meet with them in a couple of minutes."

A number of things arises from that paragraph Mr Jonas. Firstly would you wish to comment generally on what is being stated there by Mr Hlongwane?

MR MCEBISI JONAS: I cannot comment on the first line because it was not a conversation with me.

20 ADV PHILLIP MOKOENA SC: Yes.

MR MCEBISI JONAS: So I really cannot say I mean whether that conversation happened between him and Duduzane, but certainly I think and again I stated in my affidavit that I phoned Duduzane and made arrangements to meet at Hyatt because I was in an event close by. So the conversation between Duduzane and Fana I cannot comment on that, because I was not privy to that. Secondly that the suggestion to

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move I think it arose when Duduzane raised that there are other people who must join.

He never mentioned who they are. He said there are other people who must join and let us move. So I do not actually agree with the explanation of events.

ADV PHILLIP MOKOENA SC: Yes.

MR MCEBISI JONAS: As stated here.

ADV PHILLIP MOKOENA SC: Now what might be able to help us if you could if indeed this meeting, the purpose of this meeting was to discuss the rumour about blackmail do you know why it was supposed to be held in a private location?

MR MCEBISI JONAS: I would not know, I mean definitely know.

ADV PHILLIP MOKOENA SC: And in your statement you refer to the SMS and the calls that were made between yourself and Mr Duduzane and yourself and Mr Hlongwane on the day in question. Were you ever told about the purpose of the meeting?

MR MCEBISI JONAS: Definitely not. I even spoke to Fana a couple of days before the actual meeting and there was no mention of blackmail at all.

ADV PHILLIP MOKOENA SC: Yes and what also arises in that paragraph Mr Hlongwane justifies the moving of the location to a private venue because of a possible confrontation that might ensure. Are you able to assist the Chair in understanding?

20 MR MCEBISI JONAS: There was no confrontation at all. There was no possibility of confrontation because there was no tension.

ADV PHILLIP MOKOENA SC: Before 23 October, before the meeting in question how would you describe your relationship with Mr Fana Hlongwane?

MR MCEBISI JONAS: They were very good. They were very good and cordial.

ADV PHILLIP MOKOENA SC: Now may I refer you to page 64.

CHAIRPERSON: I am sorry.

ADV PHILLIP MOKOENA SC: Yes Mr Chair.

CHAIRPERSON: Your question Mr Mokoena was it before, was it about after the

meeting?

ADV PHILLIP MOKOENA SC: No, before, before the meeting.

CHAIRPERSON: Oh, okay.

ADV PHILLIP MOKOENA SC: So meaning that even on the day when you went to meet with Mr Hlongwane there was no incident that you can refer to that might result in the confrontation?

10 MR MCEBISI JONAS: No.

ADV PHILLIP MOKOENA SC: May I refer you to page 64 paragraphs 14 and 15 and to save time I will simply paraphrase them. In those paragraphs Mr Hlongwane says that the people who were present in the meeting, now we are talking about the meeting of 23 October, it was himself Mr Hlongwane, Mr Duduzane Zuma and yourself Mr Jonas and no one else. Do you wish to comment?

MR MCEBISI JONAS: That is untrue. There was a fourth person which was the Gupta brother.

ADV PHILLIP MOKOENA SC: He says that, I mean if you look at paragraph 16, he says:

"I mention that a member of the Gupta family did enter the room briefly at some stage, but immediately left. This was definitely not Mr Ajay Gupta. I do not know the identity of the person who briefly entered the room."

So what we can infer from that paragraph is that there was a Gupta brother, but he simply entered and went out without participating in any discussions.

MR MCEBISI JONAS: That is untrue.

ADV PHILLIP MOKOENA SC: Now in paragraph 17 Mr Hlongwane denies that there were any of us that were made to you during the meeting in question and what it is your comment?

MR MCEBISI JONAS: That is untrue.

ADV PHILLIP MOKOENA SC: So you maintain what you have stated in your testimony before the Chair when you testified?

MR MCEBISI JONAS: Yes Chair.

ADV PHILLIP MOKOENA SC: Yes. Now let us move on to deal with the version of

10 Mr Duduzane Zuma.

<u>CHAIRPERSON</u>: Before you do this Mr Mokoena, Mr Jonas you have said that your relationship with Mr Hlongwane was before that meeting. How was it after the meeting?

MR MCEBISI JONAS: I have never spoken to him. I spoke to him once on the phone and I stated in the.

CHAIRPERSON: Hm.

MR MCEBISI JONAS: In my affidavit when I said to him he must never do that again to anybody.

CHAIRPERSON: Yes and when you say he must not do that again you were talking

20 about?

MR MCEBISI JONAS: I was talking about.

CHAIRPERSON: About the meeting?

MR MCEBISI JONAS: The meeting itself.

CHAIRPERSON: Yes and what happened at the meeting on your version.

MR MCEBISI JONAS: Hm.

CHAIRPERSON: If you say after the meeting you spoke to him only once that suggests that whatever friendship or relationship the two of you might have had before ended?

MR MCEBISI JONAS: Yes, it did.

CHAIRPERSON: Is that correct?

MR MCEBISI JONAS: Yes, Chair. It did.

CHAIRPERSON: Yes. Okay, alright. Thank you.

ADV PHILLIP MOKOENA SC: Thank you Chair. The affidavit of Mr Zuma you will locate it on page 171. However may I refer you to paragraph 4 page 172? Are you

10 there?

MR MCEBISI JONAS: Ja.

ADV PHILLIP MOKOENA SC: In that paragraph Mr Zuma states that:

"I depose to this affidavit to give my version of the events both leading up to and during a meeting that was held between the erstwhile Deputy Minister of Finance Mr Mcebisi Jonas, Mr Fana Hlongwane and myself on the afternoon of 23 October 2015 first at the Hyatt Hotel in Rosebank where I met Mr Jonas alone where after the meeting was moved to the premises situated at 5 Saxonwold Drive Gauteng."

20 Can you see that?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: Now when you received a call from Mr Zuma on the 23rd did you agree on a specific location where the meeting must take place?

MR MCEBISI JONAS: Can I just correct? Remember that we have been talking.

ADV PHILLIP MOKOENA SC: Yes.

MR MCEBISI JONAS: And the venue, because I chose, I said I was in Rosebank, can we make it Hyatt because the office where I was going is close to the Hyatt.

ADV PHILLIP MOKOENA SC: So the agreed venue was the Hyatt?

MR MCEBISI JONAS: Hyatt.

ADV PHILLIP MOKOENA SC: You were going to meet at the Hyatt?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: Did Mr Zuma object to that venue or raise any issues of

privacy?

MR MCEBISI JONAS: No, he did not.

ADV PHILLIP MOKOENA SC: Now when you moved from the Hyatt Hotel to this private place, 5 Saxonwold Drive were you informed that the meeting was now going to take place at the Gupta residence?

MR MCEBISI JONAS: No.

CHAIRPERSON: I am sorry Mr Mokoena, Mr Jonas just going back to paragraph 5 of that affidavit where Mr Duduzane Zuma says his first interaction with you was to invite you to the South African of the Year Awards as he had invited various people. Do you recall, are you able to tell when that conversation was which can be said to have been your first interaction with him or the day when he spoke, he invited you to the awards?

MR MCEBESI JONAS: It was a call after I came back from Luanda.

20 <u>CHAIRPERSON</u>: And well I assume you have had a look at your affidavits and statements and I'm just wondering whether somewhere it is dated roundabout what date that must have been?

MR MCEBESI JONAS: The dates are stated in the affidavit.

<u>CHAIRPERSON</u>: Oh, can you just tell me if it's possible to – I just want to locate ...(intervention)

ADV PHILLIP MOKOENA SC: If you can go to Exhibit C1 Mr Jonas and then if you can turn to page 2 Mr Chair paragraph 6 might be the one that the Chair is looking for.

MR MCEBESI JONAS: Yes.

ADV PHILLIP MOKOENA SC: Mr Jonas you can simply, you can read it for yourself and confirm whether would that be the date that you are looking for?

MR MCEBESI JONAS: At approximately 5.30pm on the 17th of October 2015, I sent Mr Zuma a text stating:

"Hi Comrade, tried to call you approximately 5.36pm. I had a short telephone conversation with Duduzane."

10 ADV PHILLIP MOKOENA SC: And paragraph 7.

CHAIRPERSON: Just read it aloud.

MR MCEBESI JONAS: Seven is:

"Mr Duduzane requested me to attend what I recall to be the South African Year Awards hosted by African News Network on Saturday the 17th in Johannesburg. I ultimately indicated that I would not be able to attend, telling him that my schedule would not permit it."

<u>CHAIRPERSON</u>: So is the position that the first interaction that you had with Mr Duduzane Zuma was on or about the 17th of October 2015, that's the date given in paragraph 6, but it says approximately 5.30 on 17 October.

20 MR MCEBESI JONAS: Yes.

CHAIRPERSON: So that would be the first interaction you ever had directly with him? **MR MCEBESI JONAS**: Yes Chair.

CHAIRPERSON: Yes, and it was on that occasion that he invited you to the South African of the Year Awards which was to be held – oh was it going to be held on the same day?

MR MCEBESI JONAS: There must be a problem with dates there.

CHAIRPERSON: Oh there might be a problem with the date, but it was going, was it going, as far as you recall ...(intervention)

MR MCEBESI JONAS: It was a couple of days later.

CHAIRPERSON: It was a couple of days within a week or so.

MR MCEBESI JONAS: Less than a week I think.

CHAIRPERSON: Oh less than a week okay. But the date of the 17th October do you feel confident that it must be correct as the date when ...(intervention)

MR MCEBESI JONAS: I think that was the date.

10 <u>CHAIRPERSON</u>: Because that would be from your sms's, you first sent him an sms I think you said.

MR MCEBESI JONAS: Yes sir.

CHAIRPERSON: Ja, okay so that would – it looks like at least in that regard when Mr Duduzane Zuma doesn't say what day it was that the two of you had that interaction at least he doesn't say so in paragraph 5 what the date was, but it seems that both of you are agreed that you first spoke to each other on the day you spoke about he invited you to the awards, the South African of the Year Awards.

MR MCEBESI JONAS: Yes sir.

<u>CHAIRPERSON</u>: And on your version that conversation was on the 17th of October
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 2015. Okay, thank you, you may proceed Mr Mokoena.

ADV PHILLIP MOKOENA SC: Yes, if you may turn to page 173, Mr Jonas, page 173 paragraph 8, in that paragraph Mr Zuma say that you met with him as agreed at the Hyatt and then moved to the Gupta residence, number 5 Saxonwold. Now I want to know if you were told Mr Jonas that you were going to meet at the Gupta residence how were you going to react to that request?

MR MCEBESI JONAS: I definitely would have avoided to go.

ADV PHILLIP MOKOENA SC: Why?

MR MCEBESI JONAS: Look I mean – they were already in the media about their activities and certainly I would not have loved to be associated with them.

ADV PHILLIP MOKOENA SC: Yes, now if you look on the second portion of paragraph 8 Mr Zuma says that we accordingly agreed to move to Number 5 Saxonwold and in brackets he says (Gupta residence), what is your reaction to that statement?

MR MCEBESI JONAS: That's untrue, that is untrue.

10 ADV PHILLIP MOKOENA SC: Now he also says that you travelled with him in his vehicle, can you see that?

MR MCEBESI JONAS: That's correct yes.

ADV PHILLIP MOKOENA SC: Are you able to explain to the Chair why did you travel with him in his vehicle?

MR MCEBESI JONAS: Look I mean his vehicle as the closest; it was just down the parking area at Hyatt, secondly I didn't see any difficulty, I was not – I didn't have any reason not to trust him quite frankly.

ADV PHILLIP MOKOENA SC: And then what about the bodyguards, I mean I take it at the time you are with your bodyguards, why did you leave your bodyguards behind?

20 MR MCEBESI JONAS: I leave them all the time, all the time.

ADV PHILLIP MOKOENA SC: May I refer you to page – the very same page if you go down to paragraph 9, Mr Zuma says that I point out at no stage since the suggestion was made that a meeting be moved to the Gupta residence did Mr Jonas either object thereto and/or express any reservation and/or display any discomfort of having the meeting there, that's what Mr Zuma says.

MR MCEBESI JONAS: That's untrue because there was no knowledge that the meeting is going to be at the Gupta residence.

ADV PHILLIP MOKOENA SC: Now may I refer you to page 174, paragraph 11 and 12, I will simply paraphrase them to save time. There Mr Zuma states that there were only three people present in the meeting and he state that no one else was there. Mr Rajesh Gupta simply came in for a few seconds and thereafter exited the room, what is your comment on that?

MR MCEBESI JONAS: That's untrue, there was a Gupta present right through the discussion.

ADV PHILLIP MOKOENA SC: Right through the discussion, okay. Now if you go to paragraph 13 Mr Zuma says that after the meeting I was required to stay behind to attend further meetings and a driver took Mr Jonas to where he wanted to be. Mr Hlongwane also remained behind with me. Would this be consistent with what you told the Chair that after the meeting Mr Hlongwane and Duduzane remained?

MR MCEBESI JONAS: Yes they remained.

ADV PHILLIP MOKOENA SC: Yes. Now if you can turn the page over to page 175, and paragraph 16 because of its importance I will read it to you and to allow you to comment. In that paragraph Mr Duduzane Zuma says:

"I further confirm that on this specific day in question, being the 23rd October 2015 Mr Atul Gupta was not present as he was as far as I can recall overseas. I also confirm that Mr Ajay Gupta was not at the Gupta residence at the time, to the best of my recollection he was somewhere else or at his office in Sandton. He therefore had no interaction at all with Mr Jonas."

Are you able to comment?

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MR MCEBESI JONAS: I am not able to comment on that except to say that I am

confident that there was a Gupta brother in the room.

ADV PHILLIP MOKOENA SC: And in paragraph 17 Mr Jonas Mr Zuma denies that there were ever discussions which took place about the removal of the Minister of Finance, he further denies that there were any monetary offers which were made to you, he further denies that there were any threats that were advanced towards you, what is your comment?

MR MCEBESI JONAS: I don't agree with it, it is untrue.

ADV PHILLIP MOKOENA SC: It is untrue. Now on paragraph 18 Mr Zuma says that:

"I did not take Mr Jonas to the airport after the meeting, nor did I receive a call from Mr Jonas. I wish to point out that subsequent to the meeting of 23rd October 2015 I informally bumped into Mr Jonas on two occasions, once at the Hyatt Hotel again and once at a Parliamentary event. I can state that on both occasions, on both these occasions we had friendly interactions with each other and there was no indication whatsoever of animosity."

Now he is telling the Chair about your relationship with him subsequent to the event of the 23rd and he specifies the occasions that he met with you and that there was no animosity and you were friendly with one another.

MR MCEBESI JONAS: The first part of the – I did not take Mr Jonas to the airport is correct, and I also wish to point out subsequent to the meeting ...(intervention)

20 **CHAIRPERSON**: Just raise your voice a little bit Mr Jonas.

MR MCEBESI JONAS: I'm saying the part that talks about taking me to the airport is correct, he didn't take me to the airport, the part about receiving calls I recall very strictly that we did text each other and I have those in the ...(intervention)

ADV PHILLIP MOKOENA SC: In your statement?

MR MCEBESI JONAS: In the statement, subsequent to the meeting, when he was

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requesting to meet after that, so there was some interaction after that. The two occasions are correct but I don't think we even came into contact, so I don't know how he would, there would have animosity arising or friendliness, because we were very apart. This wasn't like a meeting, he was walking past and I was walking in the other direction.

ADV PHILLIP MOKOENA SC: Now let me provide you with an opportunity to react to the versions of the Gupta brothers starting first with Ajay Kumar Gupta and we will then deal with the one of Rajesh Gupta. The of Ajay Kumar Gupta you will find it on page 165. If you can turn to page 165 Mr Jonas. That's where it begins but I wish to refer you to paragraph 5 which you will find on page 166.

MR MCEBESI JONAS: I've got it.

ADV PHILLIP MOKOENA SC: And in that paragraph you will see that from paragraph 5 to 5.3 Mr Gupta paraphrases your statement but what I wish that you may provide a comment on is the contents of paragraph 5.3 where he says a belated allegation in his latest signed statement dated 8 August 2018 to the Commission of the Inquiry wherein for the first time claims that I also threatened to kill him should he not cooperate with me or the Gupta family. Now before you react to that statement let me tie that statement with a similar allegation that is made by Mr Gupta, you will find it on page 168 paragraph 10, so as you may be able to comment at once. At paragraph 10 Mr Gupta says that Mr Jonas also for the first time ever incorporated in his most recent statement dated 8 August 2019 and claimed that I threatened to kill him should he not give his cooperation to me. In his version to the Public Protector he never had such claims, even when he was specifically questioned about any threats he may have received. If he may comment on those two paragraphs.

MR MCEBESI JONAS: Firstly I think the first formal statement we made was with an

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extensive statement we made was at the Commission.

ADV PHILLIP MOKOENA SC: Yes

MR MCEBESI JONAS: The conversation and questioning with the Public Protector happened in a different environment and I stated already it was conversational and responded to many of the questions that she raised and it was a different context because the context was very hostile at the time, I was still Minister of Finance and I wouldn't want to do that. The second statement, the other statement I made was with the Hawks, and we had already given the Hawks a statement to say we would not give you a statement because already they had already indicated that their intention was to destroy the case and based on that we sent them a statement and later on they insisted I draft a statement responding to questions that they gave, which I signed. Again I am saying in all those, this is the statement to the Commissioner was the first formal extensive statement I made in a context where I was confident that there would be no reprisals.

ADV PHILLIP MOKOENA SC: Yes what Mr Gupta takes issue with is that when you had all these opportunities even before the Public Protector you did not mention any threats that you were to be killed if you were not going to cooperate with the Guptas and why does it appear only for the first time in this Commission.

MR MCEBESI JONAS: Again I am saying you must understand the context, I mean at the time was – I mean that was probably the most difficult period for us. Even the conversation with the Public Protector Chair, we want into the conversation, she asked us questions, I was very uncertainty, even if we're talking to her, I didn't trust anybody, I didn't trust the police, quite frankly and I mean when I went to the Commissioner I knew that it's a public thing, I have my confidence back, I can say what I want to say, probably if reprisals come they will come through legal mechanisms.

I outlined earlier on how the Hawks treated us.

ADV PHILLIP MOKOENA SC: Yes, now may I refer to page 167, with particular reference to paragraph 6 and 7, I won't read them I will simply paraphrase them to save time, Mr Ajay Gupta in those paragraphs denies ever meeting with you on the 23rd of October 2015 and he says that he was at his office at Oakbay in Katherine, do you wish to comment?

MR MCEBESI JONAS: I maintain my position that in my and based on the information that I had at the time I said it was Mr Ajay Gupta who was there, but I am certain now I mean there was a Gupta brother and as I have always said and right through I had always had the disclaimers on the matter.

ADV PHILLIP MOKOENA SC: Yes, and let's deal with page 168, what you stage in paragraph 9, in fact Mr Jonas in order for that paragraph to make sense let's begin on paragraph 8 on page 167, I will read them quickly. There Mr Gupta says that:

"It is also plain and indisputable that my identity was introduced to Mr Jonas by way of a leading question, suggested to him and of photos of me being shown to him to enable him to conclude that he in fact met with me specifically and not with anybody else, whereafter he accepted and claimed that he in fact did have a meeting with me."

And paragraph 9:

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"He later in an application in High Court Pretoria which was dismissed with costs by the then Minister of Finance, Minister Gordhan, against Oakbay Group of Companies without any qualification and/or hesitation in fact confirmed under oath that he met with me and nobody else. However in his later statement dated 8 August 2018 to the investigators of the Commission of the Inquiry on State Capture Mr Jonas claims that he still unsure with

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whom he has met on that specific day, as he did not know the Gupta brothers and had never been introduced to the Gupta Brothers before and it may have been my brother Rajesh Gupta with whom he met on that specific day."

Now he's pointing out to what he terms the alternatives and at some stage you having said it was him and now at the Commission it appears that you are unsure about who exactly was present. What is your comment?

MR MCEBESI JONAS: Again I'm at – probably if you go back to the Oakbay affidavit there was already a disclaimer there and if you read the full affidavit you will see that there was a disclaimer that says it could be any other Gupta brother but definitely there was a Gupta brother, that's what we were trying to convey. Of course we were saying Ajay because based on the information I had at the time and the assumption, and that's again looking at the pictures, this was four years ago by the way and I have met the guys for the first time and I have never met them after that, and that's the reality.

ADV PHILLIP MOKOENA SC: So on the 23rd of October it was the first time that you met.

MR MCEBESI JONAS: That was the first meeting I had with him, that brief encounter, and I have never seen him again, and he was just looking at pictures and I conclude that it could be Ajay so to the best of my knowledge at the time I assumed that it was him. But when I was preparing the statements for the Commission it was the first time that a couple of pictures I looked at and I realised that you can't tell, I can't tell the difference between the two.

But anyway I think at the moment it's common cause that there was a Gupta Brother.

ADV PHILLIP MOKOENA SC: Yes. On ...(intervention)

CHAIRPERSON: Well certainly on your version there was a Gupta brother and I think on Mr Duduzane Zuma's and Mr Hlongwane's version, on your version there was a Gupta brother throughout the meeting or the discussion, on their version a Gupta brother I think came in for a short time and went out. Is that your understanding of the difference between the two versions?

MR MCEBESI JONAS: Chair I think the central point is there was a Gupta brother in the room and all of us agree, we can go back and look at the statements.

CHAIRPERSON: Okay, alright, Mr Mokoena?

ADV PHILLIP MOKOENA SC: Can you now turn to page 169, paragraph 12, Mr Gupta says that I also gave evidence under oath to the public protector denying the allegations and the version claimed by Mr Jonas and I also deposed to an affidavit in the Minister of Finance application in the High Court Pretoria which is self explanatory. I point out that it is highly unlikely that the meeting took place because if it did in the manner alleged by Mr Jonas he would immediately have reported it to the nearest police station as he – as any other ordinary citizen was legally obliged and duty-bound under the law to do so. And your comment?

MR MCEBESI JONAS: I don't agree with the statement at all.

ADV PHILLIP MOKOENA SC: Yes, do you have anything to say about it or anything to add.

20 MR MCEBESI JONAS: Look I mean on the reporting part which probably was what I covered it's quite extensively in the affidavit and the position articulated in my affidavit I still think it's valid.

ADV PHILLIP MOKOENA SC: Yes, and mostly ...(intervention)

CHAIRPERSON: And basically that was that you didn't have much confidence in the law enforcement agencies, is that right?

MR MCEBESI JONAS: Yes.

CHAIRPERSON: Ja, okay.

ADV PHILLIP MOKOENA SC: And lastly on the version of Mr Gupta on paragraph 15 on page 170 he concludes by saying that there were no offers made at all to you, be it monetary or ministerial position.

MR MCEBESI JONAS: I do not agree.

<u>CHAIRPERSON</u>: Well I don't think you represented what Mr Gupta says there accurately Mr Mokoena, he says he did not make any offer.

ADV PHILLIP MOKOENA SC: Yes, he, yes.

10 **CHAIRPERSON**: Yes, not that no offers were made.

ADV PHILLIP MOKOENA SC: That he, Mr Gupta, did not make those offers, Mr Jonas the answer is the same?

MR MCEBESI JONAS: The same yes.

ADV PHILLIP MOKOENA SC: Now ...(intervention)

CHAIRPERSON: Well the answer can't be the same if you are not sure whether he was at the meeting because you don't know which of the brothers, you just know there was a Gupta brother, isn't it?

MR MCEBESI JONAS: Yes.

CHAIRPERSON: So you can't say it was him who made the offer, all you can say is

20 ...(intervention)

ADV PHILLIP MOKOENA SC: The offer was made.

CHAIRPERSON: An offer was made by a Gupta brother.

MR MCEBESI JONAS: Yes.

CHAIRPERSON: Ja, okay.

ADV PHILLIP MOKOENA SC: Now let's deal with the version of Mr Rajesh Gupta,

you will find it on page 178.

CHAIRPERSON: Well Mr Mokoena just bear in mind that if they say the same thing and he has already responded there is no need to ...(intervention)

ADV PHILLIP MOKOENA SC: To repeat that yes.

CHAIRPERSON: To repeat ja.

ADV PHILLIP MOKOENA SC: Did you have an occasion to read the affidavit of Mr Rajesh Gupta?

MR MCEBESI JONAS: Yes I did.

ADV PHILLIP MOKOENA SC: You did and I take it that to the extent that they deny that anyone made an offer to you on the day in question your answers would be as reflected in your statement?

MR MCEBESI JONAS: Yes.

ADV PHILLIP MOKOENA SC: And do the extent that there was no Gupta brother that was present throughout the conversation he will remain, you persist with what you've said in your statement before the Chair?

MR MCEBESI JONAS: Yes.

ADV PHILLIP MOKOENA SC: Now may I refer to Exhibit C1, if you look at the spine Mr Jonas they are marked, page, it is the transcript of the Public Protector containing your interview with the Public Protector, it starts from page 21, it runs up until page 89, however I wish to refer you to page 50, page 50 Mr Chair.

CHAIRPERSON: Five zero?

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ADV PHILLIP MOKOENA SC: Five zero. Now on page 50 against line 40 that's where you begin to respond to a question posed to you by the Public Protector.

<u>CHAIRPERSON</u>: And where it is possible to just paraphrase the point that was being point please do so without reading unless there is something significant about the

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wedding.

Definitely Mr Chair. In this one Mr Jonas I would read ADV PHILLIP MOKOENA SC: it from paragraph 14 to line two on the next page because there are a number of issues that are quite unclear which you told the Public Protector. You said that it is not as if it did not cross my mind, you know because it did cross my mind that I should. I in fact was thinking seriously about doing it and I just thought about it seriously, and I ended up saying no, maybe there's no need. Now pay attention to what I am going to read now Mr Chair that is why I say two reasons. One was that I did not trust that he would do anything about it. I mean government by the way and in political circles. I hear people saying they have done - they have been approached by these guys. That is the first thing. Secondly say I know that I mean there are people there are many people who say that I mean I cannot mention their names here but I know they always say you know I mean it as - it is a common thing in the system that that happens in the first instance. That is what you told the Public Protector he proceeds by saying but the second problem I had is that what guidance was I going to take from him on a matter like that because it is his son and I thought I cannot take guidance from him when I think he is conflicted on the matter. Now the first clarity which I am seeking from you can you elaborate to us on what you state that in government and in political circles you heard people saying that they were approached by these guys. Who are these people that you are talking about? And who are the guys who approached them?

MR MCEBISI JONAS: I mean it is – it has been a known fact at the time that a lot of people I mean in the circles people will say Mbalula for instance stood out and say they [indistinct] a meeting formally that he received the news from the Gupta's. You also have a couple of other people I mean that Themba Maseko for instance had a story already at the time and there are many more stories of people who and many of them

have sat where I am sitting now Wako for instance Ramatlhodi ...

CHAIRPERSON: Well I am not sure you are right.

MR MCEBISI JONAS: And some ...

CHAIRPERSON: To say many of them have sat there.

MR MCEBISI JONAS: Some of them.

CHAIRPERSON: Some have but ...

MR MCEBISI JONAS: Some have...

CHAIRPERSON: But I would like many to sit there.

MR MCEBISI JONAS: Some have I mean have sat here and – before.

10 ADV PHILLIP MOKOENA SC: Are there...

MR MCEBISI JONAS: And I mean there is also ...

<u>CHAIRPERSON</u>: Basically you are talking about Ministers Deputy Ministers maybe some DG's.

MR MCEBISI JONAS: DG's

CHAIRPERSON: And other officials.

MR MCEBISI JONAS: And CEO's and of companies, parastatal.

CHAIRPERSON: Of parastatal.

MR MCEBISI JONAS: Parastatals ja.

ADV PHILLIP MOKOENA SC: Yes. And secondly what appears to be unclear you say

what guidance was I going to take from him, who are you referring to?

MR MCEBISI JONAS: The question was relating to why did I not tell the President.

ADV PHILLIP MOKOENA SC: Yes.

MR MCEBISI JONAS: And my attitude was it is like my son does something and he come to me and tell me. I thought it was like a wasteful – it was wasting energy. I did not have confidence that he would have done anything about it.

ADV PHILLIP MOKOENA SC: Yes. And last - Mr Chair.

CHAIRPERSON: Well I am not sure about that example Mr Jonas.

MR MCEBISI JONAS: It is a bad example.

CHAIRPERSON: Where I grew up any adult person who finds you as a child or boy doing something wrong anywhere could discipline you and you would not even tell your parents because they could give you a hiding and say, an adult person was not going to discipline you for nothing you must have done something wrong? So some parents would really enquire into what did you do and so on.

MR MCEBISI JONAS: But I mean the scale of what we are talking about Chair it is just that an ended – the news I mean have been running about some of the events and things that were happening so certainly he should have known about some of these things.

CHAIRPERSON: Ja. Well I was talking more about you and your son.

MR MCEBISI JONAS: Oh my son yes. If the scale of what he does is this I will probably decide to do something else.

CHAIRPERSON: Okay Mr Mokoene.

ADV PHILLIP MOKOENA SC: Finally Mr Jonas in order to short circuit your evidence you are aware that Mr Gordhan Minister Gordhan, Minister Nene and Mr Fuzile including Mr Mogajane did testify before this commission.

20 MR MCEBISI JONAS: I am aware.

ADV PHILLIP MOKOENA SC: And did you have an opportunity to consider their evidence in as far as it related to you?

MR MCEBISI JONAS: Yes I did.

ADV PHILLIP MOKOENA SC: And do you confirm that evidence to the extent that they referred to yourself?

MR MCEBISI JONAS: Probably I do.

ADV PHILLIP MOKOENA SC: Mr Chair that concludes my questions for Mr Jonas.

<u>CHAIRPERSON</u>: Okay that is just the – at the right time for the tea break. I think we will take the short break and we come back which will be half past eleven then counsel for Mr Duduzane Zuma can commence with cross-examination. We adjourn we will resume at half past. We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Mr Louw I now give you the opportunity to cross-examine Mr Jonas.

I did indicate that although I thought 30 minutes might be fine, I will not be rigid. I will see how things go and I rely on your cooperation and your bona fide attempt also to try and make sure that we deal with real important issues.

ADV PIET LOUW SC: Mr Chair of course. Good I before I commence.

CHAIRPERSON: And I do know that you would like more.

ADV PIET LOUW SC: Oh certainly, but could I say this?

CHAIRPERSON: Yes.

ADV PIET LOUW SC: Just to preface perhaps the cross-examination.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: The aspects on which I am going to cross-examine Mr Chair are

20 front and centre in your enquiry.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: If one recalls that item 1.1 of your terms of reference.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: Makes specific reference.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: To the incident on which I am going to cross-examine.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: You will recall that what it says is:

"The Commission must investigate..."

And here comes the important part.

"...the veracity..."

CHAIRPERSON: Yes.

ADV PIET LOUW SC: "...of allegations that former Deputy Minister of

Finance Mr Jonas and Ms Mentor were offered Cabinet

10 positions by the Gupta family."

It is thus not a matter where we can perhaps deal with on a very elevated scale like we did this morning with the

CHAIRPERSON: Ja.

ADV PIET LOUW SC: With respect the grand theories of political issues.

CHAIRPERSON: Ja.

ADV PIET LOUW SC: Grand political theory perhaps. We have to drill down to some

facts.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: Now as you have pointed out Mr Chair.

20 **CHAIRPERSON**: Hm.

ADV PIET LOUW SC: There are two completely conflicting versions.

CHAIRPERSON: Hm.

ADV PIET LOUW SC: Only about a small part.

CHAIRPERSON: Hm.

ADV PIET LOUW SC: Of the whole incident. You have summarised.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: Where the differences of opinion lie.

CHAIRPERSON: Ja.

ADV PIET LOUW SC: And unfortunately when one then has to test the veracity.

CHAIRPERSON: Hm.

ADV PIET LOUW SC: Of a witness.

CHAIRPERSON: Ja.

ADV PIET LOUW SC: You have no choice.

CHAIRPERSON: Hm.

10 ADV PIET LOUW SC: But to deal with the rather difficult issues of contradictions and

probabilities and credibility.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: So half an hour is going to be exceptionally difficult.

CHAIRPERSON: Hm.

ADV PIET LOUW SC: To fit in a lot of this work.

MR MCEBISI JONAS:

CHAIRPERSON: Huh-uh.

ADV PIET LOUW SC: There is also an issue of these proceedings and what they are

about.

20 CHAIRPERSON: Hm.

ADV PIET LOUW SC: Mr Chair you are enjoined to determine the veracity.

CHAIRPERSON: Hm.

ADV PIET LOUW SC: You use of course your legal or the legal team.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: To do the footwork, but at the end of the day you must make all

enquiries that are necessary.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: Even if that means that from this cross-examination.

CHAIRPERSON: Hm.

ADV PIET LOUW SC: Further enquiries have to be done.

CHAIRPERSON: [Intervenes].

ADV PIET LOUW SC: In order to determine whether there is.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: Objective evidence one way or the other.

10 **CHAIRPERSON**: Yes.

ADV PIET LOUW SC: And that should be done. So these are not adversarial

proceedings.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: And I am not here simply to meet a case.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: And so forth.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: Because Mr Zuma will testify.

CHAIRPERSON: Yes.

20 ADV PIET LOUW SC: And he will testify

CHAIRPERSON: Yes.

ADV PIET LOUW SC: Completely different to what Mr Jonas has testified.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: As a matter of fairness perhaps.

CHAIRPERSON: Hm.

ADV PIET LOUW SC: The cross-examination should deal with some of what we see.

CHAIRPERSON: Hm.

ADV PIET LOUW SC: To be glaring inconsistencies and contradictions.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: And issues of credibility.

CHAIRPERSON: Ja.

ADV PIET LOUW SC: And to fit all of that into a half an hour package will be difficult.

CHAIRPERSON: Ja.

ADV PIET LOUW SC: Which means that if at the end of all of this.

10 CHAIRPERSON: Hm.

ADV PIET LOUW SC: We do not succeed.

CHAIRPERSON: Hm.

ADV PIET LOUW SC: For purposes of fairness.

CHAIRPERSON: Hm.

ADV PIET LOUW SC: Showing Mr Jonas what all the issues are that we believe count against his version.

CHAIRPERSON: Hm.

<u>ADV PIET LOUW SC</u>: Then perhaps another plan should be made and perhaps we should be allowed.

20 CHAIRPERSON: Hm.

ADV PIET LOUW SC: To present you with a list perhaps of contradictions and so forth.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: To be looked at in your own good time.

CHAIRPERSON: I think all of that, all of what you have just said Mr Louw is fair enough and quite legitimate and I am in agreement with what you have said. So I do

not see any problem.

ADV PIET LOUW SC: Thank you.

CHAIRPERSON: Ja.

ADV PIET LOUW SC: So the only point I am trying to make is.

CHAIRPERSON: I just hope that our agreement will endure to cover.

ADV PIET LOUW SC: Yes, they certainly.

CHAIRPERSON: Time as well.

ADV PIET LOUW SC: The only point.

CHAIRPERSON: Yes.

10 ADV PIET LOUW SC: That I actually wish to make is if I do not put certain points to

Mr Jonas.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: In these proceedings, it must not be held.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: Against Mr Zuma when he testifies.

CHAIRPERSON: Yes. No, no that is fine.

ADV PIET LOUW SC: Thank you.

CHAIRPERSON: Maybe I should just say this that the idea or part of the idea behind I

think it is Rule 3.4 which says that an implicated person who applies for leave to cross-

examine the application must be accompanied by a statement which deals with the

areas where he or she is implicated and that the idea is that that statement will give his

version and I think.

20

ADV PIET LOUW SC: Yes.

CHAIRPERSON: Everybody has understood it that way.

ADV PIET LOUW SC: Yes.

CHAIRPERSON: Because that is also helpful when I have to determine how much time I should allow for cross-examination, *ja* but I have no problem whatsoever with a situation where an opportunity maybe given for you to submit certain other let us say inconsistencies as you may see it.

ADV PIET LOUW SC: Yes.

CHAIRPERSON: By way of something in writing.

ADV PIET LOUW SC: Yes.

CHAIRPERSON: And that is, no that is not a problem.

ADV PIET LOUW SC: Once again these are not adversarial proceedings.

10 CHAIRPERSON: Yes.

ADV PIET LOUW SC: I am not here to meet a case.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: I am simply to assist the Commission.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: And then two people and they sit front and centre of this case.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: Who have conflicting versions.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: About something that you have.

20 **CHAIRPERSON**: Yes.

ADV PIET LOUW SC: Mr Chair in your wisdom and it is going to be a difficult task.

CHAIRPERSON: Ja.

ADV PIET LOUW SC: To determine the veracity of.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: Thank you.

CHAIRPERSON: No, thank you.

ADV PIET LOUW SC: If I then against that background may.

CHAIRPERSON: Thank you.

ADV PIET LOUW SC: May the clock tick.

CHAIRPERSON: Ja that is right. It is just now.

ADV PIET LOUW SC: Mr Jonas I do not have a lot of time. So you must please bear with me. I am going to touch on a few topics as you have just heard from the exchange. There are a few more that I perhaps would have wanted to deal with if I had unlimited time, but we will; that is how things are. The first point that I would want to ask you about is the Public Protector, the proceedings at the Public Protector, can you recall whether you were represented by attorneys or advocates?

MR MCEBISI JONAS: I was with my attorney.

ADV PIET LOUW SC: With your attorney and he is or was?

MR MCEBISI JONAS: Max Bogwana.

ADV PIET LOUW SC: Do you have a copy of, well you would because my learned colleague asked you about that; the transcript of the Public Protector in the Bundle C1 as he has pointed out previously just look at the spine and you should see it. Do you have it?

MR MCEBISI JONAS: [No audible reply].

20 <u>ADV PIET LOUW SC</u>: What we find is, if I can just ask you quickly to help me. The proceedings at the Public Prosecutor commenced at page 21.

MR MCEBISI JONAS: Ja, I have got it.

ADV PIET LOUW SC: You have got it. The person referred thereto as Advocate Boqwana should be Attorney Boqwana. Is that correct?

MR MCEBISI JONAS: Ja.

ADV PIET LOUW SC: But we see consistently that the person is referred to as advocate and addressed as that as well. Can I then ask you at the end of that meeting can you recall that your attorney undertook to provide a statement to the Public Protector called a timeline that would deal with various points that were raised during the conversation with the Public Protector that you were not too clear about dates and so forth?

MR MCEBISI JONAS: He did promise to do that.

ADV PIET LOUW SC: And was it done?

MR MCEBISI JONAS: Yes, it was done, but I must also say that when it was

effectively done there were lots of I think contradictions in the dates, because we have

not had the chance of looking at phones and other things like that.

ADV PIET LOUW SC: We cannot hear the last part of your answer.

CHAIRPERSON: I am sorry Mr Louw. I am sorry. I must just check is Mr Jonas sufficiently audible at the back? *Ja*, some cannot hear him well. So one, you might wish to just raise your voice a little more.

MR MCEBISI JONAS: Hm.

CHAIRPERSON: But it might be the equipment. So they will look at it as well.

MR MCEBISI JONAS: Thanks Chair.

CHAIRPERSON: Okay, thank you.

20 MR MCEBISI JONAS: I am saying he did put together a document.

ADV PIET LOUW SC: Yes and you say there are some difficulties with dates in the document?

MR MCEBISI JONAS: At the time, because it was a rushed process at the time.

ADV PIET LOUW SC: But the contents of it the narrative contained in it never mind the dates that would be correct?

MR MCEBISI JONAS: They are even in the narrative. I do not have it in front of me.

ADV PIET LOUW SC: Turn to page 90?

MR MCEBISI JONAS: 90.

ADV PIET LOUW SC: Is that the statement?

MR MCEBISI JONAS: Ja, it is.

ADV PIET LOUW SC: Alright [intervenes].

MR MCEBISI JONAS: He was giving the content. In the content there were a couple of confusions in the way he articulated it.

ADV PIET LOUW SC: It is very curious, because it was sent to the Public Protector and we find aspects of this document to be reflected in the Public Protector's report that is the genesis of this very Commission.

MR MCEBISI JONAS: In part.

ADV PIET LOUW SC: Did you; I just put that to you as a statement. The question is did you look at the statement before it went out?

MR MCEBISI JONAS: I did look at it broadly and I did.

ADV PIET LOUW SC: You did look at it?

MR MCEBISI JONAS: Ja.

20

ADV PIET LOUW SC: Yes. Go on, sorry I interrupted you.

MR MCEBISI JONAS: I am saying I did look at it and I pointed some of the things that were lumped together and things that could have articulated differently based on my own recollection of facts, but I.

ADV PIET LOUW SC: And was it corrected or not corrected?

MR MCEBISI JONAS: They were never corrected.

ADV PIET LOUW SC: So your attorney, Mr Boqwana, sent out knowingly a wrong statement to the Public Protector?

MR MCEBISI JONAS: It was not wrong. The content broadly speaking is correct.

ADV PIET LOUW SC: But are there points now that you look back at it that are incorrect?

MR MCEBISI JONAS: Ja, there are points that you could say were incorrect.

<u>ADV PIET LOUW SC</u>: In what sense were they incorrect? Misunderstanding perhaps, what?

MR MCEBISI JONAS: In a case where an idea, ideas are lumped together and where points that are separated could have been separated could be separated.

ADV PIET LOUW SC: Alright. Let us look a few of those points that were according to you lumped together and gave a wrong impression. Let us commence with on page 90 I think I am not going, because of the limit of time, I am not going to deal with all of it, but could I ask you the second bullet point you have there. Meeting with Advocate Fana Hlongwane and Mr Bongani More and Mr Jonas yourself and then the narrative below that, I have got to just quickly place that on record.

"I decided to meet with Advocate Hlongwane to hear him out on the issue of meeting Mr Duduzane Zuma and the Gupta family."

Is that correct?

MR MCEBISI JONAS: That is not correct.

ADV PIET LOUW SC: So this is an incorrect statement that your attorney sent to the

20 Public Protector?

MR MCEBISI JONAS: That is; there are two. If you look at my own statement I corrected it in my statement, because essentially there are were two discussions in this meeting and I make that very clear in my statement. The one discussion was the invitation by Duduzane Zuma to go to the awards. The second part of the discussion that arose and I state that in my statement was a discussion about, a general

discussion, where Fana started talking to us about how important the Guptas are and there was a third person in the meeting. So he could verify that. These are separate issues.

ADV PIET LOUW SC: Sorry, I am not quite with you. If I look at this, this is before; what you are dealing with here in this paragraph happened prior to the introduction to Mr Zuma.

MR MCEBISI JONAS: I still maintain these, there were two separate issues.

ADV PIET LOUW SC: Yes, but.

MR MCEBISI JONAS: One is the issue about meeting Duduzane. The second is an issue about Fana telling us how important the Guptas were.

ADV PIET LOUW SC: Yes. They are two separate issues. I do not dispute that, but you find them here. Let us go on.

"...and I went to see him with another friend."

That is now Mr Hlongwane, Mr Bongani More.

"The discussion ensued I suppose briefly with reasons why it is important to meet with Mr Zuma and the Gupta family."

MR MCEBISI JONAS: No that is incorrect. Again the discussion we had and I state it quite categorically, the discussion we had was a discussion about the meeting with Duduzane which turned out to be a meeting about arranging an invitation to go to the awards. The second discussion that happened was a general discussion where Fana was talking about general politics and the importance of the Guptas, generally.

ADV PIET LOUW SC: Yes, I do not dispute that. One reads that there were two separate discussions, but what we do not find in any of your other statements are sentences like meeting the Gupta family, why it is important to meet the Gupta family.

MR MCEBISI JONAS: There was.

ADV PIET LOUW SC: It is only in this statement.

MR MCEBISI JONAS: There was no discussion on the importance of meeting the

Gupta family.

ADV PIET LOUW SC: [Intervenes].

MR MCEBISI JONAS: The discussion was about the importance of the Gupta family

and that I capture in the statement that I signed.

ADV PIET LOUW SC: So this is just patently wrong?

MR MCEBISI JONAS: I said so. The compilation was wrong.

ADV PIET LOUW SC: Right, let us go on. Then you go on in that same paragraph.

"We agree to revisit this issue as I was not really convinced I

needed to meet them. Not really convinced that I needed to

meet them."

Is this also wrong?

MR MCEBISI JONAS: That is wrong. I mean the discussion was never.

ADV PIET LOUW SC: Once again is it affection from the attorney and not yourself?

MR MCEBISI JONAS: I still think that it was a confusion about the discussion at the time and this was actually very, kind of, done in a rush and that is precisely why I could

not even sign it.

ADV PIET LOUW SC: Mr Jonas you were a Deputy Minister. This was a serious affair.

20 MR MCEBISI JONAS: It was.

ADV PIET LOUW SC: Investigated at the highest level. Are you seriously telling this

Commission that you were happy to let a statement containing errors, [indistinct] errors

to go out in your name?

MR MCEBISI JONAS: If I had to sign the statement I would have gone through it with

a fine comb and actually found out all the contradictions in the statement.

ADV PIET LOUW SC: So if it goes out under your name, but you do not sign it does

not matter?

MR MCEBISI JONAS: No, no I am not saying that.

ADV PIET LOUW SC: Alright.

MR MCEBISI JONAS: I am saying if I had an opportunity to sign it and peruse it I would have come to a different conclusion, but all those points it was lumping together issues that could have been separated.

ADV PIET LOUW SC: We will see how much it was lumped together. Let us go with this passage.

10 "I further expressed my view that I would never want to be associated with the Gupta family."

Did you express that view?

MR MCEBISI JONAS: I have expressed it quite [indistinct].

ADV PIET LOUW SC: In that meeting with Mr Hlongwane?

MR MCEBISI JONAS: I did.

ADV PIET LOUW SC: Who is Mr More?

MR MCEBISI JONAS: He is a friend of mine.

ADV PIET LOUW SC: Where is he? Who is he?

MR MCEBISI JONAS: He is a friend of mine. He was part of that conversation. In fact

20 he wrote a statement about the same meeting.

ADV PIET LOUW SC: Is it and that was provide to the?

MR MCEBISI JONAS: Not yet.

ADV PIET LOUW SC: Not yet?

MR MCEBISI JONAS: Hm.

ADV PIET LOUW SC: So is it a private statement?

MR MCEBISI JONAS: No, no. He will be providing a statement to the Commission.

ADV PIET LOUW SC: When?

MR MCEBISI JONAS: I do not know.

ADV PIET LOUW SC: I suppose when the Commission decides to investigate this matter further and ask him questions?

MR MCEBISI JONAS: Yes.

ADV PIET LOUW SC: Of course and then you go on to say:

"My impression was that he..."

That is Mr Fana Hlongwane.

"...was working with them..."

Of course now being the Guptas.

"...for financial gain."

Is that correct?

20

MR MCEBISI JONAS: I am saying again, again this paragraph I would have, if I had written it I would have written it differently.

ADV PIET LOUW SC: Hm.

MR MCEBISI JONAS: Because in essence the discussion was about firstly is it, are you going to be able to talk to Duduzane because he wants to talk to you in relation to the ANN7. The second one as we were talking about the politics in the country. He then raised the issue about the importance of the Guptas etcetera and in that context I specifically said I would not have anything to do with the Guptas, but also proceeded to say that and this point about my impression again. I thought I mean there was nothing else that could combine Fana with the Guptas except money anyway, but that is not what was in the statement.

ADV PIET LOUW SC: Hm. When the Public Protector had her interview with yourself

she asked you certain questions about motives, possible motives for this topic of blackmail that you explained this morning to the Commissioner was an issue that was raised at the Saxonwold meeting on 25 October 2015, sorry 23 October 2015. Is that correct?

MR MCEBISI JONAS: Yes, indeed.

ADV PIET LOUW SC: And she asked you about your motives, whether you had any issue with Mr Hlongwane, historical issue.

MR MCEBISI JONAS: Ja.

ADV PIET LOUW SC: Is that correct?

10 MR MCEBISI JONAS: Yes.

ADV PIET LOUW SC: Did you not have any issue with him?

MR MCEBISI JONAS: I do not have any historical issue.

ADV PIET LOUW SC: But you were, were you old friends? Let me ask you in that.

MR MCEBISI JONAS: We are friends.

ADV PIET LOUW SC: Old friends?

MR MCEBISI JONAS: I would not say old. I mean I do not know what is old. Is it two years, five years?

ADV PIET LOUW SC: No, no, no. From the Eastern Cape days.

MR MCEBISI JONAS: Well we know each other from the struggle, but I think as in the

20 transition we interacted more.

ADV PIET LOUW SC: Of course. Did you have; there was an issue that arose in the Eastern Cape to which the Public Protector refers and I do not want to take you there, because it is going to waste time. Do you recall that that she mentioned an issue, an issue that she from her office investigated at the time? The Public Protector investigated concerning the Eastern Cape where you were personally involved in as

well.

MR MCEBISI JONAS: Well the issue that Thuli at the time was investigating was the Mandela Funeral and I did give evidence to her on that issue and it was probably irrelevant to the discussion.

ADV PIET LOUW SC: What was your position at that point in the Eastern Cape?

MR MCEBISI JONAS: I was MEC for Economic Development.

ADV PIET LOUW SC: And then what happened to you after that?

MR MCEBISI JONAS: I moved to National.

ADV PIET LOUW SC: Was there a period in between?

10 MR MCEBISI JONAS: It was almost that period of transition where you did not know, in fact I was moving out of Government at the time.

ADV PIET LOUW SC: You were moving out of Government?

MR MCEBISI JONAS: Ja that was my intention [intervenes].

ADV PIET LOUW SC: And how long were you out of Government or did you now, were not an MEC or a Deputy Minister?

MR MCEBISI JONAS: I was called back in probably a month or two.

ADV PIET LOUW SC: Can, but those dates can be checked in any event?

MR MCEBISI JONAS: You can, ja you can.

ADV PIET LOUW SC: Objectively, yes. Alright, thank you. So if we then can move on. Then in that same document let us just quickly deal with the document not page too much. I am almost halfway through my cross-examination. If you look at page 90, just a little from the bottom. You see the date October, the 23rd 2015?

MR MCEBISI JONAS: Where are you now?

ADV PIET LOUW SC: Page 90 still.

MR MCEBISI JONAS: 90. Ja.

ADV PIET LOUW SC: Alright. There is a sentence there:

"Later on I agreed to meet with Mr Duduzane Zuma and Advocate Fana Hlongwane."

Is that correct?

MR MCEBISI JONAS: Ja.

ADV PIET LOUW SC: So you met, the agreement; can I just get this very clear.

MR MCEBISI JONAS: Can I correct that again? I agreed to Fana that I will meet

Duduzane.

ADV PIET LOUW SC: But it stated [intervenes].

10 MR MCEBISI JONAS: And following that we heard I took the number for Duduzane.

ADV PIET LOUW SC: Yes.

MR MCEBISI JONAS: From that point on the conversation was between myself and

Duduzane.

ADV PIET LOUW SC: Yes. The point simply is this that the meeting at the Hyatt that commenced at the Hyatt on 23 October you knew you were going to meet both Mr Hlongwane and Mr Zuma. Is that correct?

MR MCEBISI JONAS: No.

400.00

ADV PIET LOUW SC: You did not?

MR MCEBISI JONAS: No. The meeting in the Hyatt as arranged between myself and

20 Duduzane. It was.

ADV PIET LOUW SC: Did you not?

MR MCEBISI JONAS: It was only when I was sitting at Hyatt that I Fana called and in his call his said I understand that you are meeting with Duduzane and I said yes. He is here already anyway.

ADV PIET LOUW SC: Alright. Look at least from that point onwards the call that was

made by Mr Hlongwane was you and Mr Zuma were together in the Hyatt already at about 1 o' clock. Is that correct?

MR MCEBISI JONAS: Ja.

ADV PIET LOUW SC: On the 23rd?

MR MCEBISI JONAS: Ja.

ADV PIET LOUW SC: It is about 1 o' clock.

MR MCEBISI JONAS: Hm.

ADV PIET LOUW SC: Right. So you get a phone call from Mr Hlongwane and from that moment onwards you know that he is going to meet with you?

10 MR MCEBISI JONAS: No, I did not.

ADV PIET LOUW SC: You did not?

MR MCEBISI JONAS: I did not. By the time we drove from there I did not even know what his conversation with Duduzane was. The conversation with me I can verify. He said I understand that you found each other. I said yes and then he spoke to Duduzane and later he called Duduzane, later or before that. I do not know, but when we left I was unaware that Fana was part of the meeting.

ADV PIET LOUW SC: You see it is at that point where the versions differ and commence to differ. What happened before the phone calls, the texts and afterwards no dispute that there was communication, but it is at this point where the evidence before the Commission will in due course be that you knew precisely that you were going to meet Mr Hlongwane.

MR MCEBISI JONAS: No.

20

ADV PIET LOUW SC: That was what the purpose of the whole meeting was.

MR MCEBISI JONAS: No. Mr Hlongwane was not part of the meeting in my understanding. He had arranged a meeting for Duduzane and myself to meet.

ADV PIET LOUW SC: And that is precisely in line with what you yourself say in your timeline that was drafted by your attorney and sent to the Public Protector.

"Later on I agreed to meet with Mr Duduzane Zuma and Mr Fana Hlongwane."

Your own statement, but you say that is wrong?

MR MCEBISI JONAS: I said it is wrong and I [intervenes].

ADV PIET LOUW SC: And you did not check. You did not check the statement?

MR MCEBISI JONAS: I did not check the statement.

ADV PIET LOUW SC: You did not check the statement at all?

MR MCEBISI JONAS: I did look at the statement and I looked at it broadly because I was not meant to sign the statement in any case.

ADV PIET LOUW SC: Whose statement was it?

MR MCEBISI JONAS: The statement I made was with Thuli and it is in the Public Protector interaction.

ADV PIET LOUW SC: Yes of course. We have that record, but this document that was prepared in your name that you saw and you must have seen that there are these glaring errors.

MR MCEBISI JONAS: But I still maintain it is incorrect.

ADV PIET LOUW SC: Oh.

20 MR MCEBISI JONAS: That I and that I maintain by the way that it is incorrect that I went there knowing that Fana was there.

ADV PIET LOUW SC: Yes.

MR MCEBISI JONAS: Actually I was very surprised when I walked into the gate Fana I think we coincided.

ADV PIET LOUW SC: Yes.

MR MCEBISI JONAS: In our arrival.

ADV PIET LOUW SC: Alright. Let us just look then at, on your version, you see there are now two versions and it is very complicated, because there is no dispute that you went with Mr Zuma in his vehicle to the Saxonwold premises of the Gupta family and that there was a discussion. There is no dispute about it. It is only the contents of the discussion and your motives, because what this Commission must investigate is the veracity of your version insofar as how it got that you came to that residence in the first place. Now let us, let me ask you this and I am not asking you [indistinct] of any document, but we can have a look at the statements, but it will take time. Let me ask you this, you sat there at the Hyatt after having left a NEDLAC Meeting in Rosebank. Is that correct?

MR MCEBISI JONAS: Yes.

ADV PIET LOUW SC: Was the Minister at that NEDLAC Meeting as well? That was

Mr Nene at that time. Yes.

MR MCEBISI JONAS: Yes.

ADV PIET LOUW SC: Did he stay on after you had left?

MR MCEBISI JONAS: No we almost; I do not have any recollection, but my suspicion is that we left almost the same time, because later when I called him he was on his way to the airport.

20 ADV PIET LOUW SC: But that was not much later in the afternoon.

MR MCEBISI JONAS: No, it was not too much later.

ADV PIET LOUW SC: Not too much later.

MR MCEBISI JONAS: Ja.

ADV PIET LOUW SC: How long was this meeting with, at the Gupta residence

according to your memory?

MR MCEBISI JONAS: It was between 20 and 30 minutes.

ADV PIET LOUW SC: How many?

MR MCEBISI JONAS: Which meeting?

ADV PIET LOUW SC: The meeting at the Gupta residence.

MR MCEBISI JONAS: It was between 20 and 30 minutes.

ADV PIET LOUW SC: 20 and 30 minutes, alright. Let us accept that for the moment.

You met at 1 o' clock, roughly 1 o' clock. I know that we are talking about

approximations. [Intervenes].

MR MCEBISI JONAS: [Intervenes] meeting by.

ADV PIET LOUW SC: Yes, of course. No, no, no. We are not going to make any argument based on exact times Mr Jonas, but you sit at the Hyatt having left the NEDLAC Meeting and you meet Mr Zuma there?

MR MCEBISI JONAS: Hm.

ADV PIET LOUW SC: You then have and I will take you to it. Let me not say that there are discrepancies, but you explain the circumstances differently in different words in the various statements that you have made. Leave that aside. For the moment what I am interested in to ask you is, whilst you sit there you get the call from Mr Jonas, not Mr Jonas I apologise, Mr Hlongwane and then something happens and this meeting moves to other premises. That is what I want to ask you about. Alright, now just on that point, did you ask Mr Zuma what is the meeting about?

MR MCEBISI JONAS: We started a conversation. I did not by the way. I did not.

ADV PIET LOUW SC: You did not?

MR MCEBISI JONAS: I did not.

20

ADV PIET LOUW SC: Why not?

MR MCEBISI JONAS: Look I mean I knew he was going to explain to me what the

meeting was about.

ADV PIET LOUW SC: So.

MR MCEBISI JONAS: I just waited for him to articulate what the meeting was about and by the way at the time I did not have any mistrust about what his intentions were.

ADV PIET LOUW SC: No, no, no. We will get to trust, mistrust and motives in a moment or two. Just stop there. You are a Deputy Minister and you have personal protectors with you, body guards. Is that correct?

MR MCEBISI JONAS: Yes.

ADV PIET LOUW SC: How many?

10 MR MCEBISI JONAS: Two.

ADV PIET LOUW SC: You have an official vehicle. Is that correct?

MR MCEBISI JONAS: Yes.

ADV PIET LOUW SC: Where is that, where was that vehicle parked?

MR MCEBISI JONAS: It was parked upstairs, outside.

ADV PIET LOUW SC: Upstairs?

MR MCEBISI JONAS: Outside the Hyatt.

ADV PIET LOUW SC: Just outside?

MR MCEBISI JONAS: Hm.

ADV PIET LOUW SC: If you wanted to leave they would bring the vehicle for you to

20 the front door.

MR MCEBISI JONAS: Hm.

ADV PIET LOUW SC: Absolutely, otherwise you would be a target if you had to walk up and down the streets. Not so? That is the purpose of having personal protectors. Is that right?

MR MCEBISI JONAS: Yes.

ADV PIET LOUW SC: You then decide Mr Jonas to leave with Mr Zuma to a place you did not know for a purpose you did not know. Is that correct?

MR MCEBISI JONAS: Yes indeed.

ADV PIET LOUW SC: And you left your protectors behind.

MR MCEBISI JONAS: Ja, I did.

ADV PIET LOUW SC: And your vehicle?

MR MCEBISI JONAS: I did. Again, I mean, when he said to me, we had a preliminary discussion and I mean that conversation it was about his father and what his father thinks about me and I outlined that and after that discussion he then says listen we cannot meet here and we have to meet elsewhere. In any case I would want other people to join us.

ADV PIET LOUW SC: You.

MR MCEBISI JONAS: So I said of course let us do that.

ADV PIET LOUW SC: Thank you.

MR MCEBISI JONAS: I asked him how far, because I am rushing to the airport that was the time and he said no, it is not far. It is just around the corner. I said okay.

ADV PIET LOUW SC: So who, did you ask who are the other people we going to meet?

MR MCEBISI JONAS: No, I did not. I did not ask. I mean I really did not have any reason to assume that there was something funny or bad that was about to happen.

ADV PIET LOUW SC: But Mr Zuma's name and the Guptas name had been linked if we look at the statement and all the other statements it's always the two of them together when Mr Hlongwane talks to you about these matters.

MR MCEBISI JONAS: I can put it differently, a President's son says he wants to talk to

me I will go and listen to him, whether I will do what he says I must do is another story.

I will go and listen to him, I will not even interrogate him about what the meeting is about.

ADV PIET LOUW SC: Mr Jonas you're a Deputy Minister, you leave your protectors behind, your vehicle behind, you get into a car with a man you had just met a few minutes ago to go to a meeting where you don't know where the location is, to talk about things you have no idea what it's going to be and to meet unknown people, is that your evidence?

MR MCEBISI JONAS: That's what I'm saying, I do travel alone most of the time by the

10 way?

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ADV PIET LOUW SC: Yes, alright.

MR MCEBISI JONAS: And I did.

ADV PIET LOUW SC: Good, ...(intervention)

CHAIRPERSON: I'm sorry, did you finish answering that question?

MR MCEBISI JONAS: Yes I did Chair thank you

CHAIRPERSON: Okay alright...

ADV PIET LOUW SC: Alright, we then know that there was a meeting that was held and I want to march on very quickly, to one or two other points that occurred afterwards, just to get some clarification, at the foot of page 91 of that bundle, if you look at the very last paragraph there, that's now after you explained all of these various things that was said and during the disputed conversation, as you know it's disputed, the last line there is if I may just pick up the sentence after the word "and":

"I asked both Duduzane and Fana to take me to the airport as I was running late."

Is that correct?

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MR MCEBISI JONAS: Ja.

ADV PIET LOUW SC: And then on the way to the airport I asked both Duduzane and Fana what was the purpose of the meeting?

MR MCEBISI JONAS: That is an incorrect interpretation again.

ADV PIET LOUW SC: Interpretation? That's a statement of fact.

MR MCEBISI JONAS: No I am saying that it is written badly again because I asked, as I was leaving the Gupta house I asked them to take me to the airport and they said there's a vehicle that is taking me to the airport, and on the way to the airport I made a couple of calls to people and one of them I think was to Fana and when I landed in PE again I made a call to Fana.

ADV PIET LOUW SC: No, no I am not asking about those calls, that's not what my question is about. It's about this patently wrong statement because once again it is interesting Mr Zuma agrees that you were taken by one of the Gupta vehicles to the airport.

MR MCEBISI JONAS: I also said so in my statement.

<u>ADV PIET LOUW SC</u>: No of course you did but here it's different and the question is why is it different here?

MR MCEBISI JONAS: I don't know, I mean this is again some of the inconsistencies that arose out of the statement. The first time I had an opportunity by the way to write a comprehensive statement was for the Commission.

ADV PIET LOUW SC: No, no this is a comprehensive statement, it goes single spacing over some five full pages, it's comprehensive.

MR MCEBISI JONAS: And that was certainly not written by me.

ADV PIET LOUW SC: But you read it and it was issued under your name to the Public Protector and aspects of her report that's the genesis of this Commission are based on

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what's contained in this statement, like for instance Mr Zuma and Mr Hlongwane driving

you to the airport.

MR MCEBISI JONAS: I then again I confirm that I was not driven by Fana and

Duduzane, I was driven by somebody else to the airport.

ADV PIET LOUW SC: The question Mr Jonas you would of course know that I ask you

which sits at the bottom of all of these questions is how is it possible for a Deputy

Minister to have a statement issued about something so sensitive and so important

containing such gross factual errors?

MR MCEBISI JONAS: Again I mean the fact that I didn't sign this statement, quite

frankly the statement was read to me and I never signed the statement and if there was

my signature attached I'm sure you will have something different.

ADV PIET LOUW SC: Yes.

MR MCEBISI JONAS: In the Public Protector interview I was more detailed to some

extent but in my statement I had an opportunity to the Commission, I had an opportunity

to do a full statement conscious of its consequences.

ADV PIET LOUW SC: One or two quick points after this please. If you just turn a few

pages over, let me just make doubly sure it's in the same bundle, C1 page 87, just have

a quickly look there.

CHAIRPERSON: What page is that?

ADV PIET LOUW SC: 87 20

CHAIRPERSON: 87?

ADV PIET LOUW SC: Ja 87.

CHAIRPERSON: Thank you.

ADV PIET LOUW SC: Do you have it?

MR MCEBISI JONAS: Ja.

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ADV PIET LOUW SC: Good, there you will see this is now part of the interview that

you had with the Public Protector and you give an answer that commences on page 86,

I just want to double check, are you talking about the khoki pen numbers, not the

printed numbers.

MR MCEBISI JONAS: I'm there.

ADV PIET LOUW SC: You've got it?

MR MCEBISI JONAS: Ja.

ADV PIET LOUW SC: So the previous page you start with giving an answer and you

deal with all sorts of general aspects but what I'm really interested in is at page 87 just

at the end of that first paragraph you say it actually convinced me very strongly that

actually if we think we are far from the Mafia still, we are kind of fooling ourselves that

is what we have, so that is why I mean for me the thing about going public - and this is

the important bit I'm asking about:

"...so that is why I mean for me the thing about going to the public or going to

public and saying this thing out there and so on to be honest I mean were it

not for the leakages I would not even have bothered, I would have found

some other means of excluding myself from the whole thing."

Could I ask you why do we find such a long period of time after the October event and

the first time you mention this other than to the two Ministers of Finance, Nene and

Gordhan, as you've explained and in the manner that you have explained. Why such a

long time, why don't you make any mention of it to the police, why don't you lay a

charge, nothing?

MR MCEBISI JONAS: Look I had ...(intervention)

CHAIRPERSON: I'm sorry Mr Louw, I just want to make sure I follow the question.

ADV PIET LOUW SC: The question is why ...(intervention)

CHAIRPERSON: Is the question about why he didn't tell anybody about the incident?

ADV PIET LOUW SC: Other than the two Ministers.

CHAIRPERSON: Other than the two Ministers, okay, alright, thank you.

ADV PIET LOUW SC: Yes, and specifically just to cut things to the chase, why did you not lay a charge?

MR MCEBISI JONAS: Again I mean I explained this in my affidavit quite extensively, I mean ...(intervention)

ADV PIET LOUW SC: No we've read it but then we would like to hear now what you say.

MR MCEBISI JONAS: And I think my argument is that the situation at the time was very hostile, it was so hostile that you hardly trusted the police, I never trusted the police, I didn't trust the Hawks, I didn't even trust the Intelligence and in fact I mean themselves I mean in the meaning they made it very clear they are in control of all those structures, and by the way I believed them, and all evidence shows now that that was not far from the truth, and we have now in the latest the report from Intelligence that confirms that. The reason, the only reason why I actually communicated to Nene and Pravin it was because they were the only people I trusted at the time.

ADV PIET LOUW SC: Yes.

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MR MCEBISI JONAS: I wasn't reluctant to talk to Thuli by the way, I thought we will find time when we think that maybe you can stick your head out.

ADV PIET LOUW SC: But I hear that answer but we now know that there was a threat to kill you. Now that is serious.

MR MCEBISI JONAS: That even makes it more serious to talk about it ...(intervention)

ADV PIET LOUW SC: And there – sorry I apologise, I interrupted you, go on.

MR MCEBISI JONAS: I'm saying the fact that there were even threats made it even

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more serious not to talk about it.

ADV PIET LOUW SC: So it's more serious the less you talk out?

MR MCEBISI JONAS: Ja, many people are not Commission by the way, the only reason why they are not coming to the Commission it's better to keep quiet.

<u>ADV PIET LOUW SC</u>: Who are they, do you have names, can you give names, can you provide names?

MR MCEBISI JONAS: There are many people who could have come, I know for instance talking Bbalula I know that his biggest fear was if he comes here he will be ridiculed and many things will happen but the reality of the matter there are lots of people in government and in politics would see things and rather opt to keep quiet.

ADV PIET LOUW SC: Let me, that statement is so vague that I really cannot test it, let us just move to the things that we indeed can test. You stated to the Public Protector that you would have found other means of excluding yourself, in other words not being associated with this whole affair, that's what you wanted to do, is that correct?

MR MCEBISI JONAS: Two things, excluding meant that I even considered resigning at the time and the second one was thinking that I move as far away from these fellows.

ADV PIET LOUW SC: No, no that's not what it means, look I'm not going to, we don't have time for me to do a proper textual analysis and to deal with your answer on that basis, let's just move on. What we do know is that there was a story that was later published and that's March of 2016. Now remember all of this that we discussed now happened in October 2015, you then had the NeneGate debacle in December of that same year and about three months later in March there was first the Financial Times that published the story in London and we know it was then picked up by the South African press and eventually published in the Sunday Times in South Africa in March, is that correct?

MR MCEBISI JONAS: Yes.

ADV PIET LOUW SC: Could I ask you, you had spoken only to the two Ministers about what had happened, where did the leak come from?

MR MCEBISI JONAS: I don't know, you could tell me if you could.

ADV PIET LOUW SC: No, no it's quite important because the Public Protector also asked you, did you not tell anybody else?

MR MCEBISI JONAS: No I didn't tell anybody.

ADV PIET LOUW SC: Not a single person?

MR MCEBISI JONAS: Look I afterwards I did tell Zweli Mkhize ...(intervention)

10 ADV PIET LOUW SC: No, no we know about that, I'm excluding that from my question.

MR MCEBISI JONAS: At the time I hadn't communicated with him.

ADV PIET LOUW SC: Because you spoke to Mr Mkhize after publication in the newspapers to understand how the ANC was going to deal with the matter, is that correct?

MR MCEBISI JONAS: Yes I did.

ADV PIET LOUW SC: I am excluding that because it happened in any event after the newspaper articles had been published.

MR MCEBISI JONAS: Yes.

20 <u>ADV PIET LOUW SC</u>: Yet the question remains where did the leak come from if you told nobody else?

MR MCEBISI JONAS: I do not know, I would not even ...(intervention)

ADV PIET LOUW SC: So it must be one of those two Ministers.

MR MCEBISI JONAS: No I wouldn't say that, I know they wouldn't do it. It could as well be the Guptas.

ADV PIET LOUW SC: It could as well have been the Guptas who said that they offered you a position, committing all sorts of crimes.

MR MCEBISI JONAS: It could have been anyone associated with them anyway.

ADV PIET LOUW SC: Alright now Mr Jonas can we then quickly move on because you then made a statement dealing with this matter and that was made only after publication in the newspapers and then the whole thing got momentum, it led to the public protectors enquiry and the events that happened after that. Alright, I would like to ask you about one aspect that you touched upon this morning in your evidence, your further evidence and that was the police interaction between yourself and those you did not trust in the police. Now let me ask you your mistrust in the police was that for the whole institution, from top to bottom?

MR MCEBISI JONAS: I had a complete mistrust at the time yes.

ADV PIET LOUW SC: From the Minister down to the lowest constable?

MR MCEBISI JONAS: Yes I did.

ADV PIET LOUW SC: Good then if I may ask you just quickly the following, in your statement to the Commission at page 19 could you please look this will be the document styled C1, I think it's in the same bundle if you can just go back, page 19.

MR MCEBISI JONAS: 19?

ADV PIET LOUW SC: Ja, one nine, khoki 19, do you have it?

20 MR MCEBISI JONAS: Ja.

ADV PIET LOUW SC: In paragraph 56 at the end of that paragraph you say on 19 July 2016 I provided the Hawks with a short affidavit confirming the content of the media statement which I had made on 16 March 2016, do you see that?

MR MCEBISI JONAS: Ja.

ADV PIET LOUW SC: Do you have a copy of that statement?

MR MCEBISI JONAS: Yes I do.

ADV PIET LOUW SC: Did you provide that to the Commission?

MR MCEBISI JONAS: It should have been provided, if it was not that will be, I know they should have.

ADV PIET LOUW SC: I'm certain that if you provided that the Commission might require that from you because we have not seen it anywhere in the bundles of documents.

MR MCEBISI JONAS: Okay.

ADV PIET LOUW SC: The second is if you just go down paragraph 57, and then there

you speak about I accordingly provided a supplementary affidavit signed on 2 May

2017, you see that, paragraph 57 on page 19, a supplementary affidavit.

MR MCEBISI JONAS: Ja.

ADV PIET LOUW SC: And then it says it contains a number of statements and so forth, that statement we also do not find in the papers, did you provide that affidavit, and I apologise it's a supplementary affidavit.

MR MCEBISI JONAS: It should be with the ...(intervention)

ADV PIET LOUW SC: It should be with the Commission, alright.

MR MCEBISI JONAS: Ja.

ADV PIET LOUW SC: And if it isn't then you will be prepared to give a copy of it to the

20 Commission.

MR MCEBISI JONAS: Yes we will.

<u>ADV PIET LOUW SC</u>: Of course. Right now the point here is that you found yourself apart from my client, Mr Zuma, and the Guptas, for whom I do not appear, in a further bit of a dispute insofar as the events that led up to the questions concerned and that was with the police itself, do you recall that?

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MR MCEBISI JONAS: Ja, I recall.

ADV PIET LOUW SC: I am going to ask you some questions about your interaction with three generals, Mnonopi, Matakata and Themeza, do you recall that, these three people are mentioned in ...(intervention)

MR MCEBISI JONAS: I know the names, I don't know what was the interaction.

ADV PIET LOUW SC: You know the names, yes, let us just quickly see what they say because you have not been asked to provide comments on what these three generals say in their affidavits. Now this time I am going to ask you to turn please to the bundle that's marked Exhibit D, D3. Right the first affidavit is the one of General Mnonopi, you see that at page 75. Did you see it?

MR MCEBISI JONAS: 75?

ADV PIET LOUW SC: Once again the one that's written in manuscript, the khoki pen

number. Do you have it?

CHAIRPERSON: Yes, on page 75.

ADV PIET LOUW SC: Page 75.

CHAIRPERSON: Okay thank you.

ADV PIET LOUW SC: Sorry, do you have it Mr Jonas?

MR MCEBISI JONAS: Ja.

ADV PIET LOUW SC: Okay, just very quickly the statement it's an affidavit telling us that the person is a major general in the police, Director of Priority Crime Investigation, and then attached to the component CS Corruption Investigation and then the – what I want to ask you about really just to save time if I may take you paragraph 3 just explains what the issue is about, and I think really I must march on, and ask you to turn to page 76. This, the issue here concerns that these very senior police officials, this one, the first one we're looking at, complained that they had to go through a process of

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extraction to try and get anything from you, any response from you about the allegations.

MR MCEBISI JONAS: I probably could respond to it in better details, but I will just summarise what happened, firstly mostly of the numbers that are said to have been my numbers where they were contacting me are incorrect, they are not my numbers to start with. I will ...(intervention)

ADV PIET LOUW SC: Sorry did you say that anywhere else in any affidavit?

MR MCEBISI JONAS: We only saw this affidavit, we never got a signed - my understanding is that Mnonopi retracted the affidavit, that's my understanding, that she retracted the affidavit, so I don't even understand why we should make it subject of the cross-examination but let me explain what happened to – in this instance. I had a call from General Ntlemeza to say that they would want to finalise the case on the Guptas and we must meet, arrange a meeting with me. A couple of weeks passed and then I got a call from him again to say the matter has been handed over to I don't remember the role of Ms Mnonopi, to handle the matter. A few days after that Ms Mnonopi did call and arranged a meeting, and that meeting did take place, and by the way when she said she called for the meeting she said listen I just want to close the matter and I've prepared the statement for you to that effect, and I contacted my lawyer to say listen I've just had a conversation with this General Mnonopi, can we quickly, can you come to the office because she is on her way, and on her arrival in the office indeed she had a statement, but there was no docket and we requested, we sat and looked at the statement but we said but you cannot give us a statement without a docket, she said give me a few minutes I am going to go and fetch the docket.

She left the office for if I remember right an hour or so, I'm not sure, and I was thinking that maybe it's like she won't come back. She came back with a file and

my lawyer went through the file and then said to her okay you can give me the statement so that we peruse it and we will give you a signed one if we agree with the contents. And that's what exactly happened.

ADV PIET LOUW SC: Alright, let us just look at what I wanted to show you at page 76 just a few statements over here, this is an affidavit and paragraph 53.2 at the foot of that page, 76, it says the following:

"I deny ..."

That's now in answer to an allegation that you made.

"...that I subsequently and initially approached Mr Jonas on 20 June 2016."

Now that was the date that I think you had the discussion with General Ntlemeza, is that correct, in June?

MR MCEBISI JONAS: I'm not sure, I must say I am not sure.

ADV PIET LOUW SC: Once again, forgive me I am not going to debate dates with you, we've got to move on, but the important thing is that she says I in fact started to call Mr Jonas on the 11th of April 2016 at 15:02 to request him to tender a sworn statement as a consequence of his media statement and pending cases culminating in the complaints made by Mr Bloem and Mr Maynier and then she says I humbly attach my call records. Did you or did you not receive a call from her in April 2016?

MR MCEBISI JONAS: The call I received from Ms Mnonopi the first call was about saying she is leading the investigation, the second call was about let's meet and go through this, so ...(intervention)

ADV PIET LOUW SC: So this is, you say that this is a lie?

MR MCEBISI JONAS: Some of the – I don't know it's a pity that these dates, these numbers are not clear, but I looked at previously at some of the numbers, they were not even my numbers by the way, and by the way most of them if you look at the time it

shows you that it was not necessarily a call, I mean quite frankly when you go through the long list it's not even a call, so most of them has got my number and secondly I don't know if you buzz a person for a second and you say you had a call.

ADV PIET LOUW SC: And once again the itemised billing you see at page 78 showing the numbers that she called, but let's go on, at page 80 there is a print of a ...(intervention)

MR MCEBISI JONAS: Page 80?

ADV PIET LOUW SC: Eight Zero.

MR MCEBISI JONAS: Okay.

10 <u>CHAIRPERSON</u>: Maybe Mr Louw let me just have this clarified. Mr Jonas when Mr Louw began to ask you questions on this affidavit by Major General Mnonopi you said something that I understood to be that she had extracted or withdrawn the affidavit.

MR MCEBISI JONAS: That was my understanding.

CHAIRPERSON: Did I understand correctly?

MR MCEBISI JONAS: That was my understanding Chair, I don't know, that's how I understand it.

<u>CHAIRPERSON</u>: Your understanding was based on what, I just don't have a – I just want to make sure.

MR MCEBISI JONAS: There was a public statement I think I read somewhere where it
was said that she has retracted the statement, she's going a different route, I am not sure, we can ask Mr Louw.

CHAIRPERSON: You are not sure, let me ask Mr Mokoena if he knows anything, just so that we as we proceed we know what the status of the affidavit is?

ADV PHILLIP MOKOENA SC: He withdrew his application before this Commission to cross-examine so he never dealt with it yes.

<u>CHAIRPERSON</u>: Oh okay, no that I do know, that I do know. Okay so if what Mr Mokoena is what may have given you the impression that she had withdrawn the affidavit, I think what the position is, is that she filed an application for leave to cross-examine you, but subsequently withdrew the application which doesn't necessary mean she no longer stands by what she said in the affidavit.

MR MCEBISI JONAS: Okay.

CHAIRPERSON: Okay, alright.

ADV PIET LOUW SC: Mr Chairman I am indebted to you. Mr Jonas let's just tip-toe on, if you can then look at page 80, this is what the witness stated on oath, is what was sent to you:

"Good day Honourable DM [Deputy Minister I take it]

Hope the DM is doing well. My apologies DM I know you've got a very busy schedule. I am Major General Mnonopi, head of Serious Corruption Investigation"

And she goes on to explain who she is.

"I wish to have a word with the DM as I am investigating two cases where the DM is cited as key witness. I tried to call the DM on numerous occasions with no success. I would appreciate a call from the DM so as to take the matter further. Hope to hear from the DM soon.

With regards,

Major General Mnonopi"

Dated 21 April 2016. Did you or did you not receive ...(intervention)

MR MCEBISI JONAS: I don't recall receiving this message. The one message I received again, I mean it would be nice to know the number to which this message was sent, but in any case the only, it could have been a message but the message I

received I responded promptly to it and that's what necessitated a meeting that we had and there was only one meet.

CHAIRPERSON: Do you recall whether you may have received only one sms from her or two or is it a number of them?

MR MCEBISI JONAS: I can't recall Chair, I can't recall.

CHAIRPERSON: You can't recall, but from your side in terms of responding to her by way of sms do you recall that maybe you might have responded?

MR MCEBISI JONAS: No, I never, I called her.

CHAIRPERSON: You called her yes.

MR MCEBISI JONAS: We had a conversation on the phone, following the conversation we had a meeting and that was the meeting where she was trying to basically persuade us to sign a statement that we didn't write.

CHAIRPERSON: Okay, thank you.

ADV PIET LOUW SC: Thank you. Page 83 if you quickly move there, I just want to ask you about the sequence of events very quickly through this, this is now an affidavit from Lt General this time, Matakata, do you see that?

MR MCEBISI JONAS: Ja.

ADV PIET LOUW SC: Have you seen this affidavit before?

MR MCEBISI JONAS: Yes I did.

20 <u>ADV PIET LOUW SC</u>: She says the following in paragraph 3 of that affidavit at page 83:

"I can recall being in a meeting ..."

She is not sure of the exact date and time.

"...with Lt General Ntlemeza and Major General Mnonopi. At the meeting Major General Mnonopi reported to General Ntlemeza that she has been

unsuccessful in obtaining a statement from a former Deputy Minister"

That's yourself. It goes on in 4:

"Lt General Ntlemeza then called the former Deputy twice in my presence. I recall that the former Deputy Minister indicated he could not submit the statement as he was not the complainant in the matter."

And then it goes on:

"Further he did not open any case and was not a witness. Mr Jonas therefore was asking why the DPCI was looking for him, Lt General Ntlemeza explained to him that he is the witness in the matter."

And it goes on like that, and if you cross the page 84 at both instances Lt General Ntlemeza called the Deputy Minister and put him on speaker hence I could hear the utterances.

Now the point that is of some consequence is only this, she records in this affidavit that you said you would not open a case, you did not open a case, I apologise, you did not open a case, you were not a witness and therefore you were – why give a statement, if you're neither a witness and you did not open the case, that is what is recorded over here.

MR MCEBISI JONAS: That is incorrect.

ADV PIET LOUW SC: So that is a lie?

20 MR MCEBISI JONAS: That is incorrect.

ADV PIET LOUW SC: A lie or incorrect?

MR MCEBISI JONAS: It is completely incorrect, I recall the conversation with General

Ntlemeza.

ADV PIET LOUW SC: And what did you say to him?

MR MCEBISI JONAS: The General, the conversation was about he said to me there is

a case and he didn't explain what it is about, I asked what about he said the Guptas, I asked him am I a complaint or am a witness. He said that depends on what you are going to say, and we then said let's arrange a meeting and so that I can actually if I need to make a statement, and later by the way before I think two times after that and

that's when he told me that Lt Mnonopi would be the person that deals with the matter.

ADV PIET LOUW SC: Alright, then if I may ask you if you can go to page 84, paragraph 5, at the last conversation when Lt General Ntlemeza and Mr Jonas and myself, Major General Mnonopi and Lt General Ntlemeza were in a meeting in General Ntlemeza's boardroom – long sentence – Mr Jonas promised to come to the office in order for the affidavit to be obtained. Is that correct?

MR MCEBISI JONAS: It is untrue.

ADV PIET LOUW SC: Once again it is not just a misunderstanding it must be a positive lie, is that so?

MR MCEBISI JONAS: Look I did not – I did not – my issue was about that – I think that the next discussion we had was that the matter has been handed over to General Mnonopi and from now I will be dealing with General Mnonopi. That was my last discussion with General Ntlemeza.

ADV PIET LOUW SC: Alright it goes on if...

MR MCEBISI JONAS: After that...

20 <u>CHAIRPERSON</u>: Mr Louw I just want to mention that I think that we have taken about 50, 50 minutes but I must stop

ADV PIET LOUW SC: It feels like five.

<u>CHAIRPERSON</u>: But I am not stopping you now you have been using the time properly so I will give you a little bit more time to try and wrap up.

ADV PIET LOUW SC: Truly indebted Mr Commissioner.

CHAIRPERSON: Okay.

ADV PIET LOUW SC: Alright it just goes on like that and it ends off with this pithy statement that never mind the arrangements that had been made Mr Jonas never came. And you say that is nonsense you were never asked to come?

MR MCEBISI JONAS: I was never asked to come to the office.

ADV PIET LOUW SC: If you then turn the page to 85 now to see what the date of this document is we have got to turn to 86 where you will see the date as 28 March 2017.

Do you see it?

MR MCEBISI JONAS: Ja.

10 <u>ADV PIET LOUW SC</u>: Right this is now addressed by the – by General Ntlemeza and this alarmingly is addressed to the speaker of the house of assembly, do you see it?

MR MCEBISI JONAS: Yes I do.

ADV PIET LOUW SC: Do you have any memory of this document?

MR MCEBISI JONAS: It was never presented to me.

ADV PIET LOUW SC: Never presented. Well it makes for quite interesting reading and I am just going to read paragraph 3 because it is incredible.

"The identified non-cooperation that is now with yourself is now leading the investigation team to believe that the honourable member of Parliament as a witness to this matter is found to be deliberately distorting and willingly failing himself to withstand his responsibilities of both public and private citizenship in circumstances of these compliances."

You say you never saw this?

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MR MCEBISI JONAS: I never saw this.

ADV PIET LOUW SC: Alright.

MR MCEBISI JONAS: So I cannot hardly respond to it.

ADV PIET LOUW SC: Alright we can – I certainly cannot put it to you that because I am not appearing for those people that it was sent to any specific address but you deny that you even received this document.

MR MCEBISI JONAS: No I did not receive this.

ADV PIET LOUW SC: Alright then just to end off this aspect the version of the police officials if I correctly understand it is that flowing from what you had said to General Ntlemeza on the phone namely that you are not a witness and you are not a complainant a statement was then prepared in precisely those terms. If I may ask you perhaps if I think I might have – yes page 122 in the same bundle, just look at that.

MR MCEBISI JONAS: I am on page 122.

ADV PIET LOUW SC: Page 122 just to double check this is in bundle C1.

MR MCEBISI JONAS: C?

ADV PIET LOUW SC: C1.

CHAIRPERSON: On my bundle page 122 seems to be part of an affidavit or statement by Mr Ajay Gupta.

ADV PIET LOUW SC: C.

CHAIRPERSON: Oh C

ADV PIET LOUW SC: C I apologise.

20 **CHAIRPERSON**: Okay, okay.

ADV PIET LOUW SC: Did I say D? Apologise if I said D.

CHAIRPERSON: Okay. Thank you.

ADV PIET LOUW SC: Page 122. Mr Jonas just to place this in context. Is this the statement that the police prepared on your behalf?

MR MCEBISI JONAS: I assume it is. I will assume it is. It looks like it.

<u>ADV PIET LOUW SC</u>: Please I can tell you that it is an annexure to I think let me double check you statement I have go so many – and really I cannot go into the detail of how this whole thing came about but if I correctly understand the position in the papers this is what the statement was that was prepared by the police for you?

MR MCEBISI JONAS: In general the line seems to be the same I mean the one was ja it looks like the same.

ADV PIET LOUW SC: It looks like the same.

MR MCEBISI JONAS: I can [indistinct].

ADV PIET LOUW SC: It looks like the same. The one that you would not sign?

10 MR MCEBISI JONAS: Yes

<u>ADV PIET LOUW SC</u>: Because all I want to direct your attention to at page 122 it is the second last paragraph is where you said the following – no, no not you said apologise where it was said that you would say

"During our engagement she informed me that I am cited as a witness in both cases and for that reason a detailed statement is required from me."

And here is the bit.

20

"I responded to her that I am not prepared to submit any statement as I never opened any case against anyone and I do not intend opening any further I am not witness to any person."

In other words non-committal you do not want to make a statement?

MR MCEBISI JONAS: This was a statement prepared by General Mnonopi

ADV PIET LOUW SC: Yes.

MR MCEBISI JONAS: And all of this thing that she talks about never happened and so in any case why would I have signed something that is false. I never had a meeting, I

never had this discussion that is captured in this paragraph with her.

ADV PIET LOUW SC: And...

MR MCEBISI JONAS: And by the way it was preceded by a detailed discussion where she was telling us that we cannot assist the DA and the COPE on this matter we have to kind of kick it out.

ADV PIET LOUW SC: Leave that aside. What we do know is that General Matakata at page 83 made an affidavit where precisely the contents that I now read to you she says rightly or wrongly is what you said over the phone and you say that is wrong?

MR MCEBISI JONAS: That is wrong I did not say that.

10 <u>ADV PIET LOUW SC</u>: It is not just the miss remembering or a miss statement it is a positive lie?

MR MCEBISI JONAS: I did not – I did not remembering saying that, I did not say that.

ADV PIET LOUW SC: Mr Chairman my predicament is I could go on for a day or more but if this is my time it is about as good a time to stop.

CHAIRPERSON: Well the idea is to try and strike a balance you know one has got to be fair to your client and all implicated persons and but at the same time look at the fact that we should not take too long.

ADV PIET LOUW SC: Yes.

CHAIRPERSON: So that is part of the reason why I did not stop you at the time that I
had indicated so in terms of important things that you want to cover how much time do you think you still need?

ADV PIET LOUW SC: Chair my difficulty is if I get in – into any of the detailed aspects.

CHAIRPERSON: Ja.

ADV PIET LOUW SC: As it is with any examination like that.

CHAIRPERSON: Ja.

ADV PIET LOUW SC: We have to go to one page keep a finger and go to another page, compare them.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: This is it is fairly lengthy – a fairly lengthy exercise and I think if I may just perhaps confirm with my learned junior.

CHAIRPERSON: Yes. Ja.

ADV PIET LOUW SC: I am just taking a quick instruction to make sure that...

CHAIRPERSON: No that is fine. That is fine.

ADV PIET LOUW SC: Mr Chairman on the understanding that ...

10 CHAIRPERSON: Yes.

ADV PIET LOUW SC: We could perhaps provide you.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: Because you are the Chief Inquisitor in this case.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: With a list of matters that we find to be contradictive

CHAIRPERSON: Yes.

ADV PIET LOUW SC: And indicative of Mr Jonas' version not being correct.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: And in due course asking you when Mr Zuma testifies to look

20 carefully at what he has to say.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: And that is at variance with this witness.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: Mr Chairman that is all I can then do in the allocated time.

CHAIRPERSON: Yes. No certainly I would welcome that but I am just – I am happy

that you check with your team if in terms of what you have covered. I think you had — you were taking instructions or whatever. I am keen to make sure that at least important issues the rest if you the suggestions you make I think it is an important suggestion because again the legal team of the commission they are not pushing for a particular version.

ADV PIET LOUW SC: No.

<u>CHAIRPERSON</u>: They look at all versions and they will put questions so the suggestion you make is most welcome. But I just want to check whether subject to that you are okay or whether you need a little bit more time?

10 <u>ADV PIET LOUW SC</u>: Chair I would like more time but it is going to be exactly the same thing in fifteen, twenty, half an hour.

CHAIRPERSON: Okay, okay.

<u>ADV PIET LOUW SC</u>: So I think on the understanding that perhaps we can finish our learned colleagues...

CHAIRPERSON: Yes.

ADV PIET LOUW SC: With inviting what we believe to be indicative.

CHAIRPERSON: Yes.

ADV PIET LOUW SC: Of Mr Jonas' version being incorrect on the essential points.

CHAIRPERSON: Yes. Yes.

20 ADV PIET LOUW SC: I think if I may then at this point

CHAIRPERSON: Ja.

ADV PIET LOUW SC: End the cross-examination.

<u>CHAIRPERSON</u>: Okay no no that is fine and once again the suggestion you make is most welcome let us do that. Send whatever document you may send that would point to certain issue or contradictions or other material that you think should need to be

looked at and certainly I will look at it.

ADV PIET LOUW SC: Of course.

CHAIRPERSON: Ja.

ADV PIET LOUW SC: Thank you Mr Chair.

CHAIRPERSON: Ja but thank you very much. Mr Mokoene.

ADV PHILLIP MOKOENE SC: Chair Mr Trengrove would wish re-examine.

<u>CHAIRPERSON</u>: Okay that is fine. I did not determine any time before and I think we should determine – I should determine it now.

ADV WIM TRENGROVE: Yes Chair.

10 **CHAIRPERSON**: What – how much do you suggest Mr Trengrove?

ADV WIM TRENGROVE: I will be ten minutes.

CHAIRPERSON: Ten minutes?

ADV WIM TRENGROVE: Ten minutes.

CHAIRPERSON: Ten minutes okay. No thank you. Yes you may proceed.

ADV WIM TRENGROVE: Mr Jonas on the issue before the tribunal the difference between you and Mr Zuma is extremely narrow, you understand that?

MR MCEBISI JONAS: Yes I do.

ADV WIM TRENGROVE: In fact it is common cause that the two of you met at the Hyatt, common cause that you went to the Gupta house.

20 MR MCEBISI JONAS: Yes it is.

ADV WIM TRENGROVE: Common cause that Fana Hlongwane was at the Gupta house?

MR MCEBISI JONAS: It is.

<u>ADV WIM TRENGROVE</u>: Common cause that there was on occasion at least a Gupta brother?

MR MCEBISI JONAS: Yes.

ADV WIM TRENGROVE: The only difference between you is what was – what happened at the Gupta house.

MR MCEBISI JONAS: Yes it is.

<u>ADV WIM TRENGROVE</u>: And you will have noticed that that is the one thing that my learned friend did not canvass in cross-examination.

MR MCEBISI JONAS: Yes it is.

ADV WIM TRENGROVE: Everything except what happened at the Gupta house.

MR MCEBISI JONAS: Yes.

ADV WIM TRENGROVE: So I would like to deal with that issue. The version of Mr Zuma that has put to you. And that version is that the whole purpose of the meeting and the only topic of discussion at the meeting was rumours that Mr Hlongwane had blackmailed you or had tried to blackmail you.

MR MCEBISI JONAS: It is correct.

ADV WIM TRENGROVE: Now...

CHAIRPERSON: Please raise your voice again.

MR MCEBISI JONAS: It is correct.

CHAIRPERSON: Mr Jonas.

ADV WIM TRENGROVE: Now has he ever blackmailed you?

20 MR MCEBISI JONAS: No he has not.

ADV WIM TRENGROVE: Have you ever accused him of blackmail.

MR MCEBISI JONAS: No I did not.

ADV WIM TRENGROVE: Have you ever heard of any rumours to that effect?

