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20

PROCEEDINGS ON 10 JUNE 2019

CHAIRPERSON: Good morning Mr Mokoena, good morning everybody.

ADV PHILLIP MOKOENA SC: Good morning Chair.

CHAIRPERSON: Thank you. Are you ready to proceed?

ADV PHILLIP MOKOENA SC: We are ready to proceed Chair.

CHAIRPERSON: Thank you. Mr Mazibuko the oath you took last week continues until you have finished your evidence.

MR SHIWA ELIJAH MAZIBUKO: Noted Chair.

CHAIRPERSON: Thank you.

- 10 **ADV PHILLIP MOKOENA SC**: Mr Mazibuko before we proceed where we left off on Friday I would like you to please recap for us some of the crucial aspects of your evidence that you conveyed to the Chair but in a summary form? Let us do that with reference to page 16 and please capture for us the essence of paragraph 36 and 37 of your witness statement? Page 36 – page 16 Chair paragraph 36 and 37.

CHAIRPERSON: What page?

ADV PHILLIP MOKOENA SC: 16.

CHAIRPERSON: 16.

ADV PHILLIP MOKOENA SC: Yes.

- 20 **CHAIRPERSON**: Thank you.

ADV PHILLIP MOKOENA SC: You may proceed simply to you know give us the essence.

MR SHIWA ELIJAH MAZIBUKO: Okay.

ADV PHILLIP MOKOENA SC: Of what you are conveying to the Chair.

MR SHIWA ELIJAH MAZIBUKO: Ja.

ADV PHILLIP MOKOENA SC: In those paragraphs.

MR SHIWA ELIJAH MAZIBUKO: Thanks Chair. Just to recap. During the period of 21 to 28 May 2015 Homix had effected 13 cross border foreign exchange transactions via Mercantile with an aggregate value of some 51.8 million at the relevant time and details of these cross border exchange transaction records are set out in the spreadsheet annexed marked as SEM7. We went thought this. I do not know whether the Chairperson would like me to go back.

ADV PHILLIP MOKOENA SC: No, no you have already done that I just
10 want you to...

CHAIRPERSON: Ja no ja.

ADV PHILLIP MOKOENA SC: Just give us the summary high level.

MR SHIWA ELIJAH MAZIBUKO: Ja. So I must say that these for the 21 to 28 were able to go through unfortunately with Mercantile Bank because as I alluded to that the banks are the first line of defence. You know when you talk about money laundering sometimes you know that is why there needs to be vigilant because they talk about the first part if placement and its layering and then we talk about integration. Once you have placed so when somebody tries to place a fraudulent
20 transaction of some sort and it is not picked up right at the beginning then the next step it will be layering. You will see when we are looking at other accounts of Homix in – at Standard Bank at a later stage so... And then they tried because I think they were successful and then they tried on the 29th to push another three transactions over the 13 that they have already done. It is only then when Mercantile referred the

transaction to the South African Reserve Bank and the South African Reserve Bank blocked those transactions which three of them came to an amount of 4.4 million approximately and they were prevented from doing that.

ADV PHILLIP MOKOENA SC: Yes.

MR SHIWA ELIJAH MAZIBUKO: And then from there the process of investigation started as to what was going on.

ADV PHILLIP MOKOENA SC: Yes, yes. And I think you also capture that essence if you refer to page 17 Chair I am referring the witness to
10 page 17 and also capture for us you know at high level what you are stating on paragraph 42?

MR SHIWA ELIJAH MAZIBUKO: So in paragraph 42 is the movement's reference number where I just explain that it is the number that is generated by SARS. You know it is a SARS custom declaration so when a customer declares the goods and wants to claim the goods there has to be what is called a movement's reference number. So this number can also be generated by agents you know for importers and exporters you know in terms of their electronic data interchange information system that they use amongst themselves. And amongst us
20 and the banks being the Reserve Bank we use what is called the import verification system where we can track. So this is like an ID number of a transaction.

ADV PHILLIP MOKOENA SC: Yes.

MR SHIWA ELIJAH MAZIBUKO: Where you have done the import that to track it you know you have to have – so that is why we talk about the

validation that in addition to the three movement reference numbers who were supplied by Homix to justify the 16 transactions while they were seen to be valid but the goods that were cleared at the ports at that particular time for a payment of 51.8 million they did not match what was paid out of the country which was 51.8. So the goods that were cleared were only R50 000.00.

ADV PHILLIP MOKOENA SC: Yes. And then lastly in a way of simply reminding ourselves of your evidence on Friday may I refer you to page 19 paragraph 53.

10 **MR SHIWA ELIJAH MAZIBUKO:** Yes. So paragraph 53 there we show two documents which on the face of it they look very different.

CHAIRPERSON: I think when you say 53 it is like it is 5.3.

MR SHIWA ELIJAH MAZIBUKO: Okay 53.

CHAIRPERSON: Paragraph 53.

ADV PHILLIP MOKOENA SC: 53 Chair.

CHAIRPERSON: Ja.

ADV PHILLIP MOKOENA SC: Page 19 paragraph 53.

MR SHIWA ELIJAH MAZIBUKO: 53 yes.

ADV PHILLIP MOKOENA SC: Yes.

20 **MR SHIWA ELIJAH MAZIBUKO:** Apologies Chairman it is 53. So it was SEM14 and SEM12 where the SEM12 was the mirror image of SEM14.

ADV PHILLIP MOKOENA SC: Yes.

MR SHIWA ELIJAH MAZIBUKO: They did not look the same on the face value especially when it goes to the top but in the middle there

were some information that looks very similar however we discovered that some information when it came to the mass of the goods to be imported the value and the total amount differed quite drastically. So – and the SEM14 was the authentic document that was supplied by Thuthuka Sizwe just to prove that how it will look like if they have done the transaction.

ADV PHILLIP MOKOENA SC: Yes.

MR SHIWA ELIJAH MAZIBUKO: In an authentic manner and the one that led to the leakage in terms of the money that went illegally outside
10 was SEM12 with some particulars that are similar to the one with SEM14 but with some vast differences here and there.

ADV PHILLIP MOKOENA SC: Yes. And after interrogating SEM12 and SEM14

MR SHIWA ELIJAH MAZIBUKO: Yes.

ADV PHILLIP MOKOENA SC: And taking the Chair through the various discrepancies you then conclude on paragraph 53 the last line you say that:

“It follows that on a balance of probabilities the ETI releases provided by Mercantile – to Mercantile by Homix were falsified.”

20 **MR SHIWA ELIJAH MAZIBUKO:** Yes.

ADV PHILLIP MOKOENA SC: So – and those are the conclusions that you arrived at?

MR SHIWA ELIJAH MAZIBUKO: Yes.

ADV PHILLIP MOKOENA SC: After that analysis?

MR SHIWA ELIJAH MAZIBUKO: Yes.

ADV PHILLIP MOKOENA SC: Yes.

MR SHIWA ELIJAH MAZIBUKO: They were falsified. As I say that normally falsification of document goes with the trade base money laundering that there is an intention here to use a transaction that was – that will look legitimate on the face of it but knowing that the underlying actions underneath is to hide some nefarious activities that are taking place.

ADV PHILLIP MOKOENA SC: Alright. Now let us proceed with your evidence today and deal with those aspects which you never dealt with
10 on Friday. May I do so with reference to page 21 of your statement whereby you are linking two other entities to Homix transactions, can you please tell us more about those entities and how they were linked to Homix transactions?

MR SHIWA ELIJAH MAZIBUKO: Yes thanks Chair. If I may start at paragraph 59 where we refer to entities that were under investigation by the Financial Surveillance Department being Viper Wholesales and FGC Commodities and in this regard it – Morningstar – Morningstar was one of the companies that was registered in Hong Kong that I alluded on Friday that got most of the money. Remember that the money that
20 flew the 51.8 million 16 transactions the intention was 14 was supposed to go to Morningstar and 2 were supposed to go to YKA.

ADV PHILLIP MOKOENA SC: Yes.

MR SHIWA ELIJAH MAZIBUKO: And what is you know significant here is that Morningstar, Viper and FGC Commodities share the same sole director being Mr Mahashveran Govender. So we just want to highlight

that because I think on Friday the Chair raised some you know eyebrows when I talk about that. Most of these companies they have sole directors of which there is nothing wrong with that but it is a common thread as to why – I do not know why because we did then when you look at paragraph 60 and ICRIS CSC Hong Kong companies registration search which revealed that Mr Govender was the sole director of Morningstar.

ADV PHILLIP MOKOENA SC: Hm.

MR SHIWA ELIJAH MAZIBUKO: And one of the beneficiaries to whom
10 Homix had transferred funds abroad and then we have a copy of the search results in terms of Annexure SEM16 in that regard.

ADV PHILLIP MOKOENA SC: Did they conduct any genuine business these companies? Do you know why these monies were paid to them from Homix?

MR SHIWA ELIJAH MAZIBUKO: There is – as we alluded to on Friday that there is no – there is not much online presence for these companies so even the ones that you know you will see when we start to look at the Standard Bank account. There is little or no online presence for somebody to get so much money so quickly and when you
20 go there because even now you can try and do the search but there is so much little presence for this company. So it seems like they were registered you know at that particular time and then taken off maybe after the money has gone through.

ADV PHILLIP MOKOENA SC: Yes. Now before you move on to – I want to take you to paragraph 63. Are there any aspects of your

evidence Mr Mazibuko which you might seek to clarify what you conveyed to the Chair. Is there anything that you want to clarify?

MR SHIWA ELIJAH MAZIBUKO: Ja so what I need to clarify is that with the issue of forfeiture of transactions. So when like Homix we started the investigation at that particular time for each and every alleged perpetrator you know you will be given three years that you know the investigation after the blockage of money the investigations starts and then what follows then will be the Audi Alteram Principle in terms of you actually being requested certain information to make sure
10 that we hear your side in terms of actually how the transaction took place so that you know you are not disadvantaged that we just take a decision without – so then you are supposed to come back to us with a full frank and verifiable disclosure. It you do not do that obviously the matter will proceed. But the matter they do not just follow in a sequence in the department that once we start because there is a – there are hundreds of these investigations that are taking place so you find that you know we got so much few investigators they are working on this, working on that but what they should just be guarding against is that three years since the blockage should not lapse because if it
20 lapses we should actually unblock the money and send it back to the – but it does not happen because we keep some reminder cards that actually. But then after the forfeiture you know we used to have a 90 day review that you can actually take us on review for that but then when the promotion of Administrative Justice Act came into being we aligned that and we made it 180 days.

ADV PHILLIP MOKOENA SC: Oh yes now it is clarified yes.

MR SHIWA ELIJAH MAZIBUKO: Okay.

ADV PHILLIP MOKOENA SC: And in paragraph 63 you refer to further 4 transactions.

MR SHIWA ELIJAH MAZIBUKO: Yes.

ADV PHILLIP MOKOENA SC: Which were effected by to Morningstar please you know can you elaborate to the Chair about those transactions.

MR SHIWA ELIJAH MAZIBUKO: Yes then on paragraph 63 during 2016
10 after we intervened in the Homix matter a further four transactions were effected to Morningstar by four private individuals investing in Morningstar and then we like instituted an investigation into these transactions that revealed false documentation was presented to the relevant bank in support of these transactions and that Mr Sheldon Jack Breedts had played a pivotal role in supplying those documentations.

ADV PHILLIP MOKOENA SC: Now were these transactions in addition to the 16 that you have already...?

MR SHIWA ELIJAH MAZIBUKO: Yes these were...

20 **ADV PHILLIP MOKOENA SC:** Told the Chair about.

MR SHIWA ELIJAH MAZIBUKO: Yes.

ADV PHILLIP MOKOENA SC: Even after the 16 transaction.

MR SHIWA ELIJAH MAZIBUKO: Yes.

ADV PHILLIP MOKOENA SC: There were further ones that they wanted to effect?

MR SHIWA ELIJAH MAZIBUKO: There were further ones. So here the difference is that this is not a company but it is individuals that are saying they are investing.

ADV PHILLIP MOKOENA SC: Yes.

MR SHIWA ELIJAH MAZIBUKO: As I said that you can invest one individual you can invest abroad and all that but they had falsified documentation at their disposal in terms of – so it was discovered and we did – the department actually took the matter to investigate and then we tried and blocked their accounts. But we found that
10 unfortunately some of the people that were involved here were involved in other criminal activities of murder where Mr Mathew Breedts and his brother actually were arrested. So that actually delayed the process to finalise the matter because as I said that then the process of actually hearing the other side these guys are in jail and all that. But the matter we will have to make sure that we monitor both the criminal process but our time as well as I alluded to that the three years does not lapse so that the money that has been blocked does not go back to the perpetrators.

ADV PHILLIP MOKOENA SC: Yes. You conclude on this topic Mr
20 Mazibuko on paragraph 65 to 66 could you please tell the Chair then what happened to – whether the Department took any other steps pertaining to these transactions and entities or individuals?

MR SHIWA ELIJAH MAZIBUKO: Yes Chair. So there we just highlighting that the transaction involving Mr Govender – remember he is the sole director of Viper, FGC Commodities, Morningstar so – and

we just highlight that FGC Commodities and Viper also formed the subject of a previous report to the directorate for priority crime investigation – the Hawks of South African Police Service during November. So you can see that the shenanigans that are involved here that these are not clean companies that besides the matters that are involved in the Homix case there have been other cases where these companies under the directorship of Mr Govender we have reported them to the police.

ADV PHILLIP MOKOENA SC: Yes. But I mean the date here and I am
10 posing this question in the light of the concerns of the Chair.

MR SHIWA ELIJAH MAZIBUKO: Hm.

ADV PHILLIP MOKOENA SC: Pertaining to whether or not there is any activities being done in relation to this reported cases you know to the respective law enforcement? I mean here you are saying it was reported around November 2015?

MR SHIWA ELIJAH MAZIBUKO: Yes.

ADV PHILLIP MOKOENA SC: Do you know as to what transpired from 2015 up until now in relation to those reported cases?

MR SHIWA ELIJAH MAZIBUKO: So we have a challenge with the
20 police in this regard in terms of pursuing these cases. I think I do not know whether it is because of the resources at their disposal and when we go to Parliament because from time to time we go to Parliament to actually account as various agencies in terms of illicit financial flows.

ADV PHILLIP MOKOENA SC: Yes.

MR SHIWA ELIJAH MAZIBUKO: We do report these cases. I think the

last number of cases that we had reported to the police were 64.

ADV PHILLIP MOKOENA SC: 64?

MR SHIWA ELIJAH MAZIBUKO: Involving exchange control, contraventions but nothing at that particular time had taken place. But I must say then after one of the sessions in Parliament – you know because I think the issue of collaboration and working together was a little bit far apart because – for it – and we were working in silos I think and we were very much encouraged to work together so that – because these type of work is like really that you find a number of people are
10 carrying a stick to the finish line and then if somebody drops the stick you not going to reach the finish line. So if we deal with the case as financial surveillance and somebody does not take it to the end and we give it to you and then we say take it further and you do not it is not going to – so that is a disadvantage it is just one of the cases that – and we have raised this concern with the previous directorate and we hope in future because now we are always reporting back to Parliament on a bi-monthly – on an annual basis that we will try and encourage the police to work on these cases. As I said that I do not know why whether because I am not on their side I am on the side of the bank
20 this side we just do our job to report to them. But I must also say that there is an inter-urgency working group that has been established between ourselves, FIC, the NPA and we have taken about 8 cases we are trying to drive those cases. So we have picked out of these cases that were not moving.

ADV PHILLIP MOKOENA SC: Hm.

MR SHIWA ELIJAH MAZIBUKO: I am not so sure whether this one is one of them but we are trying to actually take action on them and push them through so that they can go to court and be finalised. So there is some action amongst ourselves that after you know some dilly dallying the past and working in silos we are now trying to collaborate in working together so that we can push these cases. Because you cannot work alone as I said that we finish with certain cases especially where there is some justification to report them to the police, we report it to them but you need to make sure that they also push the cases
10 through.

ADV PHILLIP MOKOENA SC: Yes.

MR SHIWA ELIJAH MAZIBUKO: Yes.

CHAIRPERSON: Well you talk about 64 cases that you have referred to the police.

MR SHIWA ELIJAH MAZIBUKO: Yes.

CHAIRPERSON: Are those cases cases that were referred to the Hawks as such or referred to SAPS or referred to different units or branches of the police?

MR SHIWA ELIJAH MAZIBUKO: They are reported to the NPA Chair.

20 **CHAIRPERSON:** To the NPA?

MR SHIWA ELIJAH MAZIBUKO: Yes.

CHAIRPERSON: Oh not the police?

MR SHIWA ELIJAH MAZIBUKO: No I might not be sure in terms of the structure.

CHAIRPERSON: Or both yes.

MR SHIWA ELIJAH MAZIBUKO: Yes.

CHAIRPERSON: Well the NPA prosecutes.

MR SHIWA ELIJAH MAZIBUKO: Ja.

CHAIRPERSON: The police investigate.

MR SHIWA ELIJAH MAZIBUKO: Yes.

CHAIRPERSON: And when they have finished investigating they submit the docket to the NPA. The NPA looks at the statements and the evidence collected and they decide whether there is a case to take to court or not. Do you know which ones you would have taken?

10 **MR SHIWA ELIJAH MAZIBUKO:** So it will be the police because you have got police case numbers here that we have that is reported that you know you will see that in some of the [indistinct].

CHAIRPERSON: So it would be the police?

MR SHIWA ELIJAH MAZIBUKO: It will be the police. But at some stage then it should be escalated for prosecution to the NPA.

CHAIRPERSON: Ja after they have investigated.

MR SHIWA ELIJAH MAZIBUKO: Yes.

CHAIRPERSON: So when you – I would – Ja you must be reporting them to the police.

20 **MR SHIWA ELIJAH MAZIBUKO:** Yes.

CHAIRPERSON: Because they need to be investigated before they go to the NPA and – but once you have reported them to the police with or without a task team which involves all of these agencies the police must keep you informed of what they are doing. They should – if you have reported the case and they investigate they must be able to come

back and say this is what is happening about that case. Have they not been doing that?

MR SHIWA ELIJAH MAZIBUKO: As I alluded to Chairperson that in the past we worked with - you know within our silos you know because people.

CHAIRPERSON: Ja but that is what I am dealing with I am saying it does not matter whether you work in silos or not if you have referred a case to the police.

MR SHIWA ELIJAH MAZIBUKO: Yes.

10 **CHAIRPERSON:** One they have a duty to inform you about the progress.

MR SHIWA ELIJAH MAZIBUKO: Yes.

CHAIRPERSON: You know because you have a special task which you are performing and you want to see to it that people who have contravened exchange control regulations are dealt with where those their conduct seems to you to constitute crimes.

MR SHIWA ELIJAH MAZIBUKO: Yes.

CHAIRPERSON: So my question is whether they have been reporting back to you or not on their progress?

20 **MR SHIWA ELIJAH MAZIBUKO:** As of late as I have alluded to that we – after going to Parliament because I think it is where we were highly criticised by [indistinct] that we work in silos and then we formed what is called an inter-urgency working group and then we started to take 8 cases you know amongst ourselves that we think that we can start to drive now – so the process...

CHAIRPERSON: That I understand Mr Mazibuko you have told me that.

MR SHIWA ELIJAH MAZIBUKO: Yes.

CHAIRPERSON: My question is, have they not been reporting back to you? Has the police not been reporting back to you?

MR SHIWA ELIJAH MAZIBUKO: No they have not been reporting back to us Chairperson.

CHAIRPERSON: And then – this has been for how long as far as you know?

MR SHIWA ELIJAH MAZIBUKO: It goes back to the number of years. I
10 am not sure as to...

CHAIRPERSON: Whenever you have reported them.

MR SHIWA ELIJAH MAZIBUKO: Yes.

CHAIRPERSON: Ja

MR SHIWA ELIJAH MAZIBUKO: Because the 64 cases were not reported in one year so...

CHAIRPERSON: Yes.

MR SHIWA ELIJAH MAZIBUKO: So [indistinct]..

CHAIRPERSON: Over a certain period.

MR SHIWA ELIJAH MAZIBUKO: Ja so...

20 **CHAIRPERSON**: Yes.

MR SHIWA ELIJAH MAZIBUKO: Yes.

CHAIRPERSON: But you would say you might not be exact but you will say the earliest of those 64 cases would have been reported around about which year?

MR SHIWA ELIJAH MAZIBUKO: Let us take – let us say maybe five

years ago let me use that as an example.

CHAIRPERSON: More or less five years ago?

MR SHIWA ELIJAH MAZIBUKO: Yes more or less five years ago.

CHAIRPERSON: Yes.

MR SHIWA ELIJAH MAZIBUKO: Yes.

CHAIRPERSON: You see I am concerned about that and I should be concerned about that because one of the – one of the concerns or allegations that are made in relation to state capture is that law enforcement agencies have also been captured.

10 **MR SHIWA ELIJAH MAZIBUKO**: Hm. Yes.

CHAIRPERSON: And cases that they should have investigated were not investigated because of corruption. And so that is part of the reason why I am interested in why so many cases you reported so many cases to the police and they have never come back to you to say what is happening..

MR SHIWA ELIJAH MAZIBUKO: I just need to add that we did write to the head of the – previous head of the NPA.

CHAIRPERSON: Yes.

20 **MR SHIWA ELIJAH MAZIBUKO**: Just to ask as to what is happening to 64 cases.

CHAIRPERSON: Yes.

MR SHIWA ELIJAH MAZIBUKO: But we never got any response.

CHAIRPERSON: Yes.

MR SHIWA ELIJAH MAZIBUKO: In that regard.

CHAIRPERSON: But I – am I right that you are – you are not sure of

the role of the NPA and the police.

MR SHIWA ELIJAH MAZIBUKO: Ja.

CHAIRPERSON: You ...

MR SHIWA ELIJAH MAZIBUKO: Because...

CHAIRPERSON: You saying NPA sometimes you saying the police.

MR SHIWA ELIJAH MAZIBUKO: But we wrote to them there I am sure that we wrote to the head of the NPA.

CHAIRPERSON: To then NPA?

MR SHIWA ELIJAH MAZIBUKO: About the 64 cases that is why I can –

10 **CHAIRPERSON:** Yes.

MR SHIWA ELIJAH MAZIBUKO: Because I think in most cases when we are in Parliament on – alongside us we are with the NPA.

CHAIRPERSON: Yes.

MR SHIWA ELIJAH MAZIBUKO: Yes. Not with the [indistinct].

CHAIRPERSON: Not with the police.

MR SHIWA ELIJAH MAZIBUKO: So that is why maybe my

CHAIRPERSON: Okay.

MR SHIWA ELIJAH MAZIBUKO: Confusion gets you know mixed up there because in most cases we deal with the NPA people {indistinct}.

20 **CHAIRPERSON:** Yes. Maybe you could go back when you go back and just check properly and because it may be important to establish why there has been no action if he position is that there has been no action and so on. But from your side I was still going to say from your side it might not be enough also to just report and leave it to them to do that. Because this is your area you know exchange control regulations and

you should follow up to say what is happening because you do not want people who have contravened exchange control regulations who you think should be prosecuted to just go scot free and nothing happens.

MR SHIWA ELIJAH MAZIBUKO: Yes

CHAIRPERSON: Because that weakens your own area where you have an obligation to enforce exchange control regulations. And people do contravene these and you refer them to either the police or the NPA and nothing happens it undermines the control exchange control regulations and it undermines the South African Reserve Banks fight
10 against among other corruption.

MR SHIWA ELIJAH MAZIBUKO: Noted Chair.

CHAIRPERSON: Ja.

MR SHIWA ELIJAH MAZIBUKO: Because we used most because I do not think – as I – I do not want to go back because as I said we work in silos but when we were – when we were in Parliament where we are facing you know the committees.

CHAIRPERSON: Ja.

MR SHIWA ELIJAH MAZIBUKO: It is where we tell the truth. As I said we go there almost bi-annually to committees.

20 **CHAIRPERSON:** Yes.

MR SHIWA ELIJAH MAZIBUKO: When we deal with illicit financial frauds.

CHAIRPERSON: Yes.

MR SHIWA ELIJAH MAZIBUKO: And then we will make a presentation every six months to say these are the – and they will be there.

CHAIRPERSON: Yes.

MR SHIWA ELIJAH MAZIBUKO: And the Chairperson will ask them to say what it is not open – but as you alluded to state capture because this has been asked to say why there is

CHAIRPERSON: Yes.

MR SHIWA ELIJAH MAZIBUKO: And inaction they could not come up with an answer.

CHAIRPERSON: A explanation.

MR SHIWA ELIJAH MAZIBUKO: Some of them in Parliament if you can
10 even go back.

CHAIRPERSON: Yes.

MR SHIWA ELIJAH MAZIBUKO: They were – they just alluded to be scared you know. They cannot do this for whatever reasons whatsoever.

CHAIRPERSON: They said they were scared some of them?

MR SHIWA ELIJAH MAZIBUKO: From their superiors. You know there were some times when somebody could not answer to say he needs to first to phone the superiors in Pretoria that...

CHAIRPERSON: Is that so?

20 **MR SHIWA ELIJAH MAZIBUKO:** Ja that – before he could answer that question.

CHAIRPERSON: Hm.

MR SHIWA ELIJAH MAZIBUKO: So that is the difficulty that you find that at that particular time. Maybe things are going to change now whatsoever but if they could not answer in front of the committee

chairpersons

CHAIRPERSON: Hm

MR SHIWA ELIJAH MAZIBUKO: Where we thought that you know it is like taking your sibling to the parent to say now you are going to tell the truth.

CHAIRPERSON: Hm

MR SHIWA ELIJAH MAZIBUKO: Because you have been – I have been trying to get it out of you. So we are here now tell the truth but it still does not come out. You hear these promises so there have been these
10 promises but as I said that I think the 8 cases that are there will be the test cases and I think it is a drop in an ocean after 64 cases that have been there over the years that you are starting with 8 cases.

CHAIRPERSON: Hm.

MR SHIWA ELIJAH MAZIBUKO: That it is a drop in the ocean. But was a push from Parliament that says we need to do something and work together.

CHAIRPERSON: Hm. Well now that is useful information. One of the things that I am going to do is establish a special task team to look at issues of how Parliament exercised oversight over the years in regard
20 to issues of state capture and corruption. So part of what you are saying would fall under that because it may well be that as I have said a few times over – since last date it may well be that if Parliament had played its oversight role some of the challenges may have been dealt with early. So it is important to have a look and to see where there may have been failures on the part of Parliament, on the part of

Portfolio Committees and see what would need to be done for the future. What measure would need to be done – taken to make sure that if similar things come up in the future Parliament would play its role and maybe stop some things from progressing too far. So the information you tell – you are telling me is quite important that you know your division has been going to Parliament and raising these issues and sometimes the people from – whether the NPA or other law enforcement agency could not or so – you know give explanations because one of the things is when a Portfolio Committee is exercising
10 its oversight and people cannot give explanations there must be something to do about it. It cannot just be left like that.

MR SHIWA ELIJAH MAZIBUKO: Yes Chairperson.

CHAIRPERSON: Okay thank you.

MR SHIWA ELIJAH MAZIBUKO: So it is true Chairperson. I just want to say that we have been going - the Parliament in terms of its programs as I say that for the past four years we have been going there ...

CHAIRPERSON: Yes.

MR SHIWA ELIJAH MAZIBUKO: By (indistinct) but ...

20 **CHAIRPERSON:** Yes.

MR SHIWA ELIJAH MAZIBUKO: It is in terms of your alluding to in terms of the action because I think they will come hard on any agencies ...

CHAIRPERSON: Yes.

MR SHIWA ELIJAH MAZIBUKO: That - and they have come hard on us

...

CHAIRPERSON: Hm.

MR SHIWA ELIJAH MAZIBUKO: Working in silos (?) ...

CHAIRPERSON: Hm.

MR SHIWA ELIJAH MAZIBUKO: That you know they need to see some progress ...

CHAIRPERSON: Hm.

MR SHIWA ELIJAH MAZIBUKO: And I said one day when we were in Parliament that we are all in - in Pretoria most of us are here in
10 Pretoria ...

CHAIRPERSON: Hm.

MR SHIWA ELIJAH MAZIBUKO: But we have to go to Parliament to be told not to work in silos and all that.

CHAIRPERSON: Hm.

MR SHIWA ELIJAH MAZIBUKO: And nothing much was happening in terms of the push to make sure that maybe with the previous submission ...

CHAIRPERSON: Hm.

MR SHIWA ELIJAH MAZIBUKO: You know to the Portfolio Committee
20 there is much progress. We will go and find that some of the issues like ...

CHAIRPERSON: Hm.

MR SHIWA ELIJAH MAZIBUKO: The cases we are having are still static at 64. Nothing has gone through but ...

CHAIRPERSON: Yes.

MR SHIWA ELIJAH MAZIBUKO: Nothing will happen to the police or any ...

CHAIRPERSON: Yes.

MR SHIWA ELIJAH MAZIBUKO: Any change whatsoever.

CHAIRPERSON: Yes ...

MR SHIWA ELIJAH MAZIBUKO: Yes.

CHAIRPERSON: And it may well be that some of the bodies or agencies over whom various Portfolio Committees of Parliament are supposed to exercise oversight maybe they do know that in the end
10 nothing will happen. They will ask you questions and you can just give them whatever answer and nothing will happen in the end and ...

MR SHIWA ELIJAH MAZIBUKO: That is why ...

CHAIRPERSON: That is why they do not care. You know they do not fear. They do not think there will be consequences if they are – if they have no explanation for not doing their job. Maybe that is part of the problem and one would need to look at whether or not there is a capacity problem with Portfolio Committees or whether there were elements of state capture within Portfolio Committees themselves. I mean I already have heard evidence of some witnesses who were in
20 Parliament at some stages who said when I was raising this I was told to take it easy or something like that. So – so we need – we need to – to look at those things. So what you have told me is quite important, thank you.

ADV PHILLIP MOKOENA SC: Mr Mazibuko maybe what might be of assistance to the Commission is if you may even – even if you can do it

through your legal team just give us a sense of the list of all the matters that you have reported, when were they reported and to whom were they reported. That might be quite helpful to deal with it in other streams and to take it further.

MR SHIWA ELIJAH MAZIBUKO: We do have that – that list (intervenes).

ADV PHILLIP MOKOENA SC: And to the extent that you can where there is correspondence that might also be helpful. So that you can at least appreciate – you know – the entire reporting structure and what
10 could have been done and was not done. We can now move on to deal with your topic that you are introducing from page 23.

MR SHIWA ELIJAH MAZIBUKO: Yes.

ADV PHILLIP MOKOENA SC: Where you are talking about the transactions of interest utilising the bank accounts of Homix.

MR SHIWA ELIJAH MAZIBUKO: Yes.

ADV PHILLIP MOKOENA SC: If you can explain to us what you are trying to convey to the Chair and also deal with the relevant facts under that topic.

MR SHIWA ELIJAH MAZIBUKO: Yes. So here Chair is part of Section
20 2 of the summons because the request was about dealing with any other accounts of Homix besides the matter that we dealt with ...

ADV PHILLIP MOKOENA SC: Yes.

MR SHIWA ELIJAH MAZIBUKO: On Friday. The only difference between these matters here that I am going to be dealing with to the one on Friday - so this is mostly domestic accounts because when you

look at money laundering you look at feeder accounts as to where the money comes from because our mandate in terms of exchange control is mainly cross border the monies that are leaving the country but monies that are – are flowing within the country whether there are some suspicions or some nefarious activities there that is for the FIC to – to deal with ...

ADV PHILLIP MOKOENA SC: Yes.

MR SHIWA ELIJAH MAZIBUKO: You know – and – and there will be some collaboration if for instance they found that – that these monies
10 could have – so these are accounts that I am coming to now are domestic issues that – that would have fed into the local accountant of Homix to be able to affect the transaction abroad.

ADV PHILLIP MOKOENA SC: Yes.

MR SHIWA ELIJAH MAZIBUKO: I just want to highlight that from the beginning.

ADV PHILLIP MOKOENA SC: That is important, *ja*.

MR SHIWA ELIJAH MAZIBUKO: Yes and – and so here – so as I alluded to earlier Chairperson is that the issue of Homix in terms of the presentation to this committee I was talking to my colleagues just
20 during tea time this morning that having gone through this I have read about it in a number of newspaper articles and why I read about it in a number of newspaper articles is because of the representations that have been made to this Commission. So some of the things here are not new *per se* – you know – it is just that from our side we are just going to present what we know.

ADV PHILLIP MOKOENA SC: Yes.

MR SHIWA ELIJAH MAZIBUKO: *Ja.* So – so I just want to start in terms of paragraph 68 where it says:

“The bulk of the funds received by Homix originated from SOEs or persons who were providing services to the SOEs.”

I think one of the big deals here and one of the presentations that was made was about the Neotel case ...

ADV PHILLIP MOKOENA SC: Yes.

10 **MR SHIWA ELIJAH MAZIBUKO:** Which comes on - on paragraph 69 that where media reports reported that:

“In 2015 Homix was involved in irregular payments received from Neotel relating to a deal worth 2 billion between Neotel and Transnet and that Mr Ashok Narayan claimed to be the Homix Chief Executive at that particular time in question.”

And I will then move to – so what we will do here we might have to park this and we will look at the accounts in terms of what the role of Neotel was in terms of maybe putting some funds into the Homix account.

20 **ADV PHILLIP MOKOENA SC:** Yes. Chair you – you would recall that overwhelming evidence was adduced before you that there was no justification that could be found as to why Homix was paid any monies at all in the light of ...

CHAIRPERSON: Yes.

ADV PHILLIP MOKOENA SC: Yes a number of services – I mean the

services that were rendered by a number of service providers to Transnet.

