

COMMISSION OF INQUIRY INTO STATE CAPTURE

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PROCEEDINGS ON 19 JUNE 2019

CHAIRPERSON: Good morning Ms Hofmeyr, good morning everybody.

ADV KATE HOFMEYR: Morning Chair.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Thank you Chair. Chair before we continue with the evidence of Ms Nhantsi I would like if I may ...

CHAIRPERSON: Oh before you do that.

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: I must just say that we were supposed to start at ten
10 but because urgent matters that needed to be dealt with relating to today's proceedings we were not able to do so that is why we are starting now. Yes.

ADV KATE HOFMEYR: Thank you Chair.

CHAIRPERSON: Thank you.

ADV KATE HOFMEYR: Chair before we continue with Ms Nhantsi's evidence I would like to place on record certain facts in relation to the endeavours to communicate with implicated persons that were undertaken yesterday after your direction that those steps should be taken. Chair the consequence of taking some of those steps is that
20 contact was sought to be made with Mr Mngadi who was implicated in Ms Nhantsi's evidence and was to be implicated in Mr Mahlangu's evidence. Those efforts were made and no telephonic communications – spoken communication was successful with Mr Mngadi. But there was communication received from him this morning to our investigators who had made the efforts yesterday to contact him. Our move into what that

communication indicates in a moment but just to recap the position we were in yesterday. Yesterday's position as I relayed it to you Chair was that at least in relation to Ms Nhantsi's evidence there had been Rule 3.3 Notices sent to implicated persons including Mr Mngadi. The communication that was received from him this morning indicates that on his side he disputes having received any of that notification prior to Ms Nhantsi's evidence. Chair the consequence of that is the need for further investigation particularly on our side to understand precisely what did happen when. But in the consequence – in a consequence in
10 which there is communication from Mr Mngadi in which he disputes having received any notification prior to the evidence at all. It is our proposal that we take steps to uncover what the factual state of affairs is and take all steps necessary to ensure that Mr Mngadi receives copies of the relevant statements and affidavits and in particular in relation to Mr Mahlangu that we stand down his evidence until we can report back to you on the status that has been established in relation to Mr Mngadi.

CHAIRPERSON: No that is fine. Let us proceed on that basis. The commission will continue to do what it can to make sure that implicated
20 persons are notified and that they get Rule 3.3 Notices but it does not mean that when we have done all that is reasonably required and we still cannot – and somebody still disputes having received notification that we will never proceed. There will be circumstances where if I am satisfied that all that we are required to do has been done I may give the go ahead that we proceed but in this particular case I think it is in

order that we defer Mr Mahlangu's evidence until we know exactly what has happened or until further attempts have been made to give – to ensure that Mr Mngadi has received notice. I understand that all along the commission was under the – at least the evidence leaders were under the impression that he had received a Rule 3.3 Notices.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: But he has now indicated that he has not and it is important to establish what the position is. So that will be in order. So Mr Mahlangu's evidence will be deferred until you revert. Thank you.

10 **ADV KATE HOFMEYR:** We are indebted to you Chair. Then just in terms of today's proceedings our proposal is to conclude the evidence of Ms Nhantsi and then to move to the next investigation area actually

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: We are in the fortunate position that we had anticipated with some optimism I expect that we would be able to get there today in any event. We have run longer with some of the witnesses but we will just – our proposal is to just move seamlessly into that area of investigation with the two witnesses who will start off the second focus area.

20 **CHAIRPERSON:** That is in order.

ADV KATE HOFMEYR: Thank you Chair if we may then commence with the further questions for Ms Nhantsi? Ms Nhantsi overnight you were requested to try and find the letters that you had referred to where you had followed up with BNP about the FSP licence. You handed those to me this morning, is that correct?

MS PHUMEZA NHANTSI: Correct Chair.

ADV KATE HOFMEYR: Thank you. I would like to take an opportunity to hand them up Chair if I may?

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: And provide you with a copy.

CHAIRPERSON: Yes thank you.

ADV KATE HOFMEYR: Ms Nhantsi and then we will go through them.

Chair my proposal is that we add it at the end of Ms Nhantsi's bundle.

If we were to do so it would commence with the pagination 330. We

10 can take steps over the break to paginate your file accordingly if that is in order?

CHAIRPERSON: That is in order. But I think I have just paginated it.

ADV KATE HOFMEYR: Thank you we are indebted to you for that.

CHAIRPERSON: That is 330 and 331?

ADV KATE HOFMEYR: And then there is a 332. You should have a third page.

CHAIRPERSON: And then 332.

ADV KATE HOFMEYR: Yes. Ms Nhantsi if you will just make those pagination notes as well so we can be literally on the same page when

20 we are dealing with it.

MS PHUMEZA NHANTSI: Not a problem Chair.

ADV KATE HOFMEYR: So Ms Nhantsi if we can just start there. This – you referred in your evidence yesterday to communication with BNP Capital on I think it was the 13 July in which you raised a query about their statement at the time that they had previously alerted you to the

suspension of the their FSP licence, is that correct?

MS PHUMEZA NHANTSI: Correct Chair.

ADV KATE HOFMEYR: And can you tell the Chair what this letter then contains?

MS PHUMEZA NHANTSI: Yes certainly. Chair yesterday I testified that when Ms Fikelepi was doing the process in terms of engaging on the agreement he sent on the 6th we deal with it yesterday on the email where she wanted FSP...

CHAIRPERSON: That was 6 May?

10 **MS PHUMEZA NHANTSI:** 6 June.

CHAIRPERSON: Of July?

ADV KATE HOFMEYR: July.

MS PHUMEZA NHANTSI: 6 July.

CHAIRPERSON: July okay.

MS PHUMEZA NHANTSI: Yes. She sent an email where she wanted BNP to confirm that the FSP licence is in order and we need a copy and also a confirmation that it is in good standing. You recall Chair that yesterday we saw FSP a copy that was certified dated 23 June. When we received queries specifically the letter that came from Webber
20 Wentzel on the 13th what we distributed today Chair is the letter that we wrote to BNP. Allow me to read it because you just circulated today Chiar.

CHAIRPERSON: Yes.

MS PHUMEZA NHANTSI: The letter is dated 13 July 2016 attention to the CEO Mr Daniel Mahlangu. It says:

“We note with concern your letters that confirms that at the time of SAA appointing BNP Capital to source funds on its behalf you had communi – you have received communication from FSB of its intention to suspend BNP’s FSB licence. As you are aware the critical criteria of RFP included a FSB licence. The subsequent confinement of sourcing of funds was based on BNP having successfully met the RFP criteria particular holding a FSB licence.

10 Furthermore South African Law requires a financial services provider to hold on – a FSB licence in order to provide authorised services. Holding such valid licence is a material condition for the provision of the financial services to SAA. In the letter dated – in the letter received from you via email by our acting CEO on the 11 July 2016 you indicated that there was a communication sent to SAA on the 13 May 2016 relating to the intention to suspend your FSB licence. Please be advised that we do not have that

20 correspondence and could you kindly send it to us and also indicate the name of the person that you have sent the communication to. In the light of the above SAA hereby gives you a notice to rectify the situation and provide us with a valid FSB licence and confirmation of good standing from FSB by no later

than Wednesday the 20 July 2016 failing which your appointment including the appointment to source funds on behalf of SAA may be terminated.”

ADV KATE HOFMEYR: Ms Nhantsi can I clarify that you did not then receive the confirmation that a prior communication had been sent on the 13 May after this letter was sent?

MS PHUMEZA NHANTSI: Yes Chair I can confirm that we did not receive any communication or any confirmation as we have requested in the letter that they must give us that proof they must even tell us
10 who did they send the communication to. So we never received it Chair.

ADV KATE HOFMEYR: So as you have the facts that was not received on the 13 May by SAA?

MS PHUMEZA NHANTSI: Yes, yes Chair.

ADV KATE HOFMEYR: Thank you. Ms Nhantsi I would then like to conclude on some aspects in relation to the cancellation fee but before we get there I wanted to just be clear on some of your evidence yesterday. One of the questions we probed was your knowledge of Mr Mngadi's association with Nedbank which you indicated you were aware
20 of from early early on. What I was not clear on in relation to your evidence is when precisely in time to the extent that you know it Ms Meyene would have been aware that Mr Mngadi was associated with BNP Capital? When about would that have occurred? And just to help you on the chronology BNP Capital gets appointed as transaction advisor on the 20 April.

MS PHUMEZA NHANTSI: Yes.

ADV KATE HOFMEYR: They are then appointed to source funds on the 25 May. What I am interest in to the extent that you know it all is whether prior to or in that period Ms Meyene would have known that Mr Mngadi was representing BNP Capital?

MS PHUMEZA NHANTSI: I do not know Chair. I really do not know. I will really be speculating at this point in time.

ADV KATE HOFMEYR: There is one email communication however

MS PHUMEZA NHANTSI: Okay.

10 **ADV KATE HOFMEYR:** Which you have provided us with.

MS PHUMEZA NHANTSI: Yes.

ADV KATE HOFMEYR: If we can find it in your file. Well certainly the sms – the Whatsapp communications refer to engagements that Mr Mngadi is having with Ms Meyene around the sourcing of funds.

MS PHUMEZA NHANTSI: Agree.

ADV KATE HOFMEYR: So at least at that point and as I have it those begin around the 31 May would you regard it as the case that Ms Meyene would have known of his involvement then?

20 **MS PHUMEZA NHANTSI:** Yes Chair I would. I think the email that you referring to is it the one dated the 8 June?

ADV KATE HOFMEYR: Yes indeed.

MS PHUMEZA NHANTSI: Yes.

ADV KATE HOFMEYR: So that is an email to yourself and to Ms Meyene from Mr Mngadi is that correct?

MS PHUMEZA NHANTSI: And acting CEO yes.

ADV KATE HOFMEYR: And the acting CEO. It is the four of you and it relates to the sourcing of funds?

MS PHUMEZA NHANTSI: Agree.

ADV KATE HOFMEYR: Which at that stage or was contracted to BNP?

MS PHUMEZA NHANTSI: Yes Chair.

ADV KATE HOFMEYR: So would you be comfortable with the assertion that at least at those periods in time end of May and continuing thereafter Ms Meyene would have been aware of his role in BNP?

MS PHUMEZA NHANTSI: Yes I will be comfortable Chair.

10 **ADV KATE HOFMEYR:** But you do not know for a fact whether she was aware of that prior to that point?

MS PHUMEZA NHANTSI: No I do not know Chair.

ADV KATE HOFMEYR: And just for the record I take it that when those decisions were made in relation to the extension of scope of the transaction advisor to source funds and the board voted on that Ms Meyene did not declare any conflict of interest in relation to that decision?

MS PHUMEZA NHANTSI: I do not recall any conflict of interest that Ms Meyene declared in the meetings.

20 **ADV KATE HOFMEYR:** Thank you. If we may then just return to the conclusion of your evidence on the cancellation fee Mr Nhantsi.

MS PHUMEZA NHANTSI: Yes.

ADV KATE HOFMEYR: As I understand your evidence of yesterday you regarded the cancellation fee as a scheme perpetrated by Ms Meyene with the assistance Mr Mngadi to enrich themselves, is that a correct

reflection of your evidence?

MS PHUMEZA NHANTSI: It is Chair. It is a correct reflection especially knowing what I know now and after the testimony of Mr Van Der Merwe especially having said that he never claimed any cancellation fee from them yet the letters that we have been receiving from BNP as well there was one that was even saying that the 5 million US dollars is the – is the money that they will filter it down to SAA because it is claimed by Grissag AG PTY LTD.

ADV KATE HOFMEYR: You also were receiving sustained pressure to
10 push through the approval of the cancellation fee, is that correct?

MS PHUMEZA NHANTSI: Correct Chair.

ADV KATE HOFMEYR: And you accept I take it that if it had been approved it would have cost SAA R50 million if the funding had not come to bear fruit?

MS PHUMEZA NHANTSI: I accept that Chair with all the means that I tried to do behind the scenes to make sure that it does not get approved. But if it did go ahead it was going to cost the company R50 million.

ADV KATE HOFMEYR: Um...

20 **CHAIRPERSON:** Um I am sorry before you proceed I meant to ask you yesterday. You have said that you received a lot of pressure from Ms Meyne.

MS PHUMEZA NHANTSI: Yes Chair.

CHAIRPERSON: I would like you to articulate in as clear a manner as you can exactly what it is that she was saying to you which you

regarded as putting pressure on you on different occasions.

MS PHUMEZA NHANTSI: Yes Chair. On different occasions as I have highlighted yesterday that earlier in – after I joined SAA she said she does not write anything down. I would receive calls Chair a minimum of three a day from the chairperson of the board. One thing that was consistent in her messages is the pace that I am moving it is as if it is business as usual and it is not business as usual we need to move we are delaying things, why are we taking unnecessary documents to the board, why am I – the board has given us approval to go ahead with the
 10 transaction yet I want to keep on sending back the documents to the board. So all the time the pressure was more on what are you waiting for approve. Certain things are under your delegation and acting CO's are delegation so we must approve. Specifically on the cancellation fee Chair especially when I send the term sheet and I included the non-binding that is where the pressure was then mounting to say she even also said I was appointed and they thought I would be in the team that is turning around the company it looks like I do not appreciate the pressure that they are in as the board in terms of getting the funding. My pace is very slow. I treat the business as if it is business as usual.
 20 There is no need for me to be – to be including certain clauses that do not have anything to do with the funders. So one pressure was take out the non-binding because the funders now have got the perception that SAA does not need money. So the pressure where along those lines Chair also allow me perhaps because it is one of my evidence where she will request certain things Chair. For an example there was

an event where she said to me she thought I was coming from rural areas which I agreed because I am Chair coming from rural areas. She said but under my leadership SAA Procurement spend is still 2% of the 24 billion. So I then endeavoured to get the information for her to say Chair if you look at the total expenditure of SAA which at the time was 24 billion at the biggest 60% of that expenditure Chair was made up of jet fuel, of salaries, of lease rentals because SAA only owned 9 aircrafts but had a fleet of 66 so the rest is lease rentals where you pay in dollars. The other one was the maintenance reserves. So I then said

10 as much as you can give the black players the job but if you do not play into this big five of the big ticket items it will not really make a mark and I do not believe that there is a black player for example I did say we have not tested the market but who will buy the aircraft for an example? She then following meeting she gave me for an example two names of the – of the companies and then she said now that you said black people do not have money to buy aircrafts do you think black people do not have money to even insure the aircrafts? I said I can look into that Chair because insuring of the aircrafts also – is linked with the lease rentals because normally there is a clause on the lease

20 rentals that will dictate who can insure the aircraft. And then myself and my team the fleet committee looked at the – we then looked at the different aircraft types with the insurance clauses and more – all of them Chair were saying the aircraft should be insured by an internationally recognised insurance company and that is the clause that is dictated by the lessors themselves because they own the

aircraft. So I went back to her to say Chair I will not be able to do – to check and to include the local insurers because they will be in breach of the contractual agreement. She then said she saw it in my eye – in my eyes that I will not do it. So I asked, what do you mean Chair and then she said she related a story to say she does have a child who is a chartered accountant. She does not say a lot like I do but she sees it in the eye if she is not going to do something. So she said she saw that in my eyes when she was giving me an instruction that I am not going to do it. So those were the type of pressures that I was getting Chair.

10 Some of the examples I have included them in my statement.

CHAIRPERSON: Okay no that is fine those that you have included. Now of course the – the truth is that there was a certain degree of urgency in finalising – in getting funds for SAA because as you said yesterday the maturity dates for certain loans were coming up soon.

MS PHUMEZA NHANTSI: Yes Chair.

ADV KATE HOFMEYR: Ja. Now if she were to say yes she did put pressure on you but the pressure she put on you was legitimate because as chairperson of the board she needed to make sure that SAA did not find itself in a situation where those maturity dates arrived and
20 there were no funds and disaster would then happen. What would you say?

MS PHUMEZA NHANTSI: I would agree and say yes and no Chair. More because one thing we were working together in terms of all of us knew that there are loans that are maturing but the pressure that she was more putting was she wanted us not to take the things to the board

and that was the board transaction. So all the decisions needed to be taken by the board so she was then putting pressure that there is no need we are bombarding the board with unnecessary approvals. So she did not want us to take documents to the board Chair. I am in agreement with the loans that were about to mature and I had appreciation of that as well.

CHAIRPERSON: Yes the importance of the question I was asking you is because – is that it is important that I know if the pressure that she put on you was for you to do something wrong something illegal, something un-procedural, something against the policy of SAA or maybe it was not necessarily pressure to make you do wrong things but it was pressure that you do the right thing but you act maybe with more haste in the light of the emergency. So it is important that I get the picture as to which pressure you are talking about. Was it to do something wrong? To do the right thing and – and to what extent are you basing what you say on what she said and to what extent you are basing what you are saying on your own impressions. That is why I wanted to know exactly what she said.

MS PHUMEZA NHANTSI: Yes Chair.

20 **CHAIRPERSON**: So – so what do you say?

MS PHUMEZA NHANTSI: Yes Chair I am saying certain pressure was based on the performance because loans were maturing.

CHAIRPERSON: Yes.

MS PHUMEZA NHANTSI: But the pressure that says do not take things to the board yet this is a board transaction. So basically I needed – it

was beyond my mandate and beyond acting CEO's mandate Chair that decisions and the responsibility and the accountability needed to be taken by the board because in terms of DOA this is the board transaction so now she – in her way she was asking us to do illegal things that I feel if you do them she will again come back to you and say you did things that were illegal.

CHAIRPERSON: And would you – would you be able to say or what would you say if she were to say I genuinely believed that those things did not need to be taken to the board. I would not have asked you to –
10 not to take to the board things that I knew should go to the board. What would you say if she were to come here and say that?

MS PHUMEZA NHANTSI: I would say Chair she will be – being not truthful especially that the recent delegation of authority was approved after I joined SAA so it was very fresh to everyone's mind in terms of how much is the authority for CEO, for CFO how much is the delegation – things that you need to take to the board. So it was not an old document. It is on the pack – it was approved when I was there Chair – yes.

CHAIRPERSON: So you say she knew that she was – that the things
20 that she was saying you should not take to the board were things that should be taken to the board?

MS PHUMEZA NHANTSI: Yes Chair.

CHAIRPERSON: Okay. Thank you.

ADV KATE HOFMEYR: Ms Nhantsi just a few follow up questions in relation to that engagement with the Chair if I may. Do you know

whether Ms Meyene knew about the provisions of Section 66 of the Public Finance Management Act which require the Accounting Authority of any SOE to approve any borrowing by that SOE?

MS PHUMEZA NHANTSI: Please come again?

ADV KATE HOFMEYR: Section 66.

MS PHUMEZA NHANTSI: Yes.

ADV KATE HOFMEYR: Of the PFMA.

MS PHUMEZA NHANTSI: Yes.

ADV KATE HOFMEYR: Says borrowing decisions by any public entity
10 must be done by the Accounting Authority and in the case of SAA that is the board.

MS PHUMEZA NHANTSI: Yes.

ADV KATE HOFMEYR: The board is the accounting authority. Would Ms Meyene do you know whether Ms Meyene would have known of that legal provision? It is referenced in the funding policy of SAA amongst other places?

MS PHUMEZA NHANTSI: Chair I would assume that she knew that.

ADV KATE HOFMEYR: Was it ever discussed at the meetings that the board always would have to approve borrowings?

20 **MS PHUMEZA NHANTSI:** I do not recall it having discussed but having appreciated the fact that she has been the chair of the board of SAA for quite some time and before becoming the chair of the board she was the board member of SAA I would reasonably assume that she knew.

ADV KATE HOFMEYR: It certainly one of her duties as a board member.

MS PHUMEZA NHANTSI: Agree.

ADV KATE HOFMEYR: To know of the applicable legislation, is it not?

MS PHUMEZA NHANTSI: Yes Chair I agree.

ADV KATE HOFMEYR: And may I ask also in relation to what was lawful or not at the time about the National Treasury's instruction note of 3 of 2016/2017. Ms Nhantsi you gave to me yesterday morning before your testimony an extract from it. Overnight I was able to source the full notice Chair and Ms Nhantsi you will find it in your file and it – that is DD2 and it commences at page 324.

10 **CHAIRPERSON:** What is the page number?

ADV KATE HOFMEYR: 3-2-4.

CHAIRPERSON: Thank you.

ADV KATE HOFMEYR: Chair this is a note that actually came up in the Eskom evidence in relation to Brakfontein. So that is why I have any familiarity with it. It is an interesting practice note because it comes out in April 2016. It is made operative from 1 May but you will see from the heading what it was directed at was Preventing and Combatting Abuse in Supply Chain Management System.

20 So this is National Treasury in mid-2016 directing all public entities and departments under the PFMA about certain constraints that they were placing on the decision making that Boards of SOEs for example could take and one of those constraints you will find at page 3-2-7. It is under Section 9.

This was also the provision that was relevant in the Eskom evidence. What it required is that if there was to be an extension of

any existing contract above 15 percent of the value of that contract there would have to be prior written approval from National Treasury for that expanded contract to be concluded. Ms Nhantsi was the Board made aware of this at the time that they decided to expand the scope of BNP to include sourcing of funds?

MS PHUMEZA NHANTSI: Chair this proposal – I mean – the Instruction 3 from National Treasury as you rightfully say it was effective April 20 – May 2016.

ADV KATE HOFMEYR: 1 May, yes.

10 **MS PHUMEZA NHANTSI:** 1 May. It – it talks about anything above 15 percent has to be taken to National Treasury prior. It was not - Chair this was not implemented at SAA.

ADV KATE HOFMEYR: But was it known to the Members of the Board that this was a requirement?

MS PHUMEZA NHANTSI: I am not aware Chair if it was known at the time. Also I think I became aware of it later in the year. I am not sure if we received at the – at the same date Chair.

ADV KATE HOFMEYR: Well it is a National Treasury instruction to all accounting officers of departments and constitutional institutions. So
20 you – you do not know whether SAA was alerted to the existence of this notice?

MS PHUMEZA NHANTSI: I am not – I am – I do not know Chair and all the communications they come via in terms of the protocol via the Chairperson of the Board. So I am – I am not aware. I am not sure when she received this from National Treasury.

ADV KATE HOFMEYR: But if anyone received it – it would have been the Chairperson of the Board?

MS PHUMEZA NHANTSI: Yes Chair.

ADV KATE HOFMEYR: Thank you. Are you satisfied that the expansion of the scope of BNP Capital's contract would have been within the ambit of this practice note and consequently ought to have obtained the written authority and approval of National Treasury before it was concluded?

MS PHUMEZA NHANTSI: Based on this yes Chair.

- 10 **ADV KATE HOFMEYR:** Ms Nhantsi if we can then go back – I was concluding on your evidence in relation to the cancellation fee. The pressure that you – was exerted on you and which you have clarified to the Chair and your understanding at the time that it was untoward the insistent of the payment of the cancellation fee.

Ms Nhantsi were you aware at the time of your obligations under the Prevention and Combatting of Corrupt Activities Act?

MS PHUMEZA NHANTSI: Come again.

- ADV KATE HOFMEYR:** Were you aware at the time that you recommended to the Board that they approve the cancellation fee that
20 you had certain obligations under the Prevention and Combatting of Corrupt Activities Act to report any knowledge of or suspicion that acts of corruption, fraud or theft were taking place in a company?

MS PHUMEZA NHANTSI: Yes I was aware.

ADV KATE HOFMEYR: So you accept that you are a – in a position of authority in relation to SAA?

MS PHUMEZA NHANTSI: Yes I do.

ADV KATE HOFMEYR: So why did you not take those steps that are required of you to be taken under Section 34 of that Act?

MS PHUMEZA NHANTSI: I considered that Chair but I was still going to take those steps and it is one of the instances where I would say it was overtaken by events. Whilst you – you suspect that on this – on this cancellation fee there – there are foul plays and all that you then received – we received communication from – from Webber Wentzel and we have – we communicated with – with BNP.

10 So there were lots of things happening Chair. One thing that kept me – kept my focus was to ensure that if BNP does not have the – the FSB Licence as it was a critical criteria my main concern was to safeguard the assets of the company. I needed to ensure that I cancel the transaction with BNP.

 So whilst I was aware of the combat and prevention of corrupt activities Chair I was - I was more focusing on protecting the assets of the company because I wanted to cancel with the pressure as well because during the time that we gave BNP on 13 July and the 20th the calls kept on coming from the Chairperson of the Board saying we
20 should not cancel with BNP because BNP will sue us.

 So in my engagements with her I used to ask what would be their basis to sue us and she would say no we need to give them the cancellation fee. We need to approve things. We promised them that they must go source funds for us. The funders are out there getting money for us and now we are cancelling.

So I then said no Chair but the critical criteria where other companies were disqualified was the FSB Licence. So yes Chair as much as the combat and the prevention of corrupt activities I knew about it. It was on – not on the top of my agenda. My focus was to ensure that I cancelled the transaction with BNP should they not have the FSB Licence especially after starting to suspect as well that BNP as well looks like he is misrepresenting to us because on 6 July they gave us a copy of the FSB Licence and now they are not responding to us.

So I agree but the focus to protect the assets of the company
10 Chair.

ADV KATE HOFMEYR: So you accept that you breached your legal obligation under Section 34 of that Act?

MS PHUMEZA NHANTSI: I accept Chair but as I have highlighted that I was looking at the bigger picture in terms of – of – because at the end nothing happened. I safeguard the assets of the company. The company was not in any financial prejudice. I think that is what I was in – interested in or focusing on.

ADV KATE HOFMEYR: Ms Nhantsi do you accept that you did not act in the best interest of SAA when you recommended approval of the
20 cancellation fee?

MS PHUMEZA NHANTSI: We – we discussed this Chair yesterday that I acted in the best interest of the company by – because of the pressure I recommended it but I did work behind the scenes in terms of talking to the other Board Members to ensure that the – the transaction or the approval does not go through.

So I acted with the information and the pressure that I had at the time. I believe that to the best of my ability I acted in the best interest of the company to save it.

ADV KATE HOFMEYR: Ms Nhantsi it is – in fairness I must put this to you for your comment. What you could have done I would like to suggest to you to protect the best interest of SAA was to prepare that submission on 4 July that you prepared to notify the Board that there had been this request for a cancellation fee from BNP to set out under Point 2 of that template how it had been motivated and under Point 3 of
10 that template headed “Recommendation” acting in the best interest of the company would have been to recommend that it not be approved.

A, because there was no basis for it. B, because it would be a cost that would not justifiably be borne by the company in its precarious financial position and C, because you were highly suspicious at that stage of the circumstances surrounding it. What is your comment in response?

MS PHUMEZA NHANTSI: Thank you Chair. Whilst I – whilst I appreciate the fact that I did not put the – that I am not recommending I think I also came to the Commission more to – to – for the South
20 Africans to understand the pressure that was mounting on us. The environment that we were working under and I also stipulated yesterday that whilst we were under pressure I did not act negligently by just accepting what the Chair is saying and do it.

I did under the circumstances and also if – if the Commission can appreciate the pressure Chair that we are under and at some point

I was even scared. I understand the – the fact that the recommendation is saying approve but I would also appreciate if this Commission can also appreciate the steps that I did in terms of communicating with the Board Members and ensuring that eventually the transaction does not go through.

Some of the things are difficult Chair but I really want to paint a picture to say we were really under a lot of pressure. If it was according to me I would not have even taken the – the submission to the Board but we were working under pressure to a point where I even
10 said it yesterday that there was a point I would be scared Chair.

CHAIRPERSON: I want to hear more about what you were scared of. What – what were you – what were you thinking was going to happen? What were you scared of?

MS PHUMEZA NHANTSI: Chair when I joined – perhaps let me start by saying when I joined SAA I was very excited to be part of the team that will turn around the company. I believed that I do have the skill and the competency to – to work at SAA but when I was on the ground I realised that the work is doable but there are these political things where these undue pressures that are coming especially from the
20 Board.

So when I joined SAA I would hear certain things. For example there would be – there were certain people who were suspended because they were – sometimes they were saying no to the decision or the instructions from the Chair. So I – I decided that I will stand my ground but as the pressure was mounting – as I said

yesterday I even one day told my husband that I do not know what I got myself into when I joined SAA.

Maybe I joined SAA at the wrong time because the pressures are coming left, right and centre Chair where you are given this instruction to do this. You are given an instruction to do this and certain things are not lawful. For example you will just be given a CV to say appoint this person in the procurement space and when the processes are done for example if I can give you that example.

When – Chair one of the days told me that there is a guy who
10 – who struggles and does not have a job and this person when she was
– when this person was praying he saw a vision from God that the person who will assist you in your problems is – is Ms Myeni. So I said oh wow Chair and then she then said procurement area is in shambles. Appoint this – appoint this person in procurement.

At the end of that discussion that I had Chair with the – with the Chairperson of the Board I had a missed call – I had a message and also a CV from this person. So whilst we were discussing with the Chairperson I then assumed that she gave me his details. So through the – the process - the recruitment process when I spoke to the Acting
20 Chief Procurement Officer because it was his area.

He knew about it because he did not ask me questions. So it means Chair spoke to him as well. So the interviews were set Chair because there as a – a vacant – there were vacancies in the procurement space. The – the person who came in on the interviews he failed dismally. I did not attend Chair the interviews but I was told

by the – Mr Lester Peters that he failed dismally.

When I called the Chairperson to give an update that Chair unfortunately this person failed dismally. Chair summoned me to take the – I told him in the afternoon. He summoned me to go to Durban and take a first flight the following day.

CHAIRPERSON: How far – how far to come and talk to you about the – that interview?

MS PHUMEZA NHANTSI: Yes Chair.

CHAIRPERSON: And you – you did so?

10 **MS PHUMEZA NHANTSI:** I did so Chair. I took a first flight the following day.

CHAIRPERSON: Hm.

MS PHUMEZA NHANTSI: We met at Sibaya.

CHAIRPERSON: Hm.

MS PHUMEZA NHANTSI: Yes in Durban. A first question that she asked me was how a person with LLB can fail an interview. I was still casual about it Chair then and then I said no – no Chairperson even a chartered accountant fails an interview and then she said does this mean you are not going to take instructions or implement instructions
20 from the Board.

Again casually I said Chair did this have a Board Resolution and then I could see from – from her face Chair that I think my answer is wrong and then I then changed to say – because now I was not feeling comfortable and I am not in Johannesburg and I – I do not know Chair.