MR MCEBISI JONAS: No I did not.

ADV WIM TRENGROVE: So if anybody said to you Mr Jonas we hear rumours that

you complained that Fana Hlonwane had tied to blackmail you what would your response have been?

MR MCEBISI JONAS: That is nonsense.

ADV WIM TRENGROVE: Would it have been – would it have required more than a one minute discussion to resolve the issue?

MR MCEBISI JONAS: Probably even a phone call.

ADV WIM TRENGROVE: Ja. And before this meeting on the 23rd when last had you spoken to Mr Hlongwane?

MR MCEBISI JONAS: In two days or one day before.

10 ADV WIM TRENGROVE: On the telephone?

MR MCEBISI JONAS: And that morning I think.

ADV WIM TRENGROVE: On the telephone or in person?

MR MCEBISI JONAS: On the telephone, on the telephone and we met a week or two so before.

ADV WIM TRENGROVE: And at that time was the – did he say anything at all about these rumours.

MR MCEBISI JONAS: No there was nothing about rumours.

ADV WIM TRENGROVE: Was there any tension or hostility between the two of you?

MR MCEBISI JONAS: It was the friendly meeting.

20 <u>ADV WIM TRENGROVE</u>: If he was looking for an occasion to discuss that kind of rumours with you was there any reason for him not to do so in that conversation.

MR MCEBISI JONAS: No he would have – he would have directly spoken to me but [indistinct] because I did not even know Duduzane from a bar of soap actually.

<u>ADV WIM TRENGROVE</u>: Now and what is more they = they then tell us that at this meeting at the Gupta house nothing else was discussed except for this alleged

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blackmail rumour. Can I ask you to go to Mr Zuma's statement at page 172 paragraph 6.

MR MCEBISI JONAS: Which is the – which file?

CHAIRPERSON: Which exhibit is it? Is it C1?

ADV WIM TRENGROVE: I think it is. D.

CHAIRPERSON: D3.

ADV WIM TRENGROVE: D3 ja.

CHAIRPERSON: Okay. And what is the page number?

ADV WIM TRENGROVE: 172.

10 **CHAIRPERSON**: Thank you.

ADV WIM TRENGROVE: Are you there? At the foot of the page in paragraph 6 you will see he says in the third line rumours were surfacing in general that Mr Jonas allegedly claimed that Mr Hlongwane blackmailed him, Jonas in some or other manner. These rumours were regarded as very serious. Paragraph 7. When these rumours started to surface Mr Hlongwane in discussion with me decided to set up a meeting with Mr Jonas in an attempt to clear it up. And then the part that I would like to emphasise. As Mr Jonas also in his discussions with Mr Hlongwane wanted to know from me directly where these rumours were spreading or coming from. Do you see that sentence?

20 MR MCEBISI JONAS: Yes I do.

ADV WIM TRENGROVE: So he says that not only did you wanted to know where these rumours were coming from and you had raised that question not only in your discussions with Mr Zuma but also in your discussions with Mr Hlongwane. Did you see

MR MCEBISI JONAS: I see that.

ADV WIM TRENGROVE: Is there any truth to that statement whatsoever?

MR MCEBISI JONAS: It is completely untrue.

ADV WIM TRENGROVE: And if either of them had raised it with you what would your

response have been?

MR MCEBISI JONAS: I would have told them that it is nonsense basically.

ADV WIM TRENGROVE: Then please go his account of what happened at the meeting at page 174 in paragraph 14. He says my observations during the meeting was that both Mr Jonas and Mr Hlongwane ventilated and discussed the rumours of the blackmail allegations. Any truth to that?

10 MR MCEBISI JONAS: Untrue again it is false.

ADV WIM TRENGROVE: Where there anything to discuss.

MR MCEBISI JONAS: There was nothing to discuss it was even mentioned by the...

ADV WIM TRENGROVE: And look it goes further not only was it discussed he says and eventually reached a stage where although it was not fully resolved the dust settled between them so to speak and they agreed that they should – that should any further issues arises that they would arrange further follow-up meetings in that regard. According to my assessment of the meeting the issue between Mr Hlongwane and Mr Jonas was not entirely resolved but hanged in the air for further follow-up meeting. I do not know whether the – whether or not the dispute between them regarding the claims of alleged blackmail was ever resolved. Any truth to that?

MR MCEBISI JONAS: No truth to that.

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ADV WIM TRENGROVE: So not only does he say that the blackmail allegations were resolved but there was still an issue between you and Mr Hlongwane causing hostility and tension and the issue was not fully resolved, any truth to that?

MR MCEBISI JONAS: No truth at all.

ADV WIM TRENGROVE: You will have notice that that was not canvassed with you in cross-examination at all.

MR MCEBISI JONAS: I did notice.

ADV WIM TRENGROVE: As for the Gupta version we have heard the version of two Gupta brothers was put to you as to what happened at the meeting, do you remember that?

MR MCEBISI JONAS: Yes I do.

ADV WIM TRENGROVE: Do you remember that the Gupta family issued a public statement at the time when your accusation became public?

10 MR MCEBISI JONAS: Yes they did.

ADV WIM TRENGROVE: And what did they say at the time about the accusation that they had offered you a bribe at a meeting at their house?

MR MCEBISI JONAS: The statement was that the meeting never happened I was lying.

ADV WIM TRENGROVE: Can I refer you to a copy of the statement please. Can I put this copy of the statement before you? I only have two copies Chair so I am – ja will you hand one to the Chair. You will see that is a public statement issued by Oakbay on behalf of the Gupta family but let us just take it from the top. It is on an Oakbay letterhead it says Mcebisi Jonas...

20 <u>CHAIRPERSON</u>: Mr Trengrove maybe we should mark this document now Yesterday

Mr Pretorius put up a document and we forget what it should be marked.

ADV WIM TRENGROVE: Certainly Chair I will be...

CHAIRPERSON: Mr Mokeone might be helpful.

ADV WIM TRENGROVE: My learned friend suggest C2 Chair.

CHAIRPERSON: C2. Exhibit C2?

ADV WIM TRENGROVE: Ja.

CHAIRPERSON: Okay. This will be marked Exhibit C2 and that is a document marked News and analysis Oakbay Investments PTY Limited it is Jonas there was no meeting Gupta family. Yes thank you.

ADV WIM TRENGROVE: Thank you Chair. So you will see it says Mcebisi Jonas there was no meeting Gupta family. That is the gist of what you say they said at the time.

MR MCEBISI JONAS: Yes.

ADV WIM TRENGROVE: Do not put it aside yet I want to take you through other parts of it. You will see it is dated the 13 March 2016 and then it says it is a statement from Oakbay Investments on behalf of the Gupta family. So that was made on behalf of Mr Ajay Gupta and Mr Rajesh Gupta amongst others.

MR MCEBISI JONAS: Ja.

ADV WIM TRENGROVE: And it recounts the accusation and then in the middle of the page there is a very short paragraph which says: to be absolutely clear there was no meeting at all. Do you see that? Will you answer audibly Mr Jonas?

MR MCEBISI JONAS: Ja.

ADV WIM TRENGROVE: The machine does not pick up your nod.

MR MCEBISI JONAS: Yes I can see that.

20 <u>ADV WIM TRENGROVE</u>: Ja and then my learned friend put to you the account of various members of the Hawks at including that of General Ntlemeza correct?

MR MCEBISI JONAS: Correct.

ADV WIM TRENGROVE: He was the head of the Hawks at the time?

MR MCEBISI JONAS: He was the head of the Hawks.

ADV WIM TRENGROVE: He is also the man whose appointment as head of the

Hawks was set aside by the Supreme Court Of Appeal.

MR MCEBISI JONAS: That is correct.

ADV WIM TRENGROVE: Because he had committed perjury in a high court case.

MR MCEBISI JONAS: That is correct.

ADV WIM TRENGROVE: He was also said to be behind the disastrous prosecution of

Minister Gordhan?

MR MCEBISI JONAS: That is correct.

ADV WIM TRENGROVE: Thank you Chair.

<u>CHAIRPERSON</u>: Thank you very much Mr Trengrove. Mr Jonas prior to the meeting with Mr Dudzane Zuma at the Hyatt Hotel and later at the Gupta residence do you recall about how many conversations on the phone you had had with Mr Duduzane Zuma? There was the one on the day you came back from is it Luanda?

MR MCEBISI JONAS: There were quite a couple I mean not too much but quite a couple.

CHAIRPERSON: Sorry?

MR MCEBISI JONAS: It was not many Chair I mean there were...

CHAIRPERSON: Yes.

MR MCEBISI JONAS: There were quite a couple though.

CHAIRPERSON: Quite a couple of them.

20 MR MCEBISI JONAS: Ja.

CHAIRPERSON: Ja I was trying to have a look earlier on it seemed that in your statement at least those that I could see apart from the one that we dealt with earlier on that there may have been another one on the 19 October of course your meeting was on the 23rd October. You both exchanged sms's and then there were some phone – telephone or cell phone conversations as well. So you say it was a couple but you do

not remember

MR MCEBISI JONAS: A couple and a lot of missed calls [indistinct].

CHAIRPERSON: Yes. Okay alright thank you. Mr Mokoene.

ADV PHILLIP MOKOENE SC: Mr Chair I have no questions for Mr Jonas.

CHAIRPERSON: Yes okay alright thank you. What is the situation with regard to Mr Hlongwane's legal team?

ADV PHILLIP MOKOENE SC: Mr Chair I beg leave to hand correspondence which was handed to me during the tea adjournment. It might at least give us an indication as to what transpired. You would see Chair that the first letter which was written to Mr Fana Hlongwane's attorneys Stockenstroom Fouchee it is dated the 28 January 2019.

CHAIRPERSON: Well it is addressed to Mr Fana Hlongwane but

ADV PHILLIP MOKOENE SC: Co care of.

CHAIRPERSON: But it says Dear Mr Fouchee

ADV PHILLIP MOKOENE SC: Yes.

CHAIRPERSON: So it is addressed to Mr Fana Hlongwane care of Stockenstroom Fouchee Incorporated.

ADV PHILLIP MOKOENE SC: Because they have placed themselves on record as the attorneys for Mr Fana Hlongwane.

CHAIRPERSON: Ja but it is strange to address it to the client.

20 ADV PHILLIP MOKOENE SC: It is very strange but Mr Mabunda did that.

CHAIRPERSON: Anyway ja okay.

ADV PHILLIP MOKOENE SC: And you will see in that in paragraph 2 then there dates which were proposed for Mr Jonas to complete his evidence to be cross-examined and the three dates are furnished in paragraph 2.1, 2,2 and 2,3.

CHAIRPERSON: Yes.

ADV PHILLIP MOKOENE SC: And they were indicated to choose one and to liaise in order to synchronise the diaries with all the respective parties.

CHAIRPERSON: Yes.

ADV PHILLIP MOKOENE SC: The second letter Mr Chair you will see if – immediately after that letter you then find another letter addressed to strangely as it may seem to Mr Fana Hlongwane but care of his legal – his attorneys dated the same day where there was a correction of the date. You will see that on paragraph 3 it says that 'kindly substitute this date for the 15 March 2019 the remainder of the letter remains valid.

CHAIRPERSON: Yes.

10 ADV PHILLIP MOKOENE SC: So this is where they were informed about this date but it does not end there.

CHAIRPERSON: The wrong date was 11 March 2019.03.15

ADV PHILLIP MOKOENE SC: It was 11 March then it was corrected to 15 March.

CHAIRPERSON: Okay.

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ADV PHILLIP MOKOENE SC: So there is no ambiguity about the date as to when the matter will be proceeding to finalise Mr Jonas' testimony. The last letter you will see Mr Chair is the one dated the...

CHAIRPERSON: Dated the 18 January 2019.

ADV PHILLIP MOKOENE SC: Yes. And it says I think it is quite important paragraph 1 we refer to the above matter and in particular what our letter on even date 2. We confirm that the legal representative of Mr Duduzane Zuma Ms Van Der Merwe and Van Der Merwe have confirmed their availability on the 15 March 2019. 3. We further confirm that the date of the conclusion of the evidence and cross-examination of Mr Jonas will be heard on the 15 March 2019. We trust that you will find the above in order.

CHAIRPERSON: Yes.

ADV PHILLIP MOKOENE SC: So there can never be doubt that there was communication that was directed to Mr Fana Hlogwane's attorneys and that the date was confirmed as early as the 30 January 2019. That is how far – as far as I can take the matter Mr Chair as to why they are not here today I do not have first-hand information.

<u>CHAIRPERSON</u>: You – do we have any information – any proof how these letters were sent whether they were sent as emails or they were just posted or faxed we do not have that?

10 ADV PHILLIP MOKOENE SC: I do not have that but one would assume that by seeing the attorneys of Mr Duduzane Zuma here today and having not questioned any dates and this was the last correspondence sent to all the parties.

CHAIRPERSON: Ja.

ADV PHILLIP MOKOENE SC: One would assume that it was also dispersed to the attorneys of Mr Fana Hlongwane. If much more proof is required we might just have to uplift from Mr Mabunda

CHAIRPERSON: Yes.

<u>ADV PHILLIP MOKOENE SC</u>: The – either emails confirming that they were received or he can tell us by which mode.

20 CHAIRPERSON: Ja.

ADV PHILLIP MOKOENE SC: Were the letters directed to Mr Fana Hlongwane's attorneys.

CHAIRPERSON: Okay no that is fine.

ADV PHILLIP MOKOENE SC: Yes.

CHAIRPERSON: I think therefore we will need to release Mr Jonas.

ADV PHILLIP MOKOENE SC: Yes.

CHAIRPERSON: And if and when the – another need arises for him to come back we will take it from there.

ADV PHILLIP MOKOENE SC: Yes Mr Chair.

CHAIRPERSON: Mr Jonas thank you very much for coming to complete your evidence and for making yourself available for cross-examination. Mr Hlongwane's lawyers are not here to cross-examine today. As you have heard apparently correspondence was addressed to his attorneys notifying them about today and if and when a need arises for you to be asked to come back we will deal with it then. But thank you very much and you are excused. Thank you. Yes Mr Mokoene.

ADV PHILLIP MOKOENE SC: Mr Chair that concludes

CHAIRPERSON: For today.

ADV PHILLIP MOKOENE SC: The proceedings for today.

CHAIRPERSON: Yes. Alright we will adjourn the proceedings for today until Monday when we will begin with evidence relating to Denel.

ADV PHILLIP MOKOENE SC: Yes.

<u>CHAIRPERSON</u>: For next week. We will be hearing evidence relating to Denel. We adjourn.

INQUIRY ADJOURNS TO 18 MARCH 2019

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[Opening of Hearing // 4 October 2016]

Adv T Madonsela: On behalf of the Public Protector South Africa welcome, Mister Gupta and Mister Van der Merwe, to this Hearing or partial Hearing. We thank you for taking the time. I understand that you are extremely busy. We had hoped that we would have your two brothers as well and the team has advised that they are out of the country, and we had hoped we could interview them via Skype.

> We will have to persuade Mr Van der Merwe that it is in their interest to be interviewed via Skype and that you can still provide the support to them via Skype. I honestly think it would be ideal. I do know that you probably would be able to answer for everyone Sir, but the right to speak in your own voice and in your own defence is ideally a right that belongs to you and somebody else should not exercise it for you. I'm not saying we are going to make any adverse findings against them at this stage, but it is just ideal that each one of them should have been able to speak for themselves, if they could.

> We have requested here as part of an investigation conducted in terms of Section 182 of the Constitution, which gives the Public Protector the power to investigate any alleged or suspected improper conduct in State affairs, to report on that conduct and to take appropriate remedial action. I thought before we introduce ourselves, I can see that Adv Kanyane is looking to me to say the process is a bit flawed and we need to introduce ourselves, but I thought let me just explain this, because you are a private citizen. For most people who are private citizens it is difficult to understand

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why do we call you to an event like this when we investigate conduct in State affairs. Firstly it is because State affairs is not investigating the acts of public officials, as it was incorrectly understood previously. It is investigate conduct in State affairs, whoever was involved in a State affairs matter. It could be private persons, it could be people in the public sector and if ever there was lack of clarity, we found out the hard way in the *Mail & Guardian* case, where Adv Mushwana, conceding that investigating State affairs means once a matter has gone outside the system we couldn't follow it.

In the *Public Protector v Mail & Guardian* the Supreme Court of Appeal reminded us that we have to go everywhere, where pieces of the puzzle around what happened in State affairs may be found and that may involve going to a private company and asking questions to that private company to get that piece of the puzzle. It was found then that with the role in failing to follow the money from ... it had moved from PetroSA and it had gone to Mvuma, Mvuma-something, some private entity, and once it was there we hadn't asked the questions and we *(indistinct)* for that.

Since then we have made sure that we follow it. So that is part of it, but the second part of it is, if your name is mentioned in a report, even if we don't make findings against you, it is implicating you. You don't want to find out when there is a media briefing or find out ... as in some of our early days people found out that their names rocked up in some report. Even if it is mentioned just as a small piece, you want to have been asked questions and you wanted

1			to have clarified what you know about what happened. It is in that
2			regard Sir, that we have asked you to come. For the record we are
3			going to state our names. We record these proceedings and we will
4			provide a copy to yourself today, even if you want it today, the audio
5			is available instantly. The transcripts take a little while, because we
6			do not have in-house transcription and we have to outsource it. For
7			that reason then it takes a bit of a while. My name is Thuli
8			Madonsela, the Public Protector.
9	Adv N Kanyane		Thank you. PP, I just want also for the record to put that today is the
10			4th of October 2016, the date. My name is Nkebe Kanyane. I'm the
11			Acting Executive Manager in the Good Governance & Integrity
12			Branch.
13	Mr B Dhlamini	:	I'm Bonginkosi Dhlamini, the Chief of Staff, Public Protector South
14			Africa.
15	Mr I Naidoo	:	I'm Inben Naidoo, Investigator.
16	Mr F Lekubo	:	Frans Lekubo, Investigator.
17	Mr S Delaney	:	Simon Delaney, I'm an Investigator too.
18	Mr G vd Merwe	ì	Good morning, I'm Gert van der Merwe, Attorney for Mr Ajay Gupta,
19			who is present this morning.
20	Mr A Gupta	:	Ajay Gupta.
21	Adv T Madonsela	:	Thank you, Sir. The first role I would like to just explain is your role,
22			Sir, Mister Van der Merwe. In law generally you have a right to legal
23			representation and the right to legal assistance. In these proceedings
24			we try as much as possible to talk to the person, but under your
25			guidance and your watchful eye. Should we ask you a question that

you think is inappropriate or you think your client should not be asked or answer, you can then request that we don't ask that question. Should there be a technical issue that you think needs your input, you can request an opportunity to make that input. Should you want to stop the proceedings, so that you can have a discussion with your client or to prepare him for the next phase, that can be done. The only think I just request is that we don't talk over each other when one person is speaking.

You indicate if you would like to stop me, so that we can proceed, but you don't just interrupt. That is my only request Sir, if that is okay. That applies to you, Sir, that we don't interrupt each other. We will also try not to interrupt you when you are speaking. The team is supposed to just flag questions as you speak. Only when you are finished are we allowed to then ask questions. You are here in connection with an investigation lodged by three Complainants, between March 2016 and April 2016.

The first complaint was Father S Maibe on behalf of the Dominican Order, who requested us to investigate the veracity of media reports, alleging that the Deputy Minister of Finance, the Honourable Mr Mcebisi Jonas, was offered the post of Minister of Finance long before his then colleague, Mr Nhlanhla Nene was removed by the President on December 9, 2015. He alleges Sir, that the post was offered by a member of your family, the Gupta Family and specifically he says you, Mister Ajay Gupta, offered him that post. He said the offer was made at the residence in Saxonwold in

Johannesburg. You will just have to forgive us, because we have put there "Atul". It was a mistake, that it was supposed to be ...

Mr A Gupta : No, it is fine.

Adv T Madonsela: That will be corrected. We realised yesterday when these documents were gone that there is a mistake and even with the Presidency we would do that. So it is not Atul that is said to have made the offer. It is yourself, so we apologise for that. It is also alleged that you must have influenced ... or that conversation, or

whatever it came from, must have influenced the removal of Minister

Nene, because he was subsequently removed in December 2015.

Okay, we now know that four days later he was shifted to the post of Traditional Affairs. It is also alleged that Ms Vytjie Mentor was offered the post of Minister of Public Enterprises and it is said that this was done in exchange for cancelling the South African Airways. I would just want for your purposes to be aware that Mr Jonas alleges that it was said to him that "The old man wants to appoint you as the Minister of Finance, provided you work for us ... provided you work with us".

That is the media report that they were relying on. That then brings a *quid pro quo* arrangement, which potentially violates the provision of the Prevention and Combating of Corrupt Activities Act, because it is offering gratification, elevation to Minister of Finance, subject to him agreeing to make certain decisions that would not necessarily ... he would not ordinarily make them the way he would make them if he is not beholden to anyone. Ms Mentor says she was

offered the post of Minister for Public Enterprises in China, August 1 2 2010. She said that was in exchange for cancelling the SAA route to India. That is why then we have called you here. There is also a 3 certain Mr Sipho Maseko who has made allegations, but they don't 4 involve you, although they are about helping you. We are not going 5 to ... I think in all fairness we will probably have to ask you about that 6 one, about Mr Maseko, because he alleges that the President asked 7 him to help you. We would then have to ask if you ever asked the 8 9 President to ask Mr Maseko to help you, just for completion, but he 10 hasn't said that you asked him. That is basically the essence of the 11 allegations here. 12 Adv N Kanyane No, there is just a correction PP, but I will do it when we come to that, with Maseko. I think there are specific questions that we would 13 want Mr Gupta to answer to. 14 Adv T Madonsela: Okay, that is what I'm saying, that we will have to ask you questions, 15 even though he hasn't ... okay, we will leave it be, okay. Those are 16 three people making allegations. That is really the main reason you 17 are here, Sir. Everything else then is evidence that we have collected 18 based on these people who made media allegations and then these 19 three Complainants took the newspaper clippings, and lodged a 20 complaint on the basis of those. The third Complainant, I must 21 22 indicate, it has implications for you, even though he is not making allegations against you. He is a private citizen whose name I have 23 chosen to withhold. He alleges or he asked us to investigate ... he 24 25 didn't make really direct allegations. It is more the suspected part,

because it says we investigate "alleged" or "suspected". He made allegations that suggested that he suspected that there was wrongdoing regarding Cabinet's involvement in the banking issue. He asked us to investigate why did Cabinet get involved in a conflict between a private company and the banks, when there is the Banking Ombudsman and the National Consumer Commission? He then asked if there may be corruption involved in this matter, but he didn't say there was corruption. That is why I'm saying "suspected" and asked us to look into it, about whether Cabinet has ever done something like this before and whether this is the way to do it?

So it is really three things then, it is these two that they said they were offered. They then ... I think Mentor then alleged that Ministers ... there are several other Ministers who were ... whose appointments was influenced by your family, Sir. We have a series of questions, but maybe to make things fast, I just want to ask you firstly to respond to the allegations. Then we are going to go into these specific questions. The first allegation is Minister Jonas, do you know him?

Mr G vd Merwe

I'm sorry, I know I'm not supposed to interrupt, but can I as the Legal Representative just quickly respond to what you have said so far in a form of an introductory – I don't want to say – "argument", since it is not a court. I thought it wise to do it before we commence with the proceedings, so that it is recorded and so that you are aware of concerns. Should the report then be produced at some point in time at least it is on record.

Adv T Madonsela: Thank you, Sir.

Mr G vd Merwe : May I first ask how do I address you in this Forum?

Adv T Madonsela: As Public Protector.

Mr G vd Merwe : Public Protector?

Adv T Madonsela: Yes, Sir.

Mr G vd Merwe : "Madam Public Protector", I suppose, yes.

Adv T Madonsela: That is an interesting ring to it. We just normally say "Public

Protector", but I will live with "Madam Public Protector", Sir.

Mr G vd Merwe: May I just, as far as the process for this morning is concerned,

whether you are aware of it or not ... our understanding of the

meeting is that we were invited to meet with you. We have not

received a subpoena. There might be various reasons for that. The

one is, we assumed it might be out of courtesy that we did not

receive a subpoena. The benefit however of a subpoena is that in

terms of the Act you get background, you get certain facts to which

you can prepare when you give evidence.

So we are at a bit of a disadvantage, since the three issues or actually four issues that you have raised with us now are news to both myself and Mr Gupta. We didn't consult on that *per se*, but you can tell me if I'm wrong, if there is a document that prepares us for these issues? I just want to tell you, I'm not going to ask for a break. I want to show the Forum that Mr Gupta does not have to rely on his Attorney to guide him when it comes to issues to be giving evidence on. So that is something I just want to place on record. We sit with an agenda in front of us and that is the document we had for

purposes of preparation of this morning, but it seems as if you have questions or the draft report. We haven't seen that I don't say that I'm entitled to see that, but we have not seen any document (indistinct). The concern I also need to raise is that – and he will address you in his own words as far as that is concerned – is the predetermined views on what the family is.

I don't say this Forum has predetermined views on it, but the Press has certainly made a good fight on how corrupt and inappropriate the family has been. On any version the first possible opportunity we got to address you, we came here. I also need to record that I felt uncomfortable coming to this meeting without consulting with any of the two brothers. Since they are abroad, we don't have the facility necessarily to fly there quickly and come back and consult on issues.

I thought it to be possibly prejudicial towards them in putting them on a TV screen and giving evidence as and when required. I do need to report that they are willing and able to assist in whatever information you require, on the same basis as Mr Ajay. We came with invitation, no subpoena. I want to make sure that you understand that we are here to give you the information we have.

Adv T Madonsela: Thank you, Sir.

Mr G vd Merwe : That being said, I also want to raise – but that is for your panel to decide of course – that two of the three matters that you have raised I think fall outside the two-year bar in terms of the Public Protector Act. So if there are specific circumstances, according to you, to

address them, then so be it. I suppose there might be, but I just need 1 2 to raise that there is a reason why that particular portion is included in the Act, but even that being said. Mr Gupta is willing to assist and 3 give a version you require from him on those issues, although they 4 5 are in my book barred by time. Adv T Madonsela: Thank you, Mister Van der Merwe. I would like to find out from the 6 team if you were not favoured with the kind of document that 7 everyone else has been favoured with, prior to coming to this 8 9 meeting? I had assumed that you were favoured with the same 10 documents that I was signing, inviting people either by subpoena, 11 because the document explains to everyone what the charges are, who are the Complainants, with all of the others. So it is the first 12 time I'm confronted with this situation where the person we are 13 talking to has not been given the documents in advance. 14 Mr G vd Merwe I don't want to interrupt you, but I want to say that we wrote a letter 15 to say that I act for the brothers, "Don't you ever think it is necessary 16 to call us for something" and then you accepted the invitation. That 17 is how we got to you. 18 19 **Adv N Kanyane** Yeah. 20 Adv T Madonsela: Okay. No, I wasn't aware. I think I still would have said you would be sent the information that would have been in the subpoena, 21 22 because everyone else that we have spoken to you - you are right they were sent a subpoena and it was standard, the information was 23 the same for everyone, "We are investigating this complaint, who is 24 the Complainant, what did they allege, what are they relying on?" and 25

I think this one I take responsibility, as somebody who is overseeing this, that I didn't ask the team, because even if you come by invitation it is not fair that you come having no clue what are you going to answer for. But that having been said, we accept what you are saying and if at any stage you want to amend your answers, we are not going to hold anything against you.

If you want us to have another engagement in the next couple of days to get more information, we would be happy to do that and I sincerely apologise on the record that that information was not provided to you, and I had absolutely no idea that it wasn't provided. What I did withhold from you was a possible Section 79 Notice, indicating what kind of evidence we already have, because I felt that given the fact that we ... this is our first interview with you and we have never written to you asking you to give us just answers to all of these things that are being said against you, to jump to a point where you are then saying this is our *prima facie* case or anything, would have been more offensive than the situation we find.

So as we sit, I don't know, you say that we have draft reports. I can assure you that any conclusions regarding what really was your role in this whole thing will only come after this meeting and I'm hundred percent sure about that, that if you were to ask me to take a lie detector test about that, I'm on the record, I would take it, because these four people know exactly where ... our situation at this stage regarding your exact role. Of course ...

Mr G vd Merwe

: I'm on record not asking you to take that. I do believe you. I'm just

1 saying what (indistinct). 2 **Adv T Madonsela**: Yes, but I would be happy to do that, that we don't have a document that says you are already guilty of this or we suspect you are guilty of 3 this at this stage, yes. 4 : PP, would you like me to respond to how we got Mr Gupta to be 5 **Adv N Kanyane** here? 6 Adv T Madonsela: No, it doesn't matter, because I think the issue is we are admitting 7 that there isn't a document and I am taking responsibility as 8 9 somebody who is overseeing, but I should have said ... at least there 10 has to be a sense of preparing, because with all of the others – even 11 not just this one – even people who haven't come by subpoena there is normally a letter that says, requesting you to come. We have a ... in 12 terms of Section 7(4) of the Public Protector Act you can come by 13 invitation or by subpoena, but in both cases we still explain what will 14 be the purpose of the meeting, what are the allegations against you. 15 So at this stage there is no blame-shifting. It is my job to make 16 sure that I guide this process and it is my job ... at least by yesterday 17 to have found out where are we standing, what do you have and that 18 didn't happen and I do apologise. We then have to look at how can 19 we sort that out? However, having indicated, it really is what already 20 21 has been in the media since I think about March this year when this 22 matter was reported to us, it is those allegations, Jonas, which have been repeated a lot. 23 Mr G vd Merwe 24 Yes, (indistinct). 25 Adv T Madonsela: Excuse me, Mentor. There is nothing new and then there is the

allegation that is ... I said it is not an allegation against you, it is a 1 2 question raised by the third Complainant regarding why is the family being helped by a whole Cabinet of the Republic of South Africa, is 3 that no one but the Cabinet steps in to help an individual company 4 (indistinct). That having been said, perhaps instead of zooming into 5 that Mister Gupta, let's ask simpler questions then, just to ... for 6 example tell us a bit about your business in South Africa and the role 7 that is played by the various family members? 8 Thank you, Madam Public Protector, thank you very much. There is 9 Mr A Gupta 10 nothing wrong for an invitation also, you know I'm very happy. I'm 11 glad in fact that you called me and to be here, first time ever we are able to say our side of the story to anyone, and this is very good for 12 us. I want to say a few things before I start on that. My English is not 13 that good. 14 Adv T Madonsela: Right, Sir. 15 Mr A Gupta Yeah, so if anything, anywhere you feel that is not making good 16 sense, I will try to communicate properly to you that. So please ask 17 me and I will clarify those things. The second thing is, regarding the 18 business you ask me, as personally as Ajay Gupta I don't have any 19 business, any shares, any Board Member in any part of the world as 20 Ajay Gupta. I work for a family and I advise on the financial matter to 21 22 the family. Most of the financial deals they ask me and I handle everything, most of the things, so this is my role in this thing. The 23 whole family do the business. In 1994 or 1993 my younger brother, 24 middle one, whom you have met (indistinct), that he come in this. He 25

is a very young boy, a 23-year-old, on that time a 24-year-old and 1 2 from that onwards he started. He loved this country and he started the business here, and I don't go into too much of a detail. I will go 3 and take a whole evening to ... 4 If you say your younger brother Sir, which one? 5 **Adv N Kanyane** Mr A Gupta 6 Atul Gupta. 7 **Adv N Kanyane** Okay. Yes, Sir. 8 Mr A Gupta : I'm the eldest, my name is Ajay Gupta. My middle brother is Atul Gupta, who is the Chairman of the group and ... was. I mean now he 9 resigned, and the youngest is Rajesh Gupta, whose nickname is Tony. 10 11 So he is known ... the people call him Tony, but his nickname is Tony, so his is name is Rajesh Gupta. So these are the three brothers, we all 12 three (indistinct) there. 13 So not to go in too much detail, that he started the computer 14 business and this computer business ... and he carry on that and 15 further he diversified, and in fact he bought a few company in that 16 time, all that time also, before 2000 I think, so Altech, from this one 17 company they bought it. It is called from Altech Group and then we 18 diversify in mining business also, the mining services business. 19 That they bought it in 2006 mainly from Tokyo Sexwale, I think 20 21 so. He was the major shareholder in that company, that company 22 called JIC today. Then they went to the ... 2010 or 2009 they went to the media business and then they started first ... on that time I was 23 some small shareholder in Sahara Systems also, very small, but I sold 24

on that time 2005/2006. It has been given to me as a management

on that time and on that time I had taken a position in when we start one small magazine called Thinker, and on that time also I had been a part of that Board Member or something for a small period, and that also been resigned the same time and this magazine is being later on ... because it has been started with some other person and it has been taken by him. Then we started this newspaper in 2010 and TV channel in 2013, if I believe.

I mean rectify the dates, it is not hundred percent right, because I'm not so much of a ... it is all I'm talking about my memory in this thing and the same time then we will enter in ... in 2010 we enter in when we buy the ... 2006 we buy that mining services company. In 2010 we buy the one company called ... from Canadian company, called Uranium One, we bought the company from Uranium One, which is called today the Shiva Uranium, which has been listed in their capital (indistinct) of their resources or something. On the same time we bought a company in 2013, I think, VR Laser, which is in manufacturing sector of steel cutting and bending business.

Now in 2016 we bought the Optimum Coal and somewhere in 2010/2011 we also bought a company called Tegeta, Tegeta Resources, which is they have a production in 2010 and 2012 or something, by 2012 most probably. Then it being ... because it was in a partnership of 50/50, the foreign investors and then they say that the water licence is the issue. Then I read in the newspapers, so we stopped mining at this thing and 2014 we got a first water licence in

2014, so then this company started production in ... first production 1 2 in April 2015. That is the first production we have had from this coal mining of this thing. That is sort of business I think so we have. A 3 very small as a company ... our family have a business like that, they 4 have one property company, but there only my two brothers and 5 their wives are the shareholder, the younger brothers and their both 6 wives and that property would nominally buy the assets and do 7 rental to their own companies, not outside, most of them, maybe one 8 9 or two on the outside, very small housing assets there. That is all the 10 business we have then. Adv T Madonsela: 11 Thank you, that is very helpful. 12 Mr A Gupta You can ask if anybody ... me you can forget, anybody can ask. Sorry, forgive me then. I'm a first time ever ... I think so. In last ten years I 13 don't remember that I ever been in here with Lawyers or any 14 meeting, or this kind of a conversation. So if I do something, I mean if 15 I interrupt, then please forgive me, because it is not used to me to sit 16 in this kind of (indistinct). 17 Adv T Madonsela: Don't worry, Sir, it is inquisitorial. I think that is another thing we 18 19 should have explained to Adv Van der Merwe, is that it really is inquisitorial proceedings and at this stage we are just trying to get as 20 much information as possible ... 21 22 Mr A Gupta : I will give everything what I have. 23 **Adv T Madonsela**: ... and we will then sift through that information. It is different from the courts, because they take a particular view, it is called 24 25 adversarial. You say your two younger brothers came to the country

1		before you. Do you know when exactly did they come to South Africa
2		for the first time?
3	Mr A Gupta :	I think in 1993.
4	Adv T Madonsela :	1993?
5	Mr A Gupta :	Yes.
6	Adv T Madonsela :	Okay. Did they immediately set up the business in 1993?
7	Mr A Gupta :	No. What I remember at this moment you know it is a very long
8		time and he was very young on that time, understand on that time. I
9		think so he came for the one exhibition, shoe exhibition, with his
10		friend.
11	Adv T Madonsela :	That is Atul, Sir, Mr Atul Gupta?
12	Mr A Gupta :	Atul, yes.
13	Adv T Madonsela:	Yes, okay.
14	Mr A Gupta :	And he loved this place and he fought with the family to establish a
15		business here. (Emotional), sorry.
16	Adv T Madonsela :	Sorry, Sir. No, just
17	Mr A Gupta :	No, it is fine.
18	Adv T Madonsela :	Do you want a moment, Sir, to take some water?
19	Mr A Gupta :	No, please ask the question. It is fine, a hundred percent fine.
20	Adv T Madonsela :	Thank you, Sir. That was Mr Atul Gupta. You said he came at an age
21		of about 23 years old or thereabout?
22	Mr A Gupta :	Or 24 or maybe, something.
23	Adv T Madonsela :	24, around 24. Right, so he brought some money from India?
24	Mr A Gupta :	Yes. When he started the business he brought some money.
25	Adv T Madonsela :	Okay, would you recall what was the capital when he had started the

1			business?
2	Mr A Gupta	:	I don't remember hundred percent this moment.
3	Adv T Madonsela	:	Because you were not here?
4	Mr A Gupta	:	But I remember that on that time the rate was R3.00 or something,
5			exchange rate, between R3.00 about dollar or something and
6			Nedbank converted this money when he brings that money to rand, if
7			I remember that much.
8	Adv T Madonsela :	1	Thank you, Sir. That was only him. When did the youngest join him,
9			Rajesh?
10	Mr A Gupta :	:	Yeah, I think so in 1997 1996 or 1997. In 2000 I come, roundabout
11			2000. We used to come, me, yeah, for a day or two, my mother also,
12			just to see that or how is he and that, but not as permanently.
13			Permanently I come in 2000.
14	Adv T Madonsela	:	Okay. Alright, are you now as a family South African citizens?
15	Mr A Gupta	:	All, except me.
16	Adv T Madonsela	:	Okay.
17	Mr A Gupta :		Except me and all of them, even kids and my wife also, all are South
18			African and very interesting because you ask this question, many
19			times has been told maybe they have another. They have only one
20			citizenship, only one, it is called South Africa.
21	Adv T Madonsela	:	Did they denounce their Indian citizenship?
22	Mr A Gupta	:	Yes, they had to, that is a legal requirement.
23	Adv T Madonsela	:	Oh, India doesn't allow dual citizenship?
24	Mr A Gupta	:	It doesn't allow them. It is a legal requirement, the moment
25			otherwise you cannot enter in India.

Hearing held between the Public Protector South Africa & Mr Ajay Gupta 4 October 2016

1	Adv T Madonsela:	Oh.
2	Mr A Gupta :	You need a visa from India now to enter there in India.
3	Adv T Madonsela :	Oh, I see.
4	Mr A Gupta :	So even now they started a one another, India started to give
5		another kind of a card, that they call it PIU or something, which allow
6		to them to no need to take a visa.
7	Adv T Madonsela :	Okay.
8	Mr A Gupta :	Yeah, so the old citizens of Indian origin or something, I mean the
9	40	three (indistinct) nation, they are giving them.
10	Adv T Madonsela:	Right. Has your mom also now become a South Africa citizen?
11	Mr A Gupta :	Yes, yes, yes.
12	Adv T Madonsela:	Okay. You are the only one who remains a no, but that is fine.
13	B-4	Okay, and the businesses owned by the two younger ones and you
14	KEA.	are an employee?
15	Mr A Gupta :	Yes, I'm an employee or advisor, you can say that. I draw the salary.
16	Adv T Madonsela :	You draw a salary for advising, right. You said it is owned by them
17	1/3	and their wives, the ones with shares?
18	Mr G vd Merwe :	May I interject, Madam Public Protector?
19	Adv T Madonsela :	Yes, Sir.
20	Mr G vd Merwe :	It is convenient maybe for you if I supply you with a schedule of how
21		it is made up.
22	Adv T Madonsela :	That would be great, Sir.
23	Mr G vd Merwe :	Factually I can tell you that in all likelihood you will find a
24		shareholder system that is a bit more complicated than what Mr Ajay
25		is explaining at the moment, because it will take very long to explain

1			that detail.
2	Adv T Madonsela	:	Okay.
3	Mr G vd Merwe	:	So would that be of assistance to you?
4	Adv T Madonsela	:	That would be of great assistance. Thank you, Sir.
5	Mr A Gupta	:	Yeah, we will give the my mother and my wife have a very small
6			share, which is my mother and my wife have a very small share in
7			Sahara, which is beginning first in 1994 or 1997, something. In that
8			company maybe a very small, small share of my wife and mother,
9			and father never. It is only my two brothers and their wives.
10	Adv T Madonsela	:	In Sah <mark>ara is Sahara still doing comput</mark> ers?
11	Mr A Gupta	:	They do, but very little business left. The kind of a business they do
12			now is the hardware business, so hardware business is not that
13			much now much left.
14	Adv T Madonsela	:	Okay.
15	Mr A Gupta	:	Yeah, this is we realise this is in 2006 then, the roadmap for the
16			future. We have to divert, otherwise this business is going to die,
17	4		because changing the market concept and the thing from desktop to
18			laptop, to laptop to it was the one time that Sahara was the number
19			one local brand in laptop.
20	Adv T Madonsela	:	I think I remember that.
21	Mr A Gupta	:	Yeah, it is the number one brand on that time, 2006 or 2007.
22	Adv T Madonsela	:	Thank you, Sir. Perhaps you could check what was the net worth of
23			the company when Mr
24	Mr A Gupta	:	I will give it to you. We never calculated the net worth of that,
25			because finals I look. Please understand this, all this three also

1		nothing to do with other brothers. If anybody know, it was me,
2		nobody, if you were talking in this day. They simply do their
3		business. Atul do the administrative and Tony look all details and
4		this and that. So in all network we never feel it to be accounting to
5		the net worth of the company and any businesses, but I get the
6		business report, that what is it from 2000, because you are asking
7	4	to the or media is asking to the old 2010 and 2009, from that.
8		So I bring it, that paper, what is the total group turnover and
9		what we do our business with the Government from 2010 until
10	1637	today, or I mean up to February 2016, I bring. If you want it, I can
11	1	give it to you now. If you want it later on, come, I will come
12		(indistinct).
13	Adv T Madonsela :	Okay, that
14	Mr G vd Merwe :	Mister Ajay, if I may, I think the Public Protector asks about the
15		shareholding at the moment and
16	Adv T Madonsela :	The shareholding.
17	Mr A Gupta :	No, net worth.
18	Adv T Madonsela :	Yes, we want net worth now and net worth in when the company
19		was started. Was it started in 1993?
20	Mr A Gupta :	1994, maybe. 1993/1994, between that period.
21	Adv T Madonsela:	That is Sahara?
22	Mr A Gupta :	Yeah.
23	Adv T Madonsela :	Then it was started in 1994. Thank you, Sir. It is said when the
24		family first arrived it operated in small offices in Port Elizabeth,
25		Eastern Cape and Durban. Is that so?

1	Mr A Gupta :	Sahara had an office in PE, in Durban, in Cape Town, everywhere on
2		that time. I think it when
3	Adv T Madonsela :	Where was the main office?
4	Mr A Gupta :	In Jo'burg itself, in Midrand. All the time is here. I mean in this
5		building they maybe in 2004 or 2002, I think so, which same
6		building. Again the year can be one or two here and there, but the
7		same building there since 2002 or 2000 roundabout 2000.
8	Adv T Madonsela :	Right and your offices are still in Jo'burg?
9	Mr A Gupta :	Yes, yes, yes.
10	Adv T Madonsela :	Do you have any investors, other than the Gupta Family, in your
11		businesses?
12	Mr A Gupta :	You see again it is too many businesses now, so many businesses, the
13		empowerment partners, there are some investors also. Like VR
14		Laser we have different investors. So it is not that particular
15		investors in all the business we are doing together.
16	Adv T Madonsela :	Okay and do you have local and international investors or it is only
17	1/3	(indistinct)?
18	Mr A Gupta :	Most of them is local, most of them is one or two business in Tegeta
19		and this thing, call in this reason this thing, that maybe it is some
20		international investors also.
21	Adv T Madonsela :	Okay. When you started was it only family money?
22	Mr A Gupta :	When, in 1994?
23	Adv T Madonsela :	Yes.
24	Mr A Gupta :	Yes, only family money. It is a small he started as a small business
25		here, alone he was there and he want to be here, do his IT Diploma

1		holder, both my younger brothers. So they were doing an IT
2		business only.
3	Adv T Madonsela:	That would be Atul?
4	Mr A Gupta :	Atul and beginning in fact he start a shoe business. Wen he come
5		he open a shoe because his friend works when they come in
6		there, so they opened two or three stores also on that time. I can't
7		speak on behalf of hundred percent, but what I remember all these
8		things, so I'm speaking on basis of that, that it is in Killarney Mall also
9		there and Cresta Mall also there was a showroom on that time, in
10		1994/1995.
11	Adv T Madonsela:	Okay, do you know what it was called, Sir?
12	Mr A Gupta :	The
13	Adv T Madonsela:	The shoe shop?
14	Mr A Gupta :	Liberty Retail.
15	Adv T Madonsela:	Liberty?
16	Mr A Gupta :	Liberty Retail.
17	Adv T Madonsela :	Okay.
18	Mr A Gupta :	It is a very big company in India, it is called Liberty. It is Liberty shoe
19		manufacturer in India. That is their shoes they are bringing here and
20		doing a distribution.
21	Adv T Madonsela:	That makes sense. Right, you have already given us a sense of your
22		footprint. You said you still have a bit of IT in terms of Sahara?
23	Mr A Gupta :	Yes.
24	Adv T Madonsela:	And then you have
25	Mr A Gupta :	We have a mining services company.

1	Adv T Madonsela :	Mining?
2	Mr A Gupta :	Mining services company and then is the mining also, which is
3		uranium and gold. Then we have a coal company called Tegeta or
4		Oakbay, whatever you want Tegeta and then we have VR Laser,
5		which is in the manufacturing sector.
6	Adv T Madonsela :	VR?
7	Mr A Gupta :	Laser.
8	Adv T Madonsela :	Okay.
9		And then we have a media, which is TNA and ANN7, the
10	16-07	Right, do you have any interest in agriculture?
11	Mr A Gupta :	No, not at all.
12	Adv T Madonsela :	
13	Mr A Gupta :	I personally like agriculture, but we don't have any business in that
14		sector.
15	Adv T Madonsela :	
16	Mr A Gupta :	Zamen Landard
17		Okay. No, I'm asking because somebody said you had an interest in
18	- /	the Vrede Dairy Farm in Free State.
19	Mr A Gupta :	We explained many times Madam, many times. Now I can't explain
20	•	You don't have an interest in Vrede Dairy Farm?
21	Mr A Gupta :	No, I don't at all. We say it so many times.
22	Adv T Madonsela :	
23	Mr A Gupta :	No, media ask me a hundred times. That is why I feel very much that
	т л чирка :	
24	Adv. T Mada1-	thing, that
25	Adv T Madonsela :	Sorry, I just because somebody raised it. It is not really an

1		accusation, but it is (indistinct – speaking simultaneously).
2	Mr A Gupta :	No, no, no, I'm very happy. I say at least someone I'm so happy that
3		you are asking. I get asked each and every day. I'm ready to give a
4		reply, because at least somewhere this thing will end. It is not ending
5		anywhere and we are very (indistinct).
6	Adv T Madonsela:	Right, sorry Mister Gupta. So it is manufacturing, it is mining. The
7		other sector is locomotives. Do you have any interest in
8		locomotives?
9	Mr A Gupta :	See, again this is all media. 50 billion they say that the one day I
10		read in the front page that 50 billion contract I got. Forgive me
11		where it is, I wanted to know where it is?
12	Adv T Madonsela :	You don't have any business with PRASA?
13	Mr A Gupta :	Madam, not at all, not at all. Not in a never, never. All my business
14		is there. Madam, please, all our business and we are proud on this
15		thing, (indistinct) proud. We don't deal with these people, we don't
16		deal with Government. I mean up to that 2010 and 2012 I mean
17	1/3	unfortunately we bought this Tegeta and we are unnecessarily in a
18		bigger or the Optimum, unnecessarily so much of (indistinct).
19	Adv T Madonsela :	So you only started dealing with Government in 2010?
20	Mr A Gupta :	No, 2010 is only ever problem comes, that we start the newspaper.
21		That is the first time ever that we build that, because newspaper
22		every advertisement has to come from its major spender is the
23		Government. So it is nothing wrong in that, that some advertisement
24		comes from the Government, because they are the major spender for
25		the advertisement in the world. So this I think so this is our biggest

mistake I feel like today, because the family is being punished for this 1 2 and because of my relations. I have relations with anybody and the family is being punished unnecessarily for this reason, where I don't 3 have interest in a business at all. 4 **Adv T Madonsela**: Right. Okay, you said you expanded to these other sectors starting in 5 2010, 2010 you went into the media, in 2006 you went in mining? 6 Yes. 2006. 7 Mr A Gupta 8 Adv T Madonsela: Okay. No, that is fine. You just said you have relations and explain to us your relationship with the Zuma family, how did that relationship 9 10 start? When and how did this relationship start? 11 Mr A Gupta You see Madam, that they started the whole ... Adv T Madonsela: They started? 12 The media, they started the whole family, you know Zuma family or Mr A Gupta 13 Gupta family. I want to also say this thing, it is two different things. 14 You know I don't have an interest any part of the world. So I had ... I 15 love relations with the people. In India also I have so many 16 Government Ministers and this from my local province, from my 17 national ... even in India, I love to have a relation. So it is nothing 18 wrong in having a relation with anyone. 19 In Jumar also in maybe 2002 or 2003 I own four maybe. I don't 20 21 remember now the exact ... the 2000 and ... I used to be invited by ... 22 in previous regime or before the President like ... any ... as a normal businessman to the ... what do you call it, Presidential dinner and 23 then engagements, and this and that, I used to invite that there and 24 25 on that time I met with so many people, so many Ministers, because

Adv T Madonsela:

this is not a big gathering of these people. It is maybe a 100 or a 150 1 2 people and in the time that you got the networking to each other and that. I used to have that. Even on that time I was in a Presidential 3 Consultative Forum. It is called PCF or something, which has been 4 chaired by Mr Essop Pahad and Seth Phalatse, who chaired this 5 forum, which has been 30 ... 20/30 people in this forum and we used 6 to meet every first Sunday of the month at Presidential Guest House 7 on that time. 8 I mean every Sunday of the ... first Sunday of the month in 10 Presidential Guest House. On that time I meet with everybody. So it is very difficult now me to say how and when it started. It is a 11 natural relation and natural friendship that we started with many 12 people from that time and which I carry until today, because I don't 13 have any interest ... business interest with anybody, anybody, in this 14 political or official (indistinct). 15 Adv T Madonsela: Right, so what is the nature of your relationship with the President 16 (indistinct – speaking simultaneously)? 17 Mr A Gupta It is friends. It is a normal ... friends. It is a normal friendship 18 relation, it is a normal natural friend relation. I mean if you are 19 having a relation ... like Essop Pahad, until today he (indistinct) 20 21 Minister on that time, until today I have a relation, on many of the 22 people. It is not because he is a known figure, that is why I'm taking a name, but otherwise there is many people. It doesn't make a 23 difference to us at all, Madam. 24

Right, and President Zuma's son then started working for Sahara?

1	Mr A Gupta :	Yes, Madam.
2	Adv T Madonsela:	In the media it has been said that you invited him to work for the
3		company, because the father was a friend. Is that true?
4	Mr A Gupta :	You see it is not a hundred percent. I'm not hundred percent sure
5		about this thing, but how he has been invited to work, but he is
6		invited to work in Sahara as a trainee.
7	Adv T Madonsela :	Who invited him to come and work at Sahara as a trainee?
8	Mr A Gupta :	Maybe see I don't hundred percent remember at this moment, but
9		it is maybe my youngest brother, because he maybe meet with him
10		somewhere or somehow, and the youngest brother maybe, he may
11		be invited him for the to be in, because he is looking for something
12		and he say no. So it is nothing to do with his father and I don't have
13		any that ever he ask me, and he was as a trainee in Sahara to learn
14		the computer and yeah.
15	Adv T Madonsela :	Yes, did he have an IT training background before then or he started
16		being introduced to IT at your company, Sir?
17	Mr A Gupta :	I don't know that much of his education on this thing. He can tell you
18		that, but one thing I tell you, this is the problem of us, IT industry it is
19		a screwdriver industry, what we were doing. So even I also learn.
20		I'm illiterate, I cannot do SMS, I cannot do any email or anything, but
21		I also can (indistinct) the computer.
22	Adv T Madonsela:	You can?
23	Mr A Gupta :	Yes. It is a desktop, it is a screwdriver industry. I mean you have to
24		be added six components. We train maybe not on that time, maybe
25		hundreds of young people that we in our assembly, because we did

1			the assembly plant on that time for computers. So we appointed
2			we engaged like hundreds of young guys who were not having much
3			of IT knowledge and what, but it is there because we believe that it is
4			a screwdriver industry. That is why we are able to bring the price so
5			much slashed in the on that time.
6	Adv T Madonsela	:	That is interesting. Right, he then became a Director at Sahara.
7			When did he become a Director?
8	Mr A Gupta	:	No, no, I maybe have to check whether I doubt that he become a
9			Director in Sahara, I doubt that, but because you are asking, so I will
10			have recheck this, whether he become a Director there. You see
11			when his father is out of everything and have an allegation now of
12			rape, that time he was very sad. Actually a matter of fact, I only
13			known him first time on that time.
14	Adv T Madonsela	:	You only met the President Zuma when, after the rape accusation?
15	Mr A Gupta	:	The rape accusation. He was in fact he was so sad and he come to
16			me that time. I mean if I recall him, if I clearly recall him when I meet
17	11		first time, I will recall that day. Although I met we meet before
18			also, but if I recall my memory, because I recall on that day, he comes
19			to me and he want some leave for a few months and this and that.
20	Adv T Madonsela	:	He wanted what, Sir?
21	Mr A Gupta	:	Some leave. I mean he want to go off.
22	Adv N Kanyane	:	Leave?
23	Mr A Gupta	:	Yeah.
24	Adv N Kanyane	:	Madam, I just want to get clarity
25	Adv T Madonsela	:	Who wanted to go off, was it President Zuma who wanted to go off?

1	Adv N Kanyane :	No, the young one.
2	Mr A Gupta :	Duduzane, yes, the young one.
3	Adv N Kanyane :	I think you are thinking
4	Adv T Madonsela:	Oh, okay, no. Okay, no, I understand what you are saying is, you are
5		not the one who brought him to the company. That the first time you
6		met him was (indistinct - speaking simultaneously)?
7	Mr A Gupta :	Remember when I met him that I say that maybe I met before, but
8		if I recall today, to remember him, I remember only on that day when
9	(A)	he come to me and he say that, "No, I want to be leave for one month
10	163	or two months, because I'm feeling stress or I'm feeling I want to be
11	AS	(indistinct) this, to feeling the stress on this thing". So I say, fine.
12		After that when he come back maybe long because he is a friend of
13	Design 1	my youngest brother and so when he come back, on that time he
14	K-A	want to start his own business and then in that matter that we never,
15		never I remember that, that he become a Director on Sahara, but I
16	10	don't remember, but I will check and I will come back to you then.
17	Mr G vd Merwe :	Can I give that undertaking to give you (indistinct) of shareholding
18	1	and directorships?
19	Adv T Madonsela :	Yes, that would be great, Sir. You are saying he came, he wanted to
20		start his own business?
21	Mr A Gupta :	Yeah. Well, later when he come back, that he want to be that I have
22		been informed by my younger brother of.
23	Adv T Madonsela :	Yes, but did he still come back and still resume his job as an IT
24		trainee?
25	Mr A Gupta :	No. Training at that time he had already had enough time on this

1		thing, but when he come back maybe he want again I have to
2		recheck that, whether he rejoined on this day or not, but I will
3		recheck also on this thing.
4	Adv T Madonsela :	And by that time he was friends of young Rajesh?
5	Mr A Gupta :	Yes, young Rajesh. They still is a good friend.
6	Adv T Madonsela :	Okay. You don't remember then what was the capacity when he
7		came back again?
8	Mr A Gupta :	No. If you want to ask me that, it is further history of this thing, I can
9		tell you, Madam.
10	Adv T Madonsela:	Pardon?
11	Mr A Gupta :	If you want to ask me that, his further history of his, that what he did
12		with us and that, I can explain to that.
13	Adv T Madonsela:	Okay.
14	Mr A Gupta :	But you are asking particularly that when he come back and
15	Adv T Madonsela :	And he became a Director?
16	Mr A Gupta :	No, that I say I don't remember that, whether
17	Adv T Madonsela :	Yeah, you don't.
18	Mr A Gupta :	I believe so it is known, but because you ask that let me have to
19		recheck this thing.
20	Adv T Madonsela:	I think yes, that would be great, because again I will just indicate that
21		the media version is that he became a Director six months after his
22		father became President of the ANC.
23	Mr A Gupta :	So that is in this period, you are talking when he the allegation of
24		his father rape charge and between his becoming President and six
25		months?

1	Adv T Madonsela :	Yes.
2	Mr A Gupta :	It is two/three years' time you are talking, Madam.
3	Adv T Madonsela :	So that would be you don't know how long did he go away for after
4		the rape?
5	Mr A Gupta :	I will check it. Again I say I don't remember the exact timing on this
6		thing.
7	Adv T Madonsela :	So he became a trainee and then there was a gap, then he came back
8		and he wanted to start his own business?
9	Mr A Gupta :	Yeah. I remember that as my brother so he want to start his own
10	PSI	business and this thing, but if you are talking the period of this and
11		that, it is roundabout two/three years. I don't think so it is less than
12		that. 2007, if I remember, that even he become President of the ANC
13	1	and 2009 he become President of South Africa, (indistinct) six
14	REA.	months after that, means it is too much of a figure.
15	Adv T Madonsela :	Yes, because when did you first employ young Mr Zuma, Sir?
16	Mr A Gupta :	It was roundabout 2004 or 2005.
17	Adv T Madonsela :	2004 or 2005?
18	Mr A Gupta :	Yeah.
19	Adv T Madonsela :	Okay. Just you will get the exact record of when exactly was he
20		employed?
21	Mr A Gupta :	Yeah, I will definitely.
22	Adv T Madonsela :	No, that will be great.
23	Mr A Gupta :	Sorry, can I have another bit of water?
24	Adv T Madonsela :	Yes, Sir.
25		[Discussions amongst each other]

1	Adv T Madonsela:	Right, he was an IT expert, he left, he came back. You don't know
2		what kind of value then did he add when he came back, what
3		position did he take?
4	Mr A Gupta :	No, no, I can say that, but the dates of times are we have to recheck
5		that, but in my memory what I have I can say that.
6	Adv T Madonsela:	What was he doing when he was coming back?
7	Mr A Gupta :	See, on that time I remember that he become our empowerment
8		partner, but not by we make him empowerment partner. He bought
9		the shares from our existing empowerment partners on that time,
10		like he bought Sahara's empowerment partner is two other
11		gentlemen. If you want, I can take the name also, but unnecessary is
12		now he was Lazarus Zim and Tokyo Sexwale. So he bought his
13		shares from them and then even further also in our other mining
14		company also he bought from existing shareholder, the empower
15		shareholder, he bought the share from them. So he become as a
16		partner with us in that time.
17	Adv T Madonsela :	Who, Sir?
18	Mr A Gupta :	Duduzane.
19	Adv T Madonsela :	Duduzane.
20	Mr A Gupta :	So he never become a partner with us that we given a share to him.
21		He bought it from Tokyo and Lazarus Zim. Please understand
22		Madam, this media issue, what you are talking and I want to
23		elaborate on this thing, that make too much of a problem to us, that
24		this unfounded we never been asked, first time ever, ever anybody
25		asking the question from us, the first time, except media, first time.

1		No department, nobody ask any question until today to us and that
2		damaged us so much that this partner don't want to work. They
3		don't want to work, because no businessman want their name
4		unnecessary in media, unnecessary in the media and we are so
5		confident and sure-sure about us, that let anybody to talk. We are
6		not doing wrong, so why you have to be worried? These are the
7		partner who want to run away, whether it is the business or whether
8		it is the media, Dudu bought the shares from them.
9	Adv T Madonsela:	Right. The information we have, I just want to correct it, it says he
10		bought those shares for R25.00.
11	Mr A Gupta :	No, Madam.
12	Adv T Madonsela :	Is that incorrect?
13	Mr A Gupta :	No, no, no.
14	Adv T Madonsela :	How much did he buy them for?
15	Mr A Gupta :	No, that he has he buy from them, not from us.
16	Adv T Madonsela :	But do you know how much he bought them for?
17	Mr A Gupta :	No, I don't have a hundred percent calculation of this thing or
18		remember. What we did Madam, I am not trying to be anything
19		cosmetic that, I tell what we did it. We did it, that whatever we are
20		doing for other empowerment partners, we did it. Like if the loan is
21		with them, the vendor funding to other partners, we extend it to him
22		also, nothing else.
23	Adv T Madonsela:	I was going to ask where did he get the money to buy those shares?
24	Mr A Gupta :	No, that he has to reply, but what I'm saying then, let's say Lazarus
25		and Tokyo is the empowerment partner of Sahara and we extended a

1		100 million or 200 million – I don't have a figure at all, just I'm giving
2		you a ballpark over that R20.00(?) – we have a vendor loan to them.
3		This loan is transferred to him on that time, that is all, or JIC, if we
4		have any issue, then JIC was the empowerment channel, again
5		Lazarus and Lucky Munsamy and Seth Phalatse – and it is a few more
6		- and they sold this to him and we extended what our loan was to
7		them, we extended to them.
8	Adv T Madonsela :	Right, thank you, Sir. Does Mr Zuma, Duduzane, reside at the Gupta
9		complex in Saxonwold?
10	Mr A Gupta :	(Laughing). Sorry I have to laugh, sorry about my because I have to
11		laugh on that kind of allegation. We are so I mean family is so I
12		mean close, that I don't think that ever anybody stay in our house,
13		ever, anybody stay in our house.
14	Adv T Madonsela :	So he doesn't stay there?
15	Mr A Gupta :	No, not at all, no, not at all.
16	Adv T Madonsela :	Does he ever visit there?
17	Mr A Gupta :	Many times, many times.
18	Adv T Madonsela:	Does he sleep over when he visits?
19	Mr A Gupta :	No, not at all, ever. I said nobody, I don't remember ever in my life
20		that anybody sleep over in our house.
21	Adv T Madonsela:	Right. Ms Mentor says you offered her something, but let's start
22		with, do you know have you meet Ms Mentor before?
23	Mr A Gupta :	No, no. I don't remember at all, at all. I mean I try when I read in
24		the newspaper I try to not to really think about it, but I cannot
25		recollect anything that what she is talking.

1	Adv T Madonsela:	So you don't recall having people pick her up from the airport and
2		take her to the Sahara offices?
3	Mr A Gupta :	No, not at all, Madam, believe it. In 2010 she is talking and it is a
4		problem to me that according to her statement and this thing I ever
5		met first time to her, so I don't think so. I remember at 2010 to now
6		once only in my life I meet with some person and is very impossible
7		to me that I say but f you want to hear more of this thing I can say
8		something to you then.
9		I don't want to be go in this matter, but like because you say
10		there is a main three things and she asked that this is the reason that
11		I met with her for the SAA route to be yeah, to be cancelled or this
12		thing. I don't have any interest in sorry, I'm wrong. I will be very
13		wrong, sorry. I have to rectify this thing. The family had shares in
14		Comair. Atul was in a Board of Comair also. So I cannot say I don't
15		understand
16	Adv T Madonsela :	Does Comair use the route to India?
17	Mr A Gupta :	No, no. Comair was only here and London, London, UK. We have a
18		5% or 6% shareholding in Comair, which is we sold long back, maybe
19		two years/three years before or four years before, three years
20		before, I think so. Exactly the dates also, if you want it, we can
21		provide you that, everything.
22	Adv T Madonsela :	And Comair has never been on the route to India?
23	Mr A Gupta :	No, no, never, never. They never even tried it.
24	Adv T Madonsela:	They never tried?
25	Mr A Gupta :	Uhm (positive). So one thing more I want to come to say to that,

when Kurt(?) is talking to me on the Sunday, so I told him, I said, "Kurt, I don't understand that how and where this kind of a wild allegation" ... I can say afterthoughts and why I say this thing is an afterthought, this thing, because when person don't find any reason why he has to be such an allegation and that, but the afterthought is that SAA, which I believe that she told in August 2010 or something and 2010, what you say there, that is now there, 2010. So 2010 ... and in 2010 I don't remember whether the ... in media what I read and what I also re-explore on this thing, that they are not telling about Comair.

They are telling about Jet Airways or something and Jet Airways I don't remember that when they started to operate in Mumbai and South Africa, Delhi and South Africa. What I heard on that time in the media is that because of this IPSA or something, IPSA or something, they started some route, because I was also at part of this IPSA meeting or something, when they all enforces that no, India, Brazil and South Africa must have an air connection to each other, so I think so. I don't remember when Jet Airways started, but Jet Airways withdraw the route in 2013 only, 2013, Jet Airways.

Mr G vd Merwe

I'm sorry, I don't want a repetition. The information that you asked

me to get is a different date.

Mr A Gupta

21

22

25

: Oh, okay, sorry, sorry. I want to give that exact date on a Sunday

there. 23

24

Adv T Madonsela: Okay, it started when, Sir, the (indistinct – speaking simultaneously)

the route?

1	Mr A Gupta	Jet Airways
2	Mr G vd Merwe	That is a fact you can check, that is why I give you the documents.
3	Mr A Gupta	So the Jet Airways started in 2010 and closed the route in 2012, and
4		SAA suspended the Mumbai route in April 2015 only.
5	Adv T Madonsela	Thank you, Sir.
6	Mr A Gupta	So I don't know where is this SAA route is coming. So it is an
7		afterthought, it is 2015 only route is cancelled. It is not 2010 that
8		you are talking. April 2015, 1^{st} April, the date is also now they give it
9		to me, 1st April 2015. So I don't understand that where is Ms Mentor
10		allegations?
11	Adv T Madonsela	What was your interest in Jet Airways?
12	Mr A Gupta	Nothing, never.
13	Adv T Madonsela	There was no interest?
14	Mr A Gupta	Never having any interest or anything. Jet Airways' owner, Mr
15		(indistinct), is a common business friend, like that anybody else that
16		happen. Nothing, never, I never bought a single share of Jet Airways
17	11/	ever in my life. Also I don't have any share in any part of the world,
18		not my brothers also. Yeah, please?
19	Mr I Naidoo	Oh, no, I was just going to ask what about your brothers?
20	Mr A Gupta	No, no, they don't have at all, at all. No family member, nothing, don't
21		have any interest with Jet Airways ever, really. In fact if you go to the
22		media report sorry, I am again one of the times they are claiming
23		that, blaming to us that we are enemy of Jet Airways, the same South
24		African media. If you go maybe one year before or two years before,
25		the media one day claim me as a rich man, the other day they claim

me I'm the most poor man. One day they say our business is billions, 1 2 another day they claim us no, we can sell our business on a song(?) or something. So how can I going to be on a ... you can check it, 3 please. They say that we are ... because there is another airline 4 company called Sahara in India, so that Sahara and Jet Airways 5 fighting here for SAA, and some Lease Agreement of that thing. That 6 time the media is blaming that the Gupta is supporting to Sahara, 7 because our name is "Sahara" here and we have a Sahara, and that Jet 8 9 Airways is our enemy. So I don't have any business or family have 10 any business relation at all with Jet Airways. Adv T Madonsela: 11 Okay, according to Ms Mentor the attempts to meet with her started earlier when she visited China. Do you recall meeting her in China or 12 on a flight to China, or do you recall coming to her hotel room in 13 China and trying to request a meeting with her? 14 Mr A Gupta No, Madam, no, not at all. China ... I went to China maybe in State 15 Visit, that is all. 16 **Adv T Madonsela**: Well, she says it was a State Visit. She says it was a State visit and Mr 17 Zuma, Duduzane, introduced you and Rajesh to her? 18 19 Mr A Gupta No, no, never, never, Madam, never, never. She is ... maybe it is a very 20 bit confusing to her. It never been. We went to China on a ... on that 21 time we want to do a deal with our Shiva Uranium thing that day, and 22 we went there on a request of a ... special on this thing, that we want to do something with Cadiz. Cadiz is a consultant company or 23 something. They arrange some meeting in China for us to, like for 24 25 our ... we want to do ... we want to offload something about the Shiva.

So the Cadiz arranged some meeting and we could not get a success 1 2 on this deal, and then we had to pay some ... in fact I have a big argument with Cadiz. That was some 2 million or something fees 3 and which is ... I was thinking this is on success fee basis and they 4 said no, that it was ... or the CEO has confirmed that it is on payment 5 basis and finally we agree on to pay to them on some basis to them. 6 7 Adv T Madonsela: Were they ... what was their role? What were they supposed to do 8 for you, Sir? : Cadiz was a ... they are I think a financial service provider here. 9 Mr A Gupta 10 Adv T Madonsela: In South Africa? In South Africa and their Chinese office is arranging all meetings for 11 Mr A Gupta us, their Cadiz office. They blame(?) their office, I don't know what 12 exactly is that, but Madam, please I can say categorically I never meet 13 with ... I never meet with any ... you say it was their office or their 14 hotel room, never, never, never to anybody hotel room. 15 Adv T Madonsela: Thank you, Sir. She also alleges that when you wanted to meet with 16 her, you came to her hotel to try and get her to go with you to a 17 meeting with President Zuma? 18 No, again I can't say that. I mean hundred and one percent, this is 19 Mr A Gupta categorically I'm telling, I never ... why should I'm going to be try, I 20 don't understand this thing then, because I mean you are telling that 21 22 I calling her to go and see ... I never in my life to anybody, forget about her, forget about her, Madam. Not one person you can bring to 23 whom I'm telling, "Let's come and meet with the President", not a 24 25 one person. Forget about her really. I say never in my whole life that

1		I take anybody to say, "Oh, no, let's come and meet the President".
2	Adv T Madonsela:	Okay.
3	Mr G vd Merwe :	Madam Public Protector, I'm sorry, can I for purposes of my own
4		notes accept that the version of Vytjie Mentor is that it is Mr Ajay
5		Gupta who met with her? You corrected it initially when we started
6		the meeting.
7	Adv T Madonsela :	Yes, it is Mr Ajay.
8	Mr G vd Merwe :	Is that correct? Because I will tell you why I want to ascertain that? I
9		will either by his passport, either by any other document investigate
10		to confirm what he is saying.
11	Adv T Madonsela:	Yes.
12	Mr G vd Merwe :	Then I have the date as my apologies, as 23 August 2010.
13	Adv T Madonsela:	Yes. We are also just going to I'm going to ask the team for us to
14		where is the statement? Why can't we we didn't send you the
15		statement?
16	Mr A Gupta :	No.
17	Adv T Madonsela :	Can we take that pack that we sent to the President and have
18		somebody print the statement from
19	Adv N Kanyane :	Which statement?
20	Adv T Madonsela:	The things that we sent on Sunday to the President, the statement
21		of
22	Mr F Lekubo :	We didn't send Vytjie's statement.
23	Adv T Madonsela:	You didn't send Ms Vytjie's statement? Why not?
24	Adv N Kanyane :	PP, I think the annexures we sent through.
25	Adv T Madonsela:	Okay, I didn't realise is it not proper that we should? Can we get a

1		copy of that statement?
2	Adv N Kanyane :	When you say "the statement", you mean the transcripts?
3	Adv T Madonsela:	No, the statement she have made to the Police. Can we get a copy of
4		that, because I would like us to give you the exact statement that she
5		made to the Police, which would indicate who, because otherwise it
6		is going to be a little bit speculative, because we are working from
7		memory.
8	Mr A Gupta :	But Madam
9	Mr G vd Merwe :	Sorry, Mister Ajay, if I can just respond. The reason, Madam Public
10		Protector, is I would like to put you in a position to have certainty on
11		the allegations.
12	Adv T Madonsela :	On who exactly?
13	Mr G vd Merwe :	That is why I need
14	Adv T Madonsela :	I agree. I think one member of the team should leave here and
15		collect those documents, and print them so that we can work on
16		something concrete.
17	Mr G vd Merwe :	I might also ask for a two-minute adjournment? I only went halfway
18		through my bottle, but it would help me if I can have a (indistinct).
19	Adv T Madonsela :	Maybe this is the right stage now that we should have that break and
20		collect the documents.
21	Mr A Gupta :	No problem.
22	[Go o	off record // Short adjournment // Back on record]
23	Adv T Madonsela:	Thank you. Does he visit Mr Zuma, the President, does he regularly
24		visit the complex?
25	Mr A Gupta :	Now I have to ask what you mean of "regularly"? Yes, he visit, but I

1		have to be understand what you mean of "regularly"?
2	Adv T Madonsela :	Well, just how often in a year for example how many times would
3		he come to the compound, to the complex?
4	Mr A Gupta :	Maybe he has yeah, in a one year maybe three/four times.
5	Adv T Madonsela:	And Ministers, do you have them come over to your complex?
6	Mr A Gupta :	Yes, is many. It is not as a Minister, but as a friend of mine, that yes,
7		not now much more. Maybe before that many used to come.
8	Adv T Madonsela :	Which Ministers have come, if you remember?
9	Mr A Gupta :	Madam, I will say that many. I can like in 2006 I have a
10	PS3	housewarming of this house, so a lot of the Ministers was there on
11	AS	that time, a lot. I mean if you want few, I can take a name also, but it
12		is very difficult to take many people name in that, and even on that
13	150	time the President was not President, he was also there as the ANC
14	Red.	President, you can say that, on that time. So it was never any issue to
15	7.0	me then.
16	Adv T Madonsela:	He wasn't ANC President in 2006, Sir?
17	Mr A Gupta :	Yes.
18	Adv T Madonsela :	He was Deputy President of the ANC.
19	Mr A Gupta :	No, he was still no, he was not Deputy President, because in this
20		particular housewarming party the issue
21	Adv T Madonsela :	Yes. Was he already President of the ANC?
22	Mr A Gupta :	No. Oh, sorry, Deputy President, Deputy President of the ANC, sorry,
23		sorry, sorry.
24	Adv T Madonsela :	He should have been Deputy President of the ANC, because the
25		elections would have taken place in November 2007?

1	Mr A Gupta :	No, no, no, I will explain to you then. He had been sacked(?) for as a
2		Deputy President, but he still is a Deputy President of the ANC.
3	Adv T Madonsela:	Yes.
4	Mr A Gupta :	Yeah, so he visit on that time and many of the Ministers was there,
5		many. So it is again I say that I don't have any Minister relation as
6		a Minister or anything. I treat to them as my friend and they visit to
7		me, and it is nothing in this thing.
8	Adv T Madonsela :	Yes. Mister Gupta, Sir and Mister Van der Merwe, I made an
9		admission at the start of this procedure and I'm going to beg your
10		indulgence to do that in retrospect about you taking the oath. Do you
11		have any objection to taking the oath?
12	Mr A Gupta :	No, I don't have any objection.
13	Adv T Madonsela:	You don't have?
14	Mr A Gupta :	But to understand that I am talking with what you asking with my
15		memory and my heart, yeah.
16	Adv T Madonsela :	I think you have indicated that when it comes to dates, people's it
17	1/3	might not be neat, because it is a long time ago and Mr Van der
18		Merwe raised the question about the two-year rule, and I never
19		engaged you on that one, Sir. It is not a prescription as in courts. It
20		says that if there are compelling circumstances to do that. The
21		reason we did it was because the investigation was not into 2010.
22		The investigation specifically has asked us to investigate the
23		allegations by Minister Jonas and then the allegations that there are
24		other Ministers that have been appointed with the involvement of
25		the Gupta family. Because of that, then any evidence that is likely to

show a pattern, if that evidence is true, was considered. If the only 1 2 request we have been asked to investigate was Ms Mentor's allegations, it would have been difficult to make a compelling case for 3 it, because there has been that administration and there is new 4 administration. So I just want you to bear with us in that regard, that 5 we wouldn't have gone for Mentor's allegations if they were the only 6 7 ones. We are going because the Jonas allegations are made in terms of the Executive Members' Ethics Act. 8 9 Mr G vd Merwe May I just Madam Public Protector, mention that you have addressed 10 the issue of the two years, I understand that. I might not necessarily 11 agree with it, but I have been addressed on it. Thank you for that. Can I just mention, your previous point was one of putting the 12 witness under oath at this point in time. 13 Adv T Madonsela: Yes, that was the point that ... we were going to that, which he had 14 agreed to. 15 Mr G vd Merwe Yes, indeed. Whilst you say that it was the oral record, I just need to 16 reiterate the point that it might be a change of approach since our 17 discussion thus far was an exploratory discussion. 18 Adv T Madonsela: Okav. 19 20 Mr G vd Merwe I then need to say that if he goes under oath, that he gives evidence, it 21 is under the umbrella of not receiving a subpoena, not receiving the 22 information he is entitled to in terms of the subpoena, but you may proceed under those circumstances. 23 24 **Adv T Madonsela**: No, that is fine. I just want for completeness to put you under oath. 25 Having said so though, we will take into account memory, we will

1		take it into account lack of preparedness, adequate preparedness.
2		Although I have asked the team to exchange the team addressed
3		me or the leader of the team, Adv Kanyane, addressed me about the
4		exchange of correspondence between the office and yours, and why
5		our team thought that you had the information, but I'm just waiting
6		to get the exact correspondence, so that we can read it into the
7		record, but for now I take your point. So we would like you to
8		indicate if you understand the implications of taking the oath?
9	Mr A Gupta :	No, I never been before to the thing. I don't understand anything, but
10		what I'm telling, I'm telling from my true from my heart and
11		memories, and everything. It is nothing that I can yeah.
12	Adv T Madonsela:	Yes. Do you understand that if you take the oath and it turns out that
13		you were lying – and it is not an issue of forgetting time or something
14		– then you can be held accountable for perjury?
15	Mr A Gupta :	No, that I'm hundred percent, I'm not lying at all, so that is why I say I
16		have no problem to taking an oath, yeah.
17	Adv T Madonsela :	Okay and would you consider the oath binding on your conscience?
18	Mr A Gupta :	Yes, of course.
19	Adv T Madonsela :	Then if you do so, then I would like you to repeat after me, "I swear
20		that the contents"
21	Mr A Gupta :	I swear
22	Adv T Madonsela:	"of what I have said and what I'm about to say"
23	Mr A Gupta :	what I say and what I'm about to say
24	Adv T Madonsela:	"are true".
25	Mr A Gupta :	are true.

Hearing held between the Public Protector South Africa & Mr Ajay Gupta 4 October 2016

1	Adv T Madonsela :	"So help me God".
2	Mr A Gupta :	So help me God.
3	Adv T Madonsela :	Thank you. It is an unusual way of taking the oath, but
4	Mr A Gupta :	No, it is fine.
5	Adv T Madonsela :	we thought we should put it in to make sure that for completeness
6		that we do take note of what you have said, Sir. Then we were on the
7		question of the President where I was asking Sir, if the President has
8		never used your house for his private purposes?
9	Mr A Gupta :	Yeah.
10	Adv T Madonsela :	Do you confirm he never did?
11	Mr A Gupta :	Yeah, yeah, never.
12	Adv T Madonsela :	He has never held private meetings using your property?
13	Mr A Gupta :	No, never, never, never.
14	Adv T Madonsela :	Never and then we were talking about the number of times I hear
15		you said maybe about four times a year?
16	Mr A Gupta :	Yeah, roundabout. If you take an average you know in a year, it is
17	1/3	four times.
18	Adv T Madonsela :	Four times a year?
19	Mr A Gupta :	Yeah.
20	Adv T Madonsela :	Okay, why does he come so often there?
21	Mr A Gupta :	Four times is often by a friend to visit.
22	Adv T Madonsela :	Right.
23	Mr A Gupta :	But I tell you that most of time if there is some function, I mean like
24		our Diwali or something, so he has come, or sometime when he
25		comes because he have very near another house, maybe one

1		kilometre or two kilometres, his son or daughter stay there. So when
2		he is there and he is free, then maybe on that time also he visits, but
3		this is I'm thinking. It is not that he thinks like this way, but it is my
4		thoughts are in this way there and before he become a President
5		maybe it was much more often, maybe six or eight times maybe, but
6		because it is the old time now, I don't remember exactly the number,
7		but
8	Adv T Madonsela :	Do you consider him to be your friend, Sir?
9	Mr A Gupta :	Yes, I consider. Whether he considers or not, but I consider.
10	Adv T Madonsela:	You consider him to be your friend?
11	Mr A Gupta :	Yeah.
12	Adv T Madonsela :	Right. Now we want to go to Ms Mentor. You have already denied
13		that you offered her a Cabinet post?
14	Mr A Gupta :	Not at all, not to her, to anybody, anybody.
15	Adv T Madonsela:	Do you also deny that transport was arranged for her to come to
16		Saxonwold, firstly via the Sahara office, that two of your guys fetched
17	1/2	her?
18	Mr A Gupta :	See again Madam, I told you that I never arranged any transport for
19		anybody. That is why I say I don't remember or recall of any meeting
20		with her.
21	Adv T Madonsela:	Mr Jonas, he claims to have come to your house in October 2015 and
22		that he was offered the post of Minister of Finance, while the
23		Minister of Finance was sitting in that post and that that offer was
24		tied to the old man wanting him to work with you or with the Gupta
25		family. What is your comment? What is your response to that, Sir?

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1	Mr A Gupta :	First of all I want to ask a question, if you don't mind? You say he
2		claimed that he met with Ajay Gupta, with me and I offered a job to
3		him?
4	Adv T Madonsela:	It is her, it is Ms Mentor. Yes, Sir.
5	Mr A Gupta :	No, just now once you said Jonas also and to both I
6	Adv T Madonsela:	In her statement she says it was the Gupta brothers. She doesn't
7		specifically mention who it was. It was only when we showed the
8		pictures of the Gupta brothers that she said it was <i>this</i> one.
9	Male Speaker :	Or Mr Jonas (indistinct).
10	Adv T Madonsela:	Oh, no, no. Yeah, that was Ms yeah, I'm the one who is getting
11		confused. Yeah, Ms Mentor also that is what she said. Okay, Mr
12		Jonas do we have Mr Jonas's statement? Where is it now? Is it also
13		not available for
14	Mr A Gupta :	No, you told many thing (indistinct) you say Ajay Gupta, you say that,
15		that is why I note it down here.
16	Adv T Madonsela:	Yes. We want to be absolutely certain now for the record, because
17	1/3	Ajay Gupta is you.
18	Mr A Gupta :	Yeah, I am Ajay Gupta.
19	Adv T Madonsela:	It may well be one of the other brothers. Yes, it does say it was Mr
20		Ajay Gupta. That is yourself, Sir.
21	Mr A Gupta :	Myself. So now let me say Madam, this thing, I will give you my
22		comments or a reason I think on, but let me say or reply to this thing.
23		I never, never in my life meet with Jonas, because it is a fresh, fresh
24		allegation on me, that I remember properly that I never, never in my
25		life meet Mr Jonas, never in my life. Even in that, you know some

1		people you meet them at some function and say hello or something. I
2		never even this way and this I say publicly Madam, already. I say it
3		on live TV also that, when they ask me the question in one of the
4		breakfasts, and I said that and they asked me that is he lying or I
5		say no, I don't want to (indistinct) what he say, because he did not
6		say it to me, because I never met with him ever in my life.
7	Adv T Madonsela :	Is it possible that he confuses the brothers?
8	Mr A Gupta :	I don't want to put a comment on this. He is a sensible Minister,
9		Deputy Minister of Finance and he is such important, so I don't
10		believe that he should be so easily confused in that way.
11	Mr G vd Merwe :	Sorry, Madam Public Protector, whilst I am the Legal
12		Representative
13	Adv T Madonsela :	Yes, okay. He has said it was Ajay Gupta and he has given a
14		description, but I'm asking that is it for example when I met with
15		you, Sir, this morning, I said we have met before.
16	Mr A Gupta :	Yeah. Yeah, you said that.
17	1/3	[Objection raised by Mr G van der Merwe]
18	Mr G vd Merwe :	I'm sorry, may I interpose again and it is an objection, that is why I
19		am persistent.
20	Adv T Madonsela:	Yes.
21	Mr G vd Merwe :	I think it unreasonable to ask the witness whether he thinks that a
22		Deputy Minister, who came out publicly, might have confused people.
23		The concern with that is, whether Mr Ajay says "yes" or whether he
24		says "no", it can make no difference to the fact that he specifically
25		said "Ajay Gupta". That is why you took the (indistinct).

1	Adv T Madonsela:	No, but I'm asking why is it unreasonable? I have just given you an
2		example Mister Van der Merwe, of me in this very important meeting
3		having said to Mr Gupta we have met and I even specified where I
4		said I met you. I said I met you at your offices, because I met one of
5		the brothers at that.
6	Mr G vd Merwe :	It is unreasonable, because
7	Adv T Madonsela :	So if I can confuse you, is it not possible he could also confuse you?
8	Mr G vd Merwe :	But Madam Public Protector, my apologies again, the question was
9		directed to me, so hence my response. You did not accuse Mr Ajay of
10		offering you a job as a Minister of finance personally. You maybe just
11		confused him, because you never met him before. The second thing
12		is, you did not go public and as a result of that caused a severe impact
13		on business.
14		That is why it is unreasonable to confuse it and then under oath
15		later on to your office name a person, because he must be certain and
16		then the witness can be questioned about it. That is all I'm trying to
17	1/2	say, because to later on say, "Yeah, but maybe he got confused and
18		we still find that he was" we want to know who did it, so that that
19		witness can come and testify. That is all.
20	Adv T Madonsela:	Well, unfortunately Sir, in inquisitorial proceedings we don't really
21		operate exactly the accusatorial way. That is why I would ask for
22		example a direct question now to Mr Gupta. Did one of your brothers
23		meet with Minister Jonas?
24	Mr G vd Merwe :	I'm happy with that question.
25	Adv T Madonsela :	Yes, that is a direct question.

Mr A Gupta : Yeah, so let me say Madam, that he has his own right to say, but ...

Adv T Madonsela: No, but he is a Lawyer, that is his job. I don't (indistinct – speaking

simultaneously).

Mr A Gupta : But let me say my thing is that, why they are digging Ajay Gupta

name? I tell you now, which is like you say that it is perception, like

you change my ... when you meet with me and you confuse that, the

same way I say why they are the digging? Because everybody knows

that me is a person who have a friendship, not anybody of my

brothers.

Adv T Madonsela: Yes, Sir.

Mr A Gupta : That is why they want to take the name of Ajay Gupta. If they want to

take a name, name anybody, then it is very clear that everybody ...

like my younger brother, he might not be seen to President in the last

five years, both brothers, both brothers, or any other Minister

maybe. So that is why let me clarify now to this thing and that is why

I say this thing, that when this matter is coming (indistinct), it is not

that we are not worried about it and don't see this thing.

We also think that it is a serious allegation on us, it is a very serious thing and we check it, the specs and this thing, and the *Sunday Times* put that allegation on two brothers, not one. It said Ajay Gupta and Atul Gupta, and we check it that Ajay Gupta is not ... I mean is myself, because I'm looking the business, so I was not ... I never meet with him, so how can I ... then I even check it with Atul Gupta also. He was overseas on that time, that date they are talking. I don't know, maybe there were confusion. Now if you want me to, I

can go further? 1 2 **Adv T Madonsela**: No, just a minute. I just want to confirm Sir, that then your evidence 3 is that neither you nor Atul Gupta met with Mr Jonas in October 2012? 4 Mr A Gupta 5 No, not at all, never, Madam. Did Rajesh meet with Mr Jonas in October 2015? Adv T Madonsela: 6 No, no, I'm coming ... because this was never ... now it is never 7 Mr A Gupta claimed to Rajesh Gupta, so we on that time we never ask him and 8 9 because it is a blame to Atul Gupta and Ajay Gupta, but now I'm 10 coming on this thing where I know that, what I know, what I know them asking to Dudu and Dudu that, that what exactly is this that you 11 people are telling, because they are only blaming me and Atul Gupta. 12 So I say, "No, Dudu, tell me what exactly is that?" and then what 13 Dudu told me, according to that, that they never meet even Rajesh 14 also. Rajesh, on that time, in this ... once they are having a meeting, 15 Dudu told me that Fana and him have a meeting with them, Rajesh 16 come to the meeting and having some word with Dudu and left. It 17 was never been any ... never a talk about anything with Deputy 18 Minister. So that is the Dudu and then I discuss with Dudu, then 19 Dudu told me this. 20 21 Adv T Madonsela: Okay, Dudu said he had a meeting with ... 22 Mr A Gupta Yes, he say that he have a meeting with Mr Jonas, he and Fana had a meeting with Jonas, Mr Jonas. 23 24 **Adv T Madonsela**: With Jonas and Fana? Mr A Gupta 25 Yeah.

1	Adv T Madonsela :	Where did this meeting take place, Sir?
2	Mr A Gupta :	See, that again has to be go in, in detail. I don't know much of the
3		details, but this thing, they say that because it is a media,
4		sometimes they say in Hyatt Hotel, sometimes they say in a
5		whorehouse
6	Adv T Madonsela:	No, but I just want to know from Rajesh's side where did the meeting
7		take place?
8	Mr A Gupta :	Rajesh, again please Madam, Rajesh was not part of this meeting.
9		Rajesh is being what Dudu told me, that Rajesh was only come a
10		matter of fact Rajesh don't remember much.
11	Adv T Madonsela:	Okay, Dudu then, where does he say the meeting took place, Sir?
12	Mr A Gupta :	Please Madam, if you now ask me, I will ask him again this thing, but
13		as far as my it feel to me in this thing at our house, but I did not ask
14		that, but it looks like to me it is at 5 Saxonwold.
15	Adv T Madonsela :	You think the meeting took place at your house?
16	Mr A Gupta :	Yes, I think so.
17	Adv T Madonsela :	And it was between Fana and Mr
18	Mr A Gupta :	And Mr Duduzane, because Dudu told me they have some issue about
19		what they call that? It is some blackmailing issue or something, or
20		that Dudu and then Dudu say that in this meeting that we discuss
21		only this matter between Fana and Fana is blackmailing to Jonas on
22		some his own business and this thing, and Dudu made this
23		comment to Fana and that is why this meeting has been arranged,
24		and they had some discussion about this thing, nothing else.
25	Adv T Madonsela:	Does Dudu say he arranged the meeting?

1	Mr A Gupta :	If I remember properly, yes, Dudu say that no, he phoned to Jonas. I
2		don't know meeting arranged by Fana or Dudu, but that Dudu say
3		yes, he phoned.
4	Adv T Madonsela :	He phoned Mr Jonas?
5	Mr A Gupta :	Yeah.
6	Adv T Madonsela:	And it took place at the house at the time?
7	Mr A Gupta :	I mean this is my opinion
8	Adv T Madonsela:	But the other brother
9	Mr A Gupta :	that it is my thing that. I did not bother too much about this things,
10		yeah.
11	Adv T Madonsela :	Okay and you were not at home?
12	Mr A Gupta :	Not at all.
13	Adv T Madonsela :	Where were you on that day, Sir?
14	Mr A Gupta :	Me, my daily routine is Madam, on that up to that time, because
15		after that it is little change. I mean when the family resigned from
16		the Executive and Non-executive positions, so up to that time I every
17	1/3	day leave my home nine-thirty (09:30) to ten o'clock (10:00), reach
18		the office and I stay five-thirty (17:30: up to the office and go back to
19		the home, and sleep eight o'clock (20:00).
20		That is my routine, if it is not an exceptional something,
21		because we withdraw too much from last five years. I did not attend
22		any business function, any I mean tried to be. I mean maybe one or
23		two in exceptional, but I tried not to be at any Presidential dinner or
24		this thing. I stopped, because it is making problem to my family and
25		my friend as well, both of them, so that is why I withdraw from all

1		these things.
2	Adv T Madonsela :	So that was in December last year?
3	Mr A Gupta :	December last year?
4	Adv T Madonsela :	Oh, no, this was in October?
5	Mr A Gupta :	October last year. So I definitely will be in the office, I hundred
6		percent will be in the office.
7	Adv T Madonsela :	You would have been in the office?
8	Mr A Gupta :	Office.
9	Adv T Madonsela :	We don't we will just have to check that time of day, but that is
10		extremely helpful, Sir.
11	Mr A Gupta :	Yeah, I mean I can without any doubt, Madam
12	Adv N Kanyane :	It is ar <mark>ound</mark> one o'clock (13:00).
13	Adv T Madonsela :	She says it was around one o'clock (13:00).
14	Mr A Gupta :	No, never, never, it is no question at all, Madam.
15	Adv T Madonsela :	Okay, that
16	Mr A Gupta :	If you please check is it Saturday or Sunday? If it is a Saturday, then
17	1/3	maybe I at home. Will you please check this date, what day is that?
18	Adv T Madonsela :	If you say then Rajesh was not there, it was only Duduzane and Fana,
19		and
20	Adv A Gupta :	Yeah.
21	Mr G vd Merwe :	Sorry, that is not the evidence. The evidence is that Rajesh
22	Adv T Madonsela :	Said?
23	Mr A Gupta :	Well, no, no, no. Rajesh visit to in this room and he talk something to
24		Dudu, and he left. It is nothing never had a part of this meeting and
25		he has never have any engagement with Mr Jonas.

1	Adv T Madonsela:	Yes, that is what I'm asking. I'm asking if the meeting was at your
2		house, how would Duduzane have let himself in, into your house?
3	Mr A Gupta :	Duduzane and Tony is good friends to each other.
4	Adv T Madonsela:	Yes.
5	Mr A Gupta :	They normally come and go together, and he come to the house quite
6		often, I say before October. It is regularly he come to the house.
7	Adv T Madonsela :	Can he have is he allowed to have his private meetings with people
8		at your house?
9	Mr A Gupta :	For Duduzane?
10	Adv T Madonsela:	Yes.
11	Mr A Gupta :	Yes, there is not a issue to that. It is has never, never, because
12		Duduzane is sorry.
13	Mr G vd Merwe :	It would be of assistance if you explain the setup at the house, the
14		offices and the conference room, and it is not a house like my house
15		or a but I don't want to give evidence.
16	Mr A Gupta :	Let me say one more thing Madam, in this thing. It maybe help in
17	1/3	your whole investigation, is this thing.
18	Adv T Madonsela:	Yes.
19	Mr A Gupta :	Maybe help much more. It maybe take five minute, if you allow me
20		that, to explain that.
21	Adv T Madonsela:	Yes, please Sir, do so. I know we should have finished by now, but
22	Mr A Gupta :	Yeah, I have no problem with the timing issue.
23	Adv T Madonsela:	This is important that we give you the time to explain to us.
24	Mr A Gupta :	Yeah, so please understand that we have been scrutinised too much
25		by the media. Never been by anybody and the media effect on our

family, this media report affect too much on it. You know, you can imagine that once ... I can even think ... I don't want to be saying, you will think I'm talking too much. Can someone allegate(?) to anybody without any ... we have to be very cautious that we should not do any business with Government, we should not do anything with any of the Ministers, or anything, if we keep our relation. Even that you have been blamed for each and everything happening in the country and if you are (indistinct).