MR SHIWA ELIJAH MAZIBUKO: And then paragraph – I am coming now to the accounts of Homix - local accounts – of Homix at Standard Bank. This is now – so this is a difference – *ja* this is a – a – this is not a trade account that was operated with Mercantile because one you operate in a trade space you open a trade account with the bank. Now here it is a – it is a normal current account of a business. So we are starting a different account here. Money could flow from a current
 10 account to the trade account so that it can facilitate imports. So under 70 so Homix operated a business check and a call account at Standard Bank of South Africa and then it had the following authorised signatories: Mr Taufique Shaukat Hasware, Mr Yakub Ahmed Suleiman Bhikhu, Mr Mugamat Shafik Adams. Remember that Mr Bhikhu was the – seemed like a Sole Director of – of Homix. This is the person who we wrote to there *audi alteram partem* letter before the funds were forfeited. So – so he was also a signatory to the account at Standard Bank and then at paragraph 71:

20 “The Standard Bank accounts remains largely inactive.”

So from our investigation we are – we are told that these accounts were dormant. I do not know why it was kept open. How long the banks can keep dormant accounts. So up to 28 March 2014 it was just an inactive account and from thereafter there was a flurry of activity in terms of dramatic increase in account activity. During this period the cheque

account received several large deposits and the call account was used only to receive and pay because when you run a cheque account and a call account you might move funds if you find that the interest rate in the call account will give you some – some good return and then when you need money back into the current account it will be transferred back. So it seems the two accounts had some activity for – started in – on 28 March 2014 and – but 30 June – so this is approximately 20 months or 21 months from 28 March 2014 to 30 June 2015. There was almost no transaction activity in the accounts save for the bank fees.

- 10 So for that period there was a huge activity and this is a red flag for – for somebody as I said the banks in terms of their role they - they are at the call phase and - and when you look at money – money laundering it is as I said that it is three stages. It is a placement because that is where the placement – once you have hit – that is the crucial stage that if I have stolen money or I have got a bag of money if I can be able to place it into the bank account the process is started. I know that the banks have to reported suspicious account – but if it has just been accepted without questioning whatsoever and then from there it is layering. You will see that now there will be layering in terms of people
- 20 who are being paid here whatsoever and eventually it is integration in the end where I am clean. Now that money has been washed through and then I am clean. No money - because it has gone through various accounts and all that. So it becomes problematic that I do not know what the role of Standard Bank was for a – for an account that was inactive for so many months. All of a sudden huge amounts not small

amounts you will see when you go to the amounts that were put in there as to what action was taken to and then that was a red flag in terms of no normal activity for some time. All of a sudden there were some feeder accounts and then you seem to be receiving monies from unrelated parties because banks monitor accounts and they know in terms of payments and debits that go through your account whatsoever.

ADV PHILLIP MOKOENA SC: *Ja.*

MR SHIWA ELIJAH MAZIBUKO: That is part and parcel of know your customer. So they know who you pay, your insurance company who you pay, who pays your salary whatsoever. They monitor that. It is part and parcel of that but all of a sudden if there is a flurry of activity that you are trading in textile but payments are coming from the motor companies and all that into your account. That should raise some eyebrows.

ADV PHILLIP MOKOENA SC: Yes.

MR SHIWA ELIJAH MAZIBUKO: *Ja.*

ADV PHILLIP MOKOENA SC: In fact you are providing the cash flow analysis?

MR SHIWA ELIJAH MAZIBUKO: Yes.

20 **ADV PHILLIP MOKOENA SC:** If one has regard to paragraph 72.

MR SHIWA ELIJAH MAZIBUKO: Yes.

ADV PHILLIP MOKOENA SC: You do that from paragraph 72 and one must – am I right that one must read paragraphs 72.1 and 72.2 in order to get a far much clearer picture as to the analysis that was conducted by SARB ...

MR SHIWA ELIJAH MAZIBUKO: Yes. So ...

ADV PHILLIP MOKOENA SC: In this respect.

MR SHIWA ELIJAH MAZIBUKO: Here Chairperson there is SEM20 here. It is quite a high involved spreadsheet here if you can get it.

CHAIRPERSON: Well I – I am still just thinking about what you said about Standard Bank why they might not have picked up that there were - may have been somethings changed about a particular account that was dormant for what may be considered a long time and then suddenly there are very large amounts that come in. Well of course we do not
10 know what the position is but it is important to have a look because I think to the extent that this may have been people who were involved in corruption and people who may have been trying to launder money and to the extent that there may have been a connection with state capture. It is not inconceivable that they could identify certain people within banks to say we must talk to them and reward them appropriately and ask them to turn a – a blind eye and so on. So that is conceivable. It is not to say that is what happened ...

MR SHIWA ELIJAH MAZIBUKO: Yes.

CHAIRPERSON: At Standard Bank but – you know – people involved in
20 these things as I understand will identify people who could be stumbling blocks in their activities and would want to make sure that those people are not stumbling blocks in their activities. Of course some people will not cooperate with them but others will.

MR SHIWA ELIJAH MAZIBUKO: Yes.

CHAIRPERSON: Yes.

ADV PHILLIP MOKOENA SC: Chair Mr Mazibuko was just about to refer you to SEM20 ...

MR SHIWA ELIJAH MAZIBUKO: Yes.

ADV PHILLIP MOKOENA SC: Which is on page 354.

CHAIRPERSON: Yes.

ADV PHILLIP MOKOENA SC: We have a – a far much better copy. You will never be able to read the one on that page ...

CHAIRPERSON: Thank you.

ADV PHILLIP MOKOENA SC: And this has been enlarged so that you
10 can be able to follow the evidence. I am told that despite all attempts it might still be hard to read or difficult.

CHAIRPERSON: Okay, thank you.

ADV PHILLIP MOKOENA SC: We will try our best and follow Mr Mazibuko.

CHAIRPERSON: Yes.

MR SHIWA ELIJAH MAZIBUKO: So here Chairperson it is a tally of what we got from SEM20. As you can see it is in small print. There is quite a number of transactions. So we just pulled them together and added the debts as you see on seven – paragraph 72.1.

20 **ADV PHILLIP MOKOENA SC:** Can I – can I ask you this question? This spreadsheet that you are referring the Chair to you have nonetheless repeated the same contents from paragraphs 72.1 and 72.2. Am I correct?

MR SHIWA ELIJAH MAZIBUKO: Yes. So we have – we have tallied ...

ADV PHILLIP MOKOENA SC: Yes.

MR SHIWA ELIJAH MAZIBUKO: As you see that there is quite a number of (intervenes).

ADV PHILLIP MOKOENA SC: Yes.

MR SHIWA ELIJAH MAZIBUKO: So we have tallied them to put these amounts like if you look now under 72.1 – paragraph 72.1 the debits ...

ADV PHILLIP MOKOENA SC: On page 24 ...

MR SHIWA ELIJAH MAZIBUKO: Yes.

ADV PHILLIP MOKOENA SC: Of your witness statement?

MR SHIWA ELIJAH MAZIBUKO: Yes.

10 **ADV PHILLIP MOKOENA SC:** Yes.

MR SHIWA ELIJAH MAZIBUKO: So these are the debits into the Homix account.

ADV PHILLIP MOKOENA SC: Yes.

MR SHIWA ELIJAH MAZIBUKO: So – which means it is a payment to Bapu Trading of R327 million ...

ADV PHILLIP MOKOENA SC: Okay.

MR SHIWA ELIJAH MAZIBUKO: And you will get that if you go to the spreadsheet and start adding those small amounts. It is quite involved ...

20 **ADV PHILLIP MOKOENA SC:** Yes.

MR SHIWA ELIJAH MAZIBUKO: Chairperson. I am just highlighting that – that – you know – it will take time but it is ...

ADV PHILLIP MOKOENA SC: Every cent.

MR SHIWA ELIJAH MAZIBUKO: All the small amounts that we have actually added up.

CHAIRPERSON: Yes.

ADV PHILLIP MOKOENA SC: Yes.

MR SHIWA ELIJAH MAZIBUKO: Yes.

CHAIRPERSON: Hm.

MR SHIWA ELIJAH MAZIBUKO: And then the – the next is the inter-account transfers ...

ADV PHILLIP MOKOENA SC: Before – before you go the – we need to capture the Bapu Trading Close Corporation how much ...

CHAIRPERSON: Yes.

10 **ADV PHILLIP MOKOENA SC:** Are we talking about so that at least when you refer to the name let us also refer to the amounts.

MR SHIWA ELIJAH MAZIBUKO: Yes.

CHAIRPERSON: Yes.

ADV PHILLIP MOKOENA SC: Relevant amounts, *ja*.

MR SHIWA ELIJAH MAZIBUKO: So they were paid by Homix R327 806 895.79.

ADV PHILLIP MOKOENA SC: Do you know for what?

20 **MR SHIWA ELIJAH MAZIBUKO:** I do not know because I – I tried to even go to the – yesterday – before I was preparing and just find out about Bapu Trading to say the company that gets 300 – you go there you do not get much. There is nothing and then you say to yourself then where has the company disappeared to with so much money and most of these companies here Chair – I mean – they have got little or no online presence.

CHAIRPERSON: Yes.

MR SHIWA ELIJAH MAZIBUKO: So I do not know whether they have just after they have raked in these sums of money ...

CHAIRPERSON: Yes.

MR SHIWA ELIJAH MAZIBUKO: They have just disappeared ...

CHAIRPERSON: Yes.

MR SHIWA ELIJAH MAZIBUKO: And – and I do not know how it words - you know – in terms of when you run a company that you register with the CIPC ...

CHAIRPERSON: Hm.

10 **MR SHIWA ELIJAH MAZIBUKO:** Sometimes those and then all of a sudden it disappears.

CHAIRPERSON: Yes.

MR SHIWA ELIJAH MAZIBUKO: So – so that is the *modus operandi* that is happening in most of these companies.

ADV PHILLIP MOKOENA SC: Can I check ...?

CHAIRPERSON: That amount of – paid to Bapu Trading Close Corporation namely 327 million – 327 8-roughly million – that was paid in smaller amounts over a certain period of time?

MR SHIWA ELIJAH MAZIBUKO: Yes. So as I said that ...

20 **CHAIRPERSON:** Yes.

MR SHIWA ELIJAH MAZIBUKO: As you see there the pages here.

CHAIRPERSON: Yes, yes.

MR SHIWA ELIJAH MAZIBUKO: So – so this is now not taking the date into account.

CHAIRPERSON: Yes.

MR SHIWA ELIJAH MAZIBUKO: So where not taking – here we are not taking the date ...

CHAIRPERSON: Yes.

MR SHIWA ELIJAH MAZIBUKO: But we are saying how much was ...

CHAIRPERSON: Yes.

MR SHIWA ELIJAH MAZIBUKO: Paid by Homix to (intervenes).

CHAIRPERSON: And you talking about ...

MR SHIWA ELIJAH MAZIBUKO: Ja.

CHAIRPERSON: Durign the period ...

10 **MR SHIWA ELIJAH MAZIBUKO:** Yes.

CHAIRPERSON: That you have mentioned ...

MR SHIWA ELIJAH MAZIBUKO: During the period that ...

CHAIRPERSON: 2014 to 2015.

MR SHIWA ELIJAH MAZIBUKO: Yes. That we have mentioned.

CHAIRPERSON: Yes, okay. So – and that period is – is about a year from – 28 March 2014 – oh it is just over a year to 30 June 2015?

MR SHIWA ELIJAH MAZIBUKO: Yes.

CHAIRPERSON: It is just about maybe 14 months/15 months.

20 **MR SHIWA ELIJAH MAZIBUKO:** So when you go to the spreadsheet here because it involves other things Chairperson. So it is quite involved. Let me just ...

CHAIRPERSON: Hm.

MR SHIWA ELIJAH MAZIBUKO: Just to make sure because it starts on 2014 with a balance brought forward on 28 March and then it goes all the way to end ...

CHAIRPERSON: Huh-uh.

MR SHIWA ELIJAH MAZIBUKO: On 2015/12/03. So from there – so it is – it is a more than a year. Maybe 20 months or 21 months.

ADV PHILLIP MOKOENA SC: Yes.

CHAIRPERSON: Yes, yes but that is what they ...

MR SHIWA ELIJAH MAZIBUKO: Yes. This ...

CHAIRPERSON: Were paid by Homix yes.

MR SHIWA ELIJAH MAZIBUKO: This is what they paid ...

CHAIRPERSON: Yes.

10 **MR SHIWA ELIJAH MAZIBUKO:** To Bapu Trading Close Corporation.

CHAIRPERSON: Yes, yes and you say when you look for them now you cannot really see much of them?

MR SHIWA ELIJAH MAZIBUKO: As I said yesterday when I was preparing for the session today – as I said – let me just take some time and be curious and just check as to who are these guys and how are they doing – you know. Can I just a normal website like any other but you find nothing. It becomes like a forex trading company unrelated to this and all that. So – so there is something underhand that was happening here that the company that was there – I know that you know

20 2015 is some nearly five years ago but – you know – still – I mean - I do not know as to what they were trading that at that short period of time because 327 million if you are really trading and you get 327 you are doing very well in 20 months that you are getting this amount of money.

CHAIRPERSON: Did you – do you know whether subsequent to that

period there was any activity for some time? Subsequent to the period you are talking about or that is the only period for which there is activity in that account – there was activity in that account.

MR SHIWA ELIJAH MAZIBUKO: So in that regard Chair I am guided by the statement ...

CHAIRPERSON: Yes.

MR SHIWA ELIJAH MAZIBUKO: Because I do not have anything beyond this.

CHAIRPERSON: Oh, okay. No that is fine.

10 **MR SHIWA ELIJAH MAZIBUKO:** So I cannot vouch ...

CHAIRPERSON: *Ja*, well ...

MR SHIWA ELIJAH MAZIBUKO: As to whether there was anything.

CHAIRPERSON: It would be interesting to establish whether there was any further activity in the same account beyond that period and when activities in the account stopped if they did stop.

ADV PHILLIP MOKOENA SC: Yes.

CHAIRPERSON: It would be important ...

ADV PHILLIP MOKOENA SC: Yes Chair.

CHAIRPERSON: To establish that. Okay, thank you.

20 **ADV PHILLIP MOKOENA SC:** Can I understand this *modus operandi* and I am – I am picking up from your statement where you say that there were huge monies which were paid to Homix which are derived from – you know – transactions with the SOEs ...

MR SHIWA ELIJAH MAZIBUKO: Yes.

ADV PHILLIP MOKOENA SC: And thereafter once that money lands

into Homix account it gets now paid to further other entities which might not have been in a relationship at all with the SOE.

MR SHIWA ELIJAH MAZIBUKO: Yes. That is where I am going to show you on paragraph – we have not arrived there – paragraph 74.

ADV PHILLIP MOKOENA SC: Yes.

MR SHIWA ELIJAH MAZIBUKO: So I do not know whether you might me to go there just ...

ADV PHILLIP MOKOENA SC: No, no.

MR SHIWA ELIJAH MAZIBUKO: Okay.

10 **ADV PHILLIP MOKOENA SC:** Just – if you can just clarify that essence.

MR SHIWA ELIJAH MAZIBUKO: *Ja.*

ADV PHILLIP MOKOENA SC: You know – the *modus operandi* is that how ...?

MR SHIWA ELIJAH MAZIBUKO: The *modus operandi*?

ADV PHILLIP MOKOENA SC: Yes.

MR SHIWA ELIJAH MAZIBUKO: And I will – when I come to paragraph 74 I will just show you an example what was happening.

ADV PHILLIP MOKOENA SC: Yes.

20 **MR SHIWA ELIJAH MAZIBUKO:** There is quite a number of such transactions that comes.

ADV PHILLIP MOKOENA SC: That comes?

MR SHIWA ELIJAH MAZIBUKO: Yes.

ADV PHILLIP MOKOENA SC: Now you have dealt with Bapu. We have seen how much it has now been paid and we are about to go to

inter-account.

MR SHIWA ELIJAH MAZIBUKO: Yes. So inter-account transfers will be your account transfers between your call account and your – and your current account.

ADV PHILLIP MOKOENA SC: Yes.

MR SHIWA ELIJAH MAZIBUKO: Yes. So as I said there were – you can see the amounts. They even seem very close to each other.

ADV PHILLIP MOKOENA SC: Yes.

MR SHIWA ELIJAH MAZIBUKO: Yes and then to Mercantile 66 that is
10 what actually facilitated the – the – so they paid Mercantile. I think this was going to the trade account to facilitate the 51.8 million. So that when to Mercantile and we had a company by the name of Ballatore. They got 24 million.

CHAIRPERSON: Sorry – I am sorry. Inter-account transfers were they – were those transfers going one way?

MR SHIWA ELIJAH MAZIBUKO: They could be going either way Chair. So ...

CHAIRPERSON: Oh, okay.

MR SHIWA ELIJAH MAZIBUKO: So you could be having a bulk of
20 money in your current account that you feel that is earning much interest and you request the bank to do a transfer to the call account but when there are due payments coming into your current account ...

CHAIRPERSON: Hm.

MR SHIWA ELIJAH MAZIBUKO: You ask the bank to transfer the money.

CHAIRPERSON: Okay.

MR SHIWA ELIJAH MAZIBUKO: So that is why there was movement.

CHAIRPERSON: Oh, okay.

MR SHIWA ELIJAH MAZIBUKO: Yes.

CHAIRPERSON: Thank you.

MR SHIWA ELIJAH MAZIBUKO: And then we had Ballatore 24 300 ...

CHAIRPERSON: Mercantile Bank you did not finish. I interrupted you.

ADV PHILLIP MOKOENA SC: Yes, yes.

CHAIRPERSON: You need to mention the amount.

10 **MR SHIWA ELIJAH MAZIBUKO:** *Ja*, the Mercantile – they got 66 999 001 and then Ballatore Brands (Pty) Limited they got R24 311 950 and there is unidentified 50 840. SARS ...

ADV PHILLIP MOKOENA SC: When you say unidentified it means that there was no – you could not be able to establish ...

MR SHIWA ELIJAH MAZIBUKO: So ...

ADV PHILLIP MOKOENA SC: As to who was paid this money or which entity received this ...

MR SHIWA ELIJAH MAZIBUKO: *Ja*.

ADV PHILLIP MOKOENA SC: Which entity received this money?

20 **MR SHIWA ELIJAH MAZIBUKO:** I am not au fait in terms of – because when you pay somebody that – for – through maybe your internet banking account the bank will say – put the reference as to where the money comes from ...

ADV PHILLIP MOKOENA SC: Yes.

MR SHIWA ELIJAH MAZIBUKO: Whatsoever. So I do not know what

happened here. Whether it was hidden by purpose that – you know – they did not want to be – and also whether I think also it questions whether the banks allow this that – you know – you could actually then drive accounts with unidentified. It is a – it will be a concern if maybe it – it could happen because I – I know that if I am using my account where you are paying a recipient the bank will want to know ...

ADV PHILLIP MOKOENA SC: Who the recipient ...

MR SHIWA ELIJAH MAZIBUKO: The reference number. So that when they receive the money they could know from whom the money was
10 coming from and if you do not feel that it will not go through but I am just surprised. As I said I am not in a commercial bank as to why it was an unidentified 50 840 and the next one is SARS. I think it is either they owed SARS - so you can see that – you know – maybe Homix here was as I said maybe they just owed SARS. We do not know. There they are paying 496 689.70 and –and then Mr T Hasware – these are the signatories that I alluded to earlier. Mr Hasware was paid 180 415.48 and Mr Adams was paid 60 402.82 and then you have got Peritus. Peritus is that Treasury Outsourcing Company ...

ADV PHILLIP MOKOENA SC: Yes.

20 **MR SHIWA ELIJAH MAZIBUKO:** That was a middleman between Mercantile and Homix. They got 37 805.11 and they were paying fees. I think it is bank fees there and it is Vodacom. It could be charges just here. Edge Media, debit card purchases, First Property. So those are just small miscellaneous accounts. I do not know if you want me to mention them Chair those small miscellaneous accounts.

ADV PHILLIP MOKOENA SC: No, no we have them.

MR SHIWA ELIJAH MAZIBUKO: Okay.

ADV PHILLIP MOKOENA SC: It is fine.

MR SHIWA ELIJAH MAZIBUKO: Yes. Then I can go to 72.2 credits.

ADV PHILLIP MOKOENA SC: Yes 72.2?

MR SHIWA ELIJAH MAZIBUKO: Yes.

ADV PHILLIP MOKOENA SC: On page 25?

MR SHIWA ELIJAH MAZIBUKO: On page 25. Now these are the monies that were coming into the accounts of Homix. So on top it is
10 inter-account payment of 241 260 000 and Regiments Capital and that raised – because I think amongst all of this we will allude later to Regiments Capital – paid Homix 179 506 583.48 and then Neotel – I have already alluded to earlier in terms of the contract between it and Transnet. They paid Homix 75 573 509.88. Technology Procurement Holdings they paid Homix 68 400 000. Central High Trading 275 (Pty) Limited they paid Homix 51 300 000. Combined Private Investigations Close Corporations they paid Homix 17 510 400. Innova Management Services R6 384 000 and – and then. *Ja*, it is 6 384 ...

ADV PHILLIP MOKOENA SC: I think it is millions this money.

20 **MR SHIWA ELIJAH MAZIBUKO:** *Ja*. Apologies – Innova Management has got 6 384 000. Cutting Edge Commerce has got 6 269 153.16. Bapu Trading they got – they paid – so – that is why we are surprised. They get 4.327 million but they also pay Homix 4.7 million.

ADV PHILLIP MOKOENA SC: Yes.

MR SHIWA ELIJAH MAZIBUKO: Albatime – so they paid 3.99 million to

Homix. Sechaba Computer Services (Pty) Limited 2 725 937.01. Burlington Strategy Advisors (Pty) Limited 1.8 million. There is another one an unidentified 1 341 128.17. SARS – OI do not know whether it was a refund 78 018.75 and then you have got a miscellaneous of R42.41.

ADV PHILLIP MOKOENA SC: And the total amount which ...

MR SHIWA ELIJAH MAZIBUKO: Was credited ...

ADV PHILLIP MOKOENA SC: Went into the account of Homix?

MR SHIWA ELIJAH MAZIBUKO: Ja, 660 838 782.86.

10 **ADV PHILLIP MOKOENA SC:** Were you able to establish what business was Homix doing in order for it to receive these huge amounts?

MR SHIWA ELIJAH MAZIBUKO: There is no rationale because that – we found that what type of business they were doing and because the – these companies – you know - it is - it is vendors that – you know – because I asked – you know – when we did the investigation to say actually if somebody could ask me and say what was Homix importing if we go back to the transaction of Friday. I was told that they were importing textiles. Now you look at companies here that are here
20 whether they are related to a textile type of business. They are not related to that type of business.

ADV PHILLIP MOKOENA SC: More so if you have regard to Regiments and Neotel which we know ...

MR SIHWA ELIJAH MAZIBUKO: Yes Regiments and Neotel these are the companies that have been mentioned in several other matters, you

now, involving the state capture as well.

CHAIRPERSON: Is there some significance in the fact that the amounts on both the – your column at page 24 and your column at 25 that the totals are more or less the same, they're both 660million rand, the one at page 24 the total is 660 792 940.79 they one at page 25, the total of this payments 660 838 782.86. So the one 660 700 000.00 to round it off and the other one is 660 800 000.00.

ADV PHILLIP MOKOENA SC: I posed the same question Chair...(intervention).

10 **CHAIRPERSON:** Of 660 800 000.00 and the other one 660 700 000.00 is there some significance in that regard?

MR SIHWA ELIJAH MAZIBUKO: There Chair – our assumption is that when you look at the money that was paid out, it's the money that came in.

CHAIRPERSON: So almost all of it was paid out?

MR SIHWA ELIJAH MAZIBUKO: Yes and you will see when I show – I still want to show the next paragraph in terms of how the smaller amounts, when they are paid, how quickly they get depleted out of the account, so somebody might have been monitoring the credit into
20 Homix and say, okay who do we need to pass the money on to.

CHAIRPERSON: Yes.

MR SIHWA ELIJAH MAZIBUKO: So that maybe we don't go above, maybe the limit at the bank if they had a overdraft to say how much – and then more or less it's quite surprising that 660million is equivalent debits and credits.

CHAIRPERSON: Yes.

MR SIHWA ELIJAH MAZIBUKO: Yes and over the same period as well.

CHAIRPERSON: Yes.

ADV PHILLIP MOKOENA SC: But it shows that as and when that money came in it already had some beneficiaries...(intervention).

MR SIHWA ELIJAH MAZIBUKO: Yes. How Homix operated, that when the money came in, so there – that is why we say there was a flurry of activity during that period and then from there what was left was just
10 for banking fees, the money was depleted.

ADV PHILLIP MOKOENA SC: Yes and having analysed, you know, that cash flow on page 25 paragraph 73 you make some observations, can you take us through those observations in paragraph 73.

MR SIHWA ELIJAH MAZIBUKO: Yes I've already alluded to the fact that the bank account statement of Homix reflect regular large transfers to the accounts of two local entities being Belatop Brands (Pty) Ltd and registration number 2011/103023/07 and Bapu Trading Close Corporation registration number 2008/0008434/23 respectively. So we were alluding there to that big amount of 327million rand, because
20 since Bapu got the bulk of the monies here, that's why I was very much interested to say, what is the business of Bapu Trading.

ADV PHILLIP MOKOENA SC: Yes now let's deal with the paragraph that you've been dying to take the Chair to, paragraph 74 and onwards.

MR SIHWA ELIJAH MAZIBUKO: Yes so paragraph 74 we're just saying notably during April 2014 an amount of R34 533 598.00 appears

to be transferred from Neotel to Homix cheque account held with Standard Bank after which the entire amount was depleted by means of electronic transfer to Belatop Brands. So I want to take you to the spreadsheet that I just want to highlight where the 34million came in. It came into the account of Homix there it says 2014...(intervention).

ADV PHILLIP MOKOENA SC: You must tell us where you're taking us through this...(intervention).

MR SIHWA ELIJAH MAZIBUKO: So it's (indistinct) flow analysis it's the first page on page 354, so I'm now on the SCM20.

10 **ADV PHILLIP MOKOENA SC:** Yes.

MR SIHWA ELIJAH MAZIBUKO: I'm now on the SCM20, the first page, page 354.

ADV PHILLIP MOKOENA SC: Yes.

MR SIHWA ELIJAH MAZIBUKO: Yes and then I'm going to the ate there 2014-04-03 and the dates will be on the left side- consolidate are on the left hand and then it said here in terms of the type of transaction...(intervention).

CHAIRPERSON: What is the date?

MR SIHWA ELIJAH MAZIBUKO: 2014-04-03.

20 **CHAIRPERSON:** Okay, I see interbank credit transfer there, is that the one?

MR SIHWA ELIJAH MAZIBUKO: Yes.

CHAIRPERSON: Okay.

MR SIHWA ELIJAH MAZIBUKO: And then the next block is Neotel VD, I can't see, it's like a 740 something there but it's Neotel?

CHAIRPERSON: Like Walt?

MR SIHWA ELIJAH MAZIBUKO: Ja van der Walt Street 740.

CHAIRPERSON: Neotel van der Walt Street, 740.

MR SIHWA ELIJAH MAZIBUKO: And then you'll see on the debit there's a zero, on the credit there's a 34 533 519.88 and then if you go down immediately on the 2014-04-08 electronic banking, that 34million is being depleted going to Bapu Trading. So you'll see that there's a 4 900 024.00 that goes through on the 8th and then there's another 3 924 300.00 that goes on the 9th. So if you go further you'll find that
10 these transactions they go up to 2014-04-10 where it's electronic banking payments to Bapu Trading with the last payment of 1 240 000.00, that is paying. So it's a depletion but I'm just alluding to what the counsel alluded to, to say, when these monies come in to – they don't stay immediately they need to be shifted elsewhere. So with the two statements that's what normally happens, if you are laundering money you don't want it to say because the more it stays some eyes might start to pick on activity or whatever the bank might block it or whatsoever.

ADV PHILLIP MOKOENA SC: Yes and then relation to paragraph 75?

20 **MR SIHWA ELIJAH MAZIBUKO:** So paragraph 75 it is pertinent to mention that at the time in question the sole director of Balatop Brands was Mr Mohammed Akrim Khan and that this department had previously reported the matter to the South African Police Central case number 97/05 in 2015 involving another company of which Mr Khan was he sole director, being Singent Distribution (Pty) Ltd registration number

2011/103022/07.

ADV PHILLIP MOKOENA SC: This will fall into those cases which you said they were reported but you were not furnished with any progress pertaining to those cases.

MR SIHWA ELIJAH MAZIBUKO: Yes that is part of those cases but it also shows that these companies are shenanigans Chairperson, that these sole directors, companies that in most cases that they are involved, we have found some, sort of contraventions that – from the department that we either we need to deal with them or we need to
10 report them to the police.

ADV PHILLIP MOKOENA SC: Yes and paragraph 76 and onwards.

MR SIHWA ELIJAH MAZIBUKO: And so – then paragraph 76 it would appear from the statements of Bapu Trading bank account, held with Standard Bank that funds received from Homix were mainly transferred to Singent's bank account. Now we don't have this, here they are referring to Bapu Trading receipt of funds from Standard Bank that – from then Bapu – from Homix, Bapu Trading, Bapu Trading, Singent bank account, that's where the money were transferred.

ADV PHILLIP MOKOENA SC: Yes and that's the point you are making
20 also from – in paragraph 77 of your statement am I correct?

MR SIHWA ELIJAH MAZIBUKO: So in paragraph 77 as well the account of Bapu Trading it also appears that regular transfers were in turn made from the account of Bapu Trading to FGC Commodities as well as Comodo Wholesalers (Pty) Ltd. Comodo has also been the subject of investigation by the financial surveillance department which

investigation related to the purchase of large quantities of foreign currency in cash under suspicious circumstances. So I allude that most of these companies, sole directors, but they seem not to be very clean companies that there are some activities that are taking place.

ADV PHILLIP MOKOENA SC: And you also confirm to the Chair that one would not be able to verify any type of business that they might be involved in?

MR SIHWA ELIJAH MAZIBUKO: No.

ADV PHILLIP MOKOENA SC: (Indistinct) receiving those monies.

10 **MR SIHWA ELIJAH MAZIBUKO:** Just repeat that Chair.

ADV PHILLIP MOKOENA SC: I'm talking about this FGC and Comodo, one cannot really verify as to what business are they involved in?

MR SIHWA ELIJAH MAZIBUKO: It's very difficult even Balatop, you know when we mentioned that the two big recipients of monies from Homix account was Bapu – I still don't know what Bapu does, I still don't know what Balatop does and that's why I'm saying that they've disappeared now we can't, you know, the first online search that you do, you can't find anything because a normal business and a ongoing concern that is there to actually make business and make money will
20 always be there, I can't find anything in that regard.

ADV PHILLIP MOKOENA SC: Yes in paragraph 78 you're referring to a company, one company called Chavita Trading which the Chair has already heard evidence about it.

MR SIHWA ELIJAH MAZIBUKO: Yes.

ADV PHILLIP MOKOENA SC: Can you tell us.

MR SIHWA ELIJAH MAZIBUKO: So on paragraph 78 regular transfers were made from the account of Bapu to another entity styled Chavita Trading, registration number 2010/001905907 and in this regard it would appear that the opening documentation in respect of account held at First Rand Bank Limited in the name of Mr Bheko, the sole director of Homix who instructed Peritas as explained previously that he was employed by Chevita Trading at some point. So we're just trying to link here the sole director of Homix at some stage and this company that – Mr Bheko at one stage was employed, it doesn't
 10 mention – I don't have the details as what but he was employed by Chavita, you'll see as we progress in terms of the role that Chavita played at some stage here.

ADV PHILLIP MOKOENA SC: You referred to the account of Standard Bank which also was utilised by Homix in receiving certain funds.

MR SIHWA ELIJAH MAZIBUKO: Yes, in paragraph 79 Homix also received funds into it's Standard Bank account from account held at Absa Bank in the name of Albertyn registration number 2009 – I don't know Chairperson that you are picking a thread here, that these companies registration 2011, 2009, 2010, there's more or less during
 20 that period there was a flurry of activity of registering these sole directorship companies. So even the timing you know, how it correlates to one another and then they involved in the same business, it's just actually surprising. So here in paragraph 79 we just now introduce the company that also paid into Homix. We have already seen in the spreadsheet, Albertyn and at all the relevant time the sole director of

Albertyn was Mr (indistinct) Moodley and then on paragraph 80 we talk about several large transfers that were made into account of Homix from accounts held with Standard Bank in the name of Regiments Capital. Now this is the company where we wrote to after – because of the number of transactions that – and the number of matters in the media and we just asked them as to what type of business were they involved with, with Homix and I remember we wrote a letter which actually took long for them to respond to that letter until we threatened them with some legal action and they responded.

10 **ADV PHILLIP MOKOENA SC:** What was their response?

MR SIHWA ELIJAH MAZIBUKO: So the respond – so if I may go to their response SEM21 just the first paragraph to say – just to read...(intervention).

ADV PHILLIP MOKOENA SC: Page 359 Chair.

MR SIHWA ELIJAH MAZIBUKO: Yes page 359 I'll just allude because once you start to go further, it now goes to the Transnet SOE pension fund which was dealt with here, I think last week. I'm going to focus here, so page 359 is the letter that we – so they were responding so you can see that they responded 12 October 2018 having – where it
20 says Dear sirs, request for information number one says your request for information dated 10 May 2017 refers. So it was more than nearly 18 months that they responded to us and then where number two where they say – these are the lawyers of Regiments and they say,

“As mentioned in earlier email correspondence there appears to have been misunderstanding between our client and BDK

Attorneys regarding the responsibility to deal with your request. BDK was under the impression that our client had briefed us to attend to your request which was not the case. Our client on the other hand was under the impression that BDK had attended thereto”,

And then they say on paragraph four,

“This has caused a considerable delay in responding to you for which we apologise on behalf of our client since having been entrusted with the matter we have worked diligently together with our client to gather the information sought. We trust that the information will assist you with your investigations”.