I just felt uncomfortable and then I then said no perhaps Chair I need to go back and we are going to look in the procurement area with a team. Maybe there are other vacancies there that are lower than what we interviewed the guy for. Maybe this position was very high for – for him and then he asked me are you going to do that and then I said yes Chair I will do it and then – that is how I got out of it Chair and I never implemented that.

CHAIRPERSON: And is that all that you were called to Durban to discuss with her?

10 **MS PHUMEZA NHANTSI:** The – the – there were three items Chair. The second one that we discussed: during the time I joined SAA ...

CHAIRPERSON: Hm.

MS PHUMEZA NHANTSI: There was a decision that was taken by the Board. I am not sure whether it was coming from National Treasury ...

CHAIRPERSON: Hm.

MS PHUMEZA NHANTSI: To vet all top 100.

CHAIRPERSON: Well you – I am sorry. You do not need to go – to deal with those unless ...

MS PHUMEZA NHANTSI: No this is ...

20 **CHAIRPERSON:** They are examples of ...

MS PHUMEZA NHANTSI: Yes. This is ...

CHAIRPERSON: Pressure that was put on you.

MS PHUMEZA NHANTSI: Yes Chair this is another example. This is one of the topics that we discussed on that day.

CHAIRPERSON: Yes, okay.

MS PHUMEZA NHANTSI: The vetting process by Security State Agency was – was in – in progress at SAA. She told me that there were - some candidates have been vetted already. Some have not but in my Finance Department there is one person who has failed the vetting and I cannot have a – a person who has failed the vetting in the finance area because it is sensitive.

CHAIRPERSON: In – in whose section was that? In the Chair's - SAA Chair's section or in yours?

MS PHUMEZA NHANTSI: In mine.

10 **CHAIRPERSON:** In your section, oh.

MS PHUMEZA NHANTSI: She said in finance ...

CHAIRPERSON: Oh, in finance okay.

MS PHUMEZA NHANTSI: And - and finance was - was headed by me Chair.

CHAIRPERSON: Hm.

MS PHUMEZA NHANTSI: So she – I then said okay what are the results and then she did not give me the results but she said the person who failed the – the vetting in your area is – is Ms Lindsay Olitzki. So I suggest that you go back. Tomorrow have a
20 meeting with Lindsay and – offline meeting – and you must give Lindsay two options.

Either she must check where else can you place her in the – in the organisation or you must fire her. I then raised concerns Chair because it will trigger the – the labour disputes especially if it was not part of – of an employee's contract. So I also took that and I came

back.

I discussed that with the Acting CEO and raised my concerns to say we need to have a – a uniform of doing – of dealing with the results that are coming from SSA and this is what the Chair has said I must do on my side. So Acting CEO as well agreed with me to say let us wait until the entire process is concluded and we will discuss it with Exco and come up with a policy on how to do the – on how to handle the ones that have passed and the ones that have failed the vetting.

That day Chair I got a call from Chair in the afternoon asking
 10 if I spoke to Lindsay and I said no I did not talk to Lindsay but I spoke to the Acting CE because – and I – I then explained what we discussed and what we agreed and then she was furious to say she gives me instructions and I do not follow instructions.

Instead I go and discuss with Acting CEO. If – if she wanted to discuss with Acting CEO she should have done so. I said but Chair he is also my direct report and we are also protecting the company from the labour disputes and - and all that. I then even suggested to her to say maybe she needs to talk to the Acting CEO and then we formulate a – a view on how to treat these and also perhaps check with the Legal
 20 Department and ensure that the company would be protected from the labour disputes Chair.

CHAIRPERSON: Okay. So those are the matters that you – you discussed at least which relates to ...

MS PHUMEZA NHANTSI: Ja.

CHAIRPERSON: Some of the pressure ...

MS PHUMEZA NHANTSI: Yes Chair.

CHAIRPERSON: That you say she put – put on you?

MS PHUMEZA NHANTSI: Yes Chair.

CHAIRPERSON: Okay, thank you.

ADV KATE HOFMEYR: Ms Nhantsi just two follow up questions in relation to that State Security Agency vetting.

MS PHUMEZA NHANTSI: Yes.

ADV KATE HOFMEYR: When did that occur?

MS PHUMEZA NHANTSI: I think it occurred between June – I stand to
10 be corrected. I can – I can check. I think from June 2016 but I can – I
can – I do not know the exact – but it was in 2016.

ADV KATE HOFMEYR: And who in SAA was vetted by the State Security Agency?

MS PHUMEZA NHANTSI: The – the meeting that we had was all the top 100 Executives will be vetted. I heard from – from the passages that some did not submit the information and some did. I am one of the people who submitted the information.

ADV KATE HOFMEYR: Did you regard it as strange that 100 people at SAA were being vetted by the State Security Agency?

20 **MS PHUMEZA NHANTSI:** I regarded it as strange Chair because that is the – in my understanding that is the process that you do when especially the top secret security clearance ...

ADV KATE HOFMEYR: Hm.

MS PHUMEZA NHANTSI: Because the – the SS - SSA was doing the top secret security clearance. So it is strange because my

understanding is at Executives we are a different levels and we will be exposed to different confidential information. So we would not – you would not take the entire 100 ...

ADV KATE HOFMEYR: Hm.

MS PHUMEZA NHANTSI: And vet for top secret security. Some will be vetted for the – the clearances that are lower than that. So it was strange.

ADV KATE HOFMEYR: Did your position ever require you to receive top secret documents?

10 **MS PHUMEZA NHANTSI:** I did not believe so but I did because I was instructed to do it.

ADV KATE HOFMEYR: And I have it from your statement that you were told the basis on which Ms Olitzki had failed her state security vetting. If you go to page 21 you record there that:

“Ms Myeni told you that she had failed it because of
dual citizenship.”

Is that correct?

MS PHUMEZA NHANTSI: Correct Chair.

ADV KATE HOFMEYR: Did you regard there as being something more
20 behind Ms Myeni’s instruction to use a dual citizenship issue to remove Ms Olitzki from the Finance Department?

MS PHUMEZA NHANTSI: Yes Chair. When – when she gave me this instruction it was when I was suspecting that there – there are things that Ms Myeni is doing because first she asked me to appoint somebody in the procurement area and – and I assumed that she wanted

somebody to be her eyes and ears in the procurement space. Maybe now she wanted – she had somebody in mind that she wanted to put on – on Ms Olitzki's position.

ADV KATE HOFMEYR: And did you raise that all with her?

MS PHUMEZA NHANTSI: No I never raised it Chair.

ADV KATE HOFMEYR: And then just too clarifying relation to the Chair's earlier question. He was engaging with you about how – in what respects you felt scared and then you told us about this increasing pressure and the different instances of it.

10 **CHAIRPERSON:** You are reading my mind.

ADV KATE HOFMEYR: Yes Chair.

CHAIRPERSON: I – I wanted to go back to it because ...

ADV KATE HOFMEYR: I am sorry.

CHAIRPERSON: I – I realised she told me a lot of things but ...

ADV KATE HOFMEYR: Hm.

CHAIRPERSON: We did not get to that but continue. I think you know exactly what I wanted.

ADV KATE HOFMEYR: Indeed. Can you clarify for us what constituted your fear because there seemed to be a range of options? It may have
20 been that you – your job would have been on the line. It may have been different types of fear that you were experiencing. In one of your answers you referenced not being in Johannesburg and feeling uncomfortable. Can you please try and enable us to understand what that fear was like?

MS PHUMEZA NHANTSI: Yes Chair I ...

CHAIRPERSON: And – and what it is you were scared of as well.

MS PHUMEZA NHANTSI: Chair I was scared. When I was in Durban I was – I was scared. I will put it bluntly Chair. I was scared of my life and I am not saying Chair ...

CHAIRPERSON: Hm.

MS PHUMEZA NHANTSI: Was going to do anything ...

CHAIRPERSON: Hm.

MS PHUMEZA NHANTSI: Something came to my mind that I need to be careful. I was scared of my life. I was never scared of – of losing my
10 job Chair because ...

CHAIRPERSON: Hm.

MS PHUMEZA NHANTSI: I believed that I work hard. I am dedicated. My work ethics talk for itself. I can get another job.

CHAIRPERSON: You mean if you say you can get another job it means you would lose this one and get another one?

MS PHUMEZA NHANTSI: Yes, yes Chair. It was clear to me that I was going to eventually lose especially after the cancellation of the – of the BNP. It was clear that I was going to lose it because some of the instructions that Chair would give me would say you are not performing
20 because you do not have KPIs.

CHAIRPERSON: Oh. So when you say you are not scared of losing the job it is because you did not think that you could lose your job at SAA but you are simply saying losing the SAA job was not something you were worried about because getting another job would not be a problem. Is that what you are saying?

MS PHUMEZA NHANTSI: Yes Chair. What I am – what I am trying to paint is I was doing my work to the best of my ability and with dedication and – and all that. It was never in my forefront that I should please certain people because I need to protect my job. To clarify on – on the one for – for - especially after the transaction of BNP.

I knew after we cancelled the – the BNP Contract that Chair might do what Ms Kwinana told me earlier because Ms Kwinana used to relate that you – you have got a shelf life - that is what she used to say – you have got a shelf life with – with Ms Myeni. If you do not do
10 certain instructions and then she related instances where she will go to Sunnyside Café and disguise herself and write whistleblowing emails.

CHAIRPERSON: Who is she now? Who – who was she – who is she that went to – used to go to Sunnyside?

MS PHUMEZA NHANTSI: Ms Myeni.

CHAIRPERSON: Okay.

MS PHUMEZA NHANTSI: Ms Myeni used to go to – this is the – what was related by Ms Kwinana and it was also in the article in 2017 in the Mail & Guardian where Ms Kwinana stated this to say Ms Myeni if you are not – if she wants to get rid of you she - she sometimes goes –
20 even goes to the extent of going to the Sunnyside Café and disguise herself and write whistleblowing emails and then from there because the custodian of – of whistle blower at SAA was the Chief Internal Audit she would come and then put pressure on the Chief Internal Audit to either suspend you or to dismiss you or appoint – there - there is some – some firms to do the work.

CHAIRPERSON: So – so in the end what is it that you were scared of there?

MS PHUMEZA NHANTSI: In – in Durban I was scared of my life.

CHAIRPERSON: Yes. You – you thought that you could be killed?

MS PHUMEZA NHANTSI: Something like that Chair.

CHAIRPERSON: And on other occasions when you say pressure was put on you and you were scared what were you scared of?

MS PHUMEZA NHANTSI: Hm.

CHAIRPERSON: What did you think would happen and who would do
10 what? What is it that you were scared of?

MS PHUMEZA NHANTSI: Chair I was – on all the occasions – let me say I was scared of my life Chair ...

CHAIRPERSON: Hm.

MS PHUMEZA NHANTSI: And – and with all these pressures and also with Mr Mngadi and everyone – pressure coming from everywhere I was scared of my life.

CHAIRPERSON: And did you think that if you did not give – you did not carry out certain instructions or you did not do certain things that you were opposed to doing you could be harmed?

20 **MS PHUMEZA NHANTSI:** Come again Chair.

CHAIRPERSON: Did you think that if you did not carry out certain instructions with which you did not agree or if you did not do certain things in regard to which pressure was being put on you – you would be harmed?

MS PHUMEZA NHANTSI: Yes Chair I – I did. Those came across my

mind. Also Chair one thing that I had in mind in terms of – of dealing with Chair of the Board. When I joined SAA I heard a story where my – my predecessor - in fact I think Ms Stimpel's testimony said so that there was a point where Mr Wolf had a pen and – and then he recorded Ms Myeni.

So you think those things that to the extent of people thinking of even recording you. So what – the kind of person you are that people now are trying to build evidence and even recording you and all that. I was scared Chair that I could be harmed.

10 **CHAIRPERSON**: Okay. Thank you.

ADV KATE HOFMEYR: And just to clarify was there ever a direct threat to you to harm you?

MS PHUMEZA NHANTSI: No Chair.

ADV KATE HOFMEYR: Ms Nhantsi I would like to go to the question of Ms Stimpel's suspension.

MS PHUMEZA NHANTSI: Yes.

ADV KATE HOFMEYR: And I propose to deal with it briefly. It occurred on 5 July 2016 and the reason that you gave Ms Stimpel in her suspension notice on the day for suspending her was that she had
20 been involved in and I am quoting here:

“The removal of company confidential documents
without permission from procurement.”

Do you recall that?

MS PHUMEZA NHANTSI: Yes I do Chair.

ADV KATE HOFMEYR: My first ...

CHAIRPERSON: What page is that?

ADV KATE HOFMEYR: Chair you will find it in the Stimpel bundle it's DD1B and it's at page 570.

CHAIRPERSON: Thank you.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Ms Nhantsi you'll see that at the end of the first paragraph, you notify her that she's suspended from work for an investigation and/or the outcome of a disciplinary hearing which includes, amongst others, the stated reason at the time was removal of
10 company confidential tender documents without permission from procurement, you see that?

MS PHUMEZA NHANTSI: Yes Chair, I do.

ADV KATE HOFMEYR: Did you take this decision on your own or were you instructed to take it, to suspend Ms Stimpel?

MS PHUMEZA NHANTSI: I consulted before I take the decision, consulted with HR and also the legal department and the procurement, before the decision was taken we assessed the seriousness of taking the confidential documents that belonged to procurement.

ADV KATE HOFMEYR: Ms Nhantsi in your evidence yesterday, you
20 made some reference to your concerns around confidentiality of procurement documents, do you recall that?

MS PHUMEZA NHANTSI: I made concerns?

ADV KATE HOFMEYR: You made some comments about the confidentiality of procurement documents, do you recall that?

MS PHUMEZA NHANTSI: I do.

ADV KATE HOFMEYR: It's in the context of your evidence where we were probing whether you could have asked for the underlying bid submissions when you were asked to recommend the appointment of BnP after the tender, do you recall that?

MS PHUMEZA NHANTSI: I recall it.

ADV KATE HOFMEYR: I recall in your evidence, you said, you thought there was a provision of the Supply Chain Management Policy that set-out that those documents are confidential and so you couldn't have seen them, do you recall that?

10 **MS PHUMEZA NHANTSI:** Yes I do.

ADV KATE HOFMEYR: But we probed it and as I have your evidence you accepted the fact that if you had wanted to see them as somebody who'd been asked to recommend that decision you would have been entitled to see the, do you accept that?

MS PHUMEZA NHANTSI: I said I never asked for them but I assumed that those would be given to me.

ADV KATE HOFMEYR: Correct and that's useful because then we don't need to go to the Supply Chain Management Policy, I did that overnight and I certainly could find no provision that said a decision
20 maker in SAA who is asked to make a decision on a procurement process cannot have access to the bid documents, so we agree on that?

MS PHUMEZA NHANTSI: Chair that is what I was told at SAA that those documents, nobody except the procurement can have them, that is why I was relating a narrative that says even the members of those

committees, they signed a confidentiality agreement.

ADV KATE HOFMEYR: Yes Ms Nhantsi they signed confidentiality agreements because in terms of the policy they may not divulge the contents of any bid to any bidder, in other words, external parties to SAA.

MS PHUMEZA NHANTSI: Even to – my understanding even to SAA staff.

ADV KATE HOFMEYR: Well that is not in the policy and as I understand your evidence you regarded your role as to be responsible
10 for ensuring proper process in SAA is that correct?

MS PHUMEZA NHANTSI: Yes correct.

ADV KATE HOFMEYR: So did you consider the policy yourself?

MS PHUMEZA NHANTSI: I was advised at that time, I didn't read the policy.

ADV KATE HOFMEYR: Okay so will you accept that the policy does not say, anywhere, that people in a decision making role within SAA may not have access to the underlying bid submissions in respect of which they are asked to make a decision?

MS PHUMEZA NHANTSI: It might say that Chair but it is a known
20 factor at SAA that those bid documents are very confidential and they stay at the procurement department and they don't leave the procurement department Chair.

ADV KATE HOFMEYR: So was it that understanding that motivated you to suspend Ms Stimpel on the 5th of July on that basis?

MS PHUMEZA NHANTSI: Yes I was advised that it is very serious

and if those documents can leak to the media or anywhere it has got dire consequences for the company because those documents are not supposed to leave procurement department at all. I would also clarify Chair, to even say, we had to firm up the procurement department in terms of ensuring that we limit the access of other staff members entering into procurement. After Ms Stimpel took the documents on the floor without permission, so we had to now currently, after Ms Stimpel took the documents at procurement we had to tighten up the security, so not all the SAA employees can enter now into the procurement department, people that are working there have to open for you.

ADV KATE HOFMEYR: Ms Stimpel's evidence was that you instructed her not to attend a National Treasury meeting on the day because you were concerned that she was going to share those documents with National Treasury, did you say that to her?

MS PHUMEZA NHANTSI: No I did not say that to her, I was instructing her to come back and not attend the meeting because I was even told that I'm with Silas and (indistinct) in my office and he is relating that she took the documents. I wanted her to come back so that we can level the ground and I can understand from her side as well why did she take the documents that she knows that she is not suppose to have them.

ADV KATE HOFMEYR: And Ms Stimpel's evidence is that she asked for an opportunity to explain the circumstances under which she took the documents on the day, and you did not afford her that opportunity. Do you accept that?

MS PHUMEZA NHANTSI: I do not recall saying that to her.

ADV KATE HOFMEYR: But you don't dispute that you might have?

MS PHUMEZA NHANTSI: No I don't remember that I said that Chair.

ADV KATE HOFMEYR: Ms Nhantsi there's one small final aspect and then my concluding propositions to put to you. Chair I'm receiving notes that we have surpassed the tea time, I wasn't on track because of our slightly later start, it shouldn't be many more minutes with Ms Nhantsi, I'm in your hands, we may want to complete it and then take the tea break.

10 **CHAIRPERSON:** Lets – how much time do you...(intervention).

ADV KATE HOFMEYR: Ten minutes.

CHAIRPERSON: About ten minutes, okay let's see if we can finish at quarter to twelve.

ADV KATE HOFMEYR: That will be helpful Chair, thank you, we're indebted because there will be a new witness and we can use the tea time to change over.

CHAIRPERSON: Ja.

ADV KATE HOFMEYR: Ms Nhantsi, in your statement you dealt with the circumstances around the suspension of Dr Darwa?, I would like to
20 just deal with it briefly. You suspended him a few days after you joined SAA is that correct?

MS PHUMEZA NHANTSI: Correct Chair.

ADV KATE HOFMEYR: And I take it a consequence of you doing it so shortly after you arrived, that you didn't at the stage that you suspended him know whether the charges against him were valid or

not?

MS PHUMEZA NHANTSI: Come again?

ADV KATE HOFMEYR: When you suspended Dr Darwa, had you investigated whether the charges against him were valid or not?

MS PHUMEZA NHANTSI: No Chair I didn't investigate, in fact when I joined SAA I was told by two Board members, Ms Myeni and Ms Kwinana already at the time when I joined a legal firm was already appointed to deal with allegations against Dr Darwa and the charges were drafted already, high level, what I understood was one of the
10 charges that was levelled against Dr Darwa was they attended roadshows – the Board members attended roadshows together with the executives of SAA, specifically where they were explaining to black suppliers the process of how to do tenders and submit to SAA with the view of 30% set aside. There was a resolution that was taken by the Board before I joined of 30% set aside, meaning all the tenders that are going out at SAA, the bidders should put aside 30% for women, for people with disability, for rural – but it's four categories Chair. So my understanding is, when they came back from all the roadshows they gave a list to Dr Darwa of the suppliers that he should include in the
20 database and do business with and Dr Darwa was – didn't implement those. So high level it's one of the charges that he had but I gave him the suspension letter and after the processes were done, gave him the dismissal letter more because it was a direct line, he was reporting to me.

ADV KATE HOFMEYR: Thank you Ms Nhantsi, that's all we wanted to

get clarity on, Dr Darwa will be one of the witnesses but you didn't have knowledge of the veracity of the charges against him when you handed him the suspension letter?

MS PHUMEZA NHANTSI: No Chair.

ADV KATE HOFMEYR: Thank you, Ms Nhantsi I would then, in conclusion simply like to draw out the essence as I will submit it is of your evidence and give you an opportunity to comment, it will be brief I think my note is that there's about seven strands of it which are of particular importance it will be our submission to the work of the
10 Commission so if I may do that. Ms Nhantsi your evidence I suggest to you for your comment indicates that there was extraordinary pressure brought to bear on you to support decisions in the financial interests of a third party, do you accept that?

MS PHUMEZA NHANTSI: I accept that chair.

ADV KATE HOFMEYR: Your evidence also seems to indicate that there was a behind the scenes scheme between Mr Mngadi of Nedbank and Ms Myeni to enrich themselves at the expense of SAA.

MS PHUMEZA NHANTSI: Agreed Chair.

ADV KATE HOFMEYR: Your evidence also seems to indicate that Ms
20 Myeni shared confidential company information with M Mngadi.

MS PHUMEZA NHANTSI: Agreed Chair.

ADV KATE HOFMEYR: That Ms Myeni used State security vetting to seek to remove employees that she did not want in certain positions.

MS PHUMEZA NHANTSI: Agreed Chair.

ADV KATE HOFMEYR: That Ms Myeni instructed that persons be

appointed in positions without foundation.

MS PHUMEZA NHANTSI: Agreed Chair.

ADV KATE HOFMEYR: And that you heard from Ms Kwinana that Ms Myeni used to make false whistleblowing reports against employees that she wanted out of the way.

MS PHUMEZA NHANTSI: Agreed Chair.

ADV KATE HOFMEYR: Ms Nhantsi if Mr van der Merwe's evidence is correct and Grissag had occurred no costs whatsoever in their work on the funding opportunity at SAA do you accept that the entire motivation
10 from BnP to be paid the cancellation fee amounted to a fraud on SAA?

MS PHUMEZA NHANTSI: Yes Chair I do.

ADV KATE HOFMEYR: And I have it from your evidence that you accept that you failed to report a corrupt activity or a suspicion that one had taken place in relation to the cancellation fee at SAA.

MS PHUMEZA NHANTSI: Yes I accept it Chair, saying it was overtaken by events, yes.

ADV KATE HOFMEYR: Thank you Chair, unless there is further from you.

CHAIRPERSON: Thank you, yes.

20 **MS PHUMEZA NHANTSI:** Chair if you may allow just one second the concluding remarks from my side.

CHAIRPERSON: Yes before he concluding remark that you – or remarks that you wish to make. You said that a cancellation fee is common in this kind of transaction, if I understood you correctly in relation to the raising of funds, did I understand you correctly?

MS PHUMEZA NHANTSI: Chair I was – Chair yes I said the cancellation fee is common but I was not specifically saying to this kind of transaction ...(intervention).

CHAIRPERSON: Oh okay, well I thought the question you were being asked was more in relation to the raising of funds, whether a cancellation fee to you knowledge, is common in the industry.

MS PHUMEZA NHANTSI: Chair the cancellation fee is common to the industry and I take that from the experience that I have in auditing this space, so the clauses of penalty and cancellation fees are normal
10 but they are substantiated and they get quantified. The reason why I asked BnP for the quantification is – for example if we take an environment of a consulting space before you produce a legal opinion or before we produce an audit opinion there's a lot of work that you do behind the scenes, your man hours, your disbursements and all that. So should you cancel, the person that has done the work is entitled to some cancellation fee, so it was in that context where I said it's common in the industry, hence I was probing BnP and wanting to understand the basis of the cancellation fee because I would understand if they give me the invoice – the flight costs, the man hours
20 of the expertise that they used, they took out of the other projects to go and negotiate the investments. So it was – for me the amount was exorbitant but I understood the principle.

CHAIRPERSON: Well as I understand cancellation – the cancellation fee that BnP was talking about, and if your understanding is different you must tell me, as I understand it what they were talking about was

that if SAA cancelled the idea of them raising funds for SAA, and I seem to think that they were saying that even before any contract could be concluded between themselves and SAA then SAA would have to pay a certain percentage which they gave. If the cancellation was due to factors beyond their control, is that your understanding as well. In other words, one, they were not saying pay us for the work that we have actually done and for the time we have spent on the work and we will give you our timesheets, how much time we spent doing this or doing that in order to try and get funds for you but they were simply
 10 saying, we don't want you to look at how much work we have actually done, you'll just have to accept that we have done some work, how much it took us to do it is neither here nor there but if you cancel and it's because of reasons beyond our control as BnP then you must pay such an such a percentage. That was my understanding of what they were talking about, is your understanding different?

MS PHUMEZA NHANTSI: Chair slightly because when I asked them to substantiate the cancellation fee, which at the end I didn't agree with it, they said, they attempted to give a breakdown of - I'm not sure where is it on the file...(intervention).

20 **CHAIRPERSON:** Maybe even before you go there...(intervention).

MS PHUMEZA NHANTSI: Chair they gave the breakdown of the man hours, the experience that they are using to negotiate the fees, they listed also the flight costs, their accommodation and on top of that they then said in that letter that Grissag AG should SAA cancel will charge them 5million US Dollars.

CHAIRPERSON: Well...(intervention).

MS PHUMEZA NHANTSI: So these three, that's why I'm saying slightly Chair.

CHAIRPERSON: Well normally if somebody is going to do some work for you, normally you would agree that they will be paid per hour or per day or per month or per week or per year for doing that work and you agree on the rate and that person would then do the work and that person will not be paid if they have not – for an hour that they did not use to do your work or for a month when they were not doing your work
10 unless they are on leave if they are employed but if it's an independent contractor they are not going to be paid if they are not doing their work okay but you can have another arrangement. That is an arrangement where the payment – their payment is not dependant on how much work they have put in, it is dependant on the results, like a commission to say, you asked me to get you 15billion rand, if I get you 15billion rand you will give me 5% of 15billion rand. Irrespective of whether it has taken me a week to get you the 15 billion rand or a month. Irrespective of whether I just made one call and got somebody to give you 15billion rand you will give me 5% of that, you understand the distinction?

20 **MS PHUMEZA NHANTSI:** Yes I do Chair, yes.

CHAIRPERSON: Now my understanding of what BnP was talking about was an arrangement that is along the lines of a commission that – that's why it was important for them to talk about a percentage.

MS PHUMEZA NHANTSI: Yes sir.

CHAIRPERSON: Because if you base the payment on hourly rates

you have got to talk about an hourly rate not a percentage, you understand?

MS PHUMEZA NHANTSI: Yes I do Chair.

CHAIRPERSON: Yes, so – now my question is whether this understanding I have of how they wanted to be paid, of course with your understanding as well.

MS PHUMEZA NHANTSI: Yes it does Chair because when we discussed the success fee rate it's exactly that, to say the agreement was, you go get 15 billion and we'll pay you the success fee of 1.5%,
10 hence when they introduced this new term and this new clause of cancellation fee, which was never part of the agreement when we gave them the letter of award, we had to take it back to the Board because it's a new clause and it needs to be deliberated by the Board because it's an addition, basically, to what was discussed so it looks like, as you're rightfully saying, if they make a phone call and then they will and we cancel because also SAA is a public entity they've got challenges, we might cancel so at the back of my mind Chair, if you ask me, I agree with you but my question that I had or my suspicion, which was eventually then confirmed to be correct, my understanding is BnP
20 knew that at the time – knew that their FSB license was cancelled or was suspended by FSB and they wanted to get money out of SAA irrespective, whether it's 256 million or whether it's 49.9 million because one, they misled us or they misrepresented and gave us still the FSB license yet they knew that it's suspended but now they then wanted another way of getting money out of SAA by – because they know that

FSB license is suspended and should SAA know that the contract will be cancelled and then now they roped in a new clause of the cancellation fee.

CHAIRPERSON: Yes but I just go back to what you know to be the norm and I want this because Mr van der Merwe was asked whether a cancellation fee is a norm in the sector and my recollection is that he said it was not. So I'm trying to establish that – so when you said a cancellation fee is a norm in this sector did you – were you talking about a success – what you call a success or what has been referred to
10 as success fee or you were talking about a fee that would be paid under the circumstances that BnP was putting forward?

MS PHUMEZA NHANTSI: Chair I was talking about the success fee but I was then generalising on the cancellation fee to say it is the norm if you cancel and yet there's goods and services, I was not specific to this transaction.

CHAIRPERSON: So now that I think you have agreed we have the same understanding of what BnP was talking about when they were told about a cancellation fee, what is your evidence is it that it's a norm for that kind of fee to be charged or is it not?

20 **MS PHUMEZA NHANTSI:** It's not a norm Chair.

CHAIRPERSON: It is not a norm?

MS PHUMEZA NHANTSI: Yes.

CHAIRPERSON: Okay now you also – you told me how Ms Myeni would speak to you about the employment and dismissal of certain employees, somebody must be employed, somebody must be

dismissed, you talked about the dismissal in the context of the employee who apparently had failed security clearance and she was the one who raised that issue – Ms Myeni, with you. Was that an issue that you expected to be raised with you by the Chair of the Board or would that be an issue that you would expect the person you reported to, namely the acting CEO to raise as far as you know is that a matter that the Chair of a Board would really be involved in, in an institution such as SAA Parastatal?

MS PHUMEZA NHANTSI: Chair that's the matter that I expected to
 10 be raised by the acting CEO hence I came back and discussed it with him because the day-to-day running of the business, the acting CEO is the one whose responsible for that and also if you look at the structure of SAA the Board gets involved in appointing the CEO and also in recommending or – in recommending and approving the CFO only, all the other structures below that the Board doesn't get involved.

CHAIRPERSON: Would it be fair to say that when you made the recommendation that you made to the Board, to approve the cancellation fee in circumstances where you were against the approval on your evidence and you went to the extent of contacting some of the
 20 members of the Board with a view to influencing them not to approve the cancellation fee, would it be fair to say, you sought to balance – to strike a balance between the interests of the company and the interests of your own- your own interests in terms of what you were scared of?

MS PHUMEZA NHANTSI: Yes Chair it would be fair especially if you say the balance would be to protect the company and also to protect my

well-being, well-being being – I was scared not to be harmed and all what we've discussed, yes Chair but also the focus, as I've been saying is, my work ethics are known Chair in the industry and I've always worked towards acting in the best interest of the company and protecting the assets of the company.