So that is giving to much effect on our family and last year itself the stage come there, some of the family members is not interested to doing any business and whether ... I mean that is why I feel emotional also. I have been blamed, because this relation is with me, not with anybody else and this has been specifically targeted to the President and my relations, and as a friendship. So the family decided that no, we don't want to be, we don't want to be here and as the elder of the brothers they don't want me to be also fired, and say, "No, you go now".

So one of the youngest brother of mine decided, which is Rajesh Gupta, he decided ... his family completely, his daughter, son and everybody decided no, they are going to be ... they are not interested to take this much (indistinct), because kids are affected. The kids are coming and talking that ... you talk so much of a high ground of moral and that in a family setting and we are proud on this thing, because we teach to our kids and this way, and now this media is talking. They are talking like this, so what reply you are having? When your

1		12-year old child will talk to you, like your colleagues or your
2		students are telling this thing. That make more problems, so the new
3		generation actually decided they want to do outside of South Africa
4		business, and the youngest brother, Tony and his family shifted
5		actually, I mean to looking for a new business, a new thing. The kids
6		has been shifted last year itself to school and everything, because
7		they don't want to go school.
8	Adv T Madonsela :	I'm sorry for that, Mister Gupta.
9	Mr A Gupta :	So Mr Tony is being say that he will from last two years he didn't
10		go to the office at all. So he have one small office and room, and
11		everything at home. He don't want to go.
12	Adv T Madonsela :	That is Rajesh?
13	Mr A Gupta :	Rajesh.
14	Adv T Madonsela:	Okay.
15	Mr A Gupta :	So he maybe in the last two year one time or two times. He is
16		completely out of all business and everything.
17	Adv T Madonsela :	How old is he, Rajesh?
18	Mr A Gupta :	He is now 44 or 43/44.
19	Adv T Madonsela :	Thank you.
20	Mr A Gupta :	So he have a young child, all of them even my both child. They don't
21		want to do business here. The two years they left, two years now. So
22		they are looking at different prospective and this and this, so like the
23		(indistinct) say Rajesh always at home. If he is in South Africa he
24		always at home. So he told me if he meet to his friends or anybody,
25		so he meet at home. So if it is Duduzane he come there, is almost full

1		(indistinct) office for him because of this reason, that he can if he
2		have a meeting or anything is not disturbing the family more and
3		more, so he have a lot of meetings. He have a lot of friends come then
4		and do, and chat. So Duduzane is having a we might be knowing
5		anything what he is doing or I mean he have some private meeting
6		also, it has not been objected at home at all. He has been Duduzane
7		I treat him as a child, as a younger brother. I don't feel that he is
8		(indistinct) there.
9	Adv T Madonsela:	Right, thank you. I'm asking do you have any history of conflict with
10		Mr Jonas?
11	Mr A Gupta :	But I never meet him. I never in my life ever meet with him.
12	Adv T Madonsela:	Any conflict between him and any of your brothers?
13	Mr A Gupta :	No, never, never, never.
14	Adv T Madonsela :	Why would he want to harm you?
15	Mr A Gupta :	No, that is not he is harming to me. I don't feel it, but let me say one
16		more thing. Madam, you say then your opening remark that Nene is
17	1/2	being I mean we offer a job to him, that when Nene is in a position.
18		So let me say Nene was a good friend to me, Nene also, when he is
19		Deputy Minister, when he is Minister of Finance, so he was a good
20		friend to me also.
21		He visited maybe the house more than anybody else as the
22		Minister of Finance, even a few times, at my office also a few times.
23		So it is if I have to do anything with Treasury or anything with this
24		thing, so it is Nene, then he has to give reply that ever I ask
25		anything from him. Sorry to that so it is completely and even my

phone recorder is available, his phone recorder is available, you can 1 2 check it. Even he has been ... I mean he was been out of the Finance Minister, after that also a few times I call him, a few times. Even I can 3 ... I don't know, again, this is a matter of a legal, I have never been in 4 5 such kind of a ... I can even reveal to you that what I talk to him, even after he have been not in a ... so as a Finance Minister, as a Deputy 6 7 Minister of Finance. So why I am going to say to them, it is all afterthoughts Madam, this is all afterthoughts. I think so that it is 8 9 something afterthought. I mean it is a bigger thing of that, which is I 10 always say that to the people, that it is (indistinct) what we are doing. Adv T Madonsela: 11 Right. 12 Mr F Lekubo Why do you have so many friends who are Ministers? Mr A Gupta (Laughing). Sorry, okay, you want to give a reply on this question? 13 14 Adv T Madonsela: Okay, you can respond to it if you want to. Mr A Gupta Yes. See, it is not a matter of a Minister only. See, when I was in 15 Presidential Consultative Forum or IMC and I meet with the people, 16 it is not necessarily they were a Minister and then later one they 17 became a Minister. President Zuma also he was not a President. 18 When I meet with him and I have a good relation, he was not a ... he 19 20 was nothing on that time. 21 People don't want to be, even say hello to him. I have a meeting 22 which I told you in 2006. You can ask to the ... I mean Tokyo always claimed this thing. When he was there at home, he was sitting in a 23 24 one corner of our lapa and we invited as a guest to him, he was 25 nothing and all Ministers are there, and nobody want to say hello.

1		Even Tokyo claim this thing, I am the only man who went to say hello
2		to him there. So it is not that and that is why I say in the beginning
3		also I have a relation in India also, I have in India also, here also,
4		everywhere. It is not because I have nothing to do, nothing to do
5		with the business, nothing to hide anything, so why not I have to be
6		keep my relation? It is a most plain relations and that I claim, sorry
7		that
8	Adv T Madonsela:	Thank you, Mister Gupta. It would help if you can recall and through
9		your Lawyer give us some names of the Ministers that had been to
10		your house? That would be helpful.
11	Mr A Gupta :	I can give now a few names.
12	Adv T Madonsela :	Okay.
13	Mr A Gupta :	On that time, if you say 2006, I remember I think Jeff Radebe also
14		there.
15	Adv T Madonsela :	Jeff?
16	Mr A Gupta :	Jeff and if I remember, Lindiwe Sisulu was also there, yeah. So it is
17	1/2	you see there it is so many people there.
18	Adv T Madonsela :	Who has been of these Ministers?
19	Mr A Gupta :	Essop Pahad was there, Aziz Pahad was there.
20	Adv T Madonsela:	Of these Ministers who has been frequenting your house mostly?
21	Mr A Gupta :	See, most of them I have in one function there
22	Adv T Madonsela:	Yes. Who has visited outside a function, just had dinner or lunch
23		with you at your house?
24	Mr A Gupta :	Many Ministers also, Madam.
25	Adv T Madonsela :	Like who, Sir?

1	Mr A Gupta :	Rob Davies also.
2	Adv T Madonsela:	Rob Davies?
3	Mr A Gupta :	See, so many.
4	Adv T Madonsela:	Who had dinner there?
5	Mr A Gupta :	Essop also. Even Essop, until today. Essop come at least once in
6		three/four months to house for a dinner. So I have nothing to do
7		with the business in anybody. So I'm very happy to invite and to do
8	A.S.	anybody in there, and that is why we say that, I say in the beginning
9	(A)	this is our business. This is our business, which as I mention to you.
10	(AS)	So they say 2010 we started that. February 2011, our balance sheets,
11	AS	total turnover of our business is 2.2 billion, roundabout.
12	Adv T Madonsela :	In 2010?
13	Mr A Gupta :	2010 I mean February 2011. So yearend is on February, it belongs
14	Red.	to 2010 automatically and then Government revenue, because first
15		revenue of the Government we only get from that newspaper, with
16	1	newspaper when it started. So newspaper start in December 2010,
17	1/3	Madam.
18	Adv T Madonsela:	I want to go into that. Can I just maybe just lock one thing on the
19		relationship here? I'm glad that you are taking me to that
20		information. I just wanted to you said Minister Pahad has visited
21		often, Rob Davies. Has many
22	Mr A Gupta :	Often. I mean you ask me for a dinner.
23	Adv T Madonsela :	Yes.
24	Mr A Gupta :	I invite few times to the dinner with his wife. He attended to the
25		dinner.

1 **Adv T Madonsela**: Has Minister Gigaba visited many times? 2 Mr A Gupta Yeah, many times with his wife. **Adv T Madonsela**: Has Minister Mbalula visited many times? 3 Not so many, but I think so one or two times, two/three times maybe. 4 Mr A Gupta 5 **Adv T Madonsela**: Has Minister Dlamini visited your home? Mr A Gupta Dlamini ... Bathabile? 6 7 **Adv T Madonsela** : Bathabile. 8 Mr A Gupta : No, I don't think so. 9 **Adv T Madonsela**: Has Minister Martins, former Minister Martians visited your house? 10 Mr A Gupta : Ben Martins? Adv T Madonsela: Yes. 11 Mr A Gupta : Yes, he visit few times. 12 **Adv T Madonsela**: Is he a friend? 13 Mr A Gupta I treat him as a friend, although he not talked to me from a long time 14 now, but I treat him as a friend. Now maybe three/four years he 15 never any word. 16 **Adv T Madonsela**: Has Minister Joemat-Peterson visited your house? 17 Mr A Gupta Maybe very long back one or two times. 18 **Adv T Madonsela**: Has Minister Zwane visited your house? 19 20 Mr A Gupta : No. I never meet with him, because I don't have much relations with 21 him. 22 **Adv T Madonsela**: Has Minister Van Rooyen visited your house? : No, not at all. I don't think so, at all. 23 Mr A Gupta **Adv T Madonsela**: Has Mr Brian Molefe visited your house? 24 Mr A Gupta 25 : Yes.

1	Adv T Madonsela :	How many times?
2	Mr A Gupta :	Well, because I have a relation with him, roundabout let's say 14
3		years or more maybe, so he maybe
4	Adv T Madonsela :	Where does that relationship come from?
5	Mr A Gupta :	It is the same that it is the Presidential Consultative Forum, he is
6		also part of that.
7	Adv T Madonsela :	Oh, you mentioned that council?
8	Mr A Gupta :	Yeah, Presidential Consultative Forum, he was Malusi also part of
9		that on that time.
10	Adv T Madonsela :	Has Mr Brian Molefe ever worked for you?
11	Mr A Gupta :	Worked for no.
12	Adv T Madonsela :	Or done business for you?
13	Mr A Gupta :	Not at all. This is very interesting now. He never give any (indistinct)
14	KEA.	when he was in the PIC, he never we never did any business when
15		he was in Transnet. We never even even now in my opinion and
16	1	my way, that even in the coal business also people think that Brian
17	1/3	Molefe give that. The first coal contract has been given before Brian
18	1	come. In December 2015 or 2014 we got the first 100 000 ton coal
19		contract from there and in today we have only three contracts with
20		Eskom, two come with the Optimum, one is the old one, so Molefe
21		never did any business on this way.
22	Adv T Madonsela :	Do you consider him a friend?
23	Mr A Gupta :	Yeah, I consider him as a good friend.
24	Adv T Madonsela :	And how often would he visit your house?
25	Mr A Gupta :	It is not again is often, but again I would say that maybe once in

1			true /three months on compthing four times or five times in a year
1			two/three months or something, four times or five times in a year.
2			How many, six times? I mean I'm not hundred percent that it is
3	Adv T Madonsela	:	Would he come there with his wife or family, or would he just come
4			all by himself?
5	Mr A Gupta	:	Yeah, he is a you know I have a very long relations with him there.
6			His wife was Portia before, he is now divorced.
7	Adv T Madonsela	d	Oh, is he divorced?
8	Mr A Gupta	ł	Divorced, I think so. I want to be saying this thing, he come many
9			times even now, so I don't go in too much of a in there, but he come
10			many times with his kids.
11	Adv T Madonsela	:	When last did he come with the kids?
12	Mr A Gupta	:	Last is now maybe one and a half years before?
13	Adv T Madonsela	:	Okay, thank you, Sir. Did you want to ask questions?
14	Mr F Lekubo	:	If you could maybe ask Lynne Brown as well?
15	Adv T Madonsela	:	Oh, yes. Yeah, she was on the list. Thank you, Mr Ms Lynne Brown
16			has she visited your house?
17	Mr A Gupta		No, never.
18	Adv T Madonsela	d	Is she a friend?
19	Mr A Gupta	:	I mean again I met her maybe only 14/15 years before. After that I
20			never met with her and on that time I met when she was an MEC in
21			Cape Town, I mean there and then she become a Premier also. I met
22			her on that time also with her, but after that only once I work with
23			her and on that also, that when she become a Minister and I was
24			sitting with our Chief Executive. He is on a phone to congratulating
25			to her and then same phone I say to her "Congratulations Madam",

1		that is it, and that is the only, only time that I have (indistinct).
2	Adv T Madonsela :	Okay and
3	Mr A Gupta :	Sorry, Madam, yeah.
4	Adv T Madonsela:	Okay, what about Deputy Minister Maphatsoe?
5	Mr A Gupta :	Who is this?
6	Adv N Kanyane :	Kebby.
7	Adv T Madonsela:	Deputy Minister of Defence is he a family friend?
8	Mr A Gupta :	Not with me much, but yes, he is a friend with my younger brother,
9		Rajesh.
10	Adv T Madonsela:	How often does he visit the house?
11	Mr A Gupta :	No, I don't think so very often. Maybe once in a year or something,
12		on functions, not with any other things. I met only once as a
13		Treasurer General of MKMVA.
14	Adv T Madonsela:	Which other Ministers we haven't counted? Lindiwe Zulu, does she
15		come often?
16	Mr A Gupta :	Me, I never meet with her.
17	Adv T Madonsela :	You never met with her?
18	Mr A Gupta :	I mean at home. I mean at some function I say hello or something,
19		that is fine.
20	Adv T Madonsela :	Okay, we have dealt with Ministers, we have dealt with Board
21		Members. Do you have any friend at Denel?
22	Mr A Gupta :	No, not at all.
23	Adv T Madonsela:	Any relationship with any Board Member at Denel?
24	Mr A Gupta :	No, no, I don't have anybody, anyone.
25	Adv T Madonsela:	What about SAA, any relationship with Ms Dudu?

1	Mr A Gupta :	Dudu Myeni, no.
2	Adv T Madonsela :	Dudu Myeni?
3	Mr A Gupta :	No, I
4	Adv T Madonsela :	Has she been to your house?
5	Mr A Gupta :	Yes, she has been to our house maybe a few times, one or two times,
6		but long back. I don't have any
7	Adv T Madonsela :	She is not a frequent would you regard her as a friend?
8	Mr A Gupta :	No, I don't regard her as a friend to her because from the last 4/5
9		years I don't have any communication with her. For maybe 4 years
10		or 3 years.
11	Adv T Madonsela:	Okay and then Mr the President's wives, has any of them ever been
12		to your house?
13	Mr A Gupta :	Yes.
14	Adv T Madonsela:	Which one has been to your house?
15	Mr A Gupta :	I think so, on a function maybe two or three. Maybe two or I think
16		so, two of them, not I doubt of Thobeka. The other two maybe visit
17	1/3	a function with him.
18	Adv T Madonsela:	Yes. There was a media allegation that you or the Gupta Family was
19		paying for her residence in Waterkloof or for a residence of one of
20		the President's wives in Waterkloof.
21	Mr A Gupta :	A lie.
22	Adv T Madonsela :	Is that a lie?
23	Mr A Gupta :	That is a lie, Madam. I never (indistinct).
24	Adv T Madonsela:	So that was a lie, no house
25	Mr A Gupta :	In our books with everybody everything is there.

1	Adv T Madonsela	:	Are you paying for any accommodation for any of the Gupta(Zuma)
2			family members?
3	Mr A Gupta	:	Sorry, sorry, again?
4	Adv T Madonsela	:	Are you paying for any residential expenses of any of the Zuma
5			family members?
6	Mr A Gupta	:	No, not at all.
7	Adv T Madonsela	d	Have you ever paid?
8	Mr A Gupta	÷	No, not at all, not at all. I mean I have given this thing under oath to
9			you that (laughing).
10	Adv T Madonsela	:	I have to ask everything and then you just answer.
11	Mr A Gupta	:	No, no, please.
12	Adv T Madonsela	:	So forgive me, because everything that has been
13	Mr A Gupta	:	No, please Madam, please ask.
14	Adv T Madonsela	:	it just cropped up (indistinct – speaking simultaneously) here.
15	Mr A Gupta	:	I'm very happy, I'm very happy that at least someone is first time
16			ever listening to us.
17	Adv T Madonsela	:	Okay. You are friends with the family with the President. It would
18			appear not with the family. Your relationship
19	Mr A Gupta	:	Yeah.
20	Adv T Madonsela	:	You are friends with the President and Mr Rajesh
21	Mr A Gupta	:	Is friends with Dudu.
22	Adv T Madonsela	:	is friends with Dudu and he is friends with Mr Maphatsoe?
23	Mr A Gupta	:	Yes.
24	Adv T Madonsela	:	What I would like to know Sir, is as friends do you exchange gifts?
25	Mr A Gupta	:	No, specifically no.

1 **Adv T Madonsela** : No gifts at all? 2 Mr A Gupta No, I tell you ... Adv T Madonsela: Never? 3 Mr A Gupta No, never. I tell you why, it is a reason behind it. The first time when 4 I given a gift to ... on Diwali or something, which has happened or 5 birthday, then Dr Pahad told me specifically, he said, "More than a 6 R300.00 of a gift if you are giving, it is a problem. I had to declare to 7 the Parliament and I have to be receive this thing". This Dr Pahad 8 9 told me at that time. So I was very carefully on that thing. I will maybe take a gift to the President a few times, the food. He love the 10 food and I also love the food, so I took it many time, the food. In fact 11 he visit also home, that he love that particular dish and so I'm very 12 13 happy. Mr F Lekubo What dish is that? 14 Mr A Gupta No, you want to ... it is called fried vegetable. It is something else, I 15 will ask from my wife just now. If you want I can phone her, what 16 exactly what is called that, but it is a Chinese dish mainly, but 17 prepared in the Indian style. So whenever he come he only eat that 18 and then I will take sometimes, and I take sometimes the cake also. I 19 20 will not lie, that sometimes the cake, which is ... when there is 21 occasion or something. 22 Adv T Madonsela: So how often do you take those gifts to the President, the food? 23 Mr A Gupta No, not that ... No, it is not a gift. How often do you take the food? 24 Adv T Madonsela: Mr A Gupta 25 Maybe once in a year or twice in a year, it is there. I just (indistinct –

1		speaking simultaneously)
2	Adv T Madonsela:	When it is a religious holiday?
3	Mr A Gupta :	Or a holiday or any reason that something happened. You know I
4		feel very sad Madam, but you finish that first, I don't want to distract
5		to you there.
6	Adv T Madonsela:	So you have never given any gift to the wives?
7	Mr A Gupta :	No, not at all.
8	Adv T Madonsela:	To the President?
9	Mr A Gupta :	No, not one time to the wife maybe, I will say that, at the wedding
10		of that my designer was there, so maybe one clothes.
11	Adv T Madonsela:	When was that, Sir?
12	Mr A Gupta :	2013 maybe and my
13	Adv T Madonsela :	Which wife did you give the
14	Mr A Gupta :	No, I don't remember between that the other Ntuli and that in
15		this time. See, on that time I given her clothes for a I mean we
16		prepared that clothes for everybody, when my daughter's wedding
17	1/3	was, 2013.
18	Adv T Madonsela:	You prepared clothes?
19	Mr A Gupta :	Yes, it is being prepared at home, our home. It is not that I buy from
20		market and I give it to them there.
21	Adv T Madonsela:	Did you give clothes to all of them, all of the Ministers that attended
22		the wedding?
23	Mr A Gupta :	No, no, no.
24	Adv T Madonsela :	What happened, Sir?
25	Mr A Gupta :	No, maybe a few on that and see, again understand it is not a gift or

1		any (indistinct). Like that someone visit on that time and we are all
2		busy to measuring and this thing, it is a big occasion for the family,
3		and that anybody come on that time, if maybe the Minister also. I
4		don't remember at all, but it is possible that I say no, okay, okay,
5		make one for him also, so it is like this. It is not like that intentionally
6		give that gift to anybody.
7	Adv T Madonsela :	Okay. You wouldn't remember what would have been the value of
8		those, if they were I know you did them at home, but if somebody
9		had bought it, how much would it likely to have cost on the market?
10	Mr A Gupta :	It is very unfair to say to me this thing.
11	Adv T Madonsela :	You wouldn't know?
12	Mr A Gupta :	No, I would not know.
13	Adv T Madonsela :	No, that is fine, I was just asking.
14	Mr A Gupta :	Yeah.
15	Adv T Madonsela :	It is not a big issue. We are now moving to Mr Maseko. We will come
16		back to you if there is any issue of some of the Ministerial
17	1/3	relationships that were (indistinct). Mr Maseko of GCIS also made a
18		statement alleging that you sought to influence spending at GCIS in
19		favour of <i>The New Age</i> , and he says he met with you and your family
20		at your family residence. What is your response to that?
21	Mr A Gupta :	No, he met with me. He met with me at the house.
22	Adv T Madonsela :	Did you ask him to spend money on <i>The New Age</i> ?
23	Mr A Gupta :	Yes, I asked him to be that to be I mean I was it is not that ask
24		the money of on that time is we are having a setup it is the time
25		that we are setting up TNA. So on that time I was giving and going to

1		everybody to ask advertisements and you must I mean, "You please
2		go and do that, the advertisement?". That is why I say my English is
3		not that one so I was asking to everybody to give advertisement
4		when we start the newspaper. That is before I start the newspaper,
5		this is before, well before the start of the newspaper.
6	Adv T Madonsela :	And then on that newspaper do you know if the newspaper has
7		verified readership?
8	Mr A Gupta :	Verified readership?
9	Adv T Madonsela :	Do you have confirmation by an independent agency that indicates
10		what is the extent of your readership?
11	Mr A Gupta :	The circulation?
12	Adv T Madonsela:	Yes, circulation.
13	Mr A Gupta :	Yes, yes, yes. I don't have exactly, exactly, exactly this, but you know
14		this is until I was looking and they are informing me that figures. It
15		is roundabout between 50 to 60 000. The printing because they
16		are doing in a different model, it is having a 100 000 print order or
17	1/3	120 000 and the independent audit reports was roundabout 50 to
18		60 000, sometimes 70 000, go sometimes 60 000 (indistinct), or
19		sometimes you go below little, 50 also.
20	Adv T Madonsela :	And before Government started advertising, did they have that
21		independent audit report on your circulation?
22	Mr A Gupta :	Now see, that I have to be check that.
23	Adv T Madonsela :	You don't know?
24	Mr A Gupta :	That I have to be check.
25	Adv T Madonsela:	If you can check for us, we will also ask you then to check that?

1 Mr A Gupta : Yeah. 2 Mr G vd Merwe Madam Public Protector, just have a question to ... the question is you 3 would like to know what the circulation was prior to Government advertisements? 4 Adv T Madonsela: If it was verified before Government advertised, if there was an 5 independent verification of circulation? 6 It must be Madam, it must be, because when I have a meeting with 7 Mr A Gupta Themba, Themba told me that, because Themba Maseko is not that it 8 9 is the first time I'm meeting him. I meet maybe 20/30 times before 10 this meeting also, because I ... 11 Adv T Madonsela: Where were you meeting him, Sir? Mr A Gupta So it is every places, that Madam, I tell you that he was at GCIS right 12 and I was a member of International Marketing Council, IMC. So it is 13 every two months or one month there is a meeting of IMC, so we 14 used to meet there and when it has been appointed by the previous 15 President, all Ministers of Presidency, whoever in charge of this 16 17 thing. In this ... when President Zuma become President, because I 18 know my friendship, I want to resign and I ... and Themba Maseko 19 was in charge for the GCIS and I mentioned to him, and then he even 20 21 told me that "No, no, no, don't to be resign" and explain me what is the reason, because I was (indistinct) I have a different opinion than 22 what the IMC has been operating. So then he said, no, no, he sent an 23 24 SMS also, he phoned me also not to do, and then he called me a 25 meeting. He say no, first explain to the Minister, Collins Chabane.

Then he called a meeting and I met with him also there, that when 1 2 Minister Chabane, him and Wendy Luhabe and me, all was there in a meeting, and I explain that. They pursue me, Themba particularly, 3 not to resign and that is why I carry on this in IMC in current 4 position. On that time also Madam, one more thing I want to 5 mention, because there is so much of a noise from last two years or 6 7 three years, I did not attend that meeting and finally they fired me on this April only, because I don't want to be (indistinct) there. 8 Then they all tell me that, "No, you are influencing on this, 10 because we are reading every day in the newspaper that you are 11 influencing". What I am influencing or for what, I don't understand until today, Madam. 12 Adv T Madonsela: Okay. Did you ever put pressure on him though to buy advertising 13 space in your newspaper? 14 Mr A Gupta No, it is impossible to put pressure on him and this figure show that, 15 what (indistinct), what I have exactly within that. I want to in this 16 meeting, I want to only understand that how it ... what to do? He 17 suggest to me that "You better ask to your office to phone to his 18 office" and I did it. My office call to them, because I don't involve 19 20 much in operational level. So is he lying then when he says you put pressure on him? 21 Adv T Madonsela: 22 Mr A Gupta You see, again if you ask me in a legal (indistinct), it is hundred percent like that if I put a pressure. What pressure I put and what is 23 the pressure that it can be in this, that I got only R1 million, 1 million, 24 R1.5 million advertisement in 2010 or 2011? 25

1 **Adv T Madonsela**: From Government? 2 Mr A Gupta From Government and which is not hundred percent including GCIS. Adv T Madonsela: Thank you. Thank you, we are done with Mr Maseko, unless I'm 3 missing something on Mr Maseko. 4 Mr F Lekubo : Yeah, I just wanted to ask a few further questions with regards to Mr 5 Maseko. 6 Adv T Madonsela: Yes. 7 8 Mr F Lekubo : What was the purpose of that meeting at the house? Was it to 9 discuss specifically that issue or was he there for something else? 10 Mr G vd Merwe Can you just do that photography first maybe? It is a bit distracting. 11 Journalist Sorry, sorry. Mr A Gupta : No, I will say that I don't hundred percent remember. It is again 12 2010, but me and Maseko was regularly in touch, because of IMC and 13 so many other things, I mean to talk about this. So I don't remember 14 exactly the meeting is being called for this particular reason or for 15 anything. Yes, maybe it is convenient to both of us to be in a seated 16 (indistinct), but I remember this thing, I definitely should be on that 17 time, because I'm meeting with everybody for newspaper. 18 I only he say this thing, so I can recall and this thing, that maybe 19 I had asked him that, "No, tell us that how this Government 20 21 advertisement work?", and then he suggest to me that "No, you had to be ... ask your office to contact" and then I did this and my office 22 asked them. 23 Mr F Lekubo 24 The last question on that, he went on record in the media as well, his 25 statement that released, saying that you then threatened him to say

1		that if he does not comply, you will have him sorted out by his
2		superiors.
3	Mr A Gupta :	No, see now I didn't remember on the media, but you say let me
4		give a reply there. So what mean that "sorted out"?
5	Mr F Lekubo :	You are saying?
6	Mr A Gupta :	What mean of that he say that I'm going to
7	Adv T Madonsela :	If I can bring it back here then.
8	Mr F Lekubo :	Yeah, sorry, yeah.
9	Adv T Madonsela:	He is alleging or he is saying Mr Maseko alleges that you threatened
10		him. That is the pressure that he is referring to, that you wanted him
11		to advertise or something would happen to his job.
12	Mr A Gupta :	(Laughing).
13	Adv T Madonsela :	Then he subsequently lost his job.
14	Mr A Gupta :	Subsequently with how many years later? Tell me that Madam, how
15		many years later he lose his job?
16	Adv N Kanyane :	It was about a year later.
17	Adv T Madonsela :	It was about a year later, Sir.
18	Mr A Gupta :	So if I have anything, I mean so one year I will wait for that? If you
19		say that I have any relation or anything and then I'm going to wait for
20		one year? You see, this is the problem, Madam.
21	Adv T Madonsela :	But is it your evidence Sir, that you never threatened Mr Maseko?
22	Mr A Gupta :	No, why I'm going to be threat to anybody, when he did not engage to
23		me for any business? He said, "No, your office should be calling" and
24		then my office is calling. Now he is telling that my office threat to
25		him to take his job, so

1	Adv T Madonsela:	Mr Maseko?
2	Mr A Gupta :	Yes.
3	Adv T Madonsela :	Right. Another person who is said to
4	Mr A Gupta :	Sorry Madam, one more thing I want to tell. When you have a
5		relation with good relation with anybody, you don't start to
6		threaten anybody.
7	Adv T Madonsela :	So you had a good relation?
8	Mr A Gupta :	Well, because I'm meeting every month or two with him and he has
9		been calling to me not to resign, and he is fixing a meeting with this
10		Minister and then we did at this meeting, and (indistinct) also, if I
11		remember that, he sent the SMS' also to me, "No, Ajay, don't please
12		resign" and this and that. So what do you call on this thing, is a
13		relation or not? I don't want to comment on this thing, because if
14		someone say this thing and that is why I never phone him, even for
15		that day, that no.
16	Adv T Madonsela :	Okay, thank you. Then Mr Julius Malema, he alleges that he alleged
17	1/3	in public in the media that Minister Mbalula admitted to him – and
18		other ANC leaders at the time – that he was informed by you that he
19		was going to become a Sports Minister.
20	Mr A Gupta :	So let me say Madam, that you have someone who visit to you or
21		anybody, to me that also and I raise this point to Mr Mbalula maybe
22		four times, and the newspaper is reporting and saying that, "No,
23		these are the guys who will be a Minister tomorrow" and I said to
24		him I met with him, I say to him, "Congratulations that you are
25		going to be a Minister now". I said to Mbalula what I say to you, that

what ... and he laughed, and he did it (indistinct). I later on finally in 1 2 media also I heard that he say that no, it has not been said to me on this thing. You can research that they say that. The day I talk to 3 Mbalula ... sorry, sorry. The day I talk to Mbalula, a few days before 4 Sunday Times already put in that Paul Mashatile and Mbalula will be 5 a Minister, you know many of things, which I also tell about this, well, 6 Mr Jonas, that it is already told in the media many times that no, 7 Nene is in trouble because of some nuclear deal or something, or SA 8 9 deal something. I mean so ... 10 **Adv T Madonsela**: Is it your evidence then Sir, that you didn't advise Mr Mbalula that he 11 was going to be the Sports Minister? Mr A Gupta : Not at all, not at all. I mean he is going to be the ...it is a report of 12 media, which is I am sharing with him. It is nothing that I am 13 informing him that "You are going to be a Minister". 14 Adv T Madonsela: Oh, so you reported what the Minister said? 15 Mr A Gupta No, no, what the media say. That I say, "No, you and Paul will be the 16 Minister" and this is a matter of research. You please can research 17 and you will find that. He visited the office, I think it was Sahara 18 office I was sitting on that time, it is a too old matter and on that time 19 I say that to him, "No, I heard that now you will be a Minister", and 20 that I ask him a few times, "What you are telling now to the public it 21 22 is a very different view". **Adv T Madonsela**: Alright. It is also alleged, Mister Gupta and I'm not going to say who. 23 It is alleged that you fielded a Councillor on Victory Park in the 24 25 Jo'burg City, in the 2014 Municipal Elections. Do you recall?

1	Mr A Gupta :	I fielded? I don't understand the question, please Madam?
2	Adv T Madonsela :	It is alleged that you fielded a Councillor. You had your PA stand for
3		election as a Councillor for Saxonwold, even though she lives in
4		Victory Park, in 2012.
5	Mr A Gupta :	Okay, okay, no, I this is a I don't remember 2012 and that, but it
6		is a media report that.
7	Adv T Madonsela :	In 2014, not 2012. 2014.
8	Mr A Gupta :	No, no, no way that.
9	Adv T Madonsela :	No, was it 2014, the Municipal Elections?
10	Mr A Gupta :	Municipal elections, no way, nothing, nothing. It is a completely
11		you can me the name of that and who was my PA (indistinct)?
12	Adv T Madonsela :	Did your PA stand for election as a Councillor for Victory Park?
13	Mr A Gupta :	Pardon?
14	Adv T Madonsela :	Okay, without being fielded by you, did your PA stand for elections?
15	Mr A Gupta :	As I know I don't think so. My PA is a I don't know, the 2014 PA
16		work still for me, but I
17	Adv T Madonsela :	Okay, did any of your employees stand who doesn't stay in
18	Mr A Gupta :	I don't think so, Madam. I don't think so at all. I don't have any
19		knowledge of this. I don't think so at all.
20	Adv T Madonsela :	Yes. Did any of your drivers collect people from the townships to
21		come and vote at Saxonwold?
22	Mr A Gupta :	No, not at all not at all, not at all. I'm not a voter even myself. Sorry,
23		yes, yes?
24	Adv T Madonsela :	Can we have the specific names?
25	Mr F Lekubo :	Yeah, Mandisa Makinana.

1	Mr A Gupta	:	But she is not my PA.
2	Mr F Lekubo	:	She is Atul's PA?
3	Mr A Gupta	:	Yeah, was. Atul also not now, she is not at the (indistinct), but I
4			don't think that she is standing anywhere.
5	Mr F Lekubo	:	Valerie Mokedi?
6	Mr A Gupta	:	Who?
7	Mr F Lekubo	à	Valerie Mokedi?
8	Mr A Gupta	×	No, I don't I heard first time the name.
9	Adv T Madonsela	H	So none of these stood as Councillors as far as you know?
10	Mr A Gupta	ı	No.
11	Adv T Madonsela	:	And none of them were assisted by your family to stand as
12			Councillors?
13	Mr A Gupta	:	Not at all Madam, not at all.
14	Adv T Madonsela	:	And you never had your drivers collect people from Victory Park and
15			other surrounding areas to come and vote?
16	Mr A Gupta	:	For voting purpose, not at all.
17	Adv T Madonsela	:	Not at all?
18	Mr A Gupta	ì	Not at all.
19	Mr G vd Merwe	:	Madam Public Protector, may I just measure it down a little bit? Can
20			you give us an indication when this apparently happened, so that
21	Adv T Madonsela	:	Is it 2014 Local Government Elections?
22	Mr F Lekubo	:	Before the current Local Elections, yeah, it should be in 2016
23			(indistinct), so 2011.
24	Adv T Madonsela	:	2011. Yes, I think he said 2011.
25	Mr G vd Merwe	:	2011, is it for that specific ward you are referring to?

1	Adv T Madonsela :		Yeah.
2	Mr F Lekubo :	:	Yeah, Ward 117.
3	Adv T Madonsela :	:	Yes.
4	Mr A Gupta :	:	For the election, no, not at all. Mandisa never stand. I told you that
5			in one of the times the allegation on I read in the newspaper
6	Adv T Madonsela :	:	Oh, this allegation is not new?
7	Mr A Gupta :	d	No, this is old. I don't know what year and what is that, a very old
8			allegation. I remember in the media that not she is stand in an
9			election or anything. They say that she been put in ANC ward or
10			something, in an ANC meeting or something, not in the election of
11			that, if you go and
12	Adv T Madonsela :	:	Not in the proper elections?
13	Mr A Gupta :	:	No, not in the election. In ANC Board Meeting.
14	Adv T Madonsela :	:	Yes. Well, it said she stood for elections, but she was introduced by
15			you or she was introduced by one of the Gupta brothers to the
16			when the ANC met to select the people who were going to stand on
17	1/3		the ANC's flag, you introduced
18	Mr A Gupta	d	No, she what I remember that she never been stand for anywhere,
19			anything.
20	Adv T Madonsela :	:	Okay. No, that is all we needed to know. That is fine.
21	Mr A Gupta :	:	She is still working. She is in a media company.
22	Adv T Madonsela :	:	Alright. These are the relationships that you have explained your
23			relationship with Brian Molefe, you confirmed that he is your friend?
24	Mr A Gupta :	:	Yes, I feel him as a friend. I consider him as a friend.
25	Adv T Madonsela :	:	And visits you frequently. Do you speak on the telephone with him

1		frequently?
2	Mr A Gupta :	I mean I speak to him, but not now, maybe last one year or nine
3		months, because of this Eskom and this thing, but I used to speak to
4		him on the phone also, I used to. Madam, it is only you are talking
5		about the politician?
6	Adv T Madonsela:	Uhm.
7	Mr A Gupta :	I'm a friend with the sports persons also. I'm a friend with the
8		entertainment industry also. I'm a friend with many of the Miss
9	(A)	South Africa, I meet with many of the top sports personalities.
10	Adv T Madonsela:	Thank you.
11	Mr A Gupta :	This is my I mean I'm a public person, me and that.
12	Adv T Madonsela:	Thank you, Sir. One last question that we would like to know, if you
13		have any relationship with him, if you can explain your relationship
14	REA.	with Colin Mayne?
15	Mr A Gupta :	Colin Mayne?
16	Adv T Madonsela:	The ANC Youth League
17	Mr A Gupta :	No, I don't have any relation with him.
18	Adv T Madonsela:	Relationship?
19	Mr A Gupta :	Yeah, I don't have any relation, but I maybe say hello to him a few
20		times. I can't say that like particularly I'm telling you about Jonas, I
21		did not even say hello to him.
22	Adv T Madonsela:	Does any of your brothers have a relationship with him?
23	Mr A Gupta :	I don't think so, I don't think so.
24	Adv T Madonsela:	It is said that he has a bond for a house in Woodhill that was
25		arranged by an Indian, that he got from an Indian bank. You don't

know anything about it? 1 2 Mr A Gupta No. See, you know what is reported, then you have to go and check this thing. You have to be report it, then go and check this thing. You 3 know previously also it has been reported that if any Indian bank or 4 5 anything we do, like Indian bank, they link it to us. So that is our biggest problem for the media, that I do find out that no, if the guys 6 work for us five years before, it is also linked that no, he left five 7 years and now he is doing something, and that is the campaign 8 9 against us. This is the biggest issue to us on this thing. So the Indian 10 bank is been ... did it, because we are only left with our dealing with 11 Indian bank now at this moment, but it is nothing to do with us. 12 Adv T Madonsela: Okav. Mr A Gupta Yeah, nothing to do with me. 13 He does have a deal from an Indian bank? 14 Adv T Madonsela: 15 Mr A Gupta Yes. I believe so that, that once we recorded this thing and then he have a bond from Indian bank, but it is a bond. It is a bond, this is 16 nothing much more on this thing. 17 Adv T Madonsela: And is the bank operating in South Africa? 18 19 Mr A Gupta Yes, yes, yes 20 Adv T Madonsela: Okay. 21 Mr A Gupta Yes, yes, yes. 22 Adv T Madonsela: Thank you, Sir. It is called the Bank of Baroda? 23 Mr A Gupta No. **Adv T Madonsela**: It is not the Bank of Baroda? 24 25 Mr A Gupta That is a problem, because we are dealing with Bank of Baroda, so

1		they are taking the name of Bank of Baroda. We are dealing with
2		Bank of Baroda, yeah.
3	Adv T Madonsela:	Okay. You don't know which bank then gave him the deal?
4	Mr A Gupta :	No, unnecessarily I have to be at one more bank
5	Adv N Kanyane :	But was it the State Bank of India?
6	Mr A Gupta :	No. It is also not that, because we are dealing with them also. So
7		they can take please understand that, I am putting and this is I
8		mean should put a complaint to you, Madam Public Protector. The
9		people to whom we are dealing they are being harassed so badly, so
10		badly. I would like to give one paper, I bring to you to that. Anybody
11		name come, I put the name out and they have been harassed so
12		badly, that you will see yourself. I will give it to the staff, I mean to
13		you.
14	Adv T Madonsela:	Thank you.
15	Mr A Gupta :	Anybody. Bank of Baroda is being harassed this moment from last
16		20 days, from last 20 days. They really want to be I don't know
17	1/3	what, I don't want to say on behalf of them.
18	Adv T Madonsela:	So it is not from right and it has also been said that you assisted
19		one of the Zuma wives to purchase a house in Waterkloof. You said
20		that didn't happen?
21	Mr A Gupta :	No, it has nothing to do with she also have some bond and that is
22		their game plan, that if the Indian bank that they claim that I did it.
23	Adv T Madonsela:	No, that is okay, we will leave that. You are on record as having said
24		that your business with Government is less than 10% of your
25		revenue?

1	Mr A Gupta	:	I will show you now hundred percent. I will give another, which is
2			on that time they given only in 2016. I will give now my document to
3			you for 2010 onwards.
4	Adv T Madonsela	:	When you are saying "Government", do you include Parastatals?
5	Mr A Gupta	:	Everything, everything, Parastatals, municipalities, anything you call,
6			which is even small relations with the Government, even small
7			relations.
8	Adv T Madonsela		Right. So where are your business dealings based mostly then?
9	Mr A Gupta		In South Africa, Johannesburg.
10	Adv T Madonsela	÷	So you trade with private companies?
11	Mr A Gupta	:	Yes, all maximum is the private companies.
12	Adv T Madonsela	:	Okay.
13	Mr F Lekubo	:	Sorry Madam, can I just ask a question on that, a follow-up question?
14	Adv T Madonsela	:	Yes.
15	Mr F Lekubo	:	You have given us a schedule where you have shown you gave us a
16			breakdown and it shows it is 9%, 8 to 9% of your business comes
17	- 4		from Government?
18	Mr A Gupta	i	Yes.
19	Mr F Lekubo	:	You have given us the revenues, but the 9% you are referring to is
20			Oakbay's interest?
21	Mr A Gupta	:	No yeah, yes, yes, you are right, yes.
22	Mr F Lekubo	:	The schedule, yes, it is Oakbay.
23	Mr A Gupta	:	It is Oakbay interest, yes, Sir.
24	Mr F Lekubo	:	But Oakbay is not the only business interest you have. If you look
25	Mr A Gupta	:	Including all.

Hearing held between the Public Protector South Africa & Mr Ajay Gupta 4 October 2016

1	Mr. C. v.d. Marrya	_	It is the helding commons
1	Mr G vd Merwe	:	It is the holding company.
2	Mr F Lekubo	:	Yes, Sir, if you look at I need this scheduled, there is something
3	Adv N Kanyane	:	It is the annexure.
4	Mr F Lekubo	:	The annexure. I just want clarify
5	Mr A Gupta	:	Business I can talk.
6	Adv T Madonsela	:	He said it is about 9%.
7	Mr A Gupta	d	Yes, I will give what is this.
8	Mr F Lekubo		So here you say, for instance when you talk about Tegeta, is that the
9			total revenue that they earned (indistinct) 41 million and 12 and 35,
10			which is 35% shareholding. Oakbay's shareholding in Tegeta is
11			35%?
12	Mr I Naidoo	:	No, no.
13	Adv N Kanyane	:	These are the totals.
14	Mr I Naidoo	:	This one here?
15	Mr F Lekubo	:	Yeah, Tegeta, okay, the 143?
16	Mr I Naidoo	:	Yeah.
17	Mr F Lekubo	:	That is Oakbay, you say Oakbay's shareholding, but Mabengela
18			Investments is a shareholder in Tegeta and I know Oakbay owns
19			35% of Tegeta. Mabengela Investments, Duduzane's entity, owns
20			28% in Oakbay and if you look also, Duduzane doesn't own a 100%
21			of Mabengela. Rajesh
22	Mr A Gupta	:	25%.
23	Mr F Lekubo	:	Yes, but Rajesh has an interest in Mabengela. So if you exclude
24			Mabengela's shareholding out of these amounts, this number is
25			misleading, isn't not?

1	Mr A Gupta :	No.
2	Mr F Lekubo :	It is not accurate, because you will have to then take Rajesh's interest
3		in that and include it in there, so the number goes higher.
4	Mr A Gupta :	Like let me say that I bring the total group turnover and total group
5		business with the Government. Forget about Oakbay.
6	Adv T Madonsela :	Oakbay, okay.
7	Mr A Gupta :	I bring it that, because is nothing to hide, this is nothing to do that.
8		Please understand this figure I have no control on that time.
9	Mr F Lekubo :	Okay.
10	Mr A Gupta :	This is the group CEO is doing and presenting this number to the all
11		media. So I am giving you the whole number of the group, whether it
12		is a I mean our family is at 2% or 20%. What exactly total business
13		of our group, all companies, are doing business with Government, I'm
14		bringing I'm giving this figure to you.
15	Mr F Lekubo :	And this is for the entire family?
16	Mr A Gupta :	Entire family.
17	Adv T Madonsela :	Which includes Mabengela?
18	Mr A Gupta :	It include everybody.
19	Mr F Lekubo :	Your interest in Mabengela?
20	Adv N Kanyane :	The interest that they have in Mabengela, okay.
21	Mr A Gupta :	No, but that is also included. I mean Mabengela don't do any
22		business directly, understand that. The business has been done by
23		an entity, that who is in the business. They are only shareholders in
24		these businesses. So I am brining to you that I'm giving to you that
25		and then after that you can take a decision that what is the State

1		capture and what is this if it is a State capture, I say we are doing
2		very poor, but this is the number and maybe because I get it in a
3		hurry yesterday, these numbers, maybe very slightly, a few percent
4		here and there, once they are compiling this number for me.
5	Adv T Madonsela:	Okay. You are going to leave us with that?
6	Mr A Gupta :	Yeah, I'm going to give it to you, Madam, but I want to read one time
7		to that.
8	Adv T Madonsela:	Yes.
9	Mr A Gupta :	It is that you understand that where are we standing and what we
10		are talking, very quick, in two minutes' time.
11	Adv T Madonsela :	That is perfect.
12	Mr A Gupta :	See, 2011 total Government because that is the first time ever we
13		got Government money because of the newspaper. You have to
14		understand that, why it is. It is 1.5 million-plus, 1.547 million. This
15		is, I'm taking from the state from the balance sheets of our hole
16		group there, so it is 1.547 million only. Then 2012 it was 16 million
17	1/3	only, 16.3 million there, 2013 it is 79 million.
18	Adv T Madonsela:	You said in 2012 it was?
19	Mr A Gupta :	2012 is 16 million only.
20	Adv T Madonsela:	No, okay, you said you started in 2011, it was 1.5?
21	Mr A Gupta :	Yes.
22	Adv T Madonsela:	And then 2012, 16 million?
23	Mr A Gupta :	16 million and 2010 because this started in December only Madam,
24		December 2010, so it is only three months only. So then it goes, in
25		2016 it is 16 million, 2013, 79 million. Total Government revenue

1		I'm talking. I'm not talking about these shares or this share,
2		whatever entity do their business with the Government, SOEs or
3		anybody.
4	Adv T Madonsela:	Yes.
5	Mr A Gupta :	2014, now we bought it on that time VR Laser also, so another
6		company added in our revenue. So 84 million was the media and we
7	4	started the new channel also, that is why this figure go a little high,
8		so 84 million and VR Laser is 33 million.
9	Adv T Madonsela:	VR Laser?
10	Mr A Gupta :	VR Laser. That is the only two entities up to 2014, only two entities
11	1	do the Government or SOEs, any business with that. So it was a total
12		business for 2014 is 118 million. 2015 the Government revenue is,
13	B-4	media is 93 million and VR Laser is 91 million, so it is become
14	rev	185 million in total in 2015. 2016 we bought the Tegeta, when we
15		start Tegeta, so total revenue for one year, whole year, is 493 million
16	10	of coal supply and the media is 118 and VR Laser has gone down to
17	1/3	70 million, so total was 681 million.
18	Adv T Madonsela:	VR Laser is?
19	Mr A Gupta :	70 million only, Madam. It was 91 in 2015 and it has gone down to
20		70 million, but in this 70 million I must because I put it there, that
21		VR Laser financial year is July to June every year, except 2016,
22		because on that the whole company yearend is February, so we
23		change that. I put it in a footnote in this thing.
24	Mr F Lekubo :	You say 2016 is how much total Government business?
25	Mr A Gupta :	681 million and media is 500 million, roundabout, 493 is from coal

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1		supply.
2	Mr I Naidoo :	Okay and you said media is 180?
3	Mr A Gupta :	118.
4	Mr I Naidoo :	118?
5	Mr A Gupta :	Yeah, 1-1-8.
6	Adv T Madonsela:	Oh, I also wrote 180.
7	Mr A Gupta :	Sorry, you know so I don't know Madam, where this relations and
8		everything, how the Gupta family is doing and making in this thing,
9		and if you oh, sorry.
10	Adv T Madonsela:	Thank you, Sir. Perhaps for time I'm
11	Mr A Gupta :	Yeah, any other questions from your side?
12	Adv T Madonsela:	Just one question. Do you have a relationship with Mr Fana
13		Hlongwane?
14	Mr A Gupta :	Who is this?
15	Adv T Madonsela:	Mr Fana Hlongwane, does the family have a relationship with him?
16	Mr A Gupta :	No, no, no. Fana is a friend of Dudu or whatever the relation you call
17	1/2	to that, maybe he known to him on this thing and that is the reason
18		that maybe I also say hello a few times to him, when I meet him on
19		the way or going or coming somewhere, otherwise I don't have any
20		relations with him.
21	Adv T Madonsela:	Right. Other than Mabengela, which other companies do you have in
22		partnership with Mr Duduzane Zuma?
23	Mr A Gupta :	I don't think so that is there any business, but I will send it there, if
24		there is any company that having a I don't think so, other than
25		Mabengela, we have any relations with Duduzane and I want to be

say a word in this thing. See, he with a condition ... I mean not 1 2 condition, but let's say this is the way that he work, he is not interfering of any Government business or anything. It is here. In 3 sense of that he is not even taking any empowerment deal or 4 anything, no. He was exclusively working here and I mean for work 5 only. He is ... day and night he is working. He is not like sitting ... 6 What does he do? 7 Adv T Madonsela : 8 Mr A Gupta : He also look into the all ... like Rajesh used to do, they are both together. He look at ... it is not a particularly. He look into the ... all 9 10 transaction he is involve in, that whenever we are doing transaction, 11 he come and sit and ask that, what is in this or what is ... in day-today transactions, day-to-day. He is not in that space that if he want 12 he can go to the empowerment transaction and every day, no, he 13 don't do. He do ... 14 Adv T Madonsela: So how do you satisfy your BEE requirement when you pitch for a 15 deal with Government? When you tender for something with 16 Government, how do you cover the BEE requirements? 17 Mr A Gupta See, this is that ... first of all you can see that how ... only the two or 18 three companies of that which is now doing the business with the 19 20 Government, or SOEs, not Government. Most of that businesses SOEs, not at all with the Government, most of the businesses and 21 22 then when you are doing through the SOEs and that, black empowerment requirement, we always have a department who is 23 looking at shareholding and this and try to ... they get it that 24 25 whatever, the certificate you call that for empowerment, so they go

1			and check it and do this thing. We are not in a Government business
2			space that where we much to be needed.
3	Adv T Madonsela	:	Yes, but okay, the few ones that you have, how do you make up the
4			BEE requirements?
5	Mr A Gupta	:	Yeah, so they call for this rating agency for this thing.
6	Adv T Madonsela	:	Yes.
7	Mr A Gupta		So they will come and check that our all issue and they issue the
8			certificate.
9	Adv T Madonsela		What would be the companies that allow you to be BEE compliant,
10			becau <mark>se your company okay, in the ab</mark> sence of Mr Zuma, you as the
11			Gupta Family would not qualify for BEE?
12	Mr A Gupta	:	Yes, yes, we are not qualified. We never been claim that we are BEE,
13			we never claim.
14	Adv T Madonsela	:	So you don't qualify. What makes then you qualify, would it be Mr
15			Zuma's shareholding or any other person
16	Mr A Gupta	:	No, but before that is a I say that before that is a lot of people.
17	Adv T Madonsela	:	Who else would be
18	Mr A Gupta	i	I say that before that is Lazarus Zim.
19	Adv T Madonsela	:	Is who?
20	Mr A Gupta	:	Lazarus Zim (indistinct – speaking simultaneously).
21	Adv T Madonsela	:	Okay, now that those are gone, right
22	Mr A Gupta	:	They sold to him, so now he will be treated as BEE partner, but I
23			don't know much of that exactly, but I know that whenever it is
24			needed they go and call to this rating agency, and they vet it to the
25			whole process and they give a certificate what level you have of

1		empowerment, but we always
2	Adv T Madonsela :	Yes, but if you are looking at BEE share ownership, would you then
3		rely on Mr Zuma?
4	Mr A Gupta :	No, no, it is not hundred percent. It is not like this thing.
5	Adv T Madonsela :	Okay, who else
6	Mr A Gupta :	Many of the people is coming that also, it is a women's group, it is a
7	Adv T Madonsela :	A women's group?
8	Mr A Gupta :	Yeah.
9	Adv T Madonsela :	Which women's group do you have?
10	Mr A Gupta :	I mean there is the other women is being which is long back that
11	AST.	when we have any empowerment deal or this thing.
12	Adv T Madonsela :	Yes, okay
13	Mr A Gupta :	So all that time they have maybe 50 or 100 women then who
14	KEA	(indistinct) and our management team also or employee team also. It
15		is all different, different, together making that.
16	Adv T Madonsela :	Could we get specific information on how in these deals that you
17	1/3	have confirmed you have made up your BEE component?
18	Mr G vd Merwe :	I will do that.
19	Mr A Gupta :	I will send it.
20	Adv T Madonsela :	Yes, we would appreciate it.
21	Mr A Gupta :	You mean all these companies? No, you want the media, VR Laser
22		and Tegeta, yes. How we do that, I will give you that.
23	Adv T Madonsela :	That would be wonderful, Sir.
24	Mr A Gupta :	Yeah.
25	Adv T Madonsela :	Right, then this is the last one. You said you don't have any

1		relationship at Denel, but you now have a deal with Denel, the
2		overseas one?
3	Mr A Gupta :	No, I don't know. We don't have any overseas deal with Denel.
4	Adv T Madonsela :	You don't have a deal with Denel?
5	Mr A Gupta :	We are the shareholder in VR Laser.
6	Adv T Madonsela :	Okay.
7	Mr A Gupta :	So now I don't know how you consider this deal is in a shareholding
8		or any business with them.
9	Adv T Madonsela:	Okay, so VR Laser has a deal with Denel?
10	Mr A Gupta :	No, VR Laser also don't have a deal with Denel, not shareholding.
11		They only have a commercial discretion and talk that in case any
12		research has to be going to be done, what I have been informed.
13		I'm not hundred percent sure about it, but what I have been
14		informed, I mean on a high level, that it is a deal that in case there is
15		any research and development you will do that. VR Laser will going
16		to be do and cost to VR Laser a R100 million, and if this product is
17	1/3	not successful, Denel will not share anything with them and VR Laser
18		will be at a loss on that.
19	Adv T Madonsela :	Okay, so that is
20	Mr A Gupta :	So that is all. The shareholding or nothing, nothing to that.
21	Adv T Madonsela:	When was that arranged, Sir?
22	Mr A Gupta :	I mean I have to check this date, but it is nothing yet, because it is
23		only a talk with them. The overseas company is still having no
24		instruction to VR Laser to do any business yet, until today I don't
25		have anything.

1	Adv T Madonsela :	Okay, thank you. Then my last two questions, I'm supposed to be
2		done. I have two sets of questions that I the first one relates to
3		Eskom, Optimal Coal Holdings. It is said here that Mr Gupta was at a
4		meeting in Switzerland with Glencore at the Dolder Hotel to discuss
5		this deal. Are you aware of anything like that?
6	Mr A Gupta :	No, see, but once it is in the media then only I come to be I tell you
7		that more known about that, before that is not. The whole Optimum
8		deal is being done by me and the team, that Executive, all the
9		Executive Members of that
10	Adv T Madonsela:	Did it involve a meeting in Switzerland?
11	Mr A Gupta :	No. Nobody was involved in a meeting in Switzerland, me, nobody
12		involved, but yes, once they call a meeting there or I don't know that,
13		they ask us to join this meeting.
14	Adv T Madonsela :	Who called the meeting in Switzerland?
15	Mr A Gupta :	I don't remember now. Maybe it is the CFO or the CEO of Glencore. I
16		don't remember that, who called, but it is all of a sudden, in like one
17	1/3	day before the meeting.
18	Adv T Madonsela :	So were you there?
19	Mr A Gupta :	No.
20	Adv T Madonsela:	Did you go?
21	Mr A Gupta :	No, no, no.
22	Adv T Madonsela:	Who went?
23	Mr A Gupta :	Nobody can possibly from this team side. So if you want me to
24		explain, so let me. So they ask us and then Nazeem and I mean
25		Luzio(?) and the people try to get a visa, but it is too late. We cannot

get a visa for this visit. So I have a visa, I mean I have a Schengen 1 2 visa, I can fly, but because it is nothing to do with me without the team, so I did not. We decided, the whole team that no, we will not 3 fly, but same time Rajesh was in ... the family is in Switzerland, so we 4 5 requested him that to go and attend this meeting. Once they come back for this meeting, in fact it is again a problem to us, the Board ... 6 7 the CEO of Clayton(?), that we agree on a pricing on this thing, which is once they come back it has gone up. 8 Adv T Madonsela: 9 Right. 10 Mr A Gupta We was very unhappy with this thing. It was no decision was there ... 11 decision is all they are here, then we again engage to that, to this deal to be finalise there. It is a loss-making and in our opinion. 12 13 Adv T Madonsela: Right, why was Minister Zwane part of this meeting? Mr A Gupta No, we don't know at all about the Minister thing, we don't know at 14 all. I don't think so Minister Zwane was part of this discussion of 15 that. They might meet to each other, but not further any ... because it 16 is nothing to do with the Minister or anybody in this deal. 17 Adv T Madonsela: The information I have is that not only was he part of this meeting, 18 he came back in a Gupta jet. 19 No, to South Africa? 20 Mr A Gupta Adv T Madonsela: 21 Yes. 22 Mr A Gupta No, Madam. From Zurich to Dubai. 23 **Adv N Kanyane** 24 **Adv T Madonsela**: He flew from Zurich to Dubai in a Gupta jet. 25 Mr A Gupta So I will check that, Madam. I don't know at all this thing. I don't

1			know at all of this thing. It is truly a news for me.
2	Adv T Madonsela	:	Can you check that?
3	Mr A Gupta	:	Yeah.
4	Mr G vd Merwe	:	You maybe write to us, so that I can we can provide schedules?
5	Adv T Madonsela	:	Okay, team, do we have a date?
6	Mr I Naidoo	:	Yeah, it is between I think it is around the 30^{th} of November to
7			around the 7 th of December, it would be in that time period.
8	Mr G vd Merwe	H	And it is from Zurich to Dubai?
9	Mr I Naidoo		Yeah.
10	Mr A Gupta		But you have to give me a particular date then, if possible, yes.
11	Adv N Kanyane	:	Yeah, we will.
12	Mr A Gupta	:	A particular date you give me, that we definitely check that it is we
13			definitely can tell you that.
14	Adv T Madonsela	:	Okay. Well, the information it would help to just get the
15			information we have was that he was part of that meeting and
16			secondly, that he flew back via well, he was taken to Dubai by one
17	1/		of your jets.
18	Mr A Gupta	d	So I can hundred percent confirm to you that it is not a part of this
19			meeting for negotiation purpose. (Indistinct) meet is not an issue to
20			me then, but as far as concern of that he has come with a jet to Dubai,
21			I will check and I come back. It can be immediately verified and I will
22			definitely let you know that how is it.
23	Adv T Madonsela	:	You are saying that Mr Zwane is not a friend?
24	Mr A Gupta	:	Yes, at all.
25	Adv T Madonsela	:	Was he not at the wedding, when you had a family wedding?

1	Mr A Gupta	:	In when?
2	Adv T Madonsela	:	The one that took place at Sun City.
3	Mr A Gupta	:	Sun City?
4	Adv T Madonsela	:	Uhm (positive).
5	Mr A Gupta	:	I don't remember. Again I say that I'm not
6	Mr I Naidoo	:	Is Mr Zwane friends with one of your bothers?
7	Mr A Gupta	d	My youngest brother, yes, yeah.
8	Adv T Madonsela	H	No, even before he became Minister.
9	Mr A Gupta		Not a friend of that (indistinct – speaking simultaneously).
10	Adv T Madonsela		He wa <mark>s an MEC for Agriculture at the ti</mark> me.
11	Mr A Gupta	:	On that time.
12	Adv T Madonsela	:	So was he not at the wedding?
13	Mr A Gupta	:	No, I did not notice to him at all.
14	Mr G vd Merwe	:	We will find that out for you.
15	Adv T Madonsela	:	Yes, was he not the person who arranged for his counterpart from
16			the State where the wedding party was coming from, to land at the
17	11		Waterkloof Base?
18	Mr A Gupta	ì	It is completely wrong, Madam.
19	Adv T Madonsela	:	For making (indistinct – speaking simultaneously)?
20	Mr A Gupta	:	It is not.
21	Adv T Madonsela	:	Yes, so how did the family then land at Waterkloof Base
22	Mr A Gupta	:	(Laughing).
23	Adv T Madonsela	:	if there was no story about the official business then?
24	Mr A Gupta	:	No, no, see that this is the daughter of my brother-in-law.
25	Adv T Madonsela	:	Yes, Sir.

1	Mr A Gupta	:	She is not that any brother is our sister daughter. So his father
2			applied for a it is not that a girl side any guests. It is a boy side
3			guest. It is not girl side, boy side guest and that guest that my
4			brother-in-law who requested to the High Commissioner of India to
5			apply the permission. We don't have anything to do with this
6			permission.
7			We did not apply, any of the brother and unfortunately or
8			fortunately, because you can't go there, my brother-in-law's name is
9			also Anil Gupta, so they always say "Gupta". So this is not by applying
10			at all by any Gupta brother or anything. It is been apply and
11			requested to by my brother-in-law, Anil Gupta, to High
12			Commissioner of India and the High Commissioner of India apply
13			this approval.
14	Adv T Madonsela	:	Okay and Mr Zwane was not involved then (indistinct - speaking
15			simultaneously)?
16	Mr A Gupta	:	No, not at all, Madam, no way. When we are not involved
17	Adv T Madonsela		Accredit (indistinct – speaking simultaneously)?
18	Mr A Gupta	i	No, not at all, not at all. You can go and check every document
19			Madam, it was nothing to do with any Minister or anybody.
20	Mr F Lekubo	:	Sorry, whilst still on the Switzerland trip, if I may, your private
21			business jet, was it in Switzerland at the time of that meeting?
22	Mr A Gupta	:	I say yes, my brother with his family.
23	Mr F Lekubo	:	With the
24	Mr A Gupta	:	With his family, yes.
25	Mr F Lekubo	:	Okay.

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1	Mr A Gupta	:	I can mean you can get a list of the personnel.
2	Mr G vd Merwe	:	Okay.
3	Mr I Naidoo	:	Was there any other business partners with your brother at the time
4			there?
5	Mr A Gupta	:	Again has to be check this, if any other business partner. It is maybe,
6			it is maybe. It is not necessarily that not, it is maybe. I will check it
7			and (indistinct). He was on a holiday there. See, this company that
8			is why I was very much surprised, this company is a loss-making
9			company and is in a business rescue. This has to be come from
10			business rescue, not from Glencore or anything. It has to be come
11			from business rescue and we are dealing with that business rescue.
12	Adv T Madonsela	:	Okay.
13	Mr G vd Merwe	:	Madam PP, I know you are in a hurry and I understand it.
14	Adv T Madonsela	:	Yes.
15	Mr G vd Merwe	:	I just can't let the hurry cause prejudice to my client. Can I just raise
16			this with you?
17	Adv T Madonsela	2	Yes.
18	Mr G vd Merwe	ì	Apart from what I have said earlier on, I don't mind discussing the
19			matters at hand, but questions pop up from wedding, to Zurich
20			flights, to this we appear unprepared, because we are unprepared.
21	Adv T Madonsela	:	I understand, Sir.
22	Mr G vd Merwe	:	Then I just want to record that it is difficult to and you are pressed
23			for time and you are watching the clock. I understand that, but it
24			makes it difficult for us to operate under pressure, where we need to
25			consider these questions. I just need to bring that to your attention.

1	Adv T Madonsela :	No, it is fine. I think do answer the question as much as you can.
2	Mr G vd Merwe :	Of course.
3	Adv T Madonsela :	I'm pressed for time, but I will not cut Mr Gupta and I have not cut
4		you, Sir. I am pressed for time, but that is not as important as making
5		sure you have is there something you still want to say? I just want
6		to clarify why I was bringing the wedding thing, was because Mr
7		Gupta has said he doesn't know Mr Zwane that well and they are not
8		friends, and then Mr Zwane went to Switzerland.
9		So I was just coming back to the issue of friendship, because
10		there is that media story that says Mr Zwane as MEC for Agriculture
11		arranged the accreditation of the MEC for Agriculture in the city
12		where the wedding party was going to come, which then made the
13		wedding which gave it an official status of some sort or attempted
14		to do so, that was
15	Mr G vd Merwe :	Well, the explanation and I don't want to repeat it (indistinct -
16		speaking simultaneously).
17	Adv T Madonsela :	So he has given me an explanation.
18	Mr G vd Merwe :	Yeah.
19	Adv T Madonsela :	In any event you are not Mr Zwane. I just wanted your side of the
20		story, but the essence of that would have to come from Mr Zwane.
21	Mr G vd Merwe :	I know.
22	Adv T Madonsela :	At this point what we wanted to confirm was that Mr Zwane and Mr
23		Tony/Rajesh Gupta attended the Glencore meeting in Switzerland?
24	Mr G vd Merwe :	Yes, Madam.
25	Adv T Madonsela :	You have said you don't know if Mr Zwane attended?

25

1 Mr A Gupta : No, I ... sorry. 2 Adv T Madonsela: The second ... because obviously you were not there? Mr A Gupta Yeah, we say no, but I say that is maybe the meeting there, but it is 3 not regarding this business of this thing or deal of anything, for 4 Optimum deal. Maybe they talk there, I don't know and we say that 5 for my brother ... I mean Rajesh is there for a holiday and we ask 6 them to meet with Glasenberg, not the ... and Glasenberg will clearly 7 say that it is meeting with Tony for this Optimum, not to the Minister 8 9 Zwane. Then maybe have a talk to be anything else, but not for the ... 10 not for that. Adv T Madonsela: Yes, but you don't recall Tony/Rajesh saying he met ... he was with 11 12 the Minister? Mr A Gupta No, no, I don't recall that and Madam, again and again I'm saying one 13 thing, this business of ... see, all ending in one thing of the business of 14 the Optimum. We all has to consider this thing, we are dealing with 15 Optimum from June or July. Three times they bring this deal on the 16 table and three times they take the deal out of the table, and this 17 company is also ... Shanduka is a shareholder in this company, when 18 they sold it to us, Shanduka also shareholder, 20% or something. 19 So it is not that anybody is talking to them and doing ... they 20 themselves is given exclusivity to one other company, which is we 21 22 believe that was Shanduka. Business Rescue Practitioner is clearly saying is a most credible offer and even Madam, I want to say in last 23

there, our negotiation was ... it is an insult to our negotiation there.

That even in the last moment when we are completing this deal,

1		signing on this deal, that even in that moment also it is few moment
2		come, then both parties walked away from the deal. So it is nowhere
3		is it which is the media giving an impression of Zwane helped with
4		even once the news come on this thing, we clearly said we are
5		ready to give you back to Optimum. We say it publicly on that day,
6		that Optimum, if you think that the media issue is there, then we are
7		ready to cancel this thing.
8		We don't want to be in this deal, to be part of this. It is an insult
9		to we feel that no, it is unnecessary that someone is being dragged
10	PSI	without any reason. They may be met with some other reason, they
11	PSI	may be met for some other cause and it is been treated to that, for
12		this business.
13	Adv T Madonsela :	Yeah, that is fair, Sir. During your negotiations to purchase assets
14		belonging to Optimum Coal, you apparently indicated that you could
15	-74	have the conditions precedent to the Sale Agreement complied with
16	10	within a month of December of 2015. So there were conditions and
17	1/2	then you said you have the ability to comply with those conditions by
18	1	December 2015?
19	Mr A Gupta :	No. Sorry, sorry, again, please
20	Adv T Madonsela :	Because of that then you secured a Section 9 approval for transfer of
21		mineral rights
22	Mr I Naidoo :	Section 11, isn't it?
23	Adv T Madonsela:	Yes, Section 11 approval for transfer of mineral rights within a short
24		space of time
25	Mr A Gupta :	No, no sorry.

1	Adv T Madonsela :	and Eskom agreed to release the guarantee against Optimum Coal
2		Holdings, where other entities have failed. So there are okay, you
3		are saying you said you were going to be able to achieve the
4		conditions they were imposing on you for the acquisition?
5	Mr A Gupta :	No.
6	Adv T Madonsela:	This was your the basis on which you got the deal?
7	Mr A Gupta :	No. If I understand the question properly, you are saying that and
8		please rectify me if I'm wrong, you are telling that we put a condition
9		precedent
10	Adv T Madonsela:	No, no, you didn't. They had a condition.
11	Mr A Gupta :	Yeah?
12	Adv T Madonsela:	You said, "We can comply" and then based on you saying you could
13		comply then they let you in, they approved the transfer of mineral
14		rights within that short space of time.
15	Mr A Gupta :	Okay, so let me again to understand this question again now, so you
16		say that they say us that these are conditions precedent, which
17	1/3	include the Eskom guarantee or release and Section 11, and we can
18		complete by December this thing?
19	Adv T Madonsela:	Uhm (positive).
20	Mr A Gupta :	Am I right, this is the question? No, it is nowhere. Nowhere, nobody
21		tell that, because we signed this agreement only on the 16th of
22		December or 18th of December, I mean very late December, when we
23		all are ready to well, I think so, we already gone for the holidays
24		and this is so there is no question that we can complete in
25		December. For a matter of fact that the conditions precedent are

1		being given three months' time, it is the 31st of March that has to be
2		completed or something like this, in three months' minimum, and
3		which is a fair time for everybody there. We agree that, the 31st of
4		March and we know that Section 11 we battle a lot and we got a last
5		condition precedent we completed for Section 11.
6	Adv T Madonsela:	You complied by the 31st of March?
7	Mr A Gupta :	No, I think so, maybe a further I have to recheck hundred percent,
8		but because deal happen on 15th or 14th of April, so yes, a deal
9		happen on because this all condition precedent is not been
10		completed, so deal happen on 14 th or 15 th of April. It is completely
11		wrong.
12	Adv T Madonsela:	Does the team want to ask any further questions or is this fine?
13	Mr F Lekubo :	Yeah, no, it is fine.
14	Mr I Naidoo :	No, well as you say, getting the Section 11 approval is quite difficult,
15		right, so I have heard some people say that it can take a year, more, a
16		year and a half.
17	Mr A Gupta :	Absolutely.
18	Mr I Naidoo :	How does it take three months from how did you guys manage to
19		get it in three months?
20	Mr A Gupta :	Absolutely, you are a hundred percent right. In few of our case we
21		are even battling for two years to get that, so it is not that we it is a
22		particular deal, because if this is not happen, 3 500 jobs going to be
23		and they are going to close down the mine. That is they already
24		given an instruction to that. Everybody knows it is the pressure. In
25		fact we wrote to the when we did not get – you can go and recall

1			and check it there – that we wrote to the DMR that "If you don't give
2			this and you know this is the last date of the 31st, then you are risking
3			to that. If you don't want to give it, it is fine, tell us then". We wrote
4			the letter that maybe once we are reaching to the end of this thing
5			and we are not getting, that I think so that this was a consideration
6			by DMR – it is our opinion – that this deal is not happen, this mine is
7			going to be closed down and 3 500 jobs will be at stake.
8	Mr F Lekubo	. 1	Why do you say that the mine was going to close down if (indistinct –
9			speaking simultaneously)?
10	Mr A Gupta	P	Because they declared that, this is in a business rescue. This is very
11			interesting, you have to understand this. This is on a business
12			rescue, it is on a business rescue, mean they are not paying anybody.
13			Only they are running the mine to be it is a very I mean 20/30%
14			of the chance of business rescue, that is come out of the business
15			most of the companies was reach(?) on a business rescue it is being
16			closed down, shut down and they already given in the public that if
17	17		we don't do, then we have to close down this mine.
18	Mr F Lekubo	K	Has Glencore not at any given point informed you that they will be
19			keeping the mine, they won't be selling it?
20	Mr A Gupta	:	No, to us is not.
21	Mr F Lekubo	:	They have never said that?
22	Mr A Gupta	:	No, no, not at all.
23	Mr G vd Merwe	:	Can I interject?
24	Mr F Lekubo	:	No, that is fine.
25	Mr G vd Merwe	:	Are you happy with the answer? You can separately and

independently ask the Business Rescue Practitioners, their firm 1 2 instruction is this company will be liquidated, if not sold. Adv T Madonsela: Thank you, Sir. 3 Mr A Gupta And sorry Madam, sorry and business ... they are not dealing directly 4 5 with us. With any meeting is happening is business rescue in this meeting, all negotiation its business rescue team was in all 6 negotiation. That is why I was surprised that you are talking about 7 this business in Switzerland, that if that has to be, the business 8 9 rescue team has to be there. 10 Adv T Madonsela: Right, thank you, Sir. We have established that you were 600 million 11 short on the deal and when you approached the banks to negotiate 12 terms, it was rejected. Where did you get the extra 600 million? Mr A Gupta No, we are not short 600 million, Madam. We have ... when we did 13 the deal ... again this is, I'm giving this thing, it is my opinion. My 14 thing is that it is not, it is not that we are short of 600 million. We are 15 looking on that time R2 billion. We are asking to the bank to ... it is 16 R2.1 billion of the bank loan. 17 We are asking that "We pay R1 billion to you and the balance 18 you" ... not refunded, the balance be paid on time, because this loan 19 20 was up to 2017 and we requested to the bank a few times. It is not at 21 one meeting. "I'm just telling you that we are short of R1 billion and 22 please you take it half now from us and we will pay balance when this loan is full period of that", to be that thing and they are refusing 23 24 that. Mr I Naidoo Okay, so then where did you get the money from? 25

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1	Mr A Gupta	:	We taken a loan.
2	Mr I Naidoo	:	You took a loan?
3	Mr A Gupta	:	Yeah, we taken a loan.
4	Mr I Naidoo	:	Okay.
5	Adv T Madonsela	:	Where did you take the loan from?
6	Mr A Gupta	:	It is from Bank of Baroda and that is why they are in trouble now.
7	Adv T Madonsela	d	The Bank of?
8	Mr A Gupta	ł	Baroda.
9	Adv T Madonsela		Baroda. Okay, thank you, Sir.
10	Mr A Gupta	:	And we
11	Mr G vd Merwe	:	The reference to the Eskom meeting, elaborate on that. I think that
12			they misunderstand.
13	Mr A Gupta	:	No, but that is a very separate thing. That thing was that this is
14			between we are not involved at all. This is negotiations in an
15			operational team and Eskom. This is nobody is a family member is
16			involved at all. That is for some different thing. I mean they want to
17	11		be a supply and we have a stock on that stuff, and they have a
18	Mr I Naidoo	i	But you said you were involved in the negotiation process
19	Mr A Gupta	:	For the business.
20	Mr I Naidoo	:	for the business for the sale, isn't it and with the purchase?
21	Mr A Gupta	:	Sale, yes and that is why I say I was short, I was short. I did not
22			(indistinct).
23	Mr I Naidoo	:	If you can tell me who else was part of the team, if you can?
24	Mr A Gupta	:	Yes, I have very much that. It was Nazeem.
25	Mr I Naidoo	:	Nazeem Howa?

1	Mr A Gupta	:	There is Veronica Dagher(?) at that time and the business rescue
2			people, and then VDI is there.
3	Mr G vd Merwe	:	KPMG.
4	Mr A Gupta	:	KPMG, fully KPMG also there. KPMG were part, that he has been
5			appointed for KPMG for all these things. Their Lawyers, Heather and
6			Gordon and so many people was, it is a full team. In fact one time
7			they told Glencore told to us that "Oh, we are bringing 30 people in
8			a bus for a negotiation".
9	Mr I Naidoo		And Mister Van der Merwe, just for record
10	Adv T Madonsela	:	Can I finish then the thing and then you guys flag the questions?
11	Mr I Naidoo	:	Okay.
12	Adv T Madonsela	:	Normally we normally do the structured ones and then we do
13			because that is why it gets a little bit (indistinct), because I lose my
14			train of thought. Can we flag the questions when I'm finished and
15			then we complete, guys? Good. It is said in the evidence we have it
16			is said that you transferred the Mine Rehabilitation Trust Fund to the
17	- 14		Bank of Baroda. Why and where are the funds currently held?
18	Mr A Gupta	ì	Oh, very good Madam, held the assets. These accounts was in
19			Standard Bank and we pleaded with them, pleaded, that "Please
20			keep" I mean as we transfer this Optimum they given notice to us
21			to close the account. What should we do now? I mean the moment
22			we move and we said this is a new business, nothing to do with
23			anything. We pleaded them, please and they say no, and then "Once
24			you got the notice to close that account, tell me what we" they want
25			to keep it for one month or two months, the notice period there. We

say, "Fine, whatever we have to do" and we are getting maybe a little 1 2 extra interest also in Bank of Baroda, and we shifted this money. So please Madam, this is not that we of our will transferred. We don't 3 have any bank account. We have (indistinct). 4 Is it still in a Trust Account Sir. in the Bank of Baroda? 5 Adv T Madonsela: Yes, it is still in the Bank of Baroda. Mr A Gupta 6 7 Adv T Madonsela : Could you provide us evidence that it is in a Trust Account? 8 Mr A Gupta : Yes. It is in a fixed deposit, Madam, it is in a fixed deposit. It is not 9 anywhere else that. 10 Adv T Madonsela: And it is reflected as a Trust Account? 11 Mr A Gupta Yes, yes, of course. For that ... see, please more ... because this again is a heart touching question, as people say. Business rescue ... 12 without the business rescue permission you can't shift anything. It 13 was in the business rescue until that time. We only come out on 30th 14 of August out of business rescue, 30th of August. 15 Adv T Madonsela: Okay. 16 Mr A Gupta : So this is ... nobody can touch this, because people are thinking 17 maybe why was that without the permission of business rescue? So 18 to open the Trust Account also we needed business rescue 19 20 permission and business rescue was not happy until we don't go ... 21 and he himself personally with team, with Lawyers, he went to the Bank of Baroda and he checked with the Bank of Baroda that can he 22 transfer this money. He was thinking this Bank of Baroda is a fly-by-23 night bank, I think so. He did not mention to us, so he went to 24 25 interrogate to the Bank of Baroda and to understand whether this ...

1		you know we gone through such a humiliated position that. The
2		Bank of Baroda is a Government of India bank, but he said, "No, I
3		want to interrogate to this" and they are telling getting Accountant
4		interrogated by the business rescue. So they did it, interrogate and
5		then we transferred it, that is BRP agree to transfer this money to
6		there.
7	Adv T Madonsela :	And it is a bank here in this country?
8	Mr A Gupta :	Yes, yes, it is a bank of South Africa.
9	Adv T Madonsela :	No, that is wonderful. We will then get just confirmation that it is
10		still in a Trust Account.
11	Mr A Gupta :	Yes, Madam, it is still in trust, I'm confirming. We will send the fixed
12		deposit, the evidence. The evidence this is the evidence for that,
13		we will send a copy of that fixed deposit.
14	Adv T Madonsela:	Thank you, Sir. Just quickly on going back to something we didn't
15		touch on. You said Mr Brian Molefe does visit you and when last was
16		he did he visit you?
17	Mr A Gupta :	Maybe you see home he is not come so often, yes, but sometime
18		maybe in last visit I was in the office.
19	Adv T Madonsela:	It was when, Sir?
20	Mr A Gupta :	Maybe two/three weeks before.
21	Adv T Madonsela:	Two/three weeks before now?
22	Mr A Gupta :	Yes, yes, yes.
23	Adv T Madonsela:	Okay, thank you, Sir and then telephonically do you recall when last
24		did you speak to him?
25	Mr A Gupta :	Telephonic maybe 6 months 8 months. I don't exactly remember,

1		but long. I did not have much talk on a and this phone records are
2		with you that.
3	Adv T Madonsela :	Yes. Do you have a telephone number that he contacts you on?
4	Mr A Gupta :	Yes, yes.
5	Adv T Madonsela :	Could you share that with us?
6	Mr A Gupta :	Yes, yes, yes.
7	Adv T Madonsela:	Do you have it right now?
8	Mr A Gupta :	Yes, yes, yes.
9	Adv T Madonsela :	If we can have the number that you use to contact Mr Molefe, we
10		would appreciate it, Sir.
11	Mr A Gupta :	You mean my number now or his number?
12	Adv T Madonsela :	His number.
13	Mr A Gupta :	His number. I do open the phone and I will check it that, and I will
14		give it to you.
15	Adv T Madonsela :	We would appreciate it.
16	Mr G vd Merwe :	May I provide it to you?
17	Mr I Naidoo :	Yeah.
18	Mr G vd Merwe :	Sorry, to be certain, you want the telephone number of Mr Molefe?
19	Adv T Madonsela:	Mr Molefe and
20	Mr A Gupta :	My numbers, both number I will give it to you.
21	Adv T Madonsela:	Thank you, Sir.
22	Mr S Delaney :	Mister Gupta, where do you
23	Adv T Madonsela:	Just to confirm your side of the story.
24	Mr S Delaney :	Sorry, where did he visit you two or three weeks ago?
25	Mr A Gupta :	Office.

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1	Mr S Delaney	:	At your office?
2	Mr A Gupta	:	Yes.
3	Adv N Kanyane	:	You said "his" office, Sir?
4	Mr A Gupta	:	No, no, no.
5	Adv N Kanyane	:	Your office?
6	Mr A Gupta	:	I never met there at (indistinct) office.
7	Adv T Madonsela	d	Is your office at Sahara? Thank you, Mister Delaney.
8	Mr A Gupta	d	No, I was telling the Oakbay office.
9	Adv T Madonsela		Where is the Oakbay office, Sir?
10	Mr A Gupta	:	In Sandton.
11	Adv T Madonsela	:	Okay, thank you. I have to ask because it is here.
12	Mr A Gupta	:	No, please.
13	Adv T Madonsela	:	It is alleged that you said that you made Mr Duduzane Zuma a
14			billionaire and you bought him what is said?
15	Mr F Lekubo	:	A house.
16	Adv T Madonsela	:	You bought him a house in Dubai. Is this true?
17	Mr A Gupta	:	No, a hundred percent it is not true at all, at all. This is all record, you
18			have resources Madam, you can take it and check it that.
19	Adv T Madonsela	:	Okay, but
20	Mr A Gupta	:	Duduzane in Dubai, whenever he go, he stay in a rental house, rented
21			house. Whenever he is there he rent a house. He don't own a house
22			at all.
23	Mr I Naidoo	:	Does he rent the house from you?
24	Mr A Gupta	:	No, not at all, not at all. It is all you can check it.
25	Adv T Madonsela	:	Do you own property in Dubai?

1	Mr A Gupta :	No.
2	Adv T Madonsela:	I mean the family, through a Trust or directly or through a relative?
3	Mr A Gupta :	See, yeah, yeah, fine, that is now the new generation is there, so
4		they have a house in a company, one company on the house, but they
5		pay the rent to this company.
6	Adv T Madonsela:	Okay, the younger children have a house?
7	Mr A Gupta :	House.
8	Adv T Madonsela :	Is it a standalone or is it an apartment?
9	Mr A Gupta :	No, it is a standalone and what I know that. I'm just sharing to that
10	(AS)	because I don't know you understand that I am only advising to
11		them here as a family, but now, because my youngest brother want
12		to move from last two years, so I don't much to be Dubai things
13	150	much. It is a standalone house.
14	Mr F Lekubo :	While the PP is <i>(indistinct)</i> okay.
15	Adv T Madonsela :	I just want to know do you know the name of the company that
16	11	bought that house in Dubai?
17	Mr A Gupta :	No, not
18	Adv T Madonsela :	Could we have the name of that company?
19	Mr A Gupta :	No, definitely I will check and then
20	Adv T Madonsela :	And then they pay rent to the company?
21	Mr A Gupta :	Yes, they pay rent to the company, the young children, because this is
22		the young children. They pay the rent to the company.
23	Adv T Madonsela :	Whose children are they, Sir?
24	Mr A Gupta :	It is mine.
25	Adv T Madonsela :	Okay.

1	Mr A Gupta :	:	One is mine, one is my sister's son, because Atul's son is still
2			studying, both Atul. I can give the structure of the kids also. I have a
3			two sons, Atul have a two sons, Tony have a one son and one
4			daughter, but they are young and my one is both are eldest, so they
5			both are from last two years in not in this country. Atul, both sons
6			is studying here in Wits, so they both are here and Tony's son
7	Adv T Madonsela :		Okay, so which are the ones that sorry Sir, which are the ones that
8			are owning
9	Mr A Gupta :		One of my sons.
10	Adv T Madonsela :		who are owning the company that is in (indistinct - speaking
11			simultaneously)?
12	Mr A Gupta :	:	Yes, one of them my son. I believe so. I don't have the exact paper
13			and the things, because some of the things you
14	Adv T Madonsela :	:	And whose other child is the other one?
15	Mr A Gupta :	:	My sister's son. They both have a company there, so they are both
16			doing the business there.
17	Adv T Madonsela :	:	What are their names, Sir?
18	Mr A Gupta :	ď	The one is my son's name is Kamal Gupta.
19	Adv T Madonsela :	:	Kamal?
20	Mr A Gupta :	:	Kamal Singhala.
21	Adv T Madonsela :	:	Kamal?
22	Mr A Gupta :	:	Singhala. Then maybe another
23	Adv T Madonsela :	:	Gupta?
24	Mr A Gupta :	:	Kamal Singhala and
25	Adv T Madonsela :	:	If you can help us to spell it properly, Sir?

1	Mr A Gupta	:	I will, I will and my sister's son is Varun Gupta.
2	Adv T Madonsela	:	How do we spell that, Sir?
3	Mr A Gupta	:	V-A-R-U-N.
4	Adv T Madonsela	:	V-A?
5	Mr A Gupta	:	R-U-N, but I will give a full name to that, it is not a problem. I will
6			give the full spelling, Varun Gupta.
7	Adv T Madonsela	d	No, that is then my last questions before you can ask your
8			questions, is did you ask this is now the third Complainant.
9			Remember I said there are three complaints?
10	Mr A Gupta		Yeah.
11	Adv T Madonsela	:	It is that one and this one.
12	Mr A Gupta	:	Yes, yes, yes.
13	Adv T Madonsela	:	The third Complainant is the one who is not questioning you,
14			however, it has implications for you and that is the one about banks.
15			Did you ask the President for assistance with the banks?
16	Mr A Gupta	:	I don't remember that, because please understand Madam, that on
17	1/		that time we are not in an Executive or Nonexecutive position.
18	Adv T Madonsela	i	Yes.
19	Mr A Gupta	:	So whole drive is being done by the Executive Team, that is done.
20			What I remember, I don't think so, they will leave any stone
21			unturned. They talk to each and every one. They have gone to each
22			and every department, I mean including Finance Minister,
23			Ombudsman, Reserve Bank, Consumer Court, whatever the options
24			are available for them to go to them. So maybe they went to the
25			President also, I don't I will check it that with them, that did they

1			wrote to the President. They wrote to the Labour Minister, they
2			wrote to the Mining Minister, they wrote to the Finance Minister and
3			they had a meeting also.
4	Mr G vd Merwe	:	Part of the question was the Bank Ombudsman?
5	Mr A Gupta	:	Yeah, the Bank Ombudsman also, they contacted because no bank
6			is giving a reason to us why our account is being closed and I'm very
7			saddened sitting here that I read yesterday or day before yesterday
8			that one of the people who have criminally been charged and people
9			has been guilty in a collusion and this thing, their account is in
10			construction industry like that, their account is still open and our
11			account has been closed without a single reason has been given, and
12			we never ask to interfere in this thing.
13			We ask, "Okay, define that what is the reason?". If we are guilty,
14			Madam, I'm sitting here, if we are guilty of anything we must be
15			punished. We never say that, that we not be punished. If we are
16			guilty of any wrongdoing, we must be punished and I tell you this
17	11/		thing to all when I was looking after, to all the staff.
18	Adv T Madonsela	i	Which are the banks that closed your account, Sir?
19	Mr A Gupta	:	All. I will give you a full list, not as a bank. After this incident started
20			I have a full list, Madam and a full file, that if you want it, the bank is
21			FNB, Absa, Nedbank, Standard Bank and Standard Bank even now-
22			now
23	Adv T Madonsela	:	FNB, Absa, Standard Bank?
24	Mr A Gupta	:	And Nedbank.
25	Adv N Kanyane	:	The big four?

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Mr A Gupta : All big four.

2 **Adv T Madonsela** : Nedbank.

3 Mr A Gupta : And Madam, in this thing ...

Adv T Madonsela: And none of them gave you reasons for closing?

Mr A Gupta : A reason. I will bring the all letters, I will give you that file. I will

bring the all letters the bank given to us. I will bring the file here and

I still wanted ... and even in a few meetings with Standard Bank or

some Bank Executive, because I never involved in any of the bank

talk, it is the only Executive Team is involved in all this things. So

even Nazeem told me that, that in one of the bank meeting he say

that to him in front of their Lawyer that it is a ... "You are hiding

yourself behind the customer confidentiality and we are happy to

release you. Now we are a customer sitting, please give a reason why

it is then?", and they did not anything.

Even just now ... you know this is another thing you will come that now, "Tell me how I'm going to operate this thing?". Now they informed to them some of the guarantee is been given to the DMR through Standard Bank. Now Standard Bank just now, two weeks before, issue an ... or three weeks – I mean dates again has to be here – issue another letter that "We want to close this account also". Now I will go to someone else to get the guarantee and the we will again blame that DMR allowed us to given the ...

Mr I Naidoo : What guarantee is this?

Mr A Gupta : This is for Tegeta, all time that ...

Mr G vd Merwe : The rehabilitation.

Mr A Gupta

The rehabilitation guarantees for the maybe long, 4/5 years old or 6 year old, which is they are having the account and they are telling now this account also to be closed then. Even after that Madam, we take in the Bank of Baroda ... not on new account. Bank of Baroda also not open any new account to us. It is all old, 6 year to 10 year old. State Bank of India did not open any account to us. Habib, Overseas bank, we tried to open the account. They are busy and then they say, no, it has been Central Bank pressure to them not to open.

Then the Bank of China they open our account just now, 3 days before they close again our account and they say that no, without dealing one transaction. Without dealing one transaction, they closed our account. KPMG, without saying that no, anything wrong until today. I deal KPMG hundred percent all the time. Please call to their people, if they say one thing we did wrong, if they say no, ever we ask them anything wrong. Sorry Madam, I know that PriceWaterhouseCoopers, Deloitte and Grant Thornton, SVG(?), mean it a full list I'm giving to them.

Beyond this, all Lawyers ... he is sitting here, he also connected with the Lawyers, say, "No, we don't want to work". I mean this campaign actually capture is this way, that if they wanted not one person to be work, they can shut down to him forever. This is the list will show it that how ... without any reason, if one person, only one what some people use, association list and there we are not find guilty. You are the first ... I'm thankful that you are the first who ask us that you did this thing wrong. Not a one person until today ask to

1		us that, not any department and even the school even it is raised to
2		that level, I mean it is shameful for us. The family or companies, or
3		business have two aircraft at this moment here. Even they refuse to
4		service also two aircraft.
5	Adv T Madonsela:	Who refused to service your aircraft?
6	Mr A Gupta :	I give the name, it is in writing.
7	Adv T Madonsela :	Who?
8	Mr G vd Merwe :	Cessna and Status I will give you the documents where they
9		terminate their (indistinct – speaking simultaneously).
10	Mr A Gupta :	And he wrote legally to them also and they said no and it is the only
11		company who can do service in this country. We are sending these
12		aircraft now to Europe to service.
13	Adv T Madonsela:	Sorry, yeah.
14	Mr G vd Merwe :	Would you like one of the examples?
15	Adv T Madonsela:	We would like those examples. If there is any additional documents
16		Mister Gupta, that you think from your side your version of what is
17	1/3	going on, can assist us to get
18	Mr A Gupta :	I will give it.
19	Adv T Madonsela:	We would appreciate that.
20	Mr A Gupta :	So (indistinct) Madam, that I will give it to you now, that what we are
21		doing with the Government. If this all all these allegations and this,
22		for what? It is for the business or anything and businesses of ours,
23		you can check it, Madam. Go one by one, Madam. If one thing is find
24		wrong, I'm guilty. I'm ready to take anything that even as we find
25		that and even beyond that Madam, beyond that, even they stop

operating our aircraft. No insurance company is giving an insurance 1 2 to us, no insurance company. I mean yesterday, the day before vesterday we have to take insurance from London. So all money is 3 going now, 16/17 million of the insurance premium. We have to pay 4 overseas for the Optimum insurance, which is we just bought six 5 months before and from Optimum to us nobody is ready to give us 6 that. I mean I can tell you that any ... I mean finance I told you that 7 and in any supplier, even our ... you know it is a mining business. 8 9 We have around over more than a billion rand of equipment. 10 Tegeta itself ... I mean not in Tegeta. I mean in other company of the group, but is using Tegeta. They all stopped their credit also, they all 11 stopped even services also. I mean you bought the equipment from 12 them and now it is not being serviced. They close all our account 13 even, I mean with Caterpillar ... what, Barloworld? 14 Mr G vd Merwe Barloworld. 15 Mr A Gupta They use ... they have a (indistinct) plan, some with Optimum. I mean 16 life become so difficult now, you can't even move one inch and then ... 17 now later one someone will come now ... I have a limited account, 18 19 Madam and from there I have to pay salary. Now for this company salary I'm paying from this company, because I have an account. 20 October, I don't have an account. What to do? So now later one 21 22 someone will go there and say that no, no, we are doing something wrong, because we paid the salary from this account to that account, 23 to that account, to that. We have to move three (indistinct) every 24 day. Madam, please, you please note it down this thing. This Bank of 25

Baroda or State Bank, Bank of Baroda has to deal with Nedbank, because this is the four banks only control every transaction, so Bank of Baroda even has to be account with them. State Bank has to be account with Absa. Any money come to us or any go in our bank from this account, they hold for few, few days, weeks even and I mean it has become so difficult, that even to sell we have to pay now a week before, because you don't know how long this bank is going to hold your money. It makes so difficult.