So eventually – but I must say that it was after we have actually said to them, you know, we will take legal action if they don't provide, as I said that when we request information in terms of Regulation 19 anybody to whom the request is directed has to provide that information. So the information then came and then in a nutshell it is actually in paragraph 82 and then they provided an explanation as to the relationship with Homix and others in a letter date 12 October 2018 a copy of which is annexed hereto that I've just alluded to.

20 **ADV PHILLIP MOKOENA SC:** Yes.

MR SIHWA ELIJAH MAZIBUKO: Then 82.1 where it says, McKinsey and Company Africa (Pty) Ltd appointed Regiments as a development partner and Regiments introduction to McKinsey was facilitated by Mr Moodley, remember Mr Moodley is the sole director of Albertyn and Mr Salim Essa who has been mentioned several times and 82.2, in terms

of the agreement with Mr Moodley and Essa they or their nominees would be entitled to a business development fee for all revenue received by Regiments as a result of its relationship with McKinsey. So the fee agreed at the time was 35% broken down into 5% to Mr Moodley and 30% to Mr Essa and this initial part of 35% was going to go to Chavita Trading, the company that was just introduced earlier it was alluded to in paragraph 82.3 where it says,

“The initial entity nominated by Mr Moodley and Essa jointly”,

So they jointly nominated Chevita Trading to receive the entire
10 35% which is a development fee for McKinsey to do business with Regiments.

ADV PHILLIP MOKOENA SC: What is this development fee, did you understand what it meant?

MR SIHWA ELIJAH MAZIBUKO: So the way it is described they say because of the introduction, remember McKinsey was introduced to Regiments and they worked together and then Regiments doing some work for McKinsey and some revenue and out of the revenue that Regiments was earning 35% of that...(intervention).

ADV PHILLIP MOKOENA SC: From Transnet?

20 **MR SIHWA ELIJAH MAZIBUKO:** No it was from McKinsey.

ADV PHILLIP MOKOENA SC: From McKinsey?

MR SIHWA ELIJAH MAZIBUKO: Yes so the revenue that was being earned by Regiments 35% of that – so they call it, I’ve never heard about that development fee, it’s what I’m reading for a first time. So they were receiving 35% of which, jointly they agreed being that it

should be paid first to Chevita being Mr Moodley and Salim Essa and – but actually things changed a bit you'll see as I go down.

ADV PHILLIP MOKOENA SC: Yes proceed.

MR SIHWA ELIJAH MAZIBUKO: Yes and at all relevant times the directors or Regiments was Mr Nyhonyha...(intervention).

ADV PHILLIP MOKOENA SC: You're now reading paragraph 82.4 on page 28 Chair.

MR SIHWA ELIJAH MAZIBUKO: Yes and Mr Nivan Pillay and Dr Eric Wood. Dr Wood later that is paragraph 82.5, Dr Wood later informed
10 his co-directors that Mr Pillay and Mr Nyhonyha that the above mentioned business development fee has now been increased to 50% and then Mr Nyhonyha...(intervention).

CHAIRPERSON: From 35% to 50%?

MR SIHWA ELIJAH MAZIBUKO: Yes.

CHAIRPERSON: That would be an increase of about how much, I'm not good with but it certainly would seem to be above 30% increase.

ADV PHILLIP MOKOENA SC: More or less.

CHAIRPERSON: Actually it might be much more than that, those that are good with arithmetic...(intervention).

20 **ADV PHILLIP MOKOENA SC:** 40% Mr Chair.

CHAIRPERSON: Sorry?

ADV PHILLIP MOKOENA SC: 40%.

CHAIRPERSON: Ok at least 30% wasn't so bad I thought over 50% yes.

MR SHIHWAZ ELIJAH MAZIBUKO: It seems where that increase or during the negotiations where the increase took place it was only Dr Wood that was there the two other directors of Regiments, Mr Nyhonya and Mr Pillay were not there so it seems they were not unhappy and as you asked me as to what is the development fee, so they found it to be unsustainable – because now which means whatever business that Regiments does for McKinsey and the revenue comes, 50% of it – all of it comes to Mr Essa and Mr Moodley.

CHAIRPERSON: So – and Mr Pillay and Mr Nyhonya found this
10 objectionable?

MR SHIHWAZ ELIJAH MAZIBUKO: Yes that's why if I may just read paragraph 82.5 it says, Dr Wood later informed his co-directors being Mr Nyhonya and Mr Pillay that the above mentioned business development fee has been increased from 35 to 50% and then Mr Nyhonya and Mr Pillay were not party to these negotiations and considered the revised fee to be unacceptable and unsustainable, so it was just too much. So – but it seems in the initial fee of 35% they had agreed and then paragraph 82.6, during March 2016 Dr Wood left Regiments and joined Trillian Capital Partners and was removed as a
20 director of Regiments during October 2018.

ADV PHILLIP MOKOENA SC: Now what do you make of this explanation, you know, having in mind the evidence that you have (indistinct) before this Commission about the flow of funds and how the funds would simply leave the accounts of Homix and others to other beneficiaries, does this make any sense to you?

MR SIHWA ELIJAH MAZIBUKO: It doesn't make sense, I've never heard in the past about a development fee but it also shows that I don't know what actually percentage of profit that Regiments was making to give away 50% of – if you're going to give away 50% of your profit or your revenue it's not profit here it's revenue you still need to pay for, maybe salaries and other things and rental and all that, so I don't know how they would have survived, you know by 50% hence I think even they themselves, I don't think they were happy to enter into this transaction, hence when it was increased to 50% that's why two of the

10 directors felt that, now it is too high. So one will take that even at the initial beginning there were some sort of arrangement that they were not happy with but they entered into that just for the benefit because the whole benefit here is because of the introduction of Regiments to McKinsey and then somebody had to pay for that to say, you know, to pay some – whether it's a kick-back of some sort for some time, I'm not so sure but somebody for that introduction like it is alluded to, I think in the – ja on paragraph 82.2 it says, in terms of the agreement, Mr Moodley and Essa, they or their nominees will be entitled to a business development fee for all revenue received by Regiments as a result of

20 it's relationship – just that relationship, facilitation of a relationship you get 35% that gets paid out of the company and then before you could do – pay other things as well. So it's quite surprising I'm not *au fait* with this (indistinct) in respect of business relationship I've never heard about it, you know in our department we deal with a number of transactions, international, measures and acquisitions and all that I've

never seen a fee of this nature coming out. There are fees when you actually doing some of these transactions that are there but it's – there are known fees in the market that are – but this one, as I said Chairperson I've never heard about and that – as you say then it gets increased after some, I don't know what period from 35% to 50% and then two of the directors they are not happy and they pull out and eventually one of the directors is – goes out of the company, leaves Regiments and he goes and joins at Trillian because also Trillian has been the subject matter of a number of representation at this
 10 Commission.

ADV PHILLIP MOKOENA SC: And all this monies we know they originate from the SOE's.

MR SIHWA ELIJAH MAZIBUKO: SOE's yes, they originate from the SOE's.

ADV PHILLIP MOKOENA SC: Now on paragraph 83 on page 28 you provide some of the transactions and some of the examples pertinent to your evidence Mr Mazibuko, can you please tell the Chair...(intervention).

MR SIHWA ELIJAH MAZIBUKO: So there's something that's very
 20 interesting here, the movement of money between the account of Homix and other parties. So paragraph 83 alludes to – it appears there, transaction utilising Homix Standard Bank cheque account that on several occasions specific amounts were credited to it which we have seen on page 24 and then thereafter the exact amount less 1% would be transferred elsewhere for example, so we are just providing an

example here, paragraph 83.1 on 27 June 2014, an amount of 1 824 000.00 was credited to Homix account and on 30th June just three days after an amount of 1 805 940.58 was transferred to Bapu Trading. So the difference between 1 824million and 1 805million it's about 18 386 which is about 1% so you'll be surprised even then why 1%, you know is being transferred elsewhere. So that's why I said with money laundering the layering, you know, plays a vital role to hiding the proceeds of crime because when you layer it you put it into various accounts the whole purpose there is to hide the origin of money and

10 make it difficult for the officials or the authorities to trace. So all this small money somebody gets a share of 30 and 5%, 1% you'll see in the next page somebody also gets a share of 10%. So it seems when allegations of kick-backs from monies received from SOE's quite a number of people were benefiting out of this.

ADV PHILLIP MOKOENA SC: You proceed to give the example on paragraph...(intervention).

MR SIHWA ELIJAH MAZIBUKO: On paragraph (indistinct) on 1 July 2014 and amount of 1 459 000.00 was credited to Homix account and on 7 July an amount of 1 444 752.48 was transferred from this account

20 to Bapu, so there's something that is left for Homix and you saw that Bapu also pays to others whatsoever but this one on 1 July 2014 the amount of 1 444 the difference there was about 14 592.00 that was left in the account of Homix after it was transferred to Bapu Trading.

ADV PHILLIP MOKOENA SC: Yes.

MR SIHWA ELIJAH MAZIBUKO: Page 84 – page 29 paragraph 84

there's another amount of money, Regiments is involved in several instances when Regiments transferred funds to Homix it also transferred an amount equal to 10% of such transfers to Albertyn, for example on 14 November 2014 – remember that Albertyn is already, Chairperson gaining out of the 35% which was increased to 50% I'm not so sure now here there's another amount going to Albertyn to say in several instances when Regiments transferred funds to Homix it also transferred an amount equal to 10% because now it's no more two
 10 people involved, remember the director of Albertyn is Mr Kubathran Moodley and here his company is getting 10% having on the other side benefitting from the 50% that was raised from 25%, so paragraph 84.1 on 14 November 2014 an amount of R13 786 874.94 was transferred from Regiments from Homix after which on 18 November 10% which is R1 378 687,50 was transferred from Regiments to Albertyn. Paragraph 84.2 on 5 February 2015 an amount of R5 966 588,43 was transferred from Regiments to Homix and on the same day R596 658,84 which is 10% was transferred from Regiments to Albertyn.

Paragraph 84.3 on 12 February 2015 an amount of R2 667
 20 301,56 was transferred from Regiments to Homix after which on 18 February 10%, R276 730,16 was transferred from Regiments to Albertyn.

ADV PHILLIP MOKOENA SC: Do we have any sense as to what happens to those amounts once they land into the account of Albertyn,.

Do they remain in that account or do you know whether are they being transferred further.

MR SIHWA ELIJAH MAZIBUKO: So we didn't assess that but you will recall that in one of the paragraphs the money that flew from Albertyn to Homix it was alluded to that it came from ABSA Bank, so one might have to go into that ABSA Bank to say, to check from that ABSA Bank where the funds were coming in to say did those funds stay in this 10% stay in there or they were transferred further.

ADV PHILLIP MOKOENA SC: Yes. Now you conclude your evidence
10 with paragraph 85.

MR SIHWA ELIJAH MAZIBUKO: Yes.

ADV PHILLIP MOKOENA SC: On page 30 which may I request you that please read it, it is quite important and you can then after explain whatever you want to explain arising from that paragraph.

MR SIHWA ELIJAH MAZIBUKO: Yes so in my conclusion paragraph 85 in light of the above, all the evidence I have provided it is clear that there's ongoing need to ensure that the South African Reserve Bank specifically the financial surveillance department in this context and its related agencies, the SARS and FIC, other law enforcement agencies
20 there we are referring to the NPA, the Police, and the primary network of authorised dealers, as I said that they are the first line of defence because in any money laundering transactions where you start by actually placing the money, that is the start, that is very crucial because if you can't place it it becomes a problem for you because you will be carrying that bag of cash around, so that we work together and

our relationship, are (indistinct) strengthened, like the Chairperson was alluding to the fact that it seems that we are not working together and there is no action being taken, so – and I appreciate what you said Chairperson that for the Parliamentary Committees that you are going to help us, to me it is some help that some work needs to happen in terms of us, for these cases to go forward, because it does not help that we have 64 cases reported and nothing has happened up to this stage, but I think in a number of cases that I think people are looking for some action. You know even sitting ourselves here regurgitating all

10 these issues you know that people might have broken the law, at the end of the day people are looking for some action, so we hope that you know by working with other agencies as I said that when we work, where we work we work as a team of law enforcement agencies where we pass the stick, it's like in a relay where people are running that somebody has to take that stick to the finish, you drop it, we're not going to be able to finish the race.

ADV PHILLIP MOKOENA SC: Yes.

MR SIHWA ELIJAH MAZIBUKO: Thank you Chairperson.

CHAIRPERSON: Thank you.

20 **ADV PHILLIP MOKOENA SC:** Chair that concludes our questioning to Mr Mazibuko.

CHAIRPERSON: Yes.

ADV PHILLIP MOKOENA SC: If we may adjourn for five minute in order to allow a new witness to take the stand and to proceed with Ms Mosidi's evidence.

CHAIRPERSON: Yes, thank you very much for coming to give your evidence Mr Mazibuko you will continue liaising with the legal team with regard to the other homework that needs to be done, so that we can get to the bottom of these things. Thank you very much, you are excused.

MR SIHWA ELIJAH MAZIBUKO: Thanks Chair.

CHAIRPERSON: Thank you. We will adjourn for five minutes

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Ms September are you ready?

10 **ADV VERUSHKA SEPTEMBER:** Yes I am Chair.

CHAIRPERSON: Thank you.

ADV VERUSHKA SEPTEMBER: Good morning.

CHAIRPERSON: Yes good morning.

ADV VERUSHKA SEPTEMBER: Chair the witness whose evidence I will lead today is a former employee of Transnet. She in fact resigned from Transnet on the 30 September 2018 and during her stay at Transnet she held the position of Group Chief Information Officer. Chair I need to alert you that the evidence – her evidence today is not all original evidence. In fact there are previous witnesses...

20 **CHAIRPERSON:** By which you mean it is not all new evidence?

ADV VERUSHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: Yes okay.

ADV VERUSHKA SEPTEMBER: There are in fact witnesses who have testified before this commission who have given evidence in relation to the transaction that this witness will testify to. The nature of her

evidence is thus supporting, corroborative, perhaps even complimentary but it is certainly necessary to fill the gaps and to present the context of the previous evidence that has been given. In so doing it therefore builds on the evidence of Mr Peter Volmink and the high level overview that was presented by Mr Popo Molefe. It also somewhat touches on evidence that was given by Mr Van Der Westhuizen in context of the history of this transaction. So the evidence is certainly necessary to piece together the other pieces of evidence to contextualise within the bigger scheme of things and

10 enable you Chair to consider the totality of evidence. To just highlight what is really new to her evidence as a summary. It is evidence that specifically falls within her personal knowledge and experience at Transnet. Specifically her experience of specific individuals within Transnet who were involved in the award of the IT data services tender to T-Systems during February of 2017. Another aspect of her evidence to highlight which is somewhat new is her involvement as the incumbent of the position of Group Chief Information Officer which was the business owner of this particular transaction. In this regard her evidence then certainly does talk to the theme that has been presented

20 by Mr Popo Molefe and even Mr Mohammed Mohamedy and that is about the possible existence of a parallel system within the organisation which enabled individuals to benefit through certain transactions. So just as much as we are aware that the T-Systems transaction was set aside on the 12th December last year by the Johannesburg high court the process is just as important as the

outcome and with your leave may I request then that this witness be sworn in?

CHAIRPERSON: Yes thank you.

REGISTRAR: Please state your full names for the record?

MS MAKANO MURIEL ANNA MOSIDI: My name is Makno Muriel Anna Mosidi.

REGISTRAR: Do you have any objections to taking the prescribed oath?

MS MAKANO MURIEL ANNA MOSIDI: None at all.

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

MS MAKANO MURIEL ANNA MOSIDI: Yes I do.

REGISTRAR: Do you solemnly swear that all the evidence you will give will be the truth, the whole truth and nothing but the truth if so please raise your right hand and say, so help me God.

MS MAKANO MURIEL ANNA MOSIDI: So help me God.

REGISTRAR: Thank you.

CHAIRPERSON: Thank you.

ADV VERUSHKA SEPTEMBER: Chair before you are two bundles.

20 **CHAIRPERSON**: Hm.

ADV VERUSHKA SEPTEMBER: The first bundle is marked Exhibit BB11 and that is the bundle that is specific to the statement of this witness and her annexures.

CHAIRPERSON: Yes that is the – that is the lever arch file that contains Ms Mosidi's statement and it will be marked Exhibit BB11.

ADV VERUSHKA SEPTEMBER: In addition Chair we will be referring to an excerpt out of the bundles of Peter Volmink so before you you may have the Exhibit BB2.1.

CHAIRPERSON: Yes I do.

ADV VERUSHKA SEPTEMBER: Annexure PV8.

CHAIRPERSON: Yes.

ADV VERUSHKA SEPTEMBER: Okay. Ms Mosidi can I ask you to turn to page 1 of the – of BB11 please? Do you recognise this document?

MS MAKANO MURIEL ANNA MOSIDI: Yes I do.

10 **ADV VERUSHKA SEPTEMBER:** Can I ask you to turn to page 20 of that same bundle? Whose signature appears at the bottom of this page?

MS MAKANO MURIEL ANNA MOSIDI: The signature at the bottom is mine.

ADV VERUSHKA SEPTEMBER: So please identify what document this is?

MS MAKANO MURIEL ANNA MOSIDI: This is my statement with regards to the testimony that I am going to give today here.

ADV VERUSHKA SEPTEMBER: Thank you. Do you have any
20 corrections to your statement?

MS MAKANO MURIEL ANNA MOSIDI: Yes Ma'am I do.

CHAIRPERSON: Ms Mosidi you might wish to just raise your voice a little bit more or bring the microphone closer.

MS MAKANO MURIEL ANNA MOSIDI: Okay Chair.

CHAIRPERSON: Thank you.

ADV VERUSHKA SEPTEMBER: Can I ask you to turn to page 4 please? Paragraph 9 and 10 refers to step 9, is there a correction to that number?

MS MAKANO MURIEL ANNA MOSIDI: Chair yes I would like to make a correction to the number 9 to 7.

ADV VERUSHKA SEPTEMBER: Thank you.

MS MAKANO MURIEL ANNA MOSIDI: In both instances.

CHAIRPERSON: I am sorry did you say page 4?

ADV VERUSHKA SEPTEMBER: Page 4 Chair.

10 **CHAIRPERSON:** What paragraph?

ADV VERUSHKA SEPTEMBER: Paragraph.

CHAIRPERSON: Or in the column at the top or what?

ADV VERUSHKA SEPTEMBER: So paragraph 9 and 10.

CHAIRPERSON: Oh okay.

ADV VERUSHKA SEPTEMBER: Refers to...

CHAIRPERSON: Yes.

ADV VERUSHKA SEPTEMBER: Step 9.

CHAIRPERSON: Step 9 okay.

ADV VERUSHKA SEPTEMBER: Which ought to have been step 7.

20 **CHAIRPERSON:** Yes.

ADV VERUSHKA SEPTEMBER: Can I then ask you to turn to page 6.

CHAIRPERSON: I am sorry that should have been step?

ADV VERUSHKA SEPTEMBER: Step 7.

MS MAKANO MURIEL ANNA MOSIDI: Chair instead of step 9 it should read step 7.

CHAIRPERSON: Step 7.

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair.

CHAIRPERSON: Okay.

MS MAKANO MURIEL ANNA MOSIDI: In both instances.

CHAIRPERSON: Hm. Yes.

ADV VERUSHKA SEPTEMBER: Can I then ask you to turn to page 6 please? During our preparation you informed that you would like to add two additional points under the sub paragraph 13.

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair I would like to add
10 13.5 which will talk to relationship management and 13.6 which will be security services.

CHAIRPERSON: Is that in the supplementary statement or affidavit?

ADV VERUSHKA SEPTEMBER: I was just informed that – of that this morning so it will certainly be attended to.

CHAIRPERSON: Okay that can be arranged then.

ADV VERUSHKA SEPTEMBER: For submission.

CHAIRPERSON: When she gives evidence she can cover those points that she wants to put in but then a supplementary affidavit must be done which will say exactly what she says she would like to add to
20 paragraph 13.

ADV VERUSHKA SEPTEMBER: As it ...

CHAIRPERSON: And obviously we will deal with the other corrections relating to step 9.

ADV VERUSHKA SEPTEMBER: There is one last correction.

CHAIRPERSON: Hm.

ADV VERUSHKA SEPTEMBER: And that is again on the same page 6.

CHAIRPERSON: Hm.

ADV VERUSHKA SEPTEMBER: Is it correct Ms Mosidi that you wish to delete paragraph 14.3?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair I would like to delete 14.3 it refers to an older tender not this one.

CHAIRPERSON: Okay so what you need to do is to also in the statement when you give evidence you can say what you want to say in regard to 14.3 and a supplementary statement or affidavit must be
10 made which deals with that.

ADV VERUSHKA SEPTEMBER: As it pleases Chair.

CHAIRPERSON: Thank You.

ADV VERUSHKA SEPTEMBER: Apart from the corrections that you have indicated here today is the remaining part of your statement all true and correct?

MS MAKANO MURIEL ANNA MOSIDI: Chair it is all true and correct to the best of my knowledge and recollection.

ADV VERUSHKA SEPTEMBER: Ms Mosidi is it correct that you were permanently employed in the position of Group Chief Information
20 Officer at Transnet SOC Limited from 1 June 2016 to 30 September 2018 when you resigned?

MS MAKANO MURIEL ANNA MOSIDI: It is true Chair.

ADV VERUSHKA SEPTEMBER: Is it also true that the evidence that you give today specifically deals with the information technology data services tender that Transnet awarded to T-Systems during February of

2017?

MS MAKANO MURIEL ANNA MOSIDI: Is it true Chair.

ADV VERUSHKA SEPTEMBER: Chair in this regard there has already been evidence placed before this commission for the source of this particular tender and so this tender is specific to the arivia.com which provided ICT services to both Transnet and Eskom and which was then subsequently sold to T-Systems. In this regard it is different though from the network services which Van Der Westhuizen had already given evidence to. Paragraph 4 of your statement gives a road map to all the
10 different aspects that you intend to address today and so based on the evidence that has already been presented before this commission we will deal with those parts of your evidence which is specific to your personal experience and knowledge at Transnet.

MS MAKANO MURIEL ANNA MOSIDI: Noted Chair.

ADV VERUSHKA SEPTEMBER: If we could then look at page 2 which talks to your qualifications and employment history. Please provide details to the Chair of your academic qualifications?

MS MAKANO MURIEL ANNA MOSIDI: Thanks Chair. I am a qualified information and technology practitioner and specialist and I studied at
20 the University of the North now referred to as University of Limpopo. I graduated as a B.Com Data Processing person and a University Education Diploma back in 1987. And Chair I have been working in this sector for at least 30 years right from the beginning as a computer operator and a programmer right through to where I started playing executive roles that I have been playing to date. So Chair my career in

IT started at IBM which by then was referred to as ISM because of the sanctions that were levied on the country and I spent four years of my life working at ISM in downtown Johannesburg starting as a business analyst, a system analyst and then going down to being a computer operator because I was very inquisitive and curious about the big computers that everyone was talking about. And then I went ahead to be a developer and a data base administrator within IBM. Four years later I then joined what is now called Acsentia by then it was called Anderson Consulting as a consultant who was implementing computer systems and doing what people refer to as change management processes when implementing a system. I joined Anderson Consulting in their Pretoria office and I was actually servicing the South African Police in implementing their provisioning administration system. I then joined Ernest and Young as a management consultant service head where they were actually beginning to operate in the North West administration. The North West Province back then. And my responsibilities Chair were to actually manage and lead the technical outsource that Ernest and Young had for the North West Provincial Administration which was really looking at computerising the province and was also responsible for the upkeep of the technical installed base of the province back then so that would have been in 1995. It was when I in the North West Province that I was then recruited into the Provincial Administration itself to be their Chief Information Officer back in 1996. So I had the fortune of playing that role and probably as a first after the new dispensation of our government and Chair I worked

there as Chief Information Officer for a good number of years, it could be four years, yes it is four years and when I left North West I joined SITA as the first Chief Operating Officer of that entity when it was actually conceptualised and put into operation. When I was three years into the SITA role as a COO there were some issues with the then Chief Executive of the organisation and I started acting for over a year as the CEO of SITA which is State Information Technology Agency. Chair I played a number of roles in that – in that organisation from being an acting Chief Executive to being a COO, to being a head of what we used to call Defence Information Technology Systems until I left the organisation after four years. At which I joined an emerging company called New Dawn Technologies as a Head for Consulting and the consulting was also in IT. So it was an upcoming company which was really promising especially for the time and Chair I then left and joined EDS because there was an opportunity to buy some IT company which was a SAP fit. SAP is another software house, it is another software package that gets used in critical organisations and companies. So Chair after EDS we then made a management buyout into what we call RDC and I was the managing partner and it was a pure technology driven company which was focussing on [indistinct] services right through the technology stack from perhaps just administrating their data bases and making sure that you can actually provide services around that technical stack. It was when I was in RDC that I joined Dimension Data as a CIO for Middle Eastern Africa but also as the Head of Public Sector.

ADV VERUSHKA SEPTEMBER: If I could just interrupt you there.

MS MAKANO MURIEL ANNA MOSIDI: Ja.

ADV VERUSHKA SEPTEMBER: When you were at Dimension Data did you have any engagement with Transnet?

MS MAKANO MURIEL ANNA MOSIDI: So Chair yes because as a Head of Public Sector my primal role was to sell. So when you sell you actually engage with a whole lot of organisations. You go and meet and see how you can potentially sell your services to those organisations and Transnet was one of them because it fell under the
10 ambit of public sector. And as an executor for public sector I engaged with the CIO or the Group CIO then of Transnet in my role as the Head of Public Section within Dimension Data.

ADV VERUSHKA SEPTEMBER: Thank you.

MS MAKANO MURIEL ANNA MOSIDI: And I stayed in Dimension Data for seven years and when I joined Transnet I joined Transnet coming from Dimension Data and I joined Transnet as a Group Chief Information Officer in June 2016. And I stayed with Transnet until October 2018 – until September 2018 when I left the organisation.

ADV VERUSHKA SEPTEMBER: Thank you. Apart from your
20 engagement when you were at Dimension Data when you joined Transnet that – is it correct that that was then your very first employment with Transnet SOC Limited?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair so when I joined Transnet in June 2016 it was my very first employment journey with Transnet I had never worked either as a consultant or as a contractor

for Transnet it was my first to actually join them as a CIO.

ADV VERUSHKA SEPTEMBER: The experience that you have then acquired over the somewhat 30 years specific to the IT sector exposed you to different procurement transactions as well?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair I had the fortune of playing a whole lot of executive roles in these organisations and most of the time I would engage with procurement processes for services whether I was inside an organisation or outside like I said my role for example when I was in Dimension Data was more to sell and when you
10 sell of course you engage with procurement processes in any shape or form whether I was still a small medium enterprise when I was running my own or whether as an in a role as a Group CIO for Dimension Data.

ADV VERUSHKA SEPTEMBER: And your evidence today is specific to the procurement of IT data services within Transnet?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair. So today in terms of my statement it is for the data services contract that was actually under the service of T-Systems back then.

ADV VERUSHKA SEPTEMBER: Where are you currently employed and in what position?

20 **MS MAKANO MURIEL ANNA MOSIDI:** So I am currently the Group CIO for Corporate and Investment Banking in Standard Bank based in Rosebank. I joined them when I left Transnet in September last year.

ADV VERUSHKA SEPTEMBER: Thank you. We are now on page 3 of your statement which then talks to the procurement process but more particularly the role of Group Chief Information Officer which you had

held within Transnet at the time. Chair I would like to just allude to the fact that Peter Volmink did provide evidence as a high level overview of the procurement process that was followed in this.

CHAIRPERSON: Mr Volmink?

ADV VERUSHKA SEPTEMBER: So but we will deal specifically to – sorry?

CHAIRPERSON: Mr Volmink?

ADV VERUSHKA SEPTEMBER: Mr Volmink, Mr Peter Volmink.

CHAIRPERSON: Yes. Yes let us – let us treat all people the right way,
10 Mr Volmink we are in formal proceedings. Okay.

ADV VERUSHKA SEPTEMBER: Okay I ...

CHAIRPERSON: It did not register what you said?

ADV VERUSHKA SEPTEMBER: Apologies I thought I said Mr Peter Volmink okay.

CHAIRPERSON: Okay.

ADV VERUSHKA SEPTEMBER: So Mr Peter Volmink had already provided evidence in relation to the procurement process that was followed but in this regard this witness will deal with specificity of her involvement. If I could ask you to turn to page 4? In fact sorry can I
20 ask you to turn to page 3 one page before. Who initiated the process to go out on tender?

MS MAKANO MURIEL ANNA MOSIDI: So Chair when I joined Transnet this tender was already initiated but in terms of how the process works the business owner will actually initiate a tender process based on the business requirements that the business owner would be seeing and

would be responsible for. So back then following that line will mean that the then Group CIO would have initiated this tender and back then it was Doctor Mantsika Matooane and he would have had then put service requirements together based on what she will be requiring in terms of a service provider to help her to actually execute on her responsibility as a Group CIO.

CHAIRPERSON: Was she your predecessor?

MS MAKANO MURIEL ANNA MOSIDI: She was my predecessor Chair.

CHAIRPERSON: Okay. Thank you.

10 **ADV VERUSHKA SEPTEMBER**: If we could then turn to page 4 and the diagram at the top of the page in particular. Is it correct that this diagram represents Transnet's evaluation methodology?

MS MAKANO MURIEL ANNA MOSIDI: Chair the diagram that you see represents the Transnet Evaluation Methodology as of 2015.

ADV VERUSHKA SEPTEMBER: And when you look particularly at the different parts of this diagram at the top you have a pre-qualification section then there is a stage 1 and a stage 2. All three of which are sub-divided into different steps. Would it be fair comment to say that the evaluations can actually be grouped in the following looking at this
20 diagram? Step 1 is the administrative responsiveness. Step 2 would be the substantive responsiveness. Step 3 which straddles over step 3, 4 and 5 deals with minimum thresholds for the technical evaluation specific to local content, supplier development and then functionality and technical? The next point for evaluation would be the commercial valuation and that would be in step 6 where you have your weighted

scoring and then you have a bit of a due diligence process under steps 7, 8 and 9 which would deal also with post tender negotiations and it also includes the best and final offer requests to identify preferred bidders. And the last step being the actual contract award. Would that be a fair process of evaluation as consolidated in this table?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair it will be.

ADV VERUSHKA SEPTEMBER: When you joined...

CHAIRPERSON: I am sorry. This diagram does appear to have a certain features which other diagrams that I have been shown have but
 10 it has others that I have not been shown. My recollection of the diagrams where it simply talks about stage 1, stage 2 and stage 3 I think I do not – I cannot remember if there was anything beyond that and there was not any sub-division of each stage to say under this stage there is still sub-stages if you know what I mean. So I am wondering how it compares with those other diagrams because I assume they all being under Transnet it must be one and the same thing. Maybe Ms Mosidi's decided to put in more compartments under each stage I am not sure. I mean when we were dealing with I think Neotel I do not know which on an – ja I think Neotel there were stages
 20 1, 2 and 3 and to get to stage 2 you had to meet certain thresholds and so on. So I am just wondering it does not seem to be exactly the same as what I was shown. That is the point I am making and I just want to understand whether that is simply because there are some stage – sub-stages or compartments under once – each stage that I was not told because maybe it was not important in the evidence of particular

witnesses but do exist in the structure?

ADV VERUSHKA SEPTEMBER: Chair if I may then – this particular diagram is actually the same diagram that appears in Mr Volmink's statement.

CHAIRPERSON: Hm.

ADV VERUSHKA SEPTEMBER: But there are certainly slight variations.

CHAIRPERSON: Is Mr Volmink's one here in this lever arch file do you know?

10 **ADV VERUSHKA SEPTEMBER:** Not...

CHAIRPERSON: You do not know.

ADV VERUSHKA SEPTEMBER: I am not sure Chair but I am happy to extract the relevant section.

CHAIRPERSON: Okay maybe we can proceed and later when you have had more time to look we can come back to it maybe during the lunch break you could have a look at Mr Volmink's one so that one can compare and see if one is dealing with exactly the same thing or not really.

ADV VERUSHKA SEPTEMBER: It is certainly exactly the same
20 diagram but we will certainly source the proper reference page number for you Chair.

CHAIRPERSON: Hm.

ADV VERUSHKA SEPTEMBER: There is also variations though.

CHAIRPERSON: Hm.

ADV VERUSHKA SEPTEMBER: Of this particular diagram.

CHAIRPERSON: Hm.

ADV VERUSHKA SEPTEMBER: Which simplifies the actual stages.

CHAIRPERSON: Hm.

ADV VERUSHKA SEPTEMBER: So for example if I could take you
Chair to page 31.

CHAIRPERSON: Yes.

ADV VERUSHKA SEPTEMBER: Page 31 is a six stage process but the
actual process of evaluation is no different to the more detailed one on
page 4 of this witness' statement. It is really just collapses certain
10 steps and consolidates them.

CHAIRPERSON: Ja okay. Let us proceed maybe the differences are
not material to the extent that there may be differences there might just
be nuances. Let us proceed.

ADV VERUSHKA SEPTEMBER: As it pleases Chair.

CHAIRPERSON: Ja.

ADV VERUSHKA SEPTEMBER: When you joined the organisation of
Transnet Ms Modisi at which stage was this particular tender process?

MS MAKANO MURIEL ANNA MOSIDI: So when I joined the
organisation Chair I joined it in step 7 of that process that you see
20 there.

ADV VERUSHKA SEPTEMBER: Okay now if you...

CHAIRPERSON: I think – okay you – you have got in that diagram at
page 4 stage 1 and stage 2 and then stage 1 is divided into two
columns, is that right?