CHAIRPERSON: What did you think would happen if you wrote the memorandum and your recommendation was that the cancellation – the Board should not approve the cancellation fee and all the Board members saw that, that was your stance?

10 **MS PHUMEZA NHANTSI:** Chair I would discuss this with the acting CEO, I think eventually we agreed that, let's just put it there and then engage them behind the scenes.

CHAIRPERSON: Did you not want the Chairperson to know – to see it in writing that you were saying the Board should not approve...(intervention).

MS PHUMEZA NHANTSI: Yes I didn't want her to see that and also I didn't – I was not comfortable and I didn't want her to even know that behind the scenes I'm talking to the other Board members, roping that they must not approve it.

20 **CHAIRPERSON:** When you spoke to the other Board members did you ask them to keep the conversation between yourselves and each one of them or the understanding – they did understand, the context was such, they did understand that you would not want them to tell the Chairperson what you had said to them?

MS PHUMEZA NHANTSI: I didn't ask them Chair, I assumed that the

content is understood.

CHAIRPERSON: Yes because you did say what the Chairperson had said to you and you did say what your view was.

MS PHUMEZA NHANTSI: Yes Chair.

CHAIRPERSON: Okay, alright anything?

ADV KATE HOFMEYR: No thank you Chair.

CHAIRPERSON: Thank you, I think there is counsel for, I don't know who that wants to come forward and...(intervention).

MS PHUMEZA NHANTSI: Maybe Chair before that you forgot
10 to...(intervention).

CHAIRPERSON: Yes I forgot you wanted to say something yes.

MS PHUMEZA NHANTSI: Yes please Chair. Thank you so much
Chair I really appreciate this opportunity that we get in this Commission
I appreciate it more especially from the executive point of view, for us
to be heard of the frustrations that we go through on a day-to-day basis
and I'd like to say, I think you tried to ask me a question yesterday and
I attempted to answer the question where you asked if I was the right
person, perhaps, for the job I would want to re-affirm that I strongly
believe that I was the right person for the job and – but I never foresee
20 the pressures that would come which were basically not part of your
day-to-day running of the business. So when I joined SAA I was very
excited to be in the team that will turn around the company but the
challenges Chair have made me a better person, let alone the fact that
I ended up not having a job but I believe that I've learnt a lot from SAA
and any company that I'll be joining, I'll be using all the wisdom. One

of the things that I take out is, when I joined I was very naïve, thinking all the Board members will always act in the best interest of the companies, thank you Chair.

CHAIRPERSON: No thank you very much for having come to give your evidence, I will still hear more evidence and there may be evidence that will contradict the evidence you have given and I will make findings that I will consider appropriate to make in due course but I do want you to know that we appreciate that you came to give evidence. There have been other senior manager, executives from

10 Parastatals and people who were employed in high positions in government departments who came and gave evidence and shared with the Commission the experiences they had – they went through when they insisted that the right things be done and resisted attempts for wrong things to be done and we want to hear from them because we want to know exactly what they may have gone through so that we can see at the end of the work of the Commission what we may need to recommend should be put in place to make sure that people who insist on the right things being done are protected and will not be victimised in any way. So do encourage others that you know may have

20 something that's relevant to the terms of reference of the Commission to come forward and to share with the Commission and with the nation what they know. I still believe there are many out there who know a lot that happened and they include senior people in government departments, past and present, they include Ministers, deputy Ministers, DG's, CEO's of Parastatals, Chief Financial Officers and

many others, I believe there are many who are still not coming forward who know a lot that they should be coming forward to share with the Commission and we just need everybody to urge them to do the right thing, to come forward and share all the information and experiences that they had. So thank you very much but before I release you, I want to hear what counsel has to say in case it needs you, yes thank you.

ADV NOSANDISO SOVITI ZWEDALA: Thank you Mr Commissioner, when I raised the hand at the time there is a critical aspect of Mr Mahlangu's evidence which I was of the view that it would enrich the Commission's engagement with this witness if it was put to this witness before she leaves the stand but on conferring with him, he is happy that he will deal with it in his testimony, and given the time constraints as well we will address it then.

CHAIRPERSON: Okay thank you very much, thank you. Thank you very much Ms Nhantsi, you are excused.

MS PHUMEZA NHANTSI: It's my pleasure, thank you Chair.

CHAIRPERSON: Thank you. Well it's about 12 o'clock.

ADV KATE HOFMEYR: It is indeed Chair.

CHAIRPERSON: The tea break is like lunch break, we'll take the tea break until quarter past twelve, we adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes Ms Hofmeyr.

ADV KATE HOFMEYR: Thank you Chair. Chair we now move the focus of the evidence in the aviation stream to a transaction that took place

between South African Express and the North West Department of Transport. And we will hear evidence over the next number of days from witnesses related to that focus area of the investigation. Our first witness is Mr Timothy Ngwenya. Prior to calling him up Chair if I may request an opportunity for the legal representatives of certain parties who have an interest in the evidence placing themselves on record.

CHAIRPERSON: Yes let us do that.

UNKNOWN COUNSEL: Thank You Mr Chair.

CHAIRPERSON: Yes thank you.

10 **UNKNOWN COUNSEL**: Mr Chair I appear on behalf of the Mafikeng Airport Management Company as counsel.

CHAIRPERSON: Thank you very much.

UNKNOWN COUNSEL: Thank you Mr Chair.

CHAIRPERSON: Thank you.

ADV XOLANI NOKA: Thank you Mr Chair. My Chair I Xolani Noka briefed by [indistinct] Attorneys I appear on behalf of Ms Dlodwano the CFO who will be implicated in the evidence. Thank you.

CHAIRPERSON: Thank you very much.

ADV KATE HOFMEYR: Thank you Chair if I may call Mr Ngwenya to
20 take up a seat at the witness table.

CHAIRPERSON: Thank you let him do so. Yes.

ADV KATE HOFMEYR: Chair just for record purposes Mr Ngwenya's affidavit and annexures can be found in Exhibit DD5 if we may give it that reference for the record?

CHAIRPERSON: The lever arch file containing Mr Timothy Nhlanhla

Ngwenya's statement and annexures will be marked Exhibit DD5.

ADV KATE HOFMEYR: Thank you Chair if I request for the witness to be sworn in?

CHAIRPERSON: Yes.

REGISTRAR: Please state your full names for the record?

MR TIMOTHY NHLANHLA NGWENYA: I am Timothy Nhlanhla Ngwenya.

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

10 **MR TIMOTHY NHLANHLA NGWENYA:** Not all all Ma'am.

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

MR TIMOTHY NHLANHLA NGWENYA: Yes I do.

REGISTRAR: Do you solemnly swear that all the evidence that 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.

MR TIMOTHY NHLANHLA NGWENYA: So help me God.

REGISTRAR: Thank you.

CHAIRPERSON: Yes you may proceed.

20 **ADV KATE HOFMEYR:** Thank you Chair. Mr Ngwenya just orientate you in front of you on the table is the file containing your affidavit and annexures. It will be to that file that I will refer in the course of your evidence. And where relevant if at any point you need assistance with reference to a document you can indicate that to me and I will assist you with that. But my proposal for receiving your evidence today is to

really take you through the affidavit but ask you to account the story as accurately as you can and where relevant we can go into the documents. Mr Ngwenya if we can start with your background. You set that out if we go to page 1 of the file. You will see the pagination in the top right hand corner of the pages. And you talk in paragraph 1 in particular about your background within South African Express. Can you please tell the Chair what that comprises?

MR TIMOTHY NHLANHLA NGWENYA: It talks to my position Chair. I am employed as the Divisional Manager Security Management. I am
10 actually solely responsible for the security and investigation function within the entity.

CHAIRPERSON: Just raise your voice a little higher.

ADV KATE HOFMEYR: And Mr Ngwenya maybe bring that even closer.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: If that would be of assistance.

CHAIRPERSON: Yes. Yes.

ADV KATE HOFMEYR: Thank you.

MR TIMOTHY NHLANHLA NGWENYA: I am saying Chair I am employed as the Divisional Manager Security Management. I am
20 responsible for the overall security function and investigation within the entity. I actually joined SA Express in 2014 on the 6 January as a Security Compliance Officer and I operated as that until April 2015 when I started acting a Security Specialist / Manager. I was in that position until April 2018 when I was appointed Divisional Manager Security Management and my appointed was dated back to February of

that year. I still report to the ICEO Mr – Ms Siza Mzimela and ja that is basically it.

ADV KATE HOFMEYR: Thank you Mr Ngwenya. Just for record purposes you have produced an affidavit for the commission. Ordinarily when witnesses prepare statements we begin by asking them to confirm the correctness but this is an affidavit and in that case you have already done so by deposing to it before a commissioner of oaths. I do however understand from you that there are one or two corrections you would like to make in the affidavit and my proposal is to deal with
10 them when we get to them in the course of the evidence.

MR TIMOTHY NHLANHLA NGWENYA: Okay.

ADV KATE HOFMEYR: Mr Ngwenya at page 2 of your affidavit you talk about your reporting lines within SA Express can you please tell us about that?

MR TIMOTHY NHLANHLA NGWENYA: You mean at the time Ma'am?

ADV KATE HOFMEYR: At the time indeed.

MR TIMOTHY NHLANHLA NGWENYA: Okay. During 2015 actually prior to the investigation I was reporting to Ms Merriam Mochoele who was the legal who was the legal risk and compliance general manager.

20 **CHAIRPERSON:** Ms Hofmeyr I know that some evidence leaders help with the spelling of some of these names.

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: To assist the transcriber.

ADV KATE HOFMEYR: That may be useful.

CHAIRPERSON: So that might be useful ja.

ADV KATE HOFMEYR: Indeed. Just to give it is Merriam, Merriam and then the surname Mochoele is Mochoele. Thank you Chair.

CHAIRPERSON: Yes.

MR TIMOTHY NHLANHLA NGWENYA: Yes she was the general manager legal risk and compliance which means the security management fell under her wing as well. She was also responsible for that. During the time when the investiga – I started this investigation in particular around June there was somebody who was brought in – appointed as a divisional manager safety and security by the name of

10 Ms Brenda Mblanene. I think at the time when the investigation started or when I – you know I started this investigation I think she was about a month old within SA Express hence in most of or rather throughout she is not even mentioned. Because when this whole thing – this investigation was or rather the whistle blowing – when I was called I did not even speak to her because of truth of the matter is that the matter was not to disrespect but above her pay grade. So I had bypass her and go back to Ms Mochoele and the CEO. In fact what actually happened Chair that was the 24 June 2016 the afternoon just after three I received a call from a lady who claimed that she was from the

20 North West and she wanted to report corruption against one of the GM's within SA Express whom at the time she alleged that this person was interfering with her company and she wanted to – he wanted to actually take over the company. And she was prepared to go to media in particular Mail and Guardian to report this. I was really concerned and I felt that you know facts may be misconstrued somehow and you

know I was concerned about the company's reputation you know getting tainted. And I requested the lady to give me an opportunity to meet with her so I can understand exactly as what was the issue all about.

ADV KATE HOFMEYR: Mr Ngwenya if I may just interject there.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: Could you give us clarity as to who the people are that you are referring to? So who was the woman who contacted you on the 24 June 2016?

MR TIMOTHY NHLANHLA NGWENYA: Okay it was Ms Babadi
10 Tlatsana.

ADV KATE HOFMEYR: Just to interrupt there I do apologise but for the purposes of the record that is Babadi and Tlatsana is Tlatsana. So she contacted you and she – as I have your evidence wanted to report corruption related to somebody within SA Express. Who was that person that she identified?

MR TIMOTHY NHLANHLA NGWENYA: Mr Brian Tebogo Van Wyk was the GM Commercial at SA Express.

ADV KATE HOFMEYR: Thank you. And that is Brian, Brian, Tebogo, Tebogo and Van Wyk, Van Wyk.

20 **MR TIMOTHY NHLANHLA NGWENYA:** Yes. I therefore pleaded with her not to go on and I requested that we meet and the meeting took place the following in Mafikeng Mall where you know on the very same Friday we agreed we would meet between eight and half past eight. So the following day which was a Saturday I left my house very early at approximately four o'clock am and drove to the North West to meet with

this lady. Because of – on the day she had – gave me her description you know to say she looks like this and she will be wearing 123. So I went to the North West and I got there and I must say that I was pushing to get there first so I can identify her as you know she walked in and indeed it happened like that. Because when I got there she was not really there and I saw her through the window as she was coming in. I suspected that it could be her and when she walked in she looked around and I could you know when our eyes met we could see that it was her and then she approached me, introduced herself to say Ms

10 Babadi Tlatsana the owner or director of Koreneka Trading and Projects and Trading something like that – that company okay which is the handling company for SA Express. Then I introduced ...

ADV KATE HOFMEYR: Mr Ngwenya.

MR TIMOTHY NHLANHLA NGWENYA: Yes Ma'am.

ADV KATE HOFMEYR: If I could just interrupt there sometimes you will have a lot of background knowledge that we may not have.

MR TIMOTHY NHLANHLA NGWENYA: Okay.

ADV KATE HOFMEYR: So do forgive me. But you say she was Kereneka was the handling company.

20 **MR TIMOTHY NHLANHLA NGWENYA:** Yes.

ADV KATE HOFMEYR: For SA Express can you just explain to us what that means?

MR TIMOTHY NHLANHLA NGWENYA: Okay as an airline when we fly to particular destinations, airports you would have a company doing the ground handling for us because of we are not doing the ground

handling we only doing the air services, flying passengers and all that. Therefore we would source or rather outsource the function to specific companies that would provide you know [indistinct] our passengers you know the logistics on the ground. So in this instance Koreneka was doing the checking which means they were processing passengers as they were checking in, loading baggage you know and so forth but the ground services. So this Koreneka was providing that service to SA Express which means there was an agreement of some sort between SA Express and Koreneka for this specific service where SA Express was
 10 expected of course to remunerate Koreneka for the services rendered to SA Express.

ADV KATE HOFMEYR: And Mr Ngwenya where were those services being provided, the ground handling services?

MR TIMOTHY NHLANHLA NGWENYA: At that time Koreneka was providing the services in two airports. One which was Pilanesburg and the other one was Mafikeng airport.

ADV KATE HOFMEYR: Both located in the North West?

MR TIMOTHY NHLANHLA NGWENYA: Both located in the North West yes.

20 **CHAIRPERSON:** So the handling part of the business refers to the checking in of passengers and what else?

MR TIMOTHY NHLANHLA NGWENYA: It was the checking in, the baggage loading, the boarding of passengers it is actually a process. It is a value chain of some sort Chair.

CHAIRPERSON: Is it like taking the passenger from when he or she

checks in up to...

MR TIMOTHY NHLANHLA NGWENYA: Yes.

CHAIRPERSON: Where he and she ...

MR TIMOTHY NHLANHLA NGWENYA: Up to the – board the aircraft.

CHAIRPERSON: And the luggage gets put in the plane?

MR TIMOTHY NHLANHLA NGWENYA: Absolutely.

CHAIRPERSON: Is it that process?

MR TIMOTHY NHLANHLA NGWENYA: Absolutely Chair,

CHAIRPERSON: Okay alright thank you.

10 **MR TIMOTHY NHLANHLA NGWENYA:** Absolutely.

ADV KATE HOFMEYR: And just for the record again Koreneka which is not an obvious word to spell is Koreneka.

MR TIMOTHY NHLANHLA NGWENYA: Correct.

ADV KATE HOFMEYR: So Mr Ngwenya you identify Ms Tlatsana on that Saturday morning and she introduces herself and then as I have your statement we now at page 3 at least your affidavit at page 3 you then go on to recount what Ms Tlatsana told you in that meeting. And can you summaries for us what that was?

20 **MR TIMOTHY NHLANHLA NGWENYA:** Okay firstly I had to probe her pertaining the allegation that she raised the previous day about Mr Brian Van Wyk. Mr Tlatsana told me that like I said that she was the owner – the sole owner of – she was the owner of Koreneka Trading and Projects which was providing this ground handling services to SA Express and then she informed me that she had the dealings with SA Express in particular Mr Van Wyk because of – she got through to

Express via Mr Van Wyk. What she explained to me was that initially when this whole thing started about the project there was a meeting somewhere in the North West where she gave a proposal to revive the air services or rather the airports within the North West. You know that she was interested in reviving that and then at that time I there were talks between – according to her Chair – there were talks between SA Express and the North West Department of Transport you know to have a deal to have SA Express you know flown into the area and all that. And she said somehow somebody referred her to Mr Van Wyk to say

10 she can speak to Mr Van Wyk who is the general manager for SA Express and I must say at the time Mr Van Wyk's department was spearheading the project for – this project in the North West. She said to me she provided the documents to Mr Van Wyk which means that was the company profile and the statutory document you know to provide that service as it was a proposal. Then Mr Brian Van Wyk she said took that stuff and later on confirmed to her that she stands a chance of getting you know the job. For the simple reason that she was a woman number 1 and she was from the very same area which is North West of which the government was actually interested in giving local

20 people empowering – empowering them in fact. So Mr Van Wyk told her that the only disadvantage was that she was the sole owner of the organisation of that company and therefore on those basis that would limit her chances of being awarded the work. He then advised her to get somebody you know to be partnered with her and she suggested at the time to Mr Van Wyk that she would prefer to have her sister on

board as a partner. Mr Van Wyk told her that it cannot work because it would be seen as nepotism. You know family members and all that. And Mr Van Wyk suggested that he can bring two individuals that can actually assist her as she did not have the experience you know pertaining to the service that she wants to provide. He said he would bring two people that can actually create more opportunities for her going forward and they would assist her with the management as they are knowledgeable you know in relation to what she was to provide – the service that she was to provide. And she agreed to that. And then

10 later on Mr Van Wyk brought two individuals to this – to her to say she needed to add these people as part of the owners of this organisation. So the names that Mr Van Wyk brought I take it that also with their identities and everything else that needed to be done was a Mr Victor Thabeng who was supposed to be a partner and Ms Joyce Phiri and he brought the two and they held about 66%, 33/33 whilst she was the majority shareholder of 34%. So that is how the Koreneka ownership was actually altered then they became part of Koreneka. She said that they – they provided services of course but the other thing that she mentioned to me was that she was not actively involved. I may have

20 omitted this information Chair on my affidavit I am thinking because of – there were quite a lot of things that were happening around that time. So she said she was not actively participating and this could be supported by one of the audio recordings where they were sitting I think at the Spur restaurant where she mentioned that I am not known as the owner of this organisation you the only one Mr Van Wyk that is known

but I will deal with that as you know I continue leading with this – I mean with this – going through my affidavit or my testimony. You know as we were sitting there she said to me there was plenty that she wanted to give me in terms of the evidence you know documentary evidence that relates to the whole thing how it started, how they went on and who was actually you know part of this entity and she even went on to mention that you know for that matter she did not even appoint a single person in her entity relating to this ground handling. Now Mr Chair you know we were at three places around that day because of we
 10 had to move from Wimpy where I was having breakfast when she arrived anyway. We had to move from there to her house that is when I got to see her house. We fetched some documents and some audio recordings. It was quite a lot of stuff we then went to her office where you know Koreneka was actually operating within Mafikeng CBD.

ADV KATE HOFMEYR: Mr Mgwenya if I may just come in there. Before we get to your movements on the day.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: What I would like to just to conclude with is the full extent of the story that she told you about what had transpired after
 20 Koreneka was appointed to do this ground handling service at the two airports. But Chair just for the record purposes Mr Ngwenya's evidence relays what Ms Tlatsana told him but Ms Tlatsana will be giving evidence in due course so there will not be a concern.

CHAIRPERSON: That is fine.

ADV KATE HOFMEYR: About a hearsay aspect there.

CHAIRPERSON: Yes. Okay.

ADV KATE HOFMEYR: But if we can just go back Mr Ngwenya if I can locate you at page 5 of your affidavit.

MR TIMOTHY NHLANHLA NGWENYA: Page 5 okay.

ADV KATE HOFMEYR: Because you will see at the first paragraph there you cover the point you have already given in evidence about Mr Van Wyk saying to her that she would not be successful in the conclusion of the contract unless she had more people in the company.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

- 10 **ADV KATE HOFMEYR:** And there he proposes Ms Joyce Phiri and Mr Victor Thabeng. And if you then go to paragraph 15 you talk there about the conclusion of the agreement as she relayed it you and the level of her involvement after that point in the ground handling services of the company. Could you deal with those two aspects?

- MR TIMOTHY NHLANHLA NGWENYA:** Okay. Thank you. Chair from point 15 of this affidavit she confirmed to me that she signed an agreement with SA Express that relates to the Pilanesberg and Mafikeng airports and that Mr Van Wyk did not give her a copy of the contract. She also said to me that in actual fact the plan was that Mr
- 20 Van Wyk was supposed to help her until she find her footing to be able to manage that contract. However after you know appointing the two directors she claimed – or – she told me that Mr Van Wyk brought a person by the name of Mr David Kalisilira who was the – supposed to be the company's accountant as they also had to agree that she would run with you know the running of the finances you know.

ADV KATE HOFMEYR: Mr Ngwenya.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: In terms of other appointees.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: At paragraph 15 you talk about the appointment of Mr Kalisilira that is Kalisilira.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: There is another appointment that you refer to in paragraph 16 and that relates to Mr Phiri and what he was going to do and Ms Dube. Can you take us through what she recounted to you about those two people?

MR TIMOTHY NHLANHLA NGWENYA: Okay thanks. I was actually going there Ma'am. Chair as I said that she brought Mr Kalisilira first as a financial you know accountant then she brought also a person by the name of Mr Levy Sipho Phiri who then appointed Ms Nothando Dube to run with the operation as a manager you know, Koreneka's manager to run with the you know administrative and operational side of things within Koreneka while Ms Tlatsana was not really involved. She was actually hands off.

20 **ADV KATE HOFMEYR:** And Mr Ngwenya who did she relay to you appointed the ground handling staff?

MR TIMOTHY NHLANHLA NGWENYA: She said that Mr Sipho Phiri was also involved in the appointment of the very same ground handling staff. That obviously you know they have done the check in and all the other functions with you know that are related to the contract.

ADV KATE HOFMEYR: And then if you turn over the page to page 6 you talk there – you enquired from her as I have your affidavit about the invoicing under the agreement and the extent of her involvement in that. Can you tell us what she relayed to you about that?

MR TIMOTHY NHLANHLA NGWENYA: Can you repeat that Ma'am?

ADV KATE HOFMEYR: Yes.

MR TIMOTHY NHLANHLA NGWENYA: And the paragraph that you are referring to with it?

ADV KATE HOFMEYR: Yes paragraph 17.

10 **MR TIMOTHY NHLANHLA NGWENYA:** Okay.

ADV KATE HOFMEYR: Where I am picking it up is in the middle of that paragraph.

MR TIMOTHY NHLANHLA NGWENYA: Okay.

ADV KATE HOFMEYR: Where you say she further mentioned that she did not put any claims either to SAA – sorry SA Express nor the department.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: I remember long after I had met her she asked me about the process of invoicing at SA Express.

20 **MR TIMOTHY NHLANHLA NGWENYA:** Yes. As I was speaking to her it became apparent to me that she did not really know the content of the service level agreement because as we were talking she kept on referring to Mr Van Wyk telling him that this needed to be done and how and when and that there is money that needs to be paid from that account I mean from – by Koreneka you know as the facility manager.

Maybe I need to clarify quickly this. We are talking about a [indistinct] relationship here where there was the North West Department of Transport. There was SA Express. There was Koreneka. Now Koreneka was the service provider to both entities. Koreneka was the facility manager for the North West government and was appointed for that specific function by SAA – by SA Express on behalf of the North West government. I am saying this just to clarify matters so we can not confuse issues. On the other hand Koreneka was providing the ground handling services for SA Express. SA Express appointed Koreneka to

10 provide that service. Now because of here I am talking about the CCTV, I am talking about functions that had absolutely nothing to do with SA Express that is the reason I am giving this clarity. So we – you understand Chair as to where I am coming from. Now in this regard I am saying she did not understand the content of the contract. I would say both contracts because she stated clearly to say she did not – Mr Van Wyk did not give her any contract. She signed but she did not receive the copies of the contract and then she relied on him. In this regard where would – I speak about the CCTV, I speak about anything that has to do with the airport refurbishment whatsoever had absolutely

20 nothing to do with the SA Express service level agreement but the North West.

Now she relied on Mr van Wyk and she said to me because of – Mr Chair – out of the bundle that she gave me there were invoices, expense authorisation, money – you know – amounting to R51 million that was paid to Koreneka and on those invoices she said she did not

prepare even a single invoice – you know – to – to claim the remuneration from either entity of which with SA Express she never even submitted a single invoice at that particular time.

Therefore she said it clearly to me that she did not really submit anything and though the money went into her account – you know ...

ADV KATE HOFMEYR: Thank you.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: Mr Ngwenya you at paragraph 18 then relay
10 how she explained to you that a conflict arose at a point in her engagements with Mr van Wyk. Can you take us through that conflict?

MR TIMOTHY NHLANHLA NGWENYA: At some stage of this whole – whole thing as I said that Ms – Ms Dube was the Manager managing Koreneka. The – Ms Tlatsana actually dismissed Ms Dube – you know – as the Manager for Koreneka. Maybe because of their differences or she did not really report to her.

She was in fact reporting to Mr van Wyk. He then dismissed her and that started this whole friction between her and - I mean Ms Tlatsana - and Mr van Wyk where Mr van Wyk was not really happy
20 about the dismissal of – of Ms Dube. I would assume that because Ms Dube was brought Ms – Mr Sipho Phiri who was brought by Mr van Wyk.

Hence she was not really perhaps – he was not really satisfied and then he threatened Ms Tlatsana to say he will take the contract and give it to somebody else as he was the one who actually

brought this and that Mr Chair can be confirmed via either the – the audio recordings or the SMS’ – you know – exchanged between Ms Tlatsana and Mr Brian van Wyk.

At that time Mr Brian van Wyk was utilising his own personal cellphone and also whatever communication that was between them via email it was not on SA Express – you know – email account but on his personal Gmail account. So strange that you run - you know – company business but you – you are putting your own (intervenes).

CHAIRPERSON: When ...

10 **MR TIMOTHY NHLANHLA NGWENYA:** Yes.

CHAIRPERSON: When Ms Tlatsana said to you she had not been active in this ground handling business of hers what period was she talking about?

MR TIMOTHY NHLANHLA NGWENYA: Hm.

CHAIRPERSON: Was it the period to her meeting with you or was she saying even as at the time that she was meeting with you she was still not active in the business?

MR TIMOTHY NHLANHLA NGWENYA: At the – it was actually ...

CHAIRPERSON: As you understand her.

20 **MR TIMOTHY NHLANHLA NGWENYA:** It was prior because obviously as she generated the story to say these were - were the issues – the conflicts that – you know – happened. It was actually prior before – I mean – prior our meeting.

CHAIRPERSON: So when ...

MR TIMOTHY NHLANHLA NGWENYA: So ...

CHAIRPERSON: When you met ...

MR TIMOTHY NHLANHLA NGWENYA: Already.

CHAIRPERSON: Your understanding that – was that she was active in the business?

MR TIMOTHY NHLANHLA NGWENYA: At that juncture when we met ...

CHAIRPERSON: Hm.

MR TIMOTHY NHLANHLA NGWENYA: She – she took charge because – she had fired Ms Nothanda Dube and I think at that time replaced her with – with somebody else – a Ms (indistinct) Lewis. Something like
10 that.

CHAIRPERSON: Okay.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

CHAIRPERSON: Okay, no that is fine.

ADV KATE HOFMEYR: And then Mr Ngwenya at paragraphs 18 and 19 you in a sense jump forward ...

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: And tell us what happened over time when steps were taken to replace Koreneka with other entities in relation to ground handling? Can you take us through that and then we will go to
20 the topic of the recordings that you have referred to points in your testimony already but just to complete the picture at 18 I have that she says conflict develops between Mr van Wyk and herself after she dismisses Ms Dube and then if you can take us further in time from that in relation to the replacement of Koreneka.

MR TIMOTHY NHLANHLA NGWENYA: Okay. Obviously Chair – no it is

not obvious – because of the conflict Chair between Mr van Wyk and Ms Tlatsana and threatening to – to take her out I think Mr van Wyk took a drastic step to actually try and replace Koreneka. Now Mr Chair I must bring this to your attention to say the contract that was signed it was for a period of 5 years.

Now Koreneka was providing like two different kind of services to two different entities. However Mr van Wyk decided to say no he would terminate as promised then Valotek came into the picture. This Valotek how it came into the picture Mr ...

10 **CHAIRPERSON:** Before the Valotek just remind me what was Mr van Wyk's position at SA Express?

MR TIMOTHY NHLANHLA NGWENYA: Mr van Wyk's position at SA Express was the General Manager Commercial.

CHAIRPERSON: In North West?

MR TIMOTHY NHLANHLA NGWENYA: No, no SA Express.

CHAIRPERSON: Oh.

MR TIMOTHY NHLANHLA NGWENYA: SA Express.

CHAIRPERSON: Nationally?

MR TIMOTHY NHLANHLA NGWENYA: Yes.

20 **CHAIRPERSON:** *Ja*.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

CHAIRPERSON: Oh, okay alright. Thank you.

MR TIMOTHY NHLANHLA NGWENYA: Chair ...

CHAIRPERSON: *Ja*, you may proceed.

MR TIMOTHY NHLANHLA NGWENYA: He was the Head ...

CHAIRPERSON: Yes.

MR TIMOTHY NHLANHLA NGWENYA: Of the Commercial Department.

CHAIRPERSON: Okay.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: And then you made reference to Valoteck. I understand that to be name of a company. Is that correct?

MR TIMOTHY NHLANHLA NGWENYA: It is the name of the company ma'am.

ADV KATE HOFMEYR: The full name is reflected on one of the
10 agreements attached to your affidavit. It is Valoteck and that is V-A-L-O-T-E-C-K Facilities Management CC. Is that correct?

MR TIMOTHY NHLANHLA NGWENYA: Correct ma'am correct.

ADV KATE HOFMEYR: So as I have your evidence at some point Koreneka is replaced by Valoteck ...

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: Pursuant to a decision by Mr van Wyk. That is what is relayed to you. Is that correct?

MR TIMOTHY NHLANHLA NGWENYA: Correct ma'am.

ADV KATE HOFMEYR: And what happens thereafter? Is Valoteck then
20 thereafter replaced itself?