That is why we are telling that this Bank of Baroda, 15/20 days they are sitting there and harassing to them, and they are clearly saying to them that it is a harassment. If you close their account, then it is fine, then it is fine, it is no issue. I personally had to fly to India and to convince to the Chairman of the Bank of Baroda, who is the Head Office in that. I could not get a meeting, so I could not ... because they already given a letter to us to close or reduce any facility we have there.

They are being harassed and one, I'm very happy to say if one fault of ours in business, my fault is, our fault is, only me, not anybody else, that I am a friend with President Zuma, so that is a fault. If this is a fault and they are punishing to my family and friends as well, what can I do? Then there I will say no, we are being told that yes, okay, we will sell our shares now, the family. What? It is the day we say ... first they say no, they are operating. We resign from Executive and Nonexecutive. Okay, let everybody to deal. Then they say, "No, no, still the shares are with you". So our family say

1		okay, let's sell the share also. Now they are saying, "You are running
2		away, you run away, you are leaving the country. You are have a
3		something, you transfer to Dubai". These all papers are there,
4		Madam. We never transfer any money, which is consider to any part
5		of the world. This is very good about the family, whatever they make
6		money they reinvest in this country only. I can't say that more on
7		this than maybe a smallest, that we have given the money for our
8		religious donation or maybe one time for one my sister in 6/7 year, 8
9		year before, a small which is under the one cent you bring to us
10		that we taken out of this country, I'm (indistinct).
11	Adv T Madonsela :	Did you give about a million to your sister in India?
12	Mr A Gupta :	Maybe it is roundabout a million, long back, maybe 8 years/10 years
13		before. It is a special (indistinct), we have a sister and brother
14		relation, that where you can say that this is the I mean in our
15		culture we have three occasions in a year when brother has to give a
16		I mean to give to your sister. It is a three occasions in a year when
17	1/2	one is Raksha Bandhan and (indistinct).
18	Adv T Madonsela:	Sir, I just had one question. So you don't remember asking the
19		President for assistance?
20	Mr A Gupta :	No question of that.
21	Adv T Madonsela:	You didn't?
22	Mr A Gupta :	Not a matter of remember.
23	Adv T Madonsela:	You didn't ask?
24	Mr A Gupta :	I never ask to him that.
25	Adv T Madonsela:	Has the President ever asked you about these alleged wrongdoings?

1		For example, your name has been in the media several times with
2		you being allegedly namedropping and getting favours, allegedly of
3		course. Has he ever asked you if you did do what these people were
4		accusing you of doing?
5	Mr A Gupta	See, it is not a particular thing that he ask to me that or anything, but
6		I remember that if sometime when some not now, maybe long back
7		I say one word to him, one word to him. I say eye-to-eye, "I'm saying
8		to you" and I use this way, "I'm telling eye-to-eye to you, Sir and
9		you know very well that I will never going to be any embarrassment
10		ever in my life to you. I will never do anything which make you
11		embarrassed in your life and I stand by on this word". I think so, this
12		was specifically being on that time when you are talking about this
13		agriculture land or something that, it is regarding that, I think so, yes.
14	Adv T Madonsela	Was that the landing at Waterkloof?
15	Mr A Gupta	No, landing Waterkloof
16	Adv T Madonsela	Was it the Vrede deal?
17	Mr A Gupta	Vrede deal or something that, yes.
18	Adv T Madonsela	Vrede Diary, yes.
19	Mr A Gupta	Yeah, I think so on that time it was that, but the rest of the anytime
20		I talk to him I say, "No, eye-to-eye I did not do anything wrong and
21		I'm never going to do anything wrong, which can embarrass to you",
22		and I stand by this Madam, no, I will not do. I will not do any
23		embarrassment for the any and that is not my (indistinct). That is
24		why I say it is me, I'm a culprit that now is sitting here, that who my
25		family is suffering, my friend is suffering.

1	Adv T Madonsela:	Yes and when the Jonas scandal broke did the President ever ask you
2		if you did this?
3	Mr A Gupta :	No, never, never ask me.
4	Adv T Madonsela:	But you did ask Atul about it?
5	Mr A Gupta :	I.
6	Adv T Madonsela :	You did? No, not Atul, you asked
7	Mr A Gupta :	Dudu.
8	Adv T Madonsela :	Dudu about it?
9	Mr A Gupta :	Yes, I ask that.
10	Adv T Madonsela:	And he explained to you what he thought happened?
11	Mr A Gupta :	Yes, yes, yes.
12	Adv T Madonsela :	Do you know when exactly did you ask him?
13	Mr A Gupta :	No, Madam, I don't think so. I remember this moment, but truly not,
14		that much, much (indistinct) then you know before that, until Mr
15		Jonas is not given his own statement, these stories are in media
16		before that also.
17	Adv T Madonsela :	Okay.
18	Mr A Gupta :	So I never been bothered about this thing, because it is me that who
19		know that and relations. So I believe so that I might be asked after
20		March only what this Mr Jonas himself say that.
21	Adv T Madonsela:	Right. Sorry, just before they ask their questions I hope you have
22		flagged the questions, so that you can ask them in the next minute or
23		so?
24	Mr F Lekubo :	Yes.
25	Adv T Madonsela :	State financing, you have received some State financing. Do you

1		recall what financing have you received and what was it for?
2	Mr A Gupta :	Yes, yes, yes.
3	Adv T Madonsela:	What financing have you received?
4	Mr A Gupta :	It is in 2010 I think so or 2009, or 2010 and it is we was dealing
5		with the Canadian company and it is a R250 million loan we took
6		from IDC, where we apply on that time, Brian Molefe, the PIC. We
7		apply to PIC also. PIC did not come back. They want this, some more
8		issues than which and we apply for a few things. Then IDC we got
9		it there.
10	Adv T Madonsela:	What was the basis of giving you the money?
11	Mr A Gupta :	This whole all our business plan and then all the projections, and
12		documents was there.
13	Adv T Madonsela :	Okay.
14	Mr A Gupta :	The major reason was it is a big strategic asset, which are coming
15		back in South Africa and from foreign hands, I think so. That it was a
16		it is a strategic asset for South Africa maybe on that time, it is
17	1/3	uranium and it is coming from Canadian hand to the South African
18		hand.
19	Adv T Madonsela:	Thank you. That was IDC. PIC didn't give you anything.
20	Mr A Gupta :	Just for a joke I'm telling PIC, because we are talking about now Brian
21		Molefe and the relations, and this thing.
22	Adv T Madonsela:	And then just the last one, yes, the banks, why haven't you taken
23		them to court?
24	Mr A Gupta :	See, Madam, it is again decision of the Executive Committee, but it is
25		very clear to us that first of all good that he is sitting here. We need

1		a good Lawyer to take that.
2	Mr G vd Merwe :	No, but sorry Mister Ajay, you will give the wrong answer. There is
3		Appellate Division Authority that a bank is entitled to terminate a
4		relationship with a client. We would not succeed.
5	Adv T Madonsela:	But you still would have to use the Constitution about the right to
6		just administrative action, because even if you are a bank
7	Mr G vd Merwe :	No, the court in fact found against it. The court said it is not
8	100	administrative. It is a commercial transaction, they can withdraw at
9		will.
10	Adv T Madonsela :	Without any good reason?
11	Mr G vd Merwe :	Without good reason.
12	Adv T Madonsela :	But is that an SCA Judgment?
13	Mr I Naidoo :	But Madam, you are signing the contract when you open the bank
14	REA.	account.
15	Mr A Gupta :	Account, Section(?) 27 or 42.
16	Adv T Madonsela :	No, no, no, even if you sign a contract that doesn't give people the
17	1/3	right to be arbitrary. I'm surprised.
18	Mr G vd Merwe :	I feel like you, (indistinct - speaking simultaneously) drafted the
19		papers.
20	Adv T Madonsela :	No, but I would like to see the judgment, to see whether there were
21		circumstances.
22	Mr G vd Merwe :	Of course, yes.
23	Adv T Madonsela :	Because everything that ends up in court is things we signed, but you
24		don't sign for people to violate the Constitution.
25	Mr G vd Merwe :	I will even show you the draft application that I prepared and on

1		Counsel's advice it would not have succeeded, but I will gladly give it
2		to you.
3	Adv T Madonsela :	I would just want that and then why didn't you use PAIA to ask for
4		information?
5	Mr G vd Merwe :	Because they say we don't have to give any reasons. It is a decision
6		of public
7	Adv N Kanyane :	Reputational(?) risk.
8	Mr G vd Merwe :	Risk
9	Adv T Madonsela:	No, no, but it is you now who is the person who is asking for
10		information about an action that has been taken to affect you. Did
11		you try PAIA?
12	Mr G vd Merwe :	We did everything and they came back let me just answer, I know
13		I'm not the witness, but they came back with the answer to say that
14		"We can't give you a reason, because there aren't necessarily there
15		don't have to be any reasons. Our decision stands on this Appellate
16		Division".
17	Adv T Madonsela :	Okay, if you can give us the communication between you and them?
18	Mr G vd Merwe :	No, I will, gladly.
19	Adv T Madonsela :	And the AD decision and this was against the four South African
20		banks?
21	Mr G vd Merwe :	Standard Bank in particular, because they were the last bank.
22	Adv T Madonsela :	So you dint go to you didn't request the Ombudsman to
23	Mr G vd Merwe :	We did. He wrote back to us and said he doesn't have jurisdiction.
24	Adv T Madonsela :	Okay, Ombudsman said they don't have jurisdiction?
25	Mr A Gupta :	Reserve Bank also.

1	Adv T Madonsela	:	Because to answer this if we can have your communication with
2			the Banking Ombudsman, because the third Complainant specifically
3			asked why was the Banking Ombudsman not used and why was the
4			NCC not used? The NCC, what did they say?
5	Mr G vd Merwe	:	No, they said, "We don't get involved with the bank matters". We
6			even approached the South African Reserve Bank.
7	Adv T Madonsela		And what did they say?
8	Mr G vd Merwe		They say, "We can't get involved with regards to the clients and the
9			banks, the relationships".
10	Mr A Gupta	:	Had to go to the court.
11	Mr G vd Merwe	:	Yeah. Yes, every time it is the same story.
12	Adv T Madonsela	:	And then the Reserve Bank you have got documents, Sir?
13	Mr G vd Merwe	:	The President of the Reserve Bank wrote a letter back to me.
14	Adv T Madonsela	:	Okay and the Ombudsman if we can have correspondence between
15			the Banking Ombudsman, the NCC
16	Mr G vd Merwe	:	Gladly. Madam, I can tell you that it will be a volume of documents,
17	14		voluminous documents, but I will gladly give it to you.
18	Adv T Madonsela	ì	Yeah, but just the part where they give you they are saying they are
19			using the SCA Judgment and then you said the Executives at the
20			family-linked companies approached several people, Minister of
21			Labour, etcetera. Was all of these approaches were the approaches
22			in writing?
23	Mr A Gupta	:	Yes, yes, yes.
24	Adv T Madonsela	:	If we could get those approaches?
25	Mr A Gupta	:	Yes, yes.

1	Mr G vd Merwe :	Even Mmusi Maimane was approached to help us and we (indistinct -
2		speaking simultaneously).
3	Adv T Madonsela :	Was it before or after you had exhausted the Ombudsman, the NCC?
4	Mr A Gupta :	Yes, of course, it should be. I mean I don't know yet, that we have to
5		this is all Executives do that.
6	Adv T Madonsela :	Okay, I just do want to see the SCA Judgment.
7	Mr G vd Merwe :	Gladly.
8	Adv T Madonsela:	To see the extent to which it closes the door and also their response
9		saying PAIA does not apply.
10	Mr G vd Merwe :	Yes.
11	Mr S Delaney :	Mister Van der Merwe, I'm surprised that the banks didn't respond to
12		you on the basis that you are not exercising Constitutional rights and
13		therefore as a private body they are not entitled to give that
14		information. Do they not say that?
15	Mr G vd Merwe :	No, but remember Simon, what they they don't say that "We hide
16		information from you". They say it is a pure economic decision not
17	1/3	to be associated with PEP, something "Exposed People".
18	Mr S Delaney :	Sure, Politically
19	Adv T Madonsela :	Politically Exposed People.
20	Mr S Delaney :	Sorry, as a private body you are not required to give information,
21		unless the request is exercising constitutional right or pursuing
22		constitutional right in seeking that information.
23	Mr G vd Merwe :	The point is, they say, "We have nothing more. This is what we have.
24		We have decided, because you are politically exposed, we don't want
25		to".

1	Mr A Gupta	:	I'm sorry, I don't think so they ever tell us we are politically exposed,
2			no, I don't think so (indistinct).
3	Mr G vd Merwe	:	There is one letter with that.
4	Mr A Gupta	:	Or maybe one letter. No, with the letters Madam, all these things,
5			particular banks what I have been informed. Please understand
6			that I am now second-hand, that particular banks say clearly one
7			thing, that, no, as per this agreement Absa, I think so, they say that
8			particularly, "No, as per Section this then you signed this agreement,
9			no further discussion". We tried to engage to them and it is many
10			occasi <mark>ons that, and they refused further</mark> to engage.
11			This is the even wrote a letter to Maria Ramos, the CEO of
12			Absa, that "Please you interfere in that and tell us if anything we did
13			wrong". She referred I remember that she referred, she replied
14			and she referred that to that particular person, say, "I don't look in
15			this thing and this is the particular person, we will look and we will
16			see". Then we yeah?
17	Mr I Naidoo	3	Sorry, what was the date when they closed the bank accounts?
18	Mr A Gupta	i	This is different (indistinct).
19	Mr G vd Merwe	:	Is started in November.
20	Mr A Gupta	:	Well, the December they this is the first, I think so, November or
21			December the first account has been notice has been given, notice
22			has been given by 90 days and then in some of the cases it has been
23			given 30 days only.
24	Adv T Madonsela	ı :	When was the first notice given?
25	Mr A Gupta	:	The first I think so, first bank is Absa.

1	Adv T Madonsela	ı :	When was it given?
2	Mr A Gupta	:	I think so, November/December. I don't remember now exactly.
3	Mr I Naidoo	:	Who was the last bank?
4	Mr A Gupta	:	The last was the almost all three are together.
5	Mr I Naidoo	:	When was that?
6	Mr A Gupta	:	This is in maybe April or May.
7	Adv T Madonsela		This year?
8	Mr A Gupta		This year.
9	Mr G vd Merwe		Or the distinguish, the notice and the closing date differ.
10	Mr I Naidoo	P	Oh, ok <mark>ay, so they gave you notice in Apr</mark> il and then May
11	Mr G vd Merwe	:	Yeah.
12	Mr A Gupta	:	Yeah, some they 30 days, like Nedbank give 30 days. They say, "No,
13			you are not we are not your major bank". So in a few case Madam,
14			they wrote it, the bank wrote it that like maybe Standard Bank,
15			where they say a Politically Exposed Person. They never give any
16			reason. We ask many times. We engage the meeting. A few bank is
17	14		ready to meet with us, a few say, "No, that is all, don't even contact
18			for anything else". This full they say full reasons, full not reason.
19			They say full essentials(?). They say the bank have a power to close
20			this account for maybe 4/5 things they write it, Politically Exposed
21			Person, money-laundering, this and that, they can close the account.
22	Adv T Madonsela	l :	Okay, but they don't say which ones are you guilty of?
23	Mr A Gupta	:	No, they didn't say that, "That you are guilty of this or that" and we
24			say, "That you are telling this thing, please tell us where we have a
25			problem?", but they did not respond for anything. That is all. I mean

1			every bank finally say, "No, we don't want to talk further. This is a
2			decision from our Board or our Executive Committee, or this thing, to
3			close your account". This is going still, Madam, it is not finished yet.
4			It is going still that how to and this last account was closed maybe
5			in May or June, somewhere.
6	Mr G vd Merwe	:	The Bank of China closed a week ago.
7	Mr A Gupta	d	Week ago, yes, without even a single transaction. They open we
8			can produce the letter where they say, "This is your account number"
9			and we transfer half a million rand to there and then we got on the
10			same day or two days later, "No, sorry" and being say that no, Central
11			Bank is doing this thing.
12	Adv T Madonsela	:	Have you approached the Central Bank or the South African Reserve
13			Bank to find out why are they putting are they putting pressure on
14			banks, number one and why?
15	Mr A Gupta	:	Nobody is ready to give us in writing.
16	Adv T Madonsela	:	Have you approached them?
17	Mr G vd Merwe	1	Yes.
18	Mr A Gupta	d	No
19	Mr G vd Merwe	:	With the Reserve Bank we did.
20	Mr A Gupta	:	Yeah, Reserve Bank.
21	Adv T Madonsela	:	When did you approach the Reserve Bank?
22	Mr A Gupta	:	Before, I mean when this account is closing we are asking to
23			everybody. On that time I think so, they approached the bank, the
24			Reserve Bank, but to close this account and this thing, no bank is
25			ready to tell us that in writing, that "No, the Central Bank is

1			objecting", nobody told us in writing. Nobody said in writing we
2			can't go to any (indistinct) Reserve Bank that "No, you are stopping to
3			us".
4	Adv T Madonsela	:	Why can't you not go to them to find out if it is true that it is them
5			who are asking banks not to give you (indistinct - speaking
6			simultaneously)?
7	Mr A Gupta	d	I think this is a mistake. I definitely will ask tomorrow. I will ask to
8			my CEO to write that request to you, then write tomorrow to the
9			uhm?
10	Mr G vd Merwe		No, nobody will talk to you.
11	Mr A Gupta	:	No, no, it is fine, but she is hundred percent right, that we should
12			approach and tell that this people are telling them, but we all know
13			the reply, what the reply will come, but it is fine. You are hundred
14			percent right, that we should approach to them on this way also.
15	Adv T Madonsela	:	Okay. Is there anything more that you want to ask?
16	Mr F Lekubo	:	Just one question from me. There is a company which has got an
17	- 4		interest in Tegeta, it is called Fidelity Investments incorporated in
18			UAE.
19	Mr A Gupta	:	Yes.
20	Mr F Lekubo	:	Are you linked to that company?
21	Mr A Gupta	:	Pardon?
22	Mr F Lekubo	:	Is it related to you?
23	Mr A Gupta	:	No, not at all, not at all.
24	Mr F Lekubo	:	Oh, it is just a shareholder in Tegeta?
25	Mr A Gupta	:	That is a shareholder, investor.

1	Mr F Lekubo	:	Okay.
2	Mr I Naidoo	:	And recently there has been media reports regarding the sale of
3			Optimum Coal Terminal to a Dutch-based company, I think it is or
4			something like that. Is there truth to that media report, is that sale
5			proceeding?
6	Mr A Gupta	:	Yes. We had an agreement signed with Vitol. The company name is
7			Vitol.
8	Mr I Naidoo		Okay, but obviously it is subject to approval from the RDCT?
9	Mr A Gupta		This is all so many maybe 8 ton
10	Mr I Naidoo	:	Okay, but that agreement is in place?
11	Mr A Gupta	:	Yes, the agreement is in place. That is so many conditions precedent
12			is there.
13	Mr I Naidoo	:	Okay.
14	Mr G vd Merwe	:	Sorry to interrupt, Mister Naidoo.
15	Mr I Naidoo	:	Yeah.
16	Mr G vd Merwe	:	Can I just tell you as well, for a reason unbeknown and one of the
17	- 4		concerns I hope to raise at some point in time when we meet, is the
18			issue of information that got leaked. That transaction was not even
19			duly drafted – forget the word "signed" – then we read about it.
20	Adv T Madonsela	:	Right, thank you, Sir. What is your relationship with Mr Salim Essa?
21	Mr A Gupta	:	Salim Essa we don't have any I mean kind of a me personally
22			have a relation, but Salim also he is the shareholder in many of the oil
23			company, a few. I don't remember offhand, but once you got a share
24			structure, you will get it then, in which company he invested with us.
25	Adv T Madonsela	:	Could we get that share structure (indistinct)?

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Mr A Gupta	:	Yes.
Mr G vd Merwe	:	We did, it will be part of (indistinct).
Mr A Gupta	:	It was many times in the public, but we will still give it to you. It is
		the same media reported that everything
Mr I Naidoo	:	Can you tell me how much you sold OCT for? Is that still
		commercially sensitive?
Mr G vd Merwe	d	No, we didn't sell OCT.
Mr A Gupta	H	No. Yeah, yeah, OCT.
Mr I Naidoo		The one (indistinct – speaking simultaneously)?
Mr A Gupta	F	Optimum Coal Terminal, he is right.
Mr G vd Merwe	:	It is 6% of Richards Bay(?).
Mr A Gupta	:	No, but this company hold this whole share in OCT.
Mr I Naidoo	:	Okay, yeah.
Mr A Gupta	:	I have no problem to say that, but it is still going there. We sell in
		see, understand this, this transaction not today. It was started when
		we even buying OCM OCH, we are buying on that time.
Mr I Naidoo	3	Okay.
Mr A Gupta	K	On that time this transaction was but let me say in a net what we
		are going to be getting. It is roundabout 130 to \$140 million, we are
		going to get in this transaction, roundabout 130. The transaction is
		much higher, but it is in commission(?) and this and that in between
		also.
Mr I Naidoo	:	What was said in the paper it is \$250 million.
Mr A Gupta	:	It is wrong.
Mr G vd Merwe	:	Yes.
	Mr G vd Merwe Mr A Gupta Mr I Naidoo Mr A Gupta Mr A Gupta Mr A Gupta Mr A Gupta	Mr G vd Merwe Mr A Gupta Mr I Naidoo Mr A Gupta Mr I Naidoo Mr A Gupta Mr A Gupta Mr I Naidoo Mr A Gupta : Mr I Naidoo Mr A Gupta : Mr I Naidoo Mr A Gupta :

1	Mr A Gupta	:	Yeah, it is wrong, completely wrong.
2	Adv N Kanyane	:	Are these my copies or do you want me make copies?
3	Mr G vd Merwe	:	You can keep them, I have copies, but they are in fact only examples.
4			The rest are here, I will prepare the bundle for you.
5	Adv N Kanyane	:	Alright.
6	Adv T Madonsela	:	Thank you, Sir. Two things that we need to do then, is just to agree
7			on when can we get that bundle? It would help us, because we may
8			have to follow up with some of the people that are mentioned and if
9			we get it soon, it would help us to follow up on your version.
10	Mr G vd Merwe		Can I answer, because I will prepare the bundle?
11	Adv T Madonsela	:	Yes, Sir.
12	Mr G vd Merwe	:	It will be within I would say three or four days, both can I ask this?
13			Will you also then be prepared to give us the documents that we
14			stood down for, so that I can read through that and maybe
15			supplement my bundle, to give you contradicting evidence for I
16			think you said the affidavit of Mr Jonas and Vytjie Mentor.
17	Adv T Madonsela	2	Yes. Okay, we will just give you yeah, a list of all of the things that
18			point to evidence on our side that may suggest any wrongdoing. Is
19			that easier?
20	Mr G vd Merwe	:	We will keep it confidential. I want to contradict where it is wrong
21			and I will send you the documents.
22	Adv T Madonsela	:	Yes, but what I'm saying Sir, is that it might help then to prepare it
23			formally as a Section 7(9) Notice that says, "Dear Sir, we have had
24			this meeting. We have heard your side of the story and from our side
25			based on what you have told us and what we have, this is the

1			evidence that is still" – if there is still any – "that still implicates you",
2			so that then when you respond you can then be comprehensive,
3			because I like that approach.
4	Mr G vd Merwe	:	Yes. So will I then wait for your document and respond to that?
5	Adv T Madonsela	:	It might not implicate you. It might implicate you and the others, but
6			it is just what they collected that says you did something wrong.
7	Mr I Naidoo		I think still send us your bundle that we have asked for and that sort
8			of thing.
9	Mr A Gupta		I want it Madam, that you must tell what we did wrong.
10	Mr I Naidoo	:	Then you will receive our documents in due course.
11	Mr A Gupta	:	I really love to. At least then I know that so long until today I'm
12			thinking I did not do anything wrong.
13	Adv T Madonsela	:	Yes, I understand that, Sir.
14	Mr A Gupta	:	And we try everything, even try I mean we stop business. Our
15			business suffer. You can see that one paper I'm giving to you now,
16			our business suffer because we stop, and I was discussing with you I
17	1/		think Sir, just now in tea break, that IT business has died down,
18			because we don't want to do the Government business. We
19			intentionally do all this thing and we still being called for that, we
20			don't know the reason. One more thing before I want to leave that,
21			the cut is know that I have a pre-plan for a 6^{th} night to fly to
22			overseas, because another religious 11th is our religious function
23			in India, so.
24	Adv T Madonsela	:	Okay. When are you leaving, Sir?
25	Mr A Gupta	:	6 th night.

Hearing held between the Public Protector South Africa & Mr Ajay Gupta 4 October 2016

1	Mr I Naidoo	:	On the 6 th ?
2	Mr A Gupta	:	On the 6 th night.
3	Adv T Madonsela	:	From here?
4	Adv N Kanyane	:	The evening of the 6 th ?
5	Mr A Gupta	:	Yes.
6	Adv T Madonsela	:	The evening of the 6 th ?
7	Mr A Gupta	d	6 th night.
8	Adv T Madonsela	ŀ	That is going to be on Friday?
9	Mr A Gupta		Yeah, Thursday night.
10	Adv T Madonsela		And how long will you be gone then?
11	Mr A Gupta	:	I will be 10 days overseas and come back on
12	Adv T Madonsela	:	You will be 10 days overseas?
13	Mr A Gupta	:	Yeah, yeah, roundabout 10 days.
14	Adv T Madonsela	:	Okay.
15	Mr A Gupta	:	This is my flight plan, that this all (indistinct) the same aircraft.
16	Adv T Madonsela	:	However, but you are still he said he is going to give us a
17	W.		comprehensive response in four days, provided we give him or we
18			assist with the information we have. That is the first step.
19	Mr G vd Merwe	:	Yes, please. I suppose the affidavits can't take longer than 15
20			minutes to copy. Then it means I can start today and give you those
21			bundles.
22	Adv T Madonsela	:	Yes. So can we give you from our side we can give you the stuff
23			latest tonight, tomorrow? It is just a list of all of the things that we
24			said are evidence on our side that they need to address themselves
25			to.

1	Mr I Naidoo :	I think tomorrow.
2	Adv T Madonsela:	Tomorrow, okay, by first thing I mean by mid-morning tomorrow,
3		but if we can try to do it tonight, it really would be no, I mean now
4		this afternoon, if we can do it this afternoon, that would be great.
5		That would then assist you then. You will answer what we have
6	Mr G vd Merwe :	Yes.
7	Adv T Madonsela :	but you will recall that all of the questions we are asking are based
8	18	on what somebody else has supplied us with and it is best that you
9	40	see what we have.
10	Mr G vd Merwe :	And my last question is, you said we will receive the recording. It can
11	AS	always help me to refer back to anything.
12	Adv T Madonsela :	Yes.
13	Mr G vd Merwe :	Would that be emailed digitally or how is that going to be
14	KEA.	(indistinct)?
15	Adv T Madonsela :	That can be done now. Usually they do it just immediately after the
16	12	meeting. I think you obviously can make a CD of it now before you
17	1/3	leave, before you leave you get a copy.
18	Mr G vd Merwe :	Perfect.
19	Mr A Gupta :	And from my side Madam, I understand that I have given what I
20		know that and everything else given, because some of the documents
21		you asked that that documents we have to be provided.
22	Adv T Madonsela :	Thank you.
23	Mr A Gupta :	Is it right?
24	Adv T Madonsela:	Yes, I hope Mr Van der Merwe made a list of documents that we
25		asked for?

1	Mr G vd Merwe :	I did.
2	Mr A Gupta :	And then we will provide this document, definitely.
3	Adv T Madonsela :	Yes.
4	Mr A Gupta :	As early as possible, in a few days' time.
5	Adv T Madonsela :	Yeah, thank you. We will provide you ours tomorrow morning at
6		latest.
7	Mr A Gupta :	List?
8	Adv T Madonsela :	You will provide yours within four days, so we will count four
9	W. 3	working days.
10	Mr G vd Merwe :	You will have it, don't worry. It might even be earlier. I just wanted
11	EA	to make sure that I get the flight plans and it might take a day or two.
12	Adv T Madonsela :	But also just take a look at these things that we were relying on.
13	Mr G vd Merwe :	Yes. Yes, please, that is important.
14	Adv T Madonsela :	And then consult with Mr Gupta about some of that information.
15	Mr A Gupta :	I told you everything, Madam. I don't have anything to left at this
16	10	stage. Thank you very much.
17	1/3	[Go off record // Hearing adjourned]
		0
	1 2	JEARE PAY

[Opening of Hearing // 11 October 2016]

Adv T Madonsela

: ... Hlongwane, that they here based on subpoena issued in terms of Section 6 and Section 7(4) of the Public Protector Act, which was issued to you on the 6th of October 2016 and that the proceedings therefore that we are having today are not proceedings in terms of Section 7(9) of the Act, which are for people who are implicated. You have been called in terms of Section 7(4) to assist with the investigation. Section 7(4)(a) says that:

- "(a) For the purposes of conducting an investigation the Public Protector may direct any person to submit an affidavit or affirmed declaration or to appear before him or her to give evidence or to produce any document in his or her possession or under his or her control, which has a bearing on the matter being investigated, and may examine such person.
- (b) The Public Protector or any person being authorised thereto by him or her may request an explanation from any person whom he or she reasonably suspects of having information, which has a bearing on a matter being or to be investigated.
- (c) A direction referred in Subsection 4(a) shall be by way of a subpoena containing particulars of the matter in connection with which the person subpoenaed is required to appear before the Public Protector and shall be signed by the Public Protector and served on the person subpoenaed,

either by a registered letter sent through the post or by 1 2 delivery by a person authorised thereto by the Public Protector." 3 The information I have Sir, is that you were provided with a copy 4 that was duly signed by me on the 6th of October and that the letter 5 did give you the particulars of the reason you are appearing. It 6 7 said: "My office is currently conducting an investigation into 8 9 complaints of improper and unethical conduct by the President 10 and Officials of State Organs, due to their alleged inappropriate 11 relationship with members of the Gupta Family. The details of the investigation are as follows: 12 The Public Protector received three complaints in 13 1. connection with the alleged, improper and unlawful 14 conduct relating to the appointment of Cabinet Members. 15 2. The investigation is conducted in terms of the Section 182 16 of the Constitution, read with Sections 6 and 7 of the Public 17 Protector Act. 18 The first complaint was lodged on the 18th of March 2016 19 by Father S Maibe on behalf of the Dominican Order, a 20 group of Catholic Priests. The complaint related to the 21 22 following allegations." This where the actual allegations are stated: 23 "The following media reports regarding this matter: It was 24 alleged that the Deputy Minister of Finance, Mr Mcebisi Jonas 25

and former Chairperson of the Parliamentary Portfolio 1 2 Committee on Public Enterprises, Ms Vytjie Mentor, were offered Cabinet positions in exchange for executive decisions favourable 3 and beneficial to the business interests of the Gupta Family." 4 5 Then the next bullet says: "In their complaint the Dominican Order requested that the 6 investigation should include all Government Departments 7 (indistinct)." 8 Then we go on and on about what the matter is about and then on 9 10 page 3 it indicates the allegations that relate to you. It says: 11 "Mr Jonas has alleged that you facilitated a meeting between Duduzane Zuma and him. Mr Jonas further alleged that on 23 12 October 2015 he agreed and arranged to meet with Mr 13 Duduzane Zuma at the Hyatt Regency Hotel in Rosebank. During 14 the meeting Mr Zuma suggested that they should move to a 15 quieter location, as the hotel was busy. He then offered to drive 16 Mr Jonas to a quiet location, which Mr Jonas later discovered was 17 the residence of the Gupta Family in Saxonwold. 18 Upon their arrival at the residence you (indistinct) from 19 your car and joined them. Inside the residence Mr Jonas, Mr 20 21 Zuma and you were joined by members of the Gupta Family. It is 22 alleged that one of the Gupta brothers, being Mr Ajay Gupta, made an offer of a Cabinet post to Mr Jonas. Mr Ajay Gupta 23 allegedly offered Mr Jonas the position of Minister of Finance in 24 exchange for executive decisions favourable to the business 25

interests of his family, and consequently Mr Zuma. You were 1 2 allegedly present during the meeting where the offer of the Cabinet post was made to Mr Ionas. Mr Ionas declined the offer 3 and requested you and Mr Zuma to transport him to OR Tambo 4 International Airport, where he was scheduled to take a flight. 5 You apparently did so." 6 Then he reported that he was unhappy about what had just 7 transpired and you asked why you would do something like ... and 8 asked why you would do something like that? You apparently then 9 agreed to meet to have a discussion, but such a meeting never took 10 place. He later sent you a text expressing his unhappiness and that 11 that is where the matter ended. So this is the particulars of this 12 matter that we have provided you and we did so complying with 13 Section 7(4) of the Public Protector Act. Thank you. 14 15 Adv J Cilliers (SC) : Just to respond on this issue ... okay, first if you are first going to respond? 16 Adv F Hlongwane : May I say thank you once again, number one, for allowing us the 17 time to consult. Number two, I want to state on behalf of my team 18 19 that I hold your office in high esteem and I repeat that, and some the sterling work that you have done. I want to ... 20 **Adv T Madonsela** : Yes, Sir, please proceed. 21 22 **Adv F Hlongwane** : I want to say even though my Lawyers would have inputs to make on the legal technicalities, I still insisted to my team that I would 23 like to present myself to you and as such I prepared an affidavit 24 25 under oath to be submitted to you, that deals with the substantive

issues that are raised.

Adv T Madonsela

: Thank you.

Adv F Hlongwane

Esecondly Advocate Madonsela, on receipt of information that there was a transcript that was made under oath by my good friend Jonas, I took the time to convince these guys, came back to Pretoria. That is why you have a Supplementary Affidavit. To the extent that it may have spelling mistakes or grammatical mistakes, please accept that it was a rushed job and for that I sincerely apologise, but I felt it to be disrespecting your office if I don't even make an attempt to respond to the document that was received.

So as I have stated earlier, 7(4), I accept that you gave me clarification, whatever the situation is in terms of this particular setup. My Lawyer was of the view that I'm implicated. You are of the view that I'm not. On reading the statements that I got, especially the one of last night, it got me a little more worried Advocate Madonsela, purely on a personal basis what does this mean?

The view in the team was, "No, you can't appear", so I did want to appear purely because I needed to see ... before you leave your office I needed to appear, because it is my conviction that I need to assist in whatever way I can and is the reason I'm here. I said to these guys up to this morning, "Can we finalise the affidavit under oath, whatever happens I would like (indistinct) to assist with ... to have this submitted to her". Now because that is not the major area of my expertise, the procedural matters, etcetera, a (indistinct) to

address them, but that notwithstanding, I still felt I need to come, because mine is to assist. I have prepared these things for your perusal and say here is the thing. It augments the letter that I wrote and I voluntarily ... because I picked up that you want something to be done under oath, I had discussion to that and I have the two, the affidavit and the Supplementary Affidavit.

My team will indicate, perhaps with reason, that they may not have received certain things, whichever, whatever way, but I'm saying as we take that into account, my major agenda was to ... notwithstanding the objections, to give you a statement that I have done under oath with respect to these particular issues. I do accept and appreciate, as my Lawyers, the worry that they have that the statement received last night is a statement that was given under oath, "In your interest Fana, please we need ample time to prepare to deal with this issue". My motivation however was, I don't want you to see me as obstructing it, one, I do volunteer.

Two, I do realise that there is time limits to stuff that you must do, so I wanted at least for you to have had the benefit of my sworn affidavit on this particular matter, because the line that is there, although legitimate, Advocate Madonsela, would have the impact of kicking the ball to the touchline. That is not my intention. I just have that one complication.

Adv T Madonsela

: Thank you. Does it make a difference that you have clarified, because your Advocate mistakenly believed that we are here in terms of Section 7(9) of the Act and we are not, because I think it

was even a mistake for the team to have favoured you with Mr 1 2 Jonas' statement? I think at that stage we were supposed to have given you ... in evidence at that stage I think we should have 3 favoured you with the statement he made mentioning the 4 allegations, which were not allegations against you, which were just 5 allegations against Mr Ajay Gupta, and then in his statement he was 6 then indicating who were the people who facilitated. 7 8 **Adv N Kanyane** : PP, can I just clarify, we did provide the written statement or it is a 9 timeline basically that the witness has provided to us, we have 10 given it to them. **Adv F Hlongwane** 11 : Yes. : I think for me that would have sufficed, not necessarily the affidavit, 12 Adv T Madonsela because the affidavit ... no, sorry, the proceedings would have been 13 necessary if we had now served you with a Section 7(9) Notice, 14 which we have done with some people. 15 Adv F Hlongwane : I will leave Jaap to address some of those issues, but from my side 16 thank you very much for the clarification that you give. On reading 17 even the timeline of events, the only problem – and I say this again 18 (indistinct) - is that the allegation is made that I organised a 19 meeting for financial gain, which for me is the most problematic 20 part. That is why I have decided to supply you with an affidavit. 21 22 The timeline of events, in that statement the allegation is made that I organised the meeting, that it was for financial gain. I can show 23 24 the ... **Adv T Madonsela** 25 : Right. No, no, if we go ... when I go to the merits ...

1 **Adv F Hlongwane** : No, no, I don't want to do that. It is just that (indistinct - speaking 2 simultaneously). 3 Adv T Madonsela : I'm going to ask us to ... for you to take the oath, because it is difficult for us to ... I do not understand why your Lawyer doesn't 4 want you to speak under oath, Sir? 5 **Adv F Hlongwane** : He will explain. 6 Adv T Madonsela : I honestly do not understand that, because ... 7 8 Adv J Cilliers (SC) : Maybe if you give me the opportunity, then I can explain what the 9 reason is. 10 Adv T Madonsela : Can you please Sir, respect this process? I find your attitude completely unacceptable, Advocate Cilliers. Please behave, Sir. 11 Your conduct is totally improper. I was just still speaking and in 12 court you would request properly that you want to speak and you 13 14 keep interrupting me, and rudely so for that matter. I don't understand what is the problem? I mean if anybody has to be hot 15 under the collar, it should be your client. 16 I expect Lawyers to be dispassionate or at least that is what I 17 was taught about law and being an Advocate, and you have been an 18 19 Advocate for much longer, as I see as an SC, is that "law is reason without passion". My understanding is that you defend him, it is his 20 case. Yours is to assist as an Officer of the Court and in this 21 22 particular case yours is to assist as somebody who is knowledgeable about law and to assist him, but to get so involved 23 24 and so worked up. I mean you are surprising me, Sir. 25 Adv J Cilliers (SC) : May I respond?

1 Adv T Madonsela : Yes, please. 2 Adv J Cilliers (SC) : With great respect, I'm not worked up. I think the record will reflect itself. All I'm asking for is the opportunity to deal with the 3 exact issues that you raise, but we are here for almost two hours 4 now and I, apart from reading out my initial address, you refuse to 5 allow me the opportunity to address certain issues that I can really 6 assist you with. 7 For instance, the fact that you said there was a subpoena 8 served in terms of Section 7(5), that is wrong and I can assist you 10 with that, but I can't assist you if you don't allow me the 11 opportunity to raise the issues. So really with great respect all I'm asking you is the opportunity to address you on issues where I can 12 see that I can really assist you in coming to a just conclusion. 13 14 Adv T Madonsela : Proceed, Advocate Cilliers, I'm listening. Adv J Cilliers (SC) : Well, you asked us what are we doing here, more or less words to 15 that effect, because we came and it seems now to you that we don't 16 want to cooperate before the adjournment. I want to address you 17 on that, but before dealing with that, just the issue of the subpoena. 18 There wasn't a subpoena served in terms of Rule 7(5). You have 19 been wrongly advised. 20 I'm not saying deliberately so, but objectively so, but nothing 21 22 turns on that. At this stage nothing turns on that, because we are here and whether we had been called to come here by way of 23 subpoena and/or whether we came here voluntarily, that doesn't 24 25 really matter, because we are here because we want to assist you.

So that is the first issue. As far as the Section 7(4)/Section 7(9) situation is concerned, I see it more as a procedural issue than a substantive issue. I have no doubt that whether you are here by way of subpoena or whether you are here in terms of Section 7(9), the same principles to the law will apply and I think you will apply then the basic principles of fairness entrenched in our Constitution, relating to fair trials and to fair administrative process.

So we only have one concern at this stage and I hear you say now that we may have been wrongly provided with Mr Jonas' statement. I differ from you there, but again it doesn't really matter, because it is water under the bridge. The fact is that your office did provide us with the transcript of the proceedings during the course of early yesterday evening and all we want, on behalf of Mr Hlongwane, is that before he is being questioned, that he is being given the opportunity to go through the information that your office provided to us, in order to prepare him to answer to questions.

If I can by way of example illustrate it to you and this is purely by way of example, because I haven't had the opportunity to properly read through Mr Jonas' statement. I spent my time on assisting to prepare the affidavits before you. For instance, if Mr Jonas say there that he phoned ... on the Monday after the meeting he phoned Mr Hlongwane to complain, I heard you reading that from the summary of his subpoena – and for instance Mr Hlongwane was in America on the Monday – then by studying that

statement and going into his records, we can for instance obtain the 1 2 air tickets for the trip. Say for instance he left on the Saturday for America, we can present you with the documentary proof that he 3 flew out to America. We can for instance get a copy of his passport 4 or hand you the original passport, or a copy thereof, to indicate to 5 you that Mr Jonas' evidence was untruthful in this regard. Clearly 6 that will assist you greatly in finalising a report eventually and/or 7 finalising an interim report, if you are going to issue an interim 8 9 report. 10 Those are the type of issues that we will be able to assist you 11 and we want to assist you with, if given the opportunity. So all we ask is, we only received these transcripts last night, please give us 12 the opportunity to go through it, consult on it, obtain objective 13 14 evidence, where possible, in order to indicate to you which facts we can substantiate by maybe objective other facts and then we will 15 come back and testify. Not only are we willing to come back and 16 testify, we insist to come back and to testify, because we really want 17 to assist you. So that is at this stage our approach. 18 19 Adv T Madonsela : Thank you, Mister Cilliers. Anybody else who wants to supplement Mr Cilliers' presentation? Right, can I just check with the team if a 20 subpoena was not served on Mr Hlongwane? 21 22 **Adv N Kanyane** : I think the issue, Advocate ... 23 **Adv T Madonsela** : No, no, can you just answer my question, was a subpoena served on Mr Hlongwane? 24 25 **Adv N Kanyane** : It was.

1 Adv T Madonsela : When was it served? It says on the 6th. 2 Mr F Lekubo : Yeah, they confirmed receipt, his Attorneys, on the 6th. Adv T Madonsela : Okay, thank you. So the subpoena was served ... this was your 3 evidence. 4 Adv J Cilliers (SC) 5 : Can I ... **Adv T Madonsela** : Can you not (indistinct - speaking simultaneously), Sir? 6 7 Adv J Cilliers (SC) : Sorry. 8 Adv T Madonsela : I just want to go on the record now. I let you speak because you yourself had said we have spent too much time going backwards 9 10 and forward. I don't want us to do that and I also don't want us to 11 have heated tempers, because none of us are going to die here. If there is anybody who has a right to have a heated temper, it is him. 12 The rest of us are just assisting to find the truth the best we know 13 how. So the subpoena was served and Mr Stockenstrom confirmed 14 receiving that subpoena. Can you read the record aloud here? 15 : Okay, the letter was addressed to the public protector, dated the 6th Mr F Lekubo 16 of October: 17 "We acknowledge receipt of your email of 6 October 2016, with 18 19 attached subpoena for our client, Adv Fana Hlongwane." **Adv T Madonsela** : Thank you. Okay, so that is the record. The record shows that the 20 21 Attorneys said they received the subpoena. It is fine, if then it is 22 denied, should the matter go on a review, we will let a Judge decide whether there was a subpoena received or there wasn't a 23 subpoena. Let the higher authorities decide, but we have a letter 24 25 that confirms that the subpoena has been received, meaning then

we are here in terms of the subpoena, that at least the letter from the Attorneys confirming. I will give you an opportunity Sir, immediately when I finish, Mister Stockenstrom. Then the next question that you have raised is that it doesn't matter whether the matter is under Section 7(4), with the subpoena under Section 7(5) or it is a matter under Section 7(9). With due respect Advocate Cilliers, it does matter. Where I do agree with you is that the principle of fairness applies throughout the process.

Where there is anybody who accuses you or implicates you in something that can have adverse consequences for you, fairness applies, but the procedure that is required to achieve fairness differs depending on what is the purpose of the proceedings. The purpose of the proceedings under Section 7(4) is to get your view as somebody assisting us. In this particular case when we served you a Section 7(9), you had already stuck your neck out there to the world to say, "I have a view, I would like to present it", but you are saying you didn't actually.

You have explained that you didn't stick out your neck, somebody (indistinct), but your letter was there. We then responded to that, that we would like that information. In fact we were going to call you, as we are calling people and we want it to be done under oath, so we expect you to give us that view on record. That was the whole purpose. If the proceedings were under Section 7(9), we would have done Section 7(4), we would be at a second phase, where we have seen your story, we have seen some other

stories and we are of the view at that stage that there is a *prima* facie case that there was wrongdoing on your part, and then we serve you with a Section 7(9). Even if it is a small wrongdoing, we haven't done that, we have done that particular ... we are not at that particular phase. So I still insist again on the record that it was premature for us to give you the transcript of Mr Jonas. For us, to tell us the truth, you don't need Mr Jonas' story. You were there. If you say you can't remember the time and date, that is fine.

We have interviewed people who are saying, "We met, I can't remember the date. Can you check that out for me?". We have the facilities, as Adv Cilliers is saying he would do that. In our case we don't even need you to do it. If you are saying you were not in Sandton on that particular day or were not at Saxonwold on that particular day, we can ask for your cell phone number, we can ask for the cell phone numbers of the others and we can do a (indistinct) to see if anything (indistinct) in that case (indistinct) regard to, so that is not a problem for us.

At this stage we just want you to tell us the story that you wanted to tell us by letter, to tell us now. Forget about Mr Jonas' story. To the extent that there may be differences in terms of time, if you go back home and you remember that, "No, no, no, in terms of time this was the date", you can submit that. We have heard other people give us additional information, especially dates, because nobody walks around ... unless you are keeping your diary with you, but nobody walks around remembering where were they in

1		October last year, which is exactly one year ago. So that is it for me.
2		The story you wanted to tell by letter, we have created a platform
3		for you to tell us that story. With due respect Sir, you don't need Mr
4		Jonas' version to be able to tell your story. Just as you were
5		prepared to write it to us, we just want to repeat it and then for us
6		to then ask questions of clarity based on the story that you kindly
7		told us, where you said you were compelled to give an accurate and
8		truthful version of certain alleged events and that is all we want
9		then, that truthful and accurate version that you offered to us.
10	Mr C Stockenstrom	: May I speak?
11	Adv T Madonsela	: Yes, Sir.
12	Mr F Lekubo	: Did you want to say anything about (indistinct)?
13	Adv T Madonsela	: Oh, yeah, he did, Sir. Mr Stockenstrom was shaking his head when I
14		was reading the letter that confirms that subpoena was received.
15	Mr C Stockenstrom	: Yeah, no, it was received, but there was no I was never asked
16		whether I'm authorised to receive the servicing of the subpoena on
17	1/2	behalf of my client. I understand from my office that the original
18		would have been properly served, etcetera, etcetera and that never
19		happened. So we only received an email. I acknowledged receipt of
20		the email, but there was not proper service. That is all want to
21		report.
22	Adv T Madonsela	: Okay.
23	Mr C Stockenstrom	: And I did not I was not asked specifically if I'm authorised to
24		accept the (indistinct).
25	Adv J Cilliers (SC)	: (Indistinct) they need to serve it (indistinct).

1	Mr C Stockenstrom	: Yeah.
2	Adv T Madonsela	: So basically what you are saying Mister Hlongwane, what your
3		Lawyers are saying, they are raising a technicality, that since he was
4		communicating on your behalf, they assumed - because this is
5		informal proceedings – that whatever they say to him, they are
6		saying to you. So they sent him this subpoena not as a decoration
7		for him, not as a gift for him, but with the assumption that as your
8		Lawyer, whatever is given to him, he gives to you. We are meeting
9		here on the 11 th , he is saying he didn't forward it because he wasn't
10		told to forward it. Am I hearing you properly, Sir?
11	Mr C Stockenstrom	: No, no, no, I think the summary of what Adv Cilliers also said, we
12		don't want to make a big issue of it. If you look at it legally and
13		technically, it was not a proper service of the subpoena, but the
14		bottom line is we are here and we want to meet, so
15	Adv T Madonsela	: But just also I wanted thank you, Sir. Besides then the legal side, I
16		want the truth side, because there is a fact side, there is what we
17	1/2	make of the facts. Factually a subpoena was served to you, who was
18		the person who have been dealing with him along on behalf of Mr
19		Hlongwane. Do you confirm that Sir, that factually a subpoena was
20		sent to you?
21	Mr C Stockenstrom	: I (indistinct – speaking simultaneously).
22	Adv T Madonsela	: And what I want to know is that did you give that subpoena to Mr
23		Hlongwane?
24	Adv F Hlongwane	: May I come in please?
25	Adv T Madonsela	: Please Sir, because I'm getting confused.

1 **Adv F Hlongwane** : I will make an appeal to my team and to everybody, the reason I'm 2 here is in spite of and despite the legal matters and (indistinct). That is the reason I am here gentlemen, because I want to assist. It 3 is my view that at this stage then we should all agree to support this 4 particular view that I have here, because if I put myself in the shoes 5 of the Adv Madonsela, it will be difficult ... it is going to be difficult 6 to see why having prepared the affidavit, sworn and commissioned 7 under oath, why won't I be able to read the same affidavit into the 8 record? 10 More importantly, I have written the letter to her voluntarily, 11 but I must say for the record Advocate Thuli Madonsela, I did not speak to media. 12 Adv T Madonsela 13 : Okay, Sir. 14 Adv F Hlongwane : So to the extent that we keep making those references, I had to (indistinct) because I didn't. I came here with a view to assist and I 15 need that to be understood and recorded as such, and I appreciated 16 the apology and that you will make clarification in whatever 17 platform that you find. I'm saying to my team that she has got a 18 version, she has clarified in terms of what Section and all that we 19 20 are asking for, as my Senior Counsel, is to briefly confirm the contents of my letter? We subsequently also have an affidavit, 21 22 notwithstanding the lateness, whatever arise, we don't have. We 23 have a Supplementary Affidavit talking to the same points. 24 Adv T Madonsela : Right. **Adv F Hlongwane** 25 : So I am saying to you, Sir, without wishing to overrule you, do I

1 have your support to deal with this matter with Adv Madonsela? 2 Adv J Cilliers (SC) : If I may respond to that, Advocate Madonsela? Adv T Madonsela : Sure. vou may do. Sir. 3 Adv I Cilliers (SC) : I have no difficulty that Mr Hlongwane read the affidavit. It is 4 actually already part of the record, because we already formally 5 handed it in. It is a proper affidavit, properly deposed to under 6 oath and obviously I'm working on the instructions of my Attorney 7 and client. I have no difficulty that he in fact provide you with the 8 9 basic facts, if that is his choice. 10 My only concern, why I raised the issue with him and with you, is that if there is a detailed questioning, more in the form of cross-11 examination, which may not follow, probably because you hold the 12 proceedings more inquisitorially, but I wouldn't have preferred that 13 14 there should be a detailed questioning over a period or the course of the afternoon on detailed questioning of my client, Mr 15 Hlongwane, on issues that he has not properly prepared for and/or 16 consulted with, more specifically with reference to the statement of 17 Deputy Minister Jonas that you presented to us yesterday evening. 18 But if he so prefers, I have no difficulty that he proceed and give 19 you the basic true facts, because he insisted to do so and he has 20 now an opportunity, but if you will just bear in mind that we would 21 22 prefer not to have detailed questioning on certain issues before he then had to the opportunity to properly prepare for that and to 23 consult that, more in particular, after we have now received the 24

detailed allegations and/or facts presented to you by Deputy

1		Minister Jonas. So that is my view. If you want to proceed, I can
2		foresee no difficulty in that. Just if you could bear in mind what my
3		concerns are.
4	Adv F Hlongwane	: Can I follow up Advocate, please if you don't mind?
5	Adv T Madonsela	: Yes, Sir.
6	Adv F Hlongwane	: It will be quick. To the extent that I seem to be getting the support
7		of my Senior Counsel, if it pleases you, may we try and do that
8		which
9	Adv T Madonsela	: You came to do?
10	Adv F Hlongwane	: If yo <mark>u don't mind. The only thing M</mark> adam, is I am I think you
11		people when you do this thing, I am an atheist, so if you can make
12		that provision?
13	Adv T Madonsela	: That is alright, Sir. You need to there is oath or affirmation. Do
14		have a copy of the affirmation?
15	Adv N Kanyane	: We really do oath. I don't have the affirmation.
16	Adv T Madonsela	: We had a previous one that
17	Adv F Hlongwane	: But can we take that it is done and then you will record it?
18	Adv T Madonsela	: For the record then Sir, I think you affirm that
19	Adv J Cilliers (SC)	: Now if I can assist, I have heard this for 30 years in courts. You can
20		only all you do is, where they say, "Do you swear", you say, "Do
21		you confirm?". So just change the wording of "swear"
22	Adv N Kanyane	: And then you leave out, "So help me God".
23	Adv J Cilliers (SC)	: Then that you leave out and she, Adv Madonsela then just say, "Do
24		you confirm?".
25	Adv N Kanyane	: Affirm

1	Adv F Hlongwane	: I hope it doesn't offend you then.
2	Adv T Madonsela	: Okay, do you no, no, it doesn't. I have heard at least one or
3		two Ministers. It is just I think we had one where it is the oath and
4		the affirmation, and then we apologise that in these proceedings we
5		didn't bring it. So it is your right, it is a Constitutional right and we
6		would never want to impose anything on you. So state your full
7		name for the record, Sir?
8	Adv F Hlongwane	: Fana Hlongwane.
9	Adv T Madonsela	: Do you have any objection to making an affirmation?
10	Adv F Hlongwane	: No.
11	Adv T Madonsela	: Do you consider that affirmation binding on your conscience?
12	Adv F Hlongwane	: Yes.
13	Adv T Madonsela	: Then do you affirm that the evidence you are going to give is the
14		truth, the whole truth and nothing but the truth?
15	Adv F Hlongwane	: I affirm.
16	Adv T Madonsela	: That is all, you needed to just confirm, so that is all. Please for
17	1/2	record that you try and recover the affirmation.
18	Adv J Cilliers (SC)	: If I can assist you, in the Criminal Procedure Act they indeed have it
19		stated in a Stature the way it should
20	Adv N Kanyane	: PP, we had it for the other interview, remember PP?
21	Adv N Kanyane	: Yes.
22	Adv N Kanyane	: We have it.
23	Adv T Madonsela	: I think because we have so many teams that are working and
24		somebody may have borrowed the copy, but thank you Advocate
25		Cilliers, that is very helpful and thank you, Sir. In this case perhaps

1		tell us you can read the affidavit or you can tell us your story as
2		you understand what happened and then we will ask questions of
3		clarity. It has been said that we shouldn't ask you complex
4		questions that would need you to refer to somebody else's affidavit.
5		We won't ask you any questions that need you to refer to anybody
6		else's affidavit. All questions we will ask will be based on your own
7		affidavit and your own experience as somebody who would have
8		been at the event. Right.
9	Adv J Cilliers (SC)	: Just to assist Mr Hlongwane, I don't think it is necessary to read the
10		first part. That is the issues that we have argued. If he wants to
11		read relating to issues at hand, I would refer you to the affidavit
12		that we handed in, page 13 as from paragraph 22. That is where we
13		start with the
14	Adv T Madonsela	: Yes. Is the affidavit different from the letter?
15	Adv J Cilliers (SC)	: No, it is basically under oath what has been stated.
16	Adv T Madonsela	: Okay.
17	Adv J Cilliers (SC)	: To some extent. Sorry, it is not exactly the same wording, but it is
18		the same content.
19	Adv T Madonsela	: Please proceed, Sir.
20	Adv F Hlongwane	: It is no different.
21		"I confirm that I know Mr Jonas for some time and that we are
22		really good friends. We negotiated a number of transactions
23		together in the past. The detail of such is not relevant to the issue
24		at hand and I will therefore not burden this statement with
25		further detail pertaining to our business relationship. The

objective facts are that we know each other. We knew each other well in October 2015. During October 2015 I was made aware by Duduzane Zuma that Mr Jonas had made allegations to the fact that I was blackmailing him. This allegation seemed incredible and completely at odds with our relationship and the true facts. In view of our relationship I was very perturbed by the allegations and decided to address the issue. I therefore asked Duduzane Zuma to urgently convene a meeting between the three of us to discuss these allegations.

I was subsequently informed by Duduzane that he had convened a meeting at the Rosebank Hyatt on the day. On my way there I proposed to him that we move the meeting to more a private venue. Mr Duduzane Zuma informed me that has another private venue available in the vicinity. He provided me with the address and we arranged to meet there in a couple of minutes. During the discussion that followed Mr Jonas denied that he made any allegation to the effect that I blackmailed him.

It was myself, Duduzane Zuma and Mr Jonas involved in the discussion. I emphatically deny that Mr Ajay Gupta was present at the meeting or that any member of the Gupta Family ever participated in the discussion between ourselves. In this regard I can categorically state that I had not met Ajay Gupta at that stage. He was completely unknown to me then. I may mention that another person was there, who did enter the room briefly at some stage, but left immediately. This was not Mr Ajay Gupta or

any of the publicly known Gupta brothers. I don't know the identity of the person who entered, but Duduzane Zuma clearly knew the person. He confirmed to me that this was a member of the family. I also categorically deny that anybody offered any Governmental position to Mr Jonas during those discussions. I can further mention that no commercial discussion took place either.

I feel compelled to give an accurate and truthful version of the alleged events relating to the issue that forms the basis of the Enquiry. I should mention that the allegations by Mr Jonas in this regard, as set out in the statement provided to me, appear to very unproven and unconvincing."

This may not apply:

"I hold the view that proper questioning of Mr Jonas in this regard would have exposed the untruthfulness of his allegation. I'm very much aware of the disputes and factionalism within the ANC at this stage and I'm willing to explain myself in this regard, should the Public Protector deem it necessary."

Signed and sworn in Pretoria the 11th day of October and the Commissioner of Oaths indicated. Essentially Advocate Thuli Madonsela, the letter and what I'm saying is essentially the same. Thank you, Madam.

Adv T Madonsela

: Thank you, Mister Hlongwane, that was very helpful. Our own question would have dealt with paragraph number 27 of your ... our

1		starting point would have been paragraph 27.
2	Adv F Hlongwane	: I have it.
3	Adv N Kanyane	: Do you perhaps have another copy?
4	Adv J Cilliers (SC)	: The other one (indistinct).
5	Adv T Madonsela	: But before we go there, let's ask, what is your relationship with
6		Duduzane Zuma?
7	Adv F Hlongwane	: Is (indistinct) for quite some time and at some point I sent him and
8	A	one of members of staff to a diamond-sorting course somewhere in
9	100	central Johannesburg.
10	Adv T Madonsela	: Was he working for you then?
11	Adv F Hlongwane	: No, he was not working for me.
12	Adv T Madonsela	: When did that happen?
13	Adv F Hlongwane	: We will get some I can bring that information to you. I will have
14	Key.	to ask my members, yes.
15	Adv T Madonsela	: Was that out of the country?
16	Adv F Hlongwane	: No, Madam.
17	Adv T Madonsela	: It was a local course?
18	Adv F Hlongwane	: Central Johannesburg, yes.
19	Adv T Madonsela	: Okay, how did you meet him?
20	Adv F Hlongwane	: We are all members of the ANC, yes.
21	Adv T Madonsela	: Yes.
22	Adv F Hlongwane	: It is a broad church(?), Madam.
23	Adv T Madonsela	: And since you sent him away, what is the nature of your
24		relationship?
25	Adv F Hlongwane	: We did not have a relationship subsequent to that, because I was I

1		don't know what happened to him. I was in a different space, he
2		was in a different space I think, that family challenges and stuff, so
3		yeah.
4	Adv T Madonsela	: On that event where he okay, no, we are going to get to that.
5		Maybe let's just clarify the relationship first, so that I can get you to
6		speak to the affidavit. In your affidavit you say you have no
7		relationship with the Gupta Family?
8	Adv F Hlongwane	: In this affidavit?
9	Adv T Madonsela	: Yes. What you read just now, you said you have never known the
10		Gupta Family until that day?
11	Adv F Hlongwane	: I have never known Ajay Gupta.
12	Adv T Madonsela	: You <mark>haven't</mark> known Ajay?
13	Adv F Hlongwane	: Ajay, yes.
14	Adv T Madonsela	: Okay. Who had you known in the Gupta you understand then
15		why I need to clarify that, your affidavit?
16	Adv F Hlongwane	: I understand, yes.
17	Adv T Madonsela	: I got a sense that oh, you have never met Ajay?
18	Adv F Hlongwane	: Yes, let me put it this way, within the context of the ANC Duduzane
19		Zuma is known to me, so obviously all the rest of the people. The
20		prevailing view was that me and the Guptas are at odds.
21	Adv T Madonsela	: You?
22	Adv F Hlongwane	: Yes, Madam, that was the prevailing view.
23	Adv T Madonsela	: Okay.
24	Adv F Hlongwane	: So I never accordingly had interaction with the Gupta Family,
25		because there was no need to have any interaction. The person I

1		knew was Duduzane.
2	Adv T Madonsela	: Okay, you have never met any of the Gupta brothers before then?
3	Adv F Hlongwane	: Before?
4	Adv T Madonsela	: Before that day at the event?
5	Adv F Hlongwane	: No, Madam, I had met I did meet Duduzane with one of the
6		brothers in Pankhurst.
7	Adv T Madonsela	: With one of the brothers?
8	Adv F Hlongwane	: Yes.
9	Adv T Madonsela	: Is that the same one who was
10	Adv N Kanyane	: Which brother?
11	Adv T Madonsela	: With which brother did you meet on that day?
12	Adv F Hlongwane	: They call him Rajesh.
13	Adv T Madonsela	: And what the nature of that meeting when you met them in
14		Pankhurst?
15	Adv F Hlongwane	: It was at a restaurant, so it was a lunch.
16	Adv T Madonsela	: Okay. Who had organised that meeting?
17	Adv F Hlongwane	: It was not a meeting organised. Duduzane had invited me to lunch
18		in a known spot and I went to that lunch.
19	Adv T Madonsela	: Would you remember how long ago would that have been?
20	Adv F Hlongwane	: It would have been in that year, 2015, I think subsequent to I
21		think he had some case about an accident or something, so.
22	Adv T Madonsela	: Who had a case?
23	Adv F Hlongwane	: Duduzane. I think that matter had just been concluded.
24	Adv N Kanyane	: About the mines?
25	Adv F Hlongwane	: Uhm?

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1	Adv N Kanyane	: The mines?
2	Adv F Hlongwane	: No, no, Duduzane
3	Adv T Madonsela	: No, he was in an accident.
4	Adv F Hlongwane	: A motorcar a motor vehicle accident and he had gone through
5		that, and I have seen in the media that it was concluded, so I called
6		him to congratulate him.
7	Adv T Madonsela	: Okay and then he called you to a meeting where you ended up with
8		Mr
9	Adv F Hlongwane	: No, no, he didn't call it. I called him to congratulate him.
10	Adv T Madonsela	: Yes, Sir.
11	Adv F Hlongwane	: Though we have not been touch, because there was this case that
12		was going on, blah, blah, blah and then as an uncle, as we are in the
13		ANC, I called him to congratulate him and we agreed to have a tea,
14		and I went to the tea and he was with his friend, a partner.
15	Adv T Madonsela	: And there was no relationship that you struck with that partner
16		after that?
17	Adv F Hlongwane	: Except that he was a partner that works with Duduzane, a
18		partnership. I don't know the details of their business.
19	Adv T Madonsela	: The Gupta brother you met was in partnership with Duduzane?
20	Adv F Hlongwane	: I think they are partners from public what I see in the public as
21		well, they are saying they work together and I think it is so, from
22		whatever I have read, it is so that they work together.
23	Adv T Madonsela	: After that you do you have any relationship with the Gupta
24		Family, since that meeting?
25	Adv F Hlongwane	: Since that meeting I was invited Advocate Madonsela, to something

1		called the CITE Awards. It was I have never been because we
2		are supposed to be (indistinct) I have never been to any Gupta-
3		related event or whatever (indistinct). So the young man invited me
4		to something called the CITE Awards. I think they were in
5		Randburg somewhere at The Dome and I had never been there, so.
6	Adv T Madonsela	: Were you invited by Duduzane?
7	Adv F Hlongwane	: Yes, Madam, he asked me as his uncle, "Please uncle, come and"
8	Adv T Madonsela	: In this meeting in Pankhurst you say it happened in 2015?
9	Adv F Hlongwane	: Yeah, actually in <i>(indistinct)</i> .
10	Adv T Madonsela	: Did it happen before this other meeting that Jonas refers to?
11	Adv F Hlongwane	: I think so Madam, I think it predates that meeting, it predates that
12		meeting, certainly predates that meeting. It definitely predates that
13		meeting.
14	Adv T Madonsela	: Okay and thereafter the only interaction you had with the Guptas
15		was at the CITE?
16	Adv F Hlongwane	: The only interaction I had with Duduzane, who was my primary
17	1/3	point of yes.
18	Adv T Madonsela	: Oh, okay, I see. Oh, was it Duduzane who invited you to CITE
19		Awards?
20	Adv F Hlongwane	: Yes, Duduzane.
21	Adv T Madonsela	: Okay.
22	Adv F Hlongwane	: It is Duduzane that invited me to the CITE, because it is Duduzane
23		that knew me and it is Duduzane that called me "uncle", and it is
24		Duduzane that comes to my place whenever.
25	Adv T Madonsela	: You have never had any direct contact with the Guptas?

1	Adv F Hlongwane	: Before the meeting of the alleged meeting with Jonas, no.
2	Adv T Madonsela	: After that?
3	Adv F Hlongwane	: After that yes, at the CITE Awards.
4	Adv T Madonsela	: At the CITE Awards?
5	Adv F Hlongwane	: Yes.
6	Adv T Madonsela	: Other than that, no other contact?
7	Adv F Hlongwane	: Let me see, other than that I have had contacts with Duduzane
8	18	within that context, yes. I have had contact with Duduzane and I
9		don't know I'm only familiar with the one called Rajesh. That is
10	ASI	the one I have seen once or twice, a couple of times. I have I must
11	EST	say I have seen at the CITE Awards I did see most of the people,
12		but I cannot tell who the others are. They were a number of
13	Desc.	women, etcetera, etcetera, who was a Gupta in that particular
14	Ser.	space. I cannot tell you for sure, but I'm aware of (indistinct).
15	Adv T Madonsela	: Would you say you have a relationship with the Gupta Family?
16	Adv F Hlongwane	: I would they are casual acquaintances.
17	Adv T Madonsela	: Do you visit each other or phone each other?
18	Adv F Hlongwane	: Phone each other, visit each other?
19	Adv T Madonsela	: Yes, Sir.
20	Adv F Hlongwane	: No, Madam, every time, like I say my point of contact was
21		Duduzane.
22	Adv T Madonsela	: Was Duduzane, okay.
23	Adv F Hlongwane	: Yes, Madam.
24	Adv T Madonsela	: So you would contact Duduzane?
25	Adv F Hlongwane	: Duduzane

1	Adv T Madonsela	: But have you had any dealings with them, other than visiting the
2		CITE Awards, Sir?
3	Adv F Hlongwane	: This is the most interesting part. Given that there is a history and
4		that this what is it, this lunch, part of the thing was what I heard
5		is this thing that there is supposed to be this issue between us.
6		Other than that Madam, I don't have a business relationship with
7		the Guptas.
8	Adv T Madonsela	: You said you had a lunch with them?
9	Adv F Hlongwane	: Yes, I had a lunch with them, at the event that I'm referring to,
10		Pankhurst.
11	Adv T Madonsela	: Okay, yeah.
12	Adv F Hlongwane	: Do I have a business relationship with them? No, Madam. Am I a
13		partner in their businesses? No, Madam. Are they a partner in my
14		businesses? No. Is Duduzane a partner in my business? No.
15	Adv T Madonsela	: Have you ever visited the Gupta Family in Saxonwold?
16	Adv F Hlongwane	: Yes, Madam, I have.
17	Adv T Madonsela	: How often, Sir?
18	Adv F Hlongwane	: Sorry, Madam?
19	Adv T Madonsela	: How often have you visited Saxonwold?
20	Adv F Hlongwane	: I have been there several times since our engagement in Pankhurst.
21	Adv T Madonsela	: What was the purpose the visit?
22	Adv F Hlongwane	: Social, because of the <i>(indistinct)</i> visit.
23	Adv T Madonsela	: Pardon?
24	Adv F Hlongwane	: Social.
25	Adv T Madonsela	: With who, Sir?

1	Adv F Hlongwane	: Meaning with whom?
2	Adv T Madonsela	: With the Gupta family, with who do you have a social relationship?
3	Adv F Hlongwane	: With Duduzane, who is part of the family in a business sense.
4		Maybe let me I don't know if this would help.
5	Adv T Madonsela	: Yes?
6	Adv F Hlongwane	: It is Duduzane I know and it is Duduzane I have always known, but I
7		have been aware that he is that space. I was not in that space.
8	Adv T Madonsela	: Does he live there?
9	Adv F Hlongwane	: To the best of my knowledge, I have been to Duduzane's place in
10		Saxonwold. It is walking maybe a minute (indistinct), so in my
11		you know to the best of my knowledge he does not live there,
12		because I think he has a house nearby. Have I been to his house?
13		Yes, Madam, I have been to his house.
14	Adv T Madonsela	: Okay, he doesn't live in that complex?
15	Adv F Hlongwane	: I don't know the complex
16	Adv T Madonsela	: Because the complex has several houses?
17	Adv F Hlongwane	: No, I know a house, I only know one house. I have heard that it is a
18		complex.
19	Adv T Madonsela	: Yes.
20	Adv F Hlongwane	: People I have heard the people saying it is a compound as well,
21		but I have only seen one house.
22	Adv T Madonsela	: Okay.
23	Adv F Hlongwane	: Maybe they call it a complex, it is a three-storey, I have only seen
24		one house, but his house is not in that complex, or that house.
25	Adv T Madonsela	: Because you say when you go there, you go to visit Duduzane. That

1		is what confusing me when I was asking does he live there?
2	Adv F Hlongwane	: No, no, he lives in Saxonwold. You said, "Have you been to
3		Saxonwold?". Yes, he does live in Saxonwold, so it is
4	Adv T Madonsela	: Okay. Have you been to the Gupta house?
5	Adv F Hlongwane	: Yes, Madam, I have several times.
6	Adv T Madonsela	: Several times?
7	Adv F Hlongwane	: Yes.
8	Adv T Madonsela	: As whose guest?
9	Adv F Hlongwane	: I will be going through Duduzane, because he is one that has the
10		prim <mark>ary relationship.</mark>
11	Adv T Madonsela	: Because you would find him there at the Gupta house or?
12	Adv F Hlongwane	: Yes, I find him there, sometimes we would go together in the same
13		car. Let's put it this way, the one chap that I met there is the one
14		that is familiar with me, so I do not know. I'm not familiar with any
15		of the other people.
16	Adv T Madonsela	: Okay. President Zuma, what is your relationship with him?
17	Adv F Hlongwane	: Similar to yours Advocate, the President of the country and
18		President of the ANC.
19	Adv T Madonsela	: Nothing more?
20	Adv F Hlongwane	: Beyond President of the country and the ANC, no, nothing more.
21	Adv T Madonsela	: Okay, now going back to the affidavit, you are saying Duduzane is
22		the one who told you that Mr Jonas was blackmailing you. When
23		did he tell you that?
24	Adv J Cilliers (SC)	: Sorry
25	Adv T Madonsela	: No, Duduzane said Mr Jonas is saying you are blackmailing him, yes.

1		When did he say that?
2	Adv F Hlongwane	: If I may Advocate, may I just recap a bit? I know that in the period
3		of the invitation to the CITE Awards Duduzane wanted to invite as
4		many people, including Jonas, so that interaction took place. The
5		question that you are asking is what paragraph is that?
6	Adv J Cilliers (SC)	: Paragraph 24.
7	Adv F Hlongwane	: It was in the period I think the same month that he has become so
8		celebrated, it was in October of that year. Essentially, I think maybe
9	A 2	Duduzane may have had an intention to take the relationship to the
10	ASI	next level.
11	Adv T Madonsela	: Which relationship now?
12	Adv F Hlongwane	: My r <mark>elations</mark> hip with him.
13	Adv T Madonsela	: With Duduzane?
14	Adv F Hlongwane	: Yeah, maybe he wanted to take it to the next level. Now he knows
15		me to have been close to Jonas as a comrade and a friend,
16	10	somebody I hold in high esteem. So these comrades, because of the
17	1/3	closeness with Jonas – which unfortunately doesn't seem to exist
18		now – he had picked up that Jonas is apparently saying I was
19		blackmailing him.
20		That was bothersome to me, because when you have friend and
21		you feel that you are going through difficulties together, and you
22		hear that they are blackmailing you, I was really, really (indistinct).
23		He asked me, "Uncle, please don't raise the issue with Jonas until we
24		meet and please promise, because I know you will be hot under
25		your collar, because of the way you portray your relationship". Yes,

1		I was hot under the collar, but I honour that pledge, but I asked him,
2		"Chief, given that you have heard this, can you call this man so that
3		you confront him with this particular issue?", so he found him.
4		They went to the Hyatt and I was not comfortable with the Hyatt. I
5		called Duduzane on his phone and then I asked to speak to Jonas on
6		Duduzane's phone, Advocate and I said, "Guys, let's move this
7		meeting to a private venue".
8		It was a meeting about confrontation, so I didn't want tempers
9		to be flaring in a especially because this man is a comrade and a
10		friend. It was incredible, so I just needed to establish would he
11		have said that? I know politics is full of all manner of things and
12		indeed we moved, and arrived at the venue, that whose address
13		were given and on arrival
14	Adv T Madonsela	: Just a minute.
15	Adv F Hlongwane	: Sorry, Madam.
16	Adv T Madonsela	: Did you get to the Hyatt? You go to the Hyatt first and then you
17	1/3	didn't like the noise?
18	Adv F Hlongwane	: No, no, no, my way to venue past the Hyatt is Oxford Road, I had to
19		decide.
20	Adv T Madonsela	: Yes.
21	Adv F Hlongwane	: So if you say, "Did you go to the Hyatt?", no, I didn't go to the Hyatt.
22	Adv T Madonsela	: You asked for a change of venue before you got there?
23	Adv F Hlongwane	: Yes, yes.
24	Adv T Madonsela	: Okay.
25	Adv F Hlongwane	: No, I didn't go to the Hyatt. I asked for a change of venue, but if the

1 specific ... does my route pass through the Hyatt? Yes, my route 2 does pass through the Hyatt, so I was driving past, so. 3 Adv T Madonsela : No, no, that is not the question, Sir. So you then asked for a change of venue, you went to the new venue with ... 4 **Adv F Hlongwane** 5 : Yes. Adv T Madonsela : Sorry for interrupting. You can proceed. 6 : I went to the venue, we arrived, I would say, almost simultaneously. 7 **Adv F Hlongwane** 8 I would say almost simultaneously. It is not that I saw them 9 following me or whatever. We arrived almost simultaneously. I got 10 into the place. There is lounge, a formal lounge, quiet, serene and I 11 was in a particular state of mind and the meeting ensued. "Chief, do you want me talk about this thing?", as it was the issue. Duduzane 12 said, "It is safer to say I (indistinct)". 13 I looked him straight in the eye, because that was like ... I know 14 these things happen in politics. I believe it is politics, understand. 15 Now my issue was this is my comrade, I mean we are eating dust 16 together, so what is the story? He said – I can almost quote – "I do 17 not have a recollection of ever speaking to anybody about you 18 blackmailing me". 19 20 That is what he said and I have reflected that in my letter as well, because then I didn't understand what the issue was and the 21 22 I raised the issue pointedly with him, because I had game. promised not to raise the issue before and I had honoured that 23 promise. Because I have honoured the promise, when the issue was 24 25 raised, it was the first time it was raised between the three of us. It

1		was uncomfortable, it was not pleasant. I had picked up similar
2		noises in the market and I indicated that whatever it is, we are not
3		going the same path, it is okay, but it is not necessary to cast
4		aspersions on each other's integrity, because I have not cast
5		aspersions on his integrity. So whatever the issues, at our advanced
6		age I can't say we can grew we can grew apart (indistinct) to this
7		thing, that is fine, but I'm personal to issues of integrity being
8		(indistinct), so that was my major issue, that was why. Because he
9		was the source, I didn't want to have a situation where but he was
10		(indistinct) there, "Say it" and he was brave enough to say it.
11	Adv T Madonsela	: Well, he says he wasn't he had not said you are blackmailing him.
12		Did you ask Duduzane when did Mr Jonas say this? When Mr Jonas
13		denied that he had accused you of blackmailing, did you ask
14		Duduzane? Was Duduzane in the room when that conversation
15		took place?
16	Adv F Hlongwane	: Yes, he was in the room.
17	Adv T Madonsela	: And what was his reaction when Mr Jonas said it never happened?
18	Adv F Hlongwane	: Number one, he was the one that posed the question. Duduzane is
19		the one that posed the question.
20	Adv T Madonsela	: Yes.
21	Adv F Hlongwane	: Remember, the deal was I don't raise this issue with Jonas until, so
22		he is the one who raised the question. So the reaction I was looking
23		for was Jonas' reaction, not Duduzane's.
24	Adv T Madonsela	: Well, it was Duduzane who said to Mr Jonas
25	Adv F Hlongwane	: Who posed the question, yes.

1	Adv T Madonsela	: Yes and Mr Jonas said, "I don't recall saying any such to anyone"?
2	Adv F Hlongwane	: He said, "I have no recollection of having that discussion with
3		anyone".
4	Adv T Madonsela	: Yes and then what was Duduzane's reaction?
5	Adv F Hlongwane	: Like I say, my focus was on this thing, because then engaged that
6		whatever the issues are, I know people have all manner of
7		allegations, I don't want us to go up on the (indistinct) of other
8		people. Yeah, that I didn't like, so it was not comfortable, that I
9		didn't like. That I didn't like, because subsequently I'm not here to
10		talk about Jonas, but that I didn't like, because it happens a lot in
11		our space, just like it happens I think in your space. Some jealous
12		fellow would say all sorts of things about you, but you have the
13		means to confront it differently, so that is how I confronted mine.
14	Adv T Madonsela	: I understand. I'm trying to find out if he says it didn't happen, you
15		didn't think it was necessary to ask Duduzane, "When was this
16		said?" and what then was the basis of Duduzane believing that Mr
17	1/2	Jonas said these things, if Mr Jonas is now openly saying in front of
18		the two of you, you know he doesn't recall saying that?
19	Adv F Hlongwane	: Okay, I understand your question, yes. A discussion ensued, which
20		was not comfortable. Part of it what I'm relating to you, that "Chief,
21		if we no longer see eye-to-eye on things, let that happen, but let's
22		not cast aspersions on each other's integrity". Notwithstanding the
23		fact that he said he had no recollection, I had an attitude to the
24		answer that he gave.
25	Adv T Madonsela	: So you believed Mr Zuma?

1	Adv F Hlongwane	: I had picked up from the market similar noises and there were
2		other things that gave me reason to want to have that
3		confrontation, honour the pledge not to ask him before, because I
4		didn't want to ask him before, for him to give me a version. I
5		wanted the person who had heard it to indicate that.
6	Adv T Madonsela	: Did somebody else say Mr Jonas had said you are blackmailing him?
7	Adv F Hlongwane	: Duduzane indicated that he had picked up from various sources.
8	Adv T Madonsela	: So the source of the market noises was again Duduzane?
9	Adv F Hlongwane	: The source of the blackmail to me directly, the person that bring
10	ASI	him and say, "Here is this person, can you respond to him?", that is
11	PSI	why needed him to be there.
12	Adv T Madonsela	: Yes, because he said he had heard it from the market, I was
13	Description of the second	wondering if there were any direct sources that had said that Mr
14	SEA.	Jonas was saying you are blackmailing him?
15	Adv F Hlongwane	: No, no, what I'm saying, I had picked up similar noises about my
16	10	perceived I perceive us to be friends, but I picked up noises that
17	1/3	points in a slightly different direction.
18	Adv T Madonsela	: Okay, not about the blackmail?
19	Adv F Hlongwane	: Not about the blackmail necessarily, but
20	Adv T Madonsela	: So the blackmail the source of the blackmail story was only
21		Duduzane?
22	Adv F Hlongwane	: The person who confirmed the blackmail story to me was
23		Duduzane.
24	Adv T Madonsela	: The one who confirmed it. Who was the first person to alert you,
25		Sir?

1	Adv F Hlongwane	: The first person to alert me it was Duduzane.
2	Adv T Madonsela	: Okay, so was he a single source about you being blackmailed by
3		Mr Jonas?
4	Adv F Hlongwane	: To me he was a single source, but he might have other source he
5		might have had other sources.
6	Adv T Madonsela	: He would have had those sources, not you?
7	Adv F Hlongwane	: Yeah, he would have had other sources, yes.
8	Adv T Madonsela	: Okay. How long have you known Mr Jonas?
9	Adv F Hlongwane	: Joe, Advocate, I would be telling you a lie if I were to give you a date
10	AS)	and the period, but when MK and the ANC were in the same spaces,
11	A	so I would say we have known each other for quite some time.
12	Adv T Madonsela	: Right. Who introduced Mr Jonas and Duduzane? Who did Mr Jonas
13		get Duduzane's number from or who did Duduzane get Jonas'
14	rea.	number from?
15	Adv F Hlongwane	: Okay, number one, in terms of the ANC space people meet, bump
16	10	into each other at funerals and social occasions, etcetera, etcetera.
17	1/3	Whether or not that represents an introduction I cannot say to you,
18		because generally that is how people get to meet. Exchange of
19		numbers becomes a separate event, but in the case of the CITE
20		Awards, if I'm not mistaken, I think I remember what happened
21		was, I remember giving Duduzane Jonas' number.
22	Adv T Madonsela	: So you would have introduced them?
23	Adv F Hlongwane	: No, people know each other of the ANC.
24	Adv T Madonsela	: Okay, but you linked them up?
25	Adv F Hlongwane	: For the CITE Awards, yes, I would say so. Whether they knew each

1		other before I cannot confirm or deny.
2	Adv T Madonsela	: No, because Mcebisi says you introduced him to Duduzane.
3	Adv F Hlongwane	: Missus Thuli, on a realistic level, at the level at which we operate,
4		we go to Parliament, we go to State of the Nation, we go to all sorts
5		of things, these are children of the Head of State. At our level it is
6		improbable that we don't meet the other children of the Head of
7		State, so it is normal.
8	Adv T Madonsela	: So you say you have met him before, but on a once-off thing, at a
9		funeral or something, but to have a personal link you gave
10		Duduzane his number?
11	Adv F Hlongwane	: I do not wish to deny that for the purposes of the CITE Awards I did
12		indeed.
13	Adv T Madonsela	: When were the CITE Awards last year?
14	Adv F Hlongwane	: End of the year. Not December, end of the year. I think November.
15	Adv T Madonsela	: November?
16	Adv F Hlongwane	: I think November. I think it was November. You see the
17	Adv T Madonsela	: So does it mean you gave Duduzane the number before the October
18		meeting?
19	Adv F Hlongwane	: Yes, it would mean that. In my view, yes, it would mean that.
20	Adv T Madonsela	: With the CITE Awards?
21	Adv F Hlongwane	: With or for?
22	Adv T Madonsela	: No, you gave Duduzane Mr Jonas' number before October, but you
23		were giving him the number for the CITE Awards?
24	Adv F Hlongwane	: Before October or in October, but around that period, yes.
25	Adv T Madonsela	: It was around that period?

1	Adv F Hlongwane	: Yeah, because he was I think when you have an event you want as
2		many people to come, whoever you think might be people of
3		interest, yeah.
4	Adv T Madonsela	: Right. Okay, thank you, Mister Hlongwane. Where was this
5		meeting held, that meeting of 23 rd of October? You say it was
6		Saxonwold?
7	Adv F Hlongwane	: Yes.
8	Adv T Madonsela	: Was it at Mr Gupta's house?
9	Adv F Hlongwane	: It was what I would call the Gupta residence. It was certainly not
10		Dud <mark>uzane's place. I learned I know</mark> that subsequently. It was the
11		Guptas' house, Gupta residence, whatever you call it.
12	Adv T Madonsela	: Right. Who was present?
13	Adv F Hlongwane	: Duduzane.
14	Adv T Madonsela	: Yes, Sir.
15	Adv F Hlongwane	: Me and Buhle(?).
16	Adv T Madonsela	: Did any Gupta person attend that meeting? You have denied that
17	1/2	Ajay Gupta attended that meeting, but did any of the other Gupta
18		brothers attend that meeting?
19	Adv F Hlongwane	: The meeting was essentially a meeting between us as comrades,
20		ANC comrades, to address the issue that was disturbing to me.
21		Duduzane knows the people in that space, I don't. Somebody did
22		come into that space. I would for me I made an assumption that it
23		is a member of the Gupta Family, somebody of slim height, slim
24		build entered the room. He was clearly known to Duduzane and
25		briefly, and left. Whether the person was looking for another

1		meeting or another person I cannot say to you, but Duduzane
2	Adv T Madonsela	: Did that person speak to Mr Jonas?
3	Adv F Hlongwane	: No.
4	Adv T Madonsela	: Did you ever have occasion to leave the room?
5	Adv F Hlongwane	: No, I did not have occasion to leave the room, no.
6	Adv T Madonsela	: Right. On page 15 of your affidavit, paragraph 27, you say:
7		"I deny that Mr Ajay Gupta was present at the meeting or that
8	A	any member of the Gupta Family ever participated in the
9	1	discussion between ourselves. In this regard I can categorically
10	ASI	state that I had not met Ajay Gupta at that stage. He was
11	EA	completely unknown to me then."
12	6	Earlier on I thought you said you met Ajay before that meeting at a
13	Description of the	park?
14	Adv F Hlongwane	: No, no, I can explain, sorry.
15	Adv T Madonsela	: Okay.
16	Adv F Hlongwane	: (Indistinct) with this thing. No, Advocate, I did not say I had met
17	1/3	Ajay earlier on. I said I had met Rajesh for lunch with Duduzane.
18	Adv T Madonsela	: Oh, was it Rajesh?
19	Adv F Hlongwane	: In Pankhurst, yes.
20	Adv T Madonsela	: Okay. On paragraph 28 you say there is a person who came into the
21		room. It was definitely not Ajay. You said you had met Rajesh
22		before. Was it Rajesh?
23	Adv F Hlongwane	: The person that came in was in build Mr Frans Lekubo in build
24		and height, so it was not the fellow I had lunch with in Pankhurst.
25	Adv T Madonsela	: So it wasn't Ajay?

1	Adv F Hlongwane	: Number one, it was not the fellow I had lunch with in Pankhurst.
2	Adv T Madonsela	: And the fellow you had lunch you say it was Rajesh?
3	Adv F Hlongwane	: Rajesh, yes and it was not any of the famous two brothers. Maybe
4		there is more, but it was not any of the famous brothers.
5	Adv T Madonsela	: It wasn't Ajay, it wasn't Rajesh?
6	Adv F Hlongwane	: Yes.
7	Adv T Madonsela	: Are you sure it was Rajesh that you had lunch with at Pankhurst?
8	Adv F Hlongwane	: Yes, I'm sure it was Rajesh.
9	Adv T Madonsela	: There is also Atul. Have you met Atul Gupta?
10	Adv F Hlongwane	: Briefly. Can I distinguish between the three?
11	Adv T Madonsela	: Yes.
12	Adv F Hlongwane	: Absolutely positively I can distinguish between the three.
13	Adv T Madonsela	: Okay, are you then saying it was none of the three?
14	Adv F Hlongwane	: No, it was none of the three.
15	Adv T Madonsela	: Okay, so the person who came into the room was none of the three?
16	Adv F Hlongwane	: Yes, Madam.
17	143	[Discussions amongst each other]
18	Adv T Madonsela	: Sorry. We are going to hold you just for another maybe 15 to 20
19		minutes, when our next meeting will start. We apologise. Okay,
20		you said the person who came was none of the three. Do you know
21		what they came to do there, Sir?
22	Adv F Hlongwane	: I do not know, but my thinking is either they were looking for
23		another meeting or looking for someone, but they were clearly
24		known to Duduzane.
25	Adv T Madonsela	: Would you recall what the person said? I know it was a whole year

1		ago, but any recollection of what was said?
2	Adv F Hlongwane	: They didn't speak to me. I think they must have exchanged
3		whatever with Duduzane.
4	Adv T Madonsela	: They spoke to Dudu. Did they speak to Mcebisi?
5	Adv F Hlongwane	: I think my recollection they would have said something to
6		Duduzane, but my focus was on Jonas. My issue was a little more
7	4	urgent than people coming into this thing.
8	Adv T Madonsela	: Did they say any do you know if they ever spoke to Mr Jonas, this
9	(C)	person, this unknown person?
10	Adv F Hlongwane	: In the meeting I was in, no, Madam.
11	Adv T Madonsela	: Nothing was said?
12	Adv F Hlongwane	: In the meeting I attended, no.
13	Adv T Madonsela	: Did they ever step out?
14	Adv F Hlongwane	: Sorry?
15	Adv T Madonsela	: Did they ever step out?
16	Adv F Hlongwane	: It was me, Duduzane and Jonas. We did not step out.
17	Adv T Madonsela	: None of you ever came out?
18	Adv F Hlongwane	: In the meeting, until the meeting ended, yes.
19	Adv T Madonsela	: Until the meeting ended?
20	Adv F Hlongwane	: Yeah and we parted ways when the meeting ended, yes.
21	Adv T Madonsela	: Okay, this person
22	Adv F Hlongwane	: It wasn't a long meeting.
23	Adv T Madonsela	: Yeah, this person of slight build what was his ethnic origin? Was he
24		classified as white or Indian?
25	Adv F Hlongwane	: Indian.

1	Adv T Madonsela	: Was he Indian? Okay, was he a man? It was a man you said?
2	Adv F Hlongwane	: Yes, Madam, it was a man.
3	Adv T Madonsela	: You wouldn't know the age roughly?
4	Adv F Hlongwane	: That person I would not I would say relatively young. I don't
5		know what relatively young is under (indistinct - speaking
6		simultaneously).
7	Adv T Madonsela	: But you knew that Mr Zuma knew the person?
8	Adv F Hlongwane	: Yes, I'm not putting him on the spot, but the person (indistinct -
9		speaking simultaneously).
10	Adv T Madonsela	: But you say you confirmed it was a member of the family, okay.
11	Adv F Hlongwane	: I say a person and that who I thought would have been a member of
12		the Gupta Family, I was (indistinct) thinking that.
13	Adv T Madonsela	: Right.
14	Adv F Hlongwane	: In those kinds of cultures many people live in the same house.
15	Adv T Madonsela	: Okay, did you resolve the problem you had with Mr Jonas?
16	Adv F Hlongwane	: To this day, no.
17	Adv T Madonsela	: Okay. You have addressed a letter to me and you say that you
18		don't know what this person entered the room for?
19	Adv F Hlongwane	: No, I don't.
20	Adv T Madonsela	: Who dropped Mr Jonas at the airport after the meeting?
21	Adv F Hlongwane	: Honest answer, I do not know, but I can certainly say it was not
22		Duduzane, nor was it me.
23	Adv T Madonsela	: Was there any further engagement between you and Mr Jonas after
24		this meeting?
25	Adv F Hlongwane	: Physical engagement, no.

1	Adv T Madonsela	: Telephone?
2	Adv F Hlongwane	: I think on the following week he called me briefly and I remember it
3		was our last conversation. His statement to me was, "Fana, your
4		problem, your biggest weakness is that you trust people easily.
5		Your biggest weakness is that you trust people easily". Well, that
6		may be a big weakness, because, yes, I have been thrown under the
7		bus once or twice because of that.
8	Adv T Madonsela	: But why would he say that to you?
9	Adv F Hlongwane	: Because of the blackmail story, because my attitude was markedly
10		different to him on that. I didn't like it, Advocate. We are way too
11		close or anything different if there was a difference on anything,
12		he should have said it to me and not to cover himself in whatever
13		spaces.
14	Adv T Madonsela	: Okay, did you ever have another meeting with Mr Jonas after that?
15	Adv F Hlongwane	: No and none is desired.
16	Adv T Madonsela	: And you said you had contact with him only once. Was it telephonic
17	1/3	or text?
18	Adv F Hlongwane	: Who?
19	Adv T Madonsela	: Mr Jonas, after that meeting, the following week?
20	Adv F Hlongwane	: Yeah, one telephone call in which because I was he saw I was
21		perturbed and that bothered him of course, because I'm in the same
22		space. I have got capacities also to raise the issue in our same
23		marketplace that would so yes, he called to say to me, "Fana, the
24		only problem, your biggest weakness is that you trust easily".
25	Adv T Madonsela	: Right.