MS MAKANO MURIEL ANNA MOSIDI: Stage 1 is three columns Chair.

CHAIRPERSON: And the – sorry?

MS MAKANO MURIEL ANNA MOSIDI: Stage 1 is three columns.

CHAIRPERSON: And the 2 columns seem to – or maybe you – ja the first column you have got pre-qualification as a heading and then you have got step 1 and step 2. And then under step – and then in the column you have got step 3, step 4, step 5. So – so what I may have called sub-stages you have actually said it is steps so there would – all of those would be steps to be taken under each stage?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair.

10 **CHAIRPERSON**: Is that right?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair.

CHAIRPERSON: So they are not stages on their own it is just what you do under that stage?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair.

CHAIRPERSON: So but am I right to say step 1 up to step 5 fall under stage 1? Am I right?

MS MAKANO MURIEL ANNA MOSIDI: Chair I would not – ja I would not differ with that ja.

CHAIRPERSON: Yes okay. And then when it comes to stage 2 you
20 have got steps 6 up to step 10, is that right?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair.

CHAIRPERSON: Okay alright. I think that goes – goes to – goes some way to helping me. I think that goes some way to helping me.

ADV VERUSHKA SEPTEMBER: Chair I have been reminded that the time is past ...

CHAIRPERSON: Okay let us go up to half past and then take the break – the tea break.

ADV VERUSHKA SEPTEMBER: No problem Chair. When we look at this particular table you say then that you entered at step 7?

MS MAKANO MURIEL ANNA MOSIDI: Yes.

ADV VERUSHKA SEPTEMBER: Now to understand what processes had already been followed by the time that you joined let us look then at the previous steps so that you can inform the Chair practically what actually it entailed?

- 10 **MS MAKANO MURIEL ANNA MOSIDI:** Okay. So Chair I mentioned already that as a business owner you put together the tender requirements and the specifications that you would like the bidders to respond to. So once the respondents have submitted their proposals we can now go into the pre-qualification stage in terms of that graphic that you see there. So the first step Chair is just very, very administrative and in that step what you really look for you look at various administrative things like was the tender lodged in time because there is always a closing period and those who are late they get disqualified and are there some documents that were required by
- 20 the tender and have been submitted which people will call returnable documents because they will have to be given back to the bidders at the end. And whether all the documents that have been submitted are they valid? If you say this is my BEE certificate is it a valid certificate? If it is a tax certificate is still valid? And so on so it is very administrative. So that was done Chair already when I joined the step

1. The second step is really in terms of substantive responsiveness. And here you are still actually looking at the bidders and their responses and you are checking at whether have they provided pricing because how are you going to evaluate if they do not have price? Have they responded to the technical requirements that you would like to have? Have they responded to things like supplier development if that is what you require? So you – it is actually some kind of a tick box that the team in procurement will actually do and that one was done also Chair. Now you move to – now you are stage 2 which I would start with
10 step 3 where it will look at for example the local content, the supplier de...

CHAIRPERSON: You did not say stage 2 did you?

ADV VERUSHKA SEPTEMBER: Yes she did.

CHAIRPERSON: She did?\

MS MAKANO MURIEL ANNA MOSIDI: Stage 1.

CHAIRPERSON: Ja.

MS MAKANO MURIEL ANNA MOSIDI: So I said –

CHAIRPERSON: We are still in stage 1 as I understand it, is that right? And it is important that we clarify.

20 **MS MAKANO MURIEL ANNA MOSIDI**: Oh it is still part of that stage 1 ja.

CHAIRPERSON: It is important because that was my clarification that you gave me which helped me to understand it.

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair.

CHAIRPERSON: Okay we are still in stage 1.

MS MAKANO MURIEL ANNA MOSIDI: Yes we are still in stage 1.

CHAIRPERSON: We going to step...

MS MAKANO MURIEL ANNA MOSIDI: And Chair I will take you through the steps.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: Just so that I do not get confused.

CHAIRPERSON: Yes, yes. No but if you tell – if you say now we moved from stage 1 to stage 2 when we get to that

10 **MS MAKANO MURIEL ANNA MOSIDI:** Okay.

CHAIRPERSON: That makes sure that there is no confusion as to which steps under – fall under which stage?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair.

CHAIRPERSON: Okay.

MS MAKANO MURIEL ANNA MOSIDI: So Chair still talking to stage 1 now in step 3, step 4 and step 5. So step 3 they will look at local content if it is applicable to a particular tender and then step 4 in terms of supplier development if there are any thresholds that have been requested. Now the critical one will be step 5 where we are now
20 evaluating appropriateness of the functionality that we requested and the technical requirements that we actually asked the bidders to respond to. And Chair because this is an IT tender I am saying that step is quite critical because that is why we are actually going out on tender to seek appropriate and purpose fit services providers who will be able to help us in executing this. So that whole stage 1 then Chair

you would also just for me to amplify that when you do technical evaluation when you score someone from 1 on a scale of 1 to 5 and you say can this person actually have an operational help desk? And I say yes he can but perhaps he does not have the skill there is a risk of not being able to actually run it the way it should. By the time I put a score I would have taken into consideration a whole lot of those aspects to say yes he has a helpdesk, yes it is operational but maybe no it is actually next to the sea so there is a danger of it being I am just being – giving an example there. So by the time you actually evaluate and

10 you score you are actually taking everything into consideration to make sure that this service provider will be able to provide the service that they are saying they are capable of providing. So then Chair that will then conclude your stage 1.

ADV VERUSHKA SEPTEMBER: On the conclusion of stage 1 did Transnet establish a team of people to deal with the evaluation process and what were they called?

MS MAKANO MURIEL ANNA MOSIDI: Okay so Chair when you evaluate especially a tender as big as this one which you would have picked from Mr Volmink's testimony that it is called a High Value Tender

20 because it is more than R50 million. There is a process of evaluation that gets followed and there is a team that gets puts together. So he business owner because the business owner understands operationally what the business owner will be looking for will put together a cross-functional evaluation team that will include technical capability that should be able to engage with the bids as they come through. So that

team is called you will see it abbreviated a lot a CFET but it is a cross-functional evaluation team which the business owner and in this case it would have been the Group Chief Information Officer they would have signed off to say this is the team that will actually go and evaluate the technical aspects of this tender.

CHAIRPERSON: Yes there was a witness or two who spoke extensively on the – one the groups or teams who plays certain different roles in the tender evaluation process or in the process from the time the RFP is formulated to the time that is the tender is awarded. So unless they
10 are specific features that are peculiar to your evidence that that I understand. That kind of evidence who does what does not need to be explained. Their names can just be mentioned. This body did this and this body did that which is in accordance with its function and whether it did it the right way or the wrong way but we do not need to explain all of that.

ADV VERUSHKA SEPTEMBER: As it pleases Chair.

CHAIRPERSON: Ja.

ADV VERUSHKA SEPTEMBER: I am informed...

CHAIRPERSON: Let us take the tea break.

20 **ADV VERUSHKA SEPTEMBER**: Before...

CHAIRPERSON: We will resume at quarter to twelve.

ADV VERUSHKA SEPTEMBER: Thank you Chair.

CHAIRPERSON: Thank you. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: You may proceed.

ADV VERUSCHKA SEPTEMBER: Thank you Chair. The particular page number as promised is in Mr Volmink's bundle and it is page 689. It in fact forms part of the Transnet Procurement Procedures Manual.

CHAIRPERSON: You are right. It looks like – exactly the same or maybe not 100 percent but substantially it looks the same.

ADV VERUSCHKA SEPTEMBER: Coming for ...

CHAIRPERSON: Okay, thank you.

- 10 **ADV VERUSCHKA SEPTEMBER:** Thank you. Ms Mosidi before the short adjournment you spoke then about the stage 1 which dealt with the brief qualification of administrative responsiveness, substantive responsiveness and then minimum threshold across local content, supply development functionality and technical. Is it correct that in order to advance from one step to the next one needs to satisfy then all of the requirements under a (background noise) in order to advance to substantive in order to advance to the next stage?

- MS MAKANO MURIEL ANNA MOSIDI:** Chair thank you. Yes the steps as we see them they are chronological and they are in sequence. So if
20 for example administratively I am not able to provide the right documentation or my documentation is not valid Chair it will not make any sense for you to proceed to the next step because you would have failed the pre-qualification that is also mandatory – if I can use that word – so by the time you reach the five it means you have been qualifying and satisfying the requirements of Transnet until you get to a

point where you are in step five and say we are now evaluating your technical requirements and functionality.

ADV VERUSCHKA SEPTEMBER: It was also your evidence if I understood correctly that under steps 3, four and five in particular to technical and functionality there were risks that were considered. Is that correct?

MS MAKANO MURIEL ANNA MOSIDI: Yes. So when I was giving an example of the helpdesk Chair I was saying when you – when you evaluate any technical specification that you are doing you already
10 inherently start thinking and looking at the responses and you score it based on what the capability is and what you deem as a risk what will actually – so by the time you give someone a score you would have considered the risks as well. For example if you are saying yes I have a mainframe but already this mainframe is 30 years old and therefore it will be so slow. The maps will be so expensive. The million instructions that – that we actually price mainframes based on will be so expensive. Of course then I start – when I evaluate I will take that into cognisance and I will give you a score based on the overall evaluation and assessment of what I will be looking at. Yes Chair.

20 **ADV VERUSCHKA SEPTEMBER:** And so when you advance from stage 1 into stage 2 now looking at step 6 weighted scoring is then applied to those who have qualified out of stage 1?

MS MAKANO MURIEL ANNA MOSIDI: Ja. So – so when we evaluate Chair – so there is that team which is looking at the technical side of things like we have been talking of the Cross Functional Evaluation

Team and there is now an evaluation of the commercials in terms of that and then we do it a weighted score and you end up with the overall in terms of the bidders how they have fared when you were actually evaluating them.

ADV VERUSCHKA SEPTEMBER: How many bidders qualified ...?

CHAIRPERSON: I am sorry. The technical and the commercial evaluation does it happen under stage 1 or under stage 2 ...

MS MAKANO MURIEL ANNA MOSIDI: It ...

CHAIRPERSON: And I am talking stage now not step – stage.

10 **MS MAKANO MURIEL ANNA MOSIDI:** It would have happened in stage 1 Chair. When you ...

CHAIRPERSON: That is where it is supposed to happen?

MS MAKANO MURIEL ANNA MOSIDI: Yes.

CHAIRPERSON: Okay.

MS MAKANO MURIEL ANNA MOSIDI: When you do step 3 ...

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: Step 4 and step 5.

CHAIRPERSON: Okay.

20 **ADV VERUSCHKA SEPTEMBER:** How many bidders qualified following the weighted scoring applied to those who were qualified under stage 1?

MS MAKANO MURIEL ANNA MOSIDI: So on record it – it was recorded that seven bidders actually qualified. So they made it through to step 6.

ADV VERUSCHKA SEPTEMBER: So then by the time that you joined

at step 7 there were seven bidders who had qualified ...

MS MAKANO MURIEL ANNA MOSIDI: Who would have qualified.

ADV VERUSCHKA SEPTEMBER: At that particular point in time?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair.

ADV VERUSCHKA SEPTEMBER: Paragraph – paragraph 11 of your statement on page 4 addresses the main concerns and objections that you had regarding this procurement process. Please clarify to the Chair what those main concerns and objections were.

MS MAKANO MURIEL ANNA MOSIDI: *Ja.* So Chair on step 6 where
10 we then take the aggregation of both price and functionality that you would have seen in stage 1 we ended up with those seven who actually qualified. So what it means is that on a flat line all those seven could do the work. They were technically proficient and able and they actually were fit for purpose in terms of what we were looking for. So when you start now going into step 7 Chair I will have to give a bit of a background of how that then happened which I think I could have included it in my statement as well. So the – in step 7 then there was a shortlist of two bidders. Now that is when I joined and I see this communication that there will be shortlisting two bidders out of the
20 seven who are capable.

ADV VERUSCHKA SEPTEMBER: I think before we address that ...

MS MAKANO MURIEL ANNA MOSIDI: *Ja.*

ADV VERUSCHKA SEPTEMBER: It is important to just give the overall framework within which this particular process was in fact conducted. So we certainly will be coming to that ...

MS MAKANO MURIEL ANNA MOSIDI: *Ja.*

ADV VERUSCHKA SEPTEMBER: A little later ...

MS MAKANO MURIEL ANNA MOSIDI: *Ja.*

ADV VERUSCHKA SEPTEMBER: But in that regard we – we can then accept based on your evidence that all risk assessments had been done by the time that you had joined?

MS MAKANO MURIEL ANNA MOSIDI: Yes. Yes Chair. So – so – oh I thought I made that point when I was explaining Chair that when you adjudicate you – you take into account the risks profile of each and every response. So you – you actually score taking into account the technical capability but also the risk and the – what you actually deem as being the profile of that particular response which will take into account the risks as well.

ADV VERUSCHKA SEPTEMBER: Thank you.

MS MAKANO MURIEL ANNA MOSIDI: So by the time you score it you have taken into account those risks as well. What is left of course is when people are now going to do the site just to test and see if in truth those things exist but now you are – you are home and dry. You know that these people can actually do the work ...

20 **ADV VERUSCHKA SEPTEMBER:** (Intervenes).

MS MAKANO MURIEL ANNA MOSIDI: Risk included.

ADV VERUSCHKA SEPTEMBER: Specific to the risks what were your concerns in relation to the risks at this particular stage that you joined?

MS MAKANO MURIEL ANNA MOSIDI: So – so at this stage I just had a big concern in terms of how the risks were then introduced into the

process.

CHAIRPERSON: When you joined the shortlisting of the two entities had already taken place?

MS MAKANO MURIEL ANNA MOSIDI: It – it actually happened as I was joining Chair and you will see later in the statement ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: How I tried to give input in terms of increasing the net ...

CHAIRPERSON: Yes.

10 **MS MAKANO MURIEL ANNA MOSIDI:** Because of this tender.

CHAIRPERSON: Okay.

MS MAKANO MURIEL ANNA MOSIDI: Not only limiting it to two ...

CHAIRPERSON: Okay.

MS MAKANO MURIEL ANNA MOSIDI: But perhaps because of the complexity and the size.

CHAIRPERSON: Okay.

MS MAKANO MURIEL ANNA MOSIDI: Ja.

ADV VERUSCHKA SEPTEMBER: So you spoke about the introduction of risks which you document at paragraph 11 of your statement.

20 **MS MAKANO MURIEL ANNA MOSIDI:** Yes. They were now reintroduced into the BAFO which in my view there would have been – they would have formed part of the evaluation process before that stage – before that BAFO. That is the first one Chair. The second concern that I had ...

CHAIRPERSON: I am sorry. What you have just said is – is it

captured in 11.11?

ADV VERUSCHKA SEPTEMBER: 11 ...

CHAIRPERSON: Of your statement paragraph 11 ...

MS MAKANO MURIEL ANNA MOSIDI: 11.1 Chair.

CHAIRPERSON: 11.1 – I am sorry. Is that step 8 there correct in the light of your correction of step – step 9 to step 7?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair. So ...

CHAIRPERSON: It is correct?

MS MAKANO MURIEL ANNA MOSIDI: It is correct Chair.

10 **CHAIRPERSON:** Oh, okay. No that is fine. Okay. No that is fine.

ADV VERUSCHKA SEPTEMBER: So your first concern is that there were risks which were an integral part of the evaluation process that were reintroduced?

MS MAKANO MURIEL ANNA MOSIDI: That were reintroduced into the evaluation process.

ADV VERUSCHKA SEPTEMBER: What other concerns did you have?

MS MAKANO MURIEL ANNA MOSIDI: The other concern was when I looked at this ...

CHAIRPERSON: I am sorry. Reintroduced such as that they had been
20 looked at some stage before and ...

MS MAKANO MURIEL ANNA MOSIDI: Yes because ...

CHAIRPERSON: Something had happened to them and now they are brought back. Just explain that a little bit.

MS MAKANO MURIEL ANNA MOSIDI: Ja. So Chair when you evaluate you do a 360° degree evaluation of a response. So if the risk – there is

some risk in the response that you see your score will take that into cognisance. You will say I have scored them two out of 10 because I see the risk of their capability – the risk – so you have – you have included it in your technical evaluation. Now when you are at the end and you start talking about those risks already whilst you have actually applied the risks as you were evaluating I just (intervenes).

CHAIRPERSON: That is what you talk – you are talking about when you say they were introduced?

MS MAKANO MURIEL ANNA MOSIDI: They were reintroduced *ja*.

10 **CHAIRPERSON:** Okay. So ...

MS MAKANO MURIEL ANNA MOSIDI: They were reapplied.

CHAIRPERSON: So what you mean is if they were taken into account at an earlier stage ...

MS MAKANO MURIEL ANNA MOSIDI: Yes, yes.

CHAIRPERSON: And the entity was evaluated on a certain basis including them when you later on take them into account again ...

MS MAKANO MURIEL ANNA MOSIDI: *Ja*.

CHAIRPERSON: That is the reintroduction you are talking about?

MS MAKANO MURIEL ANNA MOSIDI: Yes.

20 **CHAIRPERSON:** And from what you say it seems you are suggesting that should not normally happen?

MS MAKANO MURIEL ANNA MOSIDI: It should not.

CHAIRPERSON: Okay, thank you.

ADV VERUSCHKA SEPTEMBER: Were these risks relevant or material in any respect in your experience?

MS MAKANO MURIEL ANNA MOSIDI: So the second concern that I had Chair was in terms of the materiality of the risks and I found them irrelevant and not material and I think later on Chair when I speak to the risks I will just explain why not. Important though to mention that this tender just the way it was set up was set up in such a way that it is a green-field tender. So I think it is important just to bear that in mind when I start talking to the risks later.

CHAIRPERSON: Explain a green-field tender.

ADV VERUSCHKA SEPTEMBER:

- 10 **MS MAKANO MURIEL ANNA MOSIDI:** So green-field tender is that you assume that there is nothing. You are all taking off from point zero. So with this tender there was the current incumbent who was within Transnet giving the same service and competing with the rest but for fairness and – and equity you then say we assume that you are all at zero. No one is in the environment. So let us not take that into cognisance ...

CHAIRPERSON: Okay.

MS MAKANO MURIEL ANNA MOSIDI: To ensure that there is equity in terms of adjudication – in terms of evaluation and adjudication.

- 20 **CHAIRPERSON:** Okay. So – so if there is somebody who is currently providing the service that person may have performed purely – performed very well?

MS MAKANO MURIEL ANNA MOSIDI: Yes.

CHAIRPERSON: But you say – you say let us pretend as if there is nobody?

MS MAKANO MURIEL ANNA MOSIDI: Yes. All of us who are new we are starting at point zero.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: *Ja*.

CHAIRPERSON: Okay. I hope that at some stage ...

MS MAKANO MURIEL ANNA MOSIDI: It will (intervenes).

CHAIRPERSON: It will be taken into account because you – you obviously would not take somebody whose performance has been disastrous and - and give – and say you are starting new and you never
10 taken into account the disastrous performance.

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair.

CHAIRPERSON: *Ja*, okay, alright.

ADV VERUSCHKA SEPTEMBER: And the current incumbent to this particular operation was T-Systems?

MS MAKANO MURIEL ANNA MOSIDI: It was T-Systems Chair South Africa.

ADV VERUSCHKA SEPTEMBER: And T-Systems was in fact competing for this particular tender as a bidder?

MS MAKANO MURIEL ANNA MOSIDI: It was also – it was also
20 competing as a bidder.

ADV VERUSCHKA SEPTEMBER: 11.3 documents another concern that you had in relation to this tender. Can you please explain that to the Chair?

MS MAKANO MURIEL ANNA MOSIDI: So – so Chair I joined in June 2016. I start engaging with one of the biggest outsources of

Transnet when it comes to IT and there is a whole process when you are evaluating high value tenders and one of them is that there must be a specific report that they will a high value tender report which would have been prepared to look at this high value tender and whether it was compliant and whether it is fully risk mitigated and whether everything is actually in place. Just so that they give the confidence to those who are supposed to make the decision. So when I joined the first report that I received and by then I knew it is not like I know exactly how it should look like but it was not actually signed and I – I did not realise
 10 that it carried a lot of weight until a little bit later. So – and according to practice it would have been – it would have actually formed part of the whole report in terms of the tender.

ADV VERUSCHKA SEPTEMBER: 11.4 documents your last concern or rather your last main concern. Did you ...?

MS MAKANO MURIEL ANNA MOSIDI: (Indistinct)?

ADV VERUSCHKA SEPTEMBER: 11.4 on page 5 talks about your last concern and that was the recommendation that was made in relation to the award.

MS MAKANO MURIEL ANNA MOSIDI: Oh okay. So – so Chair the
 20 evaluation had begun and there was some kind of a recommendation that was done for the award of this tender and procurement in Transnet it reports into the Group – Group Chief Financial Officer and at the time it was Mr Garry Pita and in that recommendation my biggest concern really was that they included some of the risks against the competing bidder and in this instance it was Gijima to support the award of this

tender to T-Systems. So I think those were the three main (indistinct) in terms of the concerns that I had.

ADV VERUSCHKA SEPTEMBER: To understand the importance of this particular tender to Transnet as an organisation it is common cause now that this tender related to data services. Please explain what exactly is data services for purposes of Transnet's operations?

MS MAKANO MURIEL ANNA MOSIDI: So Chair let us – let us start by just talking to what a data service is. So in any organisation there will be some transactional systems or some transactional applications into
 10 which people capture source data and just for simplification I will say source data will be something like where you capture and order into or where you capture my name as an employee and my whole profile, my address or where you capture your customers. Now all those records they make up data for this organisation and as you capture them into this a – a number of things come into play. So you have the people who capture but you also have people who are responsible for the upkeep and the running of the systems that you are using but you also have people who must secure and make sure that that data that you have captured is secured. It is correctly accessed. The people who
 20 actually tap into the data are the right people to do that but then you also make sure that this data can be used by everyone who is correctly authenticated. So the combination of all these things they make up your data services but that data it will not be useful to you if you cannot actually transport it to the right people who need to use the data and for that purpose then you will have the communications layer which

people will call networking. To make sure that this data can move to where it needs to get to but that networking it means it must actually hinge into where you have posted your data and where you start actually transporting it to the other areas. Now that data as you continue to work with it then you start deriving information and making sense out of it. Then you start doing things like management information services or executive information services where you start drawing insights but as you do that you do it within the data services environment. So you continue to do that. So where do you actually

10 host the data. You can host it in what people will call servers or the mainframe that is the one which is really the father of data centres and that is where you – so this whole tender it was a data service to make sure that data is correctly hosted. It can be accessed. It can be captured. It is secured and it is actually correctly authenticated. You do not want somebody who is not working for Transnet to come and access the data. So that whole thing is data services but then to make it more useful you then start connecting and then you start having your network services so that you can actually communicate.

ADV VERUSCHKA SEPTEMBER: Is it then correct that data services

20 are interdependent on network services?

MS MAKANO MURIEL ANNA MOSIDI: I think they are interdependent because – yes if – if maybe – if maybe you are just working as an organisation in isolation which does not happen. You can say well I will just capture my data here and this is where I will keep it but for you to be able then to communicate with whoever wherever you are going to

need network capability to be able to communicate and that network Chair it starts where I am sitting as a user in an office and you will find a lot of wires running all over the place and they hinge into what they will call a network port just so that it can then start communicating. So the whole burden will have what they call a Local Area Network which will then connect me and you in the same building to make sure that we can work. Sometimes it is physical wires. Sometimes it is Wi-Fi - what people call Wi-Fi – and that whole thing makes the whole service complete and yes useful to anyone who would like to consume the

10 service.

ADV VERUSCHKA SEPTEMBER: Okay. Not to oversimplify it but would you – the interdependency between a network service and a data service essentially would be almost like what is required to send a WhatsApp message. You would have a hardware which is your cellphone. You then have the network which is either Vodacom, Cell C, MTN, Telkom and then you would actually need data in order to transmit the message from one end user to another.

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair.

ADV VERUSCHKA SEPTEMBER: Okay. In that context paragraph 13

20 of your statement highlights that this particular tender then sought to deal with the services outsourced in respect of the data centre and hosting services, help and service desk, collaboration, end user computing, desktop and support. You informed at the start of your evidence that you wanted to add to that relationship management and security services. Can you please expand specifically on relationship

management and security services?

MS MAKANO MURIEL ANNA MOSIDI: Thanks Chair. So the services that this tender was intended for are as outlined by Ms September in terms of those categories of service. Now if I were to add now the relationship management because it is a head party who is providing a service to us firstly. So there must be that soft layer where there is somebody managing the relationship between Transnet and the service provider. In this case it would be Transnet and T-Systems. There must be that person who looks at that but it did not only end – end there. It
 10 also then looks at for example contract management, vendor management, vendor performance. So monthly for example you will have standing meetings that will look at the previous month how we performed. Was there anywhere where we actually maybe contravened or under achieved against a service level agreement that would have actually agreed to. So that whole component it is very critical and – and that is what we would refer to as relationship management. Security services is where our – I was talking to authentication and making sure that data of Transnet is actually secured but also where you make sure comply with legislation that will actually talk to security
 20 like for example your – when people talk about POPI. That – that particular tower or that particular category will make sure that as you run the environment you actually secure people's personal information as required. So those are the security services but also just to protect and make sure that not every person will get access into the network of Transnet.

ADV VERUSCHKA SEPTEMBER: Within the stable of the different divisions of Transnet was there any part of Transnet that would not utilise data services?

MS MAKANO MURIEL ANNA MOSIDI: All – all divisions were allowed to actually utilise the – this particular tender but for example if you look at TNPA because it is so governed ...

ADV VERUSCHKA SEPTEMBER: And TNPA stands for?

MS MAKANO MURIEL ANNA MOSIDI: It stands for Transnet Port Authority. You almost got me there. So Transnet National Port
10 Authority.

ADV VERUSCHKA SEPTEMBER: National Port Authority.

MS MAKANO MURIEL ANNA MOSIDI: Ja. So because they – they are governed and you know they would not – they would still keep some of their asset not necessarily using this particular tender depending on what the requirement would be.

ADV VERUSCHKA SEPTEMBER: But essentially it was fundamentally ...

MS MAKANO MURIEL ANNA MOSIDI: (Intervenes).

ADV VERUSCHKA SEPTEMBER: Fundamental and critical to the
20 operations of Transnet?

MS MAKANO MURIEL ANNA MOSIDI: It was for all the operating divisions of Transnet. They could all use it.

ADV VERUSCHKA SEPTEMBER: What was the estimated cost of this tender for the period of five years?

MS MAKANO MURIEL ANNA MOSIDI: Okay. So when we were – when

it was going out on tender the estimated costs were between 1.8 and 1.9 billion in terms of the value of this tender.

ADV VERUSCHKA SEPTEMBER: Okay and how would you describe the base – the base costing of this tender?

MS MAKANO MURIEL ANNA MOSIDI: So this tender Chair is really based on – on consumption. So whilst you estimate it to be 1.9 billion depending on the growth trajectory that you achieve you might end up being somewhere else because you are really driven by the volumes. Chair you will – you will notice somewhere it will talk to the volumes
10 that we actually used to run this tender and they were fixed because we did not want a changing variable there. However this – I think – in short was just to say it was more a volume based contract. So the more we consumed the more we are going to start being charged for it and so on.

ADV VERUSCHKA SEPTEMBER: It was already your evidence that there were seven bidders who had qualified on technical standards and these seven bidders were eventually shortlisted to two. Is that correct?

MS MAKANO MURIEL ANNA MOSIDI: Yes. So we – so two were chosen ...

20 **ADV VERUSCHKA SEPTEMBER:** Chosen, thank you.

MS MAKANO MURIEL ANNA MOSIDI: To go, yes.

ADV VERUSCHKA SEPTEMBER: Thank you for the correction.

MS MAKANO MURIEL ANNA MOSIDI: Okay.

ADV VERUSCHKA SEPTEMBER: Can I ask you to turn to page 27 please? In the middle of the page is an email which is dated

26 June 2016 sent at 07:01 pm from yourself and the third paragraph of that particular email for record purposes reads – apologies the second paragraph reads:

10 “I just had a call from Martin asking me whether he could go ahead and sign the recommendation to shortlist two service providers to go ahead to the due diligence state. I advised against it. I would rather have us shortlist four or five service providers for due diligence. It is complex. It is involved, SOAs need to be tightened up and made fit for purpose. Expected benefits to be well articulated etcetera. It is not everyone who can see this through to the end. The more the better. We are late already. We may as well do it right. Shortlisting only two now in the interest of time is likely to burn even more time instead. Like I mentioned in the GLT this is critical and core to our operations. I recommend that we shortlist four or five bidders to ensure a near perfect fit.”

20 Do you confirm that this is in fact the email that you sent?

MS MAKANO MURIEL MOSIDI: Yes Chair it is the email I sent.

ADV VERUSCHKA SEPTEMBER: And what was the trigger for you sending this email?

MS MAKANO MURIEL MOSIDI: Martin was the executive manager in my office as a Group CEO and I was travelling when he actually sent,

just to confirm that he can go ahead and approve that we shortlist two bidders. So I then penned down on email because this has been my biggest fear factor when I joined Transnet to get this right and I said to him, no not two can we just go to four because in any case we have seven who have qualified.

ADV VERUSCHKA SEPTEMBER: Okay if you can then turn one page forward which is page – sorry two pages forward which is page 25 at the bottom is – at the bottom is an email dated the 30th of June 2016 at 8h12am from Gary Pita who wrote, and it's addressed, "Hi Siya
10 /Makano" the first part of the email addresses reasons and in particular – sorry reasons why the IT Data Services is recommending shortlisting and then specifically two rank bidders. If I can ask you to turn to page 26, the last bullet for record purposes reads,

"The recommendation for award for IT Data Services has to be tabled at the Transnet leadership team ADC and in July 2016 and has to be approved by the Board and there's a transition period of six months which is required after issuing the LOI".

The last sentence at that page reads,

"Due to the time constraints it is also impractical to shortlist
20 and negotiate with more than two bidders, the Board has time and time again advised management that no extensions will be considered. This is further supported due to the National Treasury instruction note where we would need NT, presumably National Treasury approval for any extension which may take some time",

We then go back to page 25, the email just above the one that was addressed now is an email from Mr Siyabonga Gama to Mr Gary Pita and you were in fact copied on it. What was Mr Gama's attitude to the shortlisting of the two bidders as compared to your proposal to shortlist more than two?

MS MAKANO MURIEL MOSIDI: Chair when I suggested that we shortlist at least more than two, Mr Gama countered me and said, look, trust that is big, you know, you are new here you are not used to these big organisations who actually award a whole lot of tenders with huge amounts this is really nothing my girl, it's a small tender let's not waste time let's just move with it shortlisting four people is going to waste our time and we just want to get done with this tender and of course Chair I was new and perhaps I wasn't used to the many zeros but it's not like I was convinced but I had to go with it.

ADV VERUSCHKA SEPTEMBER: And when you mentioned ...(intervention).

CHAIRPERSON: This was in a meeting?

MS MAKANO MURIEL MOSIDI: Yes we were talking, I think we were talking on the phone, he was trying to explain why he would go with the two bidders after I had responded to him.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: And in context was it said that the tender was then small at an approximate value of 1.85billion?

MS MAKANO MURIEL MOSIDI: Yes so he was saying 1.85billion is a small tender in the instance of Transnet because Transnet is quite big.

ADV VERUSCHKA SEPTEMBER: At this stage who were the two top bidders that were in the running?

MS MAKANO MURIEL MOSIDI: So at this stage Chair it was T-Systems and Ubuntu based on the sequential rating of the bidders who had qualified.

ADV VERUSCHKA SEPTEMBER: What happened then on the 20th of July 2016?

MS MAKANO MURIEL MOSIDI: So Chair, Ubuntu then had to withdraw because when a tender has expired, before you can actually extend the validity period you have to get approval from those who were bidding to say yes, we can extend and still keep the price fixed at what we bid with but Ubuntu, I think, it just came to light that their partner couldn't actually accept that we should keep the pricing at that point where they had bid and they opted to rather leave the process because they couldn't keep and fix the prices at that.

ADV VERUSCHKA SEPTEMBER: Following Ubuntu's withdrawal did Mr Gama have any communications with you in regard to that?

MS MAKANO MURIEL MOSIDI: Ja and Mr Gama Chair was big enough to say Makano I think you'll say I told you so because you did advise me to have more than two shortlisted now the one has actually opted out of the race and I responded and I said, look it's all good intentions you were just trying to make sure that the process can be accelerated for the benefit of Transnet so it's okay it's a mistake that we all make sometimes but perhaps next time when (indistinct) will take me seriously because it's my area of expertise, we laughed about it.

ADV VERUSCHKA SEPTEMBER: What then happened after Ubuntu withdrew from the process.

MS MAKANO MURIEL MOSIDI: So after...(intervention).

CHAIRPERSON: Sorry where about in the statement are we now?

ADV VERUSCHKA SEPTEMBER: We're on page eight paragraph 19.

CHAIRPERSON: Okay.

MS MAKANO MURIEL MOSIDI: So after – so after Ubuntu withdrew then I think Mr Gama gave approval to take the next bidder in the que and the next bidder was actually Gijima so they actually was then the
10 next second bidder who was being evaluated.

ADV VERUSCHKA SEPTEMBER: So three months after you started at Transnet which was about September 2016, you were presented with a file, can you please explain to the Chair what happened at that particular point in time?

MS MAKANO MURIEL MOSIDI: Okay so Chair, the process of procurement and appointment of service providers is the core competency and core responsibility of procurement. So Mr Edward Thomas who was then, when I was in Transnet, Group Chef Strategic Officer GCSCO brought the complete file which
20 summarised...(intervention).

ADV VERUSCHKA SEPTEMBER: Just to correct, GCSCO, is Group Chief Supply Chain Officer, please continue.