MR TIMOTHY NHLANHLA NGWENYA: At the time - remember the - the contract between Koreneka and – and Express as well as the North West was actually still on. It was still effective but because of this misunderstanding Mr van Wyk wanted to take Koreneka out.

He then appointed Valoteck and when Valoteck came into the

picture they were supposed to take over from – from Koreneka because at the time when she told me she said - it was June - and she said Valoteck was appointed effective May – I think - 1 May but when they were supposed to take over this – this Valoteck take over from – from Koreneka at that time Koreneka – you know – involved – you know – their legal representation.

That is Ms Tlatsana who - who did exactly that because at that time she was the sole owner of the organisation. So she told me that she – she threatened SA Express with the lawyers to say there is
 10 going – you know – they would take SA Express on – on the basis that they were breaching the Service Level Agreement, yes.

ADV KATE HOFMEYR: Thank you and then after Valoteck – at paragraph 19 you talk about the fact that your later investigations indicated that Valoteck had been paid an amount of 15 million by the department but had rendered no services. Is that correct?

MR TIMOTHY NHLANHLA NGWENYA: That is correct ma'am.

ADV KATE HOFMEYR: And you conclude paragraph 19 by indicating what happened in the end to Valoteck. What – what were you able to establish in relation to Valoteck?

20 **MR TIMOTHY NHLANHLA NGWENYA:** As I stated that Valoteck did not conduct any services either for ground handling or for facility management. However I received information. I was told that the North West Government paid or the Department of Transport – the North West Department of Transport paid an amount around the region of 15 million to – to Valoteck – you know – for – clearly providing the

service that they did not really do.

ADV KATE HOFMEYR: Hm.

MR TIMOTHY NHLANHLA NGWENYA: Valotek did not provide any service to SA Express. There is no record within SA Express that would indicate that Valotek provided a service and as far as I know they did not provide a service to the North West because of Koreneka hung onto the contract until such time they were taken out when MAMCO moved in which is another company (indistinct) but what I also established was that Valotek after receiving the money they liquidated
10 – after receiving that 15 million.

CHAIRPERSON: What services did you understand Valotek to have been required to render in order to be entitled to this R15 million?

MR TIMOTHY NHLANHLA NGWENYA: In actual fact the very same services that were provided or rendered by Koreneka as the contracts ...

CHAIRPERSON: Yes.

MR TIMOTHY NHLANHLA NGWENYA: It is a cut and paste from Koreneka to Valotek with different figures ...

CHAIRPERSON: But ...

20 **MR TIMOTHY NHLANHLA NGWENYA:** In terms of remuneration from the SA Express side.

CHAIRPERSON: But has – had the contract between SA Express and Koreneka been terminated at the time that Valotek was ...

MR TIMOTHY NHLANHLA NGWENYA: No, no Chair.

CHAIRPERSON: Given the contract?

MR TIMOTHY NHLANHLA NGWENYA: No. Hence I said that when I started the investigation it was June and the contract was still – you know – ongoing – the Koreneka one. Valotek was appointed effective May of the very same year. So Valotek did not really take over from – from Koreneka.

In actual fact Ms Tlatsana told me that Ms Nothanda Dube was spreading rumours that Koreneka was to leave the airport and be – you know – be replaced Valotek. So Valotek was going to take over from Koreneka but that did not materialise ...

10 **CHAIRPERSON:** Yes.

MR TIMOTHY NHLANHLA NGWENYA: Because Valotek – I mean – Koreneka – you know – hung onto the – to this contract.

ADV KATE HOFMEYR: Mr ...

CHAIRPERSON: But you said the – you suggested that there was a contract between SA Express and Valotek and you said it was a cut and paste of the contract between SA Express and – and Koreneka. Is that – is that what the position was?

MR TIMOTHY NHLANHLA NGWENYA: Absolutely Chair. At the time when I was actually investigating I discovered that Koreneka – I mean –
20 Valotek was appointed by SA Express through an RFQ process where three quotes were requested from the market – you know – for the provision in fact of labour broking – you know – labour brokerage services.

So that is how Valotek was brought into Express and if I my memory serves me well Valotek was the only entity that responded to

that request which was sent out – you know – for quotation. So the contract that was between SA Express at the time within SA Express the contract was not available.

There was just an award letter – you know – for Valoteck to provide the labour brokerage services. The contract – let me put it this way. There was no signed contract ...

CHAIRPERSON: Yes.

MR TIMOTHY NHLANHLA NGWENYA: At the time.

CHAIRPERSON: Yes.

- 10 **MR TIMOTHY NHLANHLA NGWENYA:** I did not see any signed contract between SA Express and even during my investigation when I went to different departments to try and establish as to whether we have a copy or not I was actually told that we do not have a signed contract at the time.

CHAIRPERSON: That is between SA Express and Valoteck?

MR TIMOTHY NHLANHLA NGWENYA: SA Express and Valoteck yes.

CHAIRPERSON: But what is the cut and paste that you were talking about – cut and paste ...

MR TIMOTHY NHLANHLA NGWENYA: Hm.

- 20 **CHAIRPERSON:** Contact you were talking about?

MR TIMOTHY NHLANHLA NGWENYA: Okay. Maybe I am too forward Chair ...

CHAIRPERSON: Yes.

MR TIMOTHY NHLANHLA NGWENYA: But if you look at the Valoteck contract – the actual contract – that was ...

CHAIRPERSON: Which happened afterwards?

ADV KATE HOFMEYR: Indeed.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

CHAIRPERSON: Okay, alright.

MR TIMOTHY NHLANHLA NGWENYA: Yes (intervenes).

CHAIRPERSON: Ms Hofmeyr maybe continue.

ADV KATE HOFMEYR: Chair if I may just because one of the challenges with this part of the investigation is there are numerous companies that replace each other within a blink of an eye.

10 **CHAIRPERSON:** Yes.

ADV KATE HOFMEYR: What we will do is we will go through each of those agreements ...

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: But ...

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: What – what I understand of your evidence Mr Ngwenya and Chair I note that we are at the lunch break but if we could just conclude on this point.

CHAIRPERSON: *Ja.*

20 **ADV KATE HOFMEYR:** Before doing so.

CHAIRPERSON: Hm.

ADV KATE HOFMEYR: There are just two things I want to clarify Mr Ngwenya. You – I understand your evidence to be there was an agreement for ground handling services concluded between South African Express and Koreneka.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: Correct?

MR TIMOTHY NHLANHLA NGWENYA: Correct.

ADV KATE HOFMEYR: That was in about April 2015. Correct?

MR TIMOTHY NHLANHLA NGWENYA: Correct.

ADV KATE HOFMEYR: Subsequent to that when there – after there is this conflict that develops between Mr van Wyk and Ms Tlatsana a replica agreement is signed and concluded now between SA Express and this company called Valoteck. Is that correct?

10 **MR TIMOTHY NHLANHLA NGWENYA:** Correct.

ADV KATE HOFMEYR: Now let us just bring labour broking services in because it gets quite confusing. As I understand your evidence in the course of your investigation the only evidence you could find within SA Express of an actual award of any contract to Valoteck at all related to some quotation that was sought for labour brokering services. Is that correct?

MR TIMOTHY NHLANHLA NGWENYA: That is correct.

ADV KATE HOFMEYR: And then my final point of clarification. You mention Ms Dube in the context of Valoteck ...

20 **MR TIMOTHY NHLANHLA NGWENYA:** Yes.

ADV KATE HOFMEYR: But we need to unpack that a little bit because we had heard about Ms Dube in Koreneka.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: So I understand your evidence it was when Ms Tlatsana dismissed her ...

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: From Koreneka that the conflict between Mr van Wyk and Ms Tlatsana arose as she recounted it to you.

MR TIMOTHY NHLANHLA NGWENYA: Absolutely.

ADV KATE HOFMEYR: So what – what happens to Ms Dube? Where does she feature again?

MR TIMOTHY NHLANHLA NGWENYA: Thank you. Ms Dube was the owner of Valoteck.

ADV KATE HOFMEYR: Of Valoteck?

10 **MR TIMOTHY NHLANHLA NGWENYA:** Of Valoteck.

ADV KATE HOFMEYR: Thank you.

MR TIMOTHY NHLANHLA NGWENYA: You know I may have to go back and forth in relation to this. Like I said that in actual fact if you look at it Chair Ms Dube was appointed as a Manager – you know – for Koreneka by somebody that was brought in by Mr Brian van Wyk. Now when Ms Dube got fired by Ms Tlatsana – you know – at Koreneka she started a company which was Valoteck.

Now in this company there were two. I think it was – she was a 50 percent holder – you know – of the shareholding and there was
20 another person by the name of – I think – Kefilwe Mogodiri. This Kefilwe Mogodiri also held a 50 percent part of the shares. Now that is why I am saying there is a continuation with Ms - Ms Dube.

Now Mr van Wyk was not satisfied with her dismissal and she appoint – he appointed Valoteck. Now this element – Ms Dube – you know – continued to be part of this whole thing. She was fired there.

Then Valoteck surfaced and Ms Dube was actually the owner of that entity.

To me it was well orchestrated to say you know what we will continue where we – you know – you left off. So they tried to take out Koreneka by utilising this Valoteck and it did not materialise.

ADV KATE HOFMEYR: Thank you Mr Ngwenya. Were you able to establish any relationship between Ms Dube and Mr van Wyk other than her appointment initially in Koreneka?

MR TIMOTHY NHLANHLA NGWENYA: Not really ma'am in that regard
10 because the only thing that I can say I could see just – you know – Ms Dube moving from one entity to the other up to – you know – your prime goal. So I cannot really – I do not have anything tangible to say – you know – there is – they had this relationship or whatsoever.

ADV KATE HOFMEYR: Indeed.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: Chair just to assist those who are not as familiar with the facts as Mr Ngwenya is.

CHAIRPERSON: Hm.

ADV KATE HOFMEYR: He has made reference to MAMCO and PAMCO.
20 They are subsequent companies ...

CHAIRPERSON: Hm.

ADV KATE HOFMEYR: Who received the same ground handling services agreement ...

CHAIRPERSON: Hm.

ADV KATE HOFMEYR: But we will come to them in the course of the

evidence.

CHAIRPERSON: Okay. We will take the lunch adjournment and we will resume at 10 past two. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Are you ready?

ADV KATE HOFMEYR: Indeed Chair, thank you.

CHAIRPERSON: Thank you.

10 **ADV KATE HOFMEYR**: Chair just one procedural aspect before we return to Mr Ngwenya's evidence if I may.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Our second planned witness for today is Mr Piri. We have engaged with him about the possibility of an early start tomorrow.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Which he can conveniently make.

CHAIRPERSON: Yes.

20 **ADV KATE HOFMEYR**: It is my estimation that he won't start today that the idea would be to complete Mr Ngwenya's evidence and in the light of that we request that he be excused to return tomorrow.

CHAIRPERSON: Yes, no that's fine, he is excused he can return tomorrow.

ADV KATE HOFMEYR: Thank you Chair.

CHAIRPERSON: Yes, and he returns tomorrow at eight?

ADV KATE HOFMEYR: At eight o'clock, that's the arrangement, thank you.

CHAIRPERSON: Okay, thank you.

ADV KATE HOFMEYR: Mr Ngwenya we were just about to turn to page 7 of your affidavit before the lunch break, so I would like us to start there if we may. This is where you start to detail the audio recordings and documents that you were provided with by Ms Tlatsana, can you take us through what you were handed by her on that day that you met over the weekend in June? Oh Mr Ngwenya if you will turn on
10 the microphone, just press that. Oh.

CHAIRPERSON: Press the other one. There are two bars there.

ADV KATE HOFMEYR: There you go.

MR TIMOTHY NHLANHLA NGWENYA: Oh, eish, I am old school.

ADV KATE HOFMEYR: Thank you Mr Ngwenya, not at all.

MR TIMOTHY NHLANHLA NGWENYA: Chair she handed me a bunch of documentary evidence which consisted of the contracts, that is the contract between S A Express and the Northwest Government and the contract between S A Express and Koreneka, and the sms communication between Ms Tlatsana and Mr van Wyk. She also handed
20 me the bank statement, the Koreneka bank statement that depicted as to how much was paid into Koreneka by S A Express and the Northwest Government and how it was disbursed after you know it was received. You know the transactions that took place after.

What else did she give me, correspondence between her and Mr van Wyk and there was one between her and the – where she sent

an email to the GM Legal Risk and Compliance, it was quite a number of those and the audio recordings quite a number of those audio recordings, some of those audio recordings were recorded over the telephone conversation, some it was on the recorder you know where they were sitting in a particular restaurant around the Northwest, so that's basically what she handed over to me.

ADV KATE HOFMEYR: Thank you.

MR TIMOTHY NHLANHLA NGWENYA: I hope I did not leave anything?

ADV KATE HOFMEYR: No I was checking, I would have referred you
10 to it if there was something in your affidavit that you'd neglected to mention.

Mr Ngwenya at paragraph 20 on page 7 you talk about the sum total of the amounts that those bank statements reflected had been received by Koreneka. What are those amounts?

MR TIMOTHY NHLANHLA NGWENYA: R31million was received from S A Express, however it was not a lump sum, it was in trenches.

ADV KATE HOFMEYR: We will go into that in due course.

MR TIMOTHY NHLANHLA NGWENYA: Yes, and then the R20million that was coming from the Northwest Department of Transport.

20 **ADV KATE HOFMEYR:** So in total R51million is that right?

MR TIMOTHY NHLANHLA NGWENYA: R51million, correct.

ADV KATE HOFMEYR: And if we then move to paragraph 21, in paragraph 21 you start to recount the events that then unfolded after that weekend from Monday the 27th, can you take us through what steps you took on that Monday?

MR TIMOTHY NHLANHLA NGWENYA: The Monday of course let me just say the Sunday I went through the recording but I did not listen to all of them, then the Monday because already I had established through the recording Chair as to how much was Mr van Wyk implicated and all you know the amounts that were involved and that, and that on one of the recordings Mr van Wyk had implicated the Chairperson of the S A Express Board as well as the CEO and ...(intervention)

CHAIRPERSON: The chairperson of?

MR TIMOTHY NHLANHLA NGWENYA: S A Express Board.

10 **CHAIRPERSON:** Okay.

MR TIMOTHY NHLANHLA NGWENYA: As well as the CEO, Mr Inati Ntshanga. By the way the Chairperson of the S A Express Board, though he did not mention the name, his name is Mr – the then Chairperson Mr George Muthema. He also implicated prominent people within the National and Provincial government, Ministers you know and the rest that I would mention as we go along, on his what you call it ...(intervention)

CHAIRPERSON: On the recording.

MR TIMOTHY NHLANHLA NGWENYA: On the recording yes.

20 **CHAIRPERSON:** Mmm.

MR TIMOTHY NHLANHLA NGWENYA: Then the Monday I called ...(intervention)

CHAIRPERSON: What day of the week would it – was it a Saturday when you met with her?

MR TIMOTHY NHLANHLA NGWENYA: I met with her on a Saturday.

CHAIRPERSON: Yes.

MR TIMOTHY NHLANHLA NGWENYA: I left the Northwest at night, I got home just before midnight.

CHAIRPERSON: Okay.

MR TIMOTHY NHLANHLA NGWENYA: Then the Sunday I went through the recordings in particular the one that she played for me where these individuals were implicated. So I listened on that one, I played that one repeatedly so, so as to understand as to you know what was the whole story. Then my approach the following day was that I needed to
10 get the CEO and the GM Legal Risk and Compliance together so I can deliver the news,

Then the Monday morning I remember on that Monday that was the 27th of June there was an Exco meeting that was supposed to take place on that day, so I went to work, arrived early of course, I tried to get hold of Ms Mochoele and without any success, I tried Mr Inati Ntshanga, the CEO, I couldn't reach him. When I was at work I think she was on her way to work, I managed to reach her and I told her that you know what I needed to see her urgently and together with the CEO because I've got some news to deliver to them and you know it's
20 pertaining the contract in the Northwest where it is alleged that the GM Commercial, Mr Brian van Wyk you know to a certain extent was manipulating this thing, you know corruption and I indicated to her that I heard evidence supporting the allegation and you know I sat in my office. On arrival she came directly to my office to listen to what I had to say.

CHAIRPERSON: Who was that now?

MR TIMOTHY NHLANHLA NGWENYA: Sorry, sorry Chair, that's Ms Mochoele.

CHAIRPERSON: The GM?

MR TIMOTHY NHLANHLA NGWENYA: The GM Legal Risk and Compliance.

CHAIRPERSON: Yes okay.

MR TIMOTHY NHLANHLA NGWENYA: The boss of security management so to speak. So I delivered the news to her to say this is
10 what I have but I would also want to see it to be part of this, please just get this, she left my office and she went, at that time the CEO was already you know at work. She spoke to the CE, advised her to say hey there's this thing that is happening and Tim wants to see us and all that. Now the CE excused himself from the Exco meeting of which the GM Legal did say, so we went and sat in the CE's office, excuse me – in the CEO's office, Mr Inati Ntshanga and when we got there I actually explained to them you know as to why I wanted to see them, I told them that I received a call on Friday from a person who is based you know in the Northwest and this person alleged that Mr Brian van Wyk was
20 corrupt and in a way he was trying to take over her company and that person is actually the owner of the company Koreneka which is the ground service provider for S A Express in the Northwest Airports and I said to them I had requested this person not to go to the media, because she wanted to report this and I also promised her that I would ensure that the CE gives her a call so as to confirm that the matter was

reported to the highest office within the organisation as promised.

So when I got there I explained all that to say I've got the audio recordings, you know this – I actually had the evidence with me and these audio recordings, I explained the audio recordings to say some of those were recorded over you know the telecon between Mr van Wyk and Ms Tlatsana and other officials from the Northwest, you know and also there was one that I focused specifically on because it touched on the S A Express individual where it implicated the CE – I told him straight to say it implicated, Mr van Wyk actually implicated
10 you on that particular recording and the Board Chairperson Mr Motema, and that ...(intervention)

ADV KATE HOFMEYR: Mr Ngwenya if I may just there to locate you in your affidavit, we are at page 8, and it's paragraph 24, because there you are recounting what was specifically said in relation to that recording that you're dealing with at the moment.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: What I would like you to just be clear about is when you say the recordings implicated people in what conduct were they implicated?

20 **MR TIMOTHY NHLANHLA NGWENYA:** Okay one how he, Mr van Wyk, implicated the Chairperson and the CO of S A Express, he said they were the ones who actually initiated the deal, who were in charge of the negotiations pertaining this whole deal and that they were aware of the transactions that were taking place you know the movement of money and all that, so they were privy to everything that was happening and

that he said he was acting on – based on instructions he was not Mr van Wyk, that's Mr van Wyk, but he was not doing things on his own.

ADV KATE HOFMEYR: And Mr Ngwenya there were other people mentioned on that audio recording, Chair just to facilitate the remainder of the evidence we do have the recordings and the proposal is to have them played during the evidence of Ms Tlatsana because she was in those conversations.

CHAIRPERSON: Yes, yes.

ADV KATE HOFMEYR: But we're getting in a sense the bigger picture
10 of the story through Mr Ngwenya's evidence, and so Mr Ngwenya if we can take you to paragraph 24 you list there the other people who were implicated in the audio recording, could you please read for us who those individuals are?

MR TIMOTHY NHLANHLA NGWENYA: Okay, apart from the Chairperson and the CEO of S A Express the other individuals that were implicated was the then Minister of the DPE, Lynne Brown, and the then Minister of Department of Transport, Minister Dipua Peters, the Premier of the Northwest, Mr Supra Mahumapelo, the HOD of the Northwest which I assume that was Mr Bailey Mahlakoleng and the CFO of which I
20 don't know the name it was not mentioned as to who the person was, the MEC from the Northwest and a Mr Wolmarans whom she alleged that was more like a right hand man of the Premier. Those were the individuals that were implicated.

ADV KATE HOFMEYR: And that particular recording where did you understand it was taken?

MR TIMOTHY NHLANHLA NGWENYA: In one – according to her it was somewhere in the – it's a recording, it was not a telecom, but she recorded while they were sitting, you know she hid the recorder somehow as they were talking she recorded the whole conversation.

ADV KATE HOFMEYR: And Mr Ngwenya just to be clear how were these individuals implicated in the recording, because I understood you to say the CEO and the Chairperson had been implicated as having given instructions in relation to these transactions, how were these other individuals implicated on the record.

- 10 **MR TIMOTHY NHLANHLA NGWENYA:** Okay, on this recording, maybe it's one thing that I did not really mention, I omitted, on this recording Chair as Mr van Wyk was explaining to Ms Tlatsana you know as to who was supposed to be - to get paid you now on all the monies, he scribbled on a particular, on a document he scribbled the names, because at some stage he said I don't have to mention names, but if you look at the document that I am actually about to talk about and you listen to the recording you would realise that it's the very same document that as he was talking he was scribbling. He mentioned the names and the titles to say all of them they were supposed to be paid,
- 20 in actual fact there was a bit of a disagreement between her Ms Tlatsana in relation to the amounts to be paid to these individuals. On that particular recording he mentioned that the Ministers they are supposed to get 20/.20 and Ms Tlatsana objected to that to say but initially you said it's 10, you're changing from time to time, you know in terms of how much they were supposed to be paid. But all of it

...(intervention)

ADV KATE HOFMEYR: Mr Ngwenya I do apologise for interrupting. Chair we have been told that there is a need for some technical matter to be attended to, I wonder if a short adjournment might be possible, particularly if it relates to the recording, we need to get that right.

CHAIRPERSON: Yes, okay I will take a short adjournment and we will be told as soon as the technical problem has been sorted out.

ADV KATE HOFMEYR: Thank you Chair.

CHAIRPERSON: We adjourn.

10 **INQUIRY ADJOURNS**

INQUIRY RESUMES

CHAIRPERSON: Yes are you ready?

ADV KATE HOFMEYR: Indeed Chair.

CHAIRPERSON: Thank you.

ADV KATE HOFMEYR: Thank you. Mr Ngwenya we were dealing with how precisely the persons referred to on the recording were implicated in the dealings between the North West and South African Express and Koreneka and as I have it just before the break you were detailing how there had been some discussion of the amounts that were to be paid to

20 these individuals, is that correct?

MR TIMOTHY NHLANHLA NGWENYA: Correct.

ADV KATE HOFMEYR: So was your understanding that they were implicated insofar as they had been recipients of funds out of monies that had been paid to Koreneka, was that your understanding?

MR TIMOTHY NHLANHLA NGWENYA: Correct.

CHAIRPERSON: May I just take you back a little bit. The meeting between yourself and the owner of Koreneke on that Saturday what did it reveal as the purpose for her wanting you to give you all this information? Was the position that she was complaining that there were attempts to get rid of her business and bring in somebody else, is that what prompted her to want to approach you? Or did she say it was simply a concern that maybe money that should be – should stay with her business was being paid out because there were these other people that needed to be paid and she had had enough of it or what had prompted this?

MR TIMOTHY NHLANHLA NGWENYA: I think firstly Chair the fact that Mr Van Wyk wanted to take her out of the business replace her company and money was actually spent. There were these illicit transactions you know from her account where money was transferred to numerous accounts the R31 million. To a certain extent I think she could not really account for the R31 million because of – she was not directly involved in the disbursement of that R31 million.

CHAIRPERSON: But it came into the account of her company?

MR TIMOTHY NHLANHLA NGWENYA: It came into her account yes. It came into her account.

CHAIRPERSON: But she would have been the one who dispensed it, is it not?

MR TIMOTHY NHLANHLA NGWENYA: I am getting there Chair. What actually happened this Mr David Kalisilira who was the accountant according to her based on the instruction of Mr Van Wyk because of

initially let me mention this. They had an account with the FNB branch and she me that she was told by Mr Van Wyk to open that account in the first place. She had to give her account credentials the pins and whatsoever to Mr Kalisilira so she – so he can operate and disperse the funds whichever way yes. So she actually voluntarily

CHAIRPERSON: Ja.

MR TIMOTHY NHLANHLA NGWENYA: Based on the instruction.

CHAIRPERSON: Yes.

MR TIMOTHY NHLANHLA NGWENYA: You know handed that
10 information to Mr Kalisilira who was responsible to handle the funds.

CHAIRPERSON: Okay. Thank you.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

CHAIRPERSON: I interrupted you Ms Hofmeyr.

ADV KATE HOFMEYR: Not at all Chair. So we were dealing with how these people were implicated that were referenced on the audio recording and as I have it you relayed that to the CEO and the GM of legal in that meeting on the Monday, is that correct?

MR TIMOTHY NHLANHLA NGWENYA: Correct Ma'am.

ADV KATE HOFMEYR: And then if we go to paragraph 25 on page 8.

20 **MR TIMOTHY NHLANHLA NGWENYA:** Yes.

ADV KATE HOFMEYR: You were testifying earlier Mr Ngwenya that you made an undertaking to Ms Tlatsana that she would be phoned.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: So that she knew that this matter had been taken up by the highest authority within SA Express, is that correct?

MR TIMOTHY NHLANHLA NGWENYA: That is correct.

ADV KATE HOFMEYR: And then as I have it at paragraph 25 you detail the precise call that you did then make to Ms Tlatsana?

MR TIMOTHY NHLANHLA NGWENYA: Correct.

ADV KATE HOFMEYR: Can you take us through that?

MR TIMOTHY NHLANHLA NGWENYA: Okay after explaining of course and indicating that the CO in fact I requested or asked him to phone Ms Tlatsana as a confirmation that the matter was brought to his attention. He agreed to that and I dialled Ms Tlatsana's contact because of in the
10 room amongst the three of us I was the only one who had her contact at that juncture. So I dialled the number of Ms Tlatsana and I made some form of an introduction to say it was me and I am with the CEO and the GM legal risk and compliance and as promised they want to talk to her pertaining the issue. They introduced themselves to her the CEO Mr Inathi Ntshanga and Ms Mirriam Mochoele and then Ms Tlatsana just let it go. You know she was talking as if you know she had some form of ...

CHAIRPERSON: She poured out everything she wanted to say?

MR TIMOTHY NHLANHLA NGWENYA: Yes and you know...

20 **CHAIRPERSON:** Repeating the same things that...

MR TIMOTHY NHLANHLA NGWENYA: To say she has been willing to speak to Mr Ntshanga to report you know what Mr Van Wyk was actually doing to her and you know Mr Van Wyk was sort of taking her for granted, playing with her, wanting to take her company and things like that. She – you know she poured everything out. She let it out. But ...

CHAIRPERSON: And a lot of it was – had – was in the recording as you...

MR TIMOTHY NHLANHLA NGWENYA: Even telling him...

CHAIRPERSON: What was in the recording as you had listened to it?

MR TIMOTHY NHLANHLA NGWENYA: Yes, yes in actual fact that conversation was recorded as well Mr Chair.

CHAIRPERSON: Okay when she was pouring out?

MR TIMOTHY NHLANHLA NGWENYA: That recording was ...

CHAIRPERSON: Yes.

10 **MR TIMOTHY NHLANHLA NGWENYA**: That conversation was actually recorded.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Mr Ngwenya by whom?

MR TIMOTHY NHLANHLA NGWENYA: Recorded – [laughing] I am sorry.

ADV KATE HOFMEYR: That [indistinct].

MR TIMOTHY NHLANHLA NGWENYA: By Mr Tlatsana.

ADV KATE HOFMEYR: Right. But you did obtain.

CHAIRPERSON: Oh [laughing]

20 **MR TIMOTHY NHLANHLA NGWENYA**: Yes, yes. I...

ADV KATE HOFMEYR: Ms Tlatsana was at this stage recording many conversations.

MR TIMOTHY NHLANHLA NGWENYA: She was not playing with fire she was recording almost everything. When you talk to her you know that she was recording.

ADV KATE HOFMEYR: But you did subsequently obtain that recording from her did you not?

MR TIMOTHY NHLANHLA NGWENYA: Absolutely in fact it is two recordings.

ADV KATE HOFMEYR: Yes.

MR TIMOTHY NHLANHLA NGWENYA: Because during the course of that conversation we were cut off somehow and the CEO stood up and left the room. I take it that he went to the bathroom. And I redialled the number Ms Tlatsana and Ms Mochoele had to indicate where to say
10 hey you know what we were cut out and the CEO just left the room but he will be back he went to the bathrooms. While she was explaining that the CEO walked in and then the conversation went on again. And she gave it all. Then we were done.

ADV KATE HOFMEYR: Hm.

MR TIMOTHY NHLANHLA NGWENYA: Later on I requested those conversations, the recordings from Ms Tlatsana and then she forwarded those to me via Whatsapp.

ADV KATE HOFMEYR: Mr Ngwenya

MR TIMOTHY NHLANHLA NGWENYA: It was two sets of recordings.

20 **ADV KATE HOFMEYR:** You have that conversation it is in two parts and it is recorded as I have it you got those from her later. But if you go to page 9 of your affidavit you will see that towards the bottom of that page paragraph 28.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: You talk about how seriously you took the

allegations and what you then said to Mr Ntshanga in the light of what had been recounted to you previously and on the call. What did you say to him?

MR TIMOTHY NHLANHLA NGWENYA: Can I step back a bit and get back.

ADV KATE HOFMEYR: Of course.

MR TIMOTHY NHLANHLA NGWENYA: The document that I was talking about the scribbled document.

ADV KATE HOFMEYR: Yes just for the record if we may? Chair there
10 is a photocopy of that document which appears as Annexure 1 so it will be behind Tab 1 at page 32. This is also a document Chair that we propose to deal with in Ms Tlatsana's evidence.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Because she was actually present!

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: As we have her evidence as this was being drawn out.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: By Mr Van Wyk.

20 **CHAIRPERSON:** Hm.

ADV KATE HOFMEYR: But it did come to Mr Ngwenya when those documents were first handed over.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: And absolutely you are correct there is an interaction you have with Mr Ntshanga.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: About the handwriting on this page, is that what you wanted to go to?

MR TIMOTHY NHLANHLA NGWENYA: Absolutely. That is what I want to raise yes.

ADV KATE HOFMEYR: Thank you.

MR TIMOTHY NHLANHLA NGWENYA: Chair as I have explained that you know I brought the evidence, the recordings and all that and I specifically mentioned the parts that was actually relevant to them in
10 terms of the recording. I also produced this documents – this document which was scribbled you know and it was – Ms Tlatsana alleged that it was Mr Van Wyk who wrote on this document. So I produced this documents – this document and I showed it to the CEO and the GM legal.