1 **Adv F Hlongwane** : Yes. 2 Adv T Madonsela : Do you have a business relationship with Mr Jonas? **Adv F Hlongwane** : No. 3 Adv T Madonsela : Have you ever had a business relationship with Mr Jonas? 4 **Adv F Hlongwane** : I think we had a number of engagements, plans, etcetera, because 5 when Jonas was moved ... removed as an MEC ... anywhere this 6 doesn't apply, but when you move as an MEC, when they put him 7 from provincial to national, it basically means you get into some 8 zone of uncertainty, because you don't know what is going to 9 10 happen on the benches. So he was not sure whether he was going to take up that seat in Parliament or not take up the seat. 11 So we had several discussions in the interregnum, where we 12 were looking at various options, what to do, etcetera, etcetera, 13 because we have the same background and we needed to find 14 means of self-sustenance. So in the event ... because when a 15 province removes you as an MEC, I know that there were dynamics 16 there. So they moved him as an MEC, which therefore meant there 17 was a degree of unpopularity with the powers that be at the time 18 and I felt then for a long time - and many people will tell you that -19 I felt I was close to him, that he is being victimised. 20 21 I felt he is being victimised and my view was I'm here in 22 Johannesburg, come to this thing, let us see what we can do. We have always had each other's backs, so I was quite perturbed by the 23 fact that ... because I knew some of the reasoning why they removed 24 25 him from this ... I thought he was a capable fellow, a diligent fellow,

I thought he had a lot to add, so we then discussed what then we would do and we had a number of very serious political discussions, direction of the ANC, direction of the country and he is a fellow that I quite liked. I mean we had similar political views on a number of things, developing the strategic and operational capacity of the State, how we engage and help people in terms of thinking, etcetera, etcetera.

We are readers, we share books on a number of ... you know, so yes, I did not want to have a situation where a narrow view victimises a person. So the people of the Eastern Cape, a number of them, would therefore later say to me, "But why did you take this fellow without talking to us? Why did you empower this fellow without talking to us?". So I have taken that view, it was my conviction and he was my friend and a comrade, and, yes Advocate, it was in that context that the blackmail thing really floored me, because, yes, we were close, families know each other.

Then when you are moved you are used to be an MEC and they move you – I don't know if you know this – stuff is taken away from you. Johannesburg is where we all *(indistinct)*, so this is what we were going to do and we had those discussions and indeed I had my teams, he had his teams, so we put them together to try and see what can we do.

many people know that I had his back, some differed, said, "You

Adv T Madonsela : Okay, that is fine.

Adv F Hlongwane : And for also the record, notwithstanding the fact that I feel and

1		don't know whose back you are protecting". I hold no grudges
2		against him, but I was definitely taken aback. To this date I am
3		unhappy with that incident.
4	Adv T Madonsela	: Right. In your letter you say something, you negotiated a number of
5		transactions and put respective teams together to operationalise
6		your vision and "As our venture had zero income at the time, it fell
7		upon me to provide financial and material support".
8	Adv F Hlongwane	: Yes.
9	Adv T Madonsela	: Did you have any business deal with Mr Jonas?
10	Adv F Hlongwane	: In the interregnum I referred to earlier Advocate, when you are no
11		longer an MEC, so we are here in Johannesburg, so we were
12		discussing and engaging in plans, what are we so we did plan to
13		work together in the same organisation, but then he was called up.
14	Adv T Madonsela	: Okay, did you ever have any business deal, a proper business
15		registered together where Mr Jonas has interests in the business?
16	Adv F Hlongwane	: No, Madam.
17	Adv T Madonsela	: Okay, because and then you then say in a letter:
18		"Obviously his appointment to the position of Deputy Minister of
19		Finance opened up more avenues for our venture."
20		What does that mean exactly?
21	Adv F Hlongwane	: It means Advocate, I will give you an example, there is a department
22		called the Department of Trade and Industry. That department has
23		come with a (indistinct) with the stated objective of creating 100
24		black industry businesses and you attend these meetings. The
25		Ministers relevant would engaged in the necessary work to

1		introduce you to this or that industry, the IDC and so on and so
2		forth, so it is called an empowerment process. So as another
3		example there is something called Trade Delegations, the DTI does
4		that. You can be or not on that. If you are on the Trade Delegation,
5		you go to France. You are interested in something, that industry in
6		France, you would be able to engage with the people in that kind of
7		space. So Government is known and that is why there is a Black
8		Business Council, it is lobbied to assist the creation of black
9		industrialists and businesspeople.
10	Adv T Madonsela	: Okay, for me I'm d <mark>one. Is there any q</mark> uestions that the team would
11		like to ask Mr Hlongwane?
12	Adv N Kanyane	: Yes. Earlier Mister Hlongwane, you spoke about when you were
13		describing the relationship you had with the Zuma Family, you said
14		that there was a prevailing view that you and the Gupta Family
15		were at odds with each other. I didn't understand what you meant?
16	Adv F Hlongwane	: Okay, Advocate, not when I was describing the relationship with the
17	1/2	Zuma Family.
18	Adv N Kanyane	: With the Gupta Family?
19	Adv F Hlongwane	: Yes. I have been told by all sorts of people that we are supposed to
20		hate each other and that is common in the marketplace that we
21		hate each other.
22	Adv N Kanyane	: What was the factual position, the correct position?
23	Adv F Hlongwane	: What it was I don't know. I would be lying to you.
24	Adv N Kanyane	: Okay, because you spoke about what people say out there, the
25		prevailing view.

1	Adv F Hlongwane	: Yes.
2	Adv N Kanyane	: So I was trying to understand what was the actual state of affairs?
3	Adv F Hlongwane	: Let me answer you differently. I would still say Advocate, I do not
4		know what it was, but I will tell you that from a number of people
5		they would say we hate each other.
6	Adv N Kanyane	: I understand that Mister Hlongwane, from what people say.
7	Adv F Hlongwane	: Yes.
8	Adv N Kanyane	: I'm asking what was the actual
9	Adv T Madonsela	: You have got to address him though me.
10	Adv N Kanyane	: Uhm?
11	Adv T Madonsela	: You have got to address him through me, so that you don't sound
12		like you
13	Adv F Hlongwane	: Okay, I had no ability to independently verify that at the time. In
14		other words, I did not engage any of the Gupta family members to
15		ask, "Guys, do we hate each other, are we at each other's throats?".
16		No, I did not, I did not need to.
17	Adv T Madonsela	: But you visited their home several times?
18	Adv F Hlongwane	: Subsequent, subsequent, but remember this thing is many, many
19		years. This thing that happened is you know if you are playing
20		soccer it is (indistinct) extra time. What is happening here it is an
21		extra time issue, because I was never in this space.
22	Adv T Madonsela	: You say you only started visiting them after the Pankhurst meeting?
23	Adv F Hlongwane	: Pankhurst meeting, in essence, yes.
24	Adv T Madonsela	: Right. Let's hear from Adv Kanyane if there is any more questions?
25	Adv N Kanyane	: Yes. Did I hear you correctly, that Mr Zuma's house it is close to the

1		Gupta Family house?
2	Adv F Hlongwane	: Yes, Madam, you heard me correctly.
3	Adv N Kanyane	: Okay.
4	Adv T Madonsela	: You say how many minutes? You said it is within walking distance?
5	Adv N Kanyane	: It is walking distance.
6	Adv F Hlongwane	: Yes, depending on degree of fitness, but give or take I would say a
7		minute or two.
8	Adv T Madonsela	: A minute or two?
9	Adv F Hlongwane	: Yeah, it depends on degree of fitness, but I mean it is (indistinct) say
10		I think (indistinct).
11	Adv T Madonsela	: (Indistinct)?
12	Adv F Hlongwane	: So it is not the same street.
13	Adv T Madonsela	: That is Duduzane's house?
14	Adv F Hlongwane	: Yes, yes, this situation, this one (indistinct).
15	Adv N Kanyane	: Yes, I want to understand why then did the meeting happen at the
16		Gupta house as opposed to Mr Zuma's house, when it was just so
17	1/3	close to each other?
18	Adv F Hlongwane	: Advocate, surely when I say to somebody "Organise a venue
19		nearby", somebody would say, "Why not at the Hyatt?", I say, "I
20		think it needs to be a private setting".
21	Adv N Kanyane	: Yes.
22	Adv F Hlongwane	: What other venue they choose did not matter to me, because what
23		mattered to me was the content the substance of the meeting.
24	Adv N Kanyane	: Okay.
25	Adv F Hlongwane	: So I cannot answer for Duduzane, why he chose that venue. I

1		trusted that and for me that is
2	Adv N Kanyane	: Okay. Yes, so I just needed
3	Adv F Hlongwane	: Maybe it is also possible that maybe that is where he usually holds
4		meetings. I don't know, but I'm speculating, Advocate.
5	Adv N Kanyane	: Alright.
6	Adv T Madonsela	: Okay.
7	Adv N Kanyane	: Yes, I should just browse my notes.
8	Adv T Madonsela	: Okay, Mister Lekubo?
9	Mr F Lekubo	: Yeah, because I stepped out, maybe I may have missed the detail.
10		Mister Hlongwane, Advocate Hlongwane, just two things from me.
11		Before we wrote to you, any correspondence to you, on the 29th you
12		wrote a letter to the PP where you want you know there is a long
13		title:
14		"Investigation into complaints of improper and unethical conduct
15		conducted by the President and Officials of State Organs due to
16		their alleged inappropriate relationship with members of the"
17	1/3	This exact heading we use in our correspondence. Was this just a
18		coincidence or had you seen any of our correspondence prior
19		relating to this matter? Secondly, Mr Jonas suggested that you
20		dropped him off at the he asked you to drop him off at the airport
21		after the meeting and there was another follow-up meeting, which
22		was
23	Adv N Kanyane	: Yeah, that was addressed.
24	Mr F Lekubo	: Yeah, that was addressed, okay.
25	Adv T Madonsela	: Mister Hlongwane, can we start with a first one? Mr Lekubo is

1		asking how did you come to use our heading, given that fact we had
2		never contacted you? That was your evidence when you presented
3		the affidavit.
4	Adv F Hlongwane	: How did I come to use the heading?
5	Adv T Madonsela	: Yes, to use our specific heading for this investigation?
6	Adv F Hlongwane	: Because it is known, it is commonly known, it is common
7		knowledge.
8	Adv T Madonsela	: That is the same wording.
9	Adv F Hlongwane	: It is common knowledge, Madam.
10	Adv T Madonsela	: Why would it be common knowledge? Specifically where you said,
11		"Investigation into complaints of improper and unethical conduct
12		by the President and Officials of State Organs due to their alleged
13		inappropriate relationship with members of the Gupta Family".
14	Adv F Hlongwane	: Yes, Madam. It is common knowledge, because everything that you
15		do we are all aware of and the work of the Public Protector is
16		known to all of us.
17	Adv T Madonsela	: But where specifically did you pick it up in that common place, the
18		stringing of these words along those lines, because in the media
19		they call it the "State Capture Investigation"?
20	Adv F Hlongwane	: Advocate Thuli Madonsela, with all modesty I don't have much
21		regard for media and the intellectualisms of people should not be
22		transferred to my discussion at this table. The media called what I
23		was supposed to be involved in "The Arms Deal" and if they
24		celebrate an orgy of ignorance, I don't want to be associated with
25		that. I'm a reader, I'm modestly educated, I'm (indistinct).

1	Adv T Madonsela	: We know that everyone is aware we are doing an investigation, but
2		not even staff members here can put it this way who are not
3		involved in our investigation.
4	Adv F Hlongwane	: I would tell you
5	Adv T Madonsela	: So we want to know what was the source of these exact words?
6		They would have had to come from a specific document.
7	Adv F Hlongwane	: Document?
8	Adv T Madonsela	: Uhm (positive).
9	Adv F Hlongwane	: No, Madam. Why would they have to come from a specific
10		document, Advocate?
11	Adv T Madonsela	: Because it is the stringing of words together
12	Adv F Hlongwane	: No, no, I have it here yes?
13	Adv T Madonsela	: that is not being used randomly in the media. If I call our
14		communications team right now that communicates for us, they
15		would not have they would not be able to string these words like
16		this. They would just know it is an investigation into alleged
17	1/2	improprieties against the President, but not the exact words that
18		were used, heading our (indistinct - speaking simultaneously).
19	Adv F Hlongwane	: I'm in the business of precision, that is number one, Advocate.
20		Number two, I (indistinct).
21	Adv T Madonsela	: You see, it is the exact words as our memoranda. If you look at this,
22		this is the exact words, we say, "Investigation into complaints of
23		improper" we have not communicated with you, you have the
24		exact heading.
25	Adv F Hlongwane	: I'm trying to understand. Let me give you another attempt.

1		(Indistinct) I'm from the so-called arms deal. People and staff
2		members they will call it "The Arms deal", people in the Defence
3		Department (indistinct). The Chief of the Defence Force call it "The
4		Arms Deal". I would always insist that is a strategic procurement
5		package. I would always be correcting people. Now further, on this
6		particular issue a matter of this nature is common to everybody.
7		I'm in the ANC space, so these matters get discussed and I get
8	Adv T Madonsela	: I understand, but what we are asking is where did you pick up the
9		exact wording, which is our exact wording, word-for-word, as
10		opposed to the general gist of what it involved?
11	Adv F Hlongwane	: I do not remember specifically, Madam. That would be the simplest
12		answer I would give you, I do not remember specifically.
13	Adv T Madonsela	: Alright then, thank you, Mister Hlongwane.
14	Adv F Hlongwane	: The second question you were asking
15	Mr F Lekubo	: Yeah, I don't know if it was discussed while I was out.
16	Adv F Hlongwane	: Just (indistinct) it nonetheless.
17	Mr F Lekubo	: Yes, the
18	Adv F Hlongwane	: The second question that you are asking refers to Mr Jonas saying I
19		took him to the airport. I can confirm I did not drive him to the
20		airport.
21	Mr F Lekubo	: Okay.
22	Adv F Hlongwane	: I can confirm further that to the best of my recollection Duduzane
23		did not drive him to the airport.
24	Mr F Lekubo	: Okay and according to Mr Jonas, a follow-up question also, is that
25		you were meant to have a follow-up meeting after that meeting,

1		which was set up, but
2	Adv F Hlongwane	: Yes, Mister Lekubo, I know that I had no follow-up meeting
3		intended planned or set up with Mr Jonas. That was only one call, I
4		think it was on a Tuesday, wherein Mr Jonas said I trust people too
5		easily, I easily trust people.
6	Mr F Lekubo	: Okay.
7	Adv F Hlongwane	: So there was no meeting that I had envisaged and there has never
8		been any meeting ever since.
9	Mr F Lekubo	: That is all from me, PP.
10	Adv T Madonsela	: Thank you, Mister Hlongwane. Would you have any difficulty
11		giving us all of the cell numbers that you use? Would you have any
12		difficulty giving us all of the cell numbers?
13	Adv F Hlongwane	: I would not have a difficulty giving you all of my cell numbers. It is
14		just that (indistinct) I have the same concern about State security
15		and manner of those things, but I will
16	Adv T Madonsela	: No, we will just give them to only one person, we will give them
17	10	to
18	Adv F Hlongwane	: 083 (off record).
19	Adv T Madonsela	: But you don't have to announce it. Just give it to them, they know
20		what to do.
21	Adv N Kanyane	: Yeah.
22	Adv F Hlongwane	: May I ask what (indistinct)?
23	Adv T Madonsela	: No, no, let's not put it on the record. Let's just write them down.
24	Adv F Hlongwane	: Okay. Can I say in terms of the cell number, I only use one phone,
25		however there is something they call a number that is paired with

that. If you are in the car, then it rings. So it is not a phone that 1 2 calls out, as far as I know, but that number is similar to that, except you know four digits, which I will provide to you. So I only have 3 one number. I have had this number for the past 22 years. 4 Adv T Madonsela 5 : Okay, thank you. **Adv F Hlongwane** : So I will provide it to you. 6 7 Adv T Madonsela : Alright. You may answer this if you want. If your Lawyers think 8 you shouldn't answer it, it is fine. Why would Mr Mcebisi Jonas invent such a big lie, which could cost him his job and start telling it 9 10 to people in October, long before the Minister is removed? Adv F Hlongwane 11 : I would not take regard to what my Lawyers would say in this case. I would attempt to answer your question. The first answer is, 12 because I'm not in his head the first answer would be I don't know, 13 14 but two, Advocate Thuli Madonsela, I have had huge, big lies told about me in this marketplace, which were incredible and because I 15 say they are incredible, but I have sought to follow up on these 16 17 things. In your case as a constitutional body when somebody calls you 18 a "CIA Agent", you have got the capacity to reply to that and it can 19 be whoever else. Why do people tell big, fat lies? I think it is a 20 subject matter for Psychologists or whatever else, but I can say, 21 22 which all of us do know, including yourself, as a member or former member of the African National Congress the Excellency, our 23 organisation goes through all sorts of things and in his period goes 24 through a number of crises and in a period of crises huge, fat lies 25

are told about people. I have had occasion to be in the Transvaal at the *(indistinct)* based in Swaziland and we have had incidents where people were falsely accused of working for the *(indistinct)*, in this case it might refer to my Lawyers and some people's reputation and lives were lost, so big, fat lies do get told. This is the case of politics. I will not be able to say to you this or that, but what is going on now if I must say ...

Adv T Madonsela

But I want to go back to the big, fat lies and the stories they told. They are slightly different to that of Mcebisi Jonas, because let's take me for example, the people who have accused me of being a spy, they didn't invent a lie themselves and come and say, "I saw Thuli Madonsela spying". All of them have claimed that there is an intelligence report coming from the State Security Agency that says I am a spy, and they grab some document from the internet, which was a blog that was there for five days, that had the same picture that you see here on the wall, it had that picture as my CIA card.

The CIA doesn't even have machinery to take its own pictures. It just grabs the Government of South Africa's pictures and I don't even have a code name as a spy. I just use my ... my spy communication with the CIA, I communicate as Thuli Madonsela and my email addresses are "T Madonsela". That is how unimaginative they say I am, but I'm just saying it is different from the Jonas, because with my case you will have Maphatsoe, who when he was put ... when I put him under pressure and I said, "I want you now to provide evidence", he retracted, but we have Jonas

specifically saying, "I heard it from someone else, who is saying I, 1 2 Mcebisi Jonas, was approached by the Gupta Family". It is totally different from these other stories, where people are (indistinct) 3 juicy rumours, so they come and say people are saying this. In that 4 5 case you are not taking responsibility, you are not sticking your own neck out and saying, "I am the source". 6 : Can I quickly ask you, I think your question is not only good, but Adv F Hlongwane 7 8 also fair, it is true. It is also fair and for the comparison to make 9 with the CIA case are also fair and valid, and by the way I am glad 10 that clarity or sanity came to prevail in your case, because ... Adv T Madonsela : No, it hasn't really. (Indistinct) is still investigating that blog that 11 12 says I'm spying on America ... on the American President. 13 Adv F Hlongwane : Not on this (indistinct) we are talking about sanities prevail, we all 14 know that ... 15 Adv T Madonsela : Nothing has prevailed Mister Hlongwane, but it is fine. We laugh about it, because it is ridiculous. 16 Adv F Hlongwane : I understand, as we should. We need to have a sense of humour as 17 a country. Missus Thuli, there is a fundamental problem that I have 18 in trying to answer your question. I don't know Ajay Gupta at the 19 meeting at the time. I am supposed to be at a meeting where an 20 offer of Minister is made. I have that fundamental problem too. 21 22 Then there must be other permutations. Either I was not in that meeting or there was another meeting where this was done, and I 23 wasn't there. Further, if in the meeting I was there is huge amounts 24 25 that were offered, surely my little worry about that ... and some of the things, "Please I don't know you. I come in and I offer you a huge amount, 600 million", I think both of ... me and you would probably say no, but I'm poor I would say yes, of huge amounts. The next thing, having offered those huge amounts, (indistinct) spent about three hours with me. Do I look like an Egyptian mummy to you, Advocate Thuli Madonsela, because it is suggested that I sat there like an Egyptian mummy, while another man ran all over me. I don't suspect it is possible for anybody to run all over me, you know because of my command experience and he won't run all over me, he won't run all over me.

With the greatest respect and love (indistinct) you will do that either. So it is important to state however my opinion is a certain section of the population is perhaps – excuse the word – gatvol with

either. So it is important to state however my opinion is a certain section of the population is perhaps – excuse the word – *gatvol* with the current administration and they are looking for whatever means to change this, and they think that this is not the way we should go. We should go another way. Maybe they feel that we cannot wait, let's change this and whatever means are being used, that is an opinion.

Adv T Madonsela

: Right. Do you think Mr Jonas is then deciding to sacrifice himself for that regime change that you think is the reason this is happening? Because it is one person here, it is not many people making allegations.

Adv F Hlongwane

: Yes.

24 | Adv T Madonsela

: One single man saying, "I alone witnessed this". He is not saying,

"We did this as a group".

1	Adv F Hlongwane	: I'm happy with the lone wolf, to the extent that the lone wolf does
2		not drag me into things that do not exist in my memory and the
3		memory of those that are supposed to be there. However, if you say
4		would he sacrifice himself, I hold a different view.
5	Adv T Madonsela	: Because if he is lying, then he is sacrificing himself, isn't it?
6	Adv F Hlongwane	: No, no, no. I hold a different view and the view is in an African
7		context appointment to Cabinet, as (indistinct), it can be changed
8		anytime. So sacrificing himself would be, as you correctly stated,
9		his job, but I don't think there is a job security or tenure. So that
10		cannot be the issue, because you can be there we don't have to
11		sacrifice not to have a job.
12	Adv T Madonsela	: Okay, Sir and then obviously you can answer if you want and again
13		if your Lawyers don't want because again I'm asking you to
14		speculate. We do know that subsequent to the meeting of the $23^{\rm rd}$
15		Mr Nhlanhla Nene was removed, 6 weeks later, 6 weeks after that
16		meeting Mr Nhlanhla Nene was removed. From our side we do
17	11/2	have evidence that shows that before Mr Nene was removed, Mr
18		Jonas told people that he has been offered his post. Coincidence? If
19		Mr Jonas is lying, there was no offer, 6 weeks down the line Nene
20		falls for real, is he a what did they call him, a "clairvoyant"?
21	Adv F Hlongwane	: A clairvoyant. Let me put it this way, I don't know whether he has
22		got Sangoma capabilities, but
23	Adv T Madonsela	: It would appear in the circumstances. If your version is true, it
24		would appear he is a Sangoma.
25	Adv F Hlongwane	: I would also give you something, given that you are asking for my

opinion and I'm not having due regard to my Senior Counsel and 1 2 my legal team. I am ... I have been able over the years to be the same clairvoyant, to say, "I think Adv Kanvane is going to be in this 3 space". We do it all the time in the ANC and all the time we are 4 correct, so what Jonas has done is nothing out of the ordinary, it is 5 nothing formidable, because we collect information, we know what 6 is going down and we know things that are to happen before they 7 happen. It is just how the system works, so this is not a special 8 9 case. I can see it is not a special case. I can give you further ... 10 Adv T Madonsela : Are you suggesting he collected information that was suggesting 11 that Minister Nene was going to be removed and then inserted himself as the person who had been offered this post, and went and 12 told Nene, "They tried to take your job and give it to me"? Are you 13 suggesting that that is how these things went down? 14 15 Adv F Hlongwane : I am saying in the ANC context people – and you know this – they tend to know things and they are saying to people, "You are going 16 to be in this, you are going to be this". That is just how our society 17 works. So this is not a special capability to be able to know certain 18 things and those things being confirmed by reality. I'm saying it is 19 not a special capability and we all know that to be the case. For 20 example, we can give many, many examples. We knew well before 21 22 ... after the Polokwane Conference we knew well before that they were going to charge Zuma and when indeed the NPA descended on 23 Zuma ... 24 Adv T Madonsela 25 : No, but that was a process underway. Here we are talking about ...

1	Adv F Hlongwane	: No.
2	Adv T Madonsela	: No, before Polokwane there was an investigation, everyone knew
3		that the investigation was going on.
4	Adv F Hlongwane	: But (indistinct – speaking simultaneously).
5	Adv T Madonsela	: But I just want us to go to this one where there is nothing. We just
6		have a Minister of finance, the markets are doing well. What would-
7		make him know that the Minister of Finance is going to be removed
8		and then plant himself as the person who has been offered his job,
9		and then 6 weeks later turn out to be accurate?
10	Adv F Hlongwane	: He is not the only one that would have had that information. He is
11		not the only one that turned out to be accurate. It is just that he is
12		the only one that you may have had contact with.
13	Adv T Madonsela	: Where would he have gotten that information from?
14	Adv F Hlongwane	: We get this information all the time, it is commonplace.
15	Adv T Madonsela	: But from where, because our understanding is that it is the
16		President who appoints Ministers? He says he was given the
17	1/3	information by the Gupta Family or a member of the Gupta Family?
18	Adv F Hlongwane	: I saw that statement and it worried me a lot, because as I read it, it
19		was members of the Gupta Family and I thought aloud to myself I'm
20		wondering where and how this could have happened and sorry?
21	Adv T Madonsela	: Yes.
22	Adv F Hlongwane	: Okay.
23	Adv T Madonsela	: Okay, just finish, Sir (indistinct).
24	Adv F Hlongwane	: No, no, it is fine.
25	Adv T Madonsela	: So you are saying you don't know how this I don't want to finish

1		to interrupt your thought pattern.
2	Adv F Hlongwane	: No, no, fine Public Protector, I know you have got people waiting
3		for you.
4	Adv J Cilliers (SC)	: May I intervene at this stage and just ask just one question maybe
5		to give another perspective?
6	Adv T Madonsela	: Yes.
7	Adv J Cilliers (SC)	: This is of course based on the premises that you find and/or
8		absolutely believe that Mr Jonas did know 6 weeks before the
9		removal of Minister Nene that he was to be removed. That of
10		cour <mark>se is a necessary pillar for the q</mark> uestions that you pose and is
11		very relevant questions. I have no problem with the questions, but
12		it is built on the premises that Jonas has indeed known 6 weeks
13		prior to Mr Nene's removal that he will be removed.
14	Adv T Madonsela	: May I interrupt, Sir? Claims to have known. I do have no
15		knowledge of whether he knew or not.
16	Adv J Cilliers (SC)	: Yeah.
17	Adv T Madonsela	: He claims to have known. What we do know now factually is that 6
18		weeks later the Minister of Finance what is common cause is
19		that
20	Adv J Cilliers (SC)	: Yeah. No, that is the objective fact, you are right.
21	Adv T Madonsela	: whether he knew or he didn't know, it is what he says.
22	Adv J Cilliers (SC)	: Yes, that is the question of course, whether he is in fact truthful if he
23		says, "I knew 6 weeks before"?
24	Adv T Madonsela	: Exactly and when he also says he told some people, particularly the
25		one who was going to lose his job, that "You are going to lose your

1		job".
2	Adv J Cilliers (SC)	: And whether that person confirms that and then of course and I
3		see you dealt with it, at the cursory glance that I had through Mr
4		Jonas' evidence, you did touch on it, which is why didn't he report it
5		as he was obliged to do in terms of Section 34 of the PCCA Act?
6	Adv T Madonsela	: Yes.
7	Adv J Cilliers (SC)	: The explanation of it by his Lawyer that he doesn't buy Ministers
8		was quite astonishing to me, to say that a Minister is not bound by
9		Section 34, but of course those are all the issues that you will have
10		to consider before you can come to the conclusion that he did know
11		that Minister Nene was going to be removed.
12	Adv T Madonsela	: Yeah. No, that is true, Sir. That is why I was asking what we
13		know objectively is that
14	Adv J Cilliers (SC)	: Nene was removed.
15	Adv T Madonsela	: he did tell Nene that he had been offered his job. What we know
16		objectively is that Nene was removed.
17	Adv J Cilliers (SC)	: Sorry, do you know objectively that he did tell Mr Nene?
18	Adv T Madonsela	: Well, no, maybe I should phrase it differently. I said what we do
19		know objectively is that Nene confirms that he was told before he
20		was removed from his job by Jonas that his job was going to be
21		taken away, and given to him. That is what we know or that is what
22		we have been told by Nene, but then we have to look at other
23		witnesses. That is why I was asking you why would he just have
24		that instinct that Nene is going to lose his job and then insert
25		himself in the formula as the person who is going to get the job?

Nene does lose his job, but he doesn't get the job. In his version of 1 2 course he didn't get the job, because he refused to take the job with the conditions that it came with. In his version ... that is why to 3 satisfy Adv Cilliers' concern, that I shouldn't prejudge and I'm not 4 prejudging. I'm just saying this is what ultimately ended on the 9th 5 of December 2015, which was 6 weeks later, Nene was indeed 6 removed from his job and Mr Van Rooyen was placed. 7 Then the Gupta line also comes in, in that allegation from those 8 Priests saying that Mr Van Rooyen showed up at Treasury with two 9 10 Gupta aligned Advisors. So it is a whole lot of things that are being alleged that are suggesting it is not coincidence. That is their 11 allegation, but as you are saying we have to take the whole evidence 12 of Minister Jonas, the whole evidence of Minister Nene. Sadly, it 13 looks like we might not get the whole evidence of the other Gupta 14 brothers, because we only got the evidence of Ajay. 15 Adv J Cilliers (SC) : And obviously you will have to consider the possibility that maybe 16 Mr Jonas is either mixed up that he has been offered the job, but not 17 on that meeting, maybe a subsequent meeting or ... that is also a 18 19 possibility. **Adv T Madonsela** 20 : You think that might be a possibility? 21 Adv J Cilliers (SC) : I don't think Mr Hlongwane attempted to say and can say that there 22 was no job offer. All he can say is, "It wasn't in my presence". 23 Adv T Madonsela : Is that your evidence, Sir? 24 Adv J Cilliers (SC) : Well, I think that is the only way to determine his evidence. He 25 can't speak for what Mr Jonas and/or the Guptas did, where he was

1		not present.
2	Mr F Lekubo	: PP, if I can
3	Adv T Madonsela	: Yes, Sir?
4	Mr F Lekubo	: Just one last question, Mister Hlongwane, what did Minister
5		Deputy Minister Jonas allege that you were blackmailing him about,
6	'-	if you could share with us, because he never mentioned this to us in
7	- 4	a meeting?
8	Adv T Madonsela	: Yes.
9	Mr F Lekubo	: Actually he never said anything negative. All he ever mentioned
10	1631	was that you were present, so the blackmailing issue
11	Adv F Hlongwane	: I think the answer that I got Frans, is he has no recollection ever
12		having a conversation with anybody about that, so I
13	Adv T Madonsela	: But Duduzane, he said you said you were blackmailing him about
14	REA.	what? That is what Mr Lekubo is asking, what was the source of the
15		blackmailing?
16	Adv F Hlongwane	: And that is what I'm answering. That is what I'm answering also
17	1/3	Advocate, because I canvassed that issue at that meeting and when
18	- 1	we spoke about it earlier, I indicated the response that he gave.
19	Adv T Madonsela	: Now we are not asking the answer from Mr Jonas, because Mr Jonas
20		deny that. When Duduzane was saying, "This one is saying you are
21		blackmailing him", did he not indicate what the subject of the
22		blackmail was?
23	Adv F Hlongwane	: No, that was not indicated to me. That is why I wanted the meeting
24		to establish (indistinct) what can I it is not a concept that exists in
25		my head, which might (indistinct).

Adv T Madonsela

: That is helpful. Yes, Sir?

Adv F Hlongwane

: May I ask a question, but in this case I can't say your Lawyers can tell you to answer or not to answer the question. Missus Thuli, I purely as a citizen one thing that has been bothering me – rather two things – why would Jonas come with this story? The same concern you have, except that I'm not in your seat, is the same concern that I have and with all its detail. It has bothered me, because I just hope this thing doesn't take us to civil law, because it is a dangerous space to play in. It has bothered me, really it does.

I have enough time in this organisation to know that these things can go pear-shaped. Two, if that is the case, why did he not report this matter to the Law Enforcement Authorities? In the alternative, why did he not go back to his employer and say, "Hey Chief, what is this thing that is happening?", because ever since that thing happened what bothers me more is I do not know if there is an obligation on him to report this matter, but forgetting obligation, given how it is said he wants to assist the country, why not do this thing that way?

Why does this thing have to wait for an Advocate Thuli Madonsela to be emerged in this thing, because if it is not reported, then it is politics? Why then must we drag the Public Protector into this thing? It is the same thing that we do, instead of dealing with our political problems, we pass them on to the Judiciary and Pius Langa did reflect on that before his death. So why ... and that is a concern I have, why do we throw things that we can't deal with and

1 we opportunistically use the only situations ... 2 Adv T Madonsela : The Public Protector? Adv F Hlongwane 3 : Yes. Adv T Madonsela : I don't know ... 4 **Adv F Hlongwane** : But you understand me? 5 : I understand. If you check his transcript, which you have now given **Adv T Madonsela** 6 me, you will find out, because we did confront him about why he 7 didn't report it? So you will get his version, but how it goes to the 8 Public Protector, it was not reported by Jonas. His version is that he 9 10 told people and just as it happened with Justice Hlobe(?), one person tells another, one person tells another and then eventually 11 somebody sends it to Media, that is his version. 12 Then once it was in the media, there was an obligation on him ... 13 14 that is his version. When he was asked to tell the truth, then he issued that statement. He never reported this matter to the Public 15 Protector. The Complainant, as you can see on our affidavit, are 16 three. It is those Catholic Priests, it is the DA, Mr Maimane and then 17 the third Complainant is an independent person who is not 18 complaining about Jonas or .. 19 **Adv F Hlongwane** : (Indistinct). 20 21 Adv T Madonsela : Yes. 22 **Adv F Hlongwane** : The question I'm asking though is slightly different. I understand 23 what you have said, but I'm asking you now why would you in as a person in position of authority be a witness to a crime in this case? 24 25 Why would you not, as required, report this matter to the

authorities and the authorities Advocate Thuli Madonsela, it is not 1 2 the only instance? Why would you not report this matter? Why would you let this matter grow and grow and grow in the media. 3 and then take the position of Abraham Lincoln and say ... just it 4 bothers me. 5 Adv T Madonsela : I don't want to speak for him. I think it is better that you from the ... 6 any of his friends can ask. All we know is that he was forthright 7 from the moment we asked him. We have interviewed him twice. 8 I interviewed for the first time all by myself and because we were 9 10 not on the record when we did it all by myself, they had to then 11 organise another one where he had to present his version on the record and then later supply an affidavit. 12 He had no difficulty (indistinct). That is all I can say about him. 13 Now that we are just talking about who was supposed to do what, 14 has the President ever asked you what happened? When this story 15 broke, did the President ask you if you know anything about this, 16 after your name came up in the media, if you knew anything about 17 this and if the allegations of Mr Jonas are true? 18 19 **Adv F Hlongwane** : I think it is a really important question. Number one, I don't have contact with the President, not at President of the ANC, not as Head 20 21 of State, so such an opportunity did not arise. I however, ask the 22 question if the ANC, as it is alleged, was involved, including involved in the drafting of a statement with Mr Jonas, why did the ANC ... 23 because I think I'm a member of good standing, why did the ANC 24 not seek to check my view, my opinion, "Chief, this is what seems to 25

1		be happening"? Why was I not called by the ANC to establish this?
2		It is another question that I would ask you. I'm in the same
3	Adv T Madonsela	: No, that is your organisation, Sir.
4	Adv F Hlongwane	: Our organisation, Madam.
5	Adv T Madonsela	: I was going to ask the same question after that question.
6	Adv F Hlongwane	: Our organisation, our organisation.
7	Adv T Madonsela	: No, I left the ANC in 2007. I don't know the mysterious people that
8		keep linking me with the ANC, but it had nothing to do with current
9		issues with the ANC. It was a professional decision to cut ties with
10		any political organisation, that was 2007, but let's leave that. I was
11		going to ask you on a serious note about the President and about
12		whether the ANC ever asked you to (indistinct)?
13	Adv F Hlongwane	: Yes, Madam, I
14	Adv T Madonsela	: And whether the Police have ever asked you, because somebody
15		laid a criminal charge on this matter, which would be Mrs Mentor.
16	Adv N Kanyane	: Mentor, is it not on her issue then?
17	Adv T Madonsela	: Yes. No, but it is (indistinct) evidence. Have the Police ever asked
18		you any questions about that?
19	Adv F Hlongwane	: No, Madam. The only time I was ever asked questions was during
20		the Strategic Procurement Package thing. In this case I have not
21		only wondered aloud having seen this thing, then I then said if the
22		ANC takes a particular view, surely forgetting these clever things of
23		you guys of audi alteram partem and stuff, but surely political
24		management requires that I should be convened and asked, "Ntate,
25		what is this thing that we hear, that you are convening meetings

1		here all over the place?", because I should have been called. It is not
2		a question of given a chance, but I should have been called to
3		establish things, and I wasn't.
4	Adv T Madonsela	: Who was supposed to be calling people? Was it not the top six of
5		the President? Wow, this is South Africa, my dear. (Laughing).
6		Excuse us. No, remember (indistinct) because you guys will not
7		understand why we are laughing and then you think we are
8		laughing about you.
9	Adv F Hlongwane	: No, I know there is something (indistinct).
10	Adv T Madonsela	: No, I was supposed to I was invited, duly invited by the Portfolio
11		Committee to appear tomorrow to present my final report. We
12		have duly prepared, we booked flights, we have done everything.
13		We have now received an advice that says that meeting will now
14		take place on the 18 th when I'm no longer Public Protector. So
15		those are things you are saying, are we upset by those things? No,
16		we laugh, because this is our country, this is how it is running.
17	Adv F Hlongwane	: But we should, I mean this is what we should address.
18	Adv T Madonsela	: No, we laugh in this office. That is how we deal with South Africa
19		today.
20	Adv F Hlongwane	: Maybe that is a miscommunication.
21	Adv T Madonsela	: Because you are going to go crazy if things like this happen, so how
22		can they do this? How can they do this within my lifetime? In fact I
23		almost prepared a new dress. It is just that and the materials
24		have been in the car, because we have been too busy, I couldn't
25		meet with the young designer, so I would be having a new dress.

1	Adv F Hlongwane	: Were you meant to go there tomorrow, you say?
2	Adv T Madonsela	: Yes, presentations have been served, everything has been done.
3	Adv F Hlongwane	: Were you meant to go to Cape Town tomorrow?
4	Adv N Kanyane	: Yes.
5	Adv T Madonsela	: Today, not tomorrow. Everything was done. We are leaving now,
6		I'm supposed to go to Jo'burg and then go to and take a flight later
7		tonight. Now it has been postponed to the 18th, when I'm no longer
8		the Public Protector.
9	Adv F Hlongwane	: Is Parliament in session, as a matter of interest?
10	Adv T Madonsela	: Well, they do have EXCO meetings.
11	Adv F Hlongwane	: Is it in session?
12	Adv T Madonsela	: No, they have Committee meetings, so they have been having but
13		we are breaking(?) into our space. Our space is
14	Adv F Hlongwane	: Toxic.
15	Adv T Madonsela	: a world full of (indistinct).
16	Adv J Cilliers (SC)	: And honestly that is what worries me from the politicians.
17	Adv T Madonsela	: Well, we don't go into that.
18	Mr F Lekubo	: Mr Hlongwane said that, (indistinct) that.
19	Adv T Madonsela	: We don't go into that, we don't go into that field ourselves. We just
20		leave things as they are, but we will make a plan, we always make a
21		plan as the Public Protector South Africa. Can you, Mister
22		Hlongwane don't worry about our things. Yes, it was funny, that
23		is why we laughed, because it is coming now at to three (15:00) the
24		day before (indistinct).
25	Adv F Hlongwane	: Maybe I needed him (indistinct), Public Protector.

1	Adv T Madonsela	: You are Zulu, Mister Hlongwane, aren't you?
2	Adv F Hlongwane	: Yes, Madam.
3	Adv T Madonsela	: I am half Zulu, as my son tells me, half Zulu/half Swazi.
4	Adv F Hlongwane	: The same here.
5	Adv T Madonsela	: And half Zulu/half Swazi they say even when somebody is dead we
6		laugh and I was explaining to someone when they were saying a
7		certain person that we interviewed was laughing and saying that
8		to me that was not a sign of anything wrong, because I have been to
9		funerals where people are sitting on the mattress and one minute
10		they are crying, you know like nobody's business and then if
11		somebody says something funny, everyone was laughing as if
12		nobody was dead. That is an African way, so that is how we
13		survived 7 years and I'm hoping the team survives even longer.
14	Adv F Hlongwane	: A personal question, now that I can see this thing, I need a
15		Therapist clearly through these matters, but where to from here?
16	Adv T Madonsela	: A long holiday (indistinct).
17	Adv N Kanyane	: Can we finish, can we switch off then?
18	Adv T Madonsela	: Okay. Can we then just thank you, Mister Hlongwane. Thank you,
19		Advocate Cilliers, Mister Stockenstrom, Mister Fouché and Mister
20		Senyathe, for availing yourselves for this meeting, for taking us
21		through what you know and helping us to try and find the truth the
22		best we know how. If there is additional information Mister
23		Hlongwane, that you remember or with the assistance of your Legal
24		Advisors and you think it is relevant or will assist us to understand
25		the truth better from your point of view, please give us that

1 information in the next 24 hours. **Adv F Hlongwane** 2 : Not on the 18th? 3 **Adv T Madonsela** : Not on the 18th. **Adv F Hlongwane** : Just some humour there. 4 **Adv T Madonsela** : Not on the 18th, Sir. 5 [Go off record // Hearing adjourned] 6

EXHIBIT D3



ген (ОЮ) ди-Оож Email<u>:inquiries@sastatecapture.org.za</u>

Website: www.sastatecapture.org.za

JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE

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2nd floor, Hillside House 17 Empire Road, Parktown Johannesburg

2193

Tel: (OIO) 214-0651 Email:inquiries@sastatecapture.org.za

Website: www.sastatecapture.org.za

JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE

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2nd floor, Hillside House 17 Empire Road, Parktown Johannesburg

Z193 Tel: (OIO) 214-0651 Email:<u>inquiries@sastatecapture.org.za</u>

Website: www.sastatecapture.org.za

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2nd floor, Hillside House 17 Empire Road, Parktown Johannesburg

Tel: (OIO) 214-0651 Email:inquiries@sastatecapture.org.za

Website: www.sastatecapture.org.za

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JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE ("THE COMMISSION")

TERESAL		

Applicant

NOTICE OF MOTION (APPLICATION IN TERMS OF COMMISSION RULE 3.4)

TAKE NOTICE THAT the Applicant intends to make application to the Commissioner for an order in the following terms:

- That the Applicant is permitted to cross examine the witness Ms

 Mabel Patronella ("Vytjie") Mentor ("Ms Mentor") about the contents

 of paragraphs 60 64 of Ms Mentor's statement, dated 25 July

 2018;
- 2. Further and/or alternative relief;

TAKE NOTICE FURTHER THAT the Sworn Statement of TERESA LUCKY LAKELA KAUNDA, together with annexures shall be used in support hereof.

TAKE NOTICE FURTHER THAT the Applicant has appointed the address

of McMenamin Van Huyssteen & Botes Attorneys, stated herein below, as her attorneys at which address she will receive service of all notices and/or documents in these proceedings.

DATED AT PRETORIA ON THIS THE 23 DAY OF AUGUST 2018

MCMENAMIN VAN HUYSSTEEN & BOTES

Applicant's Attorneys 528 Jorrissen Street Sunnyside, PRETORIA Docex 3, Sunnyside

Tel: (012) 344-0525/083 228 7050

Fax: (012) 344-0555 E-mail elria@mvh.co.za Ref: E McMenamin/IM

TO: THE COMMISSION The Secretary 2nd Floor, Hillside House 17 Empire Road Parktown Johannesburg C/o MABUNDA INC. 2 Protea Road Corner Riley Bedfordview Tel: 011 450 2284/1641

Fax: 011 450 1565

Email: busani@mabundalnc.co.za

Ref: Mr PB Mabunda

MABUNDA INCORPORATED

Empit info@mobundains.co.za (pr. 144 450 1844 / 011 450 2284

Received a copy hereof on the 28 August 2018

For the Commission



JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE ("THE COMMISSION")

TERESA LUCKY LAKELA KAUNDA

Applicant

SWORN STATEMENT (IN TERMS OF COMMISSION RULE 3.4)

I the undersigned,

TERESA LUCKY LAKELA KAUNDA

State under oath as follows:

- 1. The contents hereof fall within my personal knowledge and according to my belief are both true and correct.
- 2. I have been served with a notice in terms of Rule 3.3 of the Commission's Rules to which had been attached an extract of a statement dated 25 July 2018, by Ms Mabel Patronella ("Vytjie") Mentor ("Ms Mentor").
- 3. The purpose of this sworn statement is to motivate an application as

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contemplated in Rule 3.4 of the Commission's Rules to cross examine a witness, namely Ms Mentor.

- In paragraph 60 of Ms Mentor's statement it has been alleged that as the "PA" of former President Jacob Zuma (now "Mr Zuma") I have telephoned Ms Mentor during October 2010 to inform her about a meeting which was supposed to take place between Ms Mentor and Mr Zuma, the following day.
- 5. Paragraphs 61 to 64 of Ms Mentor's statement include other allegations concerning the afleged telephonic conversation between her and me.
- 6. I deny the contents of paragraphs 60 to 64 insofar as Ms Mentor implicates me in her statement.
- 7. I have established that Ms Mentor has made three written statements regarding the alleged meeting, namely:
 - 7.1. A statement in the investigation by the Public Protector into "Complaints of Improper and Unethical Conduct by the President and Officials of State Organs Due to Their Alleged





Inappropriate Relationship with Members of the Gupta Family in the Removal and Appointment of Ministers and Directors of SOEs Resulting in Improper and Possibly Corrupt Award of State Contracts and Benefits to the Gupta Family's Businesses", which had been deposed to during 2016, of which annexure "A" hereto is a copy;

- 7.2. A statement which had been made in an intervention application under Pretoria High Court case number 79808/16, dated 24 October 2016, of which annexure "B" hereto is copy; and
- 7.3. The statement, dated 25 July 2018, which had been attached to the Rule 3.3 notice, served on me in these proceedings (of which I only received an extract) and being annexure "C" hereto.
- 8. A number of inconsistencies and/or discrepancies appear from the three mentioned statements themselves, whilst a number of the factual averments which were made by Ms Mentor are simply incorrect.



9. In paragraphs 25(a) and 25(b) of annexure "A" Ms Mentor alleged:

"I struggle for two (2) months to arrange a meeting with the President. I went to the Tuin Huis with a letter requesting a meeting. I followed protocol in arranging the meeting. I also phoned Ms Lukhele Kaunda at Luthuli House. Eventually (25b) I also phoned Luthuli House repeatedly to get and Appointment with the President"

- 10. During 2010 I served as the Deputy Director General: Head of the Private Office of the Presidency. During 2014 I was appointed as the Chief Operations Officer ("COO") of the Presidency (a post equivalent to a Director General post in Government).
- During 2010 I have not been stationed at Luthuli House. At the time, after Mr Zuma had been sworn in as President of the Republic, I joined the Presidency at the Union Buildings, where I performed my duties. Thus, during 2010 the Presidency of the Republic had to be contacted at the Union Buildings, not Luthuli House.
- 12. As the COO to the Presidency I have had access to the archived records of the Presidency. From an investigation of the archives of

the Presidency it has been ascertained that during December 2009

Ms Mentor has once attempted to arrange a meeting with former

Deputy President Kgalema Motlanthe. Annexure "D" hereto

consists of the relevant email messages relating to the meeting. No

other record could be found which could support that Ms Mentor

attempted over a period of two months (supposedly during 2010) to

make an appointment with Mr Zuma.

- 13. It is also evident from paragraph 25(a) of annexure "A" that my first name had been misspelt as "Lukhele", whilst it was supposed to be "Lakela", which suggests that Ms Mentor has at all times been unfamiliar with me.
- 14. In paragraph 8 of annexure "B", the statement dated 24th October 2016, regarding the alleged meeting with Mr Zuma, Ms Mentor remarked that:

"In and around 2010, I received a telephone call from a woman (<u>I do not know her name</u>) inviting me to a meeting, ostensibly with the President at the Union Buildings. I boarded a flight from Cape Town to Johannesburg to attend this meeting." (Emphasis added.)

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- In annexure "B" Ms Mentor was correct to state that during 2010 the Presidency was situated at the Union Buildings, but evidently Ms Mentor could not put a name to the person who allegedly telephoned her.
- 16. Regarding annexure "C" I deny paragraphs 60 to 64 where I have been implicated, because:
 - 16.1. I have not spoken to Ms Mentor as alleged;
 - 16.2. During 2010 Ms Mentor and I have been unknown to each other;
 - 16.3. During 2010 I have not been the "PA" of Mr Zuma;
 - 16.4. As stated above, during 2010 I served as Deputy Director General: Head of the Private Office of the President. During 2014 I was appointed as the COO. My duties as Deputy Director General did not include the making of appointments, for and on behalf of Mr Zuma; and
 - 16.5. I did not make the appointment as alleged by Ms Mentor.

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- 17. In the event that the Commission permits me to cross examine Ms
 Mentor I will offer her an opportunity to comment on whether she
 can deny that it had not been me who contacted her during October
 2010.
- I make this application to cross examine Ms Mentor subject to the contingency that the Legal Team confirms in writing that it is conceded and generally accepted by Ms Mentor that I have not spoken to her during 2010, as alleged. Should this concession be made then there would not be the need for me to persist with this application. However, without the suggested concession, I remain obliged to persist with this application to be allowed to cross examine Ms Mentor about the abovementioned narrow issue.

DATED AT PARKTOWN ON THIS THE BIG DAY OF AUGUST 2018

DEPONENT

ON THIS DAY OF DAY OF DAY OF 2018

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THE DEPONENT HAVING ACKNOWLEDGED IN MY PRESENCE THAT SHE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, THE PROVISIONS OF GOVERNMENT GAZETTE R1478 OF 11 JULY 1980 AS AMENDED BY GOVERNMENT GAZETTE R774 OF 20 APRIL 1982, CONCERNING THE TAKING OF THE OATH, HAVING BEEN COMPLIED WITH.

COMMISSIONER OF CATHS LIP THERE

CAPACITY: Constallate

FULL NAMES: Lahade Lo be IHELLE

PHYSICAL ADDRESS: Brooking sups

Hillerand road

BUID-AFRIKAANSE POLISIEDIENS GEMEENSKAPSDIENSSENTRUM

2018 -08-23

COMMUNITY SERVICE CENTRE
SOUTH AFRICAN POLICE SERVICE

STATE CA

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"A"

I Mabel Petronalia Mentor declare under oath in English

I Mabel Petronella Mentor declare under outh in English.

2

Par an adult female in contact numbers

resides at a

ě

I am sober and with my full conscious. My home language is Setswana but speaks English, Afrikaans and Zulu fluently. I also do speak a bit Khosa. I am comfortable making this statement in English.

Since 1998; 1999, 2000; 2001 until August 2002. I was an official in the Department of Education, and Couloglor in the Northern Cape. I am an ANC member.

.

After August 2002 I became a member of the Parliament. When I arrived at Parliament I functioned under Public Services and Administration and also serve under the Portfolio for Education. During this period I received three (3) times promotion.

From 2004 until 2009 I became the AMC: (1) Concus Parliamentary Chair Person (2)-Chairperson: Joint Standing Committee on Intelligence for Parliament (5) Chairperson (2)-Chairperson of Public Enterprises.

Due to my positions I was entrusted with, I was exposed and experienced sensitive matters. | has I

The DEMEL-Company/reserted under me; in fact all state owned companied resorted under me.
Meaning I was oversteing together with the Committee resorting under me.

Denel is a state-owned Arms Manufacturing Company which was at a stage one of the most stable companies, meaning highly profitable and best run.

The Gupta brothers are co-owners/partners of Denel. This I can state factually because of the following reasons: The Gupta Brothers approached the industrial Davelopment Cooperation (IDC) and borrow and or make a loan to establish a company that will partner with DENEL. The amount borrowed was 8000 Million Rand:

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I Mabel Petronella Mentor declare under oath in English

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This money was paid out to them. The Guptas was supposed to service the loan amount immediately. For +- 16 months they didn't do it. RS00 million became R350 million that the Guptas Brothers owed the IDC. They used the money to but OAKBAY intestments which gave birth to SHIVI URAMIUM and VR-LAZOR.

SHIVI URANHUM specializes in uranium, but also supplies ESCOM with Coles. VR-LAZER specialises in cutting steel.

13

The Gupts Brothers then, because of the debt of 8350 million, arrange a meeting with the IDC and made a deal with the IDC. The deal was then that the IDC will become shareholders of VR-LAZCIR for a percentage of 9, 4 shares. (This wow finish out to Laz on the 2+0)

The IDC then cancelled the debt, because VR-LAZER will cut steel for the project of manufacturing army vehicles in South Africa. There after the Defence Force and or Army paid an amount of ten(10) billion rand upfront to VR-LAZER for the building of cutting steel for army vahicles stall to be produced.

Industry. Makes the central player and way close with Minister Rob Davis, the Minister of Trade and Industry. Mr. lighal Surry, was also closely played to the Gupta Brothers.

VR-LAZER together with DENEL went to Asia, Hone Kong where shey did contracts of which I have no knowledge. They spend an office in Artia, largely funded

Denel has capability to manufacture any sorts of arms and ammunition including vehicle aircrafts, atc. that has to do with defence. The Crupha Company has no such capability

SHIVI-URANIUM was strategically placed to supply uranium to the Government for the Nu-clear energy Plant that will still be build.

In their House at Saxonworld in 2010, the Coupter Brother as ked me about Uranium deposits in soid they were interested in mining from They/the

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i Mabel Petronello Mentor declare under oath in English

After becoming aware of all this this information, I came to the conclusion that there are discrepancies and irregularities which I didn't agreed with. They also established arms manufacturing plant in Solidea Arabia.

20
believe that controlling place and a second
(identified government single ters and amployeer mentioned in this statement). 19
A state of the sta
During this period I became aware that the PRBBEL BED MODULAR REACTOR: A mini test Nu-clear Station located in Indiana, Preforia, must be closed down. This I was very unhappy with, for what were The Late Late I party + Human Committee we like the Late I party + Human Committee we like the Late I party + Human Committee we like the Minister of Energy and share with her my committee with her my
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Testing Mirclear Station will be closed. The Minister of Energy and share with her my concerns when the Minister of Energy and share with her my concerns when the Minister of Energy and share with her my concerns when the Minister of Energy and share with her my concerns when the Minister of Energy and the Minister of Energy and share with her my concerns when the Minister of Energy and the Minister of Energy and share with her my concerns when the Minister of Energy and share with her my concerns when the Minister of Energy and share with her my concerns when the Minister of Energy and share with her my concerns when the Minister of Energy and Share with her my concerns when the
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who was in partnership with the government) of the five sting Nouse, an American Company Pro Pour City of the Sovernment of the Sovernmen
discussed it with him. I decided to follow her advice.
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I struggle for two (2) months to arrange a meeting with the President, I went to the Tuin Huis with a letter requesting a meeting. I followed protocol in arranging the meeting. I also phoned Ms Lukhele Communication.
letter requesting a meeting. I followed protocol in arranging the meeting. I also phoned Ms Lukhele Covernor to class phoned Luthral House executed by the second of the followed protocol in arranging the meeting. I also phoned Ms Lukhele Covernor to class phoned Luthral House Vege at cally to get a Apparature. After spoken to Mr L Keunde, she made content with me the second content with me the second counter.
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I also phoned Luthouli House here diedly to
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After spoken to Mr L Keunde, she made contect with me live Sunday evening after ten on my official President together with the person will, phone me with regards to your first the person will, phone me with regards to you
phone. She just informed me that the person will, phone me with regards to my meeting with the
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President together with the arrangements. That will, phone me with regards to my meeting with the
Shortly after her sail, a person phone if

Shorely after her call, a person phoned me. The person who contact me was a male. He told me that must take the plane the following Mondey at 95:00 at Cape Town International.

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I was worried, because I was on crutches and asked the man how will I cravel. He assured me that

my flight was already booked and transport is sorted out. i.e. From the Arrowst to the

Proof that He said 2 men will need me and i dentify themselve

and he Airport.

The Monday I took the flight as discussed. When I arrived at Johannesburg International (OR Tambo), two makes dressed in black was waiting for me. They was dark glasses with ear-places and was driving a black double can backle Archide. I Thought they was free place of the solution of the property of the solution of t

I got into the vehicle and was expecting to be driven to the Union Building in Pretoria where laddless the meet with the President. In fact they drove to SAHARA. They stopped there and Lassumed that they collecting something. Instead they asked me to go with them to say "hello" to someone. So I go with them, inside I wait in a small waiting area at the end of a long corridor and was told that the person is busy on the phase.

Finally I went to meet this person and he was introduced to me as the eldest brother, by now I know all three of them are indians. I observed the following from the oldest brother: He is eldest / for shorter that the other two, but was wearing a big brillient gold ring with a red ruby in the index finger.

its talked to me about my family, asked me about my children. I told him that my son is playing

cricket for Western Province. He then offered to buy a cricket but but I fall him that if that stage !

already bought my son a new cricket but made of English Wood, He

Support the stage !

This oldest brother than continues by offering me access to a suite at Newlands Cricket grounds when-ever there was a cricket garne and I can take my son with. This man then told me that I arm a femous person and it was a privilege for him to meet me. He know what my position was and also know that I had an appointment with the President. We seek I was a suite of the last the last and also know that I had an appointment with the President.

He then hinted that the President was not available yet because he at that stage attend to a meeting at Luthuil House. I became agitated and impatient, because it was very stronge to me that this man knows about my visit and seems to know the where abouts of the President. I would now getting to seems to know the where abouts of the President.

Howe never met any of them previously, that day was my first time. We spend +45 minutes at SASIARIAH. From there, we drove and I thought we are going straight to the Union Building for my meeting with the President.

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i Mabel Petronella Mentor declare under oath in English

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instead of going there, they drove to big Chister Manslon with +5 big houses. It was a private complex. I will be able to identify the house because it wasn't finished at that stage, There was a big pillar not finished yet and other small structures not yet finished. I remember the cream marble steps. They took me to a loyer that was very big with two coaches where I had to wait. They told me that the older brother will come to meet me again.

first the older brother will come to meet me egain.

And the house wirs a being - cream suitside at that time I family

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Also, showed me where the bathroom was and asked if I wanted something to eat and drink. I was served with Chai tea with nean bread and corry. By then I was upset and not feeling well, there-for I didn't enjoy the food. The young Indian Chile who was near the didn't enjoy the food. The young Indian Chile who was near the didn't enjoy the food. The young Indiana the sease English

Later the older brother arrived and sk on the other coach. We talked just there. He mentioned the following: "as the Chair Person of the Public Enterprises if I am ewere that Denel are for the part 4 years having legal problems in India" I pretend not being aware, because I wanted to know more about this man (oldest brother) he then said that he can help. They are the Gupta brothers (family). He also touched on my agenda with the President. I was very surprised and angry. He claimed that they are very closed to the indian government as the Gupta brothers.

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He continues and spoke about the SAA Airline Route between South Africa and India. He wants me to commit myself by making a deal that I will influence SAA to stop flying the South African Route between SA and india. He go on and said: 'you could be a Minister of Public Enterprises in a weeks' time when the President will reshuffles cabinet and removes the current (the then Minister) of public Enterprises (Barbara Hogan). He also spoke the current (the then Minister) of public Enterprises (Barbara Hogan). He also spoke the current (the then Minister) of public Enterprises (Barbara Hogan). He also spoke the current (the then Minister) of public Enterprises (Barbara Hogan). He also spoke the current (the then Minister) of public Enterprises (Barbara Hogan). He also spoke the current (the then Minister) of the then the Minister of Public Enterprises in a weeks' time they fall that the President in appoint me. I was doubtful and he could see it. So he said that they have done it previously i must just play along, meaning I must agree to influence SAA to stop the route.

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I got very energy and rate my voice. I request, in a found voice to be taken back to the sirport. I never at any stage commit and/or agree to any of his proposals. At that moment the President enter the fover from the back of me. I stood up and was energy. I should up the feet of the first moment the president enter the fover from the back of me. I stood up and was energy. I should up the feet of the feet of the first moment the president enter the foundation of the feet of the fee

I explained to the President what transpired between me and this man; about him telling me that he would put in a word with the President for me to become the Minister. Also that he was aware and informed about the meeting with the President. The President rather choose to calm me by telling

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I Mabel Petronella Mentor declare under oath in English

me to colm down and not to worry. The President never reprimended the man, nor all the pompass and up for me. fin my defence.

He didn't even look surprised. I was the person made to be the mad one. The President didn't even look but a meeting with me. He walked me out of the bouge to the which and raw I walked with crutches. So he told me that if he was swone he would have made other arrangements.

and the president of chief of and send he wind go and eat next door he resident why he meet me with these people and in that house. He said that his day is staying ment door. He also said that he was soon.

I remember that while I was waiting at that house I phoned a friend of mine to arrange a place to sleep because it was becoming fate and do not know when I will meet the President.

None of their informed me how my flight errangements are lack to Cape Town. The same two frothers took me to the airport. On the way to the airport I phoned my friend again that I am on my way to the airport but if I do not get a flight that I will phone her again.

The same Monday I flew back to Cape Town. The Tuesday I phoned the CEO of SAA and emange an appointment with her. That same week she came to my office and I arked her how long it will take to cultivate on international Airline Route. She said that the first 4 x years capital are invested (putting in money) from the fifth year up till the ninght/ten year you brack even, and only making profit there-after. Then I teld her that some-one approaches me to influence SAA to close the route between India and SA.

She said it was SA main and most profitable route and that it would not make sense economic sanse, to close that route. Then it made sense to me, 4.4.

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I Mabel Patronella Mentor declare under path in English

Interestingly, Minister M Gigabe was present in School Arabia when the arm manufacturing factory was opened by Denel and the President meanwhile his line-function of Home Affairs has nothing to do with the arms manufacturing.

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The Minister of Mineral Resources and Mining was also a constant factor and denominator in /2_negotiating the IOC-Loan, the Denel-Asia Venture as well as the Soadi Arabia arms manufacturing factory was opened. He is reported and confirmed that he flew to Dubal in December where he met with the Gupta brothers. The President was also in Dubal at the time of the meeting of Minister of Resource and Mining and Minister (Minerals) with the Guptas.

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According to the media reports the Gupta family moved to Dubal (They are now back)

I am off the condustion that the Gupta family, the son of the President and some ministers where I have named in this statement as well as the Pipelisen to Secular subject and All have a corrupt relationship that gives unfair adventage to the Gupta family and their associates at the expense of

the State using state resources and agendes all the way for their own benefit.

By the Brian Molecule CEO of Estern funded the Graph Permits

12 283 — for empty sing cockern with Infertuguality cock.

From the onset the year of the first Local Government Election after 1994 Mr Chauke, current ANC MP; reported to me that he met the Gupta brothers in a gampe which they rented in Sediard view Johannesburg: As they were cloing door to door campaign for the ANC.

Johannesburg: As they were doing door to door compaign for the ANC.

Brian Molete Funded the Chuph companies and then the Break fast Show whe off he was still all TRANSNET.

The Gupts—brothers requested to be introduced to the jeedership of the ANC and of Government in Luthuil House. They specifically wanted to meet President Mandela, Deputy President Thebo Mbeki and Minister Issop Pahad for this introduction they were willing to done to 150 000,00 for the ANC for election purposes.

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Eventually they manage to meet with Allnigter Issop Pahad in Euthuli House and they did donate 150 000.00. and they were introduced to Essop Pahad, with appelluted one of them to a certain Board.

To date issop Pehad is still having relationship with them and he is responsible for the content of their journal called "THE THINKER". He was also responsible for putting a Gupta Brother in the heard of Proudly South African Government Entity / Agency. That is all I want to state, but I do request criminal investigation in this matter.

The aupter boasted in the media of the time when Deputs President Zuma was fired that they were supporting him financially.

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IN THE HIGH COURT OF SOUTH AFRICA (GAUTENG DIVISION, PRETORIA)

Case No: 79808/16

In the application for intervention by:

MABEL PATRONELLA ("VYTJIE") MENTOR

Intervening Party

In the matter between:

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

and

Applicant

THE OFFICE OF THE PUBLIC PROTECTOR

First Respondent

THE PUBLIC PROTECTOR

Second Respondent

NOTICE OF MOTION

KINDLY TAKE NOTICE THAT the Ms Mabel Patronella ("Vytjie") Mentor intends to bring an application to the above Honourable Court, on 1 NOVEMBER 2016 at 10h00 or as soon thereafter as counsel may be heard for an order in the following terms:

HOW 8

- 1. Granting Ms Mentor leave to intervene as a respondent in this application.
- Dismissing the President's application.
- Directing the President to pay the costs of the application.
- 4. Further and/or alternative relief.

TAKE NOTICE FURTHER that the affidavit of MS MABEL PATRONELLA ("VYTJIE") MENTOR and its attachments will be used in support of the relief sought in this application.

TAKE NOTICE FURTHER that the applicant has appointed the offices of its attorneys of record, WEBBER WENTZEL, at the address below as the address at which it will accept service of all process in these proceedings.

TAKE NOTICE FURTHER that the applicant consents to service of all affidavits, notice and processes by smail to the address specified below.

TAKE NOTICE FURTHER that if you intend opposing this application you are required to -

- Notify the applicant's attorney in writing of your intention to do so on or before 26 October 2016;
- In such notification, appoint an address at which you will accept notice and service of all documents in these proceedings; and

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File your answering affidavit, if any, on or before 17h00 on 3. 28 October 2016.

TAKE NOTICE FURTHER that if no notice of intention to oppose is received, the relief sought above may be granted in your absence.

KINDLY PLACE THE MATTER ON THE ROLL ACCORDINGLY

Signed and dated at JOHANNESBURG this ZSday of October 2016.

WEBBER WENTZEL

Ms Mentor's Attorneys

90 Rivonia Road

Sandton

Johannesburg, 2196

PO Box 61771, Marshalltown

Johannesburg, 2107, South Africa

Tel: 011 530 5526/ 5539 Fax: 011 530 / 6526/ 6539

Email:

tshego.phala@webberwentzel.com Ref: M Hathorn/T Phale / 3013932

C/O SAVAGE JOOSTE & ADAMS

ATTORNEYS

141 Boshoff Street

Nieuw Muckleneuck

Pretoria, 0181

Tel: 012 452 8200

Fax: 012 452 8201

e-mail: stepheni@savage.co.za

Ref. S Leinberger

TO:

THE REGISTRAR OF THE ABOVE HONOURABLE COURT

4

FILED BY HAND

AND TO:

STATE ATTORNEY PRETORIA

Attorneys for President of the Republic of South Africa 316 SALU Building Corner Francis Baard and Thabo Schume Street

Private Bag X91

Pretoria

REF: 7313/16/Z75/js

Email: ichowe@justice.gov.za

Tel: (012) 309 1562 Fax: 086 507 2194

KHAMPA ATTORNEYS INCORPORATED

Mr Van Rooyen's Attorneys

c/o TM Chauke Attorneys Incorporated

2nd Floor, East Wing, Sammy Marks Square 314 Church Street

Pretoria

Tel: 011 234 1735 Fax: 086 500 0945 Ref: Cogta/A Khampha Email: azwi@khampainc.co.za

ADAMS AND ADAMS

Attorneys for the Public Protector Lynwood Bridge Office Park 4 Daventry Road Lynnwood Manor

Pretoria

Tel: (012) 432 6000 Fax: (012) 432 6599

Email: andrew.molver@adamsadams.com

Ref: ANM/gkd/LT3340

HAL S.

IAN LEVITT ATTORNEYS

Attorneys for the first intervening party 19th Floor, Sandton City Office Towers Sandton City
West Street
Sandton
Tel: 011 784 3310/082 445 1586
c/e Friedland Hard Solomon Nicolson
79 Steenbok Avenue
Pretoria
0180

Tel: 012 424 0200

MABUZA ATTORNEYS

Attorneys for the second and third intervening parties c/o Nkomo Inc Attorneys
Suite 204
Hatfield Forum East
107 Arcadia Street
Hatfield

Tel: 012 342 6009 Fax: 012 343 2454

MINDE SHAPIRO SMITH INC.

Attorneys for the fourth intervening party
Tyger Valley Office Park
Building Number 2
Cnr Willie van Schoor & Old Oak Roads
Belville
Ref: DBM16/0300 Jonker/sw
c/o Klagsbrun Edelstein Bosman De Vries Inc
220 Lange Street
Nieuw Muckleneuk

Leel

Tel: 012 452 8900 Fax: 012 452 8901

Pretoria

Email: <u>venashan@kebd.co.za</u> (ref: Hugo Struwig/VS/HS000055)

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IN THE HIGH COURT OF SOUTH AFRICA (GAUTENG DIVISION, PRETORIA)

Case No: 79808/16

In the application for intervention by:

MABEL PATRONELLA MENTOR

Intervening Party

In the matter between:

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

and

Applicant

THE OFFICE OF THE PUBLIC PROTECTOR

First Respondent

THE PUBLIC PROTECTOR

Second Respondent

FOUNDING AFFIBAVIT

I, the undersigned,

MABEL PATRONELLA ("VYTJIE") MENTOR

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do hereby make oath and state as follows:

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- I am an adult female residing in Cape Town. For security reasons, I
 prefer not to give my full residential address.
- I was formerly a Member of Parliament for the African National Congress ("ANC"). I held the position of Chairperson of the Portfolio Committee on Public Enterprises.
- 3. The facts in this affidavit are within my personal knowledge except where the contrary is expressly stated or clear from the context. To the best of my knowledge, they are true and correct.
- 4. Where I make legal submissions, I do so on the advice of my legal representatives, which advice I believe to be correct.
- 5. The purpose of this affidavit is to seek leave to intervene as a party in these proceedings under rule 12 of this Court's rules.
- 6. In what follows, I address the following in turn:
- 6.1 The facts:
- 6.2 My application to intervene;
- 6.3 The manner in which section 7(9)(ii) of the Public Protector Act 23 of 1994 ("the Act") is to be interpreted;
- 6.4 The Public Protector is functus officio in relation to the report and the

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relief which the President is seeking is consequently moot;

- The President's failure to demonstrate any real risk of prejudice; 6.5
- 6.6 The requirements for an interdict have not been met; and
- 6.7 Conclusion.

THE FACTS

- 7. I have been a member of the African National Congress since the 1980s. In 2002, I was elected as a member of parliament. In 2004, I was elected as Chairperson of the Portfolio Committee on Public Enterprises.
- In or around 2010, I received a telephone call from a woman (I do not know her name) inviting me to a meeting, ostensibly with the President at the Union Buildings. I boarded a flight from Cape Town to Johannesburg to attend this meeting.
- When I arrived at OR Tambo International Airport, Mr Gupta met me. I 9. was surprised and had never met Mr Gupta before. Mr Gupta informed me that the President was unavailable.
- Mr Gupta took me unknowingly to the Gupta's Sahara office where he 10. introduced me to the senior Oupta brother. When I left the Sahara office, I was still under the impression that I was being taken to Pretoria in order to meet with the President. However, I was taken to the Gupta's residence in Saxonwold, where I was introduced to the other brothers. Within fifteen minutes of my arrival at their home, members of the

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Alternative remedy

- If and when it is confirmed that the Public Protector has in fact made 77. findings against the President, he can seek to review such if he remains of the view that there is a legal basis to do so. Thus, the President has an alternative, adequate remedy.
- in addition, as set out above, in the circumstances of this case, this is the 78. remedy that is consistent with the Constitution as opposed to seeking to interdict the release of the report, which is not.

CONCLUSION

- I submit that I have a direct and substantial interest in this matter and that 79. my application to intervene should consequently be granted.
- I submit further that the President has not made out a case for the relief 80. sought in his notice of motion and that his application should be dismissed with costs.

I hereby certify that the abovementioned deponent acknowledged to me that she knows and understands the contents of this affidavit, that it is to the best of her knowledge both true and correct, and that she has no objection to taking the prescribed oath and considers it to be binding on her conscience.

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Thus signed and swom to before me at Mesawille on this the 24 day

of 000000 2016

SOUTH AFRICAN POLICE SERVICE

2016 -10- 24

GENERASRAPSCHENSSENTRUM OURBANVILLE

SOUTH AFRICAN POLICE SERVICE

700100-6 SCIT

COMMISSIONER OF OATHS

/ Schnen steat

Due Barrille

021) 9703800

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2nd floor, Hill side Höuse 17 Empire Road, Parktown Johannesburg 2193 Tel: (010) 214-0651 Email: <u>majarigs@sastatecenture.org.zo</u> Website: <u>worin.sastatecenture.org.zo</u>

JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE

NOTICE IN TERMS OF RULE 3.3

10

Ms Teresa Lucky Lakela Kannda 1944 Thornebrook Golf Estate Theresa Park Pretoria 0182

C/0

Mr Michael Hulley (Attorney of Record)
Hulley and Associates
12th Floor, The Forum
2 Maude Street, Sandton
Johannesburg
2196
Tel: (011) 784 6211

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IN TERMS OF RULE 3.3 OF THE RULES OF THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION, FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE ("THE COMMISSION"), YOU ARE HEREBY GIVEN NOTICE THAT:

- The Commission's Legal Team intends to present the evidence of Mabel Patronella Mentor, whose evidence implicates or may implicate you.
- 2. A copy of the portions of the witness's statement that implicate you is attached as "A"
- 3. The witness statement implicates you in the following respects:
 - 3.1 In your official capacity as former President Zuma's Chief Operations Officer, you facilitated a meeting between Ms Mentor and Mr Ajay Gupta at which Ms Mentor was offered a position in the national executive.
- The witness will give evidence at the hearing commencing on 20 August 2018 at 4th floor,
 Hill on Empire, 16 Empire Road, Parktown, Johannesburg.
- 5. You may attend the hearing at which the witness gives evidence.
- 6. You may be assisted by a legal representative when the witness gives evidence.
- 7. If you wish to:
 - 7.1 give evidence yourself:
 - 7.2 call any witness to give evidence on your behalf; or
 - 7.3 cross-examine the witness

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then you must apply, within fourteen calendar days of this notice, in writing to the Commission for leave to do so.

- 8. An application referred to in paragraph 7 above must be submitted to the Secretary of the Commission. The application must be submitted with a statement from you in which you respond to the witness's statement in so far as it implicates you. The statement must identify what parts of the witness statement are disputed or denied and the grounds on which they are disputed or denied.
- 9. In the event that you are of the belief that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out in paragraph 4 above and that you are prejudiced thereby, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.

DATER at Duanneburg

on this of day

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SECRETARY

Judicial Commission of Inquiry into Allegations of

State Capture, Corruption and Fraud

in the Public Sector including Organs of State

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IN THE JUDICIAL COMMISSION OF INQUIRY TO INQUIRE INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR, INCLUDING ORGANS OF STATE

STATEMENT OF MS MABEL PATRONELLA ("VYTJIE") MENTOR

l, the undersigned,

MABEL PATRONELLA ("VYTJIE") MENTOR

do hereby state as follows:

- 1. I am an adult female residing in Cape Town.
- 2. Except where the contrary is expressly stated or clear from the context, the facts contained in this statement are within my personal knowledge. To the best of my knowledge, they are true and correct. Where I make legal representations, I do so on the advice of my legal representatives, which advice I believe to be correct.

THE PURPOSE OF THIS STATEMENT

3. I make this statement in order to assist the Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State (the Commission), which was established in terms of section 84(2)(f) of the Constitution of the Republic of South

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Africa, 1996.

- 1 had communicated with Ms Lakela Kaunda (Ms Kaunda), who at the time I thought was Mr Zuma's personal assistant, in order to secure a meeting with Mr Zuma. On one Sunday evening in or around October 2010, about a week or so before the cabinet reshuffle, I received a telephone call from Ms Kaunda, to say that the President could see me the following day. I think Ms Kaunda was his PA although it could have been a different position but she definitely appeared to be from the president's office.
- Ms Kaunda informed me that Mr Zuma would be available to meet with me the next day, being a Monday.
- 62. Ms Kaunda advised that a certain individual, would get in contact with me regarding the meeting. She further advised that if the individual failed to contact me, I should contact him on a number, which she provided to me. I do not recall if I asked for the person's number or if Ms Kaunda volunteered it to me.
- 63. I cannot recall whether I called the person or if he called me but we spoke later that evening. As far as a recall, I booked myself on a flight with South African Airways (SAA) from Cape Town to Johannesburg. The man offered me a ticket but I informed him that I needed to book it as I also had to make arrangements with the Passenger Assistance Unit as I was on crutches. I accordingly requested information regarding travel arrangements once I landed at the airport. In particular, I relayed to him my concerns regarding the short notice of the meeting and the fact that I used a wheelchair when I travel, as well as my concerns regarding

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transportation to take me to Mr Zuma since I was still recovering from an injury at the time and I was using crutches to walk.

- 64. The name of the man given to me by Ms Kaunda was Atul Gupta, together with his telephone number. The man reassured me that the logistics for travelling from OR Tambo International Airport had all been taken care of and that there would be someone waiting for me upon my arrival in order to take me to Former President Zuma.
- 65. I flew to Johannesburg on Monday morning and was met by two Indian men, one of whom was holding a placard with my name. They were Atul Gupta and Rajesh Gupta. The two men escorted me to their vehicle. I should mention that even though I had briefly encountered them on my visit to China, I believe that I only recognised one of them and even then I did not pay much attention or register that they were the Gupta brothers when they came to collect me at the airport. This is probably also because judging from their appearance; I initially thought that they were security or drivers for the President. I believed they were from the President's office as their attire and demeanour appeared very official. They were dark suits, were car-pieces (for communicating) and sunglasses. I do not recall the make of the vehicle save for the fact that it was a black twin cab "bakkie" with tinted windows and elevated wheels.
- 66. I found glossy magazines and newspapers in the vehicle. In order to keep myself occupied, I paged through them as we drove. I noticed that some of the magazines were about Sahara Computers and others about cricket. I was expecting to be taken to the Union Building to meet with the President. I was of the firm belief that one meets the President at either the Union Building or the Presidential home or possibly at Luthuli House

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on Mondays, which is where the President often is as the NEC of the ANC meets at Luthuli House on Mondays.

- 67. I was therefore surprised when, after driving for some time (but not long enough to have reached Pretoria), I noticed that we had come to a stop in a semi-industrial area. I enquired if this was the venue where I would be meeting with Mr Zuma. The two men informed me that we were still on our way to see Mr Zuma but that they first wanted me to meet someone else. They said it was their older brother whom they wanted to introduce me to. I asked why I would need to meet their brother, but I do not recall them answering.
- 68. We were parked in what appeared to be a parking lot similar to a parking lot at a shopping complex. I noticed that "Sahara" was written on the outside of the building at which we had stopped. I attach hereto marked "MPMI" a picture of the building. I was taken into the building and made to wait for a considerable amount of time for this person whom I had to meet.
- 72. I was eventually taken into an office where an individual was introduced to me. I now know this man to be Ajay Gupta. Ajay Gupta remained seated when I entered the office. It was neither a posh nor a big office. He sat behind a desk.
- 78. We (the other two Gupta brothers who had collected me from the airport and I) then drove from the Sahara building until we arrived at a huge residential home, which I did not recognise. The two brothers spoke to the security guards at the entrance, and then entered the premises. I now know that this is the Gupta home in Saxonwold which appears in the



pictures attached hereto marked "MPM2".

- 79. I was unsure where we were. I asked why we still had to stop at yet another place along the way to my meeting with Mr Zuma. I was under the impression that the meeting would be held at the Union Buildings. The two men said that I was to wait for Mr Zuma there.
- 92. I was growing very agitated and angry and began to speak very foundly. I had become confrontational and began raising my voice. It was at that moment that Mr Zuma suddenly entered the room. He walked in from the same direction that Ajay Gupta had entered (as opposed to the entrance that I was brought through).



single greatest threat to our constitutional democracy since the end of apartheid.

- i31. I understand that I will be asked to confirm the contents of this statement under oath at the Inquiry.
- 132. I reserve my rights to supplement this statement if necessary.

MABEL PATRONELLA MENTOR

25 July 2018

DATE

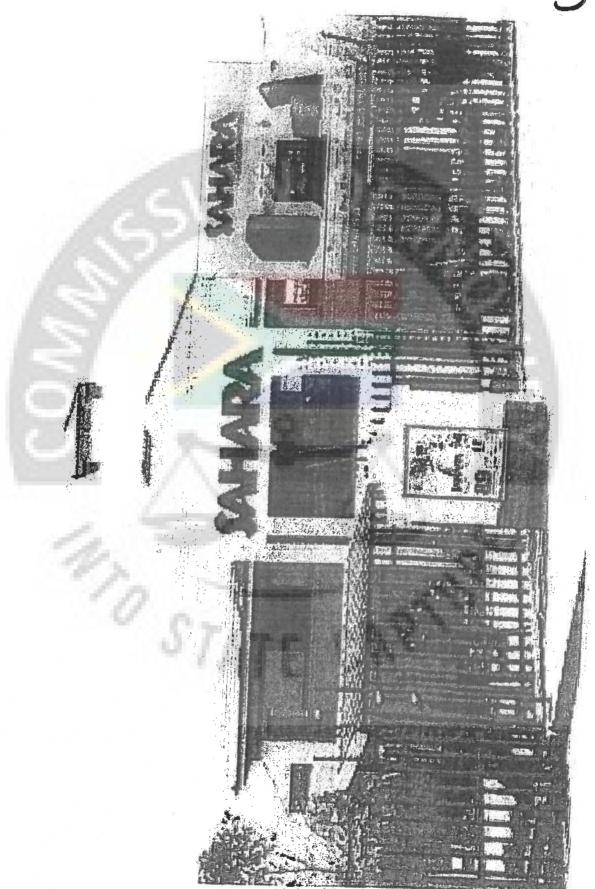
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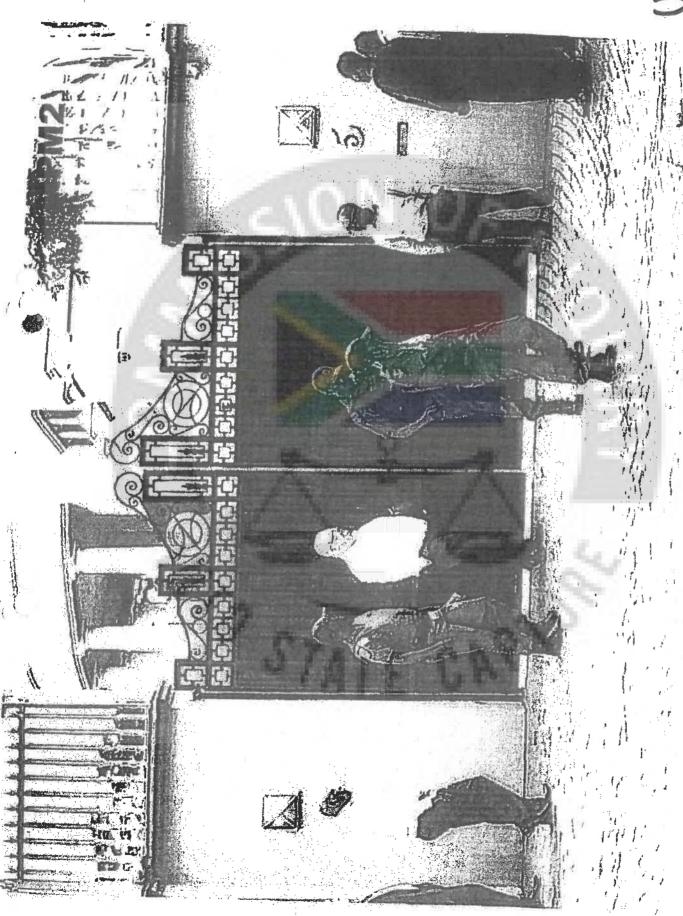
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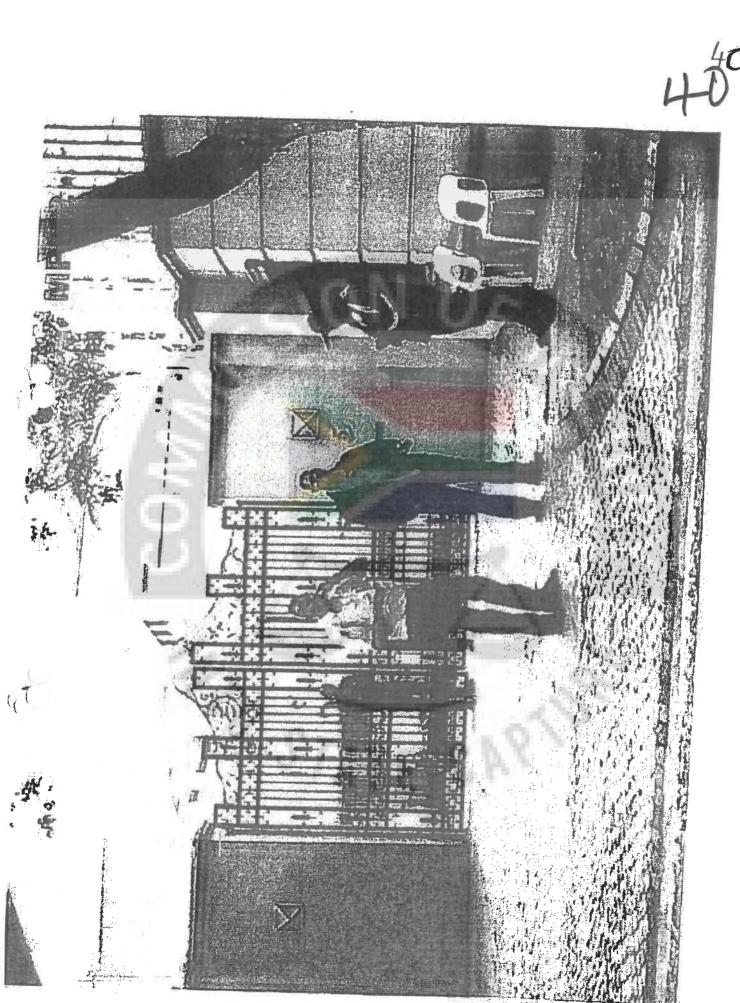
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Mogotladi Mogano

From:

Loretta Lawrence (ilawrence@parliament.gov.za)

Sent: To:

14/12/2009 09:53 AM Jamela Millarhi; Lerato Zimbili

Subject; Attachments:

14 December 2009 Loretta Lawrence, vef

14 December 2009

Dear Jamela

As per our conversation earlier.

Ms.Mentor indicated that she has spoken to Mr. Jeffrey for a meeting with the Deputy President re the Independent Power producer proposal, Ms. Mentor acknowledges that the office of the Deputy President is very busy but would appreciate it if the Deputy President is able to meet Ms. Mentor before they go on leave,

Please advise urgently.

Have a blessed xmas and new year.

thanks

Loretta Laurence Executive Secretary to Ms. Vyt jie Mentor (Chairperson) Partfolio Committee on Public Enterprises

Tal: 021 403-2728 Fax: 021 403-8717 Fax to a-mail: 086 543 5042

e-mail: ||aurence@parliament.gov.za

Cell: 083 709 8485

Coretta Laurence Executive Secretary to Ms. Vytjie Mentor (Chairperson)

Partifolio Committee on Public Enterprises

Tel: 021 403-2723 Fax: 021 403-8717

Fex to e-mail: 085 543 5042 e-mail: <u>Hamrence@parliament.gov.za</u>

Cell: 083 709 8485

HOLES

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Nokuthula Mbatha

From: Lorette Lawrence [llawrence@perliament.gov.za] 15 December 2009 10:08 AM Sent:

To: Jamela Mhiarhi; Lerato Zimbili Subject. Pwd: 14 December 2009

Attrohments: 14 December 2009; Loretta Lawrence vol

15 December 2009

I am doing a follow up on the meeting request from Ms. Mentor and Ms. Mentor also indicates that is it is not possible for the meeting now in December she would like a meeting early in

Please advise urgently.

thanks

Loretta Lawrence Executive Secretary to Ms. Vytjie Mentor (Chairperson)

Portfolio Committee on Public Enterprises

Tel: 821 483-2723 Fax: 821 483-8727

Fax to e-mail: 086 543 5042 e-mail: limencempar liament gov. za

Cell: 883 709 8485

Please note: This email and its content are subject to the disclaimer as displayed at the following url http://webmail.parliament.gov.za/disclaimer.html

1.

IN THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE

HELD AT: PARKTOWN, JOHANNESBURG	
In the matter between:	05
ADVOCATE MANDLA ALDISE MTOLO	APPLICANT
And	
IABEL PATRONELLA 'VYTJIE' MENTOR	1 ST RESPONDENT
THE COMMISSION OF INQUIRY	2 ND RESPONDENT
NOTICE OF AGO	
NOTICE OF MO	ION

BE PLEASED TO TAKE NOTICE that the applicant intends to make an application to the above Honourable Commission of Inquiry on the Applicant may be heard for relief in the following terms,

- 1. That the Applicant be granted relief to:
 - (a) Giving evidence on his own account
 - (b) Call any witness to give evidence on his behalf

- (c) Cross -examine any witness giving any evidence which implicate or purport to implicate him
- (d) Further and / or alternative relief as the Honourable Commission may deem appropriate and just in the circumstances.

TAKE FURTHER NOTICE that the affidavit of Advocate Mandia Aloise Mtolo which opposes the assertions and allegations of Mabel Patronella 'Vytjie' Mentor is appended hereto in compliance with Rule 3 of the Rules of the Commission.

Signed at: Brakpan on this the 3 day of August 2018

Applicants Attorneys

Siwela Vincent Attorneys

229 Shepard and Freel Building

Cnr Prince George and Victoria

2nd Floor

Office 211

Brakpan

And to: Chairperson of the Commission of Inquiry

And to:

48

Mabunda Incorporated

2 Protea Road, Corner Riley

Bedfordview

2008

Tel: (011) 450 2284

Fax: (011) 450 1566

JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION

COMMISSION'

STATEMENT OF ADVOCATE MITOLO

I, the undersigned

ADVOCATE MANDLA ALOISE MTOLO

Do hereby state the following under oath;

I am an adult male Advocate and the member of DPCI ("Hawks") in the Republic of South Africa and stationed at Silverton Pretoria.

1

Save where the contrary is expressly stated or clear from the context, the facts contained in this statement are within my personal knowledge and belief true and correct.

Where I make legal submissions, I do so on the advice of my legal representatives, advice which I accept and embrace as prudent.

2

On this statement I will not reply to each and every averments contained, but will only confine only to the allegations relating to me in person as stated in para 3.1 of the notice by the Commission.

4

AD PARAGRAPH 120.

I admit having met the deponent at her residence by prior arrangement, but however deny being in the company of anybody and avers that I was only by myself at the time.

A.



I further deny that I made any submissions or insinuations directly or indirectly to Ms Mentor, that the name of Mr. Zuma be removed from her affidavit, nor did I state that as a consequence thereof our hands were tied or the investigation consequently stalled.

4.

AD PARAGRAPH 121

I presented a statement to Ms Mentor, for her perusal and confirmation, I aver that I did so on the instruction and request of my Superior Bragadies Basi. I further state that I have nothing to do with its content, compilation or draffing thereof, I was purely acting on instruction by my Superior.

I admit that charges and insertions by Ms Mentor were made in my presence, but I deny making any other arrangement to return with a properly typed version.

5

AD PARAGRAPH 122

I have no knowledge of these allegations and therefore cannot respond thereto .

6.

AD PARAGRAPH 123

I confirm making arrangements to meet with Ms Mentor together with Advocate Vogel from the National Prosecuting Authority in Cape Town. I aver that Miss Mentor unceremoniously cancelled the scheduled meeting with myself and the said Advocate on the last minute citing illness by text message.

I further aver that the docket was forwarded to the Director of Public Prosecutions for decision on the aforesaid matter, despite further attempts to meet on the 12th December 2017 and January 2018 the Miss Mentor failed to honour those appointments.



Signature:

Deponent

Dated

((l

11/1

COMMISSIONER OF OATHS

SIGNATURE

FULL NAMES:

Unathi Taleni
Commissioner of Oalins
Practicing Adomey RSA
Office 303, Sheft pel House
300 Princa George ave, Brakpan 1541

CAPACITY:

AREA:

BUSINESS ADDRESS:

1705



156 Anderson Stinest, Brow PO Sox 280

on Street, Brootdyn, Pretorie, 181 PO Box 288, Genstonten, 0042 Tel: +27(0)12 362 4446 Fax: 086 631 4863 Email: sanclanegomed.com Reg No: 2007/015371/21

THE SECRETARY
JUDICIAL COMMISSION OF INQUIRY
INTO ALLEGATIONS OF STATE CAPTURE,
CORRUPTION AND FRUAD

17 AUGUST 2018

BY EMAIL

Our ref: C Stockenström

Dear Siriks

RE: JUDICIAL COMMISSION OF ENQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD

We confirm that we act on behalf of our client, Adv. Fana Hlongwane, in this matter.

We refer to your letter dated the 10th of August 2018 e-mailed to us on the 10th of August 2018 and served at our office on the 13th of August 2018, including a Notice in terms of Rule 3.3 of the Commission Rules in terms whereof our client was informed, inter alia, of the following:

- The Commission's legal team intends to present the evidence of Mr Jonas at the hearing on the 20th of August 2018 and that the evidence of Mr Jonas will implicate or may implicate our client.
- 2. Our client may attend the hearing at which the witness gives evidence.
- 3. Our client may be assisted by legal representatives during the proceedings.