MS MAKANO MURIEL MOSIDI: So Chair, Mr Edward Thomas brought the file which was actually summarising everything that has happened in terms of identifying and appointing the successful bidder in terms of

this tender and the recommendation in the file was to award to T-Systems. So I went through the file and you can imagine if you are new you really want to read each and every page and understand exactly how we end up to it because I was going to append my signature to it, it was actually in my business unit so I was the business owner so I had to do some due diligence and I went through the file and I think the procurement process and the steps that they followed I could see that they were actually done, however, what actually just stood out for me was how the recommendation was not then matching the flow of events
 10 as I was reading, where I would have expected that the number one would actually be recommended then I saw the recommendation actually going to T-Systems.

ADV VERUSCHKA SEPTEMBER: When you mean number one, number one was the outcome of what part of the process?

MS MAKANO MURIEL MOSIDI: So Chair once we have done the technical evaluation, the things that we all spoke about then there is a process that Transnet will call best and final offer which is the buffer, but when you do the buffer you would have cleared every technical requirement, you would have looked at it, you would have cleared the
 20 risks and then you say, I'm really happy to go with this two people, can you just give me your best and final offer. Go and sharpen your pencil, cross your T's dot your I's, give me your best price. So at that time when they came back with that buffer Gajima, the was number one in terms of the scoring and Chair as I was reading I was expecting that

the recommendation will actually talk to Gajima that the recommendation spoke to T-Systems instead.

CHAIRPERSON: In other words the report that you were going through to which you were supposed to append your signature, the reasons, the motivation or the evaluation that was evident on which it was based suggested that Gajima should be number one, is that what you are saying?

MS MAKANO MURIEL MOSIDI: Yes, when I was reading it yes.

CHAIRPERSON: But when you came to the actual finding, Gajima was
10 not actually number one?

MS MAKANO MURIEL MOSIDI: No it was not recommended it was till number one but it was not recommended.

CHAIRPERSON: Oh it was number one but not recommended?

MS MAKANO MURIEL MOSIDI: Yes it wasn't.

CHAIRPERSON: Okay thank you.

ADV VERUSCHKA SEPTEMBER: To appreciate the difference in number one and number two, what were the final scores that Gajima scored as compared to T-Systems?

MS MAKANO MURIEL MOSIDI: So Chair, I think when I looked at the
20 scoring, technical, let me start there if I can, when I looked at the technical score the difference between T-Systems and Gajima, they had a difference of .33 percent. So they were there and there about technically but...(intervention).

CHAIRPERSON: So they were, for all intents and purposes on the same level?

MS MAKANO MURIEL MOSIDI: They were on the same level.

CHAIRPERSON: Oh okay.

MS MAKANO MURIEL MOSIDI: But then when you start, of course, start putting in the buffers and so on I think they came and said – Gajima then provided now, we said to them give me your buffer and then Gajima came and provided a cheaper bid and the final score was 99 percent and T-Systems then dropped to 85 percent – 85.07 percent.

ADV VERUSCHKA SEPTEMBER: So it was not a negligible difference between the two in percentage scoring?

10 **MS MAKANO MURIEL MOSIDI:** Overall?

ADV VERUSCHKA SEPTEMBER: Yes.

MS MAKANO MURIEL MOSIDI: No because of the price, the weighting on the price actually made the variance quite big but when you look at the technical capability they were quite close.

ADV VERUSCHKA SEPTEMBER: Okay were you made aware of any other reports that were to be considered in the context of this process?

MS MAKANO MURIEL MOSIDI: So it was during this process Chair when I started interrogating to say but let me understand then I was made aware of Gartner which is a company in Ireland, it's best known
20 for it's analyst and research capabilities in the IT space. So almost every CIO will read a Gartner report if they want to actually understand or make a decision of some technical nature or just how to approach some technical work, so it was at this point then I was made aware of the report compiled by Gartner where they were outlining some risks in terms of this particular tender.

ADV VERUSCHKA SEPTEMBER: Can I then ask you to turn to Annexure 3 which is the Gartner report that starts on page 41 but in particular I ask you to go to page 49 of the bundle. Is it correct...(intervention).

CHAIRPERSON: I'm sorry before you do that, just go back to explaining who Gartner were, how they came in to this how they came to play some role?

MS MAKANO MURIEL MOSIDI: Thanks Chair, so Gartner is a research house there specialises mostly with information technology
10 and communication services. So they are largely seen to be independent and they are used usually in an advisory role but when I joined Transnet there were two consultants who were Gartner consultants, they have been there before I joined and I realised they were then made a part of the tender evaluation process but I further started understanding that they actually put the tender specifications together as well for Transnet. Whilst Transnet had put their own specs they came in and they wrote – because they were brought in just to quality assure the specifications but the report does say that they actually looked at it and they started developing new specs,
20 appropriate specifications I would imagine. So Gartner is really a research house it's made up of analysts and very educated and experience people who actually advise on IT work.

CHAIRPERSON: Okay so in this context, Transnet would ask them for advice, in effect, and then to look at the bids and advise?

MS MAKANO MURIEL MOSIDI: Ja so in this context actually Transnet used them for everything so it used them to develop the specifications, it used them to evaluate and then it used them to summarise the operational risks that they perceived.

CHAIRPERSON: Yes okay.

ADV VERUSCHKA SEPTEMBER: At page 49 of this bundle appears two diagrams, is it correct that this particular page is actually a synopsis of the findings of Gartner?

MS MAKANO MURIEL MOSIDI: Yes because Chair, you'll see that it's
10 actually written under – on their letterhead and this is the – it forms part of the Gartner report.

ADV VERUSCHKA SEPTEMBER: Can we then look at the first diagram on the left hand side the one that is title, reference check, okay, can you please explain this diagram to the Chair?

MS MAKANO MURIEL MOSIDI: So Chair this is now – it's marked table 3 and the CFET team is now looking at T-Systems and Gajima so if you look at that quadrant at the bottom you have the likelihood of that risk happening that is on you X axis, so it starts with rare, unlikely, moderate and then on the Y axis you see the risk impact of that
20 particular risk, is it low, is it minor, is it moderate, is it major and then we see the two bubbles, one is blue and one is green, the green one is for Gajima and the blue one is for T-Systems so overall when they were doing reference checks T-Systems – both T-Systems and Gajima, they kind of came next to each other so they had some kind of a moderate to a major kind of that risk happening to say the references

were at that point but also you will see that it was actually at the unlikely point for both of them, Gajima being on the right moving towards moderate but they're both unlikely. So that is the risk profile of the reference checks that were done by the CFET team.

ADV VERUSCHKA SEPTEMBER: What exactly is a reference check?

MS MAKANO MURIEL MOSIDI: A reference check is where you actually, physically, you go you phone the customers or the clients...(intervention).

CHAIRPERSON: Where they've done work.

10 **MS MAKANO MURIEL MOSIDI:** Where they've done work and sometimes you go and speak to them or you actually call them or you actually check the work that they were doing so that is what was actually happening so they were almost neck on neck if you look at that.

ADV VERUSCHKA SEPTEMBER: If you look at the next – or rather the diagram to the right of that which is tilted, site visit, can you clarify the analysis that has been done diagrammatically there too please?

MS MAKANO MURIEL MOSIDI: So Chair the same application can be levied against this diagram which is on the right for both T-Systems and
20 Gajima in terms of doing the site visits. So when you do site visits, I come and check, you said you have a helpdesk, yes can I touch it, touch wood, is it there, yes, do you have people who are working on the helpdesk, the helpdesk agents, yes I do have them, do you have engineers, how many engineers do you have so I actually do due diligence check of what you do so that is part of that site visit and

Chair you will see that both of them are still on the left side of the quadrant which is, you know, moderate and moderate to rare and moderate to low.

ADV VERUSCHKA SEPTEMBER: And then lastly, the – at the bottom of the second block below under Gajima, reference is made to transition and the time period in which to transition, do you have any comments in relation to the comments made there?

MS MAKANO MURIEL MOSIDI: Can you read the statement you are talking to?

10 **ADV VERUSCHKA SEPTEMBER:** Okay just for clarity, the bottom part reads,

“The extensive transition scope to be completed in six months as put forward in the submitted transition document falls short of the requirement which is a major risk to getting to final mode of operation in an acceptable period such that Transnet gets the benefit of the services and associated service levels as defined in the technical service towers. Experience with this is that this requires focused projects during business as usual that require resources from both parties and is costly.

20 Moreover, Transnet will be paying for FMO services/scope and SLA's prior to reaching FMO”,

Do you have any comment to that?

MS MAKANO MURIEL MOSIDI: Yes I do Chair, earlier on I mentioned that this was a Green Fields contract so for equity and for fairness to introduce this transition period of six months and start thinking that if

you don't go to final mode of operation in six months is going to be risky to Transnet I found it irrelevant Chair and that is why I was saying some of the risks, I found them immaterial and irrelevant because at this point any new bidder will have to actually first take over and transition from the current bidder to current mode of operation before they can start optimising and making sure that they can now start working in a futuristic fashion. So that particular comment, for me, was a little bit not positioned correctly or it was actually relevant because everyone was starting as a Green Field so we can't be bringing it now
10 at this point.

CHAIRPERSON: So it was a factor that was inconsistent with the role that the adjudication would be based on the Green Field principle.

MS MAKANO MURIEL MOSIDI: Yes Chair.

CHAIRPERSON: Okay.

MS MAKANO MURIEL MOSIDI: Because now you're bringing that.

CHAIRPERSON: So one would want a justification for it to say, but that's in breach of the Green Field principle as it were so why are you bringing it in?

MS MAKANO MURIEL MOSIDI: Yes Chair.

20 **CHAIRPERSON:** And I take it it's something you did raise and you will deal with that?

MS MAKANO MURIEL MOSIDI: I think that is one of the things that was actually creating such a turmoil in my mind to say but this thing is not making logic.

ADV VERUSCHKA SEPTEMBER: Were any of these risks in relation

– as identified in this report new?

MS MAKANO MURIEL MOSIDI: The risks as identified, in my view, were not new, all of them.

ADV VERUSCHKA SEPTEMBER: Can I then ask you to turn to the bundle, the little bundle next to you by Mr Volmink which is marked part of Exhibit BB2.1 can I ask you to turn to page 705, for the record Chair paragraph 14.3 deals with the quotation system, request for quotation/CIDB quotation procedure and that's on page 702, in particular on page 705 paragraph 14.3.9 talks to process and more
10 specifically paragraph D reads,

“As a general rule quotations are to be evaluated on the basis of price and BBEE where there are opportunities to include SD either as an objective criterion a threshold or pre-qualification criterion SD, supplier development should also be included in the bid. In the event that technical evaluation is also necessary the technical evaluation criteria must be pre-determined and included in the RFQ document. Importantly, that's my emphasis, the highest scoring bidder is to be selected as the successful bidder unless there is objective
20 criteria justify presumably to justify the award to another bidder”.

If I can then ask you to turn to page 783 please of the same bundle. Chair for the record this falls – paragraph 18.7 deals with...(intervention).

CHAIRPERSON: You said 783 hey?

ADV VERUSCHKA SEPTEMBER: Correct Chair, paragraph 18.7 deals with recommendations and in particular on page...(intervention).

CHAIRPERSON: Is that 18.7.2 oh it's all recommendations from earlier?

ADV VERUSCHKA SEPTEMBER: Correct Chair.

CHAIRPERSON: Yes okay.

ADV VERUSCHKA SEPTEMBER: So at paragraph – as Chair has pointed out paragraph 18.7.2 talks to the recommendation to the AC, and in particular paragraph 18.7.3 deals with reasons for
10 recommendation more specifically sub-paragraph B reads that,

“The bid with the highest score must be selected unless there are subjective criteria other than the criteria used to evaluate the bid that justify the award to another bidder, this discretion must be exercised sparingly. Examples which would justify the award to a bidder other than the highest ranked bidder includes the following, and just by way of an example reference is made to supplier development which is envisaged as an objective criterion, risk assessment which indicates that there's material risk involved in awarding the business to the
20 highest ranked bidder and so forth”,

Below the bullets on page 784 for the record it reads,

“that if a bid other than the bid with the overall highest score is selected the recommending committee shall provide a full explanation for this decision and state which objective criteria are relied upon to justify the recommendation of such bid as a

general rule where the overall highest scoring bidder is overlooked based on objective criteria the second ranked bidder must be considered for recommendation thereafter”,

And for the sake of completion Chair, on page 788 of the same bundle which addresses bidder adjudication paragraph 20.2 which talks to the role of the AC during adjudication, below the first paragraph it reads,

10 “Factors to be considered during adjudication include whether, and more specifically at paragraph 20.2.6, the recommended bidder scored the highest points overall, if not whether the recommendation to award the contract to another bidder is based on other objective criteria”,

Ms Mosidi the risk that were identified in the Gartner report did they constitute objective criteria in your understanding and experience?

20 **MS MAKANO MURIEL MOSIDI:** So Chair they did not constitute objective criteria in my understanding, the PPP which is the preferred procurement policy of Transnet. it states clearly what an objective criteria should be and it's those things that must actually remain objective because when you evaluate a tender right from the beginning, you have pre-determined evaluation criteria that you are going to use, you cannot then use that pre-evaluation criteria again and apply it as an objective criteria. So the technical risks that were raised they were actually talking to the pre-adjudication criteria but when you look at the PPP for example it gives us real examples of what an objective criteria

will be, for example whilst at the end of the process a company is now going insolvent, that's reason enough there's nothing you can do about it or if maybe it applies for business rescue you are actually...

It states clearly what an objective criteria should be and it is those things that must actually remain objective. Because when you evaluate a tender right from the beginning you have pre-determined evaluation criteria that you are going to use. You cannot then use that pre-evaluation criteria again and apply it as an objective criteria. So the technical risks that were raised they were actually talking to the pre-

10 adjudication criteria but when you look at the PPP for example it gives us real examples of what an objective criteria will be. For example whilst at the end of the process a company's is now going insolvent that is reason enough there is nothing that we can do about it. Or if maybe if it applies for business rescue you are actually – ja as a responsible person you will have to actually look at it and say we cannot actually give them this. Or for example treasury it does list those companies that get listed as not qualifying to bid for government business. If you suddenly appear on that list it is objective. We will have to apply that but not in terms of the risks that have been

20 articulated in this one.

ADV VERUSHKA SEPTEMBER: Just for record purposes you refer to PPP do you perhaps mean PPM which is the Procurement Procedures Manual that is the document that we have just referred to?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair I think it is the PPM there are just too many acronyms. Ja.

ADV VERUSHKA SEPTEMBER: Thank you. Were you then called we going back now to page 9 of your statement.

CHAIRPERSON: I am sorry before you do that you mentioned that I think you said the PPM.

MS MAKANO MURIEL ANNA MOSIDI: Yes it is...

CHAIRPERSON: Contains exactly what it is that would make a criterion objective or whatever but you did not deal with what those are to the extent that they are relevant to your answer that here these risks were not objective. Do you want to just say because this was missing, this
10 was missing, this was missing, that is therefore they fell outside of the definition of objective that you are talking about.

MS MAKANO MURIEL ANNA MOSIDI: Okay. So Chair all the risks that were actually articulated and presented they all spoke to the technical capability, the ability to transition, the project scope and just what it will mean in terms of convene – cancellation of the contract for convenience. For example where Transnet is saying if we cancel out of convenience how much will – for me that is not a risk it is not objective. Right. So those were the risks that were actually articulated. But when you look at what PPM advises and counsels it gives us examples which
20 I think as you start reading them you understand when they say objective. For example is one of these companies actually going insolvent, no there was nothing like that. Is one of them actually mentioned in the treasury list of blacklisting? No there was nothing like that. Was there any of the companies actually applying for business rescue? None of the companies was doing that. Was it

actually found at fault by the competition commission for example – so they give those examples that are not really pertaining to the operational aspect of the tender?

CHAIRPERSON: Yes. Yes.

MS MAKANO MURIEL ANNA MOSIDI: Those are objective criteria.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: And all the risks that were mentioned.

CHAIRPERSON: Yes.

10 **MS MAKANO MURIEL ANNA MOSIDI**: They were not actually talking to that.

CHAIRPERSON: Thank you.

ADV VERUSHKA SEPTEMBER: So Ms Mosidi you were presented with this file, you had raised – you had certain concerns about this file that was given to you by Mr Thomas in relation to this tender. Were you then called to a meeting during September of 2016 in relation to the adjudication – to consideration of this tender? We are now on page 9 of your statement.

20 **MS MAKANO MURIEL ANNA MOSIDI**: Yes just so – here am I with a file. I am not able to agree with this file and it need to progress to the next stage. Okay so the recommendation is not in line with what I was expecting it to be. So then there was a meeting that was – actually I was called into a meeting into – there is a boardroom that I used to use as a group CIO and there was a meeting there. A lot of people were in there. Some of their names is – I have mentioned there Chair in terms

of the individuals who were in the meeting and most of them – okay two of them were from procurement and then there was a guy who was coming from governance where they were actually trying to make sure that I get – I get to sign the recommendation. So they were giving clarity. Chair I will keep on saying because I was new and yes I was still new and still trying to actually know the individuals and their personalities yes so I was asking okay the recommendation is not in line with the outcome of the evaluation what is my role, why do I have to sign because I actually disagree with it? And I remember quite
10 clearly that Mr Maluleke was saying look you as a Group CIO you have appointed the cross-functional evaluation team. They represent you. They have recommended the way the recommendation is standing. So I – I even asked – so my job is just to sign this thing.

CHAIRPERSON: And who was Mr Maluleke let us understand that?

MS MAKANO MURIEL ANNA MOSIDI: Mr Maluleke was one of ...

CHAIRPERSON: In the scheme of things.

MS MAKANO MURIEL ANNA MOSIDI: Was – ja he was the contract manager from procurement for this particular contract.

CHAIRPERSON: Oh okay alright.

20 **MS MAKANO MURIEL ANNA MOSIDI:** So he was really the overseer in terms of all those who were evaluating.

ADV VERUSHKA SEPTEMBER: And if I could just interrupt you. The full name for Mr Maluleke is?

MS MAKANO MURIEL ANNA MOSIDI: Is MacDonald – It is MacDonald Maluleke.

ADV VERUSHKA SEPTEMBER: And who else was present at this meeting?

MS MAKANO MURIEL ANNA MOSIDI: There was Mr Pheladi Xaba who was also working with Mr MacDonald Maluleke.

CHAIRPERSON: Okay now I may have missed something. There was a meeting – was it in a meeting with other people where Mr Maluleke was saying this to you?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair.

CHAIRPERSON: Okay and the people that were attending the meeting
10 were all the people concerned with the recommendation and this tender?

MS MAKANO MURIEL ANNA MOSIDI: Ja. So the people who were attending were all people who were actually involved in one way or the other.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: With this particular tender.

CHAIRPERSON: Yes. Okay.

MS MAKANO MURIEL ANNA MOSIDI: For example you will have Mr Maluleke who was the contract manager.

20 **CHAIRPERSON:** Ja.

MS MAKANO MURIEL ANNA MOSIDI: You will have Ms Xaba who was also a strategic sourcing person who was working with Mr Maluleke on this particular tender. And then there would be Mr Thulajni Mtshwene who was from governance. You remember I was talking about the high value tender and the report that must actually go with and then was – I

think there was Martin who was actually in my office. Mr Martin Sehlapelo who was actually – so it was a collection of people who were trying to conclude the – this particular tender by actually securing a signature from a Group CIO because I was the business owner of the tender.

ADV VERUSHKA SEPTEMBER: Did these people constitute a team? A pro – or rather were they involved in any fashion as the – as members of the cross-functional evaluation team?

MS MAKANO MURIEL ANNA MOSIDI: In that meeting there was no
 10 member cross-functional evaluation team according to my understanding. Mr Xaba was the person who was putting the documents together and making sure that you know the writing of the recommendation is done properly and so on. Mr Maluleke was the overseer in terms of the whole procurement process. I am not sure Chair if I can say who was the chairman of that CFET but he was actually the one who was overseeing the whole process to make sure that it draws to a conclusion.

ADV VERUSHKA SEPTEMBER: It is understood that Mr MacDonald Maluleke was in fact the chair of the CFET.

20 **CHAIRPERSON:** Yes. Were the people who were attending that meeting people from within your department? In other words under your section, your unit or were they people from outside your department?

MS MAKANO MURIEL ANNA MOSIDI: So Chair my recollection I just remembered that there was one person from my department who was

Mr Martin Sehlapelo he was the executive manager in the office of the Group Chief Information Officer in my office.

CHAIRPERSON: Okay.

MS MAKANO MURIEL ANNA MOSIDI: He was in that meeting.

CHAIRPERSON: Thank you.

ADV VERUSHKA SEPTEMBER: Can I – can I ask you then what exactly was required of you at this meeting?

MS MAKANO MURIEL ANNA MOSIDI: So at this meeting Chair there was a memorandum which was prepared.

10 **CHAIRPERSON**: You called the meeting?

MS MAKANO MURIEL ANNA MOSIDI: No.

CHAIRPERSON: Oh. You did not call the meeting?

MS MAKANO MURIEL ANNA MOSIDI: No I did not call the meeting Chair.

CHAIRPERSON: Who called the meeting if you can recall?

MS MAKANO MURIEL ANNA MOSIDI: If I can recall Chair Mr Maluleke called the meeting because now I am – I had the file. I did not sign and they had to explain to me certain things so that I can comfortably sign if I have to sign.

20 **CHAIRPERSON**: Okay you had communicated to some of the people your uneasiness or reservations about signing?

MS MAKANO MURIEL ANNA MOSIDI: To be direct Chair yes I had a number of questions.

CHAIRPERSON: Yes. And as a result of that a meeting was called?

MS MAKANO MURIEL ANNA MOSIDI: Yes the meeting was convened

yes.

CHAIRPERSON: And now we are at the meeting.

MS MAKANO MURIEL ANNA MOSIDI: Now we are at the meeting
Chair.

ADV VERUSHKA SEPTEMBER: Can I then ask you to turn to page 29
please of the same bundle? It appears to be a memorandum from Mr
Garry Pita, yourself and Mr Edward Thomas to Mr Siyabonga Gama.
And the purpose of the commission – of the submission sorry at
paragraph 1 of this document is to request the Group Chief Executive
10 to amongst other things approve the award of business to T-Systems
SA Pty Ltd. Can I ask you to turn to page 39 of the same bundle? It
appears to be signed by many persons other than Mr Siyabonga Gama
and Mr Garry Pita. Do you recognise this document Ms Mosidi?

MS MAKANO MURIEL ANNA MOSIDI: Chair I recognise the document.

ADV VERUSHKA SEPTEMBER: Is this in fact the memorandum that
was presented to you at that meeting?

MS MAKANO MURIEL ANNA MOSIDI: Chair it was the memorandum
that was presented.

ADV VERUSHKA SEPTEMBER: So despite ...

20 **CHAIRPERSON:** Hang on one second. What you had read before the
meeting that you were uneasy about signing was a report, it was not
this? It was not this memorandum?

MS MAKANO MURIEL ANNA MOSIDI: No so this memorandum was
brought in in that meeting.

CHAIRPERSON: At that meeting?

MS MAKANO MURIEL ANNA MOSIDI: Yes for me to sign.

CHAIRPERSON: Now what you had read before...

MS MAKANO MURIEL ANNA MOSIDI: Yes.

CHAIRPERSON: Was it a report?

MS MAKANO MURIEL ANNA MOSIDI: It was a whole file yes Chair.

CHAIRPERSON: Ja – oh a whole file?

MS MAKANO MURIEL ANNA MOSIDI: Ja, ja.

CHAIRPERSON: But with the document where if you agreed you would sign?

10 **MS MAKANO MURIEL ANNA MOSIDI:** Yes Chair.

CHAIRPERSON: Okay alright but this memorandum was presented to you at that meeting?

MS MAKANO MURIEL ANNA MOSIDI: So – yes. So Chair because I had some questions and queries and that I wanted to clear I had not signed the memorandum. So now we have – we are now in a boardroom now the memorandum is brought through and they wanted to understand what my concerns were. So that is when I was asking about this recommendation, how misaligned it is to how this thing has evolved and just what my role is because if I cannot overrule cross-
20 functional evaluation team because it represents me then I have no role to play on this thing and those are the few questions I was actually trying to get clarity on. Ja...

CHAIRPERSON: You sought clarity because you were new?

MS MAKANO MURIEL ANNA MOSIDI: Ja I was new and I was...

CHAIRPERSON: And that is the reason that you did not understand ja.

MS MAKANO MURIEL ANNA MOSIDI: And I was saying – yes.

CHAIRPERSON: Some of the things.

MS MAKANO MURIEL ANNA MOSIDI: Let me not delay operations of Transnet because of my being a new beanie and so on.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: So Chair I suppose this part is embarrassing because then after I understood and I knew that I was not actually in agreement with that memorandum that she has just confirmed that is the memorandum that I see. Chair you will notice that
10 I actually signed...

CHAIRPERSON: But I am sorry before you come to the memorandum I want to hear how the meeting was discussing issues, I want that.

MS MAKANO MURIEL ANNA MOSIDI: Okay.

CHAIRPERSON: And how you – how the – at what stage the memorandum comes up whether it comes up at the beginning and so on. I want to hear that.

MS MAKANO MURIEL ANNA MOSIDI: Okay. So Chair the trigger for this meeting was my having not being able to sign and agree with the recommendation based on the file that Mr Thomas brought to my office.
20 And subsequent to my having read all the processes, the procurement procedures that they followed the – how they applied the evaluation, how they applied the risk I still could not understand why then was Gijima not the recommended bidder. But also I wanted to understand my role in this whole process because – so I say to Mr Maluleke okay so now the cross-function – so he says Makano it is not me who

recommended this it is you. So I said but me? He says yes because the cross-functional evaluation team represent you. You have appointed them as a Group CIO they do the work that the technical work that you must do. I am not a technical person your team is and they have recommended this. So you want to go against yourself? In other words you know. And it was not – it was one of the most unpleasant meetings because my whole being was saying the flow of logic was not making sense.

CHAIRPERSON: Ja because if they are making – if they are you why
10 are they not making the decision.

MS MAKANO MURIEL ANNA MOSIDI: Yes.

CHAIRPERSON: Why are they making a recommendation to you?

MS MAKANO MURIEL ANNA MOSIDI: Exactly Chair. So but he was actually saying that is you. Now in my confusion I just feel like – I cannot just be here like a beautiful flowerpot on the table and sign. So whilst I have noted the contents of this I still have to make my discomfort and my displeasure known in terms of this memorandum. Whilst people can agree that cross-functional evaluation team represents you and they have recommended this my views must be
20 known. And then of course Chair you will notice that I actually signed. And I will sit here and say I signed under duress I still remember that to say, why am I signing I do not want to sign this. But at the same time I do not want to delay the process. You know there is work at hand to be done so can I – let me not be the impediment purely because I am new.

CHAIRPERSON: And was it like everybody saw no problem and you are the only one who saw a problem in this meeting?

MS MAKANO MURIEL ANNA MOSIDI: Chair my gut and my feeling of the meeting in the room people were not really coming out, people were quiet. It was me and Mr Maluleke actually exchanging.

CHAIRPERSON: Oh.

MS MAKANO MURIEL ANNA MOSIDI: And I saw this silence a little bit to say but people were...

CHAIRPERSON: Yes.

10 **MS MAKANO MURIEL ANNA MOSIDI:** People were you know – and I was really hoping that Mr Mtshwene will come through because he was from governance as well but he was also very cautious in terms of what it is and so on.

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: So it was more me and Mr Maluleke who were trying to clarify each other and make sure that we actually land at a common place to say let us do this thing.

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: This way.

20 **CHAIRPERSON:** Yes.

MS MAKANO MURIEL ANNA MOSIDI: So Chair you will see my signature on that memorandum.

CHAIRPERSON: So there was – there was not much discussion other than the discussion between you and Mr Maluleke at that meeting?

MS MAKANO MURIEL ANNA MOSIDI: A lot of people did not come into

the discussion.

CHAIRPERSON: In – articulate any views? Ja.

MS MAKANO MURIEL ANNA MOSIDI: And I think Mr Maluleke's cue was really strengthened by the Gartner Report that he was referring to about the risks which to me it was a moot point because those risks were actually not objective criteria to be applied.

CHAIRPERSON: I just want to go back to where your signature is.

MS MAKANO MURIEL ANNA MOSIDI: It is on...

CHAIRPERSON: What page is that?

10 **ADV VERUSHKA SEPTEMBER**: The signature is on...

CHAIRPERSON: Oh I found it 30?

MS MAKANO MURIEL ANNA MOSIDI: 39 Chair.

CHAIRPERSON: Yes.

ADV VERUSHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: I see it is one o'clock maybe let us just finish this part if possible.

ADV VERUSHKA SEPTEMBER: No problem Chair.

CHAIRPERSON: Okay so you signed there and you said see my questions attached, is that right?

20 **MS MAKANO MURIEL ANNA MOSIDI**: Yes Chair.

CHAIRPERSON: And that is where you wanted to record your concerns?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: So I...

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: I made those two points.

ADV VERUSHKA SEPTEMBER: Can you – for the record can you just read those points into record please?

MS MAKANO MURIEL ANNA MOSIDI: Okay.

“The risk as captured can be easily mitigated by the
Group Information and Communications Technology.”

The second comment was:

10 “Bidder 2 is cheaper can deliver against the
requirements and has the right country profile.”

CHAIRPERSON: And are you able to read the note made by Mr Thulani Mtshwene along his signature or are you not able to read? I see something HVT Report is satisfactory.

MS MAKANO MURIEL ANNA MOSIDI: And that ...

CHAIRPERSON: And that...

MS MAKANO MURIEL ANNA MOSIDI: Objective criteria.

CHAIRPERSON: I cannot read...

MS MAKANO MURIEL ANNA MOSIDI: I could not read it well Chair.

CHAIRPERSON: Ja okay.

20 **ADV VERUSHKA SEPTEMBER**: Chair I may be able to assist based on a communication that we have received which is under process though.

CHAIRPERSON: Yes.

ADV VERUSHKA SEPTEMBER: And that is that it informs that he support was conditional and the writing there was that the high value tender report supported the recommendation and that objective criteria

was applied as I advised per Annexure T – as advise per Annexure TLM03.

CHAIRPERSON: So Mr Mtshwene's signature was conditional. His support was conditional is that what it amounts to?

ADV VERUSHKA SEPTEMBER: Yes, yes Chair.

CHAIRPERSON: Okay. Which – which may suggest he had certain question marks as well?

ADV VERUSHKA SEPTEMBER: Certain reservation yes Chair.

CHAIRPERSON: Certain reservations yes. And how did the meeting
10 end once – you signed at the meeting or subsequently?

MS MAKANO MURIEL ANNA MOSIDI: Chair I signed at the meeting.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: And they left with the memorandum.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: And I stayed with my discomfort.

CHAIRPERSON: Hm.

ADV VERUSHKA SEPTEMBER: Just one last question then before we adjourn.

20 **CHAIRPERSON**: Just before that I think she wants to complete something?

MS MAKANO MURIEL ANNA MOSIDI: Ja I wanted to say so Chair it is very difficult to do what you think is actually wrong. So yes I had appended this signature, yes I had made comments but I had a strong sense that I must now give the detail of why I am saying those risks are

not risks at all.

CHAIRPERSON: Yes, yes.

MS MAKANO MURIEL ANNA MOSIDI: So I went ahead.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: Sat in my office and started actually putting apart each and every risk that mentioned.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: And why in my view and my take and my experience those were not risks.

10 **CHAIRPERSON**: Yes.

MS MAKANO MURIEL ANNA MOSIDI: Ja so I prepared that.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: And I was ready with it.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: So I gave it – I printed it out and I gave it to the manager in Mr Gama's office Mr Gama was my boss and unfortunately I cannot find a copy of this because I gave it to him.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: I had a copy.

20 **CHAIRPERSON**: Yes.

MS MAKANO MURIEL ANNA MOSIDI: But I can still explain what the risks are.

CHAIRPERSON: YEs.

MS MAKANO MURIEL ANNA MOSIDI: Because they were actually coming from my mind in terms of responding.

CHAIRPERSON: Yes, yes.

MS MAKANO MURIEL ANNA MOSIDI: So I did try to support. His advice was that you are going to have an opportunity to give the detail of the risks. You may want to keep your document and when the time comes you will actually give that detail to say why do you think that the risks are not ...

CHAIRPERSON: That was Mr Gama's advice?

MS MAKANO MURIEL ANNA MOSIDI: Ja that was Mr Gama's business manager.

10 **CHAIRPERSON:** Oh the advice from Mr Gama's business manager.

MS MAKANO MURIEL ANNA MOSIDI: Yes Mr Mboniso. Mr Mobiniso

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: Yes.

CHAIRPERSON: But once you had recommended – once you had approved the recommendation if the recommendation was accepted where was there going to be a chance to talk about these reservations again? I do not understand that with his advice to you.

MS MAKANO MURIEL ANNA MOSIDI: Ja so Chair perhaps on hindsight I am saying perhaps because this process after I had signed
20 it looked like it went into a dark hole because then you would see that Mr Pita never signed and Mr Gama. Perhaps they actually took my notes into cognisance to say there is some reservation can we clarify that first?

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: Perhaps he knew just how Mr

Gama's mind worked.

CHAIRPERSON: Okay, okay.

MS MAKANO MURIEL ANNA MOSIDI: Perhaps he knew that Mr Gama wanted watertight things.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: Before he can actually ...

CHAIRPERSON: Okay.

MS MAKANO MURIEL ANNA MOSIDI: But at that time of course I took his counsel and I kept my memorandum – I kept my details.

10 **CHAIRPERSON:** Okay. No thank you. Let us take the lunch adjournment. We – it is about eight minutes past one we will resume at ten past two.

ADV VERUSHKA SEPTEMBER: Thank you Chair.