CHAIRPERSON: At that meeting?

MR TIMOTHY NHLANHLA NGWENYA: Come again?

CHAIRPERSON: You showed it to them at that meeting?

MR TIMOTHY NHLANHLA NGWENYA: At that meeting yes.

CHAIRPERSON: Ja. And the meeting was on Monday?

20 **MR TIMOTHY NHLANHLA NGWENYA:** It was on Monday the very same Monday.

CHAIRPERSON: The first Monday after the Saturday meeting with Mr Tlatsana?

MR TIMOTHY NHLANHLA NGWENYA: Yes, yes.

CHAIRPERSON: Okay.

MR TIMOTHY NHLANHLA NGWENYA: Yes Chair. So when I produced this document the CEO looked at it and he confirmed the writing on this document as that of Mr Brian Van Wyk the CM Commercial and the GM Legal Ms Merriam Mochoele concurred with this – with Mr Ntshanga to say indeed this was the handwriting of Mr Van Wyk. Then it was clear definitely that Mr Van Wyk was somehow involved in this whole thing. I then said to or rather advised the CEO to say based on the nature of these transactions the amount involved and the fact that Mr Brian Van Wyk was an employee of SA Express and the GM for that matter I mean
10 the amount that was involved in this regard was the R31 million that came out of the SA Express account – I mean – account. I advised the CE based on Section 34 of The PRECCA Act 12 of 2004 that she had a responsibility as a person who is in the position of authority to report these transactions to the authorities.

ADV KATE HOFMEYR: And Msr Mgwenya just to be clear PRECCA is the Prevention and Combatting of Corrupt Activities Act is that right?

MR TIMOTHY NHLANHLA NGWENYA: Correct Ma'am.

ADV KATE HOFMEYR: Thank you.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

20 **ADV KATE HOFMEYR:** So you advised him to make a report?

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: In accordance with the obligations set out in Section 34 of that Act, is that right?

MR TIMOTHY NHLANHLA NGWENYA: Absolutely, absolutely Ma'am.

ADV KATE HOFMEYR: And then if you pick it up at the bottom of page

9 paragraph 28.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: I understand that Mr Ntshanga then suggested you should investigate the matter, is that correct?

MR TIMOTHY NHLANHLA NGWENYA: That is correct Ma'am.

ADV KATE HOFMEYR: And what was to be the scope of the investigation?

MR TIMOTHY NHLANHLA NGWENYA: I think there were three facts that I had to establish and all those were around the appointment of
10 Koreneka and the allegations that were made by Mr Tlatsana pertaining to Mr Van Wyk. I had to establish if what she alleged was true or not. I also had to establish if the appointment of Koreneka was as per I think the procurement process within Express and also the appointment of Koreneka as a facility management was as according to the agreement between SA Express and the North West government.

ADV KATE HOFMEYR: Hm.

MR TIMOTHY NHLANHLA NGWENYA: I think I am correct in saying that.

ADV KATE HOFMEYR: Indeed.

20 **MR TIMOTHY NHLANHLA NGWENYA:** When he gave me that mandate it was not a written mandate Chair it was a verbal. As far as this is concerned I think you know in any case when you are given a mandate it has to be written especially when you dealing with people you know who are on a higher level than yourself. So that I did not get. But then I raised two issues with him to say much as you have given me this

scope and the mandate I want to make it clear to you that

1. I can only be able to investigate all the transgressions that occurred within SA Express and that secondly
2. I will not be able to investigate any party that is outside SA Express because I do not have any authority towards those individuals.

And the fact that prominent people were implicated I may not be able to establish the facts around that including the implication of the SA Express board chairperson. That is what I said to him in relation to the scope.

10

ADV KATE HOFMEYR: And Mr Ngwenya I then have your affidavit to be picked up at page 11 because some of what is still contained on page 10 you have already dealt with in your oral testimony. But what you say at page 11 paragraph 33 is you talk about as I have it after the conclusion of that meeting what you then started to do still on that same Monday to further investigate the matter. And Mr Ngwenya just to frame the next bit of the evidence. As I have it you start with the legal department.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

20 **ADV KATE HOFMEYR:** You then go and make enquiries of the finance department and then you engage with procurement.

MR TIMOTHY NHLANHLA NGWENYA: Correct.

ADV KATE HOFMEYR: So if we could take each of those in order. What do you seek to establish with the legal department first?

MR TIMOTHY NHLANHLA NGWENYA: The legal department at the time

was responsible for the contract management which means every contract that SA Express was involved in they were kept at legal, the files were kept at legal. So after the meeting with Ms Mochoele the GM Legal and the CEO. After we listened to the recordings and you know giving everything I went to the legal department after being given the mandate to say – to try and establish as to whether there was a contract in place in the first place you know. So when I got to legal at the time there was a person who was the legal advisor by the name Ms Nasiphi Mkentane. I went and spoke to her pertaining the issue and I

10 said to her I was actually looking for the contract for the North West which involved Koreneka you know. Ms Mkentane said to me North West I do not have the contract that relates to the North West you know ground handling services but one thing that I can tell you is that I drafted the contract in relation to the ground handling services in the North West in particular the Pilanesberg. However on that contract she did – she was not aware as to who was the company that was to you know provide the service. So she drafted the contract and forwarded it to Mr Brian Van Wyk without a company name and if my memory serves me well without the figures as to how much was you know to be paid to

20 this actually to this entity. And she indicated somehow to say it was an instruction that she received either by Mr Van Wyk or Ms Mochoele and she said to me she will forward everything to me. I then left her office on that day. Then the following morning I recall because of you know I went through that email. I think it was around twenty five past eight that was on the 28th she emailed me...

CHAIRPERSON: 28th of what month?

MR TIMOTHY NHLANHLA NGWENYA: June, June, sorry 28th.

CHAIRPERSON: 2015 still?

MR TIMOTHY NHLANHLA NGWENYA: 2016.

CHAIRPERSON: Was it 2015 of 2016?

MR TIMOTHY NHLANHLA NGWENYA: 2016.

CHAIRPERSON: 16.

MR TIMOTHY NHLANHLA NGWENYA: 2016.

CHAIRPERSON: Okay.

10 **ADV KATE HOFMEYR**: Mr Ngwenya ...

CHAIRPERSON: And the Saturday when you saw Ms Tlatsana?

MR TIMOTHY NHLANHLA NGWENYA: Tlatsana.

CHAIRPERSON: Tlatsana ja.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

CHAIRPERSON: Was it June?

MR TIMOTHY NHLANHLA NGWENYA: It was June the 24th.

CHAIRPERSON: Oh okay so it is still the same month?

MR TIMOTHY NHLANHLA NGWENYA: It is still the week.

CHAIRPERSON: Okay. Alright.

20 **MR TIMOTHY NHLANHLA NGWENYA**: Exactly yes. So it is the day after I met – it was the 27th I met with the CE and I met her then the following day on the 28th June the Tuesday Ms Mkentane forwarded me the contract relating to the draft actually relating to the service in Pilanesberg.

ADV KATE HOFMEYR: Mr Ngwenya I would like us to go to that email

if we may?

MR TIMOTHY NHLANHLA NGWENYA: Okay.

ADV KATE HOFMEYR: You will find it under Annexure 3 it is page 36, 36.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: And you will see at the top of that page I take it the forwarding that Ms Mkentane engaged in to get the draft agreement to you as well as the email that is contained lower down on that page. And that is an email as I read it of the 10 April 2015, is that correct?

10 **MR TIMOTHY NHLANHLA NGWENYA:** That is correct Ma'am.

ADV KATE HOFMEYR: And who is it from and to?

MR TIMOTHY NHLANHLA NGWENYA: You mean the email?

ADV KATE HOFMEYR: Yes.

MR TIMOTHY NHLANHLA NGWENYA: The email is from Ms Meriam Mochoele to the then GM or General Manager Operations Mr Brian – I mean Mr Dave Allenby. Also to Mr Brian Tebogo Van Wyk who was the GM Commercial.

ADV KATE HOFMEYR: And copied...

MR TIMOTHY NHLANHLA NGWENYA: At SA Express.

20 **ADV KATE HOFMEYR:** And copied to Ms Mkentane.

MR TIMOTHY NHLANHLA NGWENYA: And copied to Ms Nasiphi Mkentane.

ADV KATE HOFMEYR: What I am interested in in relation to that email Mr Ngwenya is what Ms Mochoele says to first of all Mr Allenby because she first of all asks that somebody in his department look at

the attached agreement to ensure it is sufficiently and appropriately captures what needs to be captured.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: She says it is still very much a draft. We will still need to polish it up.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: However in the interest of time I suggest that your department also have a look at it at this stage. That person can work with Nasiphi who will be responsible for finalising the draft. And
10 then what does she say at the bottom @brian – what do you understand the @brian to mean?

MR TIMOTHY NHLANHLA NGWENYA: Oh she was directly speaking to Mr Van Wyk.

ADV KATE HOFMEYR: Right and what does she say there?

MR TIMOTHY NHLANHLA NGWENYA: I can simply read this part?

ADV KATE HOFMEYR: Hm

MR TIMOTHY NHLANHLA NGWENYA:

20 “@Brian I guess we need to ask the province to advise us as to who the management company is going to be so that we can meet with them just to make sure that there is an understanding on what is expected. As well as go through the financial aspects.”

ADV KATE HOFMEYR: Right and then if we can return to your affidavit and we are now at page 12 the top paragraph there 35. You deal there

with your impression of the email.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: Can you tell us what your impression was at the time?

MR TIMOTHY NHLANHLA NGWENYA: My impression at the time especially pertaining to that email is that Ms Mochoele was well aware – let me just explain this. Ms Mochoele as a GM she was also the chairperson of the BAC the Bid Adjudication Committee, she was the chairperson. Now the impression that I got was that she had a
10 knowledge already around in April that there was no procurement process followed because as a matter of fact this was supposed to be brought to the BAC because of the figures on the contract. They exceeded the R500 000.00 which is RFQ so it was RFP. There was supposed to be a request for proposals. Now as the chairperson of the BAC she knew at the time that nothing was brought to her attention and yet she continued you know to entertain the issue and further you know allowing her department to draft a contract you know to that effect knowing this or that there was no procurement process that was followed and that was a violation.

20 **ADV KATE HOFMEYR:** And Mr Ngwenya at paragraph 36 on the same page you then talk about your next step as I have it and the sequence was to go to the finance department. What did you want to establish there and what did you establish?

MR TIMOTHY NHLANHLA NGWENYA: Okay remember there were – I mentioned that there were payments made to the amount of R31

million. So already at that juncture I had established that with legal there was no file or agreement that was there. My next step was to go to the finance department so as to establish as to how was this money paid to Koreneke and that much as well. So I went to the finance department and I interviewed the supervisor there by the name of Ms Busisiwe Mavuso. Ms Busisiwe Mavuso confirmed to me that yes indeed there were payments that were made to the – to that R31 million and that there were invoices submitted to the department.

CHAIRPERSON: And what did you say was her position?

10 **MR TIMOTHY NHLANHLA NGWENYA**: She was the supervisor at finance.

CHAIRPERSON: Okay.

MR TIMOTHY NHLANHLA NGWENYA: The – she is supervising the creditors clerks.

CHAIRPERSON: Yes okay.

MR TIMOTHY NHLANHLA NGWENYA: And all that. Yes. The payment processes.

CHAIRPERSON: That stuff.

20 **MR TIMOTHY NHLANHLA NGWENYA**: The payments are processed and all that and they go to treasury. So now she said to me she was given the invoices and the expense authorisation. Now the invoices were Koreneke invoices claiming you know payments from SA Express and also there were expense authorisation. Expense authorisation it is an internal documents – SA Express internal document where when there is money to be spent you know payments or whatsoever you know

certain individual who are designated to sign as per the DOA, Delegation of Authority Chair in terms of the amounts that are reflected on that document they would sign that document. So in that regard Ms Busisiwe produced those documents. It was four invoices and four expense authorisations which were approved by Mr Van Wyk you know and Mr Inati Ntshanga the CEO also endorsed you know he appended his signature sort of approve these what you call – these payments.

ADV KATE HOFMEYR: And Mr Ngwenya we will go to those payments in detail.

10 **MR TIMOTHY NHLANHLA NGWENYA:** Yes.

ADV KATE HOFMEYR: They total the R31 million that you were concerned to uncover the sort of tracking of the funds out of SA Express.

MR TIMOTHY NHLANHLA NGWENYA: Correct.

ADV KATE HOFMEYR: But before we get to that just at the conclusion of paragraph 36

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: You are able to establish how Koreneke came onto the SAPS system of SA Express. How did that happen?

20 **MR TIMOTHY NHLANHLA NGWENYA:** This when I interviewed Ms Mabuso she stated that she was verbally instructed by the CFO Mr Mark Shelly the then CFO Mr Mark Shelly to say she needed to load the details of Koreneke on our vendor – you know as a vender on the SAPS system and once information is uploaded there it is definitely for the purpose of payments.

ADV KATE HOFMEYR: Hm.

MR TIMOTHY NHLANHLA NGWENYA: Now this actually happened on the 5 May. Now Mr Chair on the – one of the invoices and expense of you would see that was prepared day before for payment and on the 5th Mr Mark Shelly instructed her to say load on the system. She did exactly that and there is a document in this – on the bundle that gives an indication to say this was actually done on the 5 May where Koreneka's details were uploaded on SAP. The following day 8.5 million was transferred from SA Express account into the Koreneka account.

10 **ADV KATE HOFMEYR:** Thank you. Mr Ngwenya we will come to your investigation as to whether there was a basis for that payment but before we get there if we may you do this engagement – or you have this engagement with the finance department on the 28 June.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: You only go to the procurement department a few days after that but what I would like to do in the middle is just talk about what happened on the 1 July because there were certain plans in anticipation in relation to Mr Van Wyk and then Mr Van Wyk took certain steps in so far as his relationship with SA Express is concerned. Can
20 you tell us what that is?

MR TIMOTHY NHLANHLA NGWENYA: Yes. On this instance we had a plan. I must indicate Chair that I could hardly recall the number of meetings that we had between myself, Mr Inathi Ntshaga and Ms Merriam Mochoele. Now there was a plan on the day – there was a disciplinary hearing on that day against a subordinate of Mr Brian Van

Wyk and of course I gave – I testified on that day. But the plan was that we needed to suspend or the company needed to suspend Mr Brian Van Wyk. So we had a plan in place and the plan was only known to myself, the then employee relations senior specialist Ms Nomfusi Dakene and it was also known to her boss the GM of HC Human Capital which is HR Ms Kgatile Nkala and of course the CEO. Now the plan was that he would be suspended and I would confiscate his access card and – you know – the laptop all those gadgets and therefore walk him out except for the cellphone because he needed still to report.

10 He was still an employee and I needed to escort him out of the premises. Then we planned to say we are going to execute. Now if my memory serves me well because Ms Dagenie was sitting in that and we had plotted it to say once you are done you give me an indication. So I can come up and we can execute as planned.

I remember at that time when she – I think she sent me an SMS. I cannot recall how she – she – but I think it was an SMS or a WhatsApp. Now – to say we are ready. We can action. I went to – to the ACGM because she needed to be present and advised her to say we are ready. We can go.

20 I walked with her to Mr Brian van Wyk where the disciplinary hearing was actually taking place of his subordinate. When I got there as we were walking – you know – at third floor because he was busy at third floor. From the second floor we went to the third floor. Ms Nkala stayed behind. She spoke to somebody.

I think that was deliberate Mr Chair because I ended up

walking into the office alone and as we were talking and about to execute the plan I heard Ms Nkala talking towards the door of Mr van Wyk. She was talking to somebody within – you know – the - the company around the third floor.

I could hear her voice and because of Mr Brian van Wyk how he was seated he could see – you know – in between the gap of the door and the other side of his office. Now I saw him looking towards the door and back to us and I just said excuse me. He said excuse me. That was the last time I saw him. So my view ...

10 **CHAIRPERSON:** Oh, he left the room?

MR TIMOTHY NHLANHLA NGWENYA: He left – he said excuse me.

CHAIRPERSON: And never returned?

MR TIMOTHY NHLANHLA NGWENYA: Now the GMHC did not enter the room. He stood right at the door. He looked towards the door and he looked at us and he said guys excuse me. He stood up and went out of the office. That was the last time I saw him. So what it means Mr van Wyk disappeared from the premises.

He ran away literally ran away. He was advised and honestly I can certainly bet the GMHC advised him accordingly. So he
20 disappeared.

ADV KATE HOFMEYR: Mr Ngwenya you do not have any direct knowledge of that advice been given. Do you?

MR TIMOTHY NHLANHLA NGWENYA: Come again?

ADV KATE HOFMEYR: You do not know for a fact ...

MR TIMOTHY NHLANHLA NGWENYA: Absolutely.

ADV KATE HOFMEYR: That that advice was given?

MR TIMOTHY NHLANHLA NGWENYA: I do not – I do not know for a fact.

ADV KATE HOFMEYR: Thank you.

MR TIMOTHY NHLANHLA NGWENYA: I do not know for a fact, know. I cannot say that. It is just that he looked at where she was standing and he stood up. Then he did not come back and she did not come back too. She did not come back too.

CHAIRPERSON: And she was supposed to go into the room with you?

10 **MR TIMOTHY NHLANHLA NGWENYA:** With me.

CHAIRPERSON: For purposes of execution.

MR TIMOTHY NHLANHLA NGWENYA: Hence my assumption is that she is the person that gave the information to Mr van Wyk.

CHAIRPERSON: But did you see her again?

MR TIMOTHY NHLANHLA NGWENYA: Yes. She remained in the company.

CHAIRPERSON: And did you confront her?

MR TIMOTHY NHLANHLA NGWENYA: No.

CHAIRPERSON: To say what happened to you?

20 **MR TIMOTHY NHLANHLA NGWENYA:** I did not even confront her because we waited there and we - we noticed that he was not coming back. We stood out to try and look and he was gone. I did not even confront her really. I did not. That was it. That is how it (intervenes).

ADV KATE HOFMEYR: Mr Ngwenya you were thereafter asked to write up charges against Mr van Wyk. Is that correct?

MR TIMOTHY NHLANHLA NGWENYA: That is correct.

ADV KATE HOFMEYR: That was a few days later as I have it. If you go over the page to page 13. You will see that your first paragraph there 38 talks about the fact that you were asked to write up charges. Was any disciplinary process ever conducted in relation to Mr van Wyk?

MR TIMOTHY NHLANHLA NGWENYA: No disciplinary action was taken against Mr Brian van Wyk. However I was requested by the GM Legal Risk and Compliance Ms Mochoele to write up charges in relation to the transgression that Mr Brian van Wyk has committed for the purpose of –
10 you know – dealing with the matter.

ADV KATE HOFMEYR: Hm.

MR TIMOTHY NHLANHLA NGWENYA: Disciplining him. I did exactly that with the assistance of the Employer Relations Senior Specialist Ms Dagenie. We tabled those charges and later on I handed the hard copy to Ms Mochoele.

ADV KATE HOFMEYR: And you also - as I understand it – then suggested to Mr Ntshanga that it would be best if the matter was to be handed over to external forensic investigation. Is that right?

MR TIMOTHY NHLANHLA NGWENYA: That is right ma'am.

20 **ADV KATE HOFMYR:** When did that – sorry – and what was his response to that?

MR TIMOTHY NHLANHLA NGWENYA: When I indicated that - you know - the best way was to hand this over to a forensic investigator. Firstly the purpose was that – you know – I could see that there was something deeper than I thought on this whole thing. So I wanted –

you know – the whole thing to be exposed.

Moreover it was becoming clearer to me that he was definitely involved - the CEO was definitely involved. So I said you know what I recommend that you give the matter to a forensic investigator. His response to me was that no it is not a good idea because the forensic investigator was definitely going to go – to blow this whole thing out of proportion.

ADV KATE HOFMEYR: Ms Ngwenya you then at paragraph 39 on page 13 talk about your efforts at the Procurement Department and as I
10 understand your evidence in relation to your endeavours with the Procurement Department you were able to establish that there had been no notification of a tender or other RFP process that was embarked upon prior to the award of the – well – the conclusion of the agreement with Koreneka. Is that correct?

MR TIMOTHY NHLANHLA NGWENYA: That is correct ma'am.

ADV KATE HOFMEYR: And if we go over the page to page 14 you will see at paragraph 41 you even went so far as to check whether there was not some sort of deviation from the ordinary tender process that might have been followed in order to legitimise or give some legal
20 underpinning to the contract with Koreneka. Were you able to find any such deviation authorisation?

MR TIMOTHY NHLANHLA NGWENYA: Not at all ma'am. I – I – Chair when I went there – in actual fact I interviewed two people. The first one it was on the - I think – the 4th.

ADV KATE HOFMEYR: Yes.

MR TIMOTHY NHLANHLA NGWENYA: I spoke to Mr Zakaria Rabotata who is the Procurement Officer as SA Express and he is still there. I inquired about the tender issued or advertised pertaining – you know – this ground handling in – in the North West. He said he was not aware of any – you know – of such. He looked on his system.

He did not find anything no deviation no business case. Nothing in relation to the procurement process. So he confirmed to me that there was nothing. Then later on I went to his boss Ms (indistinct) who was the Divisional Manager of the Procurement Department. I
10 interviewed her pertaining to two issues.

The first one was Koreneka in relation to the procurement processes whether you – she was aware. Whether she had any documentation within the procurement space that she can provide to me – you know – as proof that somehow the process was actually followed and she said she was not involved in – in any of such.

Probably her predecessor was definitely involved because of now the second element was this Valoteck. Remember I had already – I was already informed about Valoteck taking over and I wanted to know about Valoteck and I said to her okay the Valoteck Contract what
20 happened.

Do we have a contract first within our procurement space? She said SA Express does not – does not have a signed contract to that effect – Valoteck/Express. I remember at that juncture there was a file and that file spoke to the RFQ process where she requested the quotes from the three companies.

ADV KATE HOFMEYR: Mr Ngwenya ...

MR TIMOTHY NHLANHLA NGWENYA: Three companies yes.

ADV KATE HOFMEYR: Can we go to that document because it might be helpful just to look at it as you ...

MR TIMOTHY NHLANHLA NGWENYA: Okay.

ADV KATE HOFMEYR: Refer to it in your evidence?

MR TIMOTHY NHLANHLA NGWENYA: Okay.

ADV KATE HOFMEYR: You will find it as Annexure 5 and it is at page 41 – 4-1.

10 **MR TIMOTHY NHLANHLA NGWENYA:** Okay.

ADV KATE HOFMEYR: Now this is – as I understand it – what you were referring to. It is a letter from SA Express addressed to Valotek Facilities Management. Is that as you understand the letter?

MR TIMOTHY NHLANHLA NGWENYA: Correct.

ADV KATE HOFMEYR: And ...

MR TIMOTHY NHLANHLA NGWENYA: Correct Chair.

ADV KATE HOFMEYR: The date of the letter?

MR TIMOTHY NHLANHLA NGWENYA: 19 May 2016.

ADV KATE HOFMEYR: And what is the heading of the letter?

20 **MR TIMOTHY NHLANHLA NGWENYA:** It is “Provision of Labour Broking Services/Three Quotes”.

ADV KATE HOFMEYR: So can I just pause for a moment. I take it that labour broking services is something different to ground handling at airport?

MR TIMOTHY NHLANHLA NGWENYA: Absolutely.

ADV KATE HOFMEYR: Thank you and the first paragraph says:

“The above mentioned three quote system in which you participated has reference. This letter serves to inform you – to inform that you have been selected as the preferred bidder. This letter of appointment is effective from 19 May 2016. Further to this letter SA Express Airways and Valoteck Facilities Management shall enter into a Service Level Agreement for the duration of the contract as agreeable to by both parties. We trust that this award shall be beneficial and fruitful to both parties.”

So do I understand that this was in the Valoteck file?

MR TIMOTHY NHLANHLA NGWENYA: Correct.

ADV KATE HOFMEYR: There was no record of the Valoteck/SA Express Contract in the file?

MR TIMOTHY NHLANHLA NGWENYA: It was not there.

ADV KATE HOFMEYR: But you have subsequently been shown that. Is that correct?

20 **MR TIMOTHY NHLANHLA NGWENYA:** That is correct.

ADV KATE HOFMEYR: But you were not told of any process that was followed in relation to ground handling services prior to the conclusion of the contract with Valoteck. Is that right?

MR TIMOTHY NHLANHLA NGWENYA: That is correct.

ADV KATE HOFMEYR: So is this – is this letter about labour broking

services literally all that you could find in relation to Valoteck in the records of the Procurement Department?

MR TIMOTHY NHLANHLA NGWENYA: Yes and of course the correspondence. The emails – you know – requesting quotes from ...

ADV KATE HOFMEYR: Yes.

MR TIMOTHY NHLANHLA NGWENYA: Three entities of which the respondent was only – or the company that responded was Valoteck.

ADV KATE HOFMEYR: But all again just to be absolutely clear related to labour broker services?

10 **MR TIMOTHY NHLANHLA NGWENYA:** Yes because when the quotes were requested it was about labour broking services not ground handling.

ADV KATE HOFMEYR: Thank you and then if we return to your statement at – at least your affidavit – at page 15. We now come to the point at paragraph 45 because you have now been to Legal Department. You have been to Finance Department. You have been to Procurement Department.

You have interviewed a number of people – as I have your evidence – and then as I read at paragraph 45 you prepared a

20 Preliminary Investigation Report. Is that right?

MR TIMOTHY NHLANHLA NGWENYA: That is correct.

ADV KATE HOFMEYR: And the report is contained as an annexure to your bundle. I do not suggest we go there now but you then took steps to present these reports to the GM of the Legal and the CEO. Is that correct?

MR TIMOTHY NHLANHLA NGWENYA: That is correct.

ADV KATE HOFMEYR: And what happened when you provided it to the CEO, Mr Ntshanga?

MR TIMOTHY NHLANHLA NGWENYA: As I recall – in fact on 6 October after finalising or compiling that report I took it and showed it to the GM Legal to say I am done with the report. This is it. I am about to hand it over to Mr Ntshanga and I did exactly that. If I am not mistaken I handed over the document not on that day.

It is either the following week – I am – I cannot remember
10 clearly on that but when I gave that report to him I told him that it is – it is the report and it is a – a Preliminary Investigation Report. I – I indicated to him at the time to say but we have sufficient to actually charge Mr van Wyk – you know.

We had sufficient evidence against him. So we can deal with that. However there are issues that – you know – I could not sort of reach. Therefore hence it remained a Preliminary Investigation Report.

CHAIRPERSON: In terms of the timing was this after he had disappeared – Mr van Wyk - or was it before?

MR TIMOTHY NHLANHLA NGWENYA: Long, long, long after. Long
20 after Chair.

CHAIRPERSON: Long after?

MR TIMOTHY NHLANHLA NGWENYA: Long after. Long after he disappeared.

CHAIRPERSON: Like two months, three months?

MR TIMOTHY NHLANHLA NGWENYA: He disappeared ...

CHAIRPERSON: In June?

MR TIMOTHY NHLANHLA NGWENYA: In July.

CHAIRPERSON: In July.

ADV KATE HOFMEYR: 1 July as I have it ...

MR TIMOTHY NHLANHLA NGWENYA: 1 July he disappeared.

ADV KATE HOFMEYR: And we are now on 6 October.

MR TIMOTHY NHLANHLA NGWENYA: October.

ADV KATE HOFMEYR: Is that right?

MR TIMOTHY NHLANHLA NGWENYA: Yes. Now ...

10 **CHAIRPERSON:** But you are still talking about whether to charge him or not.

MR TIMOTHY NHLANHLA NGWENYA: Yes, yes Chair. It was – it was on that. One, I must indicate Chair that as I said that I was responsible to run security. I was the sole member of the Security Department responsible for different areas within the security space. I can break them ...

CHAIRPERSON: Hm.

MR TIMOTHY NHLANHLA NGWENYA: You know – break it down to aviation security. Now aviation security deals with the regulation. Now
20 there are parts that I was actually supposed to deal with within the – the civil aviation – you know – regulation which is Part 108 that deals with (indistinct) security.

I was responsible for that and I was the designated officer for (indistinct) security within the entity. Number two, I was also responsible for a Part 109 to ensure that every single employee

involved in the operation was trained – you know – the security training was provided to those individuals.

It was my responsibility to ensure that everyone within the company - now Chair you must understand that my operation was not limited to OR Tambo. I was actually responsible entirely for the – you know – operation within and outside South Africa. All those airports I was actually responsible singlehandedly.

Now there was also the Part 111 which is aviation security – you know – that talks to the designation as well - you know – as a – as
10 a Security Manager. You know which somehow is in – is in line with the Part 121 in terms of the AOC. The AOC which is the Airline Operator Certificate.

So – you know – I am all over the show. Now there was Corporate Security that I was responsible for. There was physical security that I was also responsible for and – you know – investigations as well. So (intervenes).

CHAIRPERSON: Yes. I guess you – I guess you are saying that to say there was a lot you had to do.

MR TIMOTHY NHLANHLA NGWENYA: Absolutely.

20 **CHAIRPERSON:** But I was not asking you because I was thinking you were slow. I was just trying ...

MR TIMOTHY NHLANHLA NGWENYA: No, no I am just trying to clarify Chair.

CHAIRPERSON: I was wondering ...

MR TIMOTHY NHLANHLA NGWENYA: So that you can get the picture.

CHAIRPERSON: I was wondering you would be talking about whether to charge somebody that has – that left about – what – four months previously ...

MR TIMOTHY NHLANHLA NGWENYA: Well ...

CHAIRPERSON: Under the circumstances in which he left.

ADV KATE HOFMEYR: Hm.

CHAIRPERSON: Anyway yes.

ADV KATE HOFMEYR: Mr Ngwenya I do – I do take it that after – from your affidavit – after you delivered this Preliminary Report to
10 Mr Ntshanga your evidence at page 15 indicates you raised again with him your Section 34 PRECCA concern and as I understand paragraph 46 on that page he then told you that he wanted you to report to him. Can you tell us about that?

MR TIMOTHY NHLANHLA NGWENYA: Yes. In fact at that time I was already reporting to him directly.