1706

- 4. If our client wishes to give evidence himself, call any witness to testify on his behalf or cross-examine the witness (Mr Jonas) he must apply within 14 calendar days of this notice, in writing, to the Commission for leave to do so.
- 5. In the event that our client believes that he has not been given a reasonable time from the issuance of the Notice to the date on which the witness is to give evidence and that our client is prejudiced thereby, he may apply to the Commission in writing for such an order as will ensure that he is not seriously prejudiced.

We wish to record the following:

- Our client indeed wishes to participate in the proceedings and that he
 wish to be assisted by legal counsel to also cross-examine the witness
 insofar as he may implicate our client.
- It is impossible to comply with the requirement that he should give notice of his intention to participate in the proceedings as the notice has been brought to his attention less than 14 days prior to the hearing.
- Our client was not given a reasonable time for preparation and he will be senously prejudiced under these circumstances.

-3-

We therefore apply to the Commission for an order that will ensure that our client will not be prejudiced by the failure to give our client timeous notice of your intention to adduce evidence that will or may implicate him and provide him with a reasonable opportunity to prepare to protect his rights in this regard.

We will attend the proceedings on the 20th of August 2018 to discuss the situation with you in order to attempt to reach an agreement to deal with this situation in a manner to ensure that our client is not seriously prejudiced. If necessary we will formally apply to the Commission for a postponement of the proceedings or for any other appropriate order in this regard.

Yours feithfully

STOCKENSTROM FOUCHÉ INC



155 Anderson Street, Brooklyn, Pretoria, 181
PO Box 289, Garsfontein, 0042
Tel: +27(0)12 362 4440
Fax: 086 631 4893
Email: sfinctaw@gmail.com
Reg No: 2007/015371/21

27 AUGUST 2018

THE SECRETARY
JUDICIAL COMMISSION OF INQUIRY
INTO ALLEGATIONS OF STATE CAPTURE,
CORRUPTION AND FRAUD

BY EMAIL

Our ref: C Stockenström

Dear Sir/Ms

RE: JUDICIAL COMMISSION OF ENQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD - APPLICATION FOR CROSS-EXAMINATION OF MR JONAS AND MS MENTOR

We refer to our previous letter dated the 22 August 2018 in this matter and again confirm our client's desire to participate in the proceedings and to be allowed to have Mr Jonas and Ms Mentor cross-examined by counsel on his behalf.

We annex hereto an affidavit deposed by our client as is required in terms of the Rules of the Commission and also setting out the basis for the request to participate in the proceedings.

We wish to record that we received the Notice in terms of Rule 3.3 of the Commission's Rules, relating to Mr Jonas, on Friday the 10th of August 2018 by email. The Notice was formally served at our offices on Monday the 13th of August 2018. The Notice was incomplete, neither the complete affidavit nor the attachments were received. The complete bundle of documents were only received in the evening of 21st of August 2018.

The Commission's legal team failed to provide us with a Notice in terms of Rule 3.3 regarding Ms Mentor, notwithstanding her implicating our client in her evidence. We do not understand why we were not notified in terms of the rules, but include an application to cross-examine her nevertheless.



We therefore request the Commission to consider our request to participate in the proceedings. Should you require a formal application in the above regard and/or oral address to the Commission, we will gladly comply with any such request.

In the event that the Commission consider our request favourably, we request you to approach us in order to arrange a suitable date for the recalling of Mr Jonas and Ms Mentor in order to proceed with cross-examination.

Yours sincere

STOCKENSTROM FOUCHÉ INC.



IN THE JUDICIAL COMMISSION OF ENQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE

AFFIDAVIT: FANA HLONGWANE

I, the undersigned

FANA HLONGWANE

do hereby state under oath as follows:

1.

- 1.1. I am an adult male presently residing at 111 4th Road, Hyde Park, Johannesburg, Gauteng.
- 1.2. The facts herein contained fall within my personal knowledge, unless otherwise indicated or appearing from the context, and are true and correct.

S

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-2-

INTRODUCTION:

2.

I have been notified in terms of Rule 3.3 of the Rules of the Commission that the Commission's legal team intends to present the evidence of Mr Moebisi Hubert Jones during the proceedings and further that his evidence implicates me or may implicate me.

2.1. I have been informed further that I may attend the proceedings and that I may be assisted by legal representation when the witness gives evidence. I have also been notified that I may then decide to give evidence myself, call any witness to give evidence or crossexamine the witness (Mr Jonas). It has, however, been stated that should I wish to participate in the manner aforesaid, I have to apply in writing to the Commission for leave to do so. Such an application has to be accompanied by a statement from me in response to the allegations of Mr Jones in his statement.

\$ TH

2.2. In the event that the Chairman of the Commission, in the exercise of his discretion deems it necessary to hear my oral evidence in the above regard I will gladly adhere to such request.

3.

The evidence of Mr Jonas on the 24th of August 2018 before the Commission confirmed my concerns and finally persuaded me that it is necessary to request the opportunity to participate in the proceedings and cross-examine Mr Jonas. I base my request on the following:

- 3.1 The untrue allegations by Mr Jonas have very serious and detrimental consequences for me. It will not only further impugn my reputation and dignity but will also have a very detrimental effect on my fundamental rights as provided for in our Constitution.
- 3.2 I also deem it my duty as a citizen of the Republic of South Africa to assist this Commission to establish the true facts relating to issues of national interest that are being investigated.



AH

4.

It is clear that the only way to discover the truth is to have the evidence of Mr Jonas tested by counsel properly instructed by client(s) who has/have personal knowledge of the factual allegations testified to by the relevant witness(es). There is clearly no more efficient way to test the reliability of the allegations by Mr Jonas.

5.

My concern is that if the untested allegations of Mr Jonas are accepted, my fundamental rights will be further undermined without me ever having had the opportunity to defend myself. I am advised in this regard that it will affect my right to be heard which is a basic pillar of my right to fair proceedings.

6.

I have to inform the Commission that this is not the first time that individuals implicate me by making false allegations against me. In this regard I can refer this Commission to the Commission relating to the investigation of the Strategic Defence Procurement Packages that was



44

concluded during approximately 2016. I was also falsely implicated by serious allegations of unlawful conduct. It was probably because of my participation in the proceedings and cross-examination of witnesses who made these false allegations by my legal team that they were exposed as such. I can inform the Commission that my participation contributed to a conclusion by the Commission that there was no substance to these false allegations.

7.

I have decided to instruct my legal representatives to attend the proceedings and to apply to the Commission to indeed cross-examine Mr Jonas and Ms Mentor.

8

I therefore provide the Commission with this statement in order to identify the material disputes and the grounds for such disputes between my version and the allegations put forward by Mr Jonas and Ms Mentor in their evidence.



E. RELATIONSHIP WITH MR JONAS AND MEETING OF 23rd OCTOBER 2015:

9.

I confirm that I know Mr Jonas for many years and that we became good friends.

10.

We in fact tried to negotiate a number of transactions in the past. The detail of such business relationship is not relevant to this issue at hand and I will therefore not burden this statement with further detail relating to this aspect. The objective facts are that we knew each other well in October 2015.

11.

During October 2015 I had been made aware by Mr Duduzane Zuma that Mr Jonas had made allegations to the effect that I was blackmailing him. These allegations seemed incredible and completely at odds with our relationship and the true facts. In view of our relationship I was very perturbed by the allegations and decided to address the issue. I therefore



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asked Mr Duduzane Zuma to urgently convene a meeting between the three of us.

12

The reason why I requested Mr Duduzane Zuma to arrange the meeting was the fact that he had knowledge of the allegations allegedly made by Mr Jonas. I wanted him to be present during the meeting in order to provide the necessary detail should that be necessary.

13.

I was subsequently informed by Mr Duduzane Zuma that he convened a meeting at the Rosebank Hyatt on that day. Prior to my arrival I decided that because of the private nature of the discussions and possible confrontation that the Hyatt may not be a suitable venue due to the fact that it was not private. I therefore called Mr Duduzane Zuma and also spoke to Mr Jonas. I proposed to them that we move the meeting to a more private venue. Mr Duduzane Zuma informed me that he has a venue available in the vicinity. I was provided with the address and arranged to meet them there in a couple of minutes.



4/1

14.

During the discussions that followed Mr. Jonas denied that he made any allegation to the effect that I blackmailed him. It was only myself, Mr Duduzane Zuma and Mr Jonas involved in the discussion.

15.

I deny that Mr Ajay Gupta was present at that meeting or that any member of the Gupta family ever participated in the discussion between ourselves. In this regard I can state that I had not met Mr Ajay Gupta at that stage.

16.

I may mention that a member of the Gupta family did enter the room briefly at some stage but immediately left. This was definitely not Mr Ajay Gupta. I don't know the identity of the person who briefly entered the room.

17

I also categorically deny that anybody offered any governmental position to Mr Jonas during those discussions and in my presence.

1-10



18.

I therefore wish to emphasize that I dispute any of the allegations by Mr Jonas insofar as it is contradicted by what I have stated above.

19.

I understand that mention was made during the evidence of Mr Jonas about the fact that in a confirmatory affidavit that I signed on the 9th of February 2017 in certain civil proceedings between the Minister of Finance and various Respondents I stated that Mr Ajay Gupta was not present during the meeting with Mr Jonas held on the 25th of October 2017. As is evident from all the evidential material there was only one meeting between myself, Mr Duduzane Zuma and Mr Jonas. That meeting was on the 23rd of October 2015. The reference to the 25th of October 2017 is clearly a typographical mistake.

20.

I have now taken notice of the fact that a witness (Ms Vytjie Mentor) before the Commission apparently implicated me in further allegations of alleged

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State capture. I have to inform the Commission that I was not made aware, prior to her testimony, by the legal team of the Commission that evidence was to be led that implicated me or may implicate me.

21.

I wish to categorically deny all these allegations made by the mentioned witnesses insofar as it relates to me and wish to inform the Commission that I will be able to demonstrate that through cross-examination.

22.

I therefore request the Honourable Commission to allow my participation in the process and to indeed allow my legal representatives to cross-examine Mr Jonas and Ms Mentor in order to test the veracity and reliability of their versions insofar as it differs from mine.

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DEPONENT

9



× 11 :

BIGNED and BWORN to at PRETORIA on this 27 they of Atternat 2016 by the Deponent who stated that

He knows and understands the contents of the declaration; and
 He has no objection to taking the prescribed oath; and
 He considers the prescribed oath as binding on his conscience;

And Government Notice Regulation 1288 as amended by the Government Notice Regulation 1848, Government Notice Regulation 1428 and Government Notice Regulation 773 was fully complied with.

FULL NAMED! BUSINESS ADDRESS AREA:

DEGIONATION:





155 Anderson Street, Brooklyn, Pretoria, 181 PO Box 288, Garsfontein, 0042 Tel: +27(0)12 362 4440 Fax: 086 631 4883 Email: sfinclaw@gmail.com Reg No: 2007/015371/21

THE SECRETARY
JUDICIAL COMMISSION OF INQUIRY
INTO ALLEGATIONS OF STATE CAPTURE,
CORRUPTION AND FRAUD

31 AUGUST 2018

BY EMAIL

Our ref: C Stockenström

Dear Sir/Ms;

RE: JUDICIAL COMMISSION OF ENQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD - APPLICATION FOR CROSS-EXAMINATION OF MS MENTOR - SUPPLEMENTARY AFFIDAVIT

We refer to our previous correspondence and application to cross-examine Ms Mentor.

We attach hereto the supplementary affidavit of our client.

Yours sincerely.

STOCKENSTRÖM FOUCHÉ INC.

IN THE JUDICIAL COMMISSION OF ENQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE

SUPPLEMENTARY AFFIDAVIT: FANA HLONGWANE

I, the undersigned

FANA HLONGWANE

do hereby state under oath as follows:

1,

- I am an adult male presently residing at 111 4th Road, Hyde Park, Johannesburg, Gauteng.
- 1.2. The facts herein contained fall within my personal knowledge, unless otherwise indicated or appearing from the context, and are true and correct.

De App

2.

I have already deposed to an affidavit relating to my request to be allowed to cross-examine 2 witnesses, Mr Jonas and Ms Mentor, who already testified.

3.

At the time when I filed my initial affidavit, I did not have sufficient facts and/or information relating to allegations by Ms Mentor to my disposal. The reason was the fact that I was not informed, prior to Ms Mentor's evidence, that I would be implicated or may be implicated by her evidence and I was not furnished with a copy of her statement and/or other relevant documentation.

4.

I have now been able to obtain the necessary information and I wish to supplement my initial affidavit by explaining my position and also to motivate my request to be allowed to cross-examine Ms Mentor. The gist of the allegations made by Ms Mentor during her evidence appears to be the allegation that she was introduced to me whilst aboard a flight from



South Africa to Dubai during 2010 by Mr Duduzane Zuma. She further mentioned that I was introduced to her as his (Duduzane Zuma's) chairman and that she assumed that the reference to chairman was meant in a business sense.

5.

The implied allegation and/or innuendo of Ms Mentor's evidence is very significant. It is to the effect that the Gupta brothers and/or at least one of them were Duduzane Zuma's partner/partners and that I was the chairman of their business;

- 5.1 It suggests that I had a long business involvement with Mr Duduzane Zuma and the Gupta brothers, I did not have a business relationship, with them, then and I do not have it now.
- 5.2 I was not part of any official South African delegation, or any other delegation, to visit the Peoples Republic of China in 2010. I did not visit the Peoples Republic of China in 2010.



- 5.3 I wish to state that I was not on the flight from Johannesburg to Dubai during August 2010 with Ms Mentor or Mr Duduzani Zuma as alleged.
- There seems to be an agenda, which is problematic for me, to drag me into the State Capture narrative that I have nothing to do with.
- 5.5 I had not met any of the Gupta brothers or any member of their family in 2010

6.

I will be able, through cross-examination, to illustrate the truthfulness and correctness of my version. I deem it necessary to clear my name.

7.

I respectfully submit that apart from the fact that my involvement in the proceedings in this regard will not only be material to clear my own name but it will also be important to assist the Commission to eventually establish the truth and evaluate the evidence before the Commission.



- 5 -

SIGNED and SWORN to at PRETORIA on this 2018 by the Deponent who stated that:

- 1. He knows and understands the contents of the declaration; and
- 2. He has no objection to taking the prescribed oath; and
- 3. He considers the prescribed oath as binding on his conscience;

And Government Notice Regulation 1258 as amended by the Government Notice Regulation 1648, Government Notice Regulation 1428 and Government Notice Regulation 773 was fully complied with.

FULL NAMES: **BUSINESS ADDRESS:**

AREA:

DESIGNATION:

DAVID BOTHA BEKKER COMMISSIONER OF OATHS FSF LAW CHAMBERS

Car Brooklyn Road and Brooks Street Mento Park · Pretoria Practising Attorney R.S.A.

IN THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE

HELD AT: PARKTOWN, JOHANNESBURG

In the matter between:

MAJOR GENERAL ZINTLE LUTRICIA

And

MINISTER MCEBISI JONAS

1ST RESPONDENT

THE COMMISSION OF INQUIRY

2ND RESPONDENT

NOTICE OF MOTION

BE PLEASED TO TAKE NOTICE that the applicant intends to make an application to the above Honourable Commission of Inquiry on the Applicant may be heard for relief in the following terms,

- 1. That the Applicant be granted relief to;
- (a) Giving evidence on his own account
- (b) Call any witness to give evidence on his behalf

IN THE JUDICIAL INQUIRY INTO ALLEGATIONS OF THE STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE

REPLYING AFFIDAVIT

I, the undersigned,

ZINTLE LUTRICIA MNONOPI

States the following under path

1

I am a Major General in the South African Police Service stationed at the Directorate for Priority Crime Investigation and attached to the component: Serious Corruption Investigation in Silverton, Pretoria.

2

The purpose of this statement is in response of a notice in terms of rule 3.3 of the rule of the Judicial Commission, Fraud in the Public Sector including Organs of State ("the Commission").

3.

The said notice incorporates an unsworn statement by the Honourable Mr Mcebisi Hubert Jonas, which purports that I have sought to "dissuade" him from making a formal statement to the Hawks regarding an offer of a cabinet position as Minister of Finance from the Gupta Family during 2015, and or that I that I prepared a statement for Mr Jonas to sign which was inconsistent with the facts of his press statement of 15th March 2016.

4.

I have also intensively read these assertions levelled against me and as a point of departure, I wish to state that I deny the allegations specifically set out in paragraph 3.1 and 3.2 of the Notice by the Commission and all the facts deposed hereto, are to the best of my knowledge and belief true and correct.

ZIM

Page 1



AD PARAGRAPH 51 THEREOF

Save to admit that there was an article in the Sunday Times about Mr Jonas' allegations of the Gupta family's offer to him of Minister of Finance Portfolio; I have no knowledge of the rest of the allegations.

6.

AD PARAGRAPH 52 THEREOF

I have no knowledge of these allegations and therefore not in a position to respond thereto.

7.

AD PARAGRAPH 53 THEREOF

53.1 Save to admit that I indeed approached Mr Jonas, I humbly submit that this was as a result of duly executing my duties to investigate this matter as a matter of National interest and security.

53.2 I deny that I subsequently and initially approached Mr Jonas on the 20th June 2016. I, in fact started to call Mr Jonas on the 11th April 2016 at 15h02 to request him to lender a swom statement as a consequence of his media statement and pending cases culminating from the complaints laid by Mr Bigem and Mr Manier.

53.3 I hereby humbly attach hereto, my call records with himself, his Professional Assistant (PA) and his office landline as

"Annexure JA".

Reference is also made to my text messages of the 21st April 2016, 9th May 2016 and 23st May 2016, altached hereto as "Annexure JB" 1,2 and 3. However, all my efforts went unheaded by the Honourable Mr Jonas.

Faga Z

D.L.M

9.

CLOSURE

I further confirm that this particular matter is already and currently before the Johannesburg Specialised Commercial Crime Court Unit.

DEPONENT

THUS SWORN AND SIGNED BEFORE ME AT...... ON THIS DAY

THE DEPONENT HAVING ACKNOWLEDGED THAT SHE KNOWS AND UNDERSTANDS THE CONTENT OF THIS AFFIDAVIT AND HAS NO OBJECTION IN TRACKING THE PRESCRIBED OATH AND CONSIDERS THE OATH TO BE ON HER CONSCIENCE.

COMMISSIONER OF OATH

Ugathi Taleni
Cemmissioner of Oaths
Predicing Attorney RSA
Office 303, Shefficel House
\$39 Prince George eve, Breitpen 1841

FULL NAMES

DESIGNATION/CAPACITY

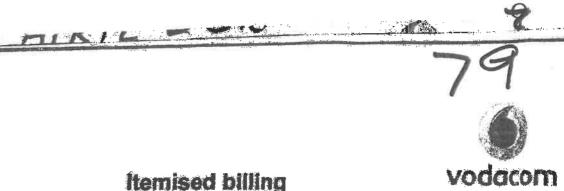
APRIL 2016 "Annexus JA



Itemised billing

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Annexure JBI

11:57

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Compose

DM Jonas

Good morning honorable DM, hope the DM is doing well. My apologies DM, I know you've got a very busy schedule. I'm Maj Gen Mnonopi, a Head of Serious Corruption Investigation in the DPCI. I wish to have a word with the DM as I'm investigating two cases where the DM is cited as a key witness. I tried to call the DM on numerous occasions with no success. Will appreciate a call from the DM so as to take the matter further. Hope to hear from the DM soon. With regards
Maj Gen Mnonopi.

21 Apr 2016

Good morning DM, hope the DM is doing well. Nat Head has indicated that you are available today, what time can we meet? My office is at Promat Building, give me a ring, I'll be waiting from you. Thank you so much

OSTA

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KOV WITHOUS WISH IS TO THAT IT WITH IN SUBSTITUTE TO A SUBSTITUTE OF THE SUBSTITUTE DM in commexchan with the case windre he is cated as a THE WINDS

11 JB 2

10:45 Compose DM Jonas THE PERSONAL PROPERTY OF SECTIONS AND THE PROPERTY OF PROPERTY OF SECTION AND CONCERNATIONS Corruption Investigation in the DPCI. I wish to have a word with the DM as I'm investigating two cases where the DM is cited as a key witness. I tried to call the DM on numerous occasions with no success. Will appreciate a call from the DM so as to take the matter further. Hope to hear from the DIM soon. With regards Maj Gen Mnongpi. 2: Apr 20:5 Good morning DM, hope the DM is doing well. Nat Head has indicated that you are available today, what time can we meet? My office is at Promat Building, give me a ring, I'll be waiting from you. Thank you so much DM. 23 May 2016

AFFIDAVIT

I, the undersigned

YOLISA MATAKATA

do hereby make an oath and state as follows:

1,

i am a Lieutenant General in the South African Police Service (SAPS), employed as a Deputy National Head for the Directorate for Priority Crime Investigation situated at 1 Cresswell Road, Weavind Park, Silverton with office telephone number (D12) 846 4019.

2.

I am authorised to make this statement and hereby state that the contents of this statement are true and correct; it also falls within my personal knowledge.

3.

I can recall being at in a meeting [not sure of the exact date and time] with Lt Gen Ntiemeza and Maj Gen Mnonopi. At the meeting, Maj Gen Mnonopi reported to Lt Gen Ntiemeza that she has been unsuccessful in obtaining a statement from the former Deputy Minister, Mr Mcebisi Jonas.

4.

Lt Gen Ntiemeza then called the former Deputy Minister twice in my presence. I recall that the former Deputy Minister indicating he could not submit the statement as he was not the complainant on the matter. Further, he did not open any case and was not a witness. Mr Jonas therefore was asking why the DPCI was looking for him. Lt Gen Ntiemeza explained to him that he is the witness to the matters reported to the DPCI, therefore his statement needed

to be obtained. At both instances, Lt Gen Nilemeza called the Deputy Minister and put him on speaker, hence I could hear the utterances.

5.

At the last conversation when Lt Gen Ntiemeza called Mr Jonas, myself, Maj Gen Mnonopi and Lt Gen Ntiemeza were in a meeting in Gen Ntiemeza's boardroom. Mr Jonas promised to come to the office in order for the affidavit to be obtained. Lt Gen Ntiemeza indicated that I – Lt Gen Matekata and Maj Gen Mnonopi will be waiting for him. Mr Jonas never came.

I know and understand the contents of this statement.

I have no objections to the taking of the prescribed cath.

I consider the prescribed oath to be binding on my conscience.



I certify that the deponent has acknowledged that she knows and understands the contents of the above statement which was sworn to before me and the deponent's signature was placed thereon in my presence.

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DESIGNATION: Coptour	

South Alsican Police Service



Said-Afrikasuse Polisidditus

Private Bac

X1500, Silverton, 0127

Fax No:

(012) 407 0403

THE COMPONENT HEAD

SERIOUS CORRUPTION INVESTIGATION

DIRECTORATE FOR PRIORITY CRIME

INVESTIGATION

HEAD OFFICE

My reference: Randburg CAS 196/03/2016

Enquiries: Major General Mnonopi

Tel: 082 4119084

E-mail: Moonoply intle@saps.pov.sz

The Speaker House of Assembly Parllament Cape Town 8000

Honourable Ms. Baleka Mbete

PEZETUED BY:

SIMUL EDET.

STILL STEIN.

SHICE OF THE SPEAK

ENQUIRY ON CONDUCT OF THE HONOURABLE MEMBER OF PARLIAMENT THE DEPUTY MINISTER OF FINANCE MR. MCEBISI JONAS RE- RANDBURG CAS 196/03/2016

- 1. The office of the Directorate for Priority Crime Investigation (DPCI) at Serious Corruption Investigation Task Team wishes to confirm its involvement in the investigation of the above subject matter.
- 2. It is with this nexus that the Honourable member of the Parliament, Deputy Minister of Finance Mr. Moebisi Jonas is ofted as a pivotal witness to the matter that has an incumbent role to submit a statement. However, several efforts were made to obtain the statement but with no success. The investigation team is now on standatifi to progress with the matter.
- 3. The identified non- co-operation is now leading the investigation team to believe that the Honourable Member of Parliament, as a witness to this matter is found to be deliberately distorting and willingly failing himself to withstand his responsibilities of both public and private citizenship in circumstances of these compliances.
- 4. It has been brought to the Honourable Deputy Minister's attention through a communique dated 06/03/2017 in carry of his secretary Ms. Lindiwe Matanda informing him to respond within (7) working days of which failing to do so without

ENQUIRY ON CONDUCT OF THE HONOURABLE MEMBER OF PARLIAMENT THE DEPUTY MINISTER OF FINANCE MR. MCEBISI JONAS RE- RANDBURG CAS 196/83/2016

any valid reason, the investigation team will be left with no choice but to report his conduct to the Speaker of the Parliament. No response has ever been received from the subject since, hence this communique to the Speaker seeking received from the subject since, hence this communique to the Speaker seeking an intervention to compel the Deputy Minister to respect the rule of law and cooperate with the investigation on this matter.

5. This office will highly appreciate your consideration on this matter.

NATIONAL HEAD: DIRECTORATE FOR PRIORITY GRIME INVESTIGATION

Date 2017 03 38





SIWELA VINCENT ATTORNEYS

Mr V. Siwela

B.Proc. LLS & Admin.

339 SHERPARD AND FREEL BUILDING CRIN FRINCE GOERGE AND VICTORIA 2ND FLOOR, DEFICE 211 ERAXPAN

(611) 045 0419 (602 746 8843 606 654 9028

siwelalawyer@vahoo.co

Mabunda incorporated

Attorneys at Law

2 Protea Road

Bedfordview

2008

21/08/2018

Dear Sirs

RE: JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE

The above matter and conversation with your Mr Mabunda at the above inquiry refers.

We act on behalf of the following members from the "Hawks"-

- 1- Major General Mnonopi
- 2- Capt Mtolo

We confirm service of the Rule 3.3 notice of the Commission rules on both our clients.

However upon perusal of the former Deputy Minister's Mr.M.H. Jonas' statement, we noted that " ANNEXURE A" thereof was not served on our clients.

Kindly furnish us with the said statement so we may be in a position to consult and file our replying documents with the Commission.

Yours Faithful

Per V. Siwela



SIWELA VINCENT ATTORNEYS

MABUNDA INCORPORATED 2 Protes Road, Comer Riley, Bedfordview, 2008 PO BOX 61238 Marshalltown 2107 DOCEX 424. JHB

22/08/2018

Hr V. Siwela

B.Proc, L.LB & Admin.

BJO SHERPARD AND PHEEL BUILDING CRN PRINCE GOERGE AND TORKA FLOOR, OFFICE 241

(011) 045 0419 082 746 9843 586 545 9028 Attention: Mr P.B Mabunda

IN RE: JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE

Dear Mr Mabunda

We note your correspondence via e-mail sent to ourselves at 20h00 on the 22 August 2018.

We refer you to our telephonic conversation made at 14h34 on the 22 August 2018.

We further note as per the conversation made above, we duly requested that you kindly furnish us with **Annexure** " A" as per paragraph 55 on Mr Jonas's Statement A.

We duly note that Mr Jonas's evidence will be led on Friday 24th August 2018.

We kindly urge you to furnish us with the document mentioned herein, at your earliest convenience.

We trust you will find the above in order, and we await your most fervent response.

Yours faithfully

MRNSIWELA

Busani Mabunda

From:

Lugisani Mantsha Attorneys <info@lugisanimantshaattorneys.co.za>

Sent:

Friday, 31 August 2018 16:16

To:

Busani Mabunda

Subject:

JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND

FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE: MR JACOB G ZUMA

Attachments:

Letter to the Commission on State Capture.docx

Importance:

High

Dear Sir,

Attached please find a letter for your urgent attention.

Regards **Yvonne**



LUGISANI MANTEHA AFTORNEYS

Ed inforq legisprimmetamentometric co.23 (# 011 761 0099 @ www.lugusprimentalisationneys in 24

410 Jan Smals Ave Burneydy hissaid Office Park Block 6



First floor Burnside Island | Block 6 | 410 Jan Smuts Ave | Craighall | Johannesburg Tel: 011 781 0099 | Fax: 011 781 0526 | e-mail: Info@lugisanimantshaattorneys.co.za | Box 1127 | Randburg | 2125

Our Ref: Mr L D Mantsha LM0257/18/C

Attention: The Secretary of the Commission

C/O MABUNDA INC

The Attorneys of record for the Commission

Per email: busani@mabundainc.com

Date: 31 August 2018

"PRIVATE AND CONFIDENTIAL" "URGENT"

Dear Sir.

RE: JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE: MR. JACOB G ZUMA

 We act on behalf of the former President Jacob Gedleyihlekisa Zuma ("former President Zuma") in the proceedings of the Judicial Commission of Inquiry into

Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State ("the Commission").

- 2. We specifically refer to the General Notices issued by the Commission to former President Zuma in terms of rule 3.3 of the Rules of Proceedings of the Commission ("the Notices"), all of which were issued on the basis that the contents of the statements attached thereto do or may implicate former President Zuma.
- 3. The Notices are in respect Ms Mabel Petronella Mentor ("Ms Mentor"), Mr Themba Mveli James Maseko ("Mr Maseko"), Ms Mirriam Phumla Williams ("Ms Williams") and Ms Barbara Hogan ("Ms Hogan"). The Notices were accompanied by statements of each of the above-mentioned persons.
- 4. We have consulted our client and have considered the said statements in order to determine whether they implicate or may implicate our client in the violation of the relevant statutes of the Republic of South Africa, being, inter alia, the Constitution of the Republic of South Africa, Act 108 of 1996 ("the Constitution"), Public Finance Management Act 1 of 1999 ("the PFMA"), Preferential Procurement Policy Framework Act 5 of 2000 "PPPFA"), Municipal Finance Management Act 56 of 2003, Prevention and Combating of Corrupt Activities Act 12 of 2004 ("PRECCA"), Prevention of Organised Crime Act 121 of 1998 ("POCA"), the Criminal Procedure Act 51 of 1977, relevant ethical codes, as welf as relevant and applicable policies of government.

1-Iule

- 5. We are unable at this stage to comment on the phenomenon or offence referred to as "state capture" whose elements and/or existence or otherwise remain the subject of investigation by the Commission.
- 6. We are satisfied that nothing in the aforementioned witnesses' statements implicates or may implicate our client in the infringement of the aforementioned statutes, policies of government and relevant ethical codes.
- 7. We express our sincere appreciation for the opportunity afforded to us and our client to exercise his rights in terms of the rules of the Commission.

Yours faithfully

Mr L.D Mantsha

Electronically sent and therefore not signed



ML

Director: Lugisani Mantsha Bjuris, LLB

Busani Mabunda

From:

Stiaan Krause <stiaan@bdk.co.za>

Sent:

Sunday, 02 September 2018 15:21

To:

Busani Mabunda; S'fiso Molongoana

Cc

Rudi Krause

Subject:

Themba Maseko

Attachments:

Application to cross-examine - 2 September - T M J Maseko.pdf; Founding Affidavit - Maseko.pdf

Sir,

Please find attached hereto the application by Mr A K Gupta in respect of the witness Mr T M J Maseko.

'indly acknowledge receipt.

Kind regards.

Stiaan Krause

×

iaan Krause | Candidate Attorney | BDK ATTORNEYS

: + 27 11 838 1214 | Fax: + 27 11 836 8740 | Cell: + 27 82 572 4550 | Email: stiaan@bdk.co.za | Web: www.bdkittorneys.co.za

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IN THE JUDICIAL COMMISSION OF INQUIRY TO INQUIRE INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR, INCLUDING ORGANS OF STATE

AJAY KUMAR GUPTA

Applicant

NOTICE OF APPLICATION IN TERMS OF RULE 3.4 OF THE RULES OF THE COMMISSION

TAKE NOTICE THAT the Applicant herby makes application to the Commissioner for leave to cross-examine the witness Mr. Themba Mveli James Maseko in relation the whole of the contents of his affidavit. The respects in which the witnesses' statement is disputed, denied and the grounds for the disputes and denials are self-evident from the annexed statement of Mr Ajay Kumar Gupta.

In considering this request to cross-examine the witness, the Commissioner is asked to consider the following:

- The function of the Commission is to establish the truth in relation to the areas
 of inquiry referred to in the Terms of Reference.
- 2. Although the Commission's work is that of an enquiry and the process of the Commission is not the same as a civil or criminal trial it is nevertheless so that cross-examination has historically been shown to be the best mechanism for testing the reliability and veracity of evidence tendered by a witness.

Page | 1

- Without cross-examination, and more particularly adequate and effective cross-examination, of contentious evidence the Commission would be deprived of this essential tool for the testing of the reliability and veracity of evidence.
- 4. The statement of Mr Ajay Kumar Gupta raises clear disputes of fact underpinned by his own evidence and demonstrating the need to test the reliability of the witness that has given evidence before the Commission.
- In addition to the request to cross-examine the witness it is strongly argued that the witness should not be consulted with on the contents of the sworn statement by Mr Ajay Kumar Gupta by the evidence leaders and that cross-examination should take place without the witness being recognised as this has the potential to enable the witness to adjust the witness' evidence in anticipation of cross-examination thus substantially weakening the power and effectiveness of the cross-examination.

BE PLEASED TO FIND ANNEXED the sworn statement of Mr Ajay Kumar Gupta, together with annexures, which supports this application to cross-examine.



DATED AT JOHANNESBURG on this the 2nd day of September 2018.

BDK ATTORNEYS

David H Botha, Du Plessis & Kruger Incorporated
Applicant's Attorneys

Ground Floor, Oxford Terrace
3 on 9th Street
Houghton Estate
P O Box 8013
Docex 243
Johannesburg
Tel: 011 838 1214
Fax: 011 836 8740
Ref: R. C. Krause/mv/Gupta

TO: THE COMMISSION

The Secretary

2nd Floor, Hillside House

17 Empire Road

749

Parktown

Johannesburg

C/o Mabunda Incorporated

2 Protea Road

Bedfordview

Tel no.: 011 450 2284

Facsimile: 011 450 1565

Email: <u>busani@mabundainc.co.za</u>

Ref: Mr P. B. Mabunda

STATEMENT - AJAY KUMAR GUPTA in to T M J MASEKO

IN THE JUDICIAL COMMISSION OF INQUIRY TO INQUIRE INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR, INCLUDING ORGANS OF STATE

STATEMENT OF AJAY KUMAR GUPTA

I, the undersigned,

AJAY KUMAR GUPTA

do hereby state as follows:-

- I am an adult male and the facts contained in this statement fall within my own personal knowledge, save where otherwise indicated or stated, and are to the best of my belief both true and correct.
- This statement is made in response to a notice in terms of Rule 3.3 of the Rules of the above Commission of Inquiry, more particularly in response to the allegations contained in paragraphs 3.1.1, 3.1.2 and 3.1.3, 3.2, (including 3.2.1 and 3.2.2) and 3.3 of the said notice.
- It is alleged that in/or about September/October 2010, I received information about Government spending on advertising, which was not follow available. I



deny that I had such knowledge and deny that I mentioned any such figure to Mr Maseko.

- It is simply not so that in my meeting with Mr Maseko I demanded that the entire Government advertising budget be re-directed to my soon-to-be established media company. I will also deal more fully therewith herein.
- I deny that I claimed to be able to discipline any Government official who failed to carry out my demands. I will deal with this allegation more fully herein.
- With regard to the allegations contained in paragraph 3.2, I deny that in November 2010, or ever at all, Mr Maseko refused to meet with me or that I claimed to have influence over his appointment and threatened that if he did not comply with my demands for a meeting, that he would be removed from office.
- In addition, I deny that at the same time, in/or about November 2010, I or any persons acting on my behalf, harassed people within various Government departments, demanding to convene meetings and to obtain information about their advertising budgets. I will deal with this allegation more fully herein.
- I categorically deny that I influenced or had the capability of influencing Mr Maseko's removal from his position as Chief Executive Officer of GCIS at the beginning of 2011.



- I believe that it is necessary to paint an initial background picture to the allegations made by Mr Maseko.
- I was appointed to the Board of the International Marketing Council ("IMC") 10 during 2006. This appointment was made by the Presidency. My appointment was during the Presidency of former President Mbeki. I knew Mr Maseko slightly before he became the head of the GCIS. I knew him when he became the head of the GCIS as he was then a member of the board of the IMC. However, at the time coincidently when Mr Jacob Zuma became President, i had said to Mr Maseko that I wanted to resign from the IMC. The reason therefore was entirely unrelated to the issues before this Commission. Essentially I felt that my presence was not making any significant enough impact. Mr Maseko did not want me to resign. In fact he sent me an SMSmessage at the time to this effect. He in fact requested me not to resign before he arranged a meeting for me with the Minister responsible for the GCIS, Mr Collins Chabane. At this meeting which did take place and which was arranged by Mr Maseko, both Minister Chabane and Mr Maseko encouraged me not to resign, and I did not. The only point that I make is that if I had the kind of influence that is being alleged by Mr Maseko over Ministers of State, I would have not needed Mr Maseko to have arranged a meeting with Minister Chabane to help resolve my issue. I would have been able to approach the Minister directly. It was however very kind of Mr Maseko to have arranged this meeting
- Mr Maseko speaks easily about the events of September/Octobe 10 November 2010, and does so in the context of a reference to the Gupt Parill plans to enter the media sector by establishing a newspaper and a television

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STATEMENT - AJAY KUMAR GUPTA in 10 T M J MASEKO

station. He also refers to a media company, which encompasses print media and a television station.

- Age Newspaper, both by having a meeting with him and by making a telephone call to him. (I will deal with this later herein.) However, it is clear to me that Mr Maseko is entirely incorrect when he refers to my having referred to a media company or to a company which would be involved in print media and a television station. He is also incorrect when he suggests that in September/October 2010 there could have been "talks of the Gupta family's plans to enter the media sector by establishing a newspaper and a television station." At the time that we planned the launch of a newspaper (The New Age newspaper) which was in 2010. There was no thought given nor any plan to launch a television station.
- The idea of launching a television station came about in August 2012. A shelf company which had been purchased had its name changed to Infinity Media Networks (Pty) Ltd on 14 December 2012. The building of the studio commenced in January 2013. The studio was completed at the end of July 2013 and the channel started broadcasting in August 2013. I note form Mr Maseko's curriculum vitae that his term of office at the GCIS ended in February 2011 which was a full year to a year and a half before the idea was even conceived of launching a television station. It is simply not possible for him to have heard talks or heard rumours of the Gupta family and any conversation in 2010 have spoken of a television station. The form at the time

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of any discussion, whether in September/October 2010 or November 2010 with Mr Maseko, there would simply not have been any discussion in relation to my launching or preparing to launch a media company, which included both print media and a television station.

- To the extent therefore, and to a substantial extent or even to an allencompassing extent, that he makes these accusations against me in the
 context of my plan or alleged plan to form a media company, which included a
 television station, he is simply fundamentally incorrect. His evidence places the
 issues about which he purports to give evidence against a set of background
 facts which have yet not come into being. There was no talk in 2010 of anything
 other than the launch of the newspaper. Therefore the entirety of his evidence,
 based as it is on a reference to a media company including a newspaper and a
 television station, cannot be reliable as the gravamen and the detail of his
 accusations are grounded on my plan for the establishment of a media
 company which included a newspaper and a television station. No such media
 company or enterprise including a television station was a reality or was even
 in my mind in 2010.
- 15 It is so that in September/October 2010 we were preparing for the proper launch of The New Age newspaper, which took place in December 2010. We had launched one edition of The New Age newspaper on 24 September 2010 (Heritage Day), but had some difficulties with staff, which prevented us from rolling out the newspaper until we were actually ready in December 2010.

- In preparation for the launch of a newspaper, one obviously had to look at potential advertisers. One such source of advertising was the GCIS. I did not know the basis upon which the decision-making by the GCIS was made as to how they utilised their budget. One did not know whether it was based on readership statistics, penetration into particular areas in terms of the distribution of any newspaper such as to Gauteng or Johannesburg or Sandton. One did not even know whether an assessment of the demographic reach of a newspaper was a consideration for the placement of advertising or not.
- 17 With regard to my call to Mr Maseko in September/October 2010 to arrange a meeting, it is so that I did call him to arrange a meeting, and we did meet at my residence in Saxonwold. The purpose of the meeting was to get clarity on the policies and practises of the GCIS in the awarding of such advertising. I called for the meeting because I wished to put the marketing people and those who canvassed for advertising business in the best position to understand how to canvass and acquire Government advertising which I thought came through the GCIS. Naturally the New Age employees also canvassed for non-Government advertising.
- I know nothing of, and I was not involved in (in the event that it took place) any phone call made by (the then) President Jacob Zuma to Mr Maseko on the day he came to see me in Saxonwold. I have no knowledge of this at all.
- As I have already stated, there was no thought of a media company, which would include a television station in 2010. Not at all.

STATEMENT - AJAY KUMAR GUPTA in 16 T M J MASEKO

in fact did not, make any demand that the entire budget of Government spending on advertising in media platforms be transferred to my company at the meeting that took place at my home. There are different spheres of advertising that the Government engages in. One is in newspapers and the other is in television. There are many others, such as billboards and radio. We were planning the launch of a newspaper. I therefore had no ability to deliver, nor any need to request that the entire advertising budget of the GCIS be directed to "our newspaper company", as I did not have any plans to have anything other than a newspaper at that stage. It was not possible for the newspaper to service all spheres of Government advertising using Government's entire budget as Mr Maseko says I demanded. As I have said, I was merely investigating how best to understand the way that Government chose how to place its advertising so that the newspaper's staff could begin to take steps to obtain Government advertising. This is normal business.

It is so that Mr Maseko explained to me how the budget and procurement process worked, which is exactly what I needed to find out in order to legitimately source advertising work for the newspaper. I deny that I made the demands referred to in his statement, and in particular that I said that his job was to go and identify, collect and allocate all communication budget amounts in the various departments for our media company. Not only did I not make this demand at all but in addition there was only a newspaper company coming into existence and not the newspaper and television station company of which he speaks.

STATEMENT - AJAY KUMAR GUPTA in re T M J MASEKO

- 21 I further deny any threat such as the one as contained in paragraph 28 was made by me. Such a threat or utterance did not take place.
- The New Age newspaper was a newspaper quite singular in its nature, in the sense that it was a newspaper distributed through the whole of South Africa. It was a new newspaper and therefore had no statistics to be able to demonstrate the size of its readership. Accordingly the employees of the New Age newspaper were encouraged to find out, legitimately, everything that could be found out about how advertising business could best be obtained from the GCIS.
- I do recall an occasion when one of the marketing people called me, I believe it was on a Friday, to tell me that he was having difficulty in obtaining an appointment with Mr Maseko for that following Monday. It was from The New Age newspaper's point of view important to obtain the kind of information necessary in order to be able to canvass advertising business by going directly to the source and by speaking to Mr Maseko about how the GCIS went about allocating advertisements and to canvass for the work. This may well have been at the end of November 2010 because the New Age newspaper was being launched in early December 2010.
- I phoned Mr Maseko because I knew Mr Maseko from the IMC and because I had previously spoken to him. I phoned him and asked him if it was not possible for a meeting on the Monday for the New Age team. I felt that the later that the second second in the second second in the IMC and because I had previously spoken to him. I phoned him and asked him if it was not possible for a meeting on the Monday for the New Age team. I felt that the later that the later than the lat

phone call as I had a very good relationship with Mr Maseko and felt that I could be of assistance to the New Age team.

- 25 Be that as it may, I was told by him that the New Age people should phone him on the Monday for an appointment. I believe I did ask whether the New Age team could see him on the Saturday, but he was not open to such a suggestion, and I left it at that. My recollection of that conversation was not one of acrimony or pushiness on my part at all nor that it ended unpleasantly.
- With regard to the telephone call in November 2010, I deny that I told him that my people had told me that he was being difficult, or that I said that I would not tolerate any nonsense. I was simply trying to aid the New Age team to secure the appointment that they sought.
- I deny that I gave Mr Maseko any cause to be offended in the manner that he describes in his statement, or that I was trying to bully him. I further deny that it lay within my capability, or that I in fact made any such threat, that I would speak to his seniors in Government who would sort him out and replace him with people who would cooperate with me. I further do not recall that the call ended abruptly.
- With regard to the allegations of the New Age team approaching other departments, I am sure that the team tried to obtain advertising business for The New Age Newspaper, and that they were trying to get the business of or to ascertain how they could get the business of GCIS. This was a new paper which was to make a profit, and obviously a great source of income for

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newspaper is the advertising revenue. I certainly did not instruct anyone that Mr Maseko had given authorisation for Government departments to cooperate with The New Age newspaper. I have no doubt that he had not given any such authorisation, but equally I deny that the New Age personnel would have said that which he says other people told him in this regard. I would have expected that, had these events occurred, that there would have been some record of complaint in writing at government level to the Minister, of a contemporaneous nature, or even some letter of complaint that would have been written to me or to the newspaper. It is quite puzzling that these alleged threats or alleged unjustified behaviour by The New Age Newspaper was never notified to higher authorities by Mr Maseko at the time that there no doubt should have been if that occured. I was also never contacted by telephone or otherwise by Mr Maseko in this regard and I believe that we must have met from time to time during the period in respect of which he is making these complaints in the ordinary course of our business lives.

With regard to Mr Maseko's exit from public service, I simply had nothing to do with it, do not know the circumstances under which he came to exit and categorically deny that it was due to any of my doing that Mr Maseko left Government. I deny that I phoned him on the afternoon of his dismissal from the GCIS/Government spokesperson post. I did however phone him very soon after he was made the Director-General of the Department of Public Service and Administration to congratulate him on his appointment, but my call went unanswered.

- I have however caused to be done an internet search in relation to a statement made by the then Minister Collins Chabane in relation to the movement of Mr Maseko, which I annex hereto marked "AG1".
- In addition I have caused an internet search to be done, which reveals a News24 article in relation to Mr Maseko resigning from his position as the Director-General of Public Service and Administration. The article is self-explanatory and reveals no rancour, disappointment or accusation. It is annexed and marked "AG2".
- As stated, I had nothing to do with his resignation or any development in his career.

THUS DONE AND SIGNED at DUBAI, UNITED ARAB EMIRATES, on this the 2nd day of September 2018.

AJAY KUMAR GUPTA

EMIRATES, on this the 2nd day of September 2018 by the deponents who acknowledged that he knows and understands the contents of this affidation as not acknowledged that he knows and understands the contents of this affidation as not acknowledged.



STATEMENT - AJAY KUMAR GUPTA in re T M J MASEKO

objection to taking this oath, considers this oath to be binding on his conscience and uttered the following words: 'I swear that the contents of this affidavit are both true and correct, so help me God.'

COMMISSIONER OF OATHS

Name:

Address: ENOCH MATHAMBOLE (Vice Consul Administration)

Capacity

SOUTH APRICAN CONSULATE GENERAL Khalid Bin Al Walced Rd New Sharaf Bldg. 3rd. Floor BUR - DUBAI - U.A.E.

Commissioner of Oath South African Consulate General Subal Abritad Arab Emirates

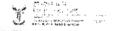




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Statement by Minister Chabane on the movement of directors-general

2 February 2011

Minister in The Presidency, Collins Chabane is pleased to announce the movement between departments of Directors-General Mr Jimmy Manyi and Mr Themba Maseko.

Mr Themba Maseko will join the Department of Public Service and Administration as Director General from the Government Communication and Information System (GCIS) and Cabinet Spokesperson.

Mr Jimmy Manyi who is currently the Director-General of the Department of Labour, will take over from Mr Themba Maseko as Chief Executive Officer of GCIS and Cabinet Spokesperson with immediate effect,

Both Mr Maseko and Mr Manyi brings with them the wealth of experience and expertise from both the public and the private sector which will assist them in executing their duties. Mr Maseko requested to be moved within government following his four year tenure in GCIS and Cabinet Spokesperson.

Minister Chabane would like to, on behalf of President Jacob Zuma, Cabinet and government, thank Mr Maseko for his sterling contribution to the government communication system over the years and wish him well as DG of DPSA.

Minister Chabane would also like to welcome Mr Manyi as Cabinet spokesperson and wish him well as the CEO of GCIS.

Enquiries:

Haroid Maloka

Spokesperson for the Minister for Performance Monitoring and Evaluation as well as Administration Cell: 082 847 9799

E-mail: harold@po.gov.za or Maloka.harold@gmail.com

Issued by: The Ministry for Performance Monitoring and Evaluation in The Presidency

Media statements

Year: 2011

Media Statement date:

Wednesday, February 2, 2011

printer-friendly version







news24

Maseko quits just 6 months into job

2011-07-22 12:12

Johannesburg - Themba Maseko has resigned as the public service and administration director general after serving just six months on the job, the ministry said on Thursday.

He had asked to be released from his contract early, it said in a statement. His contract was to have ended at the end of June next year.

Maseko started working for the ministry in February this year after stepping down as the CEO for the government communication and information system. Jimmy Manyi replaced him there.

in a letter asking to be released. Maseko said he believed he had served to the best of his **ability in the** past 16 years.

"I take the opportunity to thank the South African government for having given me the opportunity to serve,"

"In leaving the service, I am confident that with the pool of talent in the country, there are other South Africans who will be available to step in to make their own contributions. I look forward to spend quality time with my family."

Public Service Minister Richard Baloyi had accepted his resignation, the ministry said. Maseko's last day of service would be on Friday.

Deputy director general Kenny Govender would replace him in an acting capacity.

In addition to working for public works and the GCIS, Maseko has worked as an MP and as the head of the Gauteng department of education.

Comments

Badger - 2011-07-22 12:20

Wonder what is the real reason for leaving?

Eric West - 2011-07-22 12:23

I always find the "I want to spend more time with my family" excuse highly suspicious. Maybe he want tenderpreneur?

gizzy - 2011-07-22 12:33

A nice fat golden handshake!

Toohotdurban - 2011-07-22 12:39



1764



Busani Mabunda

From:

Stiaan Krause <stiaan@bdk.co.za>

Sent:

Sunday, 02 September 2018 15:25

To:

Busani Mabunda; S'fiso Molongoana

Cc:

Rudi Krause

Subject:

Vytile Mentor

Attachments:

Application to cross-examine - 2 September 2018 - M P Mentor.pdf; Founding Affidavit - Mentor.pdf

Sir,

Please find attached hereto the application by Mr A K Gupta in respect of the witness Ms M P Mentor.

"indly acknowledge receipt.

Kind regards,

Stiaan Krause



tiaan Krause | Candidate Attorney | BDK ATTORNEYS

il: + 27 11 838 1214 | Fax: + 27 11 836 8740 | Cell: + 27 82 572 4550 | Email: stiaan@bdk.co.za | Web: www.bdkattorneys.co.za

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3

IN THE JUDICIAL COMMISSION OF INQUIRY TO INQUIRE INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR, INCLUDING ORGANS OF STATE

AJAY KUMAR GUPTA

Applicant

NOTICE OF APPLICATION IN TERMS OF RULE 3.4 OF THE RULES OF THE COMMISSION

TAKE NOTICE THAT the Applicant herby makes application to the Commissioner for leave to cross-examine the witness Ms. Mabel Patronella ("Vytjie") Mentor in relation the whole of the contents of her affidavit. The respects in which the witnesses' statement is disputed, denied and the grounds for the disputes and denials are self-evident from the annexed statement of Mr Ajay Kumar Gupta.

In considering this request to cross-examine the witness, the Commissioner is asked to consider the following:

- The function of the Commission is to establish the truth in relation to the areas
 of inquiry referred to in the Terms of Reference.
- 2. Although the Commission's work is that of an enquiry and the process of the Commission is not the same as a civil or criminal trial it is nevertheless so that cross-examination has historically been shown to be the best mechanism for testing the reliability and veracity of evidence tendered by a witness.

-22

- Without cross-examination, and more particularly adequate and effective cross-examination, of contentious evidence the Commission would be deprived of this essential tool for the testing of the reliability and veracity of evidence.
- 4. The statement of Mr Ajay Kumar Gupta raises clear disputes of fact underpinned by his own evidence and demonstrating the need to test the reliability of the witness that has given evidence before the Commission.
- 5. In addition to the request to cross-examine the witness it is strongly argued that the witness should not be consulted with on the contents of the sworn statement by Mr Ajay Kumar Gupta by the evidence leaders and that cross-examination should take place without the witness being recognised as this has the potential to enable the witness to adjust the witness' evidence in anticipation of cross-examination thus substantially weakening the power and effectiveness of the cross-examination.

BE PLEASED TO FIND ANNEXED the sworn statement of Mr Ajay Kumar Gupta, together with annexures, which supports this application to cross-examine.

DATED AT JOHANNESBURG on this the 2nd day of September 2018.

Ofmi.

BDK ATTORNEYS

David H Botha, Du Plessis & Kruger Incorporated

Applicant's Attorneys

Ground Floor, Oxford Terrace

3 on 9th Street

Houghton Estate

P O Box 8013

Docex 243

Johannesburg

Tel: 011 838 1214

Fax: 011 836 8740

Ref: R. C. Krause/mv/Gupta

TO:

THE COMMISSION

The Secretary

2nd Floor, Hillside House

17 Empire Road

Parktown

1778

Johannesburg

C/o Mabunda Incorporated

2 Protea Road

Bedfordview

Tel no.: 011 450 2284

Facsimile: 011 450 1565

Email: busani@mabundainc.co.za

Ref: Mr P. B. Mabunda





IN THE JUDICIAL COMMISSION OF INQUIRY TO INQUIRE INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR, INCLUDING ORGANS OF STATE

STATEMENT OF MR AJAY KUMAR GUPTA

I, the undersigned,

AJAY KUMAR GUPTA

do hereby state as follows:-

- I am an adult male, and the facts contained in this statement fall within my own personal knowledge, save where otherwise indicated or stated, and are to the best of my belief both true and correct.
- This statement is made in response to a notice in terms of Rule 3.3 of the Rules of the above Commission of Inquiry, and in particular in response to the statement of Ms Mabel Patronella ("Vytjie") Mentor in so far as that statement is alleged to implicate me in the respects set out in paragraphs 3.1, 3.2 and 3.3 of the said notice.
- As will be seen from the contents of this statement, there are very disputes of fact between that which I have to say in response to the Ms Mentor's statement(s) and her statement(s).





STATEMENT - AK GUPTA in to M P Mentor

- Naturally in this statement I comment on only those aspects which relate to me
- and/or to my brothers, Atul Gupta and Rajesh Gupta.
- In this regard the statement of Ms Mentor appears to cover, broadly speaking, a number or tranches of allegations, assertions or conclusions. These are as follows:-
 - 5.1 certain alleged occurrences on the flight to China;
 - 5.2 certain alleged occurrences relating to the registration processes at the venue of the Presidential State Visit to China;
 - the allegation of Ms Mentor being phoned from the lobby/reception of her hotel room by "a Gupta" and being told that they will take her to see President Zuma; and
 - the allegation that Ms Mentor was told to meet former President Zuma

 ("the President") in Johannesburg on a certain day; that my two
 brothers picked her up at the airport and took her first to the premises
 of Sahara Computers and thereafter to our Saxonwold home, at both
 of which venues she met with myself and had certain discussions with
 me; further that the President was, at a stage, present at my
 Saxonwold home at the time of the latter meeting.
 - 5.5 I am also asked to answer to the allegation that at the meeting at Saxonwold I offered Ms Mentor the position of Minister of Public

STATEMENT - A K GUPTA in re M P Menfor

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Enterprises; that I had influence over the appointment of the national executive; and that I had knowledge of the upcoming cabinet reshuffle in 2010.

6 I deal with each of these issues herein.

OCCURRENCES ON THE FLIGHT TO CHINA

- It is so that I, together with my brother Rejesh Gupta, attended the events forming part of the Presidential State Visit to China in August 2010. We did so, together with other delegates from our group of companies.
- 8 Duduzane Zuma was also there on behalf of his company, Mahangela.
- 9 My team's business meetings were arranged by the consulting company Cadiz and were not part of the formal State Visit programme.
- We left South Africa on 22 August 2010 and arrived in Beijing, China, on 23 August 2010. The State President's visit was, as usual, accompanied by a number of South African Ministers, as well as many South African businessmen representing their various business interests. This is a normal occurrence on such State visits, as one of the aims of such visits is to develop and foster bilateral business relationships between the two countries involved. This trip was no different in that regard from other Presidential visits to other countries of this nature. To the best of my knowledge, this State Visit as a lightness was a successful control of the state of the sta

STATEMENT - AK GUPTA in in M P Henlet.

organised and managed by the Department of Trade and Industry and the Department of International Relations and Cooperation.

- According to the programme contained in the evidence pack provided by the evidence leaders, the proceedings of the President's visit to China were set to take place from 24 to 26 August 2010, with the President to open the business seminar at 10h00 and the State Banquet to take place later that day at 18h30. We arrived on an Emirates flight from Johannesburg via Dubai on 23 August 2010, i.e. the day before the proceedings were set to start.
- Ms Mentor appears to allege that she arrived on the first day of the State Visit

 (24 August 2010) when the opening ceremony proceedings had begun. If this
 is so, then she was not on the same flight as us, as we arrived the day before

 (23 August 2010). If she was on the same flight as us then her purported
 recollection of the occurrences of the day that she arrived makes no sense at
 all. In fact, her description of the occurrences of the day cannot be true.
- Turning to the alleged introduction by Mr Duduzane Zuma, and if she was on the same flight as us (which appears doubtful now), it is not so that I was introduced or present during the alleged introduction by Duduzane Zuma of my brother Rajesh. I note that Ms Mentor speaks of Rajesh Gupta being accompanied by "another Indian man". Insofar as this is suggested to have been me, I can assure the reader hereof that there was no such introduction involving myself. I am sure that there was no introduction involving my brother, as he would have told me of any significant occurrence on that it the constraint occurrence on that it the constraint occurrence on that it the constraint occurrence on that it is the constraint occurrence on the constraint occurrence on that it is the constraint occurrence on that it is the constraint occurrence on the constraint occurrence occurrence on the constraint occurrence occurrence on the constraint occurrence occurr

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STATEMENT - A K GUPTA in 19 M P Menter

- I note that before the Public Protector, Ms Mentor referred to the fact that Duduzane Zuma wore his hair in the style of dreadlocks. To my certain knowledge, Duduzane Zuma has never adopted that hairstyle, and has never had his hair in dreadlocks.
- I therefore directly deny that Duduzane Zuma introduced my brother to Ms Mentor. To the extent that it is said that I was present at such introduction and/or that such introduction took place I also deny that this occurred.
- Although I did not know Mr Fana Hlongwane at all at the time, I do not believe that he was on that flight in order to have been introduced, as averred by Ms Menter. I am sure that the investigators of the Commission or the evidence leaders would be able to get confirmation of this fact from Mr Hlongwane and from such records as must still be available.

OCCURRENCES RELATING TO THE REGISTRATION PROCESSES AT THE VENUE OF THE PRESIDENTIAL STATE VISIT TO CHINA

- My colleagues and I attended the President's opening of the business seminar (the opening ceremony) on 24 August 2010. At no time, either on the aircraft or at all, would it have been said by my brother (Rajesh Gupta), nor was it so, that we were part of the President's so-called "advance team".
- It appears that Ms Mentor avers that she arrived during the opening ceremony.

 We attended the opening ceremony and could not have been at the construction venue as she says we were. I dispute the description that the

STATEMENT - A K GUPTA in in M P Mentor

played an oversight role at the venue that day, and that we were, or appeared to be, in charge of logistics, registration or administration. It was simply not so. We were businessmen taking part in the State Visit for the same purpose as all other businessmen were taking part in the State Visit.

- The description of us looking as if we were the security detail for the Presidential visit is indicative of the fact that Ms Mentor seems to be confused. We are substantial businessmen in our own right, and would not have undertaken the function of assisting people at registration for the event. Besides which, the opening ceremony was already in progress, according to her, and we attended that ceremony.
- In addition, I dispute that we "sported two tags each", or that we carried two-way radios. The functions that Ms Mentor are describing are basic administrative functions which we, as businessmen, would never have undertaken, and in fact did not undertake.
- Tellingly, when Ms Mentor speaks in her statement of the three men that she observed during this State Visit, she speaks of the "Gupta brothers", namely Ajay, Atul and Rajesh. Atul Gupta did not attend or participate in the State Visit to China in August 2010. He quite simply was not in China with us. This is an objective fact, that I am sure, can be established by a basic inquiry made of the airline and the South African Human Movement Control Register, so I am advised.



STATEMENT - A K GUPTA In ID M P Medior

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MS MENTOR BEING PHONED FROM THE LOBBY/RECEPTION OF HER HOTEL ROOM BY "A GUPTA"

- With regard to the alleged telephone call(s) made from the lobby/reception area to the hotel room of Ms Mentor, and with regard to the allegation that the person making the telephone call was a Gupta, I deny that it was either myself or Rajesh.
- It is directly denied that either Rajesh or myself, or both, attended Ms Mentor's hotel and attempted to get her to meet with the President, telephonically or otherwise. The content of the alleged telephone call, in which reference is made to concepts such as the President's "advance team" or "Presidential delegation" or "Presidential entourage", is therefore also denied.
- I note the allegations made by Ms Mentor that when the persons said to have been Guptas requested her to accompany them to see the President that she alleges that it seemed strange to her that the President would have requested to meet with her privately at night. She gives another reason why she would not wish to be alone with the President at night. From this it must be accepted that when the persons as she alleges were trying to have her go with them to meet with the President this was 'at night'. I observe from the programme of the visit that the following was inter alia the President's schedule on the 24th of August 2010:
 - 24.1 16h30 Depart for the Great Hall of the People.







STATEMENT - A K SUPTA in re M P Mentor

- 24.2 17h00 to 17h15 Welcome ceremony by President Hu Jintao Venue – Great Hall of the People
- 24.3 17h15 to 18h15 Official talks between President J Zuma and President Hu Jintao

Venue Great Hall of the People

- 24.4 18h15 to 18h30 Signing Ceremony of Agreements

 Venue Great Hall of the People
- 24.5 18h30 to 19h30 Dinner hosted by President Hu Jintao

 Venue Great Hall of the People
- I also note that the averment is that Ms Mentor was told by the man who telephoned her from the lobby that the President was waiting for her and that he would not leave to go to the State Banquet until he had met with her. I also note that she told the Public Protector that he was waiting to meet her at the Presidential Guesthouse. The President's schedule, which I believe was adhered to, have him leaving the State Guesthouse at 16h30 and arriving at the Great Hall of the People, which is on Tiananmen Square. The Guesthouse, as any enquiry will show, is some considerable distance away from the Great Hall of the People in central Beijing.
- Not only therefore do I deny that either my brother Rajesh or Lattended at her hotel, but I state that her description of the events simply cannot be true.



STATEMENT - A K GUPTA in 16 M P Mentos

THE ALLEGED COLLECTION OF MS MENTOR AT THE AIRPORT BY MY TWO
BROTHERS AND THE ALLEGED MEETINGS BETWEEN MYSELF AND MS
MENTOR AT THE OFFICES OF SAHARA COMPUTERS AND AT OUR
SAXONWOLD HOME (INCLUDED THE ALLEGED PRESENCE OF THE
PRESIDENT AT OUR HOME)

- 27 Let me upfront state that:-
 - 27.1 neither of my two brothers (or anyone else) collected Ms Mentor from the airport, as averred by her;
 - 27.2 I have no knowledge of it being arranged by Ms L. Kaunda, or anyone else for that matter, for her to contact any of us in relation to arrangements to meet the President on that Monday, whatever date that Monday is alleged to have been, as suggested by Ms Mentor. It did not occur as I am sure Ms. Kaunda will confirm. No telephonic arrangement was made with Mr Atul Gupta, either by Ms Mentor phoning him or he phoning her in relation to him picking her up from the airport; and
 - 27.3 Ms Mentor was not picked up by my two brothers. In fact, neither my brother, Atul, who was the chairman of our group of companies at the time nor my brother Rajesh have ever undertaken the basic un time of fetching people from the airport, let alone brandishing and lacerous bearing the name of any person, nor did the letter telecommunications earpieces, nor do they wear telecommunications

STATEMENT - A K GUPTA In IN M P Memor

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earpieces together with dark glasses and suits such as which security people wear.

- 27.4 We have never owned a black twin cab 'bakkie' with or without tinted windows nor have my brothers ever driven around in one.
- Ms Mentor, therefore, not having been picked up from the airport by my two brothers or anyone else at my instance or known to me, was not brought to meet me at the offices of Sahara Computers. I state categorically that there was no meeting between myself and Ms Mentor, as described in her statement, at the offices of Sahara Computers or at all. I note that the photograph to which she refers (MPM1) is something apparently downloaded from a computer or the internet and shown to her. This also appears to be true of all the photographs attached to her statement. As will become evident from that which I have to say hereunder, these photographs appear to be that which someone has suggested to Ms Mentor as being photographs of the places we went to rather than her spontaneously and from her own knowledge describing either Sahara Computers' premises or my Saxonwold home.
- 29 In addition her description of the inside of the Sahara Computers' building does not accord objectively with reality.
- That which is disturbing is that when she suggests that I said (in the meeting which did not occur) that I said that she might make use of our suite at Newlands Stadium; this sounds like the kind of thing I would say in the formal course of

STATEMENT - A K GUPTA in to M P Mentor

my interaction with any other person, as we did have a suite at Newlands Stadium. I did in fact have two suites at the Newlands Stadium.

- Where she says that I offered her son a cricket bat, this is also indeed the kind of offer I used to make to people out of sheer generosity and as a gesture of goodwill.
- I say this not to confirm at all that I had a meeting with her at Sahara Computers, as described, or ever at all. I say this because there appears to be an outside influence on Ms Mentor, where she appears to have acquired or been fed snippets of information which fit with the way I behave in life in general and that this has been done in order to buttress the credibility of her version.
- I therefore should not be misunderstood to concede that these things were said to Ms Mentor, but must be understood to be saying that these are the kind of things I sometimes do say and offer, and that this has been communicated to her by someone for her to use in her statement for the purpose mentioned above.
- 34. No one in my family has ever been sent to the USA to study. Atul Gupta came to South Africa from India in 1993/94. Rajesh Gupta came to South Africa in 1997 and I came in the early 2000's, but before that was in and out of the country.
- 35. I do not own or wear a gold ring with a ruby on my "pointing also nothing in the Hindu culture that enjoins me to wear nothing in the Hindu culture that enjoins me to wear nothing in the Hindu culture that enjoins me to wear nothing in the Hindu culture that enjoins me to wear nothing in the Hindu culture that enjoins me to wear nothing in the Hindu culture that enjoins me to wear nothing in the Hindu culture that enjoins me to wear nothing in the Hindu culture that enjoins me to wear nothing in the Hindu culture that enjoins me to wear nothing in the Hindu culture that enjoins me to wear nothing in the Hindu culture that enjoins me to wear nothing in the Hindu culture that enjoins me to wear nothing in the Hindu culture that enjoins me to wear nothing in the Hindu culture that enjoins me to wear nothing in the Hindu culture that enjoins me to wear nothing the Hindu culture the Hindu culture that enjoins me to wear nothing the Hindu culture the Hindu culture the Hindu culture t





STATEMENT - A K GUPTA in to M P Mentor

"pointing finger" to demonstrate by status and rank. I deny this and deny having

said this to her ever. Of course I am denying saying this to her whilst continuing

to point out that the meeting did not take place. In fact, I wear two gold rings

each containing a white diamond and the ring belonging to my father I wear on

my middle finger. Clearly Ms Mentor has either been given distorted information

or somehow picked up that I wear a ring to buttress her story.

36. Equally therefore, my two brothers not having picked her up at the airport and not having brought her to the business premises of Sahara Computers and thereafter not having brought her to our home in Saxonwold, I can categorically state that I did not meet with her at our Saxonwold home, either as described or at all. I did not make any offers with regard to her potentially being made a Minister of State, as described by her or at all. I did not have any conversation with her that day or evening at Saxonwold or at the business premises of Sahara Computers, and her version of the alleged events is a fiction.

- 37. Significant cross-examination will be necessary on this issue, as there are a number of glaring faults and weaknesses in her description of both the visit to the business premises of Sahara Computers and to our Saxonwold home.
- 38. The following features are noted from either the evidence in her statement or the evidence given by her to the Public Protector.
 - 38.1. She states that the home was structured like a compound with mansion-like houses. It is objectively so that whilst people compound, anyone who have referred to the Saxonwold compound, anyone who has also

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STATEMENT - A.K. GUPTA in IP M P Mentor

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been there would never so describe it. This is so because each home appears to be and is an entirely separate home with walls that separate each home; the one from the other. There are gates which allow access from one premises to the other, but each home is and appears to the natural observer thereof to be a separate home, as in fact they are. I would suggest that her description of the Saxonwold compound is one which has been fed to her or invented by her. In fact, my home, number 5 Saxonwold Drive, which she alleges she met me at, is not the biggest home that we own. The one next door to it, on the right as you arrive at the gate of number 5, is the biggest house.

- I note from both her statement that she refers to the entrance being arrived at by proceeding up a few stairs which were marble stairs. She describes the number of stairs as either "a few stairs" or she describes them as "cream marble stairs" and says there were about five or six.

 If one refers to the photograph of the stairs of my Saxonwold home, marked MPM2, one will see depicted thereon five stairs. I believe that her description is not one which she gets from her memory but one in which she describes that which she sees on the photograph.
- 38.3. There are in fact ten black granite stairs. They are not white or cream marble stairs.
- 38.4. In her evidence to the Public Protector she describes being led into a wide open reception area with a glant pillar and a blowinglow. The



STATEMENT - AK GUPTA III IN M P Menton

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is no giant pillar or any pillar at all. In addition she describes two couches in the reception area at ninety degrees to each other. The entrance area does not contain any couches at all and is in fact centrally dominated by a grand plano covered in a red velvet cloth, the presence of which no one could miss.

- In addition Ms Menter describes the bathrooms or restrooms in the house as being "separated to the ladies and the gents." This was pointed out in a boastful manner. In fact, there is only one bathroom or restroom and it is not demarcated, described or used as only for gentlemen or ladies. This guest toilet does not have gold details on the handles of the door. It is simply a gold coloured handle and the toilet cistern does not have a handle. It is button operated with the button being an ordinary silver coloured metal.
- 38.6. There is in fact no waiting room because the room she described as you enter the house is an entrance hall which, as I have described, contains the piano.
- 38.7. Ms Mentor describes being offered various lunch options by the chef.

 We do have a chef but he would never have offered her nor is it
 possible to have been offered a mutton curry in our home. We are of
 the Hindu religion and maintain a strictly vegetarian diet. It is
 anathema to suggest that meat of any form let alone in the form of



STATEMENT - A K GUPTA in in M P Mentor

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chopped up sheep would be allowed to enter our home, let alone enter our kitchen and form part of a meal prepared and served in our home.

- 38.8. She not having been at my house and no discussions having taken place, it follows that all of the topics which she makes reference to were not discussed with me. Simply by way of illustration I must mention that the company VR Laser was acquired in late 2013 and on the date to which she makes reference, I nor any of my brothers had anything to do with VR Laser.
- 38.9. Neither I nor any of the entities in which I have an interest ever had a partnership with an airline let alone one that could take over the South Africa-India route.
- 38.10. As far as I can recall when Minister Malusi Gigaba was the Minister in the Department which controls the South African Airways ("SAA"), SAA and Jet Airways both flew the route between South Africa and India. My research shows that Jet Airways started flying the route on the 14th of April 2010 and stopped flying the route on the 12th of June 2012. SAA stopped flying the route between South Africa and India in August 2015 during the time that Minister Lynn Brown was the Minister of Public Enterprises.
- 39. In addition there not having been any discussion at my home was also no discussion with her to terminate or can have



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STATEMENT - A K GUPTA m 10 M P Memor

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Airways route to Mumbai, nor was there any discussion with regard to my having any interest in an airline to take up the route. In fact, I have not had or do not have any interest in any such airline.

- 40. Once again I must state that the meeting not having taken place, I did not offer her and could not have offered her the position of Minister of Public Enterprises.
- 41. Lastly, I must state that the visit not having taken place, it was also not so that the (then) President, Mr Jacob Zuma, entered the room in the manner she describes and said what she alleges he said and escorted her to a motor vehicle as she alleged. This did not happen.
- 42. I annex a series of photographs, marked AJ1 to AJ24, which variously depict the view of the house of number 5 Saxonwold Drive as seen from the gate, the view of the stairs to the front door, the view of the ten black granite stairs to the front door, the entrance hall with the grand piano, the guest toilet and photographs generally depicting the fact that upon arriving at number 5 Saxonwold Drive, no impression is created of there being a compound as described by Ms Mentor.

CONCLUSION

From that which I have stated above, it appears in my view that Ms Mentor has, either by her own devising or by the devising of others, been pur unito paint a



STATEMENT - A K GUPTA in to M P Mentor

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false picture of me and my brothers, in order to make a case of the alleged wrongdoing that is the very subject matter of the Inquiry by this Commission.

- I deny that the meeting and conversation at my home with Ms Mentor as 44 described by her took place or at all. It is also denied that any meeting at the Sahara Computers business premises took place either as described or at all.
- 45 It follows that:

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- I made no offer of a Ministerial post to her as described or at all. 45.1 I did not have knowledge of any upcoming cabinet reshuffle in 2010. 45.2 I did not have any influence over the appointment of members of the 45.3 national executive.
- In the circumstances I submit that I have made out a case that substantial 46. aspects of the evidence of Ms Mabel Patronella Mentor are in dispute and denied and that, accordingly, it is necessary and in the best interests of the work of the Commission that the Chairperson permit the cross-examination of the witness, Ms Mentor,

THUS DONE AND SIGNED at DUBAI, UNITED ARAB EMIRATES, on this the 2nd day of September 2018.



STATEMENT - A K GUPTA in to M P Mentor

AJAY KUMAR GUPTA

Danne

I certify that this affidavit was signed and sworn to before me at DUBAI, UNITED ARAB EMIRATES, on this the 2nd day of September 2018 by the deponent who acknowledged that he knows and understands the contents of this affidavit, has no objection to taking this eath, considers this eath to be binding on his conscience and uttered the following words: I swear that the contents of this affidavit are both true and correct, so help me God."

COMMISSIONER OF OATHS

Name:

ENOCH MATHAMBOLE Address: (Vice Consul Administration)

Capacity

SOUTH AFRICAN CONSULATE GENERAL Khalid Bin Al Walced Rd New Sharaf Bidg. 3rd. Floor BUR - DUBAL - U.A.E.

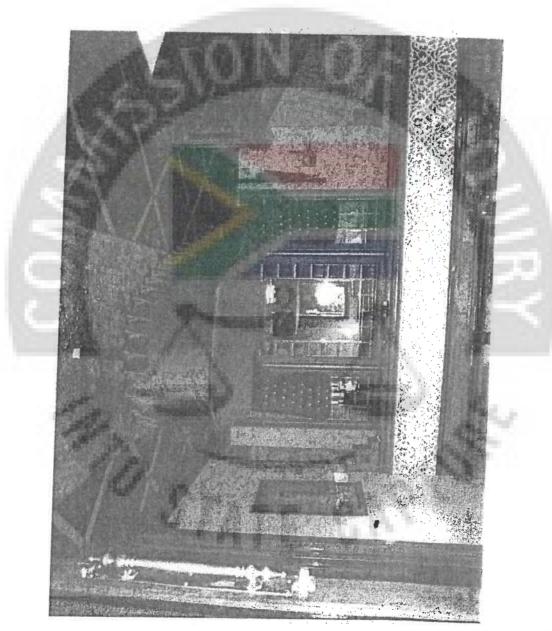
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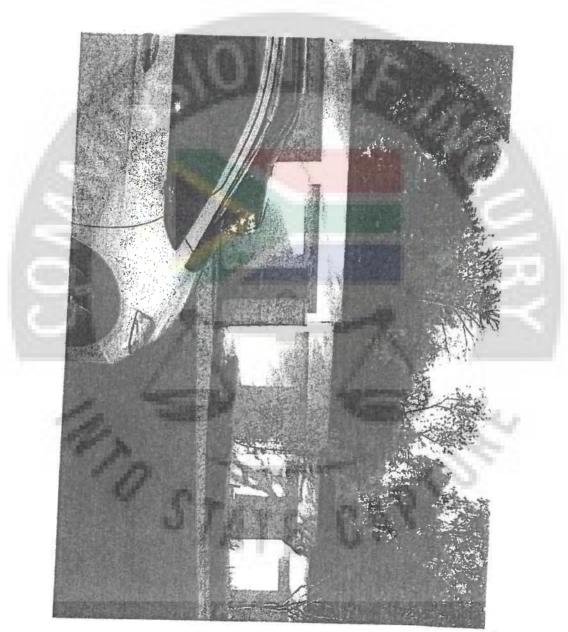


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BDK ATTORNEYS

OUR REF: Mr. R. C. Krause/mv

YOUR REF: Mr. B. Mabunda

12 September 2018

Messrs Mabunda Incorporated PO Box 61238 Marshalltown 2107

PER EMAIL

busani@mabundainc.com sifiso.molongoana@mabundainc.com

FOR THE ATTENTION OF

Mr. B. Mabunda

Dear Mr. Mabunda,

JUDICIAL COMMISSION OF ENQUIRY INTO ALLEGATIONS OF STATE IN RE: CORRUPTION AND FRAUD IN THE PUBLIC CAPTURE, INCLUDING ORGANS OF STATE

We refer to the above and in particular to the request by the Commissioner that our client, Mr. 1.

ESTABLISHED 1960

David H Botha, du Plessis & Kruger Inc. Reg No. 98/16549/21

VAT No.: 4040180012

Directors: Pieter Jacobus du Plessis BA LLB

Roelof Cilliers Krause Blur LLB

Consultants: Jan Christoffel Kruger BA LLB ian Small-Smith BProc

T. + 27 11 838 1214

F. + 27 11 836 8740 / +27 86 603 3183

E. thefirm@bdk.co.za

www.bdk-attorneys.co.za

Ground Floor, Oxford Terrace, 3 on 9th Street Houghton Estate, Johannesburg

P O Box 8013, Docex 243, Johannesburg, 2000





Ajay Kumar Gupta, file a supplementary affidavit in which he specifically deals with whether he is prepared to give evidence before the Commission of Inquiry in the Republic of South Africa. The supplementary affidavit relates to the applications to cross-examine Ms M. P. Mentor and Mr. T. M. J. Maseko.

2. We enclose herewith the supplementary affidavit. The original affidavit will be made available as soon as we have received it.

Your acknowledgement of receipt and response per return would be appreciated.

Yours faithfully,

AR. R. C. KRAUSE DIRECTOR

BDK ATTORNEYS DAVID H BOTHA, DU PLESSIS & KRUGER INC.

1821 (P)

SUPPLEMENTARY STATEMENT - AJAY KUMAR GUPTA

IN THE JUDICIAL COMMISSION OF INQUIRY TO INQUIRE INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR, INCLUDING ORGANS OF STATE

SUPPLEMENTARY STATEMENT OF MR AJAY KUMAR GUPTA

I, the undersigned,

AJAY KUMAR GUPTA

do hereby state as follows:-

- I am an adult male and the facts contained in this supplementary statement fall within my own personal knowledge, save where otherwise indicated or stated, and are to the best of my belief both true and correct.
- I have previously deposed to an affidavit/statement in which I set out my version of the facts in relation to the evidence given by Ms Vytjie Mentor and Mr Themba Maseko, and by virtue of which affidavit/statement I seek leave to cross-examine both Ms Mentor and Mr Maseko.
- I understand that the issue has arisen that the Commission may adopt the approach that unless a person, who is implicated or may be implicated by the evidence given by a witness before the Commission, and who wishes to cross-

examine such witness giving evidence before the Commission, undertakes to also give *viva voce* evidence before the Commission in South Africa, the Commission may refuse that implicated person leave to cross-examine the witness.

- I confirm that my attitude in relation to coming to give evidence before the Commission in South Africa is properly set out in my written submissions filed on my behalf and argued before the Commission on 6 September 2018.
- I however need to emphasise a number of points, which are as follows:-
 - I have no reluctance whatsoever, and in fact am very keen, to participate in the proceedings before the Commission. The whole issue of State Capture seems to be very much focused on me and the companies with which I am associated. Without my participation the functioning of the Commission would, in my very respectful view, be severely hampered.

 I, in particular, have very pertinent information to impart to the Commission under oath, and upon which I am prepared to be cross-examined.
 - With regard to the evidence of both Ms Mentor and Mr Maseko, it must be clear that my version seriously impugns the reliability, if not the credibility, of that evidence. Unless my evidence is heard, the Commission might be compelled (there being no counter-veiling evidence) to accept the evidence of Ms Mentor and Mr Maseko. That evidence, if accepted, would go some way in supporting a the sis that

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there was indeed some form of State Capture. On the other hand, if that evidence is found not only to be untruthful or unreliable, but to have been falsely made up, then such a finding would signal to the Commission that it should look very closely at all other evidence, as there would appear to be a motive to make out a case for State Capture where perhaps none exists. This is entirely plausible, and a possible line of inquiry that the Commission may be driven to undertake.

- 5.3 I want to clarify and reiterate that I have full faith, trust and confidence in the independence of the South African judiciary and legal system.
- The attitude that I take with regard to the competence of the South 5.4 African Police and the National Prosecuting Authority is that they are at the very least irresponsible in the wielding of their powers. experience in the case of S v Thabethe [case number: 17/07/2018] is as reflected in the heads of argument placed before the Commission, and is that the Hawks and the National Prosecuting Authority are commercially naïve, reach wrong conclusions based on a lack of understanding of commerce, and then wield awesome arrest and prosecution powers based on their wrongly held conclusions. This is The National Prosecuting Authority narrowly irresponsible indeed. obtained a further three months postponement in the Free State Regional Court where the Magistrate was scathing with regard to responsibility with which they have brought that prosecution. And yet that prosecution was brought, and the parties arrested and prosecuted

remain in the thrall of that prosecution, without remedy, until such time as the docket is produced and we are able to show that there was never a case made out in that docket, which would have founded the arrests and prosecution. It is this wielding of power that causes me to be reluctant to come to South Africa at this time.

- 5.5 If there was another way of my being able to come to South Africa, and to have been satisfied that I would not be subjected to the unfair powers wielded by the Hawks and the National Prosecuting Authority, wielded in such a manner as they do, I would have grabbed the opportunity. Apparently there is none.
- 5.6 I once more make the offer to testify via video conference link. This would not entail an enormous expense, as it could take place with me giving viva voce evidence under the supervision of one or two persons, with the Commission remaining in South Africa.
- It would also be open to the Commission not to make a general ruling in relation to this issue, but to make a specific ruling, for example with regard to the evidence of Ms Mentor and/or Mr Maseko, as an exception to what would be its general rules. Once this has taken place, i.e. cross-examination of the said witnesses and evidence by myself, the Commission could weigh the effectiveness of the methodology for acquiring evidence that had been adopted, as against the overall interest of the Commission to establish the truth on the issues it respect of which

it is required to establish in terms of the Commission's Terms of Reference.

- I have noted that the Commission has already allowed certain witnesses to give evidence via video conference facility and would point out that there is πο reason why I should not be afforded the same courtesy.
- I humbly pray that the Commissioner hears my evidence, so that not only the Commission can achieve its aim, but that I may have an opportunity to clear my name and the name of my family.

THUS DONE AND SIGNED at Dubai on this the 12th day of September 2018.

AJAY KUMAR GUPTA

I certify that this affidavit was signed and sworn to before me at DUBAI, UNITED ARAB EMIRATES, on this the 12th day of September 2018 by the deponent who acknowledged that he knows and understands the contents of this affidavit has no objection to taking this oath, considers this oath to be binding on his conscience and

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SUPPLEMENTARY STATEMENT - AJAY KUMAR GUPTA

uttered the following words: 'I swear that the contents of this affidavit are both true and correct, so help me God.'

COMMISSIONER OF OATHS

Name:

ENOCH MATHAMBOLE (Vice Consul Administration)

Address:

Capacity

SOUTH AFRICAN CONSULATE GENERAL

Khalia Bin Al Waleed Rd New Sharaf Bldg. 3rd. Floor BUR - DUBAI - U.A.E. Commissioner of Oath

South African Consulate General Dubai, United Arab Emirates

SOUTH AFRICAN CONSULATE GENERA

1 2 SEP 2018

DUBAI







Busani Mabunda

From:

Pieter van der Merwe <pieter@vdmattorney.co.za>

Sent: To:

Sunday, 02 September 2018 16:34 Busani Mabunda; S'fiso Molongoana

Subject:

APPLICATION TO CROSS EXAMINE

Attachments:

APPLICTION TO CROSS EXAMINE 02.09.2018.pdf; FINAL Ajay Gupta Aff - Jonas.pdf; FINAL Duduzane

Aff- Jonas.pdf; FINAL Rajesh Gupta Aff - Jonas.pdf

Our ref:

PvdM/P00012

Your ref:

B Mabunda

MABUNDA INCORPORATED

PER E-MAIL

Dear Sir,

IN RE: APPLICATION TO CROSS-EXAMINE MR MH JONAS - AJ GUPTA, AK GUPTA, D ZUMA

Abovementioned matter refers.

Find attached hereto an application to cross-examine Mr MH Jonas, filed on behalf of Mr Ajay Gupta, Mr Rajesh Gupta and Mr Duduzane Zuma. The application is further accompanied by the necessary affidavits deposed to on behalf of our clients.

We trust you will find it in order.

Regards,

VAN DER MERWE & VAN DER MERWE PER: PJ VAN DER MERWE

FLOOR

308 BROOKS STREET, MENLO PARK

T: (012) 941 9930 C: (+27) 072 1724 098

E-MAIL: pieter@vdmattornev.co.za



IN THE JUDICIAL COMMISSION OF INQUIRY TO INQUIRE INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR, INCLUDING ORGANS OF STATE

AJAY KUMAR GUPTA
RAJESH KUMAR GUPTA
DUDUZANE ZUMA

FIRST APPLICANT
SECOND APPLICANT
THIRD APPLICANT

NOTICE OF APPLICATION IN TERMS OF RULE 3.4 OF THE RULES OF THE COMMISSION OF INQUIRY, TO INQUIRE INTO ALLEGATIONS OF STATE CAPTURE

TAKE NOTICE THAT the abovementioned Applicants hereby make application in terms of Rule 3.4 of the Rules of the Commission of Inquiry, to inquire into allegations of State Capture, to the Commissioner for leave to cross-examine the witness, Mr Mcebisi Hubert Jonas, in relation to the contents of his affidavit(s) and version(s) with reference to the subject matter of a meeting which he participated in on 23 October 2015, in so far as that portions of his version(s) and allegation(s) are disputed, denied and contradicted by the abovementioned applicants.

The respects in which Mr Jonas' statement(s), version(s) and/or allegations are disputed, contradicted and/or denied and the grounds for the disputes and denials are self-evident from the annexed affidavits of Mr Ajay Kumar Gupta, Mr Rajesh Kumar Gupta and Mr Duduzane Zuma,

In considering this request to cross-examine Mr Jonas, the Commissioner is asked to consider the following:

- The function of the Commission is to establish the truth in relation to the areas
 of inquiry referred to in the Terms of Reference.
- 2. It is so that the proceedings of a commission of inquiry have traditionally been categorised as purely administrative, rather than judicial or quasi-judicial in nature, even when the commission was empowered to make recommendations. A fair administrative procedure depends on the circumstances of each case. In order to give effect to the right to procedural fairness, a commission is entitled to adopt its own procedure governing the receipt of evidence or information relevant to the issues before it.
- 3. It is submitted that as an organ of state engaged in administrative action, the procedure adopted by a commission must, however, comply with the provisions of the Promotion of the Administrative Justice Act, the fundamental rights guaranteed in the Bill of Rights and other relevant provisions of the Constitution.
- 4. It is submitted that the requirements of procedural fairness and natural justice do apply to commissions appointed by the president. This is so because it is accepted that serious repercussions can flow from the report of a commission. For example, very damaging findings of fact could be made in respect of

Page | 2



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people who are named. In addition, a commission's report may accuse or condemn persons who may then be subject to civil or criminal proceedings. The whole process may be potentially prejudicial to a person's rights of personality, and fundamental rights guaranteed in the Constitution. For example Mr Duduzane Zuma who is implicated by Mr Jonas in the manner described by Mr Jonas, is already currently facing a criminal prosecution, after he has been arrested on 9 July 2018, allegedly on evidence premised on the very same allegation(s) and version(s) as claimed by Mr Jonas in his statement(s) and oral evidence given inter alia before the public protector some time ago.

- Although the Commission's work is that of an enquiry and the process of the Commission is inquisitorial and not adversarial and therefore the same as a civil or criminal trial court, it is nevertheless so that fair procedure, the rules of natural justice and conventional cross-examination, has historically been shown to be the best objective mechanism for testing the reliability and veracity of evidence tendered by a witness. Without conventional adversarial cross-examination, and more particularly adequate and effective cross-examination of contentious issues given in evidence by any witness, the Commission would be deprived of this essential tool for the testing of the reliability and veracity of evidence of the particular witness.
- 6. The statements of Mr Ajay Kumar Gupta, Rajesh Kumar Gupta and Duduzane Zuma raises clear disputes of fact, underpinned by their own evidence and version with reference to the said meeting held on 23 October 2015 and

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demonstrating the need to test the reliability, credibility and probabilities of the evidence proffered by Mr Jonas given before the Commission.

7. In addition to the request to cross-examine Mr Jonas, it is submitted and argued that an adversarial element must be maintained and that Mr Jonas should not be consulted with before the cross-examination, on the contents of the sworn statements by Mr Ajay Kumar Gupta, Rajesh Kumar Gupta and Duduzane Zuma, by either the evidence leaders and/or the legal representative(s) of Mr Jonas and that cross-examination should take place without Mr Jonas being prepared on the grounds of disputes and denials, as this inquisitorial process, has the potential to enable Mr Jonas to adjust his evidence in anticipation of cross-examination, thus substantially weakening and eliminating the power and effectiveness of the conventional cross-examination.

BE PLEASED TO FIND ANNEXED the sworn statements of Mr Ajay Kumar Gupta, Rajesh Kumar Gupta and Duduzane Zuma, together with annexures thereto, which supports this application to cross-examine Mr Jonas on the procedure and conditions as set out herein.

DATED AT JOHANNESBURG on this the 2nd day of September 2018.

ATTORNEYS FOR THE APPLICANTS
VAN DER MERWE & VAN DER MERWE ATTORNEYS

JJR INC BUILDING

1ST FLOOR, 308 BROOKS STREET

Page | 4



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MENLO PARK PRETORIA Tel: (072) 1724 098 Fax: (086) 603 9496 REF: PVDM /PO0012

The Commission
The Secretary
2™ Floor, Hillside House
17 Empire Road
Parktown
Johannesburg
C/o Mabunda Incorporated
2 Protea Road
Bedfordview
Tel no:: 011 450 2284
Facsimile: 011 450 1565
Email: busani@mabundainc.co.za
Ref. Mr P. B. Mabunda

1837





STATEMENT - AJAY GUPTA

IN THE JUDICIAL COMMISSION OF INQUIRY TO INQUIRE INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR, INCLUDING ORGANS OF STATE

STATEMENT OF AJAY KUMAR GUPTA IN RELATION TO THE STATEMENT GIVEN BY MR MCEBISI JONAS

I, the undersigned,

AJAY KUMAR GUPTA

do hereby make oath and state as follows:-

- 1 am an adult male, and the facts contained in this statement fall within my own personal knowledge, save where otherwise indicated or stated, and are to the best of my belief both true and correct.
- This statement is made in response to a notice in terms of Rule 3.3 of the Rules of the above Commission of Inquiry, and in particular in response to the statement of the former Deputy Minister of Finance, Mr Mcebisi Jonas.



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STATEMENT - AJAY GUPTA

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- As will be seen from the content of this statement, there are very substantial disputes of fact between what I have to say in response to the contents of Mr Jonas's statement(s) and his version(s) made before by him on various occasions, therefore a request for permission to cross-examine Mr Jonas by my legal representatives will be filed together with this statement.
- 4 Naturally in this statement I comment on only those aspects which relate to me.
- In this regard the statement of Mr Jonas appears to cover, broadly speaking, the following allegations:-
- Mr Jonas claims that he met with me on 23 October 2015 in the early afternoon at no 5 Saxonwold Drive, the Gupta Residence;
- 5.2 that I made alleged monetary offers to him, should he be prepared to work with me and agree to accept my proposal to him, to become the Minister of Finance of South Africa thereby implicating that I had some or other influence and/or control to appoint Cabinet Ministers;
- a belated allegation in his latest signed statement, dated 8 August 2018, to the commission of the Inquiry, wherein he for the first time claims that I also threatened to "kill" him, should he not co-operate with me or the Gupta family.



STATEMENT - AJAY GUPTA

3

THE ALLEGED MEETING DURING THE EARLY AFTERNOON ON 23 OCTOBER 2015 AT NO 5 SAXONWOLD DRIVE TOGETHER WITH MR FANA HLONGWANE AND MR DUDUZANE ZUMA

- I can categorically state that I never met with Mr Jonas on the afternoon of 23 October 2015 at no 5 Saxonwold Drive at the Gupta Residence, (or on any other date, either before or thereafter). I was not even present during that time when an alleged meeting was held between the mentioned role players at the said residence, as I was at the Offices at Oakbay in Katherine Street, Sandton.
- Ronica Ragavan and the other employees of Oakbay can confirm my alibi and presence at the Oakbay Office in Sandton on that afternoon. I also tendered my cell phone records to the Public Protector when she afforded me a very superficial interview opportunity during 4 October 2016, when I gave evidence of my version of the allegations levelled against me, denying the allegations in answer to the allegations levelled by Mr Jonas against me specifically, to objectively confirm my alibi on that specific afternoon. It needs to be reiterated that this interview with the Public Protector was initiated by myself at my specific request as I asked to give a response to the false claims as reported in the media.
- It is also plain and indisputable that my identity was introduced to Mr Jonas by way of a leading question suggested to him and/or photos of me being shown to him, to enable him to conclude that he in factories with me



STATEMENT - AJAY GUPTA

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specifically and not with anybody else, where after he accepted and claimed that he in fact did have a meeting with me.