CHAIRPERSON: Okay we adjourn.

MS MAKANO MURIEL ANNA MOSIDI: Thanks Chair.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

20 **ADV VERUSCHKA SEPTEMBER:** Before the long adjournment Ms Mosidi you were talking specific to the recommendation that was placed before you as addressed at a particular meeting calling for your signature of the document. Just to close that off can I ask you to look at page 39 of the bundle and that is the signature page of that document? The first signature on the left hand side on top is by an Ms Pheladi Xaba and the title of the title of this particular individual is

Commodity Manager Group Strategic Sourcing. Ms Xaba had signed the document. Is that correct?

MS MAKANO MURIEL ANNA MOSIDI: Yes ma'am.

ADV VERUSCHKA SEPTEMBER: One question – the very position of Commodity Manager Group Strategic Sourcing is it an administrative role or who would you describe the role of that particular position to the process?

MS MAKANO MURIEL ANNA MOSIDI: Chair I think my understanding of that role and having then read the PPM as well. That role is as sub
10 process within the contract management role which entails a whole lot of things including administrative but it also includes things like when the contract is actually getting to an end you actually prepare a memorandum to request for an extension which means that you will have to also understand the content of that particular tender. So it goes a little bit beyond the administrative role of just writing minutes and putting things together but it is my understanding that it actually has the contract management angle to it and to be able to also just help with the processing of tenders and their validity at anyone point in time.

20 **ADV VERUSCHKA SEPTEMBER:** Thank you. Can I then take you back to page 11 of the bundle?

CHAIRPERSON: Before you do so you spoke before lunch about the memorandum that you took to Mr Gama where you – as I understand what you said – where you put your views rather comprehensively or more comprehensively than the comments you made on the last page of

the memorandum ending at page 39 and you said that memorandum you cannot find a copy thereof anymore. Is there anything I should know about the content of that memorandum other than the points you articulated at the bottom of page 39? Is there anything you want to say as to that is important in terms of the contents thereof?

MS MAKANO MURIEL ANNA MOSIDI: Chair yes. The memorandum aims to give the detail of the risks and my understanding of the risks and my take that they are not as material but also some of them are actually irrelevant.

10 **CHAIRPERSON:** Hm.

MS MAKANO MURIEL ANNA MOSIDI: Now some of the risks that were raised Chair and maybe for your noting as well ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: I think is one just overall ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: The risks were mostly pertaining to the project scope ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: Or the technical ...

20 **CHAIRPERSON:** The operational matters I think you also said as well.

MS MAKANO MURIEL ANNA MOSIDI: Yes.

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair and – but it also included some administrative things like ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: If Transnet out of preference and choice cancels this tender what do - will Transnet be liable for ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: In terms of this contract. Now ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: It is a question that you ask everyone I suppose in terms of...

CHAIRPERSON: Hm.

- 10 **MS MAKANO MURIEL ANNA MOSIDI:** For one reason or the other if out of convenience we want to cancel this and what was highlighted as a risk and I was saying it cannot be a risk to be applied.

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: It is a scenario planning of some sort ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: Where you are saying if this happened.

CHAIRPERSON: Hm.

- 20 **MS MAKANO MURIEL ANNA MOSIDI:** It is not Gijima saying oh we want 400 and whatever million.

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: So it is – it is such – the other risk I think it was pertaining to just how Gijima wanted to transition and how they found the data centre that Gijima was going to use. They

found the wrecks empty and they did not think that it is as operational and my point is that it is not out of practice. You cannot stock up your dealer centre and ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: And buy switches and ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: Routers and all the processing powers and storage devices if you do not have a client.

CHAIRPERSON: Hm.

10 **MS MAKANO MURIEL ANNA MOSIDI:** So what you do once the client is secured you actually order ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: And yes you will have a lit period ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: Of that ...

CHAIRPERSON: Hm.

20 **MS MAKANO MURIEL ANNA MOSIDI:** And when we met with – with Gijima when I was given the opportunity to actually clarify the whole position in terms of the data centre they actually explained they came with their partners. They had already even pre ordered the equipment.

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: So I think my memorandum - if I recall clearly – I was trying to give the detail of all that to say ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: We cannot therefore apply this as risks.

CHAIRPERSON: Okay, thank you.

MS MAKANO MURIEL ANNA MOSIDI: Thanks Chair.

CHAIRPERSON: Thank you and just to give me maybe an even clearer picture of where – what your view was. Out of 100 what would you more or less have given Gijima and what would have given T-Systems more or less in terms of your own assessment?

MS MAKANO MURIEL ANNA MOSIDI: I think Chair ...

10 **CHAIRPERSON:** How far apart were there in your view taking into account risks that were taken into account by other people who you thought should not have been taken into account?

MS MAKANO MURIEL ANNA MOSIDI: Yes. I – I think for me Chair if I look at how the evolution has happened the kind of things they looked at the different (indistinct) was going to be price because with outsource contracts you really have a big margin to play with because how they work. If you employ me as a database administrator I can actually service 10 customers. So the economics of scale benefit is quite massive. So I was not surprised that they actually slashed off the
20 price by 500 or whatever it is that they slashed it with.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: So for me that was the difference to say who is coming in cost effectively for me ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: Because technically they were

neck on neck (intervenes).

CHAIRPERSON: Okay, okay. So – so – but you say because of the reduction of their price ...

MS MAKANO MURIEL ANNA MOSIDI: Yes.

CHAIRPERSON: The difference between them and T-Systems became quite big?

MS MAKANO MURIEL ANNA MOSIDI: It became quite big because of that BAFO stage ...

CHAIRPERSON: Yes.

10 **MS MAKANO MURIEL ANNA MOSIDI:** Where they were actually given an opportunity to give the Best ...

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: And Final Offer.

CHAIRPERSON: Okay, thank you.

ADV VERUSCHKA SEPTEMBER: Thank you Chair. At paragraph 27 on page 11 of your statement you inform that you were provided with an anonymous letter from your colleague – your then colleague – Ms Disebo Moephuli. Can you please explain the circumstances under which this anonymous letter was shared with you?

20 **MS MAKANO MURIEL ANNA MOSIDI:** Okay. So Chair now the process towards the end of this evaluation and adjudication of this tender is well under way. There are memorandums that are presented. I have my own misgivings in terms of this memorandum. I can pick up discomfort from people inside the meeting that they are not actually speaking loud. It is like – it is my only meeting here and in that whole

time when these things happened then there is this anonymous letter that gets given to the Group CCRO – Chief Compliance Risk Officer.

ADV VERUSCHKA SEPTEMBER: Just to correct you it is the Chief Corporate and Regulatory Officer.

MS MAKANO MURIEL ANNA MOSIDI: Oh, Chief Corporate and Regulatory Officer.

ADV VERUSCHKA SEPTEMBER: Yes.

MS MAKANO MURIEL ANNA MOSIDI: So who was sitting with me on the same EXCO table of Mr Gama.

10 **CHAIRPERSON:** This no Ms Disebo ...?

MS MAKANO MURIEL ANNA MOSIDI: Disebo Moephuli on page 11.

CHAIRPERSON: Moephuli, okay.

MS MAKANO MURIEL ANNA MOSIDI: Ja.

CHAIRPERSON: The statement says Chief Risk Officer but you say that is – that is not correct?

ADV VERUSCHKA SEPTEMBER: Apologies Chair. It is actually in the letter which we will turn to shortly.

CHAIRPERSON: Hm.

20 **ADV VERUSCHKA SEPTEMBER:** That was the description of the position.

CHAIRPERSON: Ja, but what I am saying is what is in the statement you say may not be correct – that description?

ADV VERUSCHKA SEPTEMBER: Let me rather just double check.

CHAIRPERSON: You are not sure. What is your recollection Ms Mosidi?

MS MAKANO MURIEL ANNA MOSIDI: I think it is CCRO. So that CCRO Chair I am certain of it ...

CHAIRPERSON: (Intervenes).

MS MAKANO MURIEL ANNA MOSIDI: But I do not what it – I thought it says Chief Compliance ...

CHAIRPERSON: Compliance ...

MS MAKANO MURIEL ANNA MOSIDI: And Risk Officer.

CHAIRPERSON: And Risk – okay. No that is fine, okay.

MS MAKANO MURIEL ANNA MOSIDI: And ...

10 **CHAIRPERSON:** Hm.

MS MAKANO MURIEL ANNA MOSIDI: And Ms Moephuli was not the one who is manning what we used to call a – a hotline – what did they call it? Where people would register their complaints anonymously.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: Yes.

CHAIRPERSON: She – she was not that person?

MS MAKANO MURIEL ANNA MOSIDI: She was not there.

CHAIRPERSON: Ja.

20 **MS MAKANO MURIEL ANNA MOSIDI:** She was just the Head of CC – of Compliance and Risk ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: And I think she - she was known for acting quickly and dealing with things the right way and so on and I think that is why this faceless group actually wrote this letter to her.

CHAIRPERSON: Because they would have perceived her as a possible

stumbling block in the sense that once – at a certain stage she might say no, no there is something wrong here?

MS MAKANO MURIEL ANNA MOSIDI: Yes. They had perceived her as someone who is frank and straight ...

CHAIRPERSON: *Ja.*

MS MAKANO MURIEL ANNA MOSIDI: And who would actually deal with something that they raised. So she received ...

CHAIRPERSON: And it was directed go her – at her?

MS MAKANO MURIEL ANNA MOSIDI: It was – it was given to her.

10 **CHAIRPERSON:** *Ja, okay.*

ADV VERUSCHKA SEPTEMBER: In that instance can I then ask you to turn to page 67 of the bundle?

CHAIRPERSON: One second. Thank you.

ADV VERUSCHKA SEPTEMBER: Thank you Chair. Do you recognise this document as the anonymous letter Ms Mosidi?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair. I – I do.

ADV VERUSCHKA SEPTEMBER: Chair due to the gravity of some of the allegations stated in this letter and in particular to the events that unfold there are certain aspects that I will read into the record.

20 **CHAIRPERSON:** Sorry.

ADV VERUSCHKA SEPTEMBER: Due to the seriousness of allegations contained in this anonymous letter ...

CHAIRPERSON: Hm.

ADV VERUSCHKA SEPTEMBER: And how it is to be considered in view of the events that unfold there are certain portions of this letter

that I will read out.

CHAIRPERSON: Well let – let the witness read them. If she might wish to highlight certain aspects that she will not read - read out and then read out those that are important.

ADV VERUSCHKA SEPTEMBER: No problem Chair. Ms Mosidi this letter is the letter that is dated 5 October 2016. Can I ask you to read and unfortunately the paragraphs are not numbered but the fourth paragraph starting with:

“We were happy ...”

10 Down to the third last paragraph:

“...with this letter from the Evaluation Team.”

Can I ask you to read that into the record please?

MS MAKANO MURIEL ANNA MOSIDI: Thanks Chair.

20 “We were happy with the open and transparent manner in which the various stages of the tender evaluation process up to stage 5 which is a BAFO were undertaken and followed in line with the tender. After the technical evaluation as per the defined process we conducted a due diligence on both T-Systems and Gijima where both companies satisfied the tender requirements. Thereafter both parties were requested to price BAFO as green-fields in order to level the playing field as per the tender requirement. However post BAFO we were surprised that the Evaluation Team Leaders raised

technical issues about bidder Gijima and engaged in a new process not defined in the tender nor in our Transnet Processes. This was a huge surprise as Gijima came in almost R230 million cheaper than T-Systems yet we were questioning how they could deliver at their tender price. This new process included a mail or a letter being sent to Bidder Gijima to now respond to the so called identified risks and respond by mitigating these risks as well as to new terminologies not part of the tender document namely current mode of operation and future mode of operation. This letter from the Evaluation Team Leaders raised our concern that the process post BAFO was now a new one.”

ADV VERUSCHKA SEPTEMBER: Can I then ask you to please read the last paragraph on this page?

MS MAKANO MURIEL ANNA MOSIDI: “These new conditions are not only new but do not make any sense. How can a new bidder ever submit a bid price for an FMO - which is Final Mode of Operation - without having had the opportunity to manage what is required by both the tender and draft MSA – Master Services Agreement? This is not only bizarre but a deliberate ploy to bring T-Systems through a backdoor to win a contract they are losing on

merit.”

ADV VERUSCHKA SEPTEMBER: If you can then turn the page – the first four short paragraphs on top please read that into the record if you may?

MS MAKANO MURIEL ANNA MOSIDI: “To us a group of more

than 12 persons the interactions and lobbying post
BAFO by the Evaluation Team Leaders indicated
that whilst on merit alone Bidder Gijima are the just
winners. The new process undertaken which
10 included voting was a clear ploy to go against the
tender evaluation process and find ways to ensure
that the current incumbent succeeds no matter that
they are over R230 million more expensive. The
voting after BAFO in particular was found
concerning by many of us and as we were spoken to
before we were called to the urgent voting meeting
and bulldozed to vote. Out of fear of losing our
jobs we voted in favour as per Lead McDonald who
claimed the bosses wanted the current incumbent to
20 succeed. Many of us have silently the new process
pushed down our throats as unlawful and an attempt
to rig the results. If the intention was ...”

ADV VERUSCHKA SEPTEMBER: In fact ...

MS MAKANO MURIEL ANNA MOSIDI: Is it fine?

ADV VERUSCHKA SEPTEMBER: In fact – yes if you could then go

down to the paragraph which is third from the bottom beginning with:

“We are amazed ...”

MS MAKANO MURIEL ANNA MOSIDI: “We are amazed at the floating of the tender process where we prejudice a local company that scored high on technical, BBBEE and financial as the tender criteria. This is what we know as the only criteria that Transnet uses in evaluating tenders on the 90/10 principle but for this tender every rule in the book is being ignored on changed in order to arrive at a different decision.”

ADV VERUSCHKA SEPTEMBER: I then ask you to turn the page 69 and read the second paragraph into the record please.

MS MAKANO MURIEL ANNA MOSIDI: “We are also aware that legal was not happy with this new process to eliminate a deserving local company. Legal was also concerned about the use of the so called future mode of operation as this fly in the face of fairness.”

20 **ADV VERUSCHKA SEPTEMBER:** If you could then go three paragraphs down to:

“We do not want to see ...”

And read that and the following two paragraphs into the record please.

MS MAKANO MURIEL ANNA MOSIDI: “We do not want to see negative news media articles about tender

irregularities being printed about this tender. When all we tried to do what is right and expected of us is not BAFO flouted within impunity in the name of the bosses. This kind of behaviour will ensure that we have a case to answer to and we do not want to be a party to such disregard of the procurement rules. Transnet's governance and PFMA as Bidder Gijima may approach the courts."

ADV VERUSCHKA SEPTEMBER: And then if I could take you down to
10 the paragraph which begins with:

"The question that is glaring then ..."

And kindly read the – the two paragraphs.

MS MAKANO MURIEL ANNA MOSIDI: "The question that is
glaring then is who stands to benefit here. Transnet will definitely be the loser here from the media scrutiny and failing our transformation agenda where a local company is on top on merit. The issue of state capture is topical amongst State Owned Entities and we do not want to add fuel to
20 the fire where a service provider who lost is retained at all costs. We are concerned our team leaders find nothing wrong in bringing Transnet into disrepute and want to divert from the tender award process knowingly."

ADV VERUSCHKA SEPTEMBER: And finally the last paragraph on this

page please.

MS MAKANO MURIEL ANNA MOSIDI: “As we were told it is an instruction from the top who amongst are senior bosses are driving the manipulation of the tender evaluation process and why is the question.”

ADV VERUSCHKA SEPTEMBER: Thank you. Were you aware of this letter before it was provided to you by Ms Disebo Moephuli?

MS MAKANO MURIEL ANNA MOSIDI: No Chair. The first time I came across this letter was when I was given it by Ms Moephuli as the CCRO.

10 **ADV VERUSCHKA SEPTEMBER:** What did you make of this letter when you were provided a copy of it?

MS MAKANO MURIEL ANNA MOSIDI: I think the first thing Chair because of my discomfort right through the process it did actually start making me more alert to scrutinise and to understand and I started feeling like perhaps there are some points which are written in white ink because you cannot read them anywhere that I should be aware of but if anything it made me confident that my sense that the risks as applied were post and were not as material. It started making a bit of sense and giving me a little bit of confidence because initially I was
20 really in a – in a spin because I was not sure whether I was seeing things or whether my newness was playing games with my mind.

ADV VERUSCHKA SEPTEMBER: Reference is made to the word “bosses” in this letter. In your understanding who might “bosses” have been referring?

MS MAKANO MURIEL ANNA MOSIDI: So Chair “bosses” in my own

interpretation – I was also a boss and I think it was confusing because I did not want anything of anybody. I just wanted to be objective. However even those who were members of the GLT which was called the Group Leadership Team and you can read into that as the Group EXCO of Transnet. They would be bosses as well but the sub committees of the Board as well would be bosses because – and of course the Board of Transnet would be bosses as well. So the whole Executive layer would be branded bosses - in my view.

CHAIRPERSON: So the – it would appear the end of that letter that it
10 came from employees of Transnet if what they wrote is true.

MS MAKANO MURIEL ANNA MOSIDI: It would appear Chair that it came from the employees of Transnet in particular it came from of the some Cross Functional Evaluation Team ...

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: Who were actually kind of forced to vote ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: And to recommend certain things ...

20 **CHAIRPERSON:** Hm.

MS MAKANO MURIEL ANNA MOSIDI: Because the bosses told them to. So the bosses would not have told them to someone who was external.

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: It had to be someone from

Transnet.

CHAIRPERSON: Hm and when reading the letter and knowing the discussion at the meeting at which you were raising your reservations about the approving the recommendation do you think that some of the people who wrote the letter may have been in that meeting or not necessarily?

MS MAKANO MURIEL ANNA MOSIDI: Chair ...

CHAIRPERSON: I hear they talk about meetings where they were forced to vote but it could be other meetings of course.

10 **MS MAKANO MURIEL ANNA MOSIDI:** Chair I do not think they would have been in my meeting.

CHAIRPERSON: They would not have been in that meeting?

MS MAKANO MURIEL ANNA MOSIDI: No.

CHAIRPERSON: They - they must be talking about other meetings?

MS MAKANO MURIEL ANNA MOSIDI: Other meetings as well.

CHAIRPERSON: Okay, okay.

ADV VERUSCHKA SEPTEMBER: Thank you. Around this time were you invited by Mr Siyabonga Gama to a meeting after hours at all?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair I was invited by
20 Mr Gama to a meeting in Tintswalo Hotel.

CHAIRPERSON: What hotel?

MS MAKANO MURIEL ANNA MOSIDI: Tintswalo Hotel.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: It is in Sunninghill.

CHAIRPERSON: And when in relation to your becoming aware of this

letter was that?

MS MAKANO MURIEL ANNA MOSIDI: No Chair it is not even related to ...

CHAIRPERSON: It is not related?

MS MAKANO MURIEL ANNA MOSIDI: No.

CHAIRPERSON: Okay, okay.

ADV VERUSCHKA SEPTEMBER: Please explain the circumstances under which you were invited to this meeting.

MS MAKANO MURIEL ANNA MOSIDI: So Chair whilst the whole ...

10 **CHAIRPERSON:** I am – I am sorry. If that question is taking you to a meeting with a Mr Gama that is unrelated to this letter ...

ADV VERUSCHKA SEPTEMBER: Yes.

CHAIRPERSON: I would want first to know what happened, what did you do after becoming aware of this letter and do you know whether any steps were taken by anybody including yourself to act on its contents.

MS MAKANO MURIEL ANNA MOSIDI: Okay. So Chair in Transnet there is a – there is a hotline – I do not know why I have forgotten the name of the hotline – but a hotline where people can anonymously
20 register ...

CHAIRPERSON: Report issues.

MS MAKANO MURIEL ANNA MOSIDI: Suspicious corruption or anything ...

CHAIRPERSON: Ja.

MS MAKANO MURIEL ANNA MOSIDI: That without risking to be

victimised and this letter was not sent to that hotline.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: This letter was given to one of the Executives which is Ms Moephuli. So Ms Moephuli looked at it.

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: It is a tender that pertains to my business unit. She gives it to me to share and I say to her so what is going to happen. So she responded to the anonymous email to say I am available to discuss further but she also gave it to the Internal Audit
10 Section of Transnet so that they can start the forensics. As Executives – as an Executive we are allowed to actually institute a forensic process as and when you deemed it was necessary. Of course you would let the Group Chief Executive know that you are going to do that. So she actually undertook that process and made sure that internal audit together with the forensic auditors will actually investigate this letter further but nothing came out of it because as I learnt later that forensic process was stopped for one reason or the other and so she never knew the outcome of the letter and so I never knew the outcome of the letter too.

20 **CHAIRPERSON:** Oh, okay thank you.

MS MAKANO MURIEL ANNA MOSIDI: Ja.

CHAIRPERSON: Thank you.

ADV VERUSCHKA SEPTEMBER: Thank you.

CHAIRPERSON: I am – I am hoping that somewhere somebody will tell me more about who stopped that investigation and why. So ...

ADV VERUSCHKA SEPTEMBER: I will ...

CHAIRPERSON: Either there is an existing witness who will deal with that or if not steps should be taken to try and get clarification.

ADV VERUSCHKA SEPTEMBER: Noted Chair.

CHAIRPERSON: Thank you.

ADV VERUSCHKA SEPTEMBER: Going back to the invite to the meeting by Mr Siyabonga Gama at Tintswalo Hotel. Please describe the circumstances, the time of day and the reasons why this particular meeting – why you were invited to this particular meeting.

- 10 **MS MAKANO MURIEL ANNA MOSIDI:** So Chair around this time before Mr Gama called me to a meeting we were out in Esselen Park which is a campus of Transnet and the tensions about the tender were playing out because he was aware that as Executives we were not agreeing. Remember Chair I am the business owner running IT. Mr Garry Pita is the business head heading up procurement. So – so we were coming with different recommendations for one reason or the other that I have explained earlier and I was quite convinced and I was quite resolute that my view is correct until someone shows me my blind spot which I was not having at the time and so we – we finished. It was our EXCO.
- 20 We finished and I think on or around half past seven before eight in the evening Mr Gama called me and said Makano can we just have a meeting – meet in Tintswalo because I live in that area Chair and I went to the meeting. It was - it was dark already and I went to Tintswalo and – and ...

CHAIRPERSON: This is after work?

MS MAKANO MURIEL ANNA MOSIDI: This is after work.

CHAIRPERSON: *Ja*, okay.

MS MAKANO MURIEL ANNA MOSIDI: Which is not uncommon Chair.
Just, *ja*.

CHAIRPERSON: Yes, yes. Roundabout what time (intervenes)?

MS MAKANO MURIEL ANNA MOSIDI: Roundabout before between half
seven and eight.

CHAIRPERSON: *Ja*, okay.

MS MAKANO MURIEL ANNA MOSIDI: *Ja*, in the evening. So I – I also
10 called Ms Moephuli just to make her aware that look I am going to
meeting with Mr Gama. I think there are some issues that he would like
to – to actually understand from me. I do not know what. So when we
got – when I got to Tintswalo I got there and usually I see the drivers
and I know that I'm at the right place and I couldn't find anybody and I
was looking and at the end I found Mr Gama sitting alone, you know
and the Chairs there are quite long so you won't actually be visible
from the door so I thought the whole room was empty, so I'm looking
and I'm not finding him but finally I see him and he's sitting there and
he's waiting for me, but maybe because he's a short man, his head was
20 just up to here to the chair and so I, good evening sir and he then
said look Makano I just want to understand that one, you are convinced
that your decision about T-Systems is the right one, two, remember
procurement is dangerous, it's a very dangerous process. If, for
example you scuttle a party which by now people would have shared,
maybe five million, five million, five million and you come and you

scuttle that party, you would have endangered your life so are you sure, are you certain have you done your due diligence in terms of interrogating this process, are you comfortable in terms of where you are going to land because I'd like to make you sensitive, as a new person to the dangers of procurement as well. And I said to him yes, I can actually deliberate and talk to every point that I've raised so I'm quite comfortable and you can also be comfortable that I've done a due process. That meeting went on and on and Chair, when I looked back we spent about two and a half hours in that meeting but the main thing

10 really was to see if I was quite certain about it but I felt like it went round and round I wasn't sure if I was missing a point but the main points were those, are you certain and are you comfortable, will this stand any test and I said yes it can.

CHAIRPERSON: What was your immediate reaction when you made these – when he asked you these question?

MS MAKANO MURIEL MOSIDI: Chair a lot of things came to my mind that one, is it acceptable for us to be objective because I think we have a role, we have a responsibility as a leadership to ensure equity, to apply our mind to read everything and to actually make the right

20 decision because I think bad things happen when wrong decisions are made. So I began to start doubting to say, is he not confident in what I'm saying or are there other things that I have to be aware of that I'm not aware of. So it did – it did rattle me to start saying, what is it that I'm missing because he is – he's my boss so is he seeing things that I'm not seeing, it did challenge my confidence but also it challenged

the environment that I'm working in because if he's saying it's dangerous, is it dangerous, you know. Is it about, if you don't award this – if you don't award to Mr A and you award to Mr B, is there any danger that you have to – is it not just seen as, in the line of duty not to actually – so my mind went into a whirlwind but at the end of the day, I think my decision still stood and said, look, I can't see it any other way.

CHAIRPERSON: By that time did you know whether he had received and read the memo that you had given to his business manager?

10 **MS MAKANO MURIEL MOSIDI:** No Chair I didn't know actually I've never...(intervention).

CHAIRPERSON: And from this discussion you didn't pick it up?

MS MAKANO MURIEL MOSIDI: No but because I've always explained to him that this risks are misplaced and they are mostly immaterial I think he could have picked it up from those conversations but I wouldn't know whether he actually saw the memo that I wrote.

CHAIRPERSON: Now were you rattled by the references to, procurement is dangerous and if you scuttle a tender that you – certain people may have already divided the proceeds among themselves that
20 could be dangerous, is that the talk that rattled you or is there something else?

MS MAKANO MURIEL MOSIDI: I think Chair, the talk overall rattled me. One, if you say that people by now would have shared five million and five million and you would be, indeed crushing such a party, who would that be. I was startled by would it be people that I work with

would it be somebody from outside is it about – is it why we had to have drivers and bodyguards, you know you start thinking about, is this safe, is this the environment I want to be in because I'm not a procurement person I'm an IT operator and I want to see the impact by now I'm going to endanger my work and my life with this procurement process which is – which really is just a means to my end. So I think I was rattled by those statement and what they could mean to me.

CHAIRPERSON: Yes well now you've just clarified something, you said you were rattled by those statements.

10 **MS MAKANO MURIEL MOSIDI:** Yes.

CHAIRPERSON: Earlier on you said by the whole talk and I was wondering if you meant the whole discussion but do you mean those particular statements, that's what rattled you?

MS MAKANO MURIEL MOSIDI: Those particular statements yes Chair.

CHAIRPERSON: Yes now did he engage you on this occasion on the soundness or otherwise of the reasons you gave for not agreeing that these were genuine risks?

MS MAKANO MURIEL MOSIDI: Chair on that particular evening we didn't go into the detail of all the risks or any risks.

20 **CHAIRPERSON:** But did you go into some to look...(intervention).

MS MAKANO MURIEL MOSIDI: We didn't even go in to some he was just saying, are you sure, can I look you in the eye are you certain is this right, that's what he was saying and are you aware of the danger of going against the tide, sort of.

CHAIRPERSON: Before this meeting had you had occasion to discuss

with him your reasons for taking a different view had he had the benefit of hearing what you had to say even if he might not have read the memo that you sent to him?

MS MAKANO MURIEL MOSIDI: Yes Chair so as a manager of mine I kept him appraised and abreast of developments and discussion and I would share and I would say, look this is looking very strange, it's not making sense because of 1,2,3,4,5 this is where we are but procurement will actually do the submission I suppose. So yes I did bring him into that discussion so that he knows exactly the
10 developments that were happening.

CHAIRPERSON: Did he ever disagree with your reasoning on those occasions, did he ever say but no you are not right or I don't see your point or anything like that?

MS MAKANO MURIEL MOSIDI: No not that I can recall Chair.

CHAIRPERSON: He didn't engage you in that way?

MS MAKANO MURIEL MOSIDI: In that fashion, no he just mostly tested my conviction of my stand.

CHAIRPERSON: Now that memo that you signed – you sent under duress, that memo, it was still – from you it was meant to go to him and
20 Mr Pita is that right for them to also consider and if they agreed to sign?

MS MAKANO MURIEL MOSIDI: Yes Chair.

CHAIRPERSON: Did you – did they, ultimately sign it?

MS MAKANO MURIEL MOSIDI: Not that particular one.

CHAIRPERSON: Not that particular one?

MS MAKANO MURIEL MOSIDI: No Chair.

CHAIRPERSON: Okay so at the time when you met with him at the hotel as far as you know, you knew they had not signed?

MS MAKANO MURIEL MOSIDI: I wasn't even aware that they had not signed.

CHAIRPERSON: At that time.

MS MAKANO MURIEL MOSIDI: At that time.

CHAIRPERSON: Oh Okay.

MS MAKANO MURIEL MOSIDI: It was my understanding that they
10 would have seen the memo and he would have heard my objection.

CHAIRPERSON: Yes, yes. Were you still expecting some engagement from him on your reservations at that time or you can't remember?

MS MAKANO MURIEL MOSIDI: I think Chair I always expected his engagement to actually decide on the right route if there were two routes, I expected him to look at the two route options and see which one is the right option.

CHAIRPERSON: Did you expect that since you were the – what do you call it, the business owner.

MS MAKANO MURIEL MOSIDI: Yes.

20 **CHAIRPERSON:** Since you were the business owner did you expect that if he – since you expressed reservations before finally deciding which way to go he would engage you?

MS MAKANO MURIEL MOSIDI: Yes I expected him to engage me Chair as the owner of the business. I also expected procurement to

engage me further because I was the client in that instance, they had to please me.

CHAIRPERSON: And neither engaged you?

MS MAKANO MURIEL MOSIDI: Procurement we engaged and we never really agreed until we met with Gajima.

CHAIRPERSON: Yes okay.

MS MAKANO MURIEL MOSIDI: And with him we continuously just engaged.

CHAIRPERSON: Yes I'm – I find the focus of discussion in your
10 meeting with him a little strange, he was your boss, you reported to him isn't it?

MS MAKANO MURIEL MOSIDI: Yes Chair.

CHAIRPERSON: And approving or not approving that recommendation that was placed before you was part of your job.

MS MAKANO MURIEL MOSIDI: Yes Chair.

CHAIRPERSON: And one would expect that as your boss he expected you to perform that function honestly and truly and not be influenced by any fear of anything, that's what I would expect, did you expect the same?

20 **MS MAKANO MURIEL MOSIDI:** I expected the same Chair.

CHAIRPERSON: And – but that discussion – the questions he asked you or the question about, you know, dangerous, this being dangerous and so on, it could be dangerous if people have already divided among themselves who will get how many millions doesn't appear to me to be the kind of question that should come from somebody who expects their

subordinate to just do the right thing.

MS MAKANO MURIEL MOSIDI: I would agree with that Chair, that's why I found it a little bit uncomfortable.

CHAIRPERSON: Yes, yes and from what you have testified he didn't engage you in that meeting on the basis of the merits or demerits of your points?

MS MAKANO MURIEL MOSIDI: No Chair.

CHAIRPERSON: Or your point of view.

MS MAKANO MURIEL MOSIDI: No Chair he just engaged me overall
10 in terms of the outcome of my assessment.

CHAIRPERSON: Yes, yes and there had never been any serious engagement between the two of you on your reservations up to that point?

MS MAKANO MURIEL MOSIDI: No Chair, not really especially in that meeting it was just about the dangers of procurement.

CHAIRPERSON: So for two – for more or less two hours because I think you said that meeting took about two hours – more or less two hours he engaged you on literally the dangers of procurement.

MS MAKANO MURIEL MOSIDI: Yes Chair and how people would
20 behave and you know what it would mean if you do this and if you do that and are you sure and yes, that's why I say it was one of the weirdest meetings because it took so long when I checked now but all we discussed really was too things, are you sure and do you know the dangers of procurement if you scuttle a party. So just in summary for those two hours that is what we did.

CHAIRPERSON: Did you subsequently have an opportunity to analyse this meeting and the discussion and try and see what you could make of it or not really?

MS MAKANO MURIEL MOSIDI: Chair I tried to analyse it, I tried – I went over the meeting, over and over – over the discussions over and over again to see if maybe I was being a little bit blonde and I was not understanding certain things and I couldn't – I couldn't lay my hands on something.

CHAIRPERSON: What would you – what would be your answer if
10 somebody asked you, on your analysis what was the purpose of that meeting?

MS MAKANO MURIEL MOSIDI: If somebody asked me, I would give two views, one, either that he was actually testing as a new executive to Transnet whether I would do due process and whether I can stand even when its difficult to and stand up to any questioning or interrogation. What was not actually comfortable for me was to have it in a hotel because as my boss we can have it anywhere, we can have it in the office but perhaps it was after hours right so and maybe he wanted to put it to be that day because I know we had an Exco meeting
20 that day. So I think for me that was the first part to say, I wish we could discuss this more in the office perhaps even in Exco to say can you just share with us your conviction, this risks we're all responsible for this risks can you just take us through and can we just engage with your views. So I would have expected that so the call at the hotel was not something I was used to. I enjoy family life and I enjoy going home

so when you take me out of my family it's not one of the most pleasant things that I enjoy and then the second thing, I think for me when I look at it, I'm thinking perhaps there's too much mistrust right through Transnet, is it possible that I'm also getting some 5million and from someone. Was he testing whether, are you in this party with someone else and if you are can we see if we can deal with you. So those were the two things, is it something that he was testing or – so those were the two and I never got an answer and I never really asked him, ja.

CHAIRPERSON: Okay, thank you – thank you.