ADV KATE HOFMEYR: Hm.

MR TIMOTHY NHLANHLA NGWENYA: I was a direct report. So based on the instruction from the (indistinct) Authority to say as a designated person I have to report to the highest office in the – in the company.
20 So based on that I was already reporting to him. So Ms Maleni and Ms Mochoele were really out of the picture.

ADV KATE HOFMEYR: Hm.

MR TIMOTHY NHLANHLA NGWENYA: So I was directly reporting to him. Now on that day when I spoke to him on that meeting I – I reiterated the Section 34 to say you have a responsibility. You need to

report this and that was in the presence of Ms Merriam Mochoele who perhaps here there is nothing that can substantiate that but just for the interest – you know – of this evidence Chair.

Ms Mochoele confirmed to a Board Member – Mr Trevor Abrahams – who confronted us after before he actually opened a case in relation to this – you know – (indistinct). She confirmed that I actually advised the CE about this section. So *ja* that was- that was it.

ADV KATE HOFMEYR: And Mr Ngwenya you then – so let us just get
10 right in time. This in October 2016?

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: I understand that there was one addition you wanted to make to the affidavit and in your evidence about a further interaction you had with Mr Ntshanga in early 2017 about the report and what concerns he raised with you in relation to the relationship between South African Express and the North West Department of Transport.

MR TIMOTHY NHLANHLA NGWENYA: Yes Chair. In fact I omitted part
20 of that information because it was quite a lot. In this regard Chair after we have discussed this report and I have already explained to him to say what the reason was for me to hand him the preliminary. I have explained that. The investigation was not concluded even though we had enough to deal with Mr van Wyk when I gave him that report.

Now I waited as I was busy not that I sit back and look at what he was actually doing but – you know – I thought he would act on

the recommendation of my – you know – on – on the Preliminary Report recommendation and I actually realised that – you know – he was not really acting and Chair I must indicate that he wanted us – you know – to discuss the matter throughout verbally so. No email (intervenes).

CHAIRPERSON: To discuss or to discard?

MR TIMOTHY NHLANHLA NGWENYA: Discuss, discuss.

CHAIRPERSON: Oh to discuss, oh.

MR TIMOTHY NHLANHLA NGWENYA: Yes. That we discuss whatever issue the updates and all that I must not send emails. We must sit and
10 talk about it. Now I handed this report to him. You know – I delivered – hand delivered to him. Now I am waiting and I see the clock is ticking. No action is actually taken.

Now – you know – at that time I figured out to say – you know – this might place me in a very awkward position in that there was no trail – you know – paper trail or emails showing that there was an interaction – you know – between me, him – you know – in relation to this.

I therefore decided on the very same month to email the very same report to one of – or at the time I was not really aware. I emailed
20 to – to him. On 8 November a lady who was working ...

CHAIRPERSON: Still 2016 hey?

MR TIMOTHY NHLANHLA NGWENYA: Still 2016 yes.

CHAIRPERSON: Hm.

MR TIMOTHY NHLANHLA NGWENYA: The very same month Chair. The following month on 8 November after the 31st after I forwarded. I

received a call from a lady who was a communication specialist – she – she still is within the company. She said to me I am sorry I am not interfering with your investigation whatsoever but I can see that you have sent a report onto this email – you know – which belongs to Mr Ntshanga but this email is also used by the Communication Department – you know – to communicate whatever – you know – that is received from Mr Ntshanga.

Therefore – you know – we have access to this report. However I have deleted it. I can swear - you know - I am not privy to
10 the content. Therefore sent this email directly to the – I mean send this report directly to this email. She gave me the email which was the correct one. I therefore ...

ADV KATE HOFMEYR: For Mr Ntshanga?

MR TIMOTHY NHLANHLA NGWENYA: For Mr Ntshanga yes. I then sent that report to Mr Ntshanga. I must indicate that Mr Ntshanga had four email addresses within SA Express. There was inatintshanga@flyexpress. There was intshanga@flyexpress. There was ntshanga@flyexpress. There was inati.ntshanga@flyexpress.

So four email addresses. So she directed me as to which one
20 I should use. I therefore sent that report to – to that email (intervenes).

ADV KATE HOFMEYR: And Mr Ngwenya that is at the end of 2016 - as I have it?

MR TIMOTHY NHLANHLA NGWENYA: That – that was – that was 8 November.

ADV KATE HOFMEYR: November?

MR TIMOTHY NHLANHLA NGWENYA: Yes, 2016.

ADV KATE HOFMEYR: And then you have an interaction with him in early 2017.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: About the report and he says – as I understand your evidence – he has a concern about the relationship between SA Express and the North West. Can you tell us about that conversation?

MR TIMOTHY NHLANHLA NGWENYA: Yes. In fact prior to that after
10 sending that report I think on 12 December the GMHC - and I think I omitted that information on this – followed up pertaining the investigation where she asked me as to how far are you with the investigation and I said to her as far as I am concerned I completed the investigation and I since delivered the report to the CEO with the recommendations and you can touch base with him to establish the facts and I guess she went back to him because she did not come back to me.

CHAIRPERSON: But was the report not that you had sent to Mr Ntshanga ...

20 **MR TIMOTHY NHLANHLA NGWENYA:** That is exactly the one.

CHAIRPERSON: Preliminary Report?

MR TIMOTHY NHLANHLA NGWENYA: That is – that is exactly the one Chair.

CHAIRPERSON: Well that – what is confusing me is that you are saying you have completed the investigation ...

MR TIMOTHY NHLANHLA NGWENYA: Okay.

CHAIRPERSON: But you have only prepared a temporary ...

MR TIMOTHY NHLANHLA NGWENYA: As ...

CHAIRPERSON: Or Preliminary Report.

MR TIMOTHY NHLANHLA NGWENYA: As I have stated Chair to say we had grounds to deal with Mr van Wyk ...

CHAIRPERSON: Yes.

MR TIMOTHY NHLANHLA NGWENYA: Who was the subject – you know – subject of the ...

10 **CHAIRPERSON:** Yes.

MR TIMOTHY NHLANHLA NGWENYA: Yes the matter. Now in that regard Mr van Wyk part – in actual fact I had ...

CHAIRPERSON: Oh, you had completed that part?

MR TIMOTHY NHLANHLA NGWENYA: It was completed in that regard ...

CHAIRPERSON: Okay.

MR TIMOTHY NHLANHLA NGWENYA: But because of there were other parties ...

CHAIRPERSON: Yes.

20 **MR TIMOTHY NHLANHLA NGWENYA:** Involved ...

CHAIRPERSON: Okay.

MR TIMOTHY NHLANHLA NGWENYA: That I could not – you know ...

CHAIRPERSON: Yes.

MR TIMOTHY NHLANHLA NGWENYA: Expose or ...

CHAIRPERSON: Ja.

MR TIMOTHY NHLANHLA NGWENYA: Yes, in that regard then ...

CHAIRPERSON: *Ja.*

MR TIMOTHY NHLANHLA NGWENYA: I felt that it was proper of me to submit it as a preliminary investigation ...

CHAIRPERSON: Hm.

MR TIMOTHY NHLANHLA NGWENYA: Because if I was to submit - submit it as a final investigation report that would close everything that is limited to this. So yet I wanted continuity.

CHAIRPERSON: Okay, okay.

10 **MR TIMOTHY NHLANHLA NGWENYA:** Yes.

CHAIRPERSON: So it was preliminary only insofar as there were other people who you still needed to investigate but insofar as Mr van Wyk is – was concerned it was completed?

MR TIMOTHY NHLANHLA NGWENYA: Absolutely Chair.

CHAIRPERSON: It was – it was a final report?

MR TIMOTHY NHLANHLA NGWENYA: Absolutely. Not that I am investigating those parties but the third party investigating ...

CHAIRPERSON: Oh, okay alright.

20 **MR TIMOTHY NHLANHLA NGWENYA:** As per the recommendation in the ...

CHAIRPERSON: Oh, okay.

MR TIMOTHY NHLANHLA NGWENYA: Preliminary.

ADV KATE HOFMEYR: And ...

CHAIRPERSON: You were to have no further role in the investigation?

MR TIMOTHY NHLANHLA NGWENYA: Absolutely because of ...

CHAIRPERSON: Okay, alright.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

CHAIRPERSON: Thank you.

ADV KATE HOFMEYR: And if I may just remind you Mr Ngwenya your recommendations – you find them at page 50 – 5-0 – which is under Annexure 6 and those recommendations are consistent with the evidence that you have given I suggest but you will let me know if you have a different view. At page 5-0 ...

MR TIMOTHY NHLANHLA NGWENYA: Yes.

10 **ADV KATE HOFMEYR:** There is a paragraph number 12.

MR TIMOTHY NHLANHLA NGWENYA: Yes. Okay, okay (intervenes).

ADV KATE HOFMEYR: And you will see there that there are two recommendations. You say:

“Even though Mr Brian van Wyk has resigned that should not prevent SA Express to pursue the matter in case of litigation.”

And then the second is.

“The matter must be handed over to an external forensic investigator or the Special Investigation
20 Unit for further investigation.”

That is consistent or is it not with your point initially when you got the mandate?

MR TIMOTHY NHLANHLA NGWENYA: Correct.

ADV KATE HOFMEYR: You said to Mr Ntshanga as I have your evidence – I can investigate but my scope is limited ...

MR TIMOTHY NHLANHLA NGWENYA: Correct.

ADV KATE HOFMEYR: Because of my limited access to people etcetera and so you run that investigation on the terms that we have described. Is that correct?

MR TIMOTHY NHLANHLA NGWENYA: Correct.

ADV KATE HOFMEYR: Culminates with what you term a Preliminary Report – as I understand your evidence – because your recommendation was somebody else needs to take this further to finalise.

10 **MR TIMOTHY NHLANHLA NGWENYA:** Correct.

ADV KATE HOFMEYR: Is that correct?

MR TIMOTHY NHLANHLA NGWENYA: Correct.

ADV KATE HOFMEYR: But just to clarify did – was your sense that they needed to take it further in relation to Mr van Wyk or the greater ambit of the investigation?

MR TIMOTHY NHLANHLA NGWENYA: The greater ambit ma'am.

ADV KATE HOFMEYR: Thank you.

20 **CHAIRPERSON:** Before you – you proceed just two – two things. You say in – under your recommendations you say Mr van Wyk had resigned. Was that because there was a formal resignation letter that he – he put in or was that simply because you – you labelled his disappearance and never to return as resignation?

MR TIMOTHY NHLANHLA NGWENYA: No Chair. There was a letter that he submitted but at that time I was not privy to the letter. I heard this from the CEO himself, Mr Ntshanga.

CHAIRPERSON: Oh, okay.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

CHAIRPERSON: Oh, okay and did you recall how soon after his disappearance he put in a letter of resignation, or is something you don't know?

MR TIMOTHY NHLANHLA NGWENYA: Chair after he disappeared on the 1st, on the 6th there's a communication platform within S A Express called Corporatecomms, it was pronounced that or announced on the Corporatecomms to say he has been suspended effective the 1st of 10 July. Yet the 1st of July he disappeared, probably you know they met somewhere and he was suspended. Then later on he told me about his resignation and that he was not really you know satisfied ...(intervention)

CHAIRPERSON: Mr van Wyk told you?

MR TIMOTHY NHLANHLA NGWENYA: The CEO, the CEO told me, Mr Ntshanga, that you know he had resigned and ...(intervention)

CHAIRPERSON: But you never saw the actual letter of resignation?

MR TIMOTHY NHLANHLA NGWENYA: I saw it later on.

CHAIRPERSON: Oh you saw it later on.

20 **MR TIMOTHY NHLANHLA NGWENYA:** I saw it later on yes.

CHAIRPERSON: Oh okay.

MR TIMOTHY NHLANHLA NGWENYA: It was dated August 2016, no specific date to say on the 6th or whatever it says 2016 - I mean August 2016.

CHAIRPERSON: Okay just before you proceed I want to understand

something, the colleague of yours with whom you had gone to see Mr van Wyk on the day he disappeared, what was the name again – what was her name?

MR TIMOTHY NHLANHLA NGWENYA: The?

CHAIRPERSON: The person who you had gone to...(intervention).

MR TIMOTHY NHLANHLA NGWENYA: No that's not my colleague actually, that's Mr Brian van Wyk's colleague so it was the GM, you know ...(intervention).

CHAIRPERSON: Yes but you – employed by...(intervention).

10 **MR TIMOTHY NHLANHLA NGWENYA:** Yes.

CHAIRPERSON: What was the name again:

MR TIMOTHY NHLANHLA NGWENYA: Mrs Gatiele Tlatsana.

CHAIRPERSON: Yes now as you continued with investigation all these months, did anything happen to her, did anything happen or was she asked in any way to account as to what happened with her in terms of the decision for the two of you to execute what you needed to execute?

MR TIMOTHY NHLANHLA NGWENYA: Okay I recall Chair at some stage, because it wasn't clear at the time whether he resigned or
20 whatsoever, way after, you know, he disappeared and I kept asking the CEO and at some stage I also asked here, because at some state, you know they were sending me from pillar to post to say when are we going to execute the disciplinary that was prior the resignation and the CEO said no, Mrs Tlatsana must action that and I said but Mrs Tlatsana, you know, they're equals and you actually the person that's

supposed to ...(intervention).

CHAIRPERSON: Is a higher authority.

MR TIMOTHY NHLANHLA NGWENYA: Ja absolutely yes and to discipline, they said no speak to her and I went to her and she sent me back to Mr Ntshanga so there was this game that was actually played and I recall at some stage trying to find Mr Ntshanga, I think it was around the time when – just after Mr van Wyk disappeared, I cannot recall but I think around that time and I could not find him and he told me, that you know what he was not around, he did not pick up actually
10 my calls.

CHAIRPERSON: Mr Ntshanga?

MR TIMOTHY NHLANHLA NGWENYA: Mr Ntshanga yes and you know because I already suspected, I remember going to the (indistinct), the CCTV room within SAA and review the footage backwards and I...(intervention).

CHAIRPERSON: Around the time of Mr van Wyk's disappearance?

MR TIMOTHY NHLANHLA NGWENYA: After Mr van Wyk disappeared because there was something that we spoke about with the CE and I was actually following up and he avoided my calls and eventually when
20 I got hold of him he said he was gone, he was not in the premises at the moment – sorry on that particular day and I recall going back because I lacked trust on him, honestly at that juncture and I went to the CCTV room to review the footage on that day just to check on his movement and I realised at the time when I called him he was actually at the office of the GMHR on that day and he was within the premises,

so he actually avoided my calls. So I guess to a certain extent I was a pain to quite a number of people around that time.

CHAIRPERSON: Okay thank you.

ADV KATE HOFMEYR: Mr Ngwenya if we can go to page 16 of your affidavit.

MR TIMOTHY NHLANHLA NGWENYA: 16?

ADV KATE HOFMEYR: 16 and I'll pick it up at paragraph 47 but just before we get there, you were going to tell us about the conversation in early 2017 with Mr Ntshanga in relation to his concerns about the
10 relationship between SA Express and the North West Government, can you tell us about that conversation.

MR TIMOTHY NHLANHLA NGWENYA: Okay, sorry about that.

ADV KATE HOFMEYR: Not at all.

MR TIMOTHY NHLANHLA NGWENYA: Chair the conversation that I had with him at that juncture it was about the damage control of the relationship between SA Express and the North West Government. Mr Ntshanga was not even talking about my report and recommendation, instead what he was concerned about was me writing or rather giving him a write up, you know that would say the relationship between SA
20 Express and the North West can still go on because we are in charge, you know, we're taking charge of all the other issues, you know, driving me to rectify all the, you know, the wrongs that actually happened and I said to Mr Ntshanga, Mr Ntshanga that's not my responsibility, you as the CEO you have to write that and hand it over to the North West, that is not my responsibility. My responsibility is to provide the

investigation reports as I actually investigated the matter in this regard and you know, when I responded like that, he said to me, you know, there's one thing that I don't understand with you, you 're conducting investigations as if you're investigating for Koreneka and all I want from you is a write up and stop telling me stories and all that and he left me, we parted ways and he said you make sure that you submit the write up and I went back to my office, I thought about it to say, but what is this, what is it exactly that is expected of me because I've played my part and all that. I then figured out to say, you know what, here, maybe

10 I will lose my job but as far as this whole thing is concerned, he doesn't have any grounds, therefore I'll stand my ground. I'm going to write a final investigation report which will be similar to the preliminary investigation report, the difference would be that, you know the prelim most of the stuff were in bullet point format. Now I changed that to paragraphs where I elaborated as to how I went about the investigation and on top I wrote it, final investigation report, with the exact same date that was on the preliminary report, 6 October and then I handed that – I did not sign it for a simple reason, that was deliberate because I had confirmed to him that I cannot compile a final investigation report

20 because of – the investigation was not actually concluded, you know, in relation to other parties that were involved, I therefore handed the exact same report, and I think it was around February at the time, I gave him that report which reminds me of something to say – there's something that I actually omitted Chair, pardon me.

ADV KATE HOFMEYR: Indeed.

MR TIMOTHY NHLANHLA NGWENYA: The whole evidence – I just want to indicate a part that was also played by GM Legal Risk and Compliance.

CHAIRPERSON: Yes.

MR TIMOTHY NHLANHLA NGWENYA: Chair Mr Inati Ntshanga the last time I played the clip and provide any piece of evidence to him it was on that meeting when I showed them the documents and all that but later on the GM Legal and Compliance requested that evidence to say, I need to go through that, and if my memory serves me well, it was
10 around October/November I cannot recall clearly as to the specific date. She requested that file, I gave the file because I sealed that file and I just not keep it within the premises I kept it somewhere, when she requested, I said, no I'll bring it, you know the following day to you. I brought the file to her it was in a brown envelope and you know, it was properly sealed with a sellotape, a clear sellotape and the audio recordings were outside that file that brown envelope but they were in a smaller envelope also sealed properly, you know, placed on top of that documentary evidence. I gave those to her, she went and looked at that, I think she kept those documents for almost two weeks with her,
20 then later on she called me to say, no I'm done you can come pick up those documents and I went and picked it up from her she gave it to me, that envelope and I left. When I got to my office you know, instead of placing this in a drawer whatsoever I checked to say okay is everything still in tact. I cannot say anything in relation to the documents, I cannot confirm if there was any document taken out of

that bundle of whatsoever and I'm not implying that she did that, but the audio recording were not there, they were missing.

CHAIRPERSON: All of it?

MR TIMOTHY NHLANHLA NGWENYA: All of the audio recordings were not there, they were missing.

CHAIRPERSON: Had you kept copies?

MR TIMOTHY NHLANHLA NGWENYA: No, no I don't know what was with me but I guess I was comfortable because I knew I could obtain copies from Ms Tlatsana. So I went back to her and I said, ma'am all
10 your recordings are not part of this now, you did not give back she said, no I didn't, oh I thought they were there, you know and when you speak to a person you look at them, the gestures, the responses, if there's something suspicious to say they know that they did not give this, she said, no okay I'll look at my house, just like that, I said, no okay fine and later on in the week she came back to say no Tim I could not find those recordings, so I had to go back to Ms Tlatsana you know to request the copy of the recordings and she personally brought those recordings to our premises, you know she stood at the visitors parking and she called me, I went, she gave me and she gave me more than
20 what she gave me initially, you know because there were other conversations with other individuals on there, that's how I actually obtained those recordings again.

CHAIRPERSON: That's when you found the recording of the conversation when you, the CEO and ...(intervention).

MR TIMOTHY NHLANHLA NGWENYA: No, no, no, those are

separate.

CHAIRPERSON: Not that one oh okay.

MR TIMOTHY NHLANHLA NGWENYA: In actual fact the recording that were added it was between the HOD Mr Bailey Mahlakoleng, Ms Tlatsana of which on the initial recordings that was not part of it and some other recording yes.

CHAIRPERSON: Okay but you got all the ones that you had lost?

MR TIMOTHY NHLANHLA NGWENYA: Yes.

CHAIRPERSON: And then you got more and more.

10 **MR TIMOTHY NHLANHLA NGWENYA:** And more yes.

CHAIRPERSON: Okay.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: Mr Ngwenya, then at page 16 paragraph 47 you talk about the next two companies in this progression of successive companies who are contracted to provide ground handling services, they are referred to in paragraph 47 as MAMCO and PAMCO, I just for the record like to get those full names...(intervention).

CHAIRPERSON: I wonder, Ms Hofmeyr whether before you get into that section whether it wouldn't be useful to kind of sum up what was
20 wrong with Ms Tlatsana's business did they provide the service but were paid more than they were supposed to be paid or were they being paid what they were entitled to but she was required to give money to other people but if not now then maybe later on, I thought it might be convenient before you move into another section, just to have a picture of what it is that was wrong.

ADV KATE HOFMEYR: Mr Ngwenya your investigation in relation to the Koreneka agreement, what did you establish in relation to the services that were being provided by Koreneka at Mafikeng and Pilansberg, did you establish that they were providing ground handling.

MR TIMOTHY NHLANHLA NGWENYA: I did.

ADV KATE HOFMEYR: And did you establish that they continued to provide those at the time when you met with her in June 2016?

MR TIMOTHY NHLANHLA NGWENYA: Correct.

ADV KATE HOFMEYR: And did you establish that despite Valotek
10 being appointed to replace Koreneka in the Mafikeng airport they actually had never provided any services there.

MR TIMOTHY NHLANHLA NGWENYA: That's correct.

ADV KATE HOFMEYR: Thank you, then if we just move to get to the nub of the Chair's question as I have it, and we'll do that in relation to the payments but as I have it there were a series of payments totalling 31million that were received, there – we break them down into four invoices in the course of your evidence but the sum total as I understand your affidavit is that what was reflected on the invoices for
20 each of those payments were not services related to the contract at issue between Koreneka and South African Express, is that a fair summary?

MR TIMOTHY NHLANHLA NGWENYA: That's correct.

ADV KATE HOFMEYR: And were there ever invoices from Koreneka related or making reference to the actual terms of the agreement that had been concluded between Koreneka and South African Express?

MR TIMOTHY NHLANHLA NGWENYA: Nope.

ADV KATE HOFMEYR: Chair my suggestion is that we maybe go now to the Koreneka agreement, just so we can look at some of it's provisions.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: And then we'll come back to the successive parties.

CHAIRPERSON: That's fine.

ADV KATE HOFMEYR: Let's do that and Mr Ngwenya it's effectively
10 through you that we're going to look at these clauses because I'm not suggesting and asking you to go through them that either you were involved in concluding the contract nor that you have a legal background at all but it's useful for us to understand at least what on its terms, the contract envisaged...(intervention).

CHAIRPERSON: She said Mr Ntjanga.

ADV KATE HOFMEYR: Oh I do apologise Mr Ngwenya, I do apologise. Alright we'll find the first agreement Chair, under tab 7 and commencing at page 52. Now Mr Ngwenya this agreement that we're looking at, at page 52, who is this agreement between?

20 **MR TIMOTHY NHLANHLA NGWENYA:** It's the Department of Community Safety and Transport Management and South African Express Airways.

ADV KATE HOFMEYR: I'm going just for reference purposes to talk about this as the main agreement if I May, it's the agreement that sets up the relationship as I have it between SA Express and the North

West Government in relation to those two airports. If we then – I'm going to come back to it but just to orientate ourselves, if we then go over to page 91 which is under tab 8 that is another agreement and who is that between?

MR TIMOTHY NHLANHLA NGWENYA: South African Express Airways and Koreneka Event Managers – Koreneka Trading and Projects.

ADV KATE HOFMEYR: So can I call this the Koreneka agreement because that's the one that South African Express then concludes with Koreneka.

10 **MR TIMOTHY NHLANHLA NGWENYA:** Correct.

ADV KATE HOFMEYR: And with reference to your evidence earlier that's why you have tri-partheid or a triangular relationship here. There's a relationship between South African Express and the North West Government reflected in the main agreement and then an agreement between South African Express and Koreneka, is that as you understand it?

MR TIMOTHY NHLANHLA NGWENYA: Correct.

ADV KATE HOFMEYR: Thank you, what I'd then like to do is go through just a few provisions Chair of the main agreement which
20 commences at page 52, I just, so that we get a sense of what this was envisaged to cover, and for that purpose I'd like to start at page 59, Chair with respect it's fairly critical that we do this because the evidence over the next few days is going to have to fit into the structure of these agreements so it's useful just to go through them.

CHAIRPERSON: Ja that's fine.

ADV KATE HOFMEYR: If we start at page 59 and it's clause 2.1 there, what this main agreement between the North West Department of Transport and SA Express provides it that at clause 2.1,

“in response to the request for proposal for re-introduction of a air transport service between OR Tambo International Airport, Cape Town International Airport, Pilansberg and Mafikeng Airport, defined as the Airports issued by the Department of Community Safety and Transport Management, the airline SA Express responded to request for proposals for the supply of airline service subject to a subsidy from the Department which request for proposal was duly accepted by the Department Executive Council”.

There are a number of parts there that we will pick up in later evidence Chair but at least what this agreement is recording is that there was a proposal as I have it, there was a response from SA Express who would provide the airline service and that was subject to a subsidy. If we then go over the page to page 60 we then at clause 4 get told what those airline services are and at 4.1 it's recorded that SA Express and the Department hereby agree that SA Express shall, with effect from the effective date commence the airline service on the designated route that's been defined as routes between OR Tambo, Cape Town and those two North West Airports, for a period of five years calculated from the effective date and then at 4.3,

“as a contribution towards the costs of SA Express in providing the airline service the Department shall grant to SA Express

the subsidy as more fully described in clause 6 hereof and on the terms and conditions as more fully set out in the agreement”,

So I'd like to suggest we next go to that clause 6, it's over the page at page 61 and under clause 6.1 is an important clause because it reflects is that the Department shall pay to SA Express the subsidy and the management company the operational costs of both airports, annually in advance as stipulated in annex A. Now we need to just look at a few clauses to unpack that. First of all this is the first time we've
10 heard about a management company in the course of this agreement, so we need to go to clause 15 which is on page 73 to find out who the management company or what the management company is as envisaged in the agreement. So if we go to clause 15 on page 73, 15.1 provides,

“The Department mandates SA Express to appoint a management company responsible for managing the operations at Pilansberg and Mafikeng Airports”,

At 15.4 – well let's go 15.2 first,

“The Department shall be liable for the payment of operational
20 costs of the operations of the said management company, 15.3, the management company will be responsible for operational and other additional services as required and agreed with the Department and airline and 15.4, SA Express shall enter into a service level agreement with the management company in terms of which the performance of the

management company will be monitored and evaluated and 15.5 for the purposes of development and skills transfer, a)SA Express shall train the employees of the management company and b) to be able to perform the functions of the service level agreement referred to in the clause above”.

So Chair at this point in the structure of the agreement, just to summarise is as I read the clauses we’ve got the Department agreeing to pay SA Express a subsidy for flying the routes and also to pay a management company that’s going to be appointed by SA Express in
 10 relation to the operations at the airport and there were also to be, over the page at 62 – sorry I’ve gone back to 61 so at 62 clause 7, I won’t read the whole of the clause but that’s a clause about quarterly reports that had to be provided by SA Express to update it and significantly Chair, we should go to Annexure A and that is at page 88 because Chair that is the subsidy structure that we had a reference to earlier in the subsidy clause. I see that this copy of that page is not all that good, I know that there’s a better one in the file of Mr Phiri who’s coming tomorrow but I’m fairly familiar with these figures so I’ll do my best just to indicate...(intervention).

20 **CHAIRPERSON:** I think what could be done in due course is to replace it with a clearer copy.

ADV KATE HOFMEYR: Indeed we’ll do that then it’s in the file, I’ll make a note about that but the upshot is that in terms of this subsidy structure, Chair as this – we understand this table you’ll see a reference in the top line under the heading, North West Concession,

that there's a Pilansberg entry and then a few lines down a Mafikeng entry and then two or so lines down from that you have total subsidy, that half of this table is what the North West Government was going to be paying to SA Express. The second half of the table you'll see on the left-hand side in the first column, there's a heading, Management Company Subsidy, and so the amounts in the second half are the management company subsidies. These amounts, Chair, are in the millions so what you see in the first year, if we move along the columns is in year one, the total subsidy that's going to be paid to SA Express in

10 the first half is 58million and a bit and the amount that's going to be paid to the management company is 51million, if you go down. In year two the subsidy to SA Express is 51million and a bit, I'm just rounding off for the purposes of this discussion and in year two to the management company is going to be 31million paid. In year three, 43million to SA Express and 31million to the management company. In year four 46million to SA Express and 31million to the management company and in year five, 38million to SA Express and another 31million to the management company. As I've totalled that up it just exceeds about 400million over the course of five years in relation to

20 flying routes on SA Express' part and then on the management company's part, doing some ground handling. So that's the arrangement of the main agreement. If we then go over to the Koreneka agreement, Chair what appears quite striking about this agreement is that it has a totally different structure for how Koreneka is going to deliver its services of ground handling and how it's going to be

remunerated and so I'd just like to highlight those two clauses. It talks in it's introductory parts about the fact that it's a ground handling agreement, that Koreneka is contracted to provide those services at Pilansberg and Mafikeng and then if we go to page 99 you'll see in clause 20, it says at 20.1,

10 "In consideration of the ground handling company providing the services, the carrier, which is a reference to SA Express agrees to pay the handling company the charges set out in the relevant Annex B hereto including any additional expenditure incurred for providing the services referred to in this agreement and the charges set out in Annex B hereto are not inclusive of any of the following",

 And that is just an exclusion about charges that would be levied really by airport and customs and other authorities but then the next important clause is clause 21, because this is talking about, well how are they going to account, how is the handling company, Koreneka going to account to SA Express and to summarise there's an invoicing system. Monthly there will be invoices and within 30 days there'll be payment and the last important thing to go to then is Annex B, which
20 commences at page 108.1, that lists all of the multitude of handling services that are going to have to be provided and finally at page 108.5 are all of the rates that are applicable to the provision of those ... (intervention).

CHAIRPERSON: Sorry page 10?

ADV KATE HOFMEYR: 108.5 Chair.

CHAIRPERSON: Oh okay.