- He later in an application in the High Court Pretoria, (which was dismissed with costs) by the then Minister of Finance, Minister Gordhan, against Oakbay Group of Companies without any qualification and/or hesitation in fact confirmed under oath that he met with me and nobody else. However in his latest statement dated 8 August 2018 to the investigators of the Commission of Inquiry on State Capture, Mr Jonas claims that he is still unsure with whom he has met on that specific day, as he did not know the Gupta brothers and have never been introduced to the Gupta brothers before and it may have been my brother Rajesh Gupta with whom he met on that specific afternoon.
- Mr Jonas also for the first time ever incorporated in his most recent statement dated 8 August 2018 and claim that I threatened to kill him should he not give his co-operation to me. In his version to the Public Protector he never had such claims, even when he was specifically questioned about any threats he may have received.
- As stated I had no meeting with Mr Jonas either on 23 October 2015 or on any other day. I therefor had no discussions with him as claimed by him, made no offers of any nature to him to pay money to him should he be prepared to agree to become the Minister of Finance, or that I tell the President what to do and that I control everything, nor did I make any threats to kill him. His version of the events of the meeting he had with Mr Fana Hlongwane and Duduzane Zuma is nothing but an intentional reportation to



STATEMENT - AJAY GUPTA

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implicate me in alleged wrongdoing in which I played no part as I was not present and never met Mr Jonas. I point out that there is no Bar area on the level where the lounge is situated as alleged by Mr Jonas.

- I also gave evidence under oath to the Public Protector denying the allegations and the version claimed by Mr Jonas and I also deposed to an affidavit in the Minister of Finance application in the High Court Pretoria, which is self -explanatory. I point out that it is highly unlikely that the meeting took place, because if it did in the manner alleged by Mr Jonas, he would immediately have reported it to his nearest Police Station as he as any other ordinary citizen was legally obliged and duty bound under the Law, to do.
- Duduzane Zuma was well known to me. Although I did not know Mr Fana Hlongwane at all at the time, I knew of him and was aware that he and Duduzane Zuma were friends. I had no business with them with regard to any meeting they planned and arranged with Mr Jonas and each other on that specific day or any other day. I have no knowledge of the subject matter of the meeting they had nor did I enquire about it.

CONCLUSION

From that which I have stated above, it appears in my view that Mr Jonas has, either by his own devising or by the devising of others, been put up to paint a false picture of me in order to make a case of the alleged wrongdoing that is the very subject matter of the Inquiry by this Commission.



STATEMENT - AJAY GUPTA

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It follows that I made no offer of a Ministerial post as described by him, I did not make any offer to him to pay him either R 600 000.00 in cash or offer to pay him R 600 Million in an account of his choice, I did not have any knowledge of any upcoming cabinet reshuffling and/or about Ministers that may be fired and I did not have any influence over the appointment of any members of the national executive nor did I ever had such influence.

AJAY KUMAR GUPTA

ARAB EMIRATES, on this the 2rd day of September 2018 by the deponent who acknowledged that he knows and understands the contents of this affidavit, has no objection to taking this oath, considers this oath to be binding on his conscience and uttered the following words: 'I swear that the contents of this affidavit are both true and correct, so help me God.'

COMMISSIONER OF OATHS

Name:

ENOCH MATHAMBOLE

Address (Vice Consul Administration)

Capacity
SOUTH AFRICAN CONSULATE GENERAL

Khalid Bin Al Walced Rd New Sharaf Bidg. 3rd. Floor BUR - DUBAI - U.A.E. Commissioner of Oath
South African Consulate General
Dubal, United Arab Emirates
SouthAFRICAN CONSULATE GENERAL

ate:....

V Z SEP ZUIB

DUBA







IN THE JUDICIAL COMMISSION OF INQUIRY TO INQUIRE INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR, INCLUDING ORGANS OF STATE

STATEMENT OF DUDUZANE ZUMA IN RELATION TO THE STATEMENT GIVEN BY MR MCEBISI JONAS

I, the undersigned,

DUDUZANE ZUMA

do hereby declare under oath as follows:-

- I am major male businessman and investor. I am a citizen of the Republic of South Africa, with identity number 820520 5254 086. My residential address is 18 Griswold Road Saxonwold Gauteng. I do not own any fixed property in Dubai or any other country outside South Africa. I am currently renting a property in Dubai.
- The contents of this affidavit fall within my own personal knowledge, save where otherwise indicated, and are to the best of my belief both true and correction.
- This statement is made in response to a notice in terms of Rule 3.3 of the Rules of the above Commission of Inquiry, and in particular in response to be statement of the former Deputy Minister of Finance, Mr Mcebisi Jonas, in so far



as he attempted to implicate me in relation to any alleged wrongdoing and/or that I was allegedly present during an alleged meeting in the afternoon of 23 October 2015 at no 5 Saxonwold Drive, with one of the Gupta brothers, during which meeting certain monetary offers were made to him and an offer to make him the Minister of Finance and threatening to kill him. I point out that I have already been arrested on 9 July 2018, (the only person thus far), and I am currently charged and stand trial in the Specialised Commercial Crimes Court, Johannesburg with reference to the subject matter of the above claimed allegations by Mr Jonas, in his various statement(s) and version(s) to date. My next appearance date is 24 January 2019.

- I depose to this affidavit to give my version of the events both leading up to and during a meeting that was held between the erstwhile Deputy Minister of Finance, Mr Mcebisi Jonas ("Mr Jonas"), Mr Fana Hlongwane ("Mr Hlongwane") and myself on the afternoon of 23 October 2015, first at the Hyatt Hotel in Rosebank, where I met Mr Jonas alone, where after the meeting was moved to the premises situated at No 5 Saxonwold, Drive Gauteng.
- My first interaction with Mr Jonas was to invite him to the South African of the Year awards as I invited various people. He eventually never attended the awards ceremony.
- Mr Fana Hlongwane is an "Uncle" to me, with whom I have a very historical relationship in that I, from time to time would go to him for bun Rumours were surfacing in general that Mr Jonas allegedly claimed that

Hlongwane blackmailed him (Jonas) in some or other manner. These rumours were regarded as very serious.

- When these rumours started to surface, Mr Hlongwane, in discussion with me, decided to set up a meeting with Mr Jonas in an attempt to clear it up, as Mr Jonas also in his discussions with Mr Hlongwane wanted to know from me directly where these rumours were spreading or coming from. Eventually a meeting was arranged for 23 October 2015 at the Hyatt Hotel, Rosebank, at about 13h00/13h30.
- I met Mr Jonas for the first time at the Hyatt Hotel as arranged via telephone discussions/SMS exchanges between us. When I was at the Hyatt Hotel, Mr Hlongwane however telephonically requested us (me and Mr Jonas) for the meeting to be moved to a private venue of our choice, and we accordingly agreed to move the meeting to No 5 Saxonwold Drive, (Gupta Residence). As a consequence Mr Jonas requested to rather travel with me in my car, leaving his bodyguards behind at the Hyatt Hotel.
- I point out that at no stage, since the suggestion was made that the meeting be moved to the Gupta residence, did Mr Jonas either object thereto and/or express any reservations and/or display any discomfort to having the meeting there.
- When we left the Hyatt Hotel, we inter alia stopped to fill up with petrological arrived at the no 5 Saxonwold Drive, Mr Hlongwane more or less arrived same time as we did.

- The meeting took place in the lounge area of the Gupta residence. Present at that meeting was Mr Jonas, Mr Hiongwane and myself. Upon his arrival orders were taken for drinks and refreshments. I mostly played the role of a spectator, and more of a mediator.
- At some stage during this meeting, Mr Rajesh Gupta quickly peered into the lounge where the meeting was held, and called me to him to confirm my availability for a meeting to be held the next day. He did not fully enter the lounge and/or participated in a conversation with and/or introduced himself to anybody at the meeting. He simply called me to him and I stood up and walked towards him, we confirmed my availability and the time for the meeting the next day, where after he left the lounge.
- After the meeting I was required to stay behind to attend further meetings, and a driver took Mr Jonas to where ever he wanted to be. Mr Hlongwane also remained behind with me.
- My observations during the meeting was that both Mr Jonas and Mr Hlongwane ventilated and discussed the rumours of the blackmail allegations, and eventually reached a stage where, although it was not fully resolved, the 'dust settled' between them, so to speak, and they agreed that should any further issues arise, that they would arrange further follow-up meetings in that regard.
- According to my assessment of the meeting, the issue between Mr Hippwane and Mr Jonas was not entirely resolved, but hanged in the air for further of up meetings. I do not know whether or not this dispute between them regarded.



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the claims of the alleged blackmail was ever resolved subsequent thereto, as far as I am aware.

- I further confirm that on this specific day in question, being 23 October 2015, Mr Atul Gupta was not present, as he was, as far as I can recall, overseas. I also confirm that Mr Ajay Gupta was not at the Gupta residence at that time. To the best of my recollection, he was somewhere else or at his office in Sandton. He therefore had no interaction at all with Mr Jonas.
- I categorically state and confirm that during the meeting between Mr Hlongwane and Mr Jonas on 23 October 2015, no discussions were held with reference to the removal of the (then) Minister of Finance, and/or that any offer was made to Mr Jonas to become the Minister of Finance, nor was any monetary offers and/or payment of money, made to Mr Jonas, or any threats uttered towards Mr Jonas by anyone, either as alleged or at all. No other meeting between Mr Jonas and anybody else took place that afternoon, nor was I present or part of such a meeting.
- 18 I did not take Mr Jonas to the airport after the meeting nor did I receive a call from Mr Jonas. I also wish to point out that subsequent to the meeting of 23 October 2015, I informally bumped into Mr Jonas on two occasions, once at the Hyatt Hotel again and once at a Parliamentary event. I can state that on both these occasions we had friendly interactions with each other, and there was no indication whatsoever of any animosity.

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I also need to state that this is the second affidavit I depose to in connection 19 with this incident. I previously deposed to a confirmatory affidavit in response to the application launched by the then Finance Minister, Mr Pravin Gordhan, when he launched a civil application with reference to a declaration order with regard to the bank accounts of the Oakbay Group of Companies. I refer to that confirmatory affidavit in response to the affidavit deposed to by Mr Ajay Gupta himself, the content of which is self-explanatory. As can be seen from that confirmatory affidavit, my version remains the same with reference to the sequence of events and the subject of the meeting of 23 October 2015, before, during and after the said meeting. Unfortunately there was a typographical error with reference to the date in that it incorrectly reflects the date as 25 October 2017 and not 23 October 2015. I was in Table Bay when I was required to depose to that affidavit under time pressures and did not note that the date is incorrect. I emphatically deny the version and sequence of events as set out in the version by Mr Jonas.

DUDUZANE ZUMA

day of September 2018 by the deponent who acknowledged that he knows and understands the contents of this affidavit, has no objection to taking this path considers this path to be binding on his conscience and uttered the following war swear that the contents of this affidavit are both true and correct, so help me and correct, so help me and correct.

COMMISSIONER OF OATHS

Name:

Address:

Capacity

ENOCH MATHAMBOLE (Vice Consul Administration)

SOUTH AFRICAN CONSULATE GENERAL Khand Sm Al Walced Rd New Sharaf Bldg. 3rd Floor BUR - DUBAI - U.A.B.

Commissioner of Oath

South African Consulate General Dubai, United Arab Emirates
SOUTH AFRICAN CONSULATE GENERAL

8 2 SEP 2018

DUBAL





IN THE JUDICIAL COMMISSION OF INQUIRY TO INQUIRE INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR, INCLUDING ORGANS OF STATE

STATEMENT OF RAJESH KUMAR GUPTA IN RELATION TO THE STATEMENT GIVEN BY MR MCEBISI JONAS

I, the undersigned

RAJESH KUMAR GUPTA

do hereby make oath and state as follows:-

- 1 am a major male businessman and investor, a South African Citizen with South African identity number 720805 6345 087.
- 2 The content of this affidavit falls within my own personal knowledge, save where otherwise indicated, and is to the best of my belief both true and correct.
- This statement is made in response to a notice in terms of Rule 3.3 of the Rules of the above Commission of Inquiry, and in particular in response to the statement of the former Deputy Minister of Finance, Mr Mcebisi Jonas, in so terms as he attempts to implicate me in relation to any alleged wrongdoing and that

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I allegedly had a meeting with him on the afternoon of 23 October 2015 at no 5 Saxonwold Drive, making certain offers to him and threatening to kill him.

- I depose to this affidavit with regard to my knowledge of a meeting which was held in the lounge of the residence during the afternoon on 23 October 2015 at No 5 Saxonwold Drive between Mr Duduzane Zuma, Mr Fana Hlongwane and Mr Mcebisi Jonas.
- On 23 October 2015 I was at No 5 Saxonwold Drive attending to other business at the residence. I wanted to enquire as to the availability of Mr Duduzane Zuma on the following day (24 October 2015). I went to the lounge in order to enquire from him on his availability as aforesaid. When I opened the door of the lounge, I saw Mr Duduzane Zuma, Mr Fana Hlongwane and another person, whom I was later told was Mr Mcebisi Jonas.
- I opened the door and stood in the doorway and called Mr Duduzane Zuma over to me and enquired from him about his availability on the following day, where after I left. I did not introduce myself to anybody, nor did I participate in that meeting. I did not have any discussions with Mr Jonas at all. I do not know until what time their meeting lasted. I also did not see him when he left No 5 Saxonwold Drive.
- I have never met Mr Mcebisi Jonas, nor have I ever had any dealings and/or interactions with him, either before 23 October 2015 or thereafter, experior my brief appearance in his presence as set out above.

- 3
- I categorically deny that I had any discussions and/or conversation of any nature whatsoever with that person that I now know to be Mr Jonas on the afternoon of 23 October 2015. I point out that there is no Bar area on the level where the lounge is situated as alleged by Mr Jonas.
- From that which I have stated above, it appears in my view that Mr Jonas has, either of his own creation and/or prompted by others embarked on a process of fabricating a false narrative of myself and/or my brothers in order to make a case of alleged wrongdoing which is the very essence of the inquiry by this Commission.
- 10 It follows that I made no offer of a Ministerial post as described by him, I did not make any offer to him to pay him either R 600 000.00 in cash or offer to pay him R 600 Million in an account of his choice, I did not have any knowledge of any upcoming cabinet reshuffling and/or about Ministers that may be fired and I did not have any influence over the appointment of any members of the national executive nor did I ever had such influence.
- I was the only Gupta brother present at No 5 Saxonwold Drive on the afternoon of 23 October 2015. My one brother, Atul Gupta, was overseas at that time. My other brother, Ajay Kumar Gupta, was, to the best of my knowledge, at his office in Sandton on the afternoon of 23 October 2015. He was neither present at No 5 Saxonwold Drive on the afternoon of 23 October 2015, nor did he attend the meeting between Mr Duduzane Zuma, Mr Fana Hlongwane and the person now know as Mr Mcebisi Jonas at any stage during that afternoon.

- Mr Mcebisi Jonas's claim that he met and had a meeting with Mr Ajay Kumar 12 Gupta and/or me during the afternoon on 23 October 2015 at no 5 Saxonwold Drive, can only be an intentional fabrication of the events during the meeting with the aforesaid individuals that took place that afternoon.
- I was never called by the Public Protector to give evidence in connection with 13 this incident and/or her investigation into State Capture, nor did I attend any hearing(s) before her, or before any other presiding officer in any forum whatsoever.

RAJESH KUMAR GUPTA

I certify that this affidavit was signed and sworn to before me at Dubai on this the 2nd day of September 2018 by the deponent who acknowledged that he knows and understands the contents of this affidavit, has no objection to taking this oath, considers this oath to be binding on his conscience and uttered the following words: "I swear that the contents of this affidavit are both true and correct, so help me God.

COMMISSIONER OF OATHS

ENOCH MATHAMBOLE (Vice Consul Administration)

Name:

SOUTH AFRICAN CONSULATE GENERAL

Khalin Bin Al Walcod Rd New Sharaf Bidg, 3rd, Floor

Address:

BUR - DUBAI - U.A.E.

Capacity

Commissioner of Oath South African Consulate Seneral Dubal, United Arab Emirates

Date: 0.2 SEP 2018

DUBAI





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Straat adres / Street Address: 1st Floor, 308 Brooks Street, Menlo Park, Pretoria, 0184

Telefoon / Telephone: 072 1724 098

Faks / Fax:

086 603 9496

VAN DER MERWE & VAN DER MERWE PROKUREURS / ATTORNEYS

Posadres / Postal Address:

Posbus 628

Cullinan, 1000

OUR REF: PVDM/PO0012

E-pos / Email: pieter@vdmattorney.co.za

YOUR REF: MR B MABUNDA

12 SEPTEMBER 2018

MABUNDA INCOPRORATED

PER E-MAIL: busani@mabundainc.com

Dear Sir.

IN RE: COMMISSION OF INQUIRY - MR MCEBISI JONAS- SUPPLEMENTARY **AFFIDAVITS**

We refer to the above matter and more specifically your letter to us dated 10 September 2018.

Kindly find attached hereto the supplementary affidavits of Mr Ajay Gupta and Mr Rajesh Gupta, for the Chairperson's consideration.

We trust you will find it in order.

Yours faithfully,

VAN DER MERWE & VAN DER MERWE PER: PIETER VAN DER MERWE (signed electronically)

IN THE JUDICIAL COMMISSION OF INQUIRY TO INQUIRE INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR, INCLUDING ORGANS OF STATE

SUPPLEMENTARY STATEMENT OF MR AJAY KUMAR GUPTA IN RELATION TO THE EVIDENCE OF MR MH JONAS

I, the undersigned,

AJAY KUMAR GUPTA

do hereby state as follows:-

- 1 I am an adult male and the facts contained in this supplementary statement fall within my own personal knowledge, save where otherwise indicated or stated, and are to the best of my belief both true and correct.
- I have previously deposed to an affidavit/statement in which I set out my version of the facts in relation to the evidence given by Mr Mcebisi Herbert Jonas with reference to his attempted implication of me of some level of wrongdoing, and by virtue of which affidavit/statement I seek leave to cross-examine Mr Jonas.
- I understand that after presenting argument on my behalf, the issue-has arisen that the Commission may adopt the approach that unless a person, who is



implicated or may be implicated by the evidence given by a witness before the Commission, and who wishes to cross-examine such witness giving evidence before the Commission, undertakes to also give *viva voce* evidence before the Commission in South Africa, the Commission may refuse that implicated person leave to cross-examine the witness.

- I confirm that my attitude in relation to coming to give evidence before the Commission in South Africa is properly set out in my written submissions filed on my behalf and argued before the Commission on 6 September 2018.
- I further confirm that I already deposed to a supplementary affidavit with reference to my application for leave to cross-examine both Ms Vytjie Mentor and Mr Maseko and I incorporate my supplementary version in this affidavit.
- I however want to in addition clarify and reiterate why I am reluctant to come to South Africa at this time and why I do not trust the Hawks and the NPA to treat me fairly and objectively despite their constitutional obligation to do so:-
 - 6.1 They have already demonstrated not to act fairly, objectively and transparently towards me. My attorneys wrote to them on a number of occasions enquiring from them whether or not there is a warrant for my arrest and if so, to provide my attorneys with a copy of the said warrant of arrest together with the affidavit in support of the application for the warrant, as set out in the heads of arguments submitted on my behalf and the annexed correspondence thereto. To date they bluntly refused

to answer objectively and transparently to those simple requests. It should be plain and indisputable that I am entitled to such information.

- 6.2 It appears that despite the various contradictory and insecure versions proffered by Mr Jonas on various occasions and despite the fact that he as recently as 8 August 2018 still adopts the stance that he is in fact uncertain whether he had a meeting with me at all, he still did not lay any criminal charges against me with the South African Police Service (SAPS).
- 6.3 Media reports further suggests that a warrant of arrest has been issued for me due to the allegations levelled against me by Mr Jonas. Having regard to Mr Jonas's apparent confusion on whether he met me or someone else, it just indicates that the NPA and the Hawks will stop at nothing just to have me arrested, doesn't matter how they reach this goal. The Hawks spokesperson also indicated, according to media reports, that if I put one foot in South Africa I will be arrested.
- Despite his versions as aforesaid, it however appears that the Hawks in co-operation with the NPA applied for some or other warrant for my arrest, premised purely on an alleged hearsay affidavit and criminal complaint apparently laid by a DA politician with the SAPS. Premised on this unlawful conduct I am now labelled as a fugitive of justice. This method and conduct clearly demonstrate the unlawful and unfair treatment I am subjected to. I submit that it cannot simply be argued that I have civil remedies at my disposal to sue for damages should be

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subjected to unlawful treatment and incarcerated. There is simply no justification for them to conduct themselves in this fashion.

- I once more make the offer to testify via video conference link. This would not entail an enormous expense, as it could take place with me giving viva voce evidence under the supervision of one or two persons, with the Commission remaining in South Africa. Other witnesses were already afforded such courtesy. To claim that because I am allegedly implicated by any witness and therefore I must appear in person in itself boils down to unequal treatment of witnesses.
- I humbly pray that the Commissioner hears my evidence, so that not only the Commission can achieve its aim, but that I may have an opportunity to clear my name and the name of my family.

THUS DONE AND SIGNED at Dubai on this the 12th day of September 2018.

AJAY KUMAR GUPTA

I certify that this affidavit was signed and sworn to before me at DUBAI, UNITED ARAB EMIRATES, on this the 12th day of September 2018 by the deponent who acknowledged that he knows and understands the contents of this affidavit, has no objection to taking this oath, considers this oath to be binding on his conscience and



uttered the following words: 'I swear that the contents of this affidavit are both true and correct, so help me God.'

COMMISSIONER OF OATHS

Name:

ENOCH MATHAMBOLE (Vice Consul Administration)

Address:

SOUTH AFRICAN CONSULATE GENERAL

Capacity

Khalid Bin Al Walced Rd New Sharaf Bldg. 3rd. Floor

BUR - DUBAI - U.A.E.

Commissioner of Oath

South African Consulate General Dubahutintel ANAMEMENTATION

Date:..... 1.7. SFP 2018......

DUBAL



IN THE JUDICIAL COMMISSION OF INQUIRY TO INQUIRE INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR, INCLUDING ORGANS OF STATE

SUPPLEMENTARY STATEMENT OF MR RAJESH GUPTA IN RELATION TO THE EVIDENCE OF MR MH JONAS

I, the undersigned,

RAJESH KUMAR GUPTA

do hereby state as follows:-

- I am an adult male and the facts contained in this supplementary statement fall within my own personal knowledge, save where otherwise indicated or stated, and are to the best of my belief both true and correct.
- I have previously deposed to an affidavit/statement in which I set out my version of the facts in relation to the evidence given by Mr Mcebisi Herbert Jonas with reference to his attempted implication of me of some level of wrongdoing, and by virtue of which affidavit/statement I seek leave to cross-examine Mr Jonas.
- I understand that after presenting argument on my behalf, the issue has arisen that the Commission may adopt the approach that unless a person who is

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implicated or may be implicated by the evidence given by a witness before the Commission, and who wishes to cross-examine such witness giving evidence before the Commission, undertakes to also give *viva voce* evidence before the Commission in South Africa, the Commission may refuse that implicated person leave to cross-examine the witness.

- I confirm that my stance in relation to coming to give evidence before the Commission in South Africa is properly set out in my written submissions filed on my behalf and argued before the Commission on 6 September 2018.
- I further confirm that I have read the supplementary affidavit of my brother Ajay Gupta and confirm the facts as set out by him in so far as it is also applicable to me.
- I once more make the offer to testify via video conference link. This would not entail an enormous expense, as it could take place with me giving viva voce evidence under the supervision of one or two persons, with the Commission remaining in South Africa. Other witnesses were already afforded such courtesy. To claim that because I am allegedly implicated by any witness and therefore I must appear in person in itself boils down to unequal treatment of witnesses.
- 7 I however need to emphasise a number of points, which are as follows:-
 - 7.1 I have no reluctance whatsoever, and in fact am very keen to in the proceedings before the Commission.



- 7.2 With regard to the evidence of Mr Jonas, it must be clear that my version seriously impugns the reliability, if not the credibility, of that evidence.
- 7.3 Unless my evidence is heard, the Commission might be compelled (there being no counter-veiling evidence) to accept the evidence of Mr Jonas. I humbly submit that this, with respect, will result in the Commission only having one side's version which denies it the ability of uncovering the truth.
- 7.4 That evidence of Mr Jonas, if accepted, would go some way in supporting a thesis that there was indeed some form of State Capture.

 On the other hand, if that evidence is found not only to be untruthful or unreliable, but to have been falsely made up, then such a finding would signal to the Commission that it should look very closely at all other evidence, as there would appear to be a motive to make out a case for State Capture where perhaps none exists. This is entirely plausible, and a possible line of inquiry that the Commission may be driven to undertake.
- 7.5 The view that I take with regard to the competence of the South African Police and the National Prosecuting Authority is that they are at the very least irresponsible in the wielding of their powers. If there was another way of my being able to come to South Africa, and to have been satisfied that I would not be subjected to the abuse of powers wielded by the Hawks and the National Prosecuting Authority, wielded in such a manner as they do at this time, I would have grabbed the opportunity.

I humbly pray that the Commissioner hears my evidence, so that not only the Commission can achieve its aim, but that I may have an opportunity to clear my name to the extent that I may be implicated by Mr Jonas, despite the fact that he appears to be very confused whether or not I had any interaction at all with him.

THUS DONE AND SIGNED at Dubai on this the 12th day of September 2018.

RAJESH GUPTA

I certify that this affidavit was signed and sworn to before me at DUBAI, UNITED ARAB EMIRATES, on this the 12th day of September 2018 by the deponent who acknowledged that he knows and understands the contents of this affidavit, has no objection to taking this oath, considers this oath to be binding on his conscience and uttered the following words: 'I swear that the contents of this affidavit are both true and correct, so help me God.'

COMMISSIONER OF OATHS

ENOCH MATHAMBOLE

Name: (Vice Consul Administration)

Address:

Capacity

SOUTH AFRICAN CONSULATE GENERAL Khalid Bin A: Walced Rd New Sharaf Bldg. 3rd Floor BUR - DUBAI - U.A.E.

Commissioner of Oath South African Consulate General Dubai, United Arab Emirates

SOUTH AFRICAN CONSULATE GENERAL

1 2 SEP 2018

DUBAI





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IN RE: STATE OF CAPTURE COMMISSION

Ex parte Lynn Brown
APPLICANT

NOTICE OF MOTION APPLICATION TO CROSS EXAMINE A WITNESS (MCEBISI JONAS)

PLEASE TAKE NOTE that, on a date and time to be allocated by the Chairperson of the abovementioned Commission, the Applicant, Lynn Brown will, apply for leave to cross examine the witness Mcebisi Jonas who delivered his testimony on the 24th of August 2018.

PLEASE TAKE NOTE that the accompanying affidavit or statement of Lynne Brown will be used in support of this application.

Date at _____ on this the __ day of September2018.



Ms. LYNETTE BROWN

TO

THE STATE ATTORNEY

STATE ATTORNEY
SALU BUILDING

316 THABO SEHUME STREET

PRIVATE BAG X 91

PRETORIA

REF :

MR K I CHOWE

TEL

012 - 309 1562

FAX:

086 507 2194

CELL :

083 527 8921

AND TO

THE CHAIRPERSON OF THE

THE STATE OF CAPTURE COMMISSION

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IN THE STATE OF CAPTURE COMMISSION

Ex parte Lynette Brown

APPLICANT

AFFIDAVIT IN SUPPORT OF APPLICATION TO CROSS EXAMINE WITNESSES GIVING TESTIMONY AT THE STATE OF CAPTURE COMMISSION

I, the undersigned,

LYNETTE BROWN

declare under oath as follows:

 I am an adult person, having served as an MPL, MP and various public office bearer positions in various contexts for the last 24 years, on behalf of the African National Congress.
 I retired on 27 February 2018, and I am now retired.

- The facts contained herein fall within my personal knowledge, unless the context indicates otherwise, and are both true and correct.
- 3. I have listened to the evidence adduced by Mr. Mcebisi Jonas "Mr. Jonas" on the 24th of August 2018. For reasons that I outline below, I depose to this affidavit in application for leave to cross examine the witness Mr. Jonas.

Introduction

- 4. I have had the privilege of serving as the Minister of Public Enterprises at the behest of the former President, Jacob Gedleyihlekisa Zuma from May 2014 to February 2018
- 5. In that capacity I as the Executive Authority, had oversight over 6 state owned entities, namely; Eskom, Transnet, Denel, Alexkor, Safcol and S.A. Express. Initially, I also had SAA but the President moved it to National Treasury in December 2015.
- For reasons outlined by my legal representative on Monday 20
 August to the Chairperson, I have a direct and substantial

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interest in this matter. For current purposes, I need not repeat them here.

- 7. I must point that for this session, I have not been served with a Rule 3 Notice. I have also not received, even to date, any statement by any witness. This has hampered my preparation and forced me and my legal representatives to fly in the dark, as it were, without radar regarding which witnesses were going to implicate me.
- 8. As at the hearing of the evidence of Mr. Jonas' testimony, my legal team and I had not received the statement of Mr. Jonas nor the statements of other witnesses irrespective of my having notified the Commission of my interest and role before it as far back as 4th June 2018 through a letter attached hereto marked "A". I haven't even received any notification advising me that I was going to be implicated by Mr. Jonas or any other witness' testimony.

Motivation

- As it turned out, the evidence of Mr Jonas on the 24th of August 2018 mentioned my name.
- He testified that during the alleged meeting of 23rd of March 2015, at Saxonworld, in the presence of Duduzane Zuma and

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Fana Hlongwane, Mr Gupta exhorted to him that they (presumably the Guptas and cohorts) have "people [they] work with", they "work with Lynne Brown".

- 11. These utterances implicate me. At face value they come across as an innocuous, hearsay utterance by a third party.
- 12. I, however, opine differently. This, for me may be seminal seed upon which further insinuations and allegations against me may be built. This anxiety is amplified by the fact that Mr. Jonas has further testified that cabinet was hostile to Treasury. Consequent upon that, the Chairperson has asked him to reflect on this and return with fuller details, which, I presume will include individuals' names possibly including my name as well.
- 13. I do not know whether my name will emerge there from, nor do I wish to speculate. I do however wish to be in a position to cross-examine him and any other witness should my name somehow emerge.
- 14. In a word: his testimony so far, may appear innocuous now, as I have already alluded, but may later as the further evidence unfolds before the commission prove to be insidious. His anticipated outstanding testimony magnifies this.





- 15. If I am not allowed the opportunity to cross- examine now, I will be gravely prejudiced later when Mr. Jonas and any other further witness is no longer available.
- 16. In the premises, I humbly request that I be granted leave to cross-examine Mr. Mcebisi Jonas and any other witness that may possibly implicate me in wrongdoing of any kind.

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I certify that the deponent acknowledged that she knew and understood the contents of the above declaration that I duly administered the oath as prescribed by Regulation No. R 1258 of the 21st July 1972, and that thereafter the deponent in my presence signed the declaration at ______ on this the

COMMISSIONER OF OATHS

Full Names:

Designation:

Business address:

Page 5 of 5



Adv. S. M. Lebala SC

Suites 2-3 & 2-T6, 2nd Floor The Club Advocates Chambers 30 Pinaster Avenue Hazelwood Pretoria, 0081

Tel: 012-947 9231 / 9203

Cell: 082 557 2710 P/A Cell: 0730861900

Email: simmyleb@law.co.za P/A: lebalasec@law.co.za



04th June 2018

TO

THE JUDICIAL COMMISSION OF INQUIRY INTO

ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF

STATE "THE COMMISSION"

C/O :

THE CHAIRPERSON

HONOURABLE MR. JUSTICE R ZONDO

CC

EVIDENCE LEADERS

ADVOCATE PAUL PRETORIUS SC

EMAIL:

ppretorius@counsei.co.za

Dear Honourable Justice Zondo et al

RF

INTRODUCTION OF THE LEGAL TEAM REPRESENTING THE FORMER EXECUTIVE AND POLITICAL HEAD OF THE DEPARTMENT OF PUBLIC ENTERPRISES, IE, MS. LYNNE BROWN / ADV. S. M. LEBALA SC

1.1 The above subject refers.

1.2 Kindly be advised that I will be representing former Minister Brown before your august Commission.

Currently, I am finalising the composition of Minister Brown's legal team and hope to team up with the Commission's evidence leaders and investigators in thudding ahead with the Commission's seminal prodigious assignment

Our team will be reaching out to you in the coming weeks to establish a working relationship inasfar as exchange of documentation, detail, information, witnesses including but not limited to collection of evidence is concerned. The importance of witnesses the Commission will be consulting with including documentation, detail and information in possession of such witnesses would greatly assist to facilitate

Accredited Mediator and Arbitrator, Corporate work, Constitutional Litigation and Administrative Law, Alternative Dispute Resolution Practitioner and General Litigation and

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a common synergy that has to be created with Ms. Brown's legal team. On behalf of Ms. Brown's legal team, I undertake to do the same with the witnesses we will be consulting with and the documentation we will be coming into possession of. I am confident that if we share the same approach of establishing veritable facts and evidence before the Commission such an approach would assist the Commission to effortlessly discharge its important constitutional mandate.

- Our team undertakes to prepare the witness statement of Ms. Brown that will be provided to the evidence leaders as soon as it's ready. Equally important, our team also undertakes to prepare statements of other witnesses we will be consulting with inasfar as Ms. Brown's role before the Commission is concerned. We also offer Ms. Brown to consult with your evidence leaders if practical, convenient and necessary. You will agree with me that our team has to be present during such a consultation. Needless to rehash the fact that Ms. Brown will definitely have to consult with the evidence leaders and investigators if need be, we undertake not to interfere with this function.
- 1.6 Our team further requests timeous notification of the evidence leaders' consultations with various witnesses if practical, convenient and favourable. In my considered view, such an approach would certainly simplify preparations, in particular analysis of documentation and evidence leading to testifying by such witnesses. Please do not view this request and such an approach as interfering with the evidence leaders' and investigators' critical roles.
- 1.7 Our team does not intend elevating the role played by Ms. Brown as the former executive and political head of the Department of Public Enterprises to be more important than that of other important witnesses who will be appearing before the Commission. This is so as we consider the role played by other former executive and political heads prior to Ms. Brown together with their accounting officers and officials as equally significant if not more important.
- We would also appreciate an updated timetable as to when you will be consulting with witnesses from state owned companies of the Department of Public Enterprises. You will agree with me that permitting Ms. Brown's team to consult with such witnesses would make the task of leading such witnesses' evidence before the Commission practical, efficient, effective and resourceful. I add in parenthesis that such consultations need not be held in the presence of Ms. Brown's legal team if this would occasion delays and/or amount to interference in preparing such witnesses. Honestly speaking, I do not see how this would amount to interference including occasioning delays. We would appreciate if such witnesses are also offered to us for purposes of consulting with them to enable our team to be fully prepared. We would also



appreciate the timeous exchange of documentation, detail and information to enable us to be fully prepared.

Finally, I humbly exhort that the requests made in this regard should not be viewed as interfering and/or dictating and/or undermining the evidence leaders' competencies and capabilities. May the record reflect that, I believe and have confidence in the competency and the capability of the evidence leaders. All that I am requesting is to assist Ms. Brown's legal team to make proper and full preparations including a full exchange of documents, statements, detail our team to discharge each others' functions smoothly to the Commission.

1.10 I await your speediest positive response.

Sincerely

Adv. S. M. Lebala SC





JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE

2nd floor, Hillside House 17 Empire Road, Parktown Johannesburg 2193 Tel: (010) 214 to 0651

Email: inquiries@sastatecapture.org.za Website: www.sastatecapture.org.za

INDEX: EXHIBIT LL 2

#	Description	File	Pages
2.	Mxolisi Dukoana	(c)	01 to 30



IN THE COMMISSION ON STATE CAPTURE HELD IN JOHANNESBURG

EVIDENCE OF:

MXOLISI DUKOANA

AFFIDAVIT/STATEMENT

I, the undersigned,

MXOLISI DUKOANA

do hereby make oath and say:

A. INTRODUCTION

- I am a deponent to this affidavit/statement and reside at 14 Ras Street,
 Riebeeckstad, Welkom, Free State.
- 2. The principal object of this affidavit is to tender evidence to the best of my ability and recollection about the state capture activities that I encountered during my

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tenure as a public representative deployed to the provincial legislature by the African National Congress ("the ANC").

- 3. I have deemed it appropriate to render assistance to the Commission on State Capture ("the Commission") in respect of the activities that I have encountered during the period I was an elected public representative on behalf of the ANC in the Free State legislature and as a member of the Executive Council in the Free State government. During the said period, 1994-2012, I was assigned to different positions both in the legislature and executive.
- 4. Prior to the historic first national elections on 27 April 1994, I was a political activist or freedom fighter and a member of the ANC. To this day, I remain a loyal and disciplined member of the ANC at Ntema Moiloa branch, Ward 10, Matjhabeng Local Municipality¹, Lejweleputswa region, Free State.
- 5. The facts set out in this affidavit/statement are within my personal knowledge and belief, unless stated otherwise or the context of what I declare makes the contrary apparent, and are to the best of my knowledge and belief both true and correct.
- To the extent that I make submissions of a legal nature in this affidavit/statement, I
 do so on the basis of the counsel obtained in the course of preparation of this

D.M

¹ The said municipality includes Allanridge, Odendaalsrus, Welkom, Virginia, Hennenman, Ventersburg.

affidavit/statement from my legal representatives, and which counsel I verily accept to be the correct legal position.

- 7. At the onset, I must state that the activities I catalogue in this affidavit/statement occurred some moons ago and with the passage of time, and the failure by the Free State government to furnish me with documents I requested in my Anton Piller application, some activities may not be supported by documentary proof. For that, I implore the Commission to ensure that the documents I need are duly furnished to me to advance the Commission's constitutional mandate.
- 8. I have structured this affidavit/statement in the following sequence:
 - 8.1. Academic qualifications;
 - 8.2. Membership of the ANC;
 - 8.3. Positions in government and legislature;
 - 8.4. Documents discovered in an Anton Piller application; and
 - 8.5. Conclusion.

B. ACADEMIC QUALIFICATIONS

 I completed my Secondary Teachers Diploma, at Mphohadi College of Education in Kroonstad in 1985 and commenced teaching at Rearabetswe Secondary School

D.M DM

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(Rearabetswe) at Kutloanong, Odendaalrsus until 1993. I taught English and Geography during my teaching career.

- 10. As an activist, I became a member of the National Education Union of South Africa² (NEUSA) actively involved in establishing and building the South African Democratic Teachers Union (SADTU) locally, regionally and provincially in the Free State.
- I have studied for other qualifications but due to work pressures, I was unable to complete them.

C. MEMBERSHIP OF THE ANC

- 12. In the mid 80s, I was a member and chairperson of a vibrant and active Kutloanong Youth Congress which later became the South African Youth Congress (SAYCO), Kutloanong branch. The national President of SAYCO at the time was the late Comrade Peter Mokaba. As we know, the late Mr Peter Mokaba was duly elected President of the ANC Youth League.
- I was part of the SAYCO leadership which was instrumental in the establishment of Kutloanong Civic Association ("KCA"). The KCA was a civic movement whose

D. I. M

² NEUSA, now defunct, was instrumental in the establishment of SADTU in the country.

principal object was to actively pursue the civic struggles encountered by the community of Kutloanong township.

- 14. After the unbanning of the ANC in 1990 and the release of political prisoners coupled with the return of exiles, the ANC established structures locally, regionally and nationally. At the time, the ANC had two regions in the Free State: Southern and Northern.
- 15. I was elected the first Regional Chairperson of the Northern Free State region in the period of 1990-1991. And between 1991 until 1994, I served as a Deputy Chairperson of the said region, under the chairpersonship of the late Comrade Sefofane Khunyeli (1991-1992) and Comrade Ace Magashule ("Magashule") (1992-1993 and 1993-1994).
- 16. After 1994, the ANC established provincial structures and the two regions in the Free State were duly dissolved and replaced by the current regions in line with the demarcation process.
- 17. With the establishment of the provincial structures, the Provincial Executive Committee ("the PEC") were established by the ANC's Constitution. In this regard, I was elected as a PEC and the Provincial Working Committee ("the PWC") member until 2012.

D. W.

- 18. I served two terms as the provincial Treasurer of the Free State ANC from 2005 to 2012. By virtue of being an official of the PEC, I also served as a PWC member.
- 19. It is apt to highlight that during the period as the Treasurer, I also served as a member of the ANC Deployment Committee ("Deployment Committee") in the Free State. The Deployment Committee was chaired by the Provincial Chairperson of the ANC which was Comrade Magashule.
- 20. To my recollection, the principal object of the Deployment Committee is to deploy to the provincial government and municipalities identified persons to strategic positions at the executive and management levels. Deployments to boards of provincial and municipal entities would also be discussed and decided by the Deployment Committee.

D. POSITIONS IN GOVERNMENT AND LEGISLATURE

21 . At the end of the academic year, December 1993, I tendered my resignation as a teacher at Rearabetswe. The chief reason for my resignation was to focus my utmost attention to the electioneering campaign for the ANC in the province. As adverted above, during the said period I was Deputy Regional Chairperson of the Northern Free State and prudence and conscience dictated that I focus my undivided attention to ensuring that the ANC in the province emerges victorious at

D.M

the first democratic polls. It was clear that public office was my destination and it would have been remiss of me not to resign.

- 22. After 27 April 1994 first democratic elections, I was deployed by the ANC to serve as a member of the Free State Legislature. I was appointed Chief Whip of the ANC in the legislature and also served as the Reconstruction and Development Commissioner ("RDP Commissioner") until 1996.
- 23. In 1996, the ANC deployed me to serve as a Member of the Executive Council ("the MEC") responsible for Education in the province under the Premiership of Dr Ivy Matsepe-Cassaburi. I served as the MEC until 1998.
- 24. Following the 1999 until 2004 general elections, I was deployed by the ANC as a Deputy Speaker of the Legislature. From 2004 to 2008, I was the Speaker of the legislature.
- 25. From 2008-2009, I was deployed as the MEC responsible for Safety, Security and Transport under the Premiership of Ms Beatrice Marshoff. On or around November 2008, there was a cabinet reshuffle and I was deployed as MEC for EDTEA. During the said period, I was appointed to act as the MEC for Education following the resignation of Mr Casca Mokitlane who had joined a newly established political party, Congress of the People ("COPE").



- 26. Following May 2009 general elections, I was deployed as the MEC for Economic Development, Tourism and Environmental affairs under the Premiership of Magashule.
- On 28 February 2012, I was dismissed as the MEC for Economic Development,
 Tourism and Environmental Affairs by Premier Magashule for reasons I would detail below.
- 28. Following my dismissal as the MEC, I was an ordinary member of the legislature. I was not allocated to serve in any portfolio committee in the legislature. Neither was I allocated an office space to work from. My access to the offices in the legislature were restricted for reasons unknown to me. I must state that I had brought my plight to the attention of the Chief Whip of the legislature at time to no avail.
- 29. In the circumstances of being rendered unable to perform my duties as a deployee of the ANC and unduly earning a state salary, I deemed it apt to resign as a member of the legislature.
- 30. My appointment as executive authority as adverted above was at all material times consistent with s 132 (2) of the Constitution of the Republic, 1996 ("the Constitution") and was duly made by the Premier of the Free State, after national and provincial elections.



- 31. As a Speaker of the Provincial Legislature, my election was in terms of s 111(1) of the Constitution.
- 32. In my capacity as the executive authority of the department as defined by s 1 of the Public Finance Management Act 1 of 1999 ("the PFMA"), as amended, my official duties and responsibilities were sourced in ss 63, 64 and 65 of the PFMA. The said sections are found in Chapter 7 of the PFMA and for ease of reference, they provide as follows:

"EXECUTIVE AUTHORITIES

- 63. Financial responsibilities of executive authorities. —
- (1) (a) Executive authorities of departments must perform their statutory functions within the limits of the funds authorised for the relevant vote.
 - (b) In performing their statutory functions executive authorities must consider the monthly reports submitted to them in terms of section 39 (2) (b) and 40 (4) (c).
- (2) The executive authority responsible for a public entity under the ownership control of the national or a provincial executive must exercise that executive's ownership control powers to ensure that that public entity complies with this Act and the financial policies of that executive.
- 64. Executive directives having financial implications.__



- (1) Any directive by an executive authority of a department to the accounting officer of the department having financial implications for the department must be in writing.
- (2) If implementation of the directive is likely to result in unauthorised expenditure, the accounting officer will be responsible for any resulting unauthorised expenditure unless the accounting officer has informed the executive authority in writing of the likelihood of that unauthorised expenditure.
- (3) Any decision of the executive authority to proceed with the implementation of the directive, and the reasons for the decision, must be in writing, and the accounting officer must promptly file a copy of this document with the National Treasury and the Auditor-General, and if a provincial department is involved, also with the relevant provincial treasury.

65. Tabling in legislatures. —

- (1) The executive authority responsible for a department or public entity must table in the National Assembly or a provincial legislature, as may be appropriate—
 - (a) the annual report and financial statements referred to in section 40 (1) (d) or 55 (1) (d) and the audit report on those statements, within one month after the accounting officer for the department or the accounting authority for the public entity received the audit report; and



- (b) the findings of a disciplinary board, and any sanctions imposed by such a board, which heard a case of financial misconduct against an accounting officer or accounting authority in terms of section 81 or 83.
- (2) If an executive authority fails to table, in accordance with subsection (1) (a), the annual report and financial statements of the department or the public entity, and the audit report on those statements, in the relevant legislature within six months after the end of the financial year to which those statements relate—
 - (a) the executive authority must table a written explanation in the legislature setting out the reasons why they were not tabled; and
 - (b) the Auditor-General may issue a special report on the delay."
- 33. It is apt to confirm that prior to assuming my duties and responsibilities as the MEC, I took the oaths consistent with s 135 of the Constitution and in accordance with Schedule 2.

VISIT TO SAHARA OFFICES

34. On or about February 2008, whilst I was both the Treasurer and MEC for Safety, Security and Transport, I happened to be in Johannesburg. I must state that Magashule who at the time was the MEC for Sport under Premiership of Ms Beatrice Marshoff, also happened to be in Johannesburg. Magashule was the Chairperson of the ANC in the province.

- 35. In Johannesburg, I was meeting a person at the Southern Sun Hotel, Kathrine Street, Sandton. Coincidentally, after my meeting at the said hotel, Magashule approached me and asked me to accompany him to Midrand to meet some other important person.
- 36. Magashule and I drove in the same vehicle (S 600 Mercedes Benz) to Midrand and we arrived Sahara offices. Magashule was driving. I am not certain whether the vehicle he was driving belonged to him or to someone else. At Sahara offices, we were welcomed by a gentleman who introduced himself as Rajesh Gupta, commonly known as Tony (for ease of reference I shall throughout refer to him as Tony).
- 37. Tony took us through their offices and in the main the computer warehouse and he narrated to us the history of their computer business.
- 38. Tony then asked Magashule if he brought "that" with him, to which Magashule handed to Tony a copy of his identity document. Tony mentioned that he was going to make a copy of Magashule's identity document. As soon as Tony left to make a

D.M.

- copy, Magashule then intimated to me that he was going to be involved a business relationship with Tony.
- Further, Magashule pointed out that he was not going to be actively involved in the said business relationship but his son, Tshepiso Magashule was going to be the one involved.
- 40. Tony came back and handed Magashule his identity document and jokingly asked if I had my identity document with. We laughed and Tony walked us out back to the car and we left.

TRIP TO INDIA

41. On or about 11 May 2009, Mr Magashule, Premier of the Free State, appointed me in terms of s 132(2) of the Constitution as the MEC of the department and I was sworn in on 12 May 2009 together with nine others. For ease of clarity, s 132 of the Constitution provides as follows:

" 132 Executive Councils

(1) The Executive Council of the province consists of the Premier, as the head of the Council, and no fewer than five and no more than ten members appointed by the Premier from among the members of the provincial legislature.



- (2) The Premier of a province appoints the members of the Executive Coucil, assigns their powers and functions, and may dismiss them."
- 42. During my tenure as MEC for Economic Development, Tourism and Environmental Affairs (EDTEA) (2009 to 2012), I had presented on or around that period a concept document detailing the establishment of an information technology hub in the Free State around the Gold fields area. The concept was conceptualised by the Central University of Technology ("the CUT") under Prof Thando Mthembu ("Prof Mthembu") and it was to be executed in conjunction with the CUT.
- 43. Prof Thando Mthembu was the Vice-Chancellor of the CUT during the said period and I am informed he holds the same position at the Durban University of Technology in Durban. My legal representatives have been able to get hold of Prof Mthembu and he has expressed his desire to be of assistance to the Commission and the Commission's investigators are aware of the same. For ease of reference, I annex hereto marked "DM 1" a copy of an email correspondence between my legal representatives and Prof Mthembu.
- 44 . In this regard, Prof Thando Mthembu and I traveled to India on a study tour. Prof Mthembu had arranged with a university in India to partner with CUT for the same initiative. We were accompanied by other officials both from the provincial government and the CUT whose names I cannot recall (Mr Thabo Makoe, an Advisor in my office could have travelled with me. I stand to be corrected).

D.M.

45. I must state that nothing positive came out of the India trip with Prof Mthembu safe to say during our meetings in India, as part of the contemplated partnership, persons purporting to represent the India institution wanted guarantees that they would obtain IT work from the provincial government. I refused to bind the department and the provincial government. The meeting collapsed and we returned back to South Africa. The bill for my travel to India was paid for by the Free State government or from its coffers and it should have all requisite details.

VISIT TO THE GUPTA COMPOUND

- 46. As stated above, I was the Treasurer of the ANC in the Free State whilst I was MEC for EDTEA. Early February 2012, the Chairperson of the ANC and Premier of the Free State, Magashule asked me to travel with him to Johannesburg. The reason for traveling to Johannesburg was on the pretext that I was going to meet and address the business people in Johannesburg. In essence, Magashule informed me that as the Chairperson of the ANC, he needed me to address the business people for purposes of fundraising for the ANC in the province. According to Magashule, the business persons I was to address were originally from the Free State but operating in Gauteng.
- 47. We traveled to Johannesburg by flight, SA Airlink, and the arrangements were made on my behalf by Magashule or whoever he instructed and not my office. Magashule



and I were on the same morning flight from Bloemfontein to Johannesburg. Magashule had told me the dinner with business persons I was to address was to be around 18:00. There was no reason provided to me by Magashule why we were leaving for Johannesburg that early when dinner was apparently scheduled at 18:00.

- 48. On arrival at OR Tambo airport, we were shuttled in different cars by persons unknown to me and not by the VIP Unit of the South African Police Service as the protocol dictates.
- 49. I was startled when we arrived at the Gupta family residence. I was able to identify it as such because it is the same "compound" that has been on the news pertaining to the high walls apparently built contrary to the By-laws of the City of Johannesburg.
 I recall at the time, a Democratic Alliance Ward Councillor had complained about the high walls of the residence. At the time, there were two dominant topical issues in the media: the landing of the helicopter at Zoo Lake and the construction on the compound that caused the neighbours' uproar.
- 50. On arrival, at the compound we were received by Tony who introduced himself to me as such. It appeared to me he had not recognised that we were not meeting for the first time. We had met at Sahara as adverted above.
- 51. I was asked by Tony to hand in my mobile phone and told that I will receive it when I leave the residence. The said phone was an official government phone. I obliged.

To my recollection and astonishment, Magashule was not subjected to the same treatment of having to hand in his mobile phone. It seemed to me that it was not Magashule's first visit to the compound by his demeanour.

- 52. I was alone ushered to a room whilst Tony and Magashule went to a different room.
 After a while, they joined me and accompanied by other people and the notable was
 Mr Duduzane Zuma.
- 53. Tony, in the presence of Magashule, asked me to sign a document purportedly prepared by me on the letterhead of my office addressed to Nulane Management Services appointing them to run a whole project I presented in the cabinet meeting on a turn-key basis. I refused to append my signature.
- 54. In the said letter, my surname was written as Dukoana, and only Magashule knew that is how my surname is written because I always preferred and wrote it as Dukwana. Dukoana is a Sesotho version of my otherwise Xhosa surname.
- 55. In an effort to try to persuade me to append my signature to the said letter, Tony intimated to me that both Magashule and Duduzane Zuma were recipients of monies in cash from a mining project from Jaggersfontein mine. Neither Magashule nor Duduzane Zuma disputed Tony's claim. They both nodded their heads in agreement.

D.M

- 56. Further, Tony told me that Magashule would not benefit from the project because it belonged to me and him (Tony). Magashule did not dispute Tony. From this project, Tony told me that I would receive a monthly payment of R 2m (two million rands). I was told by Tony that if I appended my signature at the time, an instant payment of R2m would be given to me. In this regard, a gentleman of Indian descent was called by Tony and Tony whispered something words in the language unknown to me. The gentleman left the room and came back with a black pilot bag. The same bags frequently used by lawyers.
- 57. I still persisted that I cannot sign the document to which Tony said that he had spoken to Magashule that upon my signature, the provincial cabinet would ratify the appointment. Tony then opened the pilot bag which was full of R200 South African banks notes stating that the money was mine if I signed the document. I still refused to sign.
- 58. I went to the extent of suggesting that it would be prudent that the letter I was being compelled to sign should be referred to Mr Venter, Provincial Legal Advisor in the Office of the Premier to give a legal opinion about the legality of the contemplated appointment.
- 59. After that suggestion, Magashule mumbled something to Tony, to which Tony asked that I give him back the letter. I had intended to keep the letter to refer it to Mr Venter.

- or address any correspondence to it. Only the Head of the Department ("the HOD") had such powers in terms of the PFMA. Tony was not pleased. He asked me to fire my HOD and I told him in the presence of Magashule that in terms of the law, a provincial HOD can only be employed and dismissed by the Premier following a due process. (It must be mentioned that during my stint as the MEC for Economic Development, Tourism and Environmental Affairs (2009-2012), approximately four persons were appointed as HODs in the said department.)
- Tony, then told me that he had a suitable replacement for me and a phone call was made by him and in no time, a gentleman came through. He was then introduced to me as Richard Seleke and as the one who would help speed up the appointment process. Mr Richard Seleke was eventually appointed as the HOD of the department long after my dismissal.
- 62. I verily believe that this is the same Richard Seleke who ended up being employed as the Director-General for the Department of Public Enterprise.
- 63. The meeting in issue took place towards the on or around mid-February 2012 and I am not certain about the dates.

D.M

³ Mr Thabo Khunyeli, Dr Mongake, Mr Ramaema and Mr Osman

- 64. At the end of the meeting with Tony which I was not initially informed of by Magashule, I called my office to arrange for my flight back to Bloemfontein. I was transported back to the airport by the same person and I flew back to Bloemfontein having left Magashule at the compound.
- 65. To me it was also clear in my mind that the purported fundraising dinner meeting I was informed of was the visit to the compound intended and calculated by Magashule to have me initiated as one of the Gupta disciples had I appended my signature to the letter referred to above.
- 66. I remain startled to this day as to why the presentation I made in the executive council, its details ended up outside persons who were not in government. I can only deduce that Tony possibly received the details of my presentation from Magashule.

 I cannot rule out the possibility that Magashule might have instructed someone else to furnish Tony with the said presentation.
- 67. I was also startled that the Premier of the province brought me to the Gupta compound with a sole intention of corruptly and unlawfully advancing commercial interest of the Guptas. I am not sure why Magashule deemed it apt and under a false pretext to bring the name of the ANC to a corrupt activity when he knew the ANC has nothing to do with the appointment letter, I was expected to sign for a Gupta linked company.

- 68. This incident occurred seven or so years ago and with the passage of time, it is difficult to recall every detail with precision.
- 69. As a law-abiding citizen of the Republic, I am duty bound to be of assistance to the Commission to ensure that never again shall this land be subjected to acts of state capture by those entrusted to protect the Constitution of the Republic and its resources.
- 70. In pursuit of obtaining requisite information from the provincial government, on the advice of my legal representatives, I approached the High Court in Bloemfontein in October 2018, by way of an Anton Piller application. The principal reason for the said application was to ensure that I render credible assistance to the Commission and the documents are preserved. I must state that the said application was drafted on an urgent basis and it explains why certain pertinent aspects contained in this affidavit/statement are missing in the founding and answering affidavits of the said application.
- 71. I am advised that Van Zyl J, after hearing arguments from Counsel on 28 October 2018, intimated that she will prioritise the judgment in the said application. At the time of the finalisation of this affidavit/statement, which is four months later, the Learned Judge had not handed down the judgment or informed parties by when she will hand down the judgment.



E. DOCUMENTS DISCOVERED IN AN ANTON PILLER APPLICATION

- 72. A cabinet memorandum bearing reference no: 69/2011 with a subject: City for Tomorrow Concept, signed on behalf of Ms Elzabe Rockman, Director-General in the Premier's Office on 4 July 2011. On the same date, Mr PHI Makgoe was acting in my stead.
- 73. There was a draft resolution which was Annexure A of the memo referred to in para 72. Para 1(b) of the resolution makes reference to a "data centre". I annex hereto marked "DM 2" a copy of the said memo.
- 74. The memo was accompanied by a presentation from P3i and Nulane. For ease of reference, I annex hereto marked "DM 3" a copy of the said presentation. Mr Iqbal Sharma ("Sharma") is one of the persons I met at the Gupta compound.

CITY FOR TOMORROW

75. On 6 July 2011, two days after the cabinet deliberated on the City for Tomorrow concept, Sharma directly addressed an email to me into my private email account at 14:19 asking for my comments. I annex hereto marked "DM 4" a copy of the said email.



- 76. On the said email, Sharma had attached a "Master Plan Agreement in relation to the City for Tomorrow project. For ease of reference, the said document is annexed and marked "DM 5".
- 77. Strangely, the said concept was also known to Tshepiso Magashule, a son to Magashule. On 25 February 2011, Tshepiso Magashule addressed an email to me at the request of Sharma. The latter requested Tshepiso Magashule to email what is called a "Free State Letter" to me. For ease of reference, I annex hereto marked "DM 6" a copy of the email on 25 February 2011, "DM 7" being an email from Sharma to Tshepiso Magashule dated 24 February 2011 and "DM 8" being a copy of the "Free State Letter"-an attachment to both emails.
- 78. In the Free State letter, it would be noted that both P3i and Nulane had indicated that the expenses for the Master Plan would be borne by them respectively. But on a date, I cannot recall, a letter from both companies prepared for me to address and sign to them authorising payment of approximately R 140 m to be paid to them in six instalments. I annex hereto a copy of the said letter marked "DM 9".
- 79. On 13 October 2011, Sharma emailed me requesting assistance to coordinate a two-day workshop session with relevant HODs and other stakeholders for purposes of the project in issue. I annex hereto marked "DM 10" a copy of the said email. On the said email, one Mr Salim Essa was copied.



- 80. On 29 October 2011, Sharma addressed an email to me regarding what he called Notice to Proceed. I annex hereto marked "DM 11", a copy of the said email.
- 81. Attached to the email of 29 October 2011, was the Notice to Proceed, which appears to be a letter drafted on my behalf. It was intended that I put the said letter on the letterhead and duly transmit it as requested. I do not recall ever signing the said notice. Certainly, I did not draft it. Neither was any official in my office. I annex hereto marked "DM 12" being a copy of the notice.
- 82. On 31 October 2011, I copied the email and notice to Ms Nono Malgas (she was Head of My Office). Her full names are Judith Anne Paballo Malgas. Otherwise, she is known as Nono Malgas. For ease of reference, I annex and mark as "DM 13" a copy of the email I forwarded to Ms Nono Malgas.
- 83. With the assistance and advise of my legal representatives, I was able to retrieve all the emails highlighted from my private email account. It is possible that there are emails from my official account when I was MEC. I am advised that the Commission, with the assistance of the relevant experts would be in a position to retrieve additional correspondences regarding the City for Tomorrow. The Commission would also find it prudent to retrieve the emails from Ms Nono Malgas to corroborate my evidence.

D.M.

- 84. On 2 January 2012, Sharma addressed an email to the HOD of my department at the time, Mr Ozzie Osman. The said email was also copied to Ms Nono Malgas. The contents of the email are self-explanatory. I annex marked "DM 14" a copy of the said email.
- 85. The contents of the email are threatening and undermining the legal and official authority of the HOD. Reference is made in the said email to an agreement I purportedly executed. The said agreement had been emailed to me and I refused to append my signature on it. It is annexure "DM 5".
- 1 have no further details of whether the Free State government ever paid any money towards this project. I am advised that for details, the Commission would have to investigate if ever there was any payment made to P3i and Nulane. It would also be prudent for the Commission to request Mr Ozzie Osman to provide details of what he knows about the project.

DISMISSAL AS MEC

87 . On 28 February 2012, whilst I was in Johannesburg on government business, I learnt through the media that I have been fired by the Premier. To my knowledge, the cabinet reshuffle was never discussed at any Deployment Committee I was part.



- 88. I verily believe that I was fired as MEC for refusing to approve and cooperate with the P3i and Nulane in common purpose with Magashule to loot the state resources to advance commercial interests of the Gupta family through state capture.
- 89. To date I find it startling how persons outside government knew of the data hub my department had proposed in a cabinet meeting. Even startling is the involvement of Tshepiso Magushule in this project directly or indirectly.
 - 89.1. Did the Gupta family members had access to letterheads of Free State government including that of my office?
 - 89.2. Who authorised this?
 - 89.3. Who invited P3i and Nulane to make a presentation at the cabinet meeting?
 - 89.4. Why did Magashule take me to the Gupta compound?
 - 89.5. Those are questions I leave to the Commission to investigate.

D. W

TRIP TO NKANDLA

- 90. After May 2009 elections and upon my appointment to the executive, all MECs together with the Premier traveled to Durban. On the following day, we were all driven in a minibus to Nkandla to Mr Jacob Gedleyihlekisa Zuma's residence. The purpose for the said trip was to pledge support to the President at the time and profusely thank him for appointing Magashule as Premier of the Free State.
- 91. The said trip was organised by Magashule and the Pillay Bothers. It is the Pillay Brothers who led our minibus from Durban to Nkandla.
- 92. In 1994, after the first democratic elections, the Pillay Brothers had transported five officials⁴ of the Northern Free State region to Wildcoast. The expenses for the entire trip were paid by the Pillay Brothers.
- 93. During Magashule's tenure as MEC for Sport in the province, Pillay Brothers scored contracts amounting to millions. When Magashule was fired by Premier Mosioua Terror Lekota (now leader of COPE), the Pillay Brothers were not rendering any services to the said department.

⁴ Chairperson Magashule, Deputy Chairperson Dukwana, Secretary Pat Matosa, Deputy Vax Mayekiso (deceased) and Treasurer Tate Makgoe (current MEC for Education in the Free State)

- 94. In 2009, following Magashule elevation as Premier, Pillay Brothers re-emerged. I call on the Commission to investigate contracts the said brothers had with any department in the Free State.
- 95. On my second appearance to the Commission, I would elaborate in detail how the Free State government was captured together with municipalities.

F. CONCLUSION

- 96. I am aware that the evidence or the contents of my affidavit do not have precise dates in certain incidents referred to above. That is due to the fact that I have not been afforded requisite information to be of assistance to the Commission. I verily believe that the information I require to provide sufficient particulars of the state capture activities referred to above is in the custody of the Free State government.
- 97. I have a reasonable apprehension that some crucial information or evidence I require has already been destroyed.
- 98. I require the following documents for the purposes of assisting me further with any evidence that may be of assistance to the Commission:



- 98.1. Cellphone records of the official mobile-phone (0825559981) during my tenure as MEC (2009-2012);
- 98.2. My travel records during my tenure as MEC (2009-2012);
- 98.3. Travel records of Mr Magashule as Premier during 2009-2012;
- 98.4. The presentation regarding the initial presentation on the data hub concept;
- 98.5. My diary during my tenure as MEC 2009-2012; and
- 98.6. Any electronic document such as emails in my official email account relating to state capture activity.

99. This is all I have to say in the circumstances.

MXOLISI DUKOANA

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of the deponent's knowledge both true and correct. This affidavit was signed and sworn to before me at ANDTON on this the day of MARCH 2019.

COMMISSIONER OF OATHS

Commissioner of Oaths ex Officio

Advocate Advocate of the High Court

of South Africa



JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE

2nd floor, Hillside House 17 Empire Road, Parktown Johannesburg 2193 Tel: (010) 214 to 0651

Email: inquiries@sastatecapture.org.za
Website: www.sastatecapture.org.za

INDEX: EXHIBIT LL 3

#	Description	File	Pages
3.	Rajesh Sundaram Affidavit	(c)	01 to 33
8.5	Rajesh Sundaram Supplementary	(c)	34 to 66



03-PREP-DZ-RS-02

NOTARIAL REGISTER Sr. No. 1054 Page 107 Dated 25/04/1909. No.

VALID OUT SIDE INDIA

Affidavit

1.

Apartments, Vasundara Enclave, New Delhi- 100096, India solemnly affirm and stated as under:

2

I arrived in South Africa on the 3rd of June 2013 and stayed here till September 2, 2013. During this time I worked with the Gupta family owned Infinity media and worked as 'Editor' to set up 24/7 television news station called ANN7.

3

An account of my interactions with the Gupta brothers, former South African president Zuma and my experience setting up the television station have been given in the book Indentured, Behind the Scenes at Gupta TV.

4

I hereby affirm that the contents of this book and events described in it are true to the best of my knowledge.

After I arrived in South Africa I got to know that the then president Jacob Zuma's son Duduzane was a 30 percent shareholder in Infinity media.

However, it was president Zuma who was more involved in the project and its setting up than his son.

I was part of a delegation from Infinity media that had three meetings with president Zuma at his official residence in Pretoria to review progress of the television news channel ANN7.

The delegation comprised Ajay Gupta, Atul Gupta, Nazeem Howa, Moegsien Williams. Ashu Chawla and me

These meetings comprised of two parts. The first hour and a half was spent telling president Zuma about the progress in the television project. Here he was brief about the progress in the construction of the studios, hiring and technical purchases. He would also give feedback on various aspects of branding. For instance he would give feedback on the logo designs.

He also had a keen interest in the investments being made for the projects. Major expense heads were narrated to him.

He would also discuss at length about the editorial policy he would want the station to follow. This included instructions to ensure that the station does not end up being an 'out and out propaganda station for the ANC". He wanted the editorial team to cover news items related to his rivals within and outside the ANC, but wanted to subtly show them in a negative light.



Pal 15

8.

Duduzane Zuma was never part of these meetings.

The second part of these meetings were about businesses other than the proposed television project. I was asked to move out of the room during this time.

But from my conversations with Atul Gupta, Nazeem Howa and Ajay Gupta it was clear this time was utilized to seek Zuma's help to overcome challenges in their other businesses.

After one such meeting I was told by Ajay Gupta that they had complained to president Zuma about how the Independent Election Commission, IEC was not giving the Gupta owned newspaper 'The New Age' any advertising from its multi million Rand advertising budget. He said rival newspapers were being paid. He told me that at the end of the meeting the president assured them that he would look into the matter.

11

The second half of the meetings were also used to inform president Zuma about his cabinet colleagues who were reluctant to attend the 'New Age Breakfast Briefings' organised by the Gupta owned newspaper and aired on SABC.

12.

I was told by Nazeem Howa that these 'Breakfast briefings' were 'insanely profitable' for them as the entire cost of broadcast was borne by the SABC. The New Age had to invest in just the flimsy permanent props and the cost of the venue and hospitality. The earned by selling table at these events. He told me that often times the cost of the venue and hospitality was also picked up by the department or ministry that the dignitary cane from.

13.

He also told me that tables too were sometimes booked by the departments and ministries from the budget.

14

I was told president Zuma helped not only in convincing the ministers and officials to attend these events and would also persuade them to use tax payers money to pay for the venue and hospitality and ask stakeholders to buy tables at these events.

15

As Duduzane Zuma was a shareholder in the Gupta's media venture at that time, he would be a direct beneficiary of these 'insane profits'.

16

These meetings happened after what is now known as the 'Waterkloof scandal'. The scandal and it fallout in the media had made little impact on the relationship between the Gupta brothers and president Zuma.

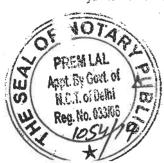
17.

Zuma met the brothers warmly and extended all courtesies and hospitality to the brothers and took to them as close confidants.

The SABC archive deal

18.

During my stay in South Africa I got to know about a deal to buy 100 hours of achieve video footage from the state broadcaster SABC. I was told by their Indian joint venture partner Mr. Laxmi Goel that the company had an agreement with SABC



July >

to buy a 100 hours of archival video footage from the SABC for what he called 'peanuts'

The actual market value of this footage shot over decades and including priceless footage of Nelson Mandela would be worth millions of dollars. However, I was told that the SABC officials were persuaded to sell this footage for far less than the market value. I was told by Mr. Nazeem Howa that given the close relations between the Guptas and president Zuma no one at SABC would dare to question this deal.

As per the agreement a (Indian national) librarian from ANN7 would go to the SABC office and transfer footage from taped using a mini DV recorder. He would then digitize and meta tag the footage at the ANN7 office at Midrand. Close to a 100 hours of footage was transferred.

SABC had no way to monitor the use of the footage on ANN7. I was told that ANN7 had agreed to also pay SABC every time the footage was played.

Visa / Labor law violations

22.

I found during our recruitment process that there were more than enough sufficiently qualified South African candidates available for hiring across all departments and functions at the news station.

23.

However Atul Gupta and his Indian joint venture partner Laxmi Goel were keen to get a large number of staff from India. This was because of two reasons.

- 1. The staff from India could be compelled to long hours without the fear of them complaining to the authorities.
- 2. The amount of salary and perks they paid Indian staff was much lesser than what they had to pay by law to the South African staff for the same work.
- 3. Atul Gupta has told me that he would arrange to get as many work visas for Indian employees as required as he has been assured by the president that the 'Home Department' would issue any number of visas without fussing about the tough norms for issuing such visas.
- 4. Atul Gupta also told me that a large number of these employees would be brought in on 'Tourist Visas' and made to work for a few months. If they are not found suitable they could be dismissed and sent back. Work permits would be issued later to those who proved their worth,
- 5. When I questioned Atul Gupta about the legality of making people work on tourist visas he said 'I have the government in my pocket, you don't worry about what is legal and what is illegal."
- 6. Even laborers (skilled and unskilled), used for constructing the studio were brought from India and made to live on the premises at Midrand in sub-human conditions and work around the clock. They were paid in Indian Rupees in India. Ajay Gupta told me that South African laborers were lazy, unionized, expensive and lacked skills. He said he could bring any number of workers from India on tourist visas to work at the sites without fearing anyone. Ashu Chawla at his office coordinated with the president's office and the home department to ensure that these visas were issued very quickly.



July S

7. Many of these people over stayed their tourist visas. They were told to pay a small fine at passport control on their way out. This money was reimbursed to them. 8. Many of the people who overstayed their visas were issued work permits within weeks.

I had made a formal complaint about this to the Home Department immediately on my return via email, marking copies to prominent South African journalists. It has been over 5 years and I have not been approached by any official for an inquest.

Journalist Barry Bateman investigated my complaints and found them to be true. A copy of his report from that time is attached,

26.

I have attached a copy of my communication with the home department with this affidavit.

I would also like to report that I saw physical and verbal abuse of staff at ANN7 by Atul Gupta. He used racial slurs and abuses during conversations about South African staff.

Many expenses for the setting up the station were paid in cash, in Indian rupees by Laxmi Goel. This include the payments made to the studio designed, the consultant who worked on the Graphical elements and 'look and feel' of the channel and also many independent engineers and consultants who worked on the project. Tax for these payments were not paid in South Africa or in India.

I know that apart from Laxmi Goel, Atul Gupta and Ajay Gupta knew about these payments. I believe this is a violation of Indian and South African law.

The above are true to the best of my knowledge.

RAJESH SUNDARAM

5 APRIL 2019.

Solemnly affirmed by



enclosures

1) DELHI UNIVERSITY MARKSNEET

PREM LAL

2) INANITY MEDIA JOB ONTHY Dist. Court Saket, New Delhi-110017

3) COMPLAINTS ON EMAIL TO

Ph.: 9818017970

DIRECTORGENERAL, DEPART MENT

OF HOME AFFAIRS

4) PASSPORT CORY

5) COPY OF SOUTH MERICAN LINTRA-COMPANY TRANSFER PERMIT

6) LEGAL NOTICE FROM GUPTA & LAWYER NAMED MERWE & ASSOCIATES

ontroller of Examinations

Chamber No. 157, Lawy

NOTARY PUBLIC

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Certificate

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STATEMENT OF MARKS

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CONTRACT OF EMPLOYMENT (BCEA)

BETWEEN:

NAME OF EMPLOYER:

INFINITY MEDIA NETWORKS (PTY) LTD

ADDRESS:

62 LECHWE AVENUE, CORPORATE PARK SOUTH,

MIDRAND

(Here after referred to as "THE EMPLOYER")

and

NAME OF EMPLOYEE:

RAJESH SUNDARAM

EMPLOYEE CODE:

ADDRESS:

B-2/ 301, SATYAM APARTMENTS VASUNDHARA ENCLAVE, DELHI, INDIA - 110096

ID NO:

OCCUPATION:

(Here after referred to as "THE EMPLOYEE")



VALID OUT SIDE INDIA

"B2"

The parties hereby agree that the Employee will be employed subject to the following conditions:

1. COMMENCEMENT DATE

1.1 Fixed term contract

This contract will commence on 01.05.2013 and will be terminated on 30.04.2015 (period of 24 months), alternatively will be terminated on completion of the following project:

The employer reserves the right to prematurely terminate this contract in accordance with the notice periods set out in clause 15 and the statutory procedures in the case of conduct, incapacity, or the employer's operational requirements.

It is expressly agreed that this is not a permanent position and you should not have any percepti on or expectation of ongoing or permanent employment.

The termination of this contract shall also not be construed as termination or dismissal on grounds of operational requirements.

Signing of this agreement after commencement of service doesn't negate any service period or benefits obtained prior to entering into this agreement. The employee's date of appointment is 01.05.2013.

2. VALIDITY OF CONTRACT

- 2.1. This contract is subject to the Basic Conditions of Employment Act, 1997 ("The Act").
- 2.2. Should any term of this contract be in conflict with any existing or future Law, Sectoral Determination or Collective Agreement, such Law, Determination of Agreement, shall be binding in respect of the said provision only and all other terms of this contract shall remain valid and binding upon the parties.
- 2.3. No indulgence or condonation by the employer of any breach of any term of this contract by the employee shall constitute a waiver of any of the employer's rights in terms of this agreement and no amendment of this contract shall be valid unless reduced to writing and signed by both parties.
- 2.4. Jurisdiction of any dispute will be at Johannesburg, South Africa.

3. FOREIGN EMPLOYEES EMPLOYED BY THE COMPANY

- 3.1 In the event that employment is offered to a person who is not a citizen or permanent resident of South Africa, the employer will provide the following assistance:
 - 3.1.1 Air Tickets (one way) for the employee and all members of his/her direct family by eligible class as determined and approved in writing by the Company.



2

Lagres ...

"B3"

4. APPOINTMENT AND JOB DESCRIPTION

- 4.1. The employee is appointed as: Editor to render services generally associated with this position.
- 4.2. The employee expressly agrees that he/ she may be transferred to any other company in the group with same the terms and conditions as set out in this Contract. Upon such transfer this Contract shall stand transferred to the new company.
- 4.3. The employee will be responsible for the tasks as set out in their KRA's and anyother tasks as may be provided by management from time to time.
- 4.4 The Employer shall have periodic feedback discussions with the Employee for the ongoing evaluation of the Employee's performance.
- 4.5 The Employer expects from the Employee and it is the Employee's responsibility to acquire and maintain the required levels of knowledge and skills to enable him to consistently comply with the operational requirements of the job description and key performance areas (KPAs) as determined from time to time.
- 4.6 The company shall make available to all employees that may be responsible for content and broadcast, the services of attorneys that will guide the employee on the legal/ compliance issues relating to such content and/or broadcast material. It is the employee's responsibility to ensure that all legal matters are cleared prior to the use and/or disseminating of any content and/or broadcast material.
- 4.7 Employee will report to the Management under whose line of authoritythis position falls. In terms of this specific appointment your current working hours will be subject to the operational requirements of the division that the employee will be working in.

5. PLACE OF WORK

- 5.1. Although the nature of the position may require you to work outside of the offices, your official place of work will be at Midrand. You may, from time to time be directed to conduct business at locations and/ or to travel to locations other than your usual place of work depending on the operational requirements of the company. The employee may also be transferred during the course of his/her employment to one of the other companies in the group, based on operational requirements.
- 5.2. The employee is responsible for arriving at the placeof work and/or assignmenton time.

6. HOURS OF WORK AND OVERTIME

- 6.1 The employee agrees to work overtime, if so required by the employer.
- 6.2 The employee acknowledges and appreciates that the nature of the industry in which the company operates and functions in, runs around the clock on a 24/7 hour basis. The employee agrees and undertakes to be available telephonically and personally at all times of the day and night on any given day of the week if so required by the employer, based on the operational requirements of the business. The employee agrees to work such overtime if the nature of the business requires such overtime.



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6.3 The normal working hours will be 45 hours per week excluding the lunch break as per the work schedule determined by the employer from time to time. Due to operational requirements you may be required to change your working hours and working days. The employee agrees and undertakes to work in excess of the agreed working hours and/or days, if so required by the employer. Hours in excess of 45 hours per week will be deemed as overtimeonly if the employee was required by the employer to work such overtime. The company agrees to comply with the relevant legislation and agreements governing time off given for any overtime that may arise, which overtime is pre-approved in writing by head of Human Resources/ person authorised by him/her in advance. The paid time off shall be granted within two months of the employee becoming entitled to it, after which period it will expire if not claimed. The employee will not be entitled to anremuneration for overtime if his/ her gross remuneration package exceeds the earnings threshold as set out in The Basic Conditions of Employment Act 1997, as amended from time to time.

7. SUNDAY WORK

The employee undertakes to work on Sundays, if so required by the employer.

8. **PUBLIC HOLIDAYS**

The employee undertakes to work on Public Holidays, if so required by the employer. The company agrees to comply with the relevant legislation and agreements governing time off given for working on public holidays. The time off shall be granted within two months of the employee becoming entitled to it, after which period it will expire if not claimed.

9. REMUNERATION

- The employer shall pay the employee R 104200/- (Rand One Lakh Four Thousand 9.1. Two Hundred only) per month CTC.
- 9.2. The employee hereby authorises the employer to deduct from the wages, all statutory deductions as well as amounts due for goods bought, money borrowed, clothing, medical benifits and saving schemes, as may be applicable.
- 9.3. Payment will be made in arrears and will be deposited directly into your personal bank/building society account on the 26th of each month or paid via a cheque. Should the employee be demoted as a result of disciplinary steps, the employee's wages will be adjusted accordingly. The company's payroll cycle runs from the 26th of each month to the 25th of the following month, therefore should the employee commence his service outside of the payroll cycle, the employee's salary will be calculated on a pro rate basis.
- New employees and employees with 6 months' service or less will not be considered in 9.4. the current financial year for an increase.
- The employee shall not be remunerated for any period of unauthorised absence, 9.5. including industrial action or during a valid lockout. The principle of no work no pay, shall apply.

Statutory contributions

If applicable, these will be made by the company, strictly in accordance with current legislation. Any part of such payment that is or becomes your responsibility will be deducted from your earnings and remitted to the relevant authority.



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Allowances are taxed in accordance with annual SARS directives which may be amended from year to year.

10. OUTSIDE APPOINTMENTS

All employees of the Company are prohibited from accepting appointments of directorships or appointments to outside commercial enterprises without the written consent of the Company. If the Company does agree to such appointments they will be on the basis that no fees or other compensation is received in respect of such appointment.

The only exception to this policy relates to individuals who are requested by the Company/Group to serve on subsidiary or associate Company Boards, do nindustry bodies. In such cases, any fees due are, as a matter of policy, required to be paid over to the Employer.

In addition, when on annual, deferred or overseas leave, no employee may undertake regular or part-time work for any other employer, whatever his business, or for any other office in the Group.

It is also a condition of employment that employees may not work on their days off or in their spare time for any other employer.

11. ANNUAL LEAVE

- You will be entitled to annual leave days per annual leave cycle. The cycle currently runs for the calendar year and is accrued at a rate of 1,5 days per month (18 working days per annum) for a six (6) day work week and 1.25 days per month (15 working days per annum) for a five (5) day work week. Leave will not roll over from one year to the next, and leave days not used will expire at the end of the financial year, on a use it or lose it basis.
- Alternatively, at the discretion of the employer, the annual leave can be calculated at the rate of one day of paid leave for every seventeen days the employee had worked, or was entitled to be paid.
- Any request for annual leave will be submitted to the employer in writing, a minimum of 14 days in advance and in turn be agreed upon or refused in writing by both Line Manager and Head of HR. The leave shall be granted and be taken at a time to be fixed by the employer, with consideration of the operational requirements of the business.
- Upon termination of employment, the employee will be entitled to be paid out in respect of any accrued leave not yet taken prior to the termination of employment. An employer may not require or permit an employee to take annual leave during—any period of notice of termination of employment.
- 11.5 The employee is obliged to take leave during any period of closure of business.

12. SICK LEAVE

During each sick leave cycle of 36 (thirty-six) months' employment with the employer, the employee shall be entitled to an amount of pald sick leave equal to the number of days the employee would normally work during a period of six weeks. This sick leave is calculated as follows: 30 (thirty) days in the case of a 5 (five) day workweek and 36 (thirty-six) days in case of a longer workweek.



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- During the first 6 (six) months of employment, the employee shall be entitled to 1 (one) day's paid sick leave for every 26 (twenty-six) days worked.
- 12.3 The company requires that the employee produces a medical certificate, signed by a registered medical practitioner for the time off work, due to illness. The employer will not accept back-dated doctor's certificates as proof of illness which will result in such an off period to be regarded as unauthorised absence. The employee must personally inform their immediate Line Manager and Human Resources Manager before 08h00 on the day he/she was supposed to have reported for duty of such absence and expected date of returning to work. The employee must also ensure that their personal and contact details are updated on their employee file, in case of any changes to such details, should the company need to contact the employee.

13 MATERNITY LEAVE (If applicable)

- 13.1 Female employees shall be entitled to four consecutive months maternity leave, commencing 4 (four) weeks before the expected date of birth or such other date as a medical practitioner or midwife may deem necessary.
- The employee shall notify the employer in writing of the date of commencement of maternity leave and the date of return to work after maternity leave at least four weeks in advance.
- 13.3 Should the employee, fail to return to work on the return date specified by her or agreed with the employer, without a valid reason, her absence will be treated as unauthorised and may result in the termination of her service.
- The employee will not be entitled to remuneration during her maternity leave period, but may claim maternity benefits as laid down in the provisions of the <u>Unemployment</u> Insurance Act, 30 of 1966.

14 FAMILY RESPONSIBILITY LEAVE

- 14.1 The employee will only be entitled to family responsibility leave after 4 (four) months of service with the employer.
- 14.2 The employee shall be entitled to 3 (three) days paid leave during each cycle of 12 (twelve) months of employment with the employer in terms of the provisions of section 27 of the basic Conditions of Employment Act.. This could be taken with the birth or illness of a child or in the event of the death of the employee's spouse, life partner, parent, adoptive parents, grandparents, child, adopted child, grandchild or sibling.
- 14.3 The employee shall notify the employer of the event, which necessitates the employee's absence, as soon as possible.
- 14.4 The employee shall not be entitled to payment for the absence unless the employee furnishes the employer with proof of the circumstances necessitating the absence.
- 14.5 Unused family responsibility leave will lapse at the end of each cycle of 12 (twelve) months' service.

15 TERMINATION OF CONTRACT

If the employer or the employee intends to terminate this contract, the relevant party shall give the other party notice in writing and the following notice periods will apply:



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- 15.1 During the first 6 (six)months of employment, not less than 1 (one) week.
- 15.2 Longer than 6 (six) months but not yet one year: 2 (two) weeks.
- 15.3 After 1 (one) year of employment: 1 (one)calender month notice.
- 15.4 The periods of notice set out above, shall not be applicable:
 - 15.4.1 In the case of summary dismissal in the event of disciplinary procedure.
 - 15.4.2 In the case of desertion or unauthorised absence for more than 5 (five) working days.
 - 15.4.3 In case of Expats from India.
 - 15.5 The employer shall have the right to pay the employee in fieu of notice.
 - 15.6 An employee will be obliged to retire upon reaching the age of 60 (sixty), upon which this contract will automatically expire.

16. TRADE UNIONS

Should the employee join a trade union, he/she will notify the employer within 7 (seven) days of such membership. The employer will only recognise this union once it reaches the majority 50 (fifty) plus 1(one) of the full time employees.

17. DISIPLINARY PROCEDURE

Undertaking:

Both parties agree that strict adherence to this procedure will ensure that discipline be maintained and that the employee is treated fairly.

Offences and penalties:

The schedule of offences and possible sanctions is set out in Annexure "A" herelo.

Procedure:

Should the employee commit serious misconduct as outlined in annexure "A", the employee shall be given a Notice to appear before a disciplinary hearing. A person appointed by the employer will act as chairperson. The Chairperson shall determine the date, time and place of the disciplinary hearing. The employee shall have the right to be represented by a Shop Steward (Union representative) or co-employee and to present evidence.

Should the employee refuse or fall to appear before the disciplinary hearing, the hearing may proceed in the employee's absence.

Written Warning:

If the employee commits non-serious misconduct as outlined in Annexure "A" that merits a written warning, the employer or his authorised representative shall complete such written warning and be handed to the employee for signing thereof. The employee is entitled to respond, which response, if any, will be taken into consideration before the issueing of a



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warning. Each written warning shall be valid for a period of 6 (six) months, after which it will expire.

Final Written Warning:

Should the employee commit misconduct, which merits a final written warning, the same procedure as for a written warning, as set out above, must be followed. The employee shall also be informed that a further contravention may result in dismissal. A final written warning will be valid for 12 months.

Suspension as Sanction:

If an employee is convicted of serious misconduct, he/she may be suspended without pay for a maximum period of 1 (one) week. The employee consents not to be remunerated for the period of suspension.

Suspension in Anticipation of a Hearing:

Should the employee commit a dismissible offence, the employer may suspend the employee's employment on full pay with immediate effect and the employee shall appear before a disciplinary committee as soon as possible.

Demotion:

Should the Chairperson upon completion of a disciplinary hearing decide that the employee should be demoted, the employee's salary/wages shall be adjusted accordingly with immediate effect.

If a disciplinary enquiry is held in the absence of the employee due to the employee's unavailability or refusal/fallure to appear, the employer shall hand a copy of the disciplinary report to the employee or send a copy per registered post to his/her last known address.

The employee agrees to undergo any medical examination or examination by means of apparatus especially designed for this purpose of testing under the influence of liquor or a narcotic substance in the event of any suspicion by the employer or supervisor of such employee being influenced or effected.

The employee accepts the admissibility of such testing and result of such testing, and the submission of such report or result of testing will be sufficient proof of the state of influencing of such an employee on time of testing.

18.DISMISSAL FOR INCAPACITY

Should the employee be or become incapable of performing his/her duties as expected due to ill health or injury or because of poor work performance, the employer shall follow the guidelines set out in <u>Schedule 8 of the Labour Relations Act, 1995.</u>

19. RETRENCHMENT

The employer shall have the right to terminate this contract for reasons based on operational requirements, economic, technological, structural or other similar needs,



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Should the employer contemplate the termination of this contract for these reasons, the employer shall follow the guidelines contained in <u>Section 189 of the Labour Relations Act.</u> 1995.

Should the employee's services be terminated as a result of these reasons, the employee shall be paid severance pay equal to one week's remuneration for each completed year of service with the employer or according to the minimum benefits as stipulated in <u>Section 189 of the Labour Relations Act, 1995.</u>

20. **DESERTION**

An employee shall be regarded as having deserted from his employer's service after a continuous absence of five working days without notification to his employer of his whereabouts, provided that:

- 20.1. The employer attempts to contact the employee in writing at the last-known address supplied by the employee, informing the employee of his absence and of a disciplinary hearing to be held at the work place;
- 20.2 The employee be given a fair opportunity to state a case in response upon her arrival:
- After the aforementioned five days has lapsed, a notice of desertion and for a disciplinary hearing will be send to the employee by registered mail to his/her last-known postal address or such notice will be handed to the employee or to a person over the age of 16 years at the employee's last known address. In the event of the employee failing to submit acceptable reasons for his/her absence and/or fails to attend the hearing, the employee will be deemed to have deserted and his services be terminated. The employer will serve a notice on the employee as prescribed above.

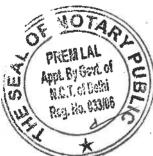
21. GRIEVANCE PROCEDURE

The employee shall lodge any grievance with the employee's immediate supervisor and Human Resources Manager. Should the supervisor not be able to solve the problem to the satisfaction of the employee, it will be referred to the employer whose decision on the matter will be final. The employee will only resort to an external dispute resolution mechanism if the employer has failed to resolve the grievance.

22. EQUIPMENT AND TOOLS

- 22.1 Should the employer issue the employee with any equipment, electronic equipment or tools for the purpose of the employee's work, such items shall at all time remain the property of the employer. The employee shall be responsible for the safe custody, maintenance and cleaning thereof and shall return such items in good condition, given fair wear and tear, on the employers' request. If the employee fails or refuses to return it, he/she authorises the employer to with hold such reasonable amount representing the value thereof from any monies due to the employee.
- 22.2 Should the employee damage or lose any property of the employer due to negligence or wilfulness, the employer may deduct such damage or loss from the employee's wage/ salary, providing that such deduction may not exceed 25% (twenty five) of the employee's wage / salary at a time, and only after a inquiry into the circumstances of the incident was held.

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23.LOSS CONTROL

- 23.1 The employee hereby consents to his/her person, property and vehicle being searched while on the premises of the employer and during work hours, by the employer or his/her nominated representative, provided that female employees shall be searched by female persons and male employees by male persons.
- 23.2 The employee acknowledges and associates him/herself with the fact that close circuit television and other camera surveillance equipment will be used in the workplace to monitor and control theft and other tosses. The employee also agrees that visual material obtained in this fashion could be used as exhibits.

24.CONFIDENTIALITY AND CONFLICT OF INTEREST

By virtue of this position and function within the Group the employee will be exposed to confidential information regarding the organisation and its staff.

The employee may not during his employment or at any time thereafter disclose to any person, firm or organisation, (save as may be required by reasonable exercise of your duties) any knowledge, information or documentation which the employee may be exposed to concerning the company or any of its staff, its financial affairs, business dealings, correspondence, connections or otherwise.

All books papers, correspondence, documents, records or other possessions of the company which may come into the employees possession during the currency of his employment shall be and remain the company's property and shall be returned to the Group after termination of the employment contract. The employee will refrain from any conflict of interests with the employer and will not engage him/herself in a similar business than that of the employer whilst employed by the employer and which causes a conflict of interest, unless the employer consents in writing.

25. RESTRAINT OF TRADE

- 25.1 The employee undertakes not to be engaged in any other business, in competition with the employer's business, be it direct or indirect, or as a shareholder, partner, member of a Close Corporation, director of a company or in any other capacity, within one year after termination of this agreement, unless agreed to by employer.
- 25.2 The employee acknowledges and agrees that the aforesald restraint is fair, reasonable and necessary for the protection of his employer, his employer's trade name and the goodwill attached thereto.
- 25.3 Without prejudice to any other rights which the employer may have in law, the employee acknowledges that the agreed damages due to his/her employer will be an amount of R5 000-00 maximumin respect of each calendar month during which any breach of the aforesald restraint continues, and that the employer shall be entitled to recover such amount, and any associated recovery costs, from the employee in respect of such breach.



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26.SAFETY MEASURES

The employee will strictly adhere to all safety measures announced from time to time by the employer. Non-compliance will be considered to be serious misconduct, and the employer is hereby indemnified by the employee towards any liability resulting from an injury or illness as a result of non-compliance with safety measures.

27. BUSINESS VEHICLES

- 27.1 Should the employee as driver of a business vehicle be responsible for any traffic offences, the employee will be responsible for all fines as a result of such traffic offences. Except if the fine relates to the maintenance of or defects on the vehicle, on condition that the driver inspected the said vehicle and reported the defect, prior to utilising the vehicle.
- 27.2 Should the employee as driver of the business vehicle be involved in an accident caused by the negligent, wilful or unlawful conduct of the employee, he/she will be responsible for all damage caused.
- 27.3 Business vehicles may under no circumstances be used for private purposes, and under no circumstances may any private persons be transported in or on such vehicle. The employer is indemnified against any action due to an employee's failure to comply with this provision.
- 27.4 If the vehicle is fitted with a gear lock or alarm it must at all times be activated whenever the vehicle is not in use.

28. EMPLOYEE COMMUNICATION

The employee is not entitled to use business equipment, inter alia, telephones, cell phones, Fax machines and computers, for private purposes without the employer's prior permission, unless an emergency or a policy, to the contrary exists.

The employer reserves the right to access, monitor, record, read, filter, block, delete, use and act on any incoming or outgoing telephone calls / email messages send or received by the employee, attachments to such emails, hyperlinks in such email messages or attachments, websites visited by the employee and files or records saved automatically, or by the employee, on the employer's equipment

29. TRAINING

The employer will accept responsibility for the costs of applicable training which the employee is unable to provide itself, provided that costs that have been incurred with regards to the said training will be recovered from the employee in the event of him leaving the employer's service within the period of two years after having completed the said training from any amount due to the employee.

30. Smoking

The company compiles with the Anti-Tobacco Legislation and as such employees are expected to make use of the designated smoking areas that are provided.

31. ANNEXURES AND COMPANY POLICIES

The schedule annexures, company policies and procedures are available any time in HumanResourcesDepartment for employee's reference.