10 **ADV VERUSCHKA SEPTEMBER:** Ms Mosidi, how did that meeting end?

MS MAKANO MURIEL MOSIDI: That meeting – no it ended like that Chair where I think I had clarified to him and how he had also aired his views and I wasn't sure whether I'd convinced him to the end but where I had given my views and he had given me his cautionary notes and I actually got into my car and went home.

CHAIRPERSON: I – part of what is exercising in my mind about the meeting and the questions he put to you and the fact that he was not engaging you on the merits of your views on the tender is, if he – if he
20 was asking as I understand he was whether you were not scared that you could be harmed because of the decision or the stand you took, that's part of what I'm putting to the discussion but you can tell me whether you think it is a correct understanding.

MS MAKANO MURIEL MOSIDI: Yes Chair.

CHAIRPERSON: If that's part of what he was saying to you, what was

he going to say if you said actually I didn't think of it, now that you say it I'm scared. Now let's start with whether you think what my understanding of part of what you're saying is correct?

MS MAKANO MURIEL MOSIDI: Perhaps Chair, he would have said, look – if I had said I didn't really apply my mind I'm not quite confident and perhaps my conviction will not stand the test of interrogation, perhaps he would have advised me to say, I think the middle route for you, which is safe, is this, perhaps he would have been executive over me and perhaps he would have been a manager and said, look for your
10 safety and for this process to conclude in a manner that it's going to be acceptable by all, this is the route we need to take, perhaps he was going to give that counsel for my safety.

CHAIRPERSON: But what – if you – your position was, I think it's correct but I am scared, I've got kids or whatever the position, I'm scared, but there's a certain element of speculation but it's an endeavour to try and understand what the purpose of the meeting was.

MS MAKANO MURIEL MOSIDI: Yes Chair.

CHAIRPERSON: Why were you asked those questions in circumstances where the – you had made your position quite clear even
20 though you decide you had recorded your reservations but in addition you had written something quite detailed to indicate your situation.

MS MAKANO MURIEL MOSIDI: Chair I think it's a situation we'll never be able to answer 100% we'll always speculate about what it could have been because quite frankly nothing ever scared me. Perhaps now looking back but then I was still excited I was still hot and

wanting to do things correctly. So perhaps at that time I had no fear at all but after he mentioned it I started looking around myself because I never – ja I never actually even thought I needed a bodyguard or something – I'm one of the executives who didn't have a driver or a bodyguard, out of choice of course I never really wanted – but after that I started thinking, is this something that I need to consider. So yes Chair we'll never be able to answer it 100% fully.

CHAIRPERSON: Yes thank you.

ADV VERUSCHKA SEPTEMBER: Thank you Chair. Ms Mosidi on
10 paragraph 30 to 32 which is pages 11 and 12 you talk about the process that was engaged upon to mitigate the risks with Gajima because the following the next – at that particular stage, it was during December of 2016 that you were then called to the office of Mr Siyabonga Gama, can you please just give details of the reasons for the invite and the process that subsequently followed?

MS MAKANO MURIEL MOSIDI: So in December 2016 Chair, Mr Gama called me and Mr Edward Thomas to his office where he was trying to get us to a resolution of this whole tender process and...(intervention).

CHAIRPERSON: And Mr Thomas position again is what its mentioned
20 earlier.

MS MAKANO MURIEL MOSIDI: Mr is Group Supply Chain Officer.

CHAIRPERSON: Was he under Mr Pita?

MS MAKANO MURIEL MOSIDI: He was under Mr Pita.

CHAIRPERSON: Okay thank you.

MS MAKANO MURIEL MOSIDI: But he was the Group (indistinct) Chief Officer of Transnet.

CHAIRPERSON: Okay.

MS MAKANO MURIEL MOSIDI: So Mr Gama called us to his office and advised that me as a business owner should be given an opportunity, Chair to interrogate Gajima and their risks and to understand in the audience of procurement as well how they planned to mitigate their risks and he actually made sure that, that whole process happens within the procurement process so that I just don't stand up
10 alone to go and discuss with Gajima. So he asked Mr Edward to compile the questions to write the communication to Gajima to invite them to that session with those questions. So he actually asked Mr Edward Thomas to facilitate that process and the meeting Chair, was finally called for the 23rd of January 2017.

ADV VERUSCHKA SEPTEMBER: And who was all present at that meeting?

MS MAKANO MURIEL MOSIDI: So in that meeting, which we held in the Pretoria offices of Transnet Engineering, from Transnet's side it was myself as the business owner, there was Mr Mtsweni who was in
20 charge of governance, there was Mr Maluleka who was the category manager, Group Strategic Sourcing and then there was Mr Edward Thomas himself, that was the Transnet team and from Gajima I think it was the whole executive team that came through, I just remember that, Mr Gumete the Chairman was there and his CEO and his COO was there and a whole lot of other executives were there and also there was

IBM who was a partner to Gajima in this tender and yes maybe other people that I wasn't aware of but it was quite a sizeable group of maybe 15 to 18 people from Gajima.

ADV VERUSCHKA SEPTEMBER: And what was the outcome of this meeting?

MS MAKANO MURIEL MOSIDI: So this meeting – because we had sent questions upfront to Gajima they then took us right through the questions and they were addressing each and every question...(intervention).

10 **CHAIRPERSON:** Yes let me hear the discussion at the meeting before the resolution.

MS MAKANO MURIEL MOSIDI: Okay so Chair there were questions that we had sent to Gajima, most of them were pertaining to those risk questions that were raised, like for example there was one on current mode of operation and final mode of operation, which, initially I did explain to Chair that when you are talking Green Fields, I wasn't convinced that it must come into play at that stage because you want to finalise this tender as Green Fields and there were issues about their capacity and their skill. There were issues about how they managed to

20 actually shave off 500million without putting Transnet at risk and Gajima took us through all the plans that they had for example they spoke about how, after understanding better the requirements of Transnet they were able to shave off from I think they said helpdesk in terms of the cost because helpdesk yes, it has it's own costs but you can also automate it as best as you can, so I suppose they were able to

do some optimisation in that area, but they also explained – because there was a big issue about how the data centre was not operational and how the lead time to order the equipment was going to pose as risk to Transnet and they also explained that they have now brought their partner IBM who must actually give assurance that they have now pre-ordered the devices and the equipment that will be required to actually operationalise the Transnet environment and allow for the transition of Transnet – from T-Systems into Gajima. So they were very detailed in terms of how they were going to deal with each and every risk that we

10 raised and every executive from Gajima who was there, they had something that they were actually responding to and I think they had structured it according to the towers that I spoke about earlier like relationship management, how were they going to do it, how were they going to manage project and so on. So the meeting from their side was quite detailed in terms of how they were responding to that and subsequent to the discussions as well Chair, they wrote that full response and I think it's somewhere in this many files where they responded to each and every risk in writing as well. And in that meeting they also requested to record the meeting themselves and I remember

20 Mr Gumede even before we answered he said, okay there it is that's my recording device, you know and he was (indistinct) something like I know that these things get lost or something like that, he actually made me laugh but he did actually record the meeting himself as well.

So yes there were questions, yes we did ask a few questions to understand their position and their presentation but at the end of it

all once we had excused them, once they had addressed all the questions, they were excused and we all agreed that, I think, all the questions and all the risks have been addressed, the taste of this pudding will be in the eating at the end.

CHAIRPERSON: That agreement was that all the risk issues of concern that had been satisfactorily addressed?

MS MAKANO MURIEL MOSIDI: Yes Chair.

CHAIRPERSON: Okay and the people from Transnet who were with you, did they challenge any of the things being – any explanation being
10 given by Gajima?

MS MAKANO MURIEL MOSIDI: Very minimally I can't even remember what it was.

CHAIRPERSON: Nothing serious.

MS MAKANO MURIEL MOSIDI: Nothing serious really.

CHAIRPERSON: Thank you.

ADV VERUSCHKA SEPTEMBER: Thank you and so it is your evidence that, that meeting then concluded with all risks being mitigated?

MS MAKANO MURIEL MOSIDI: Yes Chair that was my understanding
20 and that's how we concluded the meeting.

ADV VERUSCHKA SEPTEMBER: Thank you.

CHAIRPERSON: Well is it mitigated or they were explained satisfactorily?

MS MAKANO MURIEL MOSIDI: They were explained satisfactorily...(intervention).

CHAIRPERSON: Because the two don't mean the same.

MS MAKANO MURIEL MOSIDI: To the satisfaction of Transnet team.

CHAIRPERSON: Ja okay.

ADV VERUSCHKA SEPTEMBER: On page 13 of your statement you now address the two conflicting recommendations.

CHAIRPERSON: I see that one of the persons who attended that meeting, if I understand correctly was Mr Maluleka.

MS MAKANO MURIEL MOSIDI: Yes Chair the one with Gajima?

CHAIRPERSON: Ja the meeting with Gajima.

10 **MS MAKANO MURIEL MOSIDI:** Yes Chair.

CHAIRPERSON: Between Transnet and Gijima.

MS MAKANO MURIEL MOSIDI: Yes Chair.

CHAIRPERSON: Is that the same Mr Maluli who have said to you are you going to go against yourself?

MS MAKANO MURIEL MOSIDI: Yes Chair that is the same Mr Maluli.

CHAIRPERSON: Okay, alright, thank you.

ADV VERUSCHKA SEPTEMBER: It was around February 2017 that an issue arose in relation to two conflicting recommendations. What recommendations are you specifically referring to?

20 **MS MAKANO MURIEL MOSIDI:** So Chair the issue of the recommendation it always had this dual views, one recommending to systems, and one recommending Gijima, so after we had met with Gijima we then put together a recommendation for their award which I was comfortable with, and Chair if you look in one of the annexures there is a memo that has been written and the difference – there are

two memos, the difference with the second memo is that I then included that process where we met Gijima, because for me it was an official process that actually contributed to us understanding the risks and how they will be mitigated but there was then another memo which Mr Pita had which was recommending T-Systems, so we were having these two memos, it was the due date for one memo to go to – to ...(intervention)

CHAIRPERSON: Mr Gama.

MS MAKANO MURIEL MOSIDI: To go to Mr Gama for his approval so that he can submit to the BADC, and I remember we were in Esselyn
10 Park, we were just about to start the Exco meeting, and Mr Gama said you will give me one – you as executives will have to sort it out, and you will give me one memo that I must actually go with so you and Mr Pita go and sort yourselves out and I was explaining to Mr Pita to say this is where I am, this is the work that you've done, this is and I say we will actually go and recommend Gijima because of these reasons and I think at the end Chair he did agree although I always felt like because the memo's were largely drafted by the procurement team the contents were leaning more towards elevating risks and actually creating that little – eroding the confidence of what he was saying, but
20 at the end the recommendation was clear and we ended up agreeing on the one memo, which was to recommend Gijima.

CHAIRPERSON: Yes.

ADV VERUSCHKA SEPTEMBER: So just to unpack that a little, there were then two conflicting recommendations, and conflicting to the extent of which company was being recommended as the preferred

bidder, is that right?

MS MAKANO MURIEL MOSIDI: Yes.

ADV VERUSCHKA SEPTEMBER: So the one memorandum was authored by who?

MS MAKANO MURIEL MOSIDI: So the one memorandum was authored by myself.

ADV VERUSCHKA SEPTEMBER: And you recommended which company?

MS MAKANO MURIEL MOSIDI: I was recommending Gijima.

10 **ADV VERUSCHKA SEPTEMBER:** And the other memorandum was authored by whom?

MS MAKANO MURIEL MOSIDI: It was authored by Mr Gary Pita for his recommending T-Systems.

ADV VERUSCHKA SEPTEMBER: And by the direction of Mr Gama after the deliberations between yourself and Mr Pita the one memo that was then sent on was recommending Gijima?

MS MAKANO MURIEL MOSIDI: The memo was recommending Gijima, the final memo.

ADV VERUSCHKA SEPTEMBER: Can I ask you to turn to page 76,
20 and in particular page 86. This memorandum is unsigned and at paragraph 48 it talks to the recommendation to the GCE to approve the award of business to T-Systems, whose memo would this have been?

MS MAKANO MURIEL MOSIDI: This would have – this would have been my memo Chair. No, this would have been Mr Gary Pita's memo Chair.

ADV VERUSCHKA SEPTEMBER: Thank you, now if you turn to page 76 the memo however is prepared from Gary Pita, yourself and Edward Thomas, and it's addressed to Mr Siyabonga Gama. Are we to understand that notwithstanding from whom this memo was sent this was in fact your memorandum?

MS MAKANO MURIEL MOSIDI: Chair this memorandum where T-Systems was recommend couldn't have been my memo.

CHAIRPERSON: Yes, is it not that they prepared it or they included your name on the – in the hope that they would persuade you and that
10 – and that maybe they were going to take your name out if you were not persuaded? Because you talk about two memos, so obviously there are two memos, either they will all go or there might still be a process of discussion. You don't know?

MS MAKANO MURIEL MOSIDI: Ja, I don't know because this memo probably came and I wouldn't have agreed to sign this particular memo.

CHAIRPERSON: Yes, yes.

MS MAKANO MURIEL MOSIDI: So but just the way it's written, perhaps yes if I had signed it then it would be correct, that it's from the three of us, but can I voice-over and say the way that memo is written
20 one would have expected it then just to come from Mr Gary Pita, because as the head of – as the person that procurement is reporting into would all have signed here and he would have just said given what I got from my Procurement Officer I am writing this to you. It is inconsistent for my name to be appearing in that heading of "from", I

doubt if all the memos are written like that, I think they should actually come from Mr Pita himself.

ADV VERUSCHKA SEPTEMBER: Can I...(intervention)

CHAIRPERSON: Bottom line is that you say you didn't give approval for a name to be included in that memo.

MS MAKANO MURIEL MOSIDI: Yes Chair I didn't give approval and that's why my signature is not on there.

CHAIRPERSON: And you were not party to it?

MS MAKANO MURIEL MOSIDI: Yes Chair.

10 **ADV VERUSCHKA SEPTEMBER:** Thank you. Can I ask you then to turn to page 88, which appears to be the other memorandum from Mr Gary Pita to Mr Siyabonga Gama, and while holding that page if I could ask you to turn to page 108, and at paragraph 83 on page 108 it records the recommendation that the Group Chief Executive recommends the award of contract to Gijima Holdings to the Acquisitions and Disposals Committee for recommendation to the Transnet Board and an ancillary recommendation. Whose memorandum would this have been?

MS MAKANO MURIEL MOSIDI: This would have been my
20 memorandum Chair.

ADV VERUSCHKA SEPTEMBER: And similarly at the start of the memorandum that has been prepared by Mr Gary Pita and your name not reflecting in this?

CHAIRPERSON: Oh it says from, maybe a distinction between from him and prepared by.

ADV VERUSCHKA SEPTEMBER: Apologies.

CHAIRPERSON: Prepared by might be compiled by and then somebody else might then adopt it as his or her own, so it says it is from him, that is Mr Gary Pita, but the witness is saying that it was her memorandum, by which I take it you say you had compiled it.

MS MAKANO MURIEL MOSIDI: Yes Chair that would go with the recommendation that I was going with.

CHAIRPERSON: Yes, but you simply needed to reflect that it was from him, Mr Pita, because it had to come from him.

10 **MS MAKANO MURIEL MOSIDI:** From that Procurement Head, yes Chair.

CHAIRPERSON: Ja, okay.

ADV VERUSCHKA SEPTEMBER: Thank you Chair, then can I ask you to turn to page 110 of the same bundle, at which a memo appears.

CHAIRPERSON: Did you say 102?

ADV VERUSCHKA SEPTEMBER: 110.

CHAIRPERSON: 110.

20 **ADV VERUSCHKA SEPTEMBER:** It's the next annexure, Annexure 8. This memorandum is from Mr Gary Pita, to Mr Siyabonga Gama, and whilst holding your finger at that particular page, if you turn to page 129 at paragraph 83 there appears the recommendation that the Group Chief Executive (a) recommends the award of contract to the Gijima Holdings to the Acquisitions and Disposal Committee for recommendation to the Transnet Board of Directors for approval and (b) recommend that the Acquisitions and Disposals Committee recommends

to the Board to grant authority to the GCE to sign the letters of intent, the letters of regret and all other relevant documentation in summary of the last part of that paragraph. Is that your signature which in fact appears on the left – sorry on the right hand side in the middle?

MS MAKANO MURIEL MOSIDI: Yes Chair it's my signature.

ADV VERUSCHKA SEPTEMBER: And is this in fact the joint memorandum that was prepared between you and Mr Pita?

MS MAKANO MURIEL MOSIDI: Yes Chair it is.

ADV VERUSCHKA SEPTEMBER: And the just for clarity if you turn
10 one page before, at page 128 ...(intervention)

CHAIRPERSON: Well before that I see that although you signed but you didn't cross out not recommended, was that an oversight?

MS MAKANO MURIEL MOSIDI: It was an oversight Chair.

CHAIRPERSON: You meant to recommend?

MS MAKANO MURIEL MOSIDI: I meant to recommend.

CHAIRPERSON: Yes, okay.

ADV VERUSCHKA SEPTEMBER: And apologies for my oversight too.

MS MAKANO MURIEL MOSIDI: Sorry Chair.

ADV VERUSCHKA SEPTEMBER: At page 128, just for clarity of
20 record, is it correct that at paragraph 79 the final tendered pricing for the recommended bidder, Gijima, over a period of five years, is R1 338 114 324,04 (One Billion Three Hundred and Thirty Eight Million, One Hundred and Fourteen Thousand Three Hundred and Twenty Four Rand and four cents).

MS MAKANO MURIEL MOSIDI: Yes Chair.

ADV VERUSCHKA SEPTEMBER: And that the estimated savings over a period of five years on the contract, based on the current five year contract spend of R2.5billion is R1 161 885 675,96 (One Billion One Hundred and Sixty One Million Eight Hundred and Eight Five Thousand Six Hundred and Seventy Five Rand ninety six cents) which is equivalent to a monthly saving of approximately R2million.

MS MAKANO MURIEL MOSIDI: Yes Chair for the time that I have been there that is what it is, I don't know if it changed subsequent to that.

10 **ADV VERUSCHKA SEPTEMBER:** Now that the recommendation was signed and there was one recommendation, this was then the recommendation that ought to have – that was to be tendered at the meeting of the Acquisitions and Disposal Committee, is that correct?

MS MAKANO MURIEL MOSIDI: Yes, we are ...(intervention)

ADV VERUSCHKA SEPTEMBER: We are now – sorry?

MS MAKANO MURIEL MOSIDI: No, I was going to say Chair then the next step was to actually now table it at the BADC, the Board's Acquisition and Disposal Committee.

CHAIRPERSON: Yes?

20 **ADV VERUSCHKA SEPTEMBER:** Paragraph 14 ...(intervention)

CHAIRPERSON: Maybe this might be the time to take a comfort break. We don't always have a break after lunch but we will have just five minutes, we will resume at half past.

ADV VERUSCHKA SEPTEMBER: No problem.

CHAIRPERSON: We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

ADV VERUSHKA SEPTEMBER: Ms Mosidi from paragraphs 35 until 43 or apologies until 40 you by and large deal with the meeting that took place, the Acquisitions and Disposal Council Meeting – Committee meeting sorry. Can I ask you to turn to page 131 of the bundle? Do you recognise this document?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair I do.

ADV VERUSHKA SEPTEMBER: What is it please?

- 10 **MS MAKANO MURIEL ANNA MOSIDI:** This is the copy of the Minutes of the Meeting where this tender was discussed by the Acquisition and Disposals Committee.

ADV VERUSHKA SEPTEMBER: In particular.

CHAIRPERSON: And what was discussed I am sorry?

MS MAKANO MURIEL ANNA MOSIDI: Where the...

CHAIRPERSON: The recommendation?

MS MAKANO MURIEL ANNA MOSIDI: Yes where the data services tender recommendation were discussed

CHAIRPERSON: Yes.

- 20 **MS MAKANO MURIEL ANNA MOSIDI:** At the ...

CHAIRPERSON: So this would be the – this would have been the meeting where that single recommendation that Mr Gama was asking for...

MS MAKANO MURIEL ANNA MOSIDI: Was presented.

CHAIRPERSON: Would have – was tabled or would have been tabled?

MS MAKANO MURIEL ANNA MOSIDI: Yes, yes Chair.

CHAIRPERSON: Ja okauy.

ADV VERUSHKA SEPTEMBER: More accurately stated it is an excerpt of the relevant portions of the meeting Minutes of the Meeting specific to your agenda item.

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair it is.

ADV VERUSHKA SEPTEMBER: On page 131 there appears to be three categories of attendance just to highlight some of the names in attendance those who were marked as present was Mr S D Shane being
10 the chairperson. Mr S I Gama a member Group Chief Executive, Ms Elsie Mabaso a member. Mr Z A Nagdee if I am pronouncing that correctly.

MS MAKANO MURIEL ANNA MOSIDI: Nagdee.

ADV VERUSHKA SEPTEMBER: And also that – also marked as a member in attendance was Mr G J Pita Chief Financial Officer, Mr M Sigonyela The General Manager.

CHAIRPERSON: I am sorry was that no inaccurate? That was not his position is it – Mr Pita? He was not Chief Financial Officer was he? Was he not something Supply Chain Management or Procurement?

20 **MS MAKANO MURIEL ANNA MOSIDI:** No Chair he was the CFO but procurement was reporting into him finally.

CHAIRPERSON: The correct title was Chief Financial Officer?

MS MAKANO MURIEL ANNA MOSIDI: Yes the Group Chief Financial Officer.

CHAIRPERSON: And Singh or was it – or was this not Mr Singh's time?

MS MAKANO MURIEL ANNA MOSIDI: No it was not Mr Singh's time when I was in Transnet Mr Singh was not there.

CHAIRPERSON: Oh okay.

ADV VERUSHKA SEPTEMBER: Mr M Sigonyela General Manager Office of the Group Chief Executive, Mr N Silinga Chief Legal Counsel, Mr E Thomas Chief Supply Chain Officer and others and then you are marked specifically in partial attendance the third one under paragraph 1.3 as Ms M A Mosidi Group Chief Information Officer. It is noted at paragraph 1.4.2 that the Chairperson noted that the GCE was delayed
10 from a prior meeting and the Chairperson requested that the meeting be adjourned on arrival of the GCE for a brief meeting between the Group Chief Executive, Chief Financial Officer and the Chairperson. Can you please set the scene for this Chairperson as to how the agenda item had been introduced with your invite to attend the meeting on the day?

MS MAKANO MURIEL ANNA MOSIDI: Thank you. So Chair the ADC is attended by the official members who are marked as present on top and depending on what the agenda is looking like and the items that need to be discussed on the day you will have the list which is in 1.3. So that list will say Partial Attendance. So what basically happens then
20 you attend for the part that you are actually responsible for so that you can actually speak to the submission as presented. And that is why Chair you will see my name there but it will not mean that we were all in that meeting at the same time. After my item then I would leave and the next person will actually continue. So on this particular day so what then happens you would be knowing that on that day your matter

is going to serve in front of the ADC so either you wait outside mostly for you to be called into the meeting. And so the meeting was in and we were waiting outside and then when my item came they – I think they had – they had adjourned they had a body break and they stopped and we were waiting for them to actually come – come and start the meeting again.

ADV VERUSHKA SEPTEMBER: And how long was that break?

MS MAKANO MURIEL ANNA MOSIDI: That break was quite long I think if I am correct it would have been about fifty to an hour – fifty
10 minutes to an hour where they took that break and whilst before the meeting started a lot of people came back and we sit down like Mr Nagdee was sitting down and waiting and I think the rest of the people were not there. So as we were waiting for that length of time everything was settled but we were just waiting of course for the official members of the sub-committee and then in walked the remainder of the members which was Mr Shane, Mr Gama and Ms Mobaso after that long wait.

CHAIRPERSON: Hm. The ones who – who went away was it those three?

20 **MS MAKANO MURIEL ANNA MOSIDI:** Yes so when it break everybody went out.

CHAIRPERSON: Oh the whole – the meeting was adjourned temporarily?

MS MAKANO MURIEL ANNA MOSIDI: Ja it was adjourned temporarily and then everybody came back.

CHAIRPERSON: Within like fifty minutes?

CHAIRPERSON: Within five minutes, ten minutes.

CHAIRPERSON: Ja. Ja.

MS MAKANO MURIEL ANNA MOSIDI: We made ourselves comfortable in the boardroom and then we were waiting.

CHAIRPERSON: Ja for...

MS MAKANO MURIEL ANNA MOSIDI: The real members to come.

CHAIRPERSON: Okay, okay.

MS MAKANO MURIEL ANNA MOSIDI: And continue with the meeting.

10 **CHAIRPERSON**: Okay.

MS MAKANO MURIEL ANNA MOSIDI: And...

CHAIRPERSON: But you say Mr Nagdee was waiting with you?

MS MAKANO MURIEL ANNA MOSIDI: Ja but Mr Nagdee was waiting with us.

CHAIRPERSON: So it was only the ...

MS MAKANO MURIEL ANNA MOSIDI: The top three names.

CHAIRPERSON: The top...

MS MAKANO MURIEL ANNA MOSIDI: That were not...

CHAIRPERSON: Yes okay.

20 **MS MAKANO MURIEL ANNA MOSIDI**: Yes, yes they were not there.

CHAIRPERSON: Okay.

MS MAKANO MURIEL ANNA MOSIDI: And then of course after an hour they came and they came in and Mr Shane who is he Chairperson of that committee then commenced with the proceedings of my agenda item. And I just remembered Chair that when she opened – when he

opened the meeting he actually explained that we are now getting into the most difficult discussion of this meeting for today meaning the agenda item that I was going to talk to.

CHAIRPERSON: The tender?

MS MAKANO MURIEL ANNA MOSIDI: Yes.

CHAIRPERSON: Hm. At some stage I thought you were saying something like while you were waiting? I thought there was something I that I may have – might have interrupted you. Maybe something happened while you were waiting?

10 **MS MAKANO MURIEL ANNA MOSIDI**: No Chair.

CHAIRPERSON: Or not really?

MS MAKANO MURIEL ANNA MOSIDI: I think I was just trying to make it clear that some of the names that are under partial attendance.

CHAIRPERSON: Ja.

MS MAKANO MURIEL ANNA MOSIDI: I would not have seen on the day.

CHAIRPERSON: Oh okay.

MS MAKANO MURIEL ANNA MOSIDI: They would not have seen me as well.

20 **CHAIRPERSON**: Yes, yes.

MS MAKANO MURIEL ANNA MOSIDI: So it might look incorrect but it is correct.

CHAIRPERSON: Yes okay no that is fine. So the Chairperson we are now going to the most difficult issue?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair.

CHAIRPERSON: Okay.

MS MAKANO MURIEL ANNA MOSIDI: And he – that is when he was actually opening the discussions for the data services tender.

ADV VERUSHKA SEPTEMBER: Were you then afforded an opportunity to make representations to the committee?

MS MAKANO MURIEL ANNA MOSIDI: Chair yes I was, I was allowed to give some representation to that committee.

ADV VERUSHKA SEPTEMBER: Did anyone else give representations to the committee.

10 **MS MAKANO MURIEL ANNA MOSIDI**: It was me.

ADV VERUSHKA SEPTEMBER: In relation to the recommendation?

MS MAKANO MURIEL ANNA MOSIDI: Chair the main respondent to the submission and the voice over was myself and Mr Edward Thomas.

ADV VERUSHKA SEPTEMBER: If I can then ask you to turn to page 137 of the bundle. This is a transcript of the particular meeting on that day and Chair the certificates of veracity are all included in the – in the annexure as well. In particular can I ask you turn to page 154 please? And I would like you to read something into the record which was in response to a query that was raised to you by Ms Mobaso.

20 **CHAIRPERSON**: Before, before that can we just deal with this. I take it that when you were given a chance to make a presentation or to talk at this meeting you talked in line – your presentation was in line with the memorandum that was recommending Gijima? Is that right?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair it was.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair.

CHAIRPERSON: And largely what you said was what was contained in the memorandum or not really?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair.

CHAIRPERSON: Yes largely.

MS MAKANO MURIEL ANNA MOSIDI: Largely it was.

CHAIRPERSON: Yes. And did Mr Thomas when he got a chance also go along the same line?

MS MAKANO MURIEL ANNA MOSIDI: Mr Thomas went along the same
10 line punctuating the procurement processes a lot.

CHAIRPERSON: Yes okay.

MS MAKANO MURIEL ANNA MOSIDI: And just how we ended up.

CHAIRPERSON: Okay, okay thank you.

ADV VERUSHKA SEPTEMBER: Just as a follow up to that did Mr Pita give any comments when making the recommendation?

MS MAKANO MURIEL ANNA MOSIDI: My recollection say he did not say – he did not give any comment in that meeting. I could be wrong
Chair let me...

CHAIRPERSON: But is – I know that Ms September wants to take you
20 to documents but in terms of your recollection was there anybody else except yourself and Mr Thomas who you recall also spoke to – to this item or questioned you on your presentation or questioned Mr Thomas or spoke in support of what the two of you had said?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair. In terms of recollection Mr Thomas spoke at length in terms of the procurement

processes. I spoke at length in terms of the operational requirements of the tender and I seem to recall that Mr Gama tried to explain a point I was making just briefly but I also remember that Mr Silinga who was the head of legal explained the risk portion a little bit in support of what we were saying – in support of what the memorandum was saying.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: So those are the four people that I remember from...

CHAIRPERSON: YEs.

10 **MS MAKANO MURIEL ANNA MOSIDI:** I cannot remember Mr Pita commenting on ...

CHAIRPERSON: Yes, yes.

MS MAKANO MURIEL ANNA MOSIDI: Any of this.

CHAIRPERSON: Yes. But on the whole as far as you recall everyone who spoke or rather every – no-one who spoke spoke against the recommendation as far as you can recall?

MS MAKANO MURIEL ANNA MOSIDI: So as far as I can recall Chair is that everyone spoke in line with the recommendation but everyone amplified what they thought it should be amplified.

20 **CHAIRPERSON:** Yes, yes.

MS MAKANO MURIEL ANNA MOSIDI: Yes and I felt and now this is really becoming a little subject because at that time I was beginning to feel maybe the way we have written the memorandums we want to amplify and scare the board.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: That there were risks although at the end we still come back and say...

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: We recommend Gijima.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: But I had a sense that the deliberations of procurement for example they were leaning more onto the risks which we kept on saying but they have been mitigated.

CHAIRPERSON: Yes.

10 **MS MAKANO MURIEL ANNA MOSIDI:** Why do you have to then raise them to the board?

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: So there was that sense.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: In that meeting.

CHAIRPERSON: Yes, yes.

MS MAKANO MURIEL ANNA MOSIDI: But everyone spoke in line with the submission as made.

CHAIRPERSON: Okay thank you.

20 **ADV VERUSHKA SEPTEMBER:** When you mean everyone who exactly do you mean?

MS MAKANO MURIEL ANNA MOSIDI: So anyone who spoke be it Mr Thomas be it...

CHAIRPERSON: Everyone of the four or so that you mentioned?

MS MAKANO MURIEL ANNA MOSIDI: Ja Mr Silinga, myself and Mr

Gama.

CHAIRPERSON: Hm okay.

ADV VERUSHKA SEPTEMBER: Thank you. So if I can then take you to page 154 and let me ask you was your position on advancing that the recommendation to Gijima was the right one tested at that meeting?

MS MAKANO MURIEL ANNA MOSIDI: I think it was tested in very simple terms.

ADV VERUSHKA SEPTEMBER: Okay.

10 **CHAIRPERSON**: I am sorry I did not hear that question just repeat it please?

ADV VERUSHKA SEPTEMBER: The question is, whether or not the witness' position to advance the recommendation of Gijima was tested at all at the hearing – at the committee meeting yes.

CHAIRPERSON: Okay.

MS MAKANO MURIEL ANNA MOSIDI: So – so Chair I just said that it was tested in a very simple way according to me. Ms Mabaso asked me and tested me and said if it was your money would you put your life on this? On the recommendation as it stands?

20 **CHAIRPERSON**: And what was Mr Mabaso's position again – legal counsel?

MS MAKANO MURIEL ANNA MOSIDI: No Ms Mabaso..

CHAIRPERSON: Ms Mabaso.

MS MAKANO MURIEL ANNA MOSIDI: Was the Chairman of the main board.

CHAIRPERSON: Oh.

MS MAKANO MURIEL ANNA MOSIDI: She was the Chairman of Transnet.

CHAIRPERSON: Oh but was she present at that meeting?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair.

CHAIRPERSON: Oh.

MS MAKANO MURIEL ANNA MOSIDI: She is a member of this meeting.

CHAIRPERSON: Oh okay. So is she – she sought to get your answer on whether the position – the recommendation was what you would –
10 would go with even if it was your own money?

MS MAKANO MURIEL ANNA MOSIDI: Yes.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: That is how my views were tested.

CHAIRPERSON: Yes and your answer was?

MS MAKANO MURIEL ANNA MOSIDI: I answered and I explained that I believe in the procurement processes of Transnet they are there for a reason, they take away subjectivity and therefore based on those processes and their recommendation I will actually bet my bottom
20 dollar.

CHAIRPERSON: Okay.

ADV VERUSHKA SEPTEMBER: And just to amplify the very answer that you have given at page 154 paragraph – line 7 you then assert what your position is. Can I ask you to just read your section into the record?

MS MAKANO MURIEL ANNA MOSIDI: Where I start with Chair?

ADV VERUSHKA SEPTEMBER: Yes please.

MS MAKANO MURIEL ANNA MOSIDI:

“Chair I would go you see I believe in our procurement processes and our procurement processes gave me the confidence that Gijima can actually do what they can because even if you look at the evaluation process the difference between the two has been just a fraction. It has been 0.21 and 10 0.25 so they were almost neck on neck. There is no big variance between the two so I have got my comfort in that the procurement processes were actually dated enough. And then if you look at the partners that are having Gijima. If you look at IBM and you look at Vodacom you look at Vodacom on the internet Chair they lead in terms of UIT technologies, they lead in terms of their own main frames. So you have the comfort that this particular consortium will actually reinforce the black company as in Gijima 20 company so I will put my head on the block for Gijima.”