ADV KATE HOFMEYR: And Chair, you'll see under clause 1.2 there, there's a heading for the services set out above the applicable rate shall be as follows. And then there are rates for ground-handling turnaround cost, for ground-handling labour, there's a sub total, there's a bit of a management fee put in there. And there's a total of R 116 443. If you then go down to the breakdown in relation to the management fees in the next paragraph so now we're talking about management fees in particular. There is an annual total that can be
10 accumulated for management fees, that's about the fourth column along. And what you'll see there Chair is that management fees in relation to the turnaround of aircraft, the total annual amount is approximately R 425 000 and the total for the other services which are customer service agents and general workers is R 846 000. Chair, what is striking we will suggest in the course of the evidence is the discrepancy between those figures. You've got figures in relation to subsidy under the main agreement in the region of 400 000 million and a portion of that just under 200 million that over the five years is envisaged to go to the management company. But then in the actual
20 agreement that's concluded between Koreneka and SA Express, you've got much more modest rates.

CHAIRPERSON: Yes, it's very strange.

ADV KATE HOFMEYR: It's very strange.

CHAIRPERSON: Because they both relate to the same services.

ADV KATE HOFMEYR: Indeed. That will be explored with the

witnesses Chair. But that at least gives us the framework for the agreement that was concluded, a main agreement but a reference in it to the management company and an entitlement to those millions worth of subsidies and then the agreement between SA Express and Koreneka. Mr Ngwenya, as I have your evidence though, the sort of invoicing that the Koreneka agreement envisages monthly in these much more modest amounts are not invoices you ever uncovered, is that correct?

MR NHLANHLA NGWENYA: That's correct, yeah.

- 10 **ADV KATE HOFMEYR:** So if we may then move to the invoices that you did uncover because they are in the millions and there are four of them. And Chair, with your guidance I'm not going to go to (inaudible) collectively, let's conclude if it's convenient the Koreneka position.

CHAIRPERSON: No that's fine. Yeah, that's fine.

ADV KATE HOFMEYR: So we will do that picking it up at page 18, Mr Ngwenya of your affidavit 18.

CHAIRPERSON: I see that you are making sure.

ADV KATE HOFMEYR: Indeed, I've got a note here.

CHAIRPERSON: You don't make a mistake again.

- 20 **ADV KATE HOFMEYR:** Chair, I will not make another mistake. I might even attach it to the microphone so there's no chance. But we are at page 18, Mr Ngwenya and paragraph 53 there you start to tell us about the first payment. Mr Ngwenya, you give us it seems to be the style of your affidavit, an enormous amount of details. My sense is that Mr Ngwenya, you're a very detailed person and so you have set out in

scrupulous detail the tracking of the invoice and then who authorised it and then how it was paid and when it was paid. We have that on record, I'd like to just to highlight the important points of it. Paragraph 53.1 records that on the 4th of May 2015 Koreneka issued an invoice of 8.5 million to SA Express and then will you tell us what description was used on that invoice?

MR NHLANHLA NGWENYA: It was the Airport refurbishment and compliance maintenance and operational setup cost.

ADV KATE HOFMEYR: Now if you jump down to paragraph 53.4 on
10 that page you make the point that the expense authorisation which follows that invoice reflects the same description, Airport refurbishments and compliance maintenance and operation setup cost. And then will you just tell us what you make of that description on the invoice?

MR NHLANHLA NGWENYA: Look Chair, this description you know had nothing to do with SA Express sort of responsibility.

CHAIRPERSON: Nor the agreement between SA Express and Koreneka.

MR NHLANHLA NGWENYA: Yes, the agreement between SA Express
20 and Koreneka because of none of the services mentioned there you know SA Express requested that Koreneka provide but this they're related to the Facility Management agreement where Koreneka was acting as the management company providing services to the Northwest Department of Transport in managing the Airports. This has absolutely nothing to do with SA Express.

CHAIRPERSON: So are you saying that these types of services that fits this description, they fell outside of the agreement between SA Express and Koreneka.

MR NHLANHLA NGWENYA: That's correct.

CHAIRPERSON: But they did fall within the agreement between Koreneka as Management Company and the Northwest Department of Transport and Community Safety.

MR NHLANHLA NGWENYA: That's correct, Chair.

CHAIRPERSON: Okay, but SA Express was being invoiced for those
10 services?

MR NHLANHLA NGWENYA: Yes Chair.

CHAIRPERSON: In terms of the invoice?

MR NHLANHLA NGWENYA: Yes.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Mr Ngwenya, I do need to indicate this to you in terms of the evidence that will come in due course. It is not clear certainly to me that that description even falls within the envisage subsidies under the main agreement. On what basis do you say you are satisfied that it falls under the main agreement?

20 **MR NHLANHLA NGWENYA:** At Airport refurbishment?

ADV KATE HOFMEYR: Mm.

MR NHLANHLA NGWENYA: Compliance maintenance.

ADV KATE HOFMEYR: Mm.

CHAIRPERSON: I think maybe let me put the question this way. In saying that that description in the invoice falls within the services

contemplated in the agreement between Koreneka and the Northwest Department of Transport, are you saying that because you did have a look at that agreement or are you basing your view on something else?

MR NHLANHLA NGWENYA: Chair, this information is also contained on the audio recordings where Mr Brian van Wyk was actually you know describing the type of service to Ms Babadi Tlatsana, it's on record.

ADV KATE HOFMEYR: Yes.

MR NHLANHLA NGWENYA: Where he mentioned to say they need to refurbish the Airport, they need to put on the CCTV, the fire trucks and
10 all that.

CHAIRPERSON: Yeah, but that's fine that's one thing but did you have a look at the agreement and saw that it does fit in or you assumed that it does because of what you heard?

MR NHLANHLA NGWENYA: I assumed.

CHAIRPERSON: Okay.

MR NHLANHLA NGWENYA: Because if I knew for a fact that it was not part of the agreement between SA Express and Koreneka.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: Okay.

20 **ADV KATE HOFMEYR:** And Mr Ngwenya, if I may suggest your personal knowledge in relation to the agreement between SA Express and Koreneka and what you managed to uncover in the invoicing etcetera is particularly relevant for our purposes. We have also listened to some of those recordings and indeed we will play them in the course of the evidence. Mr van Wyk is often on those recordings

indicating the need for refurbishment and fire trucks but Mr Ngwenya, that's precisely part of our investigation because it is not at all clear to us that those were in fact envisaged services under the main agreement at all. Right. So the first payment is 8.5 million, we're at page 18. And they are for this quoted airport refurbishment and compliance maintenance and operational setup costs. That 8.5 million is paid by SA Express to Koreneka, is that correct?

MR NHLANHLA NGWENYA: That is correct.

ADV KATE HOFMEYR: You have the date of that over the page at 19,
10 it was paid on the 6th of May, correct?

MR NHLANHLA NGWENYA: Yes, that's correct.

ADV KATE HOFMEYR: And what you can certainly say is that description of services is not covered by the SA Express Koreneka agreement, correct?

MR NHLANHLA NGWENYA: Correct.

ADV KATE HOFMEYR: The second payment you'll pick up at page 19. It was to the value of a further 8.5 million and it was dated the 17th of August at least the invoice was. Do you see that at 54.1?

MR NHLANHLA NGWENYA: Yes.

20 **ADV KATE HOFMEYR:** What description was given on that invoice?

MR NHLANHLA NGWENYA: Airport refurbishment and compliance maintenance and facility upgrade.

ADV KATE HOFMEYR: And I then expect your evidence will be the same that that was not covered by the SA Express Koreneka agreement?

MR NHLANHLA NGWENYA: That's correct.

ADV KATE HOFMEYR: And none the less at 54.4 I pick up that the payment was made on the 27th of August, correct?

MR NHLANHLA NGWENYA: Correct.

ADV KATE HOFMEYR: In the amount of 8.5 million?

MR NHLANHLA NGWENYA: That's correct.

ADV KATE HOFMEYR: And generally you gave us evidence earlier but there is authorisation for these payments being provided until this point by Mr van Wyk, is that correct?

10 **MR NHLANHLA NGWENYA:** That's correct.

ADV KATE HOFMEYR: Right. And then we go to the third payment. Chair, what's interesting about the third payment from Mr Ngwenya's evidence is that the payment was for 14 million and it was a single payment on a single day. But the way it came into SA Express was in the form of two invoices for less each than 10 million. And Mr Ngwenya has some views about why it was broken up into two invoices but none the less paid in one payment. Mr Ngwenya, you'll find that at page 20 paragraphs 55. What is the point- well let's go first, the description on the first invoice which was for 5.84 million, what was that?

20 **MR NHLANHLA NGWENYA:** Facility Security Management and Facility Management.

ADV KATE HOFMEYR: And the second invoice, what description was given for it?

MR NHLANHLA NGWENYA: Airport fire truck lease.

ADV KATE HOFMEYR: And that was for an amount of 8.16 million, is

that correct?

MR NHLANHLA NGWENYA: That's correct.

ADV KATE HOFMEYR: And then at 55.2 you make the point about the payments falling under 10 million rand, what is that point?

MR NHLANHLA NGWENYA: As I've explained earlier ma'am, to say you know there is a delegation of authority in terms of signing off the money and all that. Now on the expense of it is clearly depicted as to how much can the CEO and the GM sign off? Now anything above 10 million because of I think he's got the signing power for 10 million rand.

10 **MR NHLANHLA NGWENYA:** Now at that time you know its 14 million that was supposed to be taken out of the account. Now the CEO didn't have lead delegation of authority you know in terms of (inaudible crosstalk) of authority to say he can sign for anything above the 10 million rand.

CHAIRPERSON: Beyond 10 million.

MR NHLANHLA NGWENYA: In that regard the Board was supposed to be involved in this so as to approve and sign it off. But the amounts were broken into two smaller amounts which were below the 10 million threshold so that you know to circumvent the ... (intervenes)

CHAIRPERSON: The need to approach the Board.

20 **MR NHLANHLA NGWENYA:** The need to approach the Board and their approval. And I must say that the Board was never even informed of this transaction as the money was flowing out of the company. So the separation was just to ensure that it's below the 10 million threshold and that obviously it enables Mr van Wyk the authority to sign it off and ja.

CHAIRPERSON: So these payments were they all authorised by the CEO or is that something you are not sure about, you might know only one?

MR NHLANHLA NGWENYA: Okay, let me put it this way Chair. On all these transactions the CEO appended his signature on the ... (intervenes)

CHAIRPERSON: On the relevant documents to.

MR NHLANHLA NGWENYA: Expense authorisation form.

CHAIRPERSON: Yes.

10 **MR NHLANHLA NGWENYA:** Now Mr van Wyk was approving so he endorsed you know the CEO, he also signed on that on all these expense forms.

CHAIRPERSON: All this transactions, ja.

MR NHLANHLA NGWENYA: Yes.

CHAIRPERSON: Okay.

MR NHLANHLA NGWENYA: He had knowledge because of earlier he informed me that this money was deposited to SA Express by mistake you know, it was not intended for SA Express. It was intended for Koreneka hence they were taking that money out of SA Express.

20 **CHAIRPERSON:** Okay.

ADV KATE HOFMEYR: Chair, just to pick up that point. If we just look at one of the expense authorisations you'll see those signatures. We can go to the one under tab 13 page 123.

MR NHLANHLA NGWENYA: Tab 13.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Chair, you'll see in the right-hand half of the page at the bottom there's a place for recommended by and a signature and a name to be printed and then approved by. Mr Ngwenya, who's signature is on the approved by line there?

MR NHLANHILA NGWENYA: It's Mr Brian van Wyk signature.

ADV KATE HOFMEYR: And then the name beneath that reads BT van Wyk, is that right?

MR NHLANHILA NGWENYA: That's correct, Mr Brian van Wyk, its Brian Tebogo van Wyk.

10 **ADV KATE HOFMEYR:** And then is that signature under additional signature below there the one that you identify as Mr Ntshanga's?

MR NHLANHILA NGWENYA: That's correct.

ADV KATE HOFMEYR: Thank you. And that's repeated throughout in relation to the expense authorisations, is that right?

MR NHLANHILA NGWENYA: Absolutely.

ADV KATE HOFMEYR: So those complete the four invoices but three payments. The first of 8.5, the second of 8.5, the third of 14 which total 31 million, is that right?

MR NHLANHILA NGWENYA: That's correct.

20 **ADV KATE HOFMEYR:** And you were satisfied after your investigation that none of the descriptions on the invoices related to matters covered by the SA Express Koreneka agreement, correct?

MR NHLANHILA NGWENYA: That's correct.

ADV KATE HOFMEYR: And if we go back to page 20 of the affidavit ...
(intervenes)

CHAIRPERSON: I'm sorry. So on the basis that the services that were reflected in the invoices for which Koreneka wanted to be paid fall outside of the services that were the subject of the agreement between SA Express and Koreneka? These payments were all not supposed to have happened?

MR NHLANHLA NGWENYA: That's correct, Chair.

CHAIRPERSON: Yes.

MR NHLANHLA NGWENYA: That's correct.

CHAIRPERSON: Okay.

- 10 **ADV KATE HOFMEYR:** At page 20 of the affidavit Mr Ngwenya, you talk about a discussion with Ms Tlatsana that you reference at paragraph 55.3 and you state there that in my discussion with Ms Tlatsana she said that she did not know about these invoices and payments. Is that correct, did you ask her about them?

MR NHLANHLA NGWENYA: That's correct, yeah. That's correct.

ADV KATE HOFMEYR: Thank you. And then you ... (intervenes)

CHAIRPERSON: So she said she never prepare these invoices and her office never even prepared them or just that she didn't prepare them?

MR NHLANHLA NGWENYA: She did not submit any invoice.

- 20 **CHAIRPERSON:** Yes.

MR NHLANHLA NGWENYA: And for that matter Chair, she did not even know how to prepare an invoice at the juncture.

CHAIRPERSON: Oh yeah, is that something you- that's what she told you?

MR NHLANHLA NGWENYA: She told me. At some stage she asks me

as to how to submit an invoice, how to go about.

ADV KATE HOFMEYR: Was your understanding from her that that was the role that Mr Kalisilira played.

MR NHLANHLA NGWENYA: Absolutely.

ADV KATE HOFMEYR: Is that what she conveyed to you?

MR NHLANHLA NGWENYA: Absolutely and obviously the recordings also it is actually mentioned that Mr David Kalisilira was responsible for you know preparing invoices and all that. And that came out of Mr Brian van Wyk's mouth that was his exact words.

10 **ADV KATE HOFMEYR:** Mr Ngwenya, you made the point a moment ago that you went to Mr Ntshanga to ask him about why SA Express was paying Koreneka in relation to matters as you understood it covered by the main agreement, is that right?

MR NHLANHLA NGWENYA: That's correct.

ADV KATE HOFMEYR: And what was Mr Ntshanga's response to that?

MR NHLANHLA NGWENYA: His response was that the money was erroneously paid to SA Express when it was intended for Koreneka so based on that they had to pay it to Koreneka.

ADV KATE HOFMEYR: Because when we looked at that main
20 agreement you'll recall that clause says the department shall pay SA Express the subsidy and the Management Company. Is that where you draw the conclusion that it was for the department to pay the appointed Management Company which in this case is Koreneka?

MR NHLANHLA NGWENYA: That's correct.

ADV KATE HOFMEYR: So you raise it with Mr Ntshanga as I have your

evidence and he says, yes it was erroneously paid to SA Express and so SA Express had to pay it out to Koreneka, is that right?

MR NHLANHLA NGWENYA: That's correct.

ADV KATE HOFMEYR: Thank you.

CHAIRPERSON: But I assume that suggest that the Department of Transport and Community Service or Safety in Northwest is the one that he was saying had paid the money to SA Express instead of Koreneka.

MR NHLANHLA NGWENYA: That's correct, Chair.

CHAIRPERSON: But if that was the case they didn't pay back to the
10 person who erroneously paid to them for that person to pay it exactly where they were supposed to pay it. Why were they the ones paying Koreneka?

MR NHLANHLA NGWENYA: That was my view Chair, to say it's unlawful to divert money that is transferred to your account erroneously. It was not intended for Express therefore why divert it instead of advising the Northwest Department because of you got a relationship to them to say you know sort of reverse the payment and redirect it to the intended entity.

CHAIRPERSON: And it's not for you to pass it on, you don't know
20 whether that Koreneka is entitled to it or not and if you pass it on to Koreneka in circumstances where the Northwest Department of Transport says, no but you shouldn't have done that it's our money. What do you say?

MR NHLANHLA NGWENYA: That's exactly my point that those are issues that are raised with the CE Chair.

CHAIRPERSON: Yes.

MR NHLANHLA NGWENYA: Because of I was concerned about that.

CHAIRPERSON: Yes. I want us to take a break at 16h30 but if it's already a convenient time in terms of what you want to ask we can take it now otherwise within 5 minutes.

ADV KATE HOFMEYR: I was just going to direct you to one aspect Chair.

CHAIRPERSON: No, then that's fine let's go up to 16h30 that's fine.

ADV KATE HOFMEYR: Excellent. Chair, it was just to reassure you at
10 page 21 of Mr Ngwenya's affidavit that he had exactly the same question as you had. As his paragraph 57 of the affidavit reads, he's recounted in the precious paragraph what Mr Ntshanga's response was and he says in his affidavit if I may Mr Ngwenya, I was disturbed by that response. The lingering question was why didn't SA Express refund the money to the Department if it was paid by mistake but instead pay it to Koreneka. So Mr Ngwenya, it's fair to say to was precisely your concern, was it not?

MR NHLANHLA NGWENYA: Correct.

ADV KATE HOFMEYR: Indeed. Thank you Chair, we can continue
20 after the break.

CHAIRPERSON: Okay, let's take a 10 minutes break up to 16h35.

ADV KATE HOFMEYR: Thank you Chair.

CHAIRPERSON: We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: You may proceed.

ADV KATE HOFMEYR: Thank you Chair. Mr Ngwenya I would like to pick it up at the point where Valotek is now contracted to SA Express to replace Koreneka in relation to the Mafikeng Airport. You have given us the background already to that in your testimony. As I have it in the course of your investigation you tried to understand on what basis Valotek had been appointed. Is that correct and Mr Ngwenya if you will turn on the microphone? Thank you.

CHAIRPERSON: Ja before – before that – I am sorry to interrupt you.

10 In your investigation did you ever try and establish whether there was any correspondence SA Express and the North West Department of Transport relating to this erroneous payment – so called erroneous payment to SA Express of money that was supposed to be paid to Koreneka?

MR TIMOTHY NHLANHLA NGWENYA: I tried Chair but I did not get evidence to that effect. In ...

CHAIRPERSON: But did you ask the CEO ...

MR TIMOTHY NHLANHLA NGWENYA: I did.

CHAIRPERSON: If there was and what did he say?

20 **MR TIMOTHY NHLANHLA NGWENYA:** He said they were notified by the North West to say they erroneously deposited the money but ...

CHAIRPERSON: And the notification was not in writing?

MR TIMOTHY NHLANHLA NGWENYA: It appears so.

CHAIRPERSON: Yes.

MR TIMOTHY NHLANHLA NGWENYA: So he did not provide any proof.

CHAIRPERSON: Okay, alright thank you.

ADV KATE HOFMEYR: Mr Ngwenya as I have your evidence Valotek is appointed but the only record you could find of any process that was embarked upon before the contract was concluded related to labour broking services. Is that correct?

MR TIMOTHY NHLANHLA NGWENYA: That is correct.

ADV KATE HOFMEYR: Chair I propose we just look at and Mr Ngwenya the Valotek Agreement and then we can be quite swift with the PAMCO and MAMCO Agreements thereafter because the point
10 to be made is that they are replicas of the Koreneka Agreement. You will find the Valotek Agreement under Tab 19 at page 1-3-7.

CHAIRPERSON: Yes, yes.

ADV KATE HOFMEYR: So what you see here Mr Ngwenya is an agreement. Just tell us who the parties are if you may?

MR TIMOTHY NHLANHLA NGWENYA: It is South African Express Airways and Valotek Facilities Management.

ADV KATE HOFMEYR: And Chair I do not propose to spend time on it but you can rest assured and if anyone wants to take us up on this they will. It is a replica. The only – there are one or two oddities. The
20 annexure referred to in this agreement we have not been able to source.

The one that sets out the ground handling services. This is the only version of the agreement that the commission has able – has been able to find and then if you go over to Tab 20 ...

CHAIRPERSON: Oh that would be the cut and paste that ...

ADV KATE HOFMEYR: Hm.

CHAIRPERSON: Mr Ngwenya ...

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: Was talking about?

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: So you get the first Koreneka Agreement which is then replicated effectively in the Valoteck Agreement and then you will see if you turn over to the next tab at page 1-5-9. Mr Ngwenya who
10 are the parties to this agreement?

MR TIMOTHY NHLANHLA NGWENYA: It is South African Express Airways and Halcogen which is PAMCO.

ADV KATE HOFMEYR: Thank you. What I am interested in – sorry – and let us just go to MAMCO to close it off and then I want to ask you about when these two agreements were concluded. You will find the MAMCO Agreement as over the next tab at 21 starting at page 1-8-7 and who are the parties there?

MR TIMOTHY NHLANHLA NGWENYA: It is South African Express Airways and Mohican Airport Management Company – MAMCO.

20 **ADV KATE HOFMEYR:** Thank you. Now these two agreements Mr Ngwenya when were they concluded?

MR TIMOTHY NHLANHLA NGWENYA: Mr Ngwenya.

ADV KATE HOFMEYR: Oh my goodness. It has happened again.

MR TIMOTHY NHLANHLA NGWENYA: I ...

ADV KATE HOFMEYR: Because I was not looking at my notes at the

time.

CHAIRPERSON: I think – I think he must charge you a fee now.

ADV KATE HOFMEYR: He must and if I do it again please correct me.

Mr Ngwenya ...

CHAIRPERSON: Mr Ngwenya – Mr Ngwenya she is counsel you can ...

ADV KATE HOFMEYR: Indeed there is ...

CHAIRPERSON: Put your rate quite high.

ADV KATE HOFMEYR: Mr Ngwenya please tell the Chair when these two agreements - and Chair we refer to them for short the Mafikeng
10 Airport Management Company is MAMCO. The Halcogen Trading as
Pilanesberg Airport Management Company we refer to as PAMCO and I
suggest those will be our abbreviations for the next ...

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Evidence session.

CHAIRPERSON: That is fine.

ADV KATE HOFMEYR: When were these two agreements concluded
Mr Ngwenya?

MR TIMOTHY NHLANHLA NGWENYA: We heard about this way after
the departure of Mr Ntshanga from SA Express but they were concluded
20 within his last three or two days before he exited SA Express ...

ADV KATE HOFMEYR: And ...

MR TIMOTHY NHLANHLA NGWENYA: Which is the 28th,
29 March 2017.

ADV KATE HOFMEYR: Right. So let us just place ourselves in time if
we may. You get the call from Ms Tlatsana on 24 June 2016. Correct?

MR TIMOTHY NHLANHLA NGWENYA: Correct.

ADV KATE HOFMEYR: You move to investigate. You have your meeting on the Monday thereafter. You produce your report on 6 October 2016. Is that correct?

MR TIMOTHY NHLANHLA NGWENYA: That is correct.

ADV KATE HOFMEYR: You do not see action on it but you give a final report later in that year not signed subject to the caveats that you have described. Then you have an interaction with Mr Ntshanga in early 2017 – as I recall it – where he is asking you to write a letter to the
10 North West Government to reassure them about the relationship ...

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: And then when does he leave SA Express?

MR TIMOTHY NHLANHLA NGWENYA: The following month.

ADV KATE HOFMEYR: When was ...?

MR TIMOTHY NHLANHLA NGWENYA: Which is March 2017.

ADV KATE HOFMEYR: And was it at the end of the month?

MR TIMOTHY NHLANHLA NGWENYA: It was definitely at the end of the month.

CHAIRPERSON: March 2017?

20 **MR TIMOTHY NHLANHLA NGWENYA:** March 2017.

ADV KATE HOFMEYR: And these two agreements – as I have your evidence – are signed by Mr Ntshanga within two or so days of that departure?

MR TIMOTHY NHLANHLA NGWENYA: That is correct.

ADV KATE HOFMEYR: They dated the 28th and 29 March 2017. Is that

correct?

MR TIMOTHY NHLANHLA NGWENYA: That is correct.

ADV KATE HOFMEYR: Thank you. Mr Ngwenya I then ...

CHAIRPERSON: I am sorry. It might be appropriate to just check. You may have dealt with this before. With regard to the Koreneka – it is Koreneka? The (intervenes).

ADV KATE HOFMEYR: Koreneka.

CHAIRPERSON: Ja, Koreneka that company.

MR TIMOTHY NHLANHLA NGWENYA: Ja.

10 **CHAIRPERSON:** Was Ms Tlatsana the only owner/shareholder/Director that was in it or is that something you do not know?

MR TIMOTHY NHLANHLA NGWENYA: According to the information and the document that she handed to me ...

CHAIRPERSON: Hm.

MR TIMOTHY NHLANHLA NGWENYA: Prior to Mr van Wyk bringing the two partners ...

CHAIRPERSON: Yes.

MR TIMOTHY NHLANHLA NGWENYA: She was the sole owner of the company ...

20 **CHAIRPERSON:** Yes.

MR TIMOTHY NHLANHLA NGWENYA: And after Mr Victor Thabeng resigned and she had to take out Ms Joyce Phiri out of the company. She remained alone again.

CHAIRPERSON: Oh, okay alright.

ADV KATE HOFMEYR: So there is a period of time Mr Ngwenya – as I

have it – where there were three members of the CC herself, Mr Thabeng and Ms Phiri?

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: But then Mr Thabeng resigned and then Ms Phiri there was litigation over her removal. Is that correct?

MR TIMOTHY NHLANHLA NGWENYA: That is correct.

ADV KATE HOFMEYR: And can I just ask about whether your investigation established any relationships between Ms Phiri whom you referred to and who was appointed into the company Koreneka, Mr Phiri who was responsible for certain appointments within the company and Mr van Wyk?

MR TIMOTHY NHLANHLA NGWENYA: Yes I did establish ma'am.

ADV KATE HOFMEYR: And what are they?

MR TIMOTHY NHLANHLA NGWENYA: Chair Ms Phiri is the mother to Mr Levy Sipho Phiri and Mr Levy Sipho Phiri is the life partner of Mr Brian van Wyk – boyfriend yes.

ADV KATE HOFMEYR: But there is a personal relationship?

MR TIMOTHY NHLANHLA NGWENYA: There is a personal relationship. They are in – yes – romantic relationship.

ADV KATE HOFMEYR: Thank you.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

CHAIRPERSON: Okay ...

ADV KATE HOFMEYR: And ...

CHAIRPERSON: And I guess Ms Hofmeyr you will also explore the issue of who were the owners/members/shareholders of MAMCO and

PAMCO?

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: *Ja.*

ADV KATE HOFMEYR: We – we have – I think on your evidence already Mr Ngwenya that Ms Dube moves from Koreneka where she was appointed as the Facilities Manager by the Mr Phiri we have been speaking about. Correct?

MR TIMOTHY NHLANHLA NGWENYA: Correct.

ADV KATE HOFMEYR: She is then dismissed by Ms Tlatsana.

10 Correct?

MR TIMOTHY NHLANHLA NGWENYA: Correct.

ADV KATE HOFMEYR: That Ms Tlatsana relays to you is the reason for the conflict emerging between her and Mr van Wyk. Correct?

MR TIMOTHY NHLANHLA NGWENYA: Correct.

ADV KATE HOFMEYR: And then Valotek is given the Agreement. The same agreement that was concluded with Koreneka and does Ms Dube feature there again?

MR TIMOTHY NHLANHLA NGWENYA: Ms Dube featured there as the owner or 50 percent shareholding and the ...

20 **CHAIRPERSON:** Of Valotek?

MR TIMOTHY NHLANHLA NGWENYA: Of Valotek ...

CHAIRPERSON: *Ja.*

MR TIMOTHY NHLANHLA NGWENYA: And Chair just to mention for the purpose of this hearing. The other owner of Valotek Ms Kefilwe Mogodiri is also related to Ms Phiri because of Ms Phiri's

maiden name is Mogodiri as well. So I guess Mr van Wyk wanted to keep it in the family.

CHAIRPERSON: But when you say they are related is that because that is – you know that to be a fact or you just saw the surname that ...

MR TIMOTHY NHLANHLA NGWENYA: It was confirmed. I was told that it is ...

CHAIRPERSON: It was confirmed, oh.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

CHAIRPERSON: Okay.

- 10 **ADV KATE HOFMEYR:** So there is another personal link as I have it within Valoteck's ownership. Ms Dube appointed initially in Koreneka by Mr Phiri and then appears again in Valoteck. Correct?

MR TIMOTHY NHLANHLA NGWENYA: Correct.

ADV KATE HOFMEYR: And then her co-partner in that business Ms Mogodiri is related to Mr Phiri and Ms Phiri. Is that correct?

MR TIMOTHY NHLANHLA NGWENYA: That is correct.

ADV KATE HOFMEYR: That just for the record is at page 22 paragraph 59 of your affidavit and in terms of the ownership of PAMCO and MAMCO were you able to establish any links there Mr Ngwenya?

- 20 **MR TIMOTHY NHLANHLA NGWENYA:** Honestly speaking I did not actually investigate that because I had actually concluded and it happened when – you know we discovered after Mr Ntshanga left but what I have established in the ownership of PAMCO was that Ms Notule Dudu was also an owner of PAMCO.

ADV KATE HOFMEYR: And let me just get one other point of clarity.

Valoteck was never paid by SA Express. Was it?

MR TIMOTHY NHLANHLA NGWENYA: That is correct.

ADV KATE HOFMEYR: It was paid directly by the North West Department of Transport. Is that correct?

MR TIMOTHY NHLANHLA NGWENYA: Absolutely.

ADV KATE HOFMEYR: And do you know what the payment position is in relation to MAMCO and PAMCO?

MR TIMOTHY NHLANHLA NGWENYA: Not really ma'am. As I have said that I did not (intervenes).

10 **ADV KATE HOFMEYR:** We will traverse that in other evidence. So Mr Ngwenya if we may then go - subject to any other queries Chair that you may have in relation to the agreements – I would like to take us to page 25 of your affidavit ...

MR TIMOTHY NHLANHLA NGWENYA: Page 25.