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32. **GENERAL**

It is a condition of employment that the employee is subject to and bound by the Company's Disciplinary Code, policies and procedures, rules and regulations, safety and house regulations, standing orders and circulars, as amended or amplified from time to time, which shall be available to the employee on request.All rules and policies announced from time to time by the employer will form an integral part of this agreement.

_____ON THIS ____ DAY OF ______ 20 SIGNED AT

WITNESSES:

1.

2.

EMPLOYEE

EMPLOYER





05 APR 2019

PREM LAL

Notary Public
Chamber No. 137, Lawyer's Block,
Distl. Court Saket, New Delhi-110017
Ph.: 9512017970

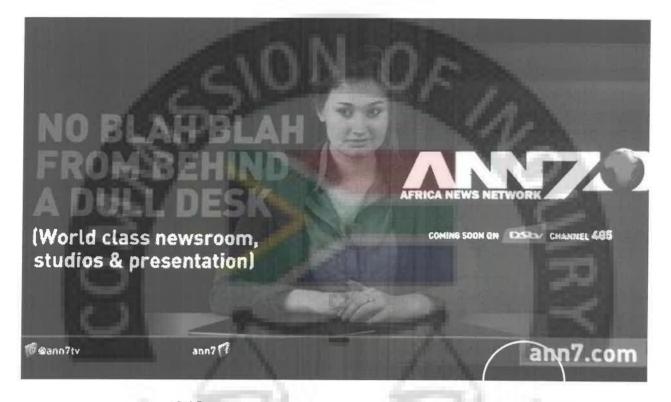


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Guptagate 27.0: Immigration laws? (https://www.daily What immigration laws?

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By Barry Bateman • 16 September 2013



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2 Reactions

An Eyewitness News investigation has uncovered blatant disregard for immigration laws by the Guptaowned Infinity Media, parent company of the newly launched Africa News Network 7. Seven Indian employees have been confirmed as being in South Africa on visitor permits, but it's alleged that all the imported labour are working at the station illegally. By BARRY BATEMAN.

Barry Bateman

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ANN7 has been dogged by controversy from day one, mostly for its embarrassing live bloopers. But two weeks ago former consulting editor, Rajesh Sundaram, left the station making dramatic claims about editorial interference from Atul Gupta, meetings with President Jacob Zuma and pledges by the group to be sympathetic to the African National Congress in the run-up to next year's elections.

Infinity Media management branded Sundaram as a lying, disgruntled employee who had tried to extort money from management. Sundaram maintains that the company owes him money for overtime.

Sundaram made numerous allegations at the time, including that there were widespread immigration irregularities related to the visas used to get the large Indian contingent of employees into South Africa.

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Questioned about these allegations, Infinity Media chief executive, Nazeem Howa, said, "We are fully compliant with all labour legislation. Given the ultramodern equipment we have installed at the channel, we have some colleagues from our Indian shareholder helping with the launch and setting up the channel."

While Howa referred to Sundaram's claims as "wild allegations", Eyewitness News has independently verified immigration records which show that Anand Prakash Lal, Deepak Kaushik, Sanjay Pandey and Vishnu Shankar all entered SA stating that the purpose of their visit was for a holiday.

Prakash Lal was the production control room head, Kaushik was employed as a vision mixer, Pandey was involved in production and Shankar was employed as an output editor. Eight names, including these four, were submitted to Home Affairs to confirm their visa status.

Home Affairs director general, Mkhuseli Aplieni, said of the list of eight names Eyewitness News supplied to the department, seven had entered the country on visitor permits, and one on an inter-company transfer visa.

Aplieni said this permit would allow the person multiple entries to the country over a set period of time, but employment is prohibited.

Immigration attorney Julian Pockroy said an Indian national on a visitor permit as envisaged by Section 11 of the Immigration Act 13 would only be allowed into the country on either a holiday, business appointments or to attend a short course or lecture.

"This means that they may not take up employment nor may they conduct work-related activities and may only conduct holiday activities," said Pockroy.

He added that this type of visitor permit does not allow a change of status to that of a work or other permit under current Department of Homes Affairs policy.

Penalties for contravening the legislation include deportation for the employee as well as being blacklisted, while fines of up to R30,000 may be issued to the employer for each non-compliant employee.

Two weeks ago Jackie McKay, Deputy Director General Immigration Services, told Eyewitness News that the department would only investigate Sundaram's allegations if a formal complaint were lodged.

A day after the comment, Sundaram lodged the complaint, sending it to McKay, Aplieni and several other senior officials. Aplieni claims to have no knowledge of the complaint, despite being one of the recipients.

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"We will act on any complaint which is submitted to the department. As you know this department is promoting zero-tolerance to corruption, fraud or anything which goes against our laws," he said.

Sundaram further alleges that all visas issued to Indian nationals were routed through the office of Sahara Computers chief executive, Ashu Chawla.

This is the same Chawla identified in the Waterkloof Air Force Base investigation as playing a key role in arranging for the unauthorised landing of an aircraft carrying more than 200 Gupta wedding guests in April.

The investigation found that Chawla, assisted by an unnamed official at the Indian High Commission, had misled government officials into thinking that the Gupta plane was carrying four Indian government ministers.

"The collusion between Chawla and an individual in the Indian High Commission to abuse diplomatic channels to request flight clearance is of concern and improper," the report stated.

Said Sundaram, "I believe he used his influence in the South African president's office to get these visas issued in a matter of days without the proper process being followed."

"I know that political pressure from the highest level was exerted on officials at the South African High Commission in Delhi to expedite these visas," Sundaram added.

All attempts at contacting Howa yesterday were fruitless. <u>DM</u>

Want to watch Richard Poplak's audition for SA's Got Talent?



Who doesn't? Alas, it was removed by the host site for prolific swearing*... Now that we've got your attention, we thought we'd take the opportunity to talk to you about the small matter of book burning and freedom of speech.



Rajesh Sundaram <rajeshsundaram0

Urgent action: Formal complaint # 3 against destruction of evidence by M/S Gupta and Goel

Rajesh Sundaram <rajeshsundaram05@gmail.com>

9 October 2013 at 11:31

To: mkuseli.apleni@dha.gov.za, jackie.mckay@dha.gov.za, castro.khwela@dha.gov.za, rudzani.rasikhinya@dha.gov.za, avril.williamson@dha.gov.za, ronnie.mamoepa@dha.gov.za

Bcc: Sarah Evans <sarah E@mg.co.za>, Naledi Mailula <mailulanaledi@gmail.com>, Glynnis Underhill <GlynnisU@mg.co.za>, Charl Blignaut <Charl.Blignaut@citypress.co.za>, Barry Bateman <barryb@ewn.co.za>

Dear Mr Apleni,

This has to the two formal complaints fled through email to your office dated the 4th and 6th of September related to the mass visa rule violations and attempts to destroy evidence at the Gupta Family managed television station ANN7.

I read with dismay a written repy by the Hon. Naledi Pandor, minister of home affairs in Parliament yesterday. Incorrect facts are part of the reply and this will dilute the charges against the accused and help them avoid harsh punishment.. These are

- 1. That only 8 employees violated visa laws. The number is much higher and only a full transparent probe involving whistle lowers like me will unearth the full extent
- 2. All 4 employees who have been asked to leave SA were employees and not trainers as erroneously mentioned in the reply.

They were working at various editorial and technical positions at ANN7. The same can easily be verified if ANN7 employees are assured anonymity and asked to describe the job profile of these individuals

- 3. I was the editor at ANN7 can can affirm that there the staff at ANN7 were nevr put through a structured training. involving expert trainers. Any member of the ANN7 newsroom will vouch for this.
- 4. These employees were paid a salary advance in cash in India in Indian rupees and were given accommodation and food in SA. I was informed that payment was made to them at the office of Mr Lami Goel at New Delhi by his personal assistant Laly Thomas in cash. Laxmi Goel is a director at Infinity Media.
- 5. All the visa violators have been assured that they will be given 'Intra Company transfer' visas on their return to India despite their status as willful violators of visa conditions at the first instance.
- 6. Some of these people have already applied for visas again at the South African High Commission in New Delhi.
- 7. They have been asked to pay a fine of Rand 1000, before they apply again for a visa. Drafts for this amount are being given by the office of Mr Laxmi Goel, Director, Infinity Media,
- 8. After I filed my first formal complaint with your office, Atul Gupta and the management at ANN7 arranged for many of their employees working without the required visas to leave SA at the earliest. This amounts to manipulation and criminal destruction of evidence and should be investigated as such. I had written a formal complaint in this regard on the 6th of September.
- 9. These personnel are being hired for positions which need skills abundantly available in South Africa. They are taking up jobs that belong to young South Africans.

I am ready to give evidence on an affidavit whenever required by you and am willing to assist with a fresh probe. if you wish to reopen some of the issues.

have not acknowledged any of the 2 mails I have sent you, can you please acknowledge this mail.

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VALID OUT SIDE INDIA



Rajesh Sundaram +919873713008 +911142401763

On 6 September 2013 08:33, Rajesh Sundaram <rajeshsundaram05@gmail.com> wrote:

Dear Mr Apleni, Director General Department of Home Affairs Government of South Africa

Dear Sir.

I am pained to note that despite my formal complaint to you a few days ago, I have not got an acknowledgement from

I would also like to report that Infinity Media shareholders Atul Gupta and Laxmi Goel have started a large scale cover up operation to hide the tracks of the visa fraud they were perpetrating.

While a bulk of the dozens of Indian laborers have quickly left South Africa, many Indian nationals who had come on business visas are being asked to stop reporting to work after I made my compliant to you public.

I fear they will be sent back to India as a means to destroy evidence.

You can still probe the issue by discreetly seeking details from the editorial staff about the work done by the Indian nationals who came in on business visas.

These include Sanjay Pandey, Vishnu Shankar, Anand Prakash Lal, Shamin among others.

The delay in probing the matter has already given time to Mr. Gupta and Mr Goel to destroy evidence and cover their tracks.

I hope you will acknowledge my mail and start a probe at the earliest.

Rajesh Sundaram

On 4 September 2013 16:30, Rajesh Sundaram <rajeshsundaram05@gmail.com> wrote:

Dear Mr. Apleni **Director General** Department of Home Affiars Government of South Africa

This is to bring to your notice that I was serving as Consulting Editor at ANN7, part of Infinity Media.

During this time Infinity Media issued various visas to Indian nationals. These could be broadly classified as follows

- 1. Intra Company transfer related "Temporary Residence Permits"
- 2. Business Visas

I would like to bring to your notice that there has been large scale abuse of 'business visas' issued for Infinity Media.

Many Indian nationals who have been issued business visas have actually been employed at various editorial and technical positions at ANN7 television news station.

ven had their business visas renewed many times over in SA without going back to India.

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RS-25

This was done willfully and deliberately by Mr Atul Gupta chairman and Laxmi Goel director of the compar

Also Indian nationals with skills abundantly available in SA have been issued permits and visas without proper scrutiny.

Skills like 'cameraman', 'video editor' " Playout technician " ' panel producers' and various other positions in the production control room and positions like 'rundown producer' ' copy desk producers' etc. on the output desk are easily available in SA.

I was part of the hiring process and can say on record that these skilled personnel are available in SA. However, they are more expensive in SA and tend to work lesser hours in a week. This is the reason why positions mentioned above were filled with Indian nationals. Some of these Indian nationals are working at ANN7 right now.

Also dozens of Indian masons, carpenters, laborers and workers were involved in the construction of the studio and newsroom. These were working around the clock to ensure timely completion of the project. I have found out now that these too did not have the required permit to work in SA.

The working conditions for these masons, carpenters, laborers and workers was poor and violated minimum conditions and pay scales stipulated for construction workers as per South African law.

All visas issued to Indian nationals were routed through the office of Mr Ashu Chawla, CEO of Sahara Computers. I believe he used his influence in the South African president's office to get these visas issued in a matter of days without the proper process being followed. I know that political pressure from the highest level was exerted on officials at the South African High Commission in Delhi to expedite these visas.

I request you to kindly investigate the issue of these visas which have been done without following the due process, I would also request you to investigate violation of visa conditions and restrictions.

I fear Mr Atul Gupta and Mr Laxmi Goel have already started the process of destroying evidence and covering their tracks. Timely action by your office is most urgently required.

I have been an employee of Infinity media and can help you identify and probe these violations. I am willing to travel to SA to assist with the probe if required subject to my safety being guaranteed.

As you are aware I have been subject to intimidation and coercive tactics by Mr Gupta and Mr Goel since I resigned.

I hope you will acknowledge my email and start the probe soon.

Rajesh Sundaram New Delhi 4/9/2013



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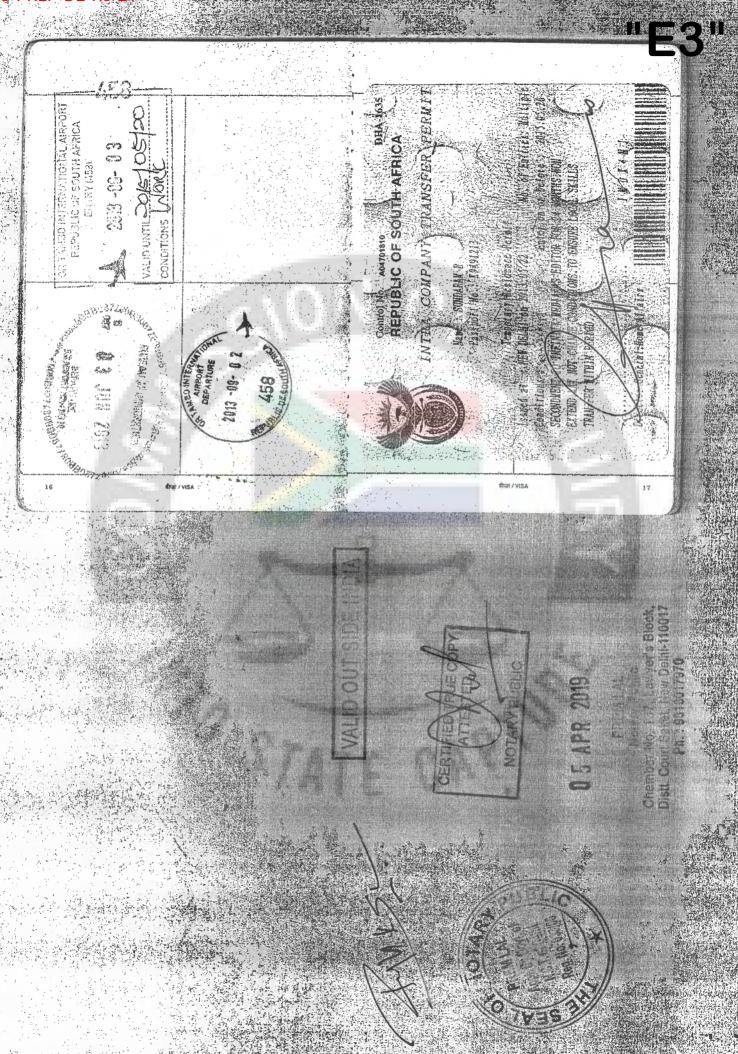
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PREM LAL
Notary Public
Chamber No. 137, Lawyer's Block,
Distt. Court Saket, New Delhi-110017

Ph.: 9818017970

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"F1"

Attorneys Notaries Conveyancers Prokureurs Notarisse Aktevervaardigers

Our ref: MR. P. VAN DER MERWE/yg/INF0003

Your ref: MR RAJESH SUNDARAM

04.10.2013

MR. RAJESH SUNDARAM

BY E-MAIL: rajeshsundaram05@gmail.com

Dear Sirs.

IN RE: YOURSELF / INFINITY MEDIA NETWORKS (PTY) LTD

We confirm that we act on behalf of our client, Infinity Media Networks (Pty) Ltd ("our client").

It is our instructions to place the following on record:

- 1. You entered into a written contract of employment with our client on or about 1 May 2013. In terms of this agreement you were employed as a consulting editor. You were responsible for, amongst others, the acquisition and maintaining of the required levels of knowledge and skills to be enabled to consistently comply with the operational requirements of the job description and key performance areas as may be determined from time to time.
- 2. On or about 27 August 2013 you tendered your immediate resignation in writing. In this letter you stated the following:
 - 2.1 The three months you've been working with our client has been "by far the best phase" in your career;



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Reg no: 2006/015908/21
Street & Postal address / Straat- & Posadres:

Ivystraat 41 Ivy Street, Clydesdale, Pretoria, 0002 Tel: (012) 343 5432 • Fax/Faks: (012) 343 5435

VALID OUT SIDE INDIA

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- 2.2 Working for our client was an honor and privilege;
- 2.3 You have gained a lot from the wonderful management team, both as a journalist as well as a manager;
- 2.4 The passion and determination you have experienced will remain with you throughout your life;
- 2.5 You wish to resign as a result of the fact that you want to spend time with your ailing mother;
- 2.6 You have the highest love, regard and respect for our client's representatives.
- After you resigned, our client was astonished by various media articles in which different unfounded and defamatory statements were made by yourself. You unfortunately went as far as to divulge confidential information which is strictly prohibited in terms of clause 24 of your employment contract.
- 4. You entered into a valid written employment agreement and are bound by the aforementioned confidentiality clause.
- 5. It is common cause that you did not develop your skills to fulfill your duties as consulting editor and that you could not cope with the pressure required by this portfolio.
- 6. Your lack of competency is confirmed by your actions after your resignation. Your attempts to discredit our client is nothing more than an attempt to sidestep civil action which will be instituted against you as a result of your failure to comply with your contractual obligations.
- 7. The initial hick-ups after the launch of ANN7 were directly a result of your failure to fulfill your duties. You knew that you were responsible for these hick-ups as consulting editor. As a result of your failure to fulfill your duties, ANN7 suffered damages which will be claimed from you.



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"F3"

- 8. Our client did not publicly publish your absolute incompetence as they believed that, it would not only be embarrassing for you and your family, but also unethical in the light of the confidential relationship which existed between yourself and our client.
- Our client remains committed in honoring the confidential nature of the relationship. It is however unfortunate that you have resorted to devious and ruthless tactics which clearly displays your lack of integrity as a senior journalist.
- 10. We urge you to refrain from publishing any further comments in regards to your employment with our client.
- It seems that you might be of the opinion that, if you flee from your responsibilities in a country, that you do not have to adhere to your contractual obligations. This stance will not be tolerated by our client. We will take legal action against you in South Africa as well as in India.
- 12. Your smear campaign against our client contains not only dishonest and untrue allegations but also divulge information which you were exposed to during your time of employment. If you continue to divulge this information we will proceed to apply for an interdict. We assume that it will be unnecessary to inform you that you will be held liable for these costs.
- 13. Despite the damages suffered as a result of your incompetence (whilst still in the employment of our client), our client also suffered damages as a result of your defamatory allegations.
- 14. We have instructions to issue summons against you and therefore requires the details of the address where papers can be served. We assume that you will accept the invitation to openly and publically, in a court of law, substantiate your allegations and that you will therefore provide us with your address for accepting court papers.
- 15. It will be disappointing if you refrain from providing us with your details and if you continue with your vindictive smearing campaign in the media (where it is not necessary to prove the allegations as true).



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It is clear from the wording of your resignation letter and the statements made in the media that you blow both hot and cold, depending on your circumstances. We reiterate that our client is not going to entertain your spurious actions and that our client will maintain the confidential nature of the relationship.

Kindly provide us with your reply within 4 days after date hereof. If we do not receive your reply we will proceed to serve documents at your last known address you provided in your employment contract.

Yours faithfully,

VAN DER MERWE & ASSOCIATES
Per: PIETER VAN DER MERWE

pieter@vdmass.co.za





0 5 APR 2019

PREM LAL Notery Public Chamber No. 137, Lawyer's Block, Distr. Court Saket, New Delhi-110017 Ph.: 9818017970

Directors / Direkteure: Gert van der Merwe (BLC LLB), Pieter van der Merwe (LLB) Assisted by / Bygestaan deur: Ilze van der Merwe (LLB), Marike Pienaar (B.Com, LLB) *Ifanie Loots (LLB), *Johann Schalkwyk (LLB) (*Midrand)

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IN THE COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE ("THE COMMISSION")

AN INVESTIGATION INTO THE SOUTH AFRICAN BROADCASTING CORPORATION: SALE OF ARCHIVES TO INFINITY MEDIA/ANN7

SWORN SUPPLEMENTARY AFFIDAVIT

RAJESH SUNDAR MAUPA SNIGHA DELLA DELLA CREGO. No.1556

- I am the son of K C Sundaram and resident of B2/301, Satyam
 Apartments, Vasundara Enclave, New Delhi- 100096, India solemnly affirm and stated as under.
- I have been approached by investigators associated to the Commission of Inquiry into State Capture ("the Commission") and have been requested to provide an affidavit as to my knowledge as to the events which relate to meetings that took place between President Zuma and the Gupta's, during the establishment of a TV channel named ANN7.

The content of this affidavit is true and correct and falls within my own

Typics.

personal knowledge, unless the contrary clearly appears from the context or is otherwise stated.

MY ARRIVAL IN SOUTH AFRICA

- 4. I arrived in South Africa on the 3rd of June 2013 and stayed here until September 2, 2013. During this time I worked with the Gupta family owned Infinity media and worked as 'Editor' to set up 24/7 television news station called ANN7.
- During this period. I was part of four meetings between former South

 African President Jacob Zuma and the top management team at ANN7 /

 The New Age. Mr Jacob Zuma was the president of South Africa during this time.
- Three of these meetings took place at Mr Jacob Zuma's official residence at Pretoria. The fourth meeting took place at the Midrand office of ANN7.

Following is an account of those meetings:

FIRST MEETING

The first meeting took place at then President Jacob Zuma's official residence at Pretoria on the 22nd of June, 2013. Just a few days after my arrival in South Africa. The team had an appointment for 9:30 am. Mr Atul Gupta called me on phone late the previous evening to inform me about

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this meeting and that I had to attend.

- 9. I had earlier been told by Mr Atul Gupta to prepare a detailed presentation about all aspects of the TV project for the president. Three copies of this report were printed and bound by Mr Aslam Kamal an employee of 'The New Age' and close confidant of the Gupta brothers.
- 10. The presentation was a status report on the TV project. It contained details of the channel logo (designed by a designer in Delhi), A summary of how the content and presentation on the channel would be different from other channels, A detailed summary of the studio design, broadcast equipment and an update on the progress of all aspects of the station.
- 11. This presentation gave out a lot of confidential details. Details that most stations would reveal only to stakeholders at such an early stage in the project.
- 12. After I arrived in South Africa I got to know that the then President Jacob Zuma's son Mr Duduzane Zuma was a 30 percent shareholder in Infinity Media.

wever, it was President Zuma who was more involved in the project and

told there would be a meeting with President Zuma a few days before the first meeting took place. The meeting could not happen earlier

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as Mr Jacob Zuma had been traveling and was out of Pretoria.

- 15. I was asked by Mr Atul Gupta to keep the meeting confidential and that while discussing with the senior management team in office, I should refer to President Zuma as 'Number 9' and not by his name.
- 16. The meeting was coordinated by Mr Ashu Chawla, a close and trusted Gupta family employee who I was told worked with Sahara Computers.
- 17. I was told by Mr Atul Gupta that Mr Chawla was the point person for the family at the president's office, and that he coordinated and tied up all meetings with the President, senior ministers and ANC leaders. He was also the person who ensured that anyone the Gupta brothers wanted were issued visas for travel to South Africa.
- 18. The first meeting with Mr Jacob Zuma was attended by Mr Ajay Gupta. Mr Atul Gupta, Mr Nazeem Howa, Mr Moegsien Williams, Mr Ashu Chawla, Mr Arun Aggarwal and me.

period the Scenes at Gupta TV' about the first meeting. I hereby solemnly refirm that the account given here is true and factual to the best of my knowledge. 'Laxmi' mentioned in the excerpt is Mr Laxmi Goel, owner of Essel Media the joint venture partner with the Guptas in Infinity Media. 'Uday' is Mr Uday Kumar an employee of the Human Resources department at Infinity media. Mr Uday was hired in India and sent to South

w is an excerpt from pages 94 to 104--- of my book 'Indentured.

AND :

Africa. 'Arun' is Mr Arun Aggarwal, the Business Head at ANN7. Mr Aggarwal too was hired in India and sent to South Africa.

- 19.1 'Two days had gone by since we had been told about the meeting with Number 9, and there was still no talk of when we would meet with the president. Then, on one Saturday, 21 June at about 11 pm, when we had just returned home from office, I got a call from Atul informing me that President Zuma would return the following morning, and we had an appointment with him at 9:30 am.
- 19.2 I had moved out of the guest house by then and into an apartment that I shared with Arun. I woke up early and made tea. Arun came out of his room in a smart green suit. 'So we are meeting the big man today,' he said, almost taunting me to come up with a humorous retort. 'Yes, we are meeting the big man for two hours today,' I said. 'Let's finish our tea and get to the office quickly. I don't want us to be responsible for delaying the meeting.' I took the apartment keys out of my pocket and pointed them towards the door. 'The driver is waiting downstairs.'

19.3 We reached the Midrand headquarters of The New Age in about 15

The sinutes. We worked for a couple of hours before Aslam called to tell us SAURAJ SINGH that a car from the Gupta fleet had arrived to take Arun and me to Pretoria.

DELI-II Please leave immediately and take the three copies of the presentation REGD. No.1556

REGD. No.1556

OF Convoy shortly. I have sent your vehicle number and details to Ashu Chawla, he will be waiting for you at the president's residence.'

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- 19.4 Ashu was the CEO of the Gupta-owned Sahara Computers. He had lived in South Africa for many years and was the Guptas' point man for any coordination with the president and the South African government. He was particularly close to President Zuma's son Duduzane.
- 19.5 I had heard his name mentioned for the first time when I was asked to apply for my temporary residence permit under the intracompany transfer process before I left India for South Africa. 'It can take months to get a South African work permit. It is a cumbersome process. We have to advertise the position in South African newspapers and then wait for six months, after which we provide evidence that we have not found a suitable local candidate.
- 19.6 Only then can we start the process of getting a work permit. Even so, if there is an official who does not agree, the request for a work permit can still be rejected,' Laxmi had told me right after I signed the contract to work for Infinity Media. 'But Ashu ji is a genius, and he has found a way around it. We will show the visas of people going to work in South Africa as intracompany transfer.
- 19.7 Just fill in the visa form, get police and medical clearance and get back to my office. My office will issue papers certifying that you are an employee of Essel Media being transferred to South Africa,' Laxmi added. 'But all the people I have recruited to be the core team to launch ANN7 have got contracts from Infinity Media and not Essel Media. They have never

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worked for Essel Media.

- 19.8 I hope this is not illegal?' I asked. 'Absolutely legal, Rajesh. What rubbish are you thinking? Trust me, Ashu Chawla will tell Shakeel at the South African High Commission to accept your application forms. Shakeel and his bosses at the visa section have a message from the South African president's office to expedite the visas. Do you think the president would do something illegal?' Uday Kumar from HR went to the High Commission directly without informing Ashu a day later. The High Commission refused him entry, the reception connected him to the visa section, and the guy who picked up the phone told him, 'There is no Shakeel at the visa section.'
- 19.9 Laxmi was very upset when he found out. He sat Uday down and read out the rules for applying for a visa in the future. 'Look Uday, I am upset that you would make such a stupid mistake. You should inform Ashu ji, and only when he tells you the appointed date and time should you go or send anyone to the High Commission. 'It is not simple. They have to speak with the most senior people in government, and only after that is a message sent to the High Commission to accept the documents and process them

it was clear to me very early on, even before I ever met him, that Ashu could pull strings in the government. He was close to the president and had a reputation for getting the toughest jobs done expeditiously for the

ithout creating a fuss,' Laxmi said in a tone that was not his usual polite

typics.

Guptas. When Arun and I went to the car, we heard 'Ram Ram', a greeting popular in North India's small towns and villages, curiously from one of the Guptas' white drivers.

- 19.11 An overwhelming majority of the personal employees that the Guptas had were white. This always baffled me a bit. For all the talk Atul gave us about his 'objective' to empower the 'poor and suffering black population' that was still 'being crushed under economic apartheid', I did not see a single black employee during my various visits to their residence.
- 19.12 The chefs were Indian nationals, the bodyguards were mostly white, and so were the people who served food to the guests. The driver politely changed the radio station to Lotus FM, which played music in various Indian languages.
- 19.13 There was a Gujarati Hindu prayer on. I am not religiously inclined and asked him to change to any radio station he preferred. It was an easy journey from Midrand to Pretoria that Sunday morning, as the road was free of weekday traffic. Ashu kept calling every few minutes to find out where we were, and the driver would give him our exact coordinates.

We reached the main gate of the president's residential compound and war stopped at the security checkpoint. Compared to my experience as a purpalist in the United States, UK, India, Afghanistan and even post-conflict Sri Lanka, the security at President Zuma's official residence was really very lax.

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- 19.15 Ashu had conveyed the car's registration number, and the driver was waved in without any fuss. The security personnel did peer into the car as we passed by, but they did not ask us for any identification, although Arun and I were carrying our Indian passports just in case. The car drove to the front stoep of the main building and dropped us at the entrance. The driver then parked right in front of the stoep among about a dozen other cars. 'The president must be having a busy Sunday,' Arun whispered to me.
- 19.16 We were ushered into a well-appointed room to the extreme right of the entrance. There was no frisking, we were not asked to pass through metal detectors and were not required to give our names and details to any of the security personnel. We just walked in.
- 19.17 I was carrying my cellphone and my laptop as well as the three copies of the spiral-bound presentation that Atul had wanted to be printed and bound: one for President Zuma, one for Ajay and one for me to keep in my hand while I made the presentation.
- 19.18 Electronic devices are generally not allowed to be carried for such meetings and even when they are allowed they are thoroughly screened security personnel. I could not see any X-ray machines at the venue. I SAURA SINGH could not figure out if this was special treatment for the Gupta delegation, do not see any X-ray machines at the venue. I REGD. No. 1556 do not see any X-ray machines at th

Laph/Si.

- 19.19 Ashu was a reticent man in his mid-forties. He was not very outgoing and seemed very preoccupied. He gave us a limp handshake and went back to the corner of the room opposite the door at the far end. His phone was charging, and he was constantly sending and receiving messages. 'When are the others joining us?' I asked him by way of making polite conversation. He gave me a bit of a smile and continued to fiddle with his phone.
- 19.20 The room had a shelf with a neat collection of leather-bound books; there was a television set mounted on the wall at the far end, a coffee table in the middle with couches around it and ornate chairs in each corner. Ashu seemed worried. While the place seemed like a waiting room, there was no one else there, only the delegation from the Guptas. I had seen many cars parked outside; surely there were more visitors?
- 19.21 It soon became clear to me that we were not packed into a general 'visitors' room' and that this was a space specially reserved for us. There was a knock on the door. Ashu jumped up. It was a member of staff from the president's office who came in to ask if we would like 'water, tea or coffee'. 'No, thank you very much,' Ashu decided for all of us. Arun and I needed politely in agreement. I was wondering why the others were not have a life we had an appointment at 9:30. It was already 10.

Ashu's body language made it clear that something was amiss. After another half hour passed, the door opened, and the remaining members of the delegation entered. Atul entered first, dressed in a dark suit, followed

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by Ajay in casual trousers and jacket. Nazeem and Moegsien appeared in their usual smart suits and ties.

- Ashu sprang to his feet and rushed towards the door, bowing to touch Ajay's feet. He then moved quickly and touched Atul's feet. Ajay acknowledged this gesture of respect like any North Indian feudal lord would; he made a half-hearted attempt to stop him. 'There are a lot of visitors today, sir, but we have been told he will come and meet us soon. Please sit, sir,' Ashu told Ajay.
- 19.24 The two chairs closest to the entrance were reserved, I was told by Nazeem, for the president and the head of our delegation, Moegsien.

 Nazeem sat on the couch near the entrance, facing the chair reserved for the president, and Ajay sat beside him. Arun and I sat on the couch opposite them, with me next to Moegsien. Atul sat on the chair near the television. Ashu sat in the corner opposite Atul, fiddling with his phone, which was still charging.
- 19.25 The staff member from the president's office came in again and asked if we needed any drinks. We asked for various beverages, which were soon served. 'You journalists have no issues taking advantage of hospitality baid by the taxpayer?' joked Atul. 'Why? I pay taxes here in South Africa.

 SHRAIS NOW in should we not?' I asked him, only half-joking myself. 'I was only kidding. You know we have paid taxes for all our companies from the day in started our business.

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- 19.26 Ajay ji has a philosophy about taxes. When God has given us so much wealth, why should we do something as petty as not pay taxes and always be scared of being caught?' he replied. He looked at Arun and said, 'You are a chartered accountant. You know how it is in India. All the respectable companies maintain two books. One for internal use, and one for the tax department. We have never done that.' It was now about 20 minutes since Ajay had come in, and he was getting visibly impatient.
- 19.27 He turned to Ashu and made a gesture. Immediately Ashu left his phone and went out. He came back a few minutes later. 'Ajay ji, there will be a further delay. I am told he is in some long meetings with ministers. We have been asked to wait,' Ashu said. 'You know I hate to wait, Ashu ji. Please tell them we will have to leave if he does not have time for us today,' he said. I could tell Ajay was not his calm self now.
- 19.28 Ashu again left the room and did not come back for quite a while. While he was out of the room, Ajay started explaining the origin of the channel name. 'President Zuma suggested we name the news channel "Africa News Network" in the last meeting we had with him on the issue. The name was already taken, so we decided to call it "Africa News Network 7".

We must make the president feel important, and tell him that we are taking suggestions given by him seriously. He will like it if we seek suggestions him on how to run the news channel. He would like to see us as his wan channel. We do not have to implement all his suggestions, but he would like it if we ask him for advice.' Atul then took out the TV remote and

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switched to the Indian news channel New Delhi Television, NDTV. 'We want all the graphics on our channel like NDTV.

- 19.30 We should have the graphics at the top and the bottom of the screen. There should be many layers. The people of South Africa want a screen that keeps moving and updating. They do not get that with eNCA.' I tried explaining to him how it was considered less sophisticated to have too many graphic bands and elements on the screen, how it would be better to have a cleaner screen with a graphic band only in the lower third of the screen. This was not what he wanted to hear. 'I want the screen to be cluttered; we must dazzle our viewers with as many elements as we can.' It was past noon now, and Atul was getting very impatient.
- 19.31 Ashu, who had came back, was sent out again to inform the president's people that we would be leaving. 'We will come back another day for the presentation,' Atul said. Ashu left the room and returned within a few minutes. 'Ajay ji, President Zuma has sent word that he will come out of the meeting and see us for a while. He wants us to wait,' Ashu told Ajay. Even as he was speaking, President Zuma entered the room.

I am very sorry about the delay. I was away from Pretoria and there are many issues my ministers want to discuss with me, President Zuma said as he came into the room, alone, with a broad smile on his face. He was not as tall as I thought he would be. I could sense from his informal demeanour that he knew the brothers quite well.

- 19.33 Ajay introduced me and Arun. 'This is Rajesh Sundaram. He is the editor of the television project, and this is Arun Aggarwal. Arun ji is the business head. They have both come from India recently and have many years of experience working with large international networks. You know the other gentlemen.' 'I soon have to go back to the meeting I left behind. I know there are a lot of things to discuss, but like they say in Zulu we will just skin the animal today. We must leave the rest for later,' President Zuma said. 'Sir, I will ask Rajesh to give you a quick overview of the project. He will answer any questions you may have, and then we will ask the TV team to leave, and we can discuss issues related to the newspaper,' Ajay said, pointing to me. I handed President Zuma a copy of the presentation.
- 19.34 'See the logo on the presentation, sir, it is ANN7. Like you said we are calling the channel Africa News Network. We are following all the things you told us, sir,' Ajay told President Zuma, and pointed to the logo. The president seemed impressed.
- 19.35 He smiled at Ajay in acknowledgement. 'This will be the most technologically advanced television news station in South Africa. The broadcast, newsroom automation and production systems we have are used by the top news networks of the world. Our newsgathering reach will be the widest among our peers, with bureaus, studios and live sources proposed in every province.
- 19.36 We will also have a network of correspondents across major African and world capitals. Our newsgathering team will be predominantly female and

young. We will train our journalists and technical staff to the best international standards,' I said as President Zuma flipped through the bound pages of the presentation, stopping occasionally to read. I explained the programming mix and the emphasis on provincial news through two provincial news bulletins a day, the daily Africa bulletin and half-hour bulletins on sports, entertainment and lifestyle. He listened intently and did not seem impatient to get back to the meeting he had left midway.

19.37 I explained to him how the integration of the newsroom and main studio, and placing the main anchors' desk on a revolving platform, would give every bulletin and time band a different look. I told him about the various visual elements on the news floor, the robotic cameras and the state-of-the-art PCR. 'Please leave a copy of the presentation with me. I will study it in detail and will get back to you with input in a couple of weeks after President Obama's visit when we meet again. It looks good now. I think you should keep the funny shows out. Lampooning politicians for cheap humour is not news.

19.38 I hate the one they have on eNCA,' Zuma fold me. 'The news on eNCA is repeated a lot, and that irritates the audience. You seem to have a broad programming mix, so you will not have to repeat so much. No bulleting should be repeated, it should be served fresh,' he added. 'Sir, now we will discuss the newspaper and commercials. I will ask my colleagues from TV to leave,' Ajay said, looking at us.

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- 19.39 As we rose to leave, President Zuma got up too and warmly shock our hands. He then walked us to the door and shook hands again before we left. All three meetings I had with President Zuma ended this way. Nazeem, Moegsien, Ajay and Atul stayed on. I was told later by a member of The New Age's marketing team that these discussions were crucial for the paper to get government advertising and bring hard-to-convince ministers and officials in as guests on The New Age Business Briefing.
- 19.40 After the Waterkloof scandal, some ministers and officials seemed reluctant to be seen in public with Atul or on a platform hosted by his newspaper. These ministers and officials were convinced after a nudge from the president, Atul told me. The bad press and public outcry following the incident did not seem to have made any difference to the relationship between President Zuma and the Gupta brothers. In the three meetings with President Zuma that I was a part of, the two brothers bonded well with the president and joked occasionally about the scandal. It was like nothing had happened.
- 19.41 The brothers had fairly free access to the president's residence, and Zuma left his ministers waiting for hours to attend meetings with the Guptas. Atul once showed me newspaper clippings of President Zuma defending his formathip with the Gupta family in parliament. 'Zuma, who was forced to publicly defend his relations with the Guptas for the first time since the property of the Guptas as "rumours", 'he said. 'See, I told you the bond that we have

with the president is deep.

19.42 The media and the DA will try its best to create a rift between us, but he will stand by us like a rock. The president will defend us always,' he said, showing me the newspaper clippings. I found the discussions of commercial issues of The New Age and ANN7 intriguing. There had been a lot of noise about The New Age and the way the government supported it, and it seemed to me that these discussions were probably around a similar kind of support for ANN7.

SECOND MEETING

- 20. The second meeting happened in the month of July 2013. I do not remember the exact date, but I do remember it was a Sunday. The meeting took place at President Zuma's official residence at Pretoria, in the same room as the first meeting.
- 21. The meeting was attended by exactly all those who attended the first meeting. This meeting too was coordinated by Mr Ashu Chawla, and unlike the first time, he was deputed to pick Arun and me from the Midrand office and drive us to the president's residence.

This meeting reviewed the progress of various aspects of the project, like the construction of the studio, the arrival of broadcast equipment etc. But the primary focus was on 'Editorial policy'. Mr Jacob Zuma wanted to share his vision of what the editorial content should be like.

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- 23. President Zuma came to the meeting armed with the presentation we had given him in the last meeting and with some questions about its content.
- 24. This meeting too was more of a shareholder review of the project.
- 25. Here is an excerpt from page 117 to 122 of my book 'Indentured, Behind the Scenes at Gupta TV' about this meeting. I solemnly affirm that the account given here is true and factual to the best of my knowledge.
- 25.1 'The second meeting with President Zuma happened in July. 'He feels good if we give him the feeling that he is moulding the news station. It is always good to have the head of state on your side. He will give us some suggestions. We do not have to follow all his suggestions, but we will make polite noises and we will follow the suggestions that are acceptable to us,'
- Atul told me before the meeting, reiterating a point his brother and he had made many times before. Like the previous one, this meeting took place on a Sunday morning. Ashu Chawla came in his car to pick us up from the Midrand office. He was mostly silent during the ride to President Zuma's residence in Pretoria. He seemed preoccupied and kept checking his phone for messages as he drove. 'Have you lived here for long, Mr Chawla?' Arun asked him. 'Yes, 17 years. I have been with Atul ji right through at Sahara Computers,' he said with a rare smile through his

moustache.

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- 25.3 'So you are a regular South African then?' Arun asked. 'Yes,' Ashu replied, curtly. He then played a CD with raunchy Hindi Bollywood songs referred to in India as 'item numbers'. 'So you have a taste for "item numbers", Mr Chawla. Now that's a facet of your personality that we never knew about,' Arun teased Ashu.
- 25.4 He smiled sheepishly and continued driving. Arun had run out of topics to strike up a conversation, and Ashu was silent throughout the remainder of the journey.
- 25.5 As we reached the security gate at the president's residence, the security guards recognised him and waved the car in. We went to the same room we had been waiting in the last time and sat in exactly the same places.

 Ashu went to check on the president's availability. Nazeem, Moegsien, Atul and Ajay arrived about half an hour later. Ashu sprang to his feet and touched the brothers' feet.
- 25.6 The seating arrangement was identical to that of the last meeting. 'Rajesh, today I will ask President Zuma to give us a broad overview on editorial policy and also some suggestions on who we should hire as presenters.

We will hear what he has to say, but we will only do what we think suits

r vision,' Ajay Gupta told me.

If ng as it was just a formality and we were not bound by what he was spring, I was happy to play the game they were playing with the president.

I nodded. The video logo montage or the 'channel ID' for ANN7 had been

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made by a graphics designer in India and had reached us just a few days before the meeting.

- Atul wanted me to load a copy on my laptop so we could show it to the president. 'Rajesh, we will show it to the president today. We can make a million presentations on paper, but he will know the project is progressing fast only when he sees videos. He is a simple man. I am sure he will be very happy to see it,' Atul said. 'Sir, the president has many visitors from his family today. I have sent a message that you have arrived, and he will join us very shortly,' Ashu told Ajay.
- 25.9 The president arrived shortly thereafter. He was shown the channel ID. He asked to see it again and again. 'Sir, if you like this montage, we will give it the final go-ahead,' Atul said. 'It looks good. It is impressive,' President Zuma said, asking to see it one more time. He had the copy of the presentation we had given him in the last meeting with him. 'I have a few suggestions.
- We must not convert this into a publicity channel for the ANC and me. If we do that, we will have no credibility. You must present the views of the opposition and my rivals in the ANC as well. The push in our favour should be subtle. You are a seasoned journalist. You know how that can be atoms... eNCA only presents the government and me negatively. We need a channel that presents the positives that the government is doing,' Zuma said looking at me.

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- 25.11 Despite Atul's constant reminders that we'd only do what 'suits our vision',
 President Zuma's directives on editorial policy puzzled me. 'I will be in
 Mpumalanga next week, and I will meet people in the local communities
 and announce measures for their welfare. But I am sure eNCA will not
 cover that. Their reporter will seek out opposition supporters and do a
 negative story on how the locals hate me and feel I have done nothing for
 them,' Zuma said. 'Sir, we will have a reporter and camera operator
 attached to you at all times.
- 25.12 You will have to ensure that they are accommodated in the plane that you travel on. We will do a live telecast of all your engagements. We have outside broadcast vans,' Ajay said, almost cutting in. 'Yes, that can be easily arranged. But your coverage will be shallow if you come with me. Our teams must move in two days ahead of me and do background reports that tell viewers how our policies are helping the people, so that they get the full picture and not the distorted one they get now. Is that possible?' Zuma asked. 'Sir, we will make it possible.
- We have the technology to go live from anywhere in the country, and we have bureaus in every province. We can send reporters with you, and we will also send reporters in advance. The positives of the government will surely be highlighted,' Ajay answered, with folded hands. 'If newspapers and television news channels show that the people are happy and benefitting from what the government is doing for them, the people will believe it. What is happening now is just the opposite. Show the critics saying that the government is not working, but also show many cases of

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how the government is changing lives. That way we keep the credibility and we also show the government in a positive light,' Zuma said. 'I am sure you will have the best international standards of production. That is very important. The news bulletins should be slick,' he added.

- 25.14 Nazeem then asked him to recommend journalists and presenters. It was at this meeting that Jimmy Manyi's name first came up. 'He will be most suited for your talk shows. If you want, I will speak with him as well,' Zuma offered. 'I am sure there are many presenters available. Just do let me know if there is any high profile journalist you may have selected,' he added.
- 25.15 The conversation was now beginning to sound like an internal HR meeting. He had allocated two hours of his time on a Sunday, while his family was waiting, to ANN7. The intensity of his interest in the project was like that of a full shareholder. President Zuma was happy to sit for hours getting briefed and giving input on minute aspects of the venture. The time he spent helping out with the 'commercial' aspects was most intriguing. 'Sir, the DA has a very effective PR machinery, and they churn out press releases very day, twisting facts and turning them against the government.

Most journalists earn a salary by just reproducing DA press releases and was reports. We have to keep such journalists out.' Nazeem said this to immediate nods from President Zuma and the Gupta brothers. I exited the second meeting the same way I did the first. Ajay asked the TV team to leave, so that the newspaper team could have some alone time with the

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president.

- 25.17 I later asked Nazeem why President Zuma insisted on lecturing us on editorial and personnel matters. 'Don't you know? Hasn't Laxmi ji told you already? He has a big say in this venture. His son Duduzane holds 30 per cent in the company. His involvement is very critical for the first year of our operations. If we are able to get government advertisements, we will be able to break even in the first year,' he told me. If this were true, it would explain a lot, and it felt as though everything was falling into place.
- 25.18 The news channel I was heading would be a pro-ANC, proZuma channel that was promoted and run by not only people close to President Zuma but by President Zuma himself. If Nazeem had his facts straight and Zuma held the shares through his son, he would be projected positively in the news bulletins. In this scenario I could see how he would use his position as president to ensure government advertising for the station. It also seemed, if this was the truth, that there was a clear conflict of interest as his son had a stake in not just the Gupta-owned newspaper but also the proposed television news channel.

s a 30 per cent stakeholder, his son would get 30 per cent of the profits armed from the revenues the president was helping them generate.'

THIRD MEETING

26. The third meeting with President Zuma took place in the first week of



August 2013. I do not remember the exact date. This meeting too was held at the president's residence at Pretoria. However, unlike the first two meetings, this meeting was in the evening. The meeting was attended by the same people, except for Mr. Williams, who was travelling and Mr. Aggarwal. Nazeem Howa had given instructions that Mr Arun Aggarwal would not attend the meeting.

- The meeting was held in a larger room to the left of the main entrance.

 This meeting was attended by Mr Duduzane Zuma. The first and last meeting I saw him attend. His interventions in the meeting were not serious.
- 28. Below are excerpts from page 129 to 133 of my book 'Indentured, Behind the Scenes at Gupta TV' which has details about this meeting. I solemnly affirm that the account given here is true and factual to the best of my knowledge.
- 28.1 'The Third meeting with the president happened a few weeks later, in the first week of August. We had started producing news using a very basic PCR that was not fully integrated with the newsroom systems and the

servers.

We were days away from our amended launch date of 21 August, and the technical team was nowhere close to handing over the studio or a sphoothly functioning PCR or even integrated video editing systems to the editorial team.

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- I was in the PCR overseeing the rolling of a bulletin when Atul sent word that I must meet him at the cafeteria immediately. 'We have an appointment with President Zuma this evening. He wants a quick review of the project, and I would like you to take the bulletins we have produced over the last few days. We have to make him happy, so make sure we take bulletins where a majority of the stories show him in a good light. I do not want a bulletin filled with Malema,' he said.
- 28.4 Former Zuma loyalist Julius Malema had just founded a new opposition party to the ruling ANC called the Economic Freedom Fighters. The bulletins we had produced at that time were, unsurprisingly, full of technical glitches and were anchored by a group of models hired by Atul and trained by Gerry Rantseli-Elsdon.
- The young women were very raw, clueless about the news they were reading and very unfamiliar with a studio setting. I was not comfortable showing these bulletins to anyone outside of the newsroom. They were produced as practice or dry runs, nothing more.
- The plan was to take a chip reader to President Zuma's Pretoria house and connect it to a monitor for him to see the bulletins. I went back to the and asked the team to put a few of the bulletins we had produced on the chip and handed it to me.

 The team put four recent bulletins on the chip and handed it to me.

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- Ashu and Ajay were going to meet us there. Nazeem travelled with me in Atul's chauffeur-driven car. 'Has someone informed Arun?' I asked Nazeem. 'Don't bother with Arun. He is not going to this meeting,' Nazeem replied. Moegsien was in Cape Town and was unable to join us. 'We must discuss the IEC issue with him today. I am told the IEC is set to run a major advertising campaign in all the big newspapers. It is unfair for them not to advertise in The New Age,' Nazeem told Atul. 'Ajay bhai has already briefed him about this. We will get some action today,' Atul replied.
- 28.8 Atul had organised a chip reader and a 14-inch broadcast quality monitor to be sent to Ashu earlier in the day. He was to bring these for the meeting. We were ushered into the same waiting room where we had been before. Soon Duduzane Zuma walked in and greeted us before proceeding to hug the Gupta brothers. 'We have a surprise for you today, Dudu. We will show you the bulletins we have been producing,' Ajay Gupta said with an animated movement of his hands. 'Good, so we should move to the next room. It has a large TV.' He started moving out, and all of us followed him.

28.9 This was a much larger living room that had various seating arrangements and a large TV set. We sat around a coffee table. Ashu took out the chip reader and the cables. There was not enough cable to connect the chip reader to the large TV mounted on one of the walls. I gave the chips to

He placed the chip reader and the monitor he brought with him on a coffee

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table and connected the cables. President Zuma walked into the room and wanted to know about the equipment. 'We want to show you a few bulletins that we have produced,' Duduzane said.

- 28.11 This was the first time Duduzane was seeing the bulletins. He had no clue about the process and effort that had gone into producing these. He had never attended a single meeting or even bothered to visit the studio and learn about the problems there, but today in front of his father he had no qualms about taking credit for the bulletins.
- 28.12 The Gupta brothers smiled indulgently as he spoke. 'Sir, we want feedback on this too. We want you to tell us if we are on the right track.

 Our equipment is not fully here, and this is not 100 per cent of what we will look like when we launch. This is maybe 50 per cent,' Ajay said with a broad smile on this face. Ashu pressed the play button, and the first bulletin started with the channel ID followed by the headlines. The anchor made a few fumbles, but that did not seem to bother the president.
- 28.13 He watched the first 15 minutes with rapt attention. 'Sir, we can fast forward the bulletin, so that you can see the others too,' Ajay offered. 'Let it go on, I want to see some more,' President Zuma said. 'Daddy likes the anchor, his eyes light up every time she comes on. Is that why you want to see some more?' Duduzane joked.

Everyone in the room broke into laughter. 'See the visuals we are using for Malema? It is of him getting out of a helicopter. He looks corrupt, does he

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not? We always use these visuals when we talk about Malema. This is a subtle way of telling the people he is corrupt without saying a word,' Ajay said, pointing to the screen. President Zuma smiled. Ajay knew nothing about the content.

- 28.15 The editorial team used these visuals because these were the only visuals available in the archives bought from the SABC. He had just made that up to please the president and from the look on his face it seemed he was happy. President Zuma watched all the bulletins. 'You have a good thing on your hands. This is much better than the bulletins on the SABC. Those are horrible. I like the way you have used the graphics. It reminds me of the international channels. If this is what you will look like on launch day you will be a hit,' President Zuma said with a smile.
- 28.16 The SABC had launched its 24/7 news channel a few days before, on 1 August 2013. This was the endorsement the Gupta brothers were looking for. They had softened President Zuma before their meeting on commercials, and they could hardly hide their glee. 'So you say the final product will be much better than this?' President Zuma asked, looking at me. 'Sir, it will surely be much better, as we will have completed the integration by then and will have much more equipment at our disposal to

ke the bulletins slicker.

in not very happy with these bulletins; they are just practice runs, I policy for the plied. 'I am happy with even this. You guys keep this up.' President Zuma was beaming. 'Sir, you must come and press the button to

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inaugurate the channel on the 21st. I know you have declined before, but you must inaugurate the channel. We will have our editors do an exclusive interview with you at the venue,' Atul said with a broad smile and his hands folded. 'That will not send the right message. It will not do your credibility any good. I am part of the project, and I am always ready to give an interview after a few weeks,' Zuma replied firmly.

28.18 At this point Ajay asked me to go back to the office while Atul, Nazeem and Duduzane met him for discussions about the newspaper and commercial issues. I was told the next day by Nazeem and Atul that they had secured 20 million rand's worth of business the previous evening. By this time, I had decided to resign as editor at ANN7 and go back to India after the launch. It was happening without the extensive training I had suggested. It was happening without test runs with all systems and equipment in place. But what really pushed me to resign was the violation of editorial integrity and the dubious commercial dealings that I had seen with my own eyes.

FOURTH MEETING

The venue of the fourth meeting was the Midrand office of ANN7, on the 19th of August 2013. Just two days before the ANN7 was to go on air.

Here is an account of the meeting from page 151 to 153 ...of my book Indentured, Behind the Scenes at Gupta TV'. I solemnly affirm that the 10.1555 account given here is true and factual to the best of my knowledge.

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- 30. Apart from the usual attendees, the meeting was also attended by Mr Laxmi Goel and Mr Duduzane Zuma. President Zuma toured the studios, newsroom and technical areas at the ANN7 office and also met the staff during this visit.
- 30.1 'My last meeting with President Zuma happened just 48 hours before ANN7 launched. I was told that the president would make a quick trip to the studio to take a look for himself, and he was expected to stay on to see the rolling of a news bulletin.
- 30.2 I was part of the team that would show him around. This was a critical time as I was virtually camping in the office, sleeping for a few hours in a temporary rest area created for a few members of the core team on the first floor of the New Age office.
- 30.3 I was in the morning editorial meeting when I got a call from Aslam to come and receive the president. 'He is expected anytime now; Laxmi and Atul ji want you here immediately,' Aslam said. Outside, I found Nazeem, Laxmi and Atul were already there. With them was Duduzane Zuma. I greeted them and waited with them for the presidential convoy to arrive.

30.4 It was cold that day and I had forgotten to take my jacket with me as I ushed out. Atul took the scarf he was wearing and wrapped it around my had. I couldn't know at that time that this gesture would come back to aust me later and subject me to humiliation and belittlement at the hands

of the man who made it.

- 30.5 At that time, Karun Shawney, the head of production, sent a news camera team out to record the president's visit. The cameraman positioned himself to record the president getting out of his car. There were other crews he had set up inside the studio to record the president visiting various departments. 'We do not want any record of the president visiting the studio. Can you please ask the cameramen to go away. Also please tell everyone that there will be no recording of any of President Zuma's movements inside the studio... not even with cellphone cameras,' Atul whispered into my ear.
- 30.6 I called Karun and asked him to move the camera crews away. Atul wanted to keep the visit a secret, he was so suspicious and distrusting of everyone, but with over a 100 journalists in the studio, it was almost impossible. The presidential convoy arrived and was taken to Laxmi's office. 'Sir, would you like to give an interview to our news team?' Atul asked. 'We will air it on launch day.' 'I have already said I will give ANIN7 an interview later, after a few weeks.
- Any association with me at this time will be bad for the both of us, President Zuma answered. I led the team out of Laxmi's office, into the hall on the first floor where Mary Naidu and her programming team sat with the web team. President Zuma played the part of a politician, going to the performance of the member and shaking his or her hand. He waved to the employees who were not within hand-shaking reach. We then took the opening and moved into the newsroom.

- 30.8 His presence created a flutter on the floor. He waved to those working there. A live bulletin was being rolled at that time, and he waited for a while as the young anchor read her piece from the teleprompter. He waved to her and moved into the corridor that housed the technical departments. He first entered the PCR. Things were smooth in the PCR when he arrived. The systems were working fine. We had cut live to a reporter outside the courthouse where the Oscar Pistorius trial was happening.
- 30.9 He wanted to know from me what the exact function of each of the people in the PCR was. He also asked me about the audio panel, the vision mixer and outputs coming from various sources on the screens in front of him.
- 30.10 He stayed there for about 20 minutes. He then moved to the server room, the graphics room, the master control room and the video editing bay.
- 30.11 He was shown a few of the promos produced by the team in the graphics room. He asked to see a few of the promos again. On his way out he quickly slipped back into the PCR. This time there were technical glitches, the on-air graphics system collapsed, and the live sources started failing.



He stood at the PCR for another 15 minutes and then moved towards the door. Laxmi, Atul, Nazeem, Duduzane and I saw him off. He said he was happy before he left. Atul assured him that the station would be run 'as per his guidance and wishes'.

31. All the information contained in this affidavit are true and factual to the best of my knowledge

Rajesh Sundaram

NOTARY PUBLIC DELHI (INDIA)

2 9 APR 2019

ALID OUT SIDE INDIA

Commission Expiry on 10 Feb. 2020

Seat No. 26 Near Treasury Gate Trs Hazari Courts, Delhi



JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE

2nd floor, Hillside House 17 Empire Road, Parktown Johannesburg 2193 Tel: (010) 214 to 0651

Email: inquiries@sastatecapture.org.za
Website: www.sastatecapture.org.za

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#	Description	File	Pages
4.	Johan Wessel Booysen	(c)	01 to 07
	Annexure JWB22	(c)	08 to 11

JOHAN WESSEL BOOYSEN STATE CAR

AFFIDAVIT

I the undersigned,

JOHAN WESSEL BOOYSEN

do hereby state under oath that:

1.

I am an adult male South African citizen residing in Pretoria, Gauteng Province.

2.

All facts stated herein are, unless the context indicates otherwise, within my own personal knowledge and are to the best of my belief both true and correct.

3.

I will attempt to keep my submission brief in order to avoid prolixity and to unnecessarily burden the Commission. I will seek to highlight key aspects, events and *dramatis personae*. Should it become necessary I will provide additional facts.

MY POLICE CAREER AND QUALIFICATIONS

4

I was a career policeman having joined the South African Police in 1976. I was an officer before our democracy in 1995 and was part of the transformation process from a Police Force to a Police Service. I regard my integration into the new Police Service, including my promotion to the ranks of Colonel, Brigadier and Major-General subsequent to the democratic dispensation in South Africa, as one of my

was suspended. My suspension was found to be unlawful. I attach a copy of the judgement by Van Zyl J, as **Annexure "JWB 21."**

156.

After Dramat settled his own disputes with SAPS in around April 2015 and retired with a special dispensation, the post for National Head of the HAWKS was advertised. During an open meeting in Polokwane with all the Provincial Heads and National Heads in the HAWKS, Ntlemeza stated that he did not apply for the post. I applied for the post and was shortlisted for the interviews.

157.

THE APPOINTMENT OF THE HEAD OF THE HAWKS: MY EXPERIENCE AT THE GUPTA SAXON WORLD COMPOUND

158.

On 16 August 2015, a few days before I was interviewed for the post as Head of the Hawks, I was contacted by Captain Dirk Swart ("Swart") from Durban SAPS, on behalf of Duduzane Zuma ("Duduzane"), the former President's son who wanted to meet me which I agreed to. I knew Duduzane as a result of a fraud investigation in which he was a co-complainant in a criminal matter. The investigation related to a complaint by Duduzame and 'one' Winston Innes against lan Endres ("Endres") concerning a fraud in an on-line betting scarn (gambling). At the time I had appointed Lieutenant Colonel Marthinus Botha ("Botha") from the Hawks in KZN to investigate the alleged fraud. I had previously met Duduzane a few times when he had enquired about progress in the investigation. One of these meetings took place at his office in Sandton when I was in Gauteng for a meeting.

159.

I met Dududzane at the Sandton Gautrain station where I took it he wanted to discuss his matter. Duduzane was driving a black Rolls Royce. Duduzane had suggested that I get into the vehicle with him. I told my son who was with me at the time, that I would be driving with Duduzane and that he should follow us. My son followed us in his own vehicle. I took it that we were going to his office in Sandton. We chatted about odds and ends. There was no discussion about his fraud matter. Prior to our arrival Duduzane had made no mention that we were in fact going to the Gupta Compound or anything regarding my interview to the position of National Head of the HAWKS.

160.

The next moment we pulled up at a residence in Sandton which I recognised as the Guptas' Saxonwold compound. I alighted from the vehicle by which time my son had walked up to me and asked me "whether we were where he thought we were". I responded and told him that I thought so. Although I was caught by surprise I decided to see how things would unfold. We were escorted by security guards and entered the house where we handed our cell phones over to them before entering the lounge. Tony Gupta ("Tony"), was the only Gupta brother present.

161

There were also house staff present, which I gathered were from India, who served us some light Asian snacks.

162.

Tony spoke to my son, who is an IT specialist and told him if he wanted to go into a business venture he should speak to them.

163.

There were no significant discussions, but what I indeed considered curious, was that Tony knew that I was about to be interviewed a few days later, for the post of National Head of the HAWKS, although I recall that a daily local newspaper in KZN, The Mercury, at the time, reported that I had applied for the post as National Head of the HAWKS. Tony said that if I was appointed we should have supper together in Durban. I did not know what to make of his statement, but suspected that he wanted to create the impression that should I be appointed, he had had a hand in it and that I would consequently be indebted to him. I would like to reiterate that Tony did not say this directly and that it is merely speculation on my part. I laughed and said that we could.

164.

Duduzane, who was present, did not partake in the conversation other than discussing generalities. After having had refreshments my son and I left. I did not hear from the Guptas again. This was my one and only visit to the premises.

165.

Since I did not trust Ntlemeza, my Commander at the time, I did not report this to him.

166.

On 13 June 2017 at 15:30 after the Supreme Court of Appeal removed Ntlemeza from office, I handed an unsigned affidavit, see **Annexure "JWB 22."**, to the Acting Head of the HAWKS Major-General Matakata ("**Matakata**"), who succeeded Ntlemeza, in which I described how I was taken to the Gupta residence. I met her at the Irene Mc Donald's and she was in a hurry because she had to catch a flight to

Cape Town. I told her that I will be available to sign and commission the statement, but I have not heard from anyone in this regard.

167

THE APPOINTMENT OF NTLEMEZA AS HEAD OF THE HAWKS

The following week three other candidates and I had to present ourselves for interviews at Minister Nhleko's office at Parliament in Cape Town. The secretary was Major-General Matakata from the HAWKS. Ntlemeza, who was not present on the day of the interviews, was ultimately appointed as National Head of the HAWKS. I do not know if he was interviewed and if he was, why he was treated differently to the rest of the candidates.

168.

One of the first things Ntlemeza did after his permanent appointment, was to suspend me unlawfully based on a false allegation of fraud concerning a performance incentive. I took the decision by Ntlemeza to suspend me on review. The High Court in Durban declared my suspension unlawful and I was awarded a punitive cost order.

169.

In the judgement of review, Justice Van Zyl found no evidence that I could be implicated in wrongdoing. He commented as follow, "A strong suggestion arises that there is an ongoing move, possibly even a campaign to unseat the applicant."

Boo ysen.) [Emphasis added by me].

170.

I am aware of instances after Zikhali was appointed that Ntiemeza started ostracising HAWKS members that were perceived to be associated with me. One such member

I certify that the deponent who acknowledges that he knows and understands the contents of this affidavit; that it is the truth to the best of his knowledge and belief and that he has no objection to taking the prescribed oath and regards the same as binding on the deponent's conscience and the administration of the oath complied with the Regulations contained in Government Gazette No. R1258 of 21 July 1972, as amended. This affidavit is signed and sworn to before me at Centurion on this the 2nd Day of April 2019 at 14:32.

MANAGEMENT INTERVENTION
HEAD OFFICE PRETORIA

2019 -04- 0 2

HEAD: MIAC

SUID-AFRIKAANSE POLISIEDIENS

OST

COMMISSIONER OF OATHS

EX OFFICIO:

FULL NAMES:

JEON JOCQUES MADONES

PHYSICAL ADDRESS:

CNOR JEAN OVERINE -

OLIEVENHONTSCEECH CENTURION

DESIGNATION:

COLONEL

ANNEXURE "JWB22"



JOHAN WESSEL BOOYSEN

STATES IN ENGLISH UNDER OATH

1.

I am an adult male aged 59. I can be contacted on 082 632 4025.

7

I retired from the SAPS DPCI (HAWKS) on 28 February 2017 with the rank of Major General.

3.

Prior to my retirement I was involved in a protracted litigation dispute against the erstwhile national Head of DPCI Lieutenant General Berning Ntlemeza. The High Court in Kwazulu-Natal had ruled in my favor after which Ntlemeza applied for leave to appeal — which was rejected. He subsequently petitioned the Supreme Court of appeal. The matter did not proceed since my retirement had made the SCA matter moot, and Ntlemeza thus did not prosecute the appeal.

4.

From the onset I want to state that I did not trust Ntlemeza. I will expound on the reasons should it be required.

5.

Ntlemeza has now been effectively removed from the office by virtue of a High Court order. His subsequent appeal to the SCA has now been disposed of. I have good reason to believe that he will not return to office. Hence I want to make the following disclosure to the current acting Head of DPCI Lieutenant General Matakata, whom I trust.

6.

During 2014, after the suspension and early retirement of Lieutenant General Dramat, Ntlemeza was appointed as acting Head of the DPLI.

7.

The vacant post was later advertised. I applied for the position and was shortlisted for an interview in the minister's office. The interview took place on the 19th August 2014 in Cape Town.

8

However the following transpired before the interview at Minister Nhleko's office.

9.

On the 16th of August 2015 at about 14:50 i was met by Duduzane Zuma the son of the State President. (I will detail the circumstances that led to this meeting more fully if so required.)

10

At the time my son Eben was present and we traveled in his vehicle.

11,

The arrangement was to meet Duduzane Zuma near Sandton Gautrain station. After missing each other we eventually met near the Gautrain station. I was standing outside Eben's car when I noticed a bla

Rolls Royce pull up behind us. I noticed the driver was Duduzane Zuma. After telling Eben to follow us, I got into the Rolls Royce with Duduzane. I was under the impression that it was a courtesy meeting. We drove off and had a general conversation about run of the mill issues. After driving for about fifteen minutes we entered an area called Saxon World. We pulled up in front of a heavily guarded gate. After entering Eben alighted from his car and asked me if we were at the place he thought we were. I responded in the affirmative. It was evident to me that we were at the Gupta's residents.

12.

We were taken into the house. In the foyer we were asked for our cellphones to be handed over. We were then taken to what appeared to be a lounge. One of the persons present was introduced as Mr. Gupta. I did not hear the name, but it appeared to me as Tony Gupta from newspaper photographs I had seen before.

13.

We spoke about school education and other daily issues whilst having refreshments. At one stage Mr. Gupta said to Eben if he had any business ventures that he needed to get off the ground that he should talk to them.

14.

Later on the conversation moved on to the possibility that I may become the new Head of the DPCI. I was surprised and somewhat shocked that Mr. Gupta was privy to the fact that I had been shortlisted to become the Head of DPCI. Being alive to the media hype around the Gupta's, I was hesitant to engage with him. Mr. Gupta jokingly said to me that should I be appointed that we should meet in Durban for supper. I laughed and said we can. At this juncture I felt uncomfortable and asked Eben to leave to room.

15.

I was not appointed in the post, but Ntlemeza was. His appointment came as a surprise to me because I never saw him during the interviews in the Ministers office. He also made a public statement at a National meeting in Polokwane that he had not applied for the post. Unless of course he had been interviewed separately which begs the question why he was treated differently?

16.

I want to be clear that he did not make any promises or create any expectations regarding my possible appointment as DPCI Head. I did however find it odd and disconcerting that he knew that I was a possible candidate for the post and secondly that the meeting had taken place. I certainly never solicited a meeting with the Gupta's.

17.

I do not know why I was taken to the Gupta's premises. I do however find it odd that I had been lured to their premises, three days before my interview with Minister Nathi Nhleko and a panel in the minister's office in Cape Town. The only possible yet speculative reason I can conceive of is that if I would have been appointed he wanted to create the impression that it was of his doing or input, with the resultant possible expectation of a quid pro quo in one form or another.



- I know and understand the contents of this declaration.
- I have no objection to take the prescribed oath.
- I consider the oath to be binding on my conscience.



Syl -



JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE

2nd floor, Hillside House 17 Empire Road, Parktown Johannesburg 2193 Tel: (010) 214 to 0651

Email: inquiries@sastatecapture.org.za
Website: www.sastatecapture.org.za

INDEX: EXHIBIT LL 5

#	Description	File	Pages
5.	Ngoako Abel Ramatlhodi	(c)	01 to 06
	Annexure 1	(c)	07



IN THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE

STATEMENT BY ADVOCATE NGOAKO ABEL RAMATLHODI

- 1 am a senior member of the African National Congress (ANC) I have over the years been appointed to serve in Government. I was appointed as:
 - 1.1 The 1st Premier of Limpopo and served in office from 10 May 1994 to 22 April 2004,
 - 1.2 Deputy Minister of Correctional Services from 1 November 2010 to 25 May 2014:
 - 13 Minister of Mineral Resources from 25 May 2014 to 23 September 2015.
 - 1.4 Minister of Public Service and Administration from 23 September 2015 to 31 March 2017
- Following my appointment, I received many congratulatory messages including one from Duduzane Zuma.
- 3 What was peculiar about Duduzane's message was that he asked to meet me and convey his message personally. At the time I responded by saying I was very busy in Cape Town, and that during weekends I would still be busy because of my political appointments.
- Then after a few months I got a frantic call from Duduzane who was demanding to meet me I arranged to see him at St Georges Hotel where we were having a National Executive Meeting. In that meeting he said to me he was sorry to meet me under those circumstances where he had to lodge a complaint against me, instead of meeting me in order to congratulate me.

NR

- 5. He went on to tell me that he had received information from two sources that reported that I have been going around bad mouthing him and his business associates, saying that they were involved in criminal activities.
- 6. I asked him who his sources were.
- He mentioned two names, one from India and other from South Africa.
- I do not remember those names because he promised to furnish me with the names in writing. That never happened.
- 9. He also mentioned that he told his father, the President, about these allegations. My response was that he grew up in front of me, so I was one of his uncles, as we were referred to those days by children in exile
- 10. I went on to say that as his uncle, I do not need to run around reporting on him doing crime. I would simply summon him and ask him if he was doing crime and if he was, I would order him to stop or report him to the police. I went on to tell him that I will tell his father about our conversation.
- 11 His response was to ask me to meet Ajay Gupta in order to explain the situation to Ajay Gupta. I told him I don't know Ajay and I owe him nothing. He left the meeting on that note
- 12. In the mean time I received a report from Adv. Mahlodi Mouthe that there was a request from the Guptas to meet me, and that he had told them that he did not think I would agree to meet them. I confirmed that I did not want to meet them. Please see the article attached hereto as Annaxure A in particular paragraph 1. I confirm the contents of the article.
- 13. Around the same time the Director General ("DG") of the Department of Mineral Resources ("DMR"). Or, Ramontja to dime that there was a request from Guptas that we increase the order volume of the New Age Newspaper that was supplied to the department. I refused to authorize the request.
- 14 Dr. Ramontja also told me that during Minister Shabangu's term the Guptas would host the department in their Cape Town home during the Mining

Indaba. I indicated to the DG that this would not happen under my leadership of the department

- 15. A few months later I got a call from Duduzane who wanted to meet me on a Friday, I told him that I would meet him on Monday as he sounded desperate.
- 16. I then asked the DG Or. Ramontja to inquire into what the issue could be. It emerged that one of the Gupta owned mines was non-compliant with safety regulations. Mr. Msiza who was then head of Safety confirmed to me that they had closed the mine because of non-compliance.
- 17 I was shown pictures of people working without protective clothes in that
- 18. I then decided to meet the President the following Monday instead of meeting Duduzane in the meeting with the President I advised that the President should tell his son to lodge whatever complaints he might have with the Department and not with me, as that would compromise procedural protocols. The President promised to do so
- The next event had to do with Mr. Brian Moleile, who had suspended the Optimum mine contract to supply Hendrina Power Station with coal.
- The reason as provided by Mr Molefe (then Eskom Chief Executive Officer) (CEO) was that Eskom was owed ± Two billion Rand by Glencore. Mr. Molefe was refusing to meet with Glencore to resolve the issue I had a meeting with Mr Molefe to persuade him to meet with Glencore to resolve the matter.
- The same evening Mr Molefe called me to say Or. Baldwin Ban Ngubane, his Chairperson wanted to meet with me. We then met in the office in the presence of some officials. At that meeting Dr. Ngubane basically instructed me to shut down all Glencore owned mines. He said that he needed a decision to be made in the meeting so that he could report to the President, who was leaving on a foreign mission on that day. I informed him that I was unable to take a decision like that without due processes being followed as these processes would enable me to make an informed decision.

- 21.1 Please See attached hereto the media report from Independent Media in which I confirmed that I was prepared to tell a judicial inquiry that Mr Molafe and Dr. Ngubane tried to force me to suspend mining company Glencore's licenses. This appears on paragraph 2 of Annexure B (Hand labeled purely for the purposes of the Commission's ease of reference). I confirm this media report.
- 22. On paragraph 9 of the same article referred to in paragraph 21.1 herein above I confirmed that I advised that "I am not going to shut the mine". On paragraph 13 of the above mentioned article, I went on to confirm that "I will tell the truth in front of anybody"
- 23. I then asked them to supply me with the list of Giencore mines that was supplying Eskom with coal. I advised that in the meantime they must engage in negotiations with Glencore as agreed with Mr. Motele. The meeting ended on that note.
- When the President returned from his trip he called me to Mahlamba Ndlopfu and thanked me for having served the Department very well. He advised that he has decided to "promote" me to the Department of Public Service and Administration (DPSA).
- 25. While at the DPSA I received an application from the Department of Mineral Resources (DMR) requesting the DPSA to appoint Mr. Mzwanele Jimmy Manyi as Director General for the DMR. Mr. Manyi did not qualify, and therefore, the application was declined.
- 26. Mr. Manyl then went to Adv. Moulhe and asked why I had declined his application. Adv. Moulhe told me that his response was that we are bound by the rules of Public Service.
 - 26.1 I would like to refer to my response and report to the Sunday Times regarding the appointment of Mr. Mzwanete Jimmy Manyi. Please see paragraph 4 of Annexure C where I confirmed to the media that "I stopped that thing of Manyi" because he did not meet the requirement of a post graduate degree.

- 26.2 I confirm that my other reason for declining his Application was further based on, and in line with, the contents of the Directive on Compulsory Capacity Development, Mandatory Training Days and Minimum Entry Requirements for Members of the Senior Management Services (SMS) which is attached hereto as Annexure D
- 26.3 I further point out that in paragraph 15 of Annexure 6, it is recorded that after leaving the public service, Manyl worked for the Gupta's ANN7 TV station
- 27. On the 1st of April 2017, I woke up to the news that I was fired as Minister Ironically in the last Cabinet meeting that I attended I had made a joke about April fool's day.
- 28 I was never formally (either personally or telephonically) informed of my removal from the cabinet post that I had been appointed to.
- 29. On the 16th May 2017 and at 11h58, during the interview with Lameez Omarjee and Mathew Le Cordeur of the ENCA, which is the 24 hours television news broadcaster owned by e.tv. I confirmed, as recorded in paragraph 5 of Annexure E hereto, that 1 did not co-operate with the Gupta family members*. Please see the article attached hereto as Annexure E.

Dated at Pretoria this <u>07</u> day of November 2018.

Adv Ngoako Abel Ramatihodi

1001/2016

Remailtons: | loid the Guplas to back off | Fin74

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Search by company name or news keyward



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Ramatihodi: I told the Guptas to back off

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- Informations During his time as minoral manures minister. Nggalo Formathod sold he was asked to meet with the Gupton, but relused to do ex.
- Flantsjihodi was spolking te givCA whom he revealed now he was onted by the provident a son Duducane Zuche te meet with Aley Gupta, his bostonse assessed on Teguta Explanation door flanceruss.
- "Since I became the minimum clemneral resources, the Guptus tried to have missings with res. I estimate to have those recallings. I strepty told them to back oil," Remarked cold at CA.
- his had reported this to Praiders Jacob Zume who said is was and a problem. Rumathed confirmed to sNCA that there was no continued pressure to meet with the family
- "I did not concerns with the Gunta mambers," Ramanical reserves.
- Tris comes following a repet by seasibilingens where Particularly said he was presented in 2015 by Exhant CEO Brian Moleis and chalperson 8th Agulasia in help the Coptes lake over Chincum's cost mins to 2018.
- REAS: Ramatinedi epits beans on how Moinie 'helpad'

Planestrodicaci he was asked to suspend the licences of Gideore mines. He refused to do so end was tales removed as minus orinizing by Zuma and tadestoyed in public service.

- The present heritals Ramethod he had done a good job as mines minister, and that with his background he could manage public service. "Laccopied Bloss reasons and Lettl do," sold Remailhodi,
- Nowever, Remathed odded that he was willeg to "share more" on a different platform, such as a judicial convenience of inquiry as proposed by leaner public protector That Madenage in her State of Capture report.
- Moleife was implicated in the report over procurement of coal contracts with Optimern Coal Mins O. Haked to Gupta-comed Tegela.

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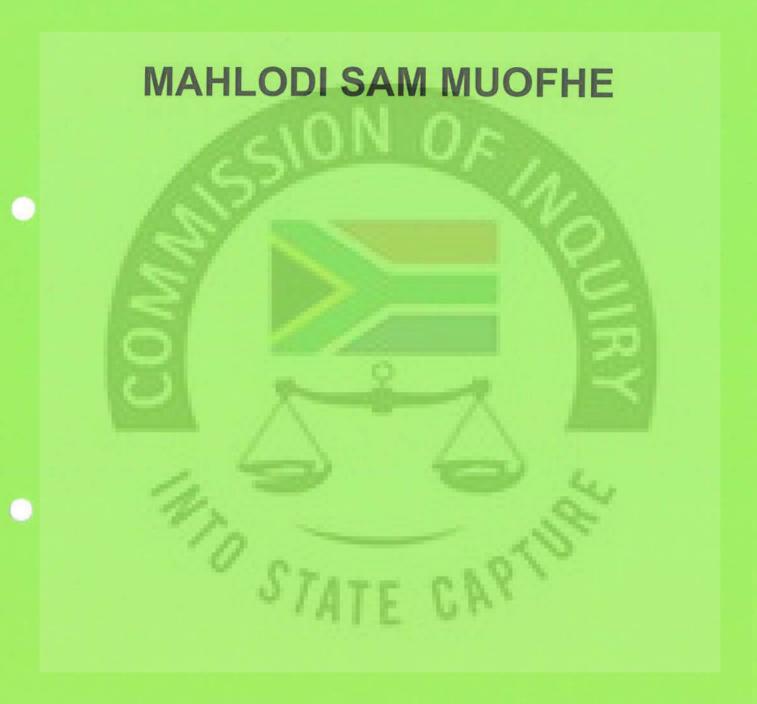
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2nd floor, Hillside House 17 Empire Road, Parktown Johannesburg 2193 Tel: (010) 214 to 0651

Email: inquiries@sastatecapture.org.za Website: www.sastatecapture.org.za

INDEX: EXHIBIT LL 6

#	Description	File	Pages
5.	Mahlodi Sam Muofhe	(c)	01 to 18



JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE

STATEMENT OF ADVOCATE MAHLODI SAM MUOFHE

1 INTRODUCTION

- 1.1 I, Mahlodi Sam Muofhe, am an adult person with full legal capacity.
- 1.2 I live in Sharonlea suburb, Randburg, Johannesburg.

2 EMPLOYMENT

- 2.1 My current employer is the Special Investigating Unit (SIU).
- 2.2 My designation is Chief Governance Officer.
- 2.3 In 2014 at the commencement of this current 2014-2019
 Government Administration, former State President, Mr JG Zuma appointed Adv Ngoako Ramatlhodi as Minister: Department of Mineral Resources ("the DMR").

- 2.4 After his appointment Adv Ngoako Ramalihodi appointed me as his Special Advisor.
- 2.5 I remained Special Advisor to Adv Ngoako Ramatihodi throughout his deployment period from the DMR to the Department of Public Service and Administration ("the DPSA").
- 2.6 My employment as Special Advisor to former Minister Ramatihodi, terminated by operation of the law, as my contract of employment was linked to his term of office, when former State President, Mr Zuma dismissed him from his Cabinet post on 31 March 2017.

3 GUPTA FAMILY

- 3.1 After my appointment in 2014 as Special Advisor to former Minister Ramatihodi, I received a letter from the Gupta business, I cannot remember which one since they traded using different companies, directing that former Minister Ramatihodi and I had to go to Saxonwold, i.e. the Gupta family residence, for dinner with the Guptas.
- 3.2 The purpose of the dinner was to discuss 'business' and a 'working relationship with them'.

- 3.3 Before I could respond to the directive, I received a telephone call, purportedly from one of the Gupta brothers. I cannot remember who, among them, it was, since to date I do not remember their names properly nor am I able to attach names to each one of them.
- 3.4 The telephone discussion centred on reminding me that 'there was a dinner date' the Minister and I had to honour with the Guptas. I responded to the caller in the negative in that I said I would not honour the directive personally, as I was not keen to meet the Gupta family. I however assured the caller that in reality it was not so much the two of us they wanted but probably former Minister Ramatihodi. I said I would oblige and pass the directive to Minister Ramatihodi.
- 3.5 I informed former Minister Ramatihodi that the Gupta family directed us to report for dinner at their compound in Saxonwold. I Informed him that I, for my part, told the caller that I was not interested in dining with or meeting them for that matter.
- 3.6 Former Minister Ramatlhodi said he was not available to meet or dine with them. He told me to decline the directive as well because he too was not keen to meet the Gupta family.

- 3.7 At the commencement of former Minister Ramatihodi's term as Minister: Mineral Resources, the AMCU platinum belt strike which had been running for almost five (5) months and was unresolved, was at its peak. Under the guidance of former Minister Ramatihodi we became engressed in it and focussed on resolving it. We had no time for meetings or dining with people who had no bearing in resolving the strike. Thankfully former Minister Ramatihodi, working collaboratively with all the affected stakeholders, succeeded in resolving that strike.
- 3.8 Former Minister Ramatihodi, to the best of my recollection, never met with the Guptas or any member of their family.

4 MR DUDUZANE ZUMA

- 4.1 Former Minister Ramatihodi informed me that Mr Duduzane Zuma called and wanted to meet him purpose of which was to 'congratulate him' on his appointment as Minister. Mineral Resources. I cannot remember the date since it was not essential that I record it.
- 5 MR BRIAN MOLEFE AND DR NGUBANE

- 5.1 Former Minister Ramatihodi Informed me about his engagements with Mr. Molefe and Dr. Ngubane, where they wanted to influence him to take decisions in his Ministry against a certain mining house. He told me that he declined to execute their instruction.
- 6 FORMER MINISTER RAMATLHODI'S VIEWS AND MINE DURING OUR STAY AT DMR
 - 8.1 We refused to go to Saxonwold for 'a working relationship dinner' with the Guptas. Former Minister's refusal to do what he told me Mr. Molele and Dr. Ngubane wanted him to do, led us to conclude that our stay at the Department of Mineral Resources will not last for too long.
 - 8.2 We both resolved that we would rather be out 'begging on the streets' than allow anyone, the former President included, to corrupt us.
- 7 FORMER STATE PRESIDENT MR. ZUMA RESHUFFLES MINISTER
 RAMATLHODI
 - 7.1 As anticipated by former Minister Ramathodi and I, former President Mr. Zuma on Tuesday 22 September 2015 reshuffled

A

his Cabinet and moved former Minister Ramatihodi from the DMR to the DPSA.

8 OUR FEELINGS ABOUT THE RESHUFFLE

8.1 Former Minister Ramathodi was displeased by the decision, albeit long overdue in our view, in that it impacted heavily on the rhythm of the DMR, which he had put so much effort into, and service delivery. The mineral resources sector is one of the key drivers of our economy. Not only that, it is one of the biggest employers of labour in our country. It requires stable political leadership at all times.

9 MR NATHI NHLEKO

- 9.1 Mr Nathi Nhleko at the commencement of the current 2014-19 Administration was appointed by the former President Mr. Zuma as Minister: South African Police Service (SAPS).
- 9.2 Sometime in September 2014, former Minister Ramatlhodi informed me that he received a request from then Minister of SAPS, Mr Nathi Nhleko, that I serve as a member of a 'REFERENCE GROUP' which he was going to set up at SAPS.

- 9.3 My area of focus on the 'REFERENCE GROUP' was going to be advising the then Minister: SAPS on various matters not limited to, but including matters relating to the NKANDLA PROJECT.
- 9.4 On 30 September 2014 I received a letter of appointment to serve on the 'REFERENCE GROUP' from Minister Nathi Nhieko.
- 9.5 By the time I accepted the appointment, I had already started working in the 'REFERENCE GROUP'.
- 9.6 Attached herewith is (a) my letter of appointment; (b) a legal opinion I wrote on THE NKANDLA PUBLIC PROTECTOR FINDINGS AND REMEDIAL ACTION and (c) a memorandum I authored on THE VARIOUS REPORTS CONCERNING THE NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICES. Inclusion of these documents serves to highlight some of the work I did during the period I served in the REFERENCE GROUP set by former SAPS Minister, Mr Nathl Milhethwa.
- 9.7 On Thursday 28 February 2015, former Minister Nathi Nhleko requested me to meet him in Cape Town.

- 9.8 I flew down to Cape Town and held a meeting with former Minister Nhieko in his Cape Town office.
- 9.9 Former Minister Nathi Nhieko informed me to ready myself any time for an audience with the former President, Mr. Zuma because he wanted to appoint me as the Director of the troubled NPA.

10 MEETING FORMER STATE PRESIDENT MR ZUMA

- 10.1 I cannot remember the exact date in March 2015 when my meeting with the former President took place.
- 10.2 On numerous occasions I would be called by former Minister
 Nhleko's PA to be around Pretoria either at Sheraton Hotel or at
 former Minister Nhleko's official Pretoria residence.
- 10.3 After all these postponements, one evening at the former President's residence in Mahlambandlopfu Pretoria, the meeting finally took place.
- 10.4 By the time this meeting took place it was already in the air that I was the 'incoming' Director: NPA.

- 10.5 I had even given up in trying to rebut that rumour as senior journalists close to me at the time kept on requesting me to give them the earliest first bite for obvious reasons about my imminent appointment.
- 10.6 In attendance at the meeting were (a) former President Zuma; (b) former Minister Ninleko and (c) myself.
- 10.7 We discussed various matters of Interest especially the ANC in general, since what bound us together in reality was the ANC.
- 10.8 I was keen to hear the real reason for the call to meet the former President. The former President, at a personal level, is such a personable person and protocol constrained me from asking him what the real purpose of the meeting was until he himself got to the point.
- 10.9 Former President opened the discussion on the real reason for the meeting. He wanted me to go and direct the NPA.
- 10.10 During question time, amongst a few that I asked him was (a) Why me? (b) What wrong did the person, Mr Nxasana, I was going to replace do as Director: NPA so that I do not 'commit' the same

wrongs? and (c) Mr President what will happen if I were to charge you personally as President for criminal offences?

On why me, the former President said he needed an excellent experienced senior disciplined government official like me who will not cow down to undue pressure.

On Nxasana, the former President said Nxasana charged Ms. Jiba unmecessarily and his reckless act unsettled the NPA in no small measure.

On criminally prosecuting the former President, he assured me that he will not interfere with my prosecutorial independence.

- 10.11 I then informed the former President that I thought, much as I probably possessed the requisite skills he saw in me, maybe it will be better for him to look for a Director from within the NPA Itself.

 He warmed up to it greatly.
- 10.12 Within me as I came up with that proposition which he himself also told me that there was another stream of thought which expressed the same sentiment to him, that it would be better to appoint someone from within, I was already disturbed by the reason he gave me on why Mr Nxasana was fired. I felt that the

former President, much as he assured me that he would not interfere with my prosecutorial independence, simply wanted me to be the de jure Director of the NPA with Ms Jiba as the de facto Director and that I was not going to accept.

11 DMR

- 11.1 Over and above refusing to meet with the Guptas and refusing to bow to pressure which Mr. Brian Moleie and Dr. Ben Ngubane wanted to exert on former DMR Minister Ramatihodi, our quest to regulate the mining industry in a just manner affected some mines' bottom line adversely.
- 11.2 On 3 August 2015 DMR Issued Optimum Mine, then a subsidiary of Giencore Global Resources, with a Section 93(b) notice in terms of the MPRDA.
- 11.3 We suspended their trading licence for non-compliance.
- 11.4 Our action legally correct as it was irked some people.
- 11.5 We only lifted revocation after they had given us a satisfactory plan on how they were going to cure their non-compliance problems.

12 DPSA

- 12.1 On Tuesday 22 September 2015 former President, Mr Zuma, reshuffled Cabinet and moved former Minister Ramatihodi from the DMR to the DPSA.
- 12.2 Former Minister Ramatihodi, once at DPSA, restarted the process of reviewing the Ministerial Handbook.
- 12.3 Former Minister Ramatihodi drastically altered the manner in which public servants in particular used to be employed to senior positions in government. Some who were appointed were often ill qualified for senior positions.
- 12.4 Former Minister Ramatlhodi came up with a stringent employment directive which stipulated requirements needed especially for senior positions in government e.g. DGs and DDGs.

13 DMR FORMER MINISTER MOSEBENZI ZWANE

- 13.1 Or Thibedi Ramonlja, a distinguished scientist who was the Director-General: DMR resigned.
- 13.2 DGs and DDGs are appointed by Cabinet.

- 13.3 The Minister of the Department of Public Service and Administration processes the appointment by Cabinet of DGs and DDGs after satisfying himself or herself that the candidates brought to him or her for processing, meet the requirements as set out in the advertisement.
- 13.4 During our period at DPSA with former Minister Ramatihodi, a submission from former DMR Minister Zwane was brought in 2016 to process the appointment of Mr. Mzwanele Manyl as DG: DMR. Former Minister Ramatihodi, on perusing the advert and Mr. Mzwanele Manyl's curriculum vitae, concluded that the panel of ministers who interviewed Mr. Mzwanele Manyl erred in proposing that Mr Mzwanele Manyl be appointed as DG: DMR because Mr. Mzwanele Manyl dld not possess the qualifications which were stipulated in the advert for the post. The former Minister thus rejected the submission.
- 13.5 Mr. Mzwanele Manyi failed to make it as the DG simply because he did not have the qualifications needed for the post.
- 13.6 Failure to get the appointment which Mr Manyi felt he deserved did not go down well with him.

- 13.7 During that time in 2016 my late wife, may her soul rest in peace, was in hospital at Olivedale Clinic diagnosed with stage 4 cancer and 1 spent time in hospital. I received a call from Mr Mzwanele Manyi during one of my visits to the hospital.
- 13.8 Mr Mzwanele Manyi and I know each other well and I thought perhaps he had heard that my late wife was terminal in hospital hence the call.
- 13.9 The call was completely unrelated to what I thought Mr. Mzwanele Manyi wanted to come and see me about urgently, even though by then I had told him that I was at Olivedale Hospital. He insisted that he had to come and see me for a very urgent message he needed to convey, and said that it was not going to take time.
- 13.10 I obliged and Mr. Manyi came and met me at Olivedale Clinic,
- 13.11 He told me that the former President was extremely perturbed with me and former Minister Ramathodi because we did not support and process his (Mr. Manyi's) appointment as DG.
- 13.12 I was lumped in because of my position as Special Advisor to former Minister Ramatlhodi,

13.13 I told Mr Manyl that much as the former President was angry with former Minister Ramathodi. In particular, because I was not the Minister, I advised him that former Minister Ramathodi was not going to deviate from the requirements clearly stated in the advert simply to appease the former President by appointing Mr. Manyl as DG, DMR, a position he was clearly not suitable for.

14 MR THEMBA MASEKO AND "RETIRED FORMER DGS"

- 14.1 Mr Themba Maseko testified at this Commission that attempts by the "retired DGs" to meet with the former Minister Ramatihodi falled.
- 14.2 True, they addressed a letter to former Minister Ramatihodi in which they directly wanted him to "reign in the former State President for mismanaging the country".
- 14.3 I engaged personally with some of the retired DGs on their letter as we know each other very well.
- 14.4 I informed them that former Minister Ramatihodi comprehended fully their concerns on the mismanagement of the resources of

- government as a consequence of the lack of quality ethical leadership on the part of the former President.
- 14.5 Fact of the matter was, they shopped at a wrong forum, wanting former Minister Ramatihodi to intervene and reign in the former President.
- 14.8 Former Minister Ramatihodi simply did not have any jurisdiction over the former President.
- 14.7 Former Minister Ramatihodi himself was a victim of former President's irrational reshufflings.
- 15 FORMER STATE PRESIDENT ZUMA DISMISSES FORMER MINISTER
 RAMATLHODI
 - 15.1 Former State President Zuma subsequently dismissed former

 Minister Ramatihodi as Minister: DPSA.
 - 15.2 Former Minister Ramathhodi and I anticipated here as well that by not appointing Mr. Manyl, the former President was once more going to use his sharp axe to chop former Minister Ramathhodi completely from his Cabinet.

16 CONCLUSION

SA lost a professional Cabinet Minister in Advocate Ramatihodi, simply because he at all material times refused to execute irrational instructions either from former President himself or by extension, those who purported to have been sent by him with dubious mandates,

Signed on the 16th day of November 2018 at SiU offices, PRETORIA.

Signed by. Advocate MS Muofhe



JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE

2nd floor, Hillside House 17 Empire Road, Parktown Johannesburg 2193 Tel: (010) 214 to 0651

Email: inquiries@sastatecapture.org.za
Website: www.sastatecapture.org.za

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