ADV VERUSHKA SEPTEMBER: With the progression of the meeting is it correct that Mr Stanley Shane then made an address to the meeting?

MS MAKANO MURIEL ANNA MOSIDI: Yes, yes he did. He made a long address if I ...

ADV VERUSHKA SEPTEMBER: it is at this point in time that I request permission to play the audio with us following in the transcript of the particular address that Mr Stanley Shane presents at the meeting.

CHAIRPERSON: Yes go ahead.

ADV VERUSHKA SEPTEMBER: If we could – if I could ask you to turn to page 158 should you wish to follow. It begins at the bottom. Aligned with Chairperson.

CHAIRPERSON: Yes.

ADV VERUSHKA SEPTEMBER: Could you please...

10 **CHAIRPERSON:** From line?

ADV VERUSHKA SEPTEMBER: Sorry?

CHAIRPERSON: From line?

ADV VERUSHKA SEPTEMBER: Line 18.

CHAIRPERSON: 18?

ADV VERUSHKA SEPTEMBER: 18.

CHAIRPERSON: Okay thank you. At page 15?

ADV VERUSHKA SEPTEMBER: At page 158.

CHAIRPERSON: 8.

ADV VERUSHKA SEPTEMBER: The particular paragraph is titled
20 Chairperson and it starts with can I comment?

CHAIRPERSON: Ja.

ADV VERUSHKA SEPTEMBER: Question mark.

CHAIRPERSON: Okay.

ADV VERUSHKA SEPTEMBER: Can I request that the audio recording be played please?

[Playing of an audio recording].

CHAIRPERSON: Sorry is that as clear as it can be? Is that the clearest it can be?

[Playing of an audio recording].

CHAIRPERSON: Is that a yes or what?

ADV VERUSHKA SEPTEMBER: Can you just stop quickly. Stop.

CHAIRPERSON: My question is whether that is the clearest that we can have? Is the answer yes or is the answer no?

ADV VERUSHKA SEPTEMBER: The answer is yes.

10 **CHAIRPERSON**: This is the clearest.

ADV VERUSHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: Okay alright. Start afresh.

[Playing of an audio recording].

[After the recording there is absolutely no sound for the rest of the audio].

CHAIRPERSON: Just stop it. How long more – how much more will he still take?

ADV VERUSHKA SEPTEMBER: One page.

20 **CHAIRPERSON**: Okay. I have lost where they are but okay if it is one page that is fine. You may continue.

[Playing of an audio recording].

CHAIRPERSON: Yes, okay.

ADV VERUSCHKA SEPTEMBER: Thank you Chair. Do you have any comments to the address that was made by Mr Shane to the – to the meeting and in particular directed at you?

MS MAKANO MURIEL ANNA MOSIDI: Chair I think firstly in that meeting I just felt that the Executive input – the Executive due diligence process to ensure that we land the right service provider was just not taken into cognisance at all. The whole screaming and shouting of Mr Shane just did not land well with me and I – I know with other Managers as well. It came across as very derogatory and condescending. I think it just sort of numbed everyone to say well perhaps it does not matter what we could have done. I know that at some point when Mr Shane was talking about how they never meant to

10 actually get rid of T-Systems and how they were just doing the exercise to test the market and to keep them honest. I remember I actually asked in that meeting to say I wish we had been told that. Then it would have been an easier process to actually test and say to T-Systems can you actually slash your prices. We have tested the market. Just slice it by R1 billion. You are good to go instead of actually getting into this whole involved process that we did. So Chair I think - and he spoke to me about *ja* you may be good new Manager but it is – it has all been done in terms of how the contract management was done and I think for me just overall I just felt the Board did not

20 take into cognisance any work that we did - that is one. Two - and I just felt like they did not take us seriously in terms of how seriously we take our work. So it did not matter and he spoke a lot about risk and I always say as an Executive I am also carrying risk. It cannot be that it is only about Directors. It is no longer like that. If you are an Executive you have a fiduciary duty to satisfy all the time and you carry

the same risk as well. So for me I think after that long talk I just realised that I think we have said what we can say. It is really up to the Board to make their decision.

ADV VERUSCHKA SEPTEMBER: Did any of the reasons provided by Mr Shane constitute objective criteria as contemplated in the manual?

MS MAKANO MURIEL ANNA MOSIDI: I did not – Chair just for the record – I did not pick up any objective criteria or any predetermined criteria that – that perhaps we could have missed. So it just – I did not find any place for his comment.

10 **ADV VERUSCHKA SEPTEMBER:** And so what was the outcome on the recommendation finally made by the Committee to the Board?

MS MAKANO MURIEL ANNA MOSIDI: So the outcome of the Committee at the end was to actual differ with the management recommendation to award Gijima but to rather award to T-Systems.

ADV VERUSCHKA SEPTEMBER: And can I then ask you to quickly turn to page 190 which is Annexure 11?

CHAIRPERSON: Well before that other members of the Committee did they speak after Mr Shane had spoken?

MS MAKANO MURIEL ANNA MOSIDI: Not that I remember.

20 **CHAIRPERSON:** Did they speak to engage with his reasoning and his address vis-à-vis your address and the address of Mr Thomas and the memorandum that had been put in recommending Gijima?

MS MAKANO MURIEL ANNA MOSIDI: Chair no, not to my recollection.

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: Ja. You know the points that

were thrown in by Mr Gama, by Mr Silinga ...

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: It was you know – it was here and there ...

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: To try to punctuate but no reaction to ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: To what Mr Shane was saying.

10 **CHAIRPERSON:** So after Mr Shane had spoken did they just make a decision? Did they have to vote or anything? How – how was the decision arrived at or if you were still present at the meeting?

MS MAKANO MURIEL ANNA MOSIDI: Chair I think once we were done yes they agreed that they will go with T-Systems ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: But how the resolution was put together I was not there.

CHAIRPERSON: But as I understand the position and I just want you to say something about this.

20 **MS MAKANO MURIEL ANNA MOSIDI:** Yes Chair.

CHAIRPERSON: There as noting before the Committee in terms of any documentation as far as you know that supported that the award be granted to T-Systems. There was only a memorandum that supported that the tender be awarded to Gijima?

MS MAKANO MURIEL ANNA MOSIDI: Chair yes there was only a

memorandum that supported that the tender be awarded to Gijima.

CHAIRPERSON: And in terms of until Thomas spoke nobody had spoken against the recommendation that the tender be awarded to Gijima. There had been questions but like from Ms Mabaso but really nobody had spoken against the – the recommendation that management had made?

MS MAKANO MURIEL ANNA MOSIDI: No Chair.

CHAIRPERSON: Yes, okay.

10 **ADV VERUSCHKA SEPTEMBER:** Thank you. At page 190 of the bundle ...

CHAIRPERSON: I am sorry. Let me ask this – now you had from the first time you started dealing with this matter you had – had reservations about the tender being awarded to T-Systems. Your reservations had – as time went on – been kind of vindicated and ultimately one recommendation was made. Out of what Mr Shane said and I could not follow everything ...

MS MAKANO MURIEL ANNA MOSIDI: Yes.

CHAIRPERSON: The sound was not good. I could not follow everything.

20 **MS MAKANO MURIEL ANNA MOSIDI:** Yes Chair.

CHAIRPERSON: Out of what he said did he engage with the reasons that – in regard to risks that you had put forward in any meaningful way?

MS MAKANO MURIEL ANNA MOSIDI: No Chair. I think you might not have picked it up quite clearly but he spoke to – for example – the

newspapers and the headlines. How we would be exposing Transnet because Gijima. Can you image if people cannot send email? Now all those things. Email will be one of the predetermined criteria in terms of the technically capability of Gijima. It is a – it is a critical service but it is a basic service. So all those risks that he actually tried to elevate out of his motivation they were actually part of the evaluation that was done.

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: So I could not find anything
10 except for the newspapers ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: Which I was not even aware of what was happening with the newspapers but ...

CHAIRPERSON: Huh-uh.

MS MAKANO MURIEL ANNA MOSIDI: You know Transnet is a huge organisation. You will always find yourself in the newspaper.

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: For good or for bad you will find yourself in the newspapers.

20 **CHAIRPERSON:** Hm.

MS MAKANO MURIEL ANNA MOSIDI: So I – I could not pick anything that he was particularly raising that I thought would qualify to be a legit criteria ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: That we – we could have had an

oversight of.

CHAIRPERSON: Yes, yes.

MS MAKANO MURIEL ANNA MOSIDI: So I – I just – that is why at the end I just felt he – he just spoke and spoke.

CHAIRPERSON: *Ja.*

MS MAKANO MURIEL ANNA MOSIDI: I could not pick up anything that he was really saying except that ...

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: He would want to – to actually
10 just say we - we will not go with the management recommendation.

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: *Ja.*

CHAIRPERSON: When they – when they came back into the meeting that is he, Mr Gama and there was a third member of the Committee – when they came back into the meeting after having taken quite long to come back during the break did they tell the meeting why they had taken so long and what was the issue. They kept you waiting – you people waiting for a long time.

MS MAKANO MURIEL ANNA MOSIDI: Chair they kept us waiting for a
20 long time but when Mr Shane opened the meeting by saying we are now getting to one of the most difficult discussions. I had a sense that they could have grappled with it.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: Maybe they were actually looking at it to say this is so complex and how do we actually deal with

it but it was just my inference.

CHAIRPERSON: Hm, but there could not have been a Committee because you said one of the members was waiting for them with you.

MS MAKANO MURIEL ANNA MOSIDI: Mr Nagdee was actually ...

CHAIRPERSON: Yes.

MS MAKANO MURIEL MOSIDI: In the – in the Board Meeting with us.

CHAIRPERSON: And he was a member of the Committee?

MS MAKANO MURIEL ANNA MOSIDI: He was a member of the ADC Committee.

10 **CHAIRPERSON:** So some members of the Committee – three members went – were away for quite some time. You do not exactly what they discussed but you are saying that the way - the manner in which Mr Shane started the meeting in regard to this issue suggested to you that maybe that is what they may have been discussing but ...

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair ...

CHAIRPERSON: *Ja.*

MS MAKANO MURIEL ANNA MOSIDI: Because of the complexity that they were seeing.

CHAIRPERSON: Okay, alright thank you.

20 **MS MAKANO MURIEL ANNA MOSIDI:** I think they were chafing – if I can mention.

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: Mr Nagdee who remained behind was actually the overseer of IT because of his background.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: So one would have expected him to – to be very vocal about ...

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: This particular tender ...

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: And – and how we are going to mitigate ...

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: But I do recall that he did make
10 a comment to say the biggest fear factor of this tender is the migration of data.

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: Which is true. It happens all the time.

CHAIRPERSON: *Ja*.

MS MAKANO MURIEL ANNA MOSIDI: Just how you migrate the data and make sure that the completeness of that migration is actually ...

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: 100 percent.

20 **CHAIRPERSON:** Yes.

MS MAKANO MURIEL ANNA MOSIDI: So I did *ja* – he did make a small comment but I would have expected him to actually ...

CHAIRPERSON: (Intervenes).

MS MAKANO MURIEL ANNA MOSIDI: Be the one who was very vocal ...

CHAIRPERSON: *Ja.*

MS MAKANO MURIEL ANNA MOSIDI: About this tender.

CHAIRPERSON: Okay, thank you.

ADV VERUSCHKA SEPTEMBER: At page 190 of the bundle appears a memorandum and its purpose is recorded in paragraph 1:

10 “To request the Board of Directors to a, approve the
award of a contract to T-Systems South Africa (Pty)
Ltd for a period of five years with an option to
extend for a further period of two years and b, grant
authority to the GCE to sign the letter of intent to
the preferred bidder – T-Systems, Letters of Regret
– LOR – to the unsuccessful bidders, the contract
and all relevant documentation including any
subsequent contract amendments.”

If you turn to page 201 paragraph 51 aligns with the purpose and appears – it appears to be signed by Mr Garry Pita as the Group Chief Financial Officer on 14/02/2017 and recommended by Siyabonga Gama the Group Chief Executive on 15 February 2017. Is that correct?

MS MAKANO MURIEL ANNA MOSIDI: Well it is correct.

20 **ADV VERUSCHKA SEPTEMBER:** Okay and so it was not signed by the Chairperson of the Committee?

MS MAKANO MURIEL ANNA MOSIDI: Chair it was not signed by the Chairperson of the ADC Committee. One would have expected that at the stage because as management we actually make submissions to the ADC Sub Committee and the Chairman of the Sub Committee takes

ownership now of the decisions of that – to the Board. This one was actually done by Mr Garry Pita and Mr Gama but perhaps because they were both Directors of Transnet but to me it did not actually look right when I saw it.

CHAIRPERSON: Because what should have gone to ...

MS MAKANO MURIEL ANNA MOSIDI: To the main Board.

CHAIRPERSON: To the main Board should come from the Committee?

MS MAKANO MURIEL ANNA MOSIDI: From the Committee itself and ...

10 **CHAIRPERSON:** Yes.

MS MAKANO MURIEL ANNA MOSIDI: It should be signed off by the Chairman of that ...

CHAIRPERSON: By the Chairperson, yes.

MS MAKANO MURIEL ANNA MOSIDI: Sub Committee.

CHAIRPERSON: Hm.

ADV VERUSCHKA SEPTEMBER: At page 15 paragraph 38 you make ...

20 **CHAIRPERSON:** Well before – before that this gives the impression that – I am going back to page 190. This gives the impression that it is a – it is a memorandum coming from just the Executives and going straight to ...

MS MAKANO MURIEL ANNA MOSIDI: The main Board.

CHAIRPERSON: To the Board. Is that right?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair. That is what it (intervenes).

CHAIRPERSON: Which is not correct?

MS MAKANO MURIEL ANNA MOSIDI: Which is not correct.

CHAIRPERSON: Yes. Now Mr Gama was now signing a memorandum saying – recommending T-Systems whereas previously had signed a memorandum recommending ...

MS MAKANO MURIEL ANNA MOSIDI: Recommending Gijima.

CHAIRPERSON: Gijima?

MS MAKANO MURIEL ANNA MOSIDI: Yes.

CHAIRPERSON: You – you have read this memorandum. You have read this memorandum?

10 **MS MAKANO MURIEL ANNA MOSIDI:** Yes Chair.

CHAIRPERSON: How does it deal with the motivation that the other memorandum that he signed had put forward for recommending Gijima? Just briefly what are you able to highlight? Does it engage with the reasons – in other words or does it seem to be just a standalone separate and do without the background of the other memorandum?

MS MAKANO MURIEL ANNA MOSIDI: Ja. So Chair if you look at that memorandum and you go to 199 it highlights a whole lot of reasons that were raised by the ADC and where it was one talking to the risk that the ADC was actually seeing with this particular recommendation and how

20 Gijima was the (indistinct) bidder. How Gijima could not have for example they would say the pricing provided was after they had access to specific details. So it – it explained all those things that some of them – I cannot remember hearing in the Board but I think the – the memorandum was just summarising the views that the Board was saying.

CHAIRPERSON: And those views were views that had been contained in Mr Shane's address at the meeting?

MS MAKANO MURIEL ANNA MOSIDI: Some of them Chair.

CHAIRPERSON: But some of them ...

MS MAKANO MURIEL ANNA MOSIDI: Some of them ...

CHAIRPERSON: Were new – were not there necessarily?

MS MAKANO MURIEL ANNA MOSIDI: Not necessarily really.

CHAIRPERSON: *Ja*, okay alright, thank you.

ADV VERUSCHKA SEPTEMBER: Ms Mosidi did Mr Gama send you any
10 communication during that meeting?

MS MAKANO MURIEL ANNA MOSIDI: Oh, in the – in the ADC?

ADV VERUSCHKA SEPTEMBER: Yes.

MS MAKANO MURIEL ANNA MOSIDI: Yes, but I did not see it when I was in the ADC. I saw it after I left but I realised that he had sent me a WhatsApp to say stop fighting. You can see what the Board would like to have but I only saw it after. So I could not have reacted in time to it.

ADV VERUSCHKA SEPTEMBER: Okay.

CHAIRPERSON: What did you make of that message coming from ...

MS MAKANO MURIEL ANNA MOSIDI: From my boss.

20 **CHAIRPERSON:** From your boss?

MS MAKANO MURIEL ANNA MOSIDI: I felt disappointed ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: Because Chair I think after this particular engagement with the Board I should say my – my energy waned ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: And – and also I never actually asked him why he sent me the WhatsApp because I think he wanted me – I should have stopped earlier in the discussions in the Board ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: If I had seen his WhatsApp ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: But I am not in the habit of actually checking WhatsApp much when I am in a meeting that is that
10 difficult. So I did not see it ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: But I was – I was feeling disappointed because I thought we were all actually – we have bought into what we needed to do as management and we were going to help each other to explain to the Board ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: The whole process that we have undertaken. How we are going to mitigate the risks and ...

CHAIRPERSON: Hm.

20 **MS MAKANO MURIEL ANNA MOSIDI:** And how we will continuously keep the Board abreast and they should actually trust us.

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: I was expecting that.

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: So when I saw the WhatsApp

after ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: I felt a little bit discouraged in terms of ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: What we needed to do.

CHAIRPERSON: There may be two or more ways of understanding that message.

MS MAKANO MURIEL ANNA MOSIDI: Hm.

10 **CHAIRPERSON:** One of them might be that he was saying look no matter what you say it is quite clear which way this Board is going. You are wasting your time just save your ...

MS MAKANO MURIEL ANNA MOSIDI: Breath.

CHAIRPERSON: Your breath *ja* without necessarily saying the Board was right.

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair.

CHAIRPERSON: That is one way of looking at it. It may be – maybe another way might be that he wanted – he did not want you at that stage to oppose the Board when the Board wanted things in a certain way and therefore the Board is right. Maybe that might be another way. There might be another interpretation. Which interpretation did you attach to it?

20

MS MAKANO MURIEL ANNA MOSIDI: Chair actually took the latter.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: *Ja*, as my first reaction.

CHAIRPERSON: That – that he – he did not want to – you to oppose the Board?

MS MAKANO MURIEL ANNA MOSIDI: Yes.

CHAIRPERSON: *Ja* and not necessarily that he was saying look I do not ...

MS MAKANO MURIEL ANNA MOSIDI: *Ja*.

CHAIRPERSON: Agree with – with them but stop fighting?

MS MAKANO MURIEL ANNA MOSIDI: Yes.

CHAIRPERSON: Okay.

10 **MS MAKANO MURIEL ANNA MOSIDI:** That was – the latter is the one that came first to mind.

CHAIRPERSON: *Ja*, okay.

ADV VERUSCHKA SEPTEMBER: Is it correct that following this meeting everything went - as you state in paragraph 41 – a dark hole?

MS MAKANO MURIEL ANNA MOSIDI: Yes. You know Chair I think – what - what paragraph is that?

ADV VERUSCHKA SEPTEMBER: Paragraph 41 on page 16.

20 **MS MAKANO MURIEL ANNA MOSIDI:** *Ja. Ja*, because once the ADC had recommended to the main Board and the main Board had taken the resolution to award to T-Systems I never knew what – what to do next. I kept on requesting procurement to guide us in the process. How far away, when do we start the negotiations? It was all quiet. I was not even aware that there was an objection that was registered by Gijima.

CHAIRPERSON: I am sorry Ms Mosidi. Are you on here statement?

ADV VERUSCHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: Where about?

ADV VERUSCHKA SEPTEMBER: It is page 16 paragraph 41.

CHAIRPERSON: Okay, thank you. You may proceed.

MS MAKANO MURIEL ANNA MOSIDI: *Ja.* So Chair yes I just – Ms September was asking me a dark hole and I was saying it was a dark hole because I just never knew where the process was. As a business owner I did expect to be copied - for example – when the Letter of Award was sent out. I owned the requirement. I had to know what we were communicating to T-Systems. I did not know and even
10 when there was an objection I did not know. I kept on inquiring when do we start. In fact the former Chief Executive of T-Systems even called me to say Makano when do we start negotiations. I said no, I am waiting for my procurement people to tell me now they are done with their process. They will actually give me the go ahead to start engaging with you but Chair that never actually happened. So I – I started hearing post the events that Gijima objected and so and so on. So I was not quite close to that process at all.

ADV VERUSCHKA SEPTEMBER: Chair I cannot help but notice the time and I am just guided by you.

20 **CHAIRPERSON:** How much more time do you think we need to finish?

ADV VERUSCHKA SEPTEMBER: Probably 20 minutes.

CHAIRPERSON: Hm?

ADV VERUSCHKA SEPTEMBER: Probably 15/20 minutes.

CHAIRPERSON: *Ja*, let us try and finish.

ADV VERUSCHKA SEPTEMBER: Okay, thank you.

CHAIRPERSON: Is that still fine with you Ms Mosidi?

MS MAKANO MURIEL ANNA MOSIDI: Chair yes because I think the remainder of my story really is very, very short.

CHAIRPERSON: *Ja*, okay thank you.

ADV VERUSCHKA SEPTEMBER: Is it correct then Ms Mosidi that you were subsequently involved and requested to engage in settlement negotiations?

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair. So in an attempt to – to buffer Transnet because when the legal wrangle started between
10 T-Systems and Gijima Transnet is the one that actually suffered.

CHAIRPERSON: Why do you leave out Transnet? They were just as much of ...

MS MAKANO MURIEL ANNA MOSIDI: *Ja*, I just thought they were – they were the beneficiary of the consequences, *ja* so.

CHAIRPERSON: Okay, right yes.

MS MAKANO MURIEL ANNA MOSIDI: So then they were actually fighting and – and having a tug of war it was Transnet that was actually suffering because we could not do anything. At the same time Chair Treasury was saying we will not give you another extension and we
20 needed the extension because even if we are going transition we still needed T-Systems to be part of that process.

ADV VERUSCHKA SEPTEMBER: If I can interrupt you there.

MS MAKANO MURIEL ANNA MOSIDI: *Ja*.

ADV VERUSCHKA SEPTEMBER: Having mentioned National Treasury is also correct that at paragraph 44.4 of your statement National

Treasury gave particular direction to Transnet in relation to the award to T-Systems?

MS MAKANO MURIEL ANNA MOSIDI: Yes. So for me even that information I got second-hand but yes I was told that National Treasury has given us directive to actually rescind the award to Gijima – to T-Systems and to award to Gijima.

ADV VERUSCHKA SEPTEMBER: And was the decision in fact rescinded?

MS MAKANO MURIEL ANNA MOSIDI: I understand that on the – in
10 September sometime the Board took a decision to rescind the award.

ADV VERUSCHKA SEPTEMBER: And if one ...

CHAIRPERSON: Was that still the same Board?

MS MAKANO MURIEL ANNA MOSIDI: It was still the previous Board
yes not the current Board.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: And if one then turns to page 203
there appears minutes of the Special Board of Directors Meeting held
on 27 September 2017 and if you then turn to page 207 the Resolution
of the Board to rescind the award is documented under paragraph
20 4.1.13.

CHAIRPERSON: I thought you said page 203.

MS MAKANO MURIEL ANNA MOSIDI: 207.

ADV VERUSCHKA SEPTEMBER: 203 is in fact the first page to the
Minute of the Special Board Meeting that was held and the actual
Resolution of the Board to rescind reflects on page 207 and at

paragraph 4.1.13.

CHAIRPERSON: Yes.

ADV VERUSCHKA SEPTEMBER: Can I then take you back to just give an overview of ...?

CHAIRPERSON: Before taking her back I – I asked earlier on Ms Mosidi whether it was the same Board and you said yes but I – I do not see Mr Shane in – in the list of members on page 203. Am I missing something or he might not have not been there?

MS MAKANO MURIEL ANNA MOSIDI: Chair whilst I will not have the
10 exact days I remember that Mr Shane subsequently resigned from the Board of Transnet ...

CHAIRPERSON: Oh.

MS MAKANO MURIEL ANNA MOSIDI: Before we concluded this process.

CHAIRPERSON: Before this meeting?

MS MAKANO MURIEL ANNA MOSIDI: Possibly before this meeting ...

CHAIRPERSON: Oh.

MS MAKANO MURIEL ANNA MOSIDI: And I think that will explain why he was not here.

20 **CHAIRPERSON:** Oh.

MS MAKANO MURIEL ANNA MOSIDI: Ja because I see that he is not even mentioned under apologies. So ...

CHAIRPERSON: Yes. Well it is just seems strange before he spoke at the other meeting nobody seemed to be against your recommendation that Gijima should be given the – the tender. After he spoke

MS MAKANO MURIEL ANNA MOSIDI: Everybody went.

CHAIRPERSON: Member – members of the Committee all agreed with him.

MS MAKANO MURIEL ANNA MOSIDI: Yes.

CHAIRPERSON: After he spoke against it and then when he is not there then they ...

MS MAKANO MURIEL ANNA MOSIDI: They go ...

CHAIRPERSON: They change the decision.

MS MAKANO MURIEL ANNA MOSIDI: Yes Chair.

10 **CHAIRPERSON:** Yes.

ADV VERUSCHKA SEPTEMBER: Thank you Chair. Can I then take you back and just ask you explain the engagement in the settlement negotiations and you have – as you have earlier alluded to in specific regard to the quantum or the value of settlement negotiations that were being discussed.

MS MAKANO MURIEL ANNA MOSIDI: So Chair in an attempt to broker this impasse because we could not do anything and we spent our time and resources trying to resolve the legal wrangles Mr Gama directed me to negotiate a settlement to see if a settlement out of court will
20 actually accelerate the process of clearing the impasse and going on with our business and in that meeting he did call me together with Mr Silinga but I am the one who actually carried out the discussions and the negotiations. I met with both T-Systems and Gijima. Yes it was not an easy discussion moving from one to the other. It was like we were going to make a – a breakthrough and then T-Systems will say

no we cannot accept this or we cannot accept that but also I think what started being of a concern to me is how it was beginning to be construed to be somebody soliciting a bribe or something that is not correct and whilst T-Systems did indicate informally to say they will settle for about 75 million we were not actually prepared to go – to give them anything more than R20 million which was a far cry from where they were in terms for their aspirations. So in the end when we have gone up and down I then wrote a final letter to say the offer is off the table formally and finally and we will go back to the process of trying to

10 haggle this out in court. So that process was actually concluded in that fashion where everything was off the table. No money was paid to anybody but the idea really was to say because we will also need T-Systems to transition let us give them an incentive to transition quickly because they can actually frustrate the process so much because they are the current incumbent. They can actually stay there for the next two years trying to transition and I am not saying they are like that but that is what - that is what will happen because we are really in a mess. So it makes sense when Mr Gama says it will be a performance bonus of R20 million for them to transition quickly to

20 Gijima so that we get on with our business but that whole proposition was then taken off the table formally.

ADV VERUSCHKA SEPTEMBER: Just in relation to your engagements - there was one particular engagement that you had with Gijima on page 18 paragraph 51 of your statement which talks to a private meeting that was had. Can you just briefly explain the details of this

meeting please?

MS MAKANO MURIEL ANNA MOSIDI: So Chair in that process when we were negotiating and trying to clear the impasse but when Gijima was also trying to make sure that they get on-board because they were realising that they were the recommended party and they could not wait to take over. There was a day that a meeting was scheduled and it just had an address in my calendar and so I just followed it in my car but I then ended up at Mr Gumede's house which is somewhere in Saxonwold. So I was there already. I entered and yes we had our
10 meeting there and in the meeting it was Mr Gumede. It was Mr Samuel who was the CEO of Gijima. It was Mr Nxumalo who was the COO of Gijima and the meeting whilst it was really just talking about the readiness to actually transition and take over the work I think I was very uncomfortable that it was in somebody's house. I wish I had known.

CHAIRPERSON: In - in whose house was it?

MS MAKANO MURIEL ANNA MOSIDI: It was in Mr Robert Gumede's house.

CHAIRPERSON: Mr Gumede's house?

20 **MS MAKANO MURIEL ANNA MOSIDI:** Yes how is the Chairman of Gijima.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: So I felt very uncomfortable.

CHAIRPERSON: Yes and – and who had called the meeting?

MS MAKANO MURIEL ANNA MOSIDI: It was called by Mr Nxumalo

who was the COO of Gijima.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: *Ja.*

CHAIRPERSON: Why did you agree to go to Mr Gumede's house?

MS MAKANO MURIEL ANNA MOSIDI: I did not – I actually thought it was one of their offices.

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: Until I followed the GPS ...

CHAIRPERSON: Yes.

10 **MS MAKANO MURIEL ANNA MOSIDI:** To ...

CHAIRPERSON: Yes.

MS MAKANO MURIEL ANNA MOSIDI: And I started realising I am in a residential area ...

CHAIRPERSON: *Ja.*

MS MAKANO MURIEL ANNA MOSIDI: By then it was too late. They were waiting for me.

CHAIRPERSON: Okay, okay.

MS MAKANO MURIEL ANNA MOSIDI: *Ja.* So I – but I did express my displeasure to Mr Nxumalo and I sent him a WhatsApp and I said
20 Maphum I do really prefer office meetings. Any office yours or mine but even for next time let us not do it this way. I just wanted to clarify my position in terms of such.

CHAIRPERSON: Yes, yes.

ADV VERUSCHKA SEPTEMBER: The new Board – the new Board then comes on-board during May 2018. Is that correct?

MS MAKANO MURIEL ANNA MOSIDI: Yes, yes, yes.

ADV VERUSCHKA SEPTEMBER: What was then the engagement with the new Board in respect of this particular tender?

MS MAKANO MURIEL ANNA MOSIDI: *Ja.* So we had – we had several meetings with the Board. In fact when the new Board came I was almost the first Executive to start engaging with them in detail because of not only this tender but other IT tenders as well and I remember we – se just had several meetings where we were presenting because now we were in a corner Chair. Treasury was saying they are not going to
10 give us a further extension. We did not have anyone to award to. We had to go to the court. The court process was going to take forever. We were going to miss the deadline with National Treasury. So we were actually going to start doing expanding unauthorised – so we had to play visibility for the Board. So the new Board engaged and they really tried to understand where we were coming from. We presented the two options – the options that we had and we even started playing with the option of transitioning to ourselves as Transnet and whilst it was a really brilliant idea to transition to Transnet – Transnet was far from ready. It had never insourced these services. When you look at
20 the capability and the skills that were required there was no way in which we were going to do this. So it became – it became the one with the highest risk and so we – we then summarised and showed to the Board to say the only way out for us and we think that if we start transitioning to Gijima Treasury wil understand that we need the time to transition and we will not get into a space where we go unauthorised.

So we actually presented and showed them that Gijima was the least risk – the Gijima option was the least risk option in terms of where we were and I think they started understanding that except that for their own conviction and assurance they needed an independent person to actually look at this whole process in terms of how we were thinking about it and I think Chair at that time when you want an independent reviewer it must be another procurement process and Chair it was at that – at that point that I actually tendered my resignation.

CHAIRPERSON: Where you feeling that this thing was taking too long
10 or what or it was just coincidental?

MS MAKANO MURIEL ANNA MOSIDI: Chair there were a number of things which were at play.

CHAIRPERSON: Yes, okay.

MS MAKANO MURIEL ANNA MOSIDI: I think the first one I really had an opportunity I could not say no to.

CHAIRPERSON: Okay.

MS MAKANO MURIEL ANNA MOSIDI: In terms of the job I am sitting in. Secondly I think I started realising long in 2017 when – when the Board changed the whole award and I could not understand ...

20 **CHAIRPERSON:** Hm.

ADV VERUSCHKA SEPTEMBER:

MS MAKANO MURIEL ANNA MOSIDI: Why I realised this was going to be an uphill ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: Because I was not feeling like I

was getting value from the Board ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: In terms of their input to us ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: But also I was feeling like they were frustrating the process. It is very difficult to work when you are not convinced that this is the – when you know that this is wrong and you want to work at it. Somehow it does not actually all go well even for the teams that you lead. So I felt like something must change. It is

10 a pity the new Board came very late in the process but my mind was actually unlocked ...

CHAIRPERSON: Was made up.

MS MAKANO MURIEL ANNA MOSIDI: Dislodged. I wanted ...

CHAIRPERSON: Ja.

MS MAKANO MURIEL ANNA MOSIDI: To look at something else and I wanted to give the new Board some space for them to do their own assessment ...

CHAIRPERSON: Hm.

MS MAKANO MURIEL ANNA MOSIDI: And interrogation.

20 **CHAIRPERSON:** Hm, okay.

ADV VERUSCHKA SEPTEMBER: Chair and then lastly it is common cause that the tender was in fact set aside on 12 December last year and it is attached to the statement from pages 214 ...

CHAIRPERSON: I think I have seen the judgment – even the judgment.

ADV VERUSCHKA SEPTEMBER: To 234 ...

CHAIRPERSON: Hm.

ADV VERUSCHKA SEPTEMBER: And in particular I just wanted to highlight paragraphs 37, 38 and 39 of the judgment. Can I just be given a second of indulgence?

CHAIRPERSON: *Ja.*

ADV VERUSCHKA SEPTEMBER: Chair I have no further questions for this witness.

CHAIRPERSON: Thank you very much Ms Mosidi. We appreciate that you came to give evidence, thank you very much. You are excused.

10 **MS MAKANO MURIEL ANNA MOSIDI:** Thank you Chair.

CHAIRPERSON: Thank you. Who is leading evidence tomorrow? Do you remember?

ADV VERUSCHKA SEPTEMBER: I understand it to be Ms Refilwe Molefe.

CHAIRPERSON: Okay. We will – we will start at 10 then. We will – we will adjourn the proceedings for the day and tomorrow we will start at 10. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS TO 11 JUNE 2019

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