ADV KATE HOFMEYR: And before we begin with the last paragraph on that page I would just like your confirmation. You – you indicated a moment ago you did not investigate PAMCO and MAMCO extensively ...

MR TIMOTHY NHLANHLA NGWENYA: Ja.

ADV KATE HOFMEYR: But I do recall from your affidavit that you were
20 able to establish that no procurement process had been followed in relation to their appointment at the end of March 2017. Is that correct?

MR TIMOTHY NHLANHLA NGWENYA: That is correct.

ADV KATE HOFMEYR: Okay and that is as SA Express' procurement is concerned. Correct?

MR TIMOTHY NHLANHLA NGWENYA: That is correct.

ADV KATE HOFMEYR: We now have a section of your affidavit Mr Ngwenya that is headed “The Lithuli House Ambush and the R3 million Bribe”. Mr Ngwenya I would like to go through that. Can you tell us what happened on or about 18 August 2016? I know that in the course of the remaining pages of your affidavit you go into a great deal of detail about the steps you took to identify the people who you were dealing with. Feel free to – to explore that but in essence tell us what happened on 18 August 2017 – 2016.

MR TIMOTHY NHLANHLA NGWENYA: 2016.

10 **ADV KATE HOFMEYR:** Apologies.

MR TIMOTHY NHLANHLA NGWENYA: At that time I was still running with this investigation. I had not yet concluded or ...

CHAIRPERSON: Just raise your voice again. I know it has been a long day but just try and raise your voice.

MR TIMOTHY NHLANHLA NGWENYA: Okay Chair. I am saying at that time I was still – you know – running with the investigation and all that and on that particular day I received a call as ...

CHAIRPERSON: That is 18 August 2016?

MR TIMOTHY NHLANHLA NGWENYA: Yes and I hope my memory
20 serves me well on the day but anyway I have indicated to say the – the itemised billing can be – you know – retrieved to actually ...

CHAIRPERSON: Check the date?

MR TIMOTHY NHLANHLA NGWENYA: Yes.

CHAIRPERSON: If you are mistaken.

MR TIMOTHY NHLANHLA NGWENYA: On that day Chair I received a

call. Now I have got caller ID on my phone. So even if I do not have your number for as long as it is Rica'd it will reflect as who you are. Now on that particular day I received a call from my counterpart at Absa which is the Head of Security – Mr Jason Tshabalala – who happened to be the former bodyguard of the late President Mr Nelson Mandela.

He gave me a call and at that time when – when he called in that period I was dealing with quite a number of investigations and we had suspended a lady who was working for SA Express and during that
10 time the lady alleged that Mr Tshabalala was actually the cousin. In actual fact she tried to influence me to turn a blind eye on that particular investigation.

She went on to mention that I must not worry with the footage if it is available. Mr Tshabalala was he cousin and he could assist – you know – to erase the movement and all that. So when i received this call ...

CHAIRPERSON: Okay. You are too fast. I think I have missed something.

MR TIMOTHY NHLANHLA NGWENYA: Okay.

20 **CHAIRPERSON:** Please go – go back a little bit.

MR TIMOTHY NHLANHLA NGWENYA: I am saying ...

CHAIRPERSON: On that day you received a call and you – you could tell who it was who was phoning you.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

CHAIRPERSON: Ja, just take it from there.

MR TIMOTHY NHLANHLA NGWENYA: Now my thinking when I saw that it was Mr Jason Tshabalala who was calling my mind – in my mind I thought he was to ask me about the lady - Ms Suzeka Lokwe – who was suspended at the time. I thought he was going to ask me about her – you know – talk about her because before we suspended her there was a matter that I was investigating and - you know – she mentioned that Mr Jason Tshabalala – because of that part spoke to her movement – you know – to the airport and all that and I indicated to say there is a footage movement and all that.

10 So she persuaded me to turn a blind eye and she then mentioned to me that Mr Jason Tshabalala the Head of Security was her cousin. So according to her Mr Tshabalala was going to make the footage disappear. That was according to her. Now when I received the call and ...

CHAIRPERSON: This was a footage covering what?

MR TIMOTHY NHLANHLA NGWENYA: No it is something else.

CHAIRPERSON: Something else.

MR TIMOTHY NHLANHLA NGWENYA: Hence I am saying it is another thing. So it was my (intervenes).

20 **CHAIRPERSON:** Okay, alright okay. We do not need to go into it but ...

MR TIMOTHY NHLANHLA NGWENYA: Yes.

CHAIRPERSON: But it is footage that you were interested in looking at or not really?

MR TIMOTHY NHLANHLA NGWENYA: Hm.

CHAIRPERSON: Maybe you do not need to ...

MR TIMOTHY NHLANHLA NGWENYA: It was a separate case. It was not ...

CHAIRPERSON: Okay. It was a separate thing, *ja*.

MR TIMOTHY NHLANHLA NGWENYA: I am just trying to relay the story ...

CHAIRPERSON: Yes, okay.

MR TIMOTHY NHLANHLA NGWENYA: Of my thinking.

CHAIRPERSON: Alright.

- 10 **MR TIMOTHY NHLANHLA NGWENYA:** So I thought he was to talk about that because of what she told me but that was not the case. Mr Tshabalala in fact said to me – he greeted me nicely. Tim how are you? I said no I am okay and he said to me there is a guy who wants to talk to you chief.

You know – I said talk to me about what. He said no man. He just wants to talk to you. I said who is this person. He said no he is a brother man. I mean you can – you know – chat to the guy. I can ...

CHAIRPERSON: And you knew Mr Tshabalala before (intervenes)?

- 20 **MR TIMOTHY NHLANHLA NGWENYA:** I knew Mr Tshabalala ...

CHAIRPERSON: Okay.

MR TIMOTHY NHLANHLA NGWENYA: But we are not close.

CHAIRPERSON: *Ja*.

MR TIMOTHY NHLANHLA NGWENYA: We are in the very same space ...

CHAIRPERSON: Okay.

MR TIMOTHY NHLANHLA NGWENYA: And the last time I spoke to him it was – way back. Approximately 2013/ 14 when I was – I was still working for previous company.

CHAIRPERSON: Okay.

MR TIMOTHY NHLANHLA NGWENYA: Yes. It was then about a certain investigation anyone. So it is not a person who we – you know – now when he called me that also was like – Jason calling me. Where did he get – get my number and all that. So he told me know this person is a
10 brother and casually so – you know – and – and honestly speaking he was nice.

He is a nice guy. *Ja*, he wants to talk to you. I said okay but who is this guy. I said no do not worry. He is a brother. He wants just to talk to you. I said okay fine. Not a problem. You can give him my number but I got worried somehow to say I mean he did not speak about what I thought he would raise. What is going on here?

Could it be about this North West issue? Well I did not know at the time. Approximately 30 - 20 minutes or so later I received a call from an unknown person and this person indicated to me that I got your
20 number from Mr Jason Tshabalala. I would like to meet you around the Midrand area this afternoon. In actual fact when I know off – you know – from work- around five.

CHAIRPERSON: But from your phone you could tell who the caller was?

MR TIMOTHY NHLANHLA NGWENYA: No I could not. I could not tell.

CHAIRPERSON: Oh.

MR TIMOTHY NHLANHLA NGWENYA: I could not – it showed the number. It did not show the name.

CHAIRPERSON: Okay.

MR TIMOTHY NHLANHLA NGWENYA: Yes. It showed the number. It did not show the name and I said to - to this person chief I do not know you in the first place and you want to meet with me in Midrand. You do not even greet me. I felt that he – he was rude actually - you know. You are telling me that you got my number from somebody and the next
10 thing you want to – you want to meet with me.

I do not know you and all that. He said to me no I need to talk to you Chief. I have got a mandate. I need to – to talk to you. I said Chief what- what mandate are you talking about. He said no I have got a mandate from Lithuli House. I just want to talk to you. Can we meet? I said I cannot meet you in Midrand.

I can meet you in the airport precinct or in the East Rand mall towards my way home because I am a (indistinct) boy. I stay in the (indistinct). Therefore I cannot be driving to Midrand and all that and you want to talk to me therefore you have to sort of come to me. He
20 said okay fine.

No it is fine I can meet you. I said where can we meet. He said no I will let you know. I am in Cape Town right now but as soon as I get to the airport I would tell you exactly where we can meet.

ADV KATE HOFMEYR: Mr Ngwenya ...

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: If I may just interject there. At page 26 paragraph 73 you record in your affidavit that you said something else to this caller when he said to you that he had been given a mandate from Lithuli House.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: To come and speak to you. What you record there is you say:

“I told him that I am not a politician ...”

MR TIMOTHY NHLANHLA NGWENYA: Yes.

10 **ADV KATE HOFMEYR:** “...and cannot be talking about Lithuli House mandates.”

Is that correct?

MR TIMOTHY NHLANHLA NGWENYA: That is correct ma’am. That is correct.

ADV KATE HOFMEYR: Thank you. Please continue. So you said that. You then had a discussion with him about where you could meet - as I have your testimony ...

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: And he said he is going to get onto a plane and
20 come into Johannesburg and so you could meet at the airport.

MR TIMOTHY NHLANHLA NGWENYA: Absolutely.

ADV KATE HOFMEYR: Is that correct?

MR TIMOTHY NHLANHLA NGWENYA: That – that – that is correct ma’am. That is exactly what I said and that is what he told me.

ADV KATE HOFMEYR: And – and then if we – on page 27 ...

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: You – you then pick up that point about the – the indication that he gave you that he was going to be flying up from Cape Town. You will see that at paragraph 75 because three you say:

“In the space of about an hour and 30 minutes the caller called me again and said he was in Johannesburg and asked if we could meet.”

Do you attach any significance to that period of time?

MR TIMOTHY NHLANHLA NGWENYA: That is correct ma’am. There is
10 no way that you can fly from Cape Town to Johannesburg and be outside a terminal building within a period of one hour 30 minutes. It is impossible.

ADV KATE HOFMEYR: But nonetheless ...

MR TIMOTHY NHLANHLA NGWENYA: So ...

ADV KATE HOFMEYR: He was calling you from the terminal building. Correct?

MR TIMOTHY NHLANHLA NGWENYA: He was actually – absolutely. He was at the terminal building and the story that he was in Cape Town clearly it is not true. There is no way there is no way. I think that is -
20 that is the part that I had actually exposed him to me that he was not really telling the truth because I mean I am working in that space. I know the duration ...

ADV KATE HOFMEYR: Hm.

MR TIMOTHY NHLANHLA NGWENYA: And all that of the flights and all that.

ADV KATE HOFMEYR: But ...

MR TIMOTHY NHLANHLA NGWENYA: (Intervenes).

ADV KATE HOFMEYR: You then did agree to meet him in the Intercontinental Hotel foyer. Is that right?

MR TIMOTHY NHLANHLA NGWENYA: Absolutely. That is where he told me that he would be waiting for me.

ADV KATE HOFMEYR: And then as I have your affidavit you – you went to meet him. On your way however you told Ms Mshwele that you were going to meet a person who had called you. Is that correct?

10 **MR TIMOTHY NHLANHLA NGWENYA:** That is – that is correct. That is correct.

ADV KATE HOFMEYR: And then tell us what happened when you went to the Intercontinental?

MR TIMOTHY NHLANHLA NGWENYA: When – as I went to the Intercontinental – at that juncture I must say I was a bit worried and - you know – I thought that you know what I need to play smart – smart and safe – you know – in approaching this whole thing. So I moved from the airways part towards the airport but there is – there is an entrance to the air side where workers – you know - only workers – you
20 know – are actually entering the air side.

I went to that air side – you know – just to be safe to walk within the air side – you know – towards the Intercontinental. Obviously I would get into the terminal building and go out through the terminal building but while I was walking there because he had already given me the description and the location.

I phoned my associate as - I mean - I am in the security sector so I phoned my associate to say guys I have got a situation. I need to cover for me because in this regard I think this may be an ambush of some sort. I really do not trust. Can you kindly establish as to whether this person is there and - you know - and the guys as I walking.

It took me some time. As I was walking they went and checked and they called me as I got onto the terminal building or approaching the terminal building. They informed me to say - you
 10 know - yes the person is sitting there in the foyer but there were two guys who were standing - you know - right next to him. Just a few metres away from him and it appears that they are - you know - together with this guy. So be weary of that.

Now as I came and obviously they - they were watching because of - I was not really - I felt that - you know - I cannot really compromise my safety just like that. So as I - I came in I phoned the guy while I was inside the building - the terminal building - but I could see him through the glass to say hey chief I am here.

Where are you and I could see when he picked up the phone
 20 and when I looked on the side I saw the two guys. Then I went through but I was wearing - you know - a coat with that cap - you know - trying to disguise in a way. You know - so that if walking from airways park to the gate if there is someone perhaps who is waiting for me there to do something they may not be able to sort of recognise me.

So I went to him and he was sitting there. I greeted him. He

greeted me back and he said – I think his name if I am correct – I think he was Sipho. He mentioned – I think - a surname but I cannot just recall the surname. Then we sat and he said to me chief I am from Luthuli House and I have been given a mandate to talk to you pertaining your investigation in the North West and I said to him Luthuli House.

What do I have to do with the – the mandates from Luthuli House because I am not a politician? I am not interested in politics. He said no it is about this investigation that you conducting. Listen
10 chief the money that is siphoned – you know – the Express the money that is in question here ...

CHAIRPERSON: I am sorry and this was in August 2016?

MR TIMOTHY NHLANHLA NGWENYA: That is in August 2016.

CHAIRPERSON: And Mr van Wyk had disappeared on 1 July ...

MR TIMOTHY NHLANHLA NGWENYA: July yes.

CHAIRPERSON: 2016?

MR TIMOTHY NHLANHLA NGWENYA: Yes.

CHAIRPERSON: Okay. Your investigation was still ongoing?

MR TIMOTHY NHLANHLA NGWENYA: Yes.

20 **CHAIRPERSON:** Okay.

MR TIMOTHY NHLANHLA NGWENYA: This is a person that I did not know. I did not meet this person – you know – even previously. So he said to me he was given this mandate because of the money that was involved. The money that was taken out – you know – siphoned from this – was meant to – to finance the political activities of the ANC.

I said chief that has absolutely nothing to do with me. My concern here is Mr Brian van Wyk who manipulated the system and transgressed. My focus is on everything that happened within SA Express. As to who else is involved out of SA Express that has absolutely nothing to do with me and I do not want to know anything about it. He said chief come on. We need you to talk this. Do you know how Mr Brian van Wyk got this surname? I said (intervenes).

CHAIRPERSON: And – and – I am sorry. When he said the money that was taken out did he – which money was he talking about and being
10 taken out from where?

MR TIMOTHY NHLANHLA NGWENYA: The money that was in question it is all about the R31 million.

CHAIRPERSON: Yes.

MR TIMOTHY NHLANHLA NGWENYA: *Ja.*

CHAIRPERSON: Yes.

MR TIMOTHY NHLANHLA NGWENYA: Now he is saying I must drop the investigation.

CHAIRPERSON: Oh, he was saying you must drop the investigation?

MR TIMOTHY NHLANHLA NGWENYA: I must drop the investigation ...

20 **CHAIRPERSON:** Oh okay.

MR TIMOTHY NHLANHLA NGWENYA: Because the money involved was to fund the political activities of the ANC and I said I am not a politician. I have nothing to do with that and as far as this whole thing is concerned Mr Brian van Wyk manipulated the system and he transgressed.

My concern was Mr Brian van Wyk because of – you know – he was working for SA Express and anything out of SA Express was actually none of my business and I was not interested because I am not a politician. I do not even intend to become one. So ...

ADV KATE HOFMEYR: Mr Ngwenya ...

MR TIMOTHY NHLANHLA NGWENYA: yes.

ADV KATE HOFMEYR: Can I just clarify? You – you indicated in your testimony a moment ago that he was referring to the money siphoned out of the North West.

10 **MR TIMOTHY NHLANHLA NGWENYA:** Yes.

ADV KATE HOFMEYR: Is that right? Is that the word he used?

MR TIMOTHY NHLANHLA NGWENYA: Come again ma'am.

ADV KATE HOFMEYR: Is that the word he used?

MR TIMOTHY NHLANHLA NGWENYA: Absolutely ma'am, absolutely.

ADV KATE HOFMEYR: And – and what ...

MR TIMOTHY NHLANHLA NGWENYA: To say – to be – to be precise. He said the money that was moved out of North West.

ADV KATE HOFMEYR: And then he went on to say was to be used to fund the ANC's political campaign.

20 **MR TIMOTHY NHLANHLA NGWENYA:** Campaigns, exactly yes.

ADV KATE HOFMEYR: Thank you.

CHAIRPERSON: Yes. No, just before we leave that point the significance in the question Ms Hofmeyr was putting to you whether the word that this person used was siphoned out, money was siphoned out, and you initially said yes, but then you said, he said money that was

moved.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

CHAIRPERSON: Now I want you to indicate whether you are using when you say it was moved you are using the word that this person used or you are using your own word to describe what he said to you.

MR TIMOTHY NHLANHLA NGWENYA: Okay siphoned it is my own word.

CHAIRPERSON: Okay.

MR TIMOTHY NHLANHLA NGWENYA: Siphon is my own word.

10 **CHAIRPERSON:** You are expressing it the way you understood it.

MR TIMOTHY NHLANHLA NGWENYA: Yes, yes.

CHAIRPERSON: Okay no that's fine.

MR TIMOTHY NHLANHLA NGWENYA: The money that was moved from the Northwest yes, yes.

ADV KATE HOFMEYR: But Mr Ngwenya did you have any doubt in the course of this conversation that you were talking about that R31million?

MR TIMOTHY NHLANHLA NGWENYA: No I didn't have any doubt ma'am for the simple reason that he spoke about Mr van Wyk and Mr
20 van Wyk was involved in the R31million.

ADV KATE HOFMEYR: And then you ...(intervention)

CHAIRPERSON: I'm sorry, it's quite an important part, so just go back to the conversation, did you greet, you find him there, you greet, and what does he say to you?

MR TIMOTHY NHLANHLA NGWENYA: He had a mandate from the

Lutuli House to talk to me pertaining the investigation that I'm running against Mr Brian van Wyk which involved the money that was moved from the Northwest and that money was used to finance the ANC political campaigns you know those activities, so in a way he was saying this was not Mr Brian van Wyk's money, it was actually the ANC's money.

CHAIRPERSON: I know that it's been what three years or four years since then, I just want to understand the to'ing and fro'ing of the conversation between the two of you, if possible, but it might not be
 10 possible. You say this money, this investigation that you are involved in, that you are conducting concerning Mr van Wyk, concerns money that was moved from the Northwest Government which was meant for funding ANC activities.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

CHAIRPERSON: And does it say you must drop the investigation or what happened, I just want to follow how the conversation between the two of you ...(intervention)

MR TIMOTHY NHLANHLA NGWENYA: Yes Chair, I was about to get to that part as well. The intention of talking to me at that juncture he
 20 said this money was to fund that, and then he said Mr Brian van Wyk in actual fact was actually that's my interpretation he was the vehicle to get the money out and channel it towards those activities of the ANC, because he even went on to say you know how he obtained the surname van Wyk, because he is very dark you know, and I said I don't want to know, he then said to me we can offer you R3million to drop

this investigation. My response to him was that S A Express was paying me adequately, therefore I need not take any money from anyone. He tried to persuade me and I told him straight that I wasn't really interested. Now he moved from that subject to talk about the R20million that was still you know in the Koreneke account and at that time Mr Gully Sillira[?] and Mr Brian van Wyk they had no access to that money because Ms Tlatsana moved that money to another account because of when the conflict started between them later on there was a deposit of R20million from the Northwest, so she moved that money so
 10 they could not have access preventing them to that access.

ADV KATE HOFMEYR: Mr Ngwenya could I just stop you there if I may, because it's a part that comes up in the recordings but it's not an aspect that you traverse in your evidence yet, so could we just get it clear you have by this stage, you're in August 2016.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: You have been able to account for the R31million.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: Because you have gone back to the records of
 20 S A Express and you've seen that total amount being paid out of S A Express pursuant to four invoices and three payments, is that correct?

MR TIMOTHY NHLANHLA NGWENYA: Absolutely, absolutely.

ADV KATE HOFMEYR: But Chair you will recall and we were looking at that subsidy page under the main agreement, the first total annual amount that Koreneka was supposed to receive or the management

company to be appointed was a total of R51million, so at this point you've accounted for R31million of it which was paid out of S A Express but there's a remaining R20million.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: But as I understand the recordings and what Ms Tlatsana told you that R20million came then in a payment directly from the Northwest to Koreneka correct?

MR TIMOTHY NHLANHLA NGWENYA: That is correct ma'am, that is correct.

10 **ADV KATE HOFMEYR:** And as I recall that recording which we will listen to that occurred in the Spur Restaurant part of the conversation between Ms Tlatsana and Mr and Mr van Wyk is about R20million.

MR TIMOTHY NHLANHLA NGWENYA: Absolutely.

ADV KATE HOFMEYR: Which Ms Tlatsana was not giving Mr van Wyk access to, is that correct?

MR TIMOTHY NHLANHLA NGWENYA: That is correct ma'am.

ADV KATE HOFMEYR: So Chair that's important background because now we move to a point in this conversation as I have it with this person you've been called to meet with where he moves from offering
20 you R3million to drop the investigation to this R20million.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

ADV KATE HOFMEYR: And what does he say about that?

MR TIMOTHY NHLANHLA NGWENYA: He said on the R20million that there's a R20million of course that was within the Koreneka contract and it was clear that they did not have access to it. He said to me he

understands that I have got a better understanding with Ms Tlatsana so I needed to persuade her to let go of the money, release the money or she must move out of the airport, you know to leave that space, and my response to him was that I have nothing to do, I am not part of Koreneka and I cannot entertain such, I don't have even the mandate to deal with such, I blatantly refused you know to entertain those issues, so he said to me I mean think about it chief, you know the R3million, I said listen chief I do my job without fear, favour or prejudice and my mandate has nothing to do with the political dealings and getting
 10 involved in other companies affairs, so I am not interested. He says you must think about it, I said to him even if I can think about it the answer would remain the same, no.

And we ended up parting ways, he left and I left.

CHAIRPERSON: For the duration of your discussion with him were the two other people that before you came to talk to him had seemed to be with him, were they with him or were they in the vicinity or were they no longer there?

MR TIMOTHY NHLANHLA NGWENYA: You know Chair to be quite honest with you as I arrived they were there, but at the time when we
 20 were talking I had actually forgotten about them. My mind shifted, I did not ...(intervention)

CHAIRPERSON: And you don't know whether when you finished they were there or not?

MR TIMOTHY NHLANHLA NGWENYA: I did not think about them but yes.

CHAIRPERSON: Yes, okay.

ADV KATE HOFMEYR: Mr Ngwenya you are now as I have your evidence at page 29 of your affidavit, I have been following what was contained there as you've been giving your testimony where I would like to ask you to pick it up and really in conclusion of your evidence is paragraph 80, because at paragraph 80 you talk about the steps you took in the following week and what the reactions were of Ms Mochoele and Mr Ntshanga to what you told them, can you take us through that please.

- 10 **MR TIMOTHY NHLANHLA NGWENYA:** Yes. On that week, it was around the 23rd or 25th you know of August and I was with Ms Mochoele and Mr Ntshanga, it was in his office actually where I think Mr Ntshanga actually asked as to how did my meeting and the guy that I met from Lutuli House went because Ms Mochoele informed him that I was meeting some guys and all that, because I did not talk to him about you know me meeting the guy, so I informed Ms Mochoele, so Ms Mochoele told him that I met the guy, so he was asking as to how it went and I narrated the story as to what transpired what was the guy you know what exactly did he want from me and all that, and I indicated
- 20 that you know the connection between me and the guy was created by Mr Jason Tshabalala who is the head of security at ACSA, and Mr Ntshanga's reaction was that Jason Tshabalala who is t his Jason Tshabalala, and I explained to him that he is the head of security at ACSA. He said I don't know the guy, oh you don't know the guy, ja, I don't know the guy, who is that, and you know while I was trying to

explain we ended up talking about the movie Invictors, you know the Invictors the rugby, and Madiba in that movie where Mr Jason Tshabalala and Mr Linga Motsane from S A Express is the bodyguard of the President they were played by Tony Kgoroge and Patrick Mofokeng so we spoke about that you know where he presented as if he didn't know, but little did he know that I was aware that they were quite close because I have seen them before you know seen together, within the airport precinct, so he pretended as if he didn't know, but later on he made a mistake by saying hey Jason anyway he lost his father and you

10 know I could not attend the funeral because I engagements, and so that nullified everything that he said before you know that he didn't know this guy, pretending as if he didn't know him, so it was all about that, but to a certain extent it gave a different picture to me you know about him.

ADV KATE HOFMEYR: Chair those are the questions from our side.

CHAIRPERSON: Yes, thank you. Would there have been cameras to capture you and this man talking about the R3million bribe that would have been there?

MR TIMOTHY NHLANHLA NGWENYA: I'm not sure Chair but there's

20 plenty cameras around that space, so whether area is covered I am not really sure but also it's not going to be possible to retrieve those records because of the ...(intervention)

CHAIRPERSON: Because of the timeline.

MR TIMOTHY NHLANHLA NGWENYA: Because of the timeline yes.

CHAIRPERSON: What's the time lapse, what's the time within which

one has got to get them before they lapse, before they become unavailable?

MR TIMOTHY NHLANHLA NGWENYA: It all depends sir and in most cases the footage that if we request (inaudible) yes and ...(intervention)

CHAIRPERSON: Two and a half years or so from August 2016 isn't it?

MR TIMOTHY NHLANHLA NGWENYA: Come again sir?

CHAIRPERSON: We are two and a half years or so away from the date when this incident occurred in August 2016, isn't that within time?

10 **MR TIMOTHY NHLANHLA NGWENYA:** No you can only retrieve 30 days back.

CHAIRPERSON: Is that so?

MR TIMOTHY NHLANHLA NGWENYA: Dating back to 30 days.

CHAIRPERSON: And you're sure of that.

MR TIMOTHY NHLANHLA NGWENYA: And some of – yes because of I viewed the footage and got plenty of investigation that I conduct that – where we also retrieved the footage and all of that, so I am certain around that.

20 **CHAIRPERSON:** Yes, I'm wondering why you might not have considered it necessary soon after the encounter with this man to try and at least get his picture because this was somebody who was – who sought to bribe you.

MR TIMOTHY NHLANHLA NGWENYA: Chair I did not think of it however when I received the call before I went and met the guy, because of 30 minutes after I was called by Mr Tshabalala 30 minutes

later I received a call from this guy and he told me that he will tell me about his location at the airport. I started to think as to who might have you now gave Mr Tshabalala my contact and the person that I thought about at the time was Mr Linga Moonsamy who is the head of security at SAA and we were very close, and I figured out that both the body bodyguard of the late president, Nelson Mandela, therefore I decided to go straight to Mr Linga Moonsamy to ask if he had given Mr Tshabalala my contact and he agreed, he confirmed to say ja no he called me and he requested you contact, I gave the contact to him. I

10 said to him you know there's a problem, this is the situation, there's a guy that called me and because of Jason created you know the platform for the guy to have access to me and you gave the number, he said what is this all about, I said no I don't know but there is a matter that I am busy with which I think to a certain extent you might have a bit of a knowledge and he was really concerned to say you know what I gave the number to Jason because I thought we are in the very same security you know – what's the word that I want to us.

CHAIRPERSON: You're both in the security sector.

MR TIMOTHY NHLANHLA NGWENYA: Sector absolutely yes, that we

20 are all in the security sector.

CHAIRPERSON: So Mr Jason Tshabalala would know the identity of this person that you met ...(intervention)

MR TIMOTHY NHLANHLA NGWENYA: Absolutely.

CHAIRPERSON: Because he is the one who arranged for the two of you to meet.

MR TIMOTHY NHLANHLA NGWENYA: Absolutely sir.

CHAIRPERSON: Yes, but did you ever ask him what's the name of that person you wanted me to meet, did you ever ask Mr Tshabalala?

MR TIMOTHY NHLANHLA NGWENYA: At the time when I asked him he did not disclose the guy's name, he said it's a brother that wants to talk to you he didn't even say as to what was the subject.

CHAIRPERSON: Yes but that was at the time before you met the guy.

MR TIMOTHY NHLANHLA NGWENYA: Yes.

CHAIRPERSON: I mean after you had met the guy did you go back to
10 him to say ...(intervention)

MR TIMOTHY NHLANHLA NGWENYA: To date I haven't spoken to him.

CHAIRPERSON: Mmm, I would have thought that he would want to talk to somebody who sent somebody who sought to bribe you?

MR TIMOTHY NHLANHLA NGWENYA: I did not talk to him to date, sometimes we meet in these workshops you know, but we're not close. He is the one ...(intervention)

CHAIRPERSON: Ja, and the number that he used to call you would it still be available somehow?

MR TIMOTHY NHLANHLA NGWENYA: I suppose so, I didn't have his
20 number Chair at that particular juncture however I went back to sort his contact which I think is the very same number that he used, and I gave to the Commission's investigation for the purpose of retrieving the itemised billing to reflect the connection between the guy, myself and him.

CHAIRPERSON: Okay, no that's fine. Thank you very much for having

come to give evidence in the Commission, we have had over the past two days or so, or three days, I'm not sure, no two days, two days, three people, two of whom are past officials of a parastatal who have given evidence about what happened at SAA and so on and today you have also given evidence about things that happened at S A Express, and you dealt with investigations that relate to taxpayers money being diverted away from where it should go, so thank you very much. You may be asked to come back in the future, and I have no doubt you will come back if you are asked but thank you very much for coming to

10 share your evidence with the Commission, and you are excused.

MR TIMOTHY NHLANHLA NGWENYA: Thank you Chair.

ADV KATE HOFMEYR: Thank you Chair.

CHAIRPERSON: We are done?

ADV KATE HOFMEYR: We are done, I understand we have an early start tomorrow.

CHAIRPERSON: Yes tomorrow we are going to start at eight o'clock and we will go up to eleven o'clock because for the rest of the day I will not be available, so we are starting early to try and make use of whatever time is available and then on Friday we will start at some

20 stage later than usual, but I will indicate maybe tomorrow what time we will be looking at. We will adjourn then for today and then tomorrow e start at eight. We adjourn.

INQUIRY ADJOURNS TO 20 JUNE 2019