

**COMMISSION OF INQUIRY INTO STATE CAPTURE**

**HELD AT**

**PARKTOWN, JOHANNESBURG**

10

**16 JULY 2019**

**DAY 134**

20

**PROCEEDINGS ON 16 JULY 2019**

**CHAIRPERSON**: Good morning Mr Pretorius, good morning Mr Zuma.

**MR JACOB GEDLEYIHLEKISA ZUMA**: Good morning.

**CHAIRPERSON**: Good morning everybody.

**ADV PAUL JOSEPH PRETORIUS SC**: Morning Chair.

**CHAIRPERSON**: Are we ready?

**ADV PAUL JOSEPH PRETORIUS SC**: Yes we are.

**MR JACOB GEDLEYIHLEKISA ZUMA**: Just...

**ADV PAUL JOSEPH PRETORIUS SC**: I need to report back Chair in  
10 relation to documents. I understand that there is no substantial issue  
in relation to documents any longer. It is acknowledged that all but two  
documents were received last year. The two documents in question are  
the statement of Mr Mbalula. No 3.3 was issued in relation to that  
document and therefore it was not sent last year but was sent this year.  
I will delay questioning on that until the end in order to accommodate  
my learned friends and Mr Zuma in relation to possible preparation.

The second document is the second statement of Mr Agrizzi  
which was also not sent by way of a 3.3 Notice because of the  
consideration that it failed to implicate the President certainly directly  
20 and I do not intend to ask any questions about that statement as at  
present advised.

**CHAIRPERSON**: Yes. Okay. I think Mr Zuma wishes to say something.

**MR JACOB GEDLEYIHLEKISA ZUMA**: Thank you, thank you.  
Chairperson I just thought I should put on record something.

**CHAIRPERSON**: Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** For us to know.

**CHAIRPERSON:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yesterday night between seven and eight my PA that from the ANC side was phoned by a person she does not know and this person said you must tell Zuma that we are going to kill him. We will also kill his children as well as some people around him. So she informed me this morning and I am sure Chair you will recall that I said a lot about how my life has been attempted. But also my senior counsel Advocates Sikhakhane this follows threats that  
10 had been made to him, very serious ones as will and the – in the short while about a week or so ago we received that. I am putting this on record because later at some point after the questions I would like to come back to this issue.

**CHAIRPERSON:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Because I have lost a child and I now know what happened. So...

**CHAIRPERSON:** Hm.

**MR JACOB GEDLEYIHLEKISA ZUMA:** So the threat I can say it has been implemented already.

20 **CHAIRPERSON:** Hm.

**MR JACOB GEDLEYIHLEKISA ZUMA:** But I would like to come back to that. I just thought for record this commission must know.

**CHAIRPERSON:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** That my life and my children, my lawyers are now under threat.

**CHAIRPERSON:** Hm.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Thank you very much.

**CHAIRPERSON:** Thank you. Before I say anything I wonder whether Mr Sikhakhane wants to say anything, nothing. Okay, okay alright. Ordinarily in response to what you have just told me Mr Zuma with regard to other witnesses I would urge the commission to take necessary steps to ensure that a witness who is giving evidence before the commission gets all the protection that they can give.

What I do not know is whether by virtue of your position you do  
10 not already have maximum protection. So I do not know whether there is anything beyond what you – the protection you get that the commission can add. I think maybe your legal team could be in touch with the commission's legal team because if there is anything that the commission can do it should be done.

I was simply saying it may well be that the protection that you have is far greater than whatever protection the commission could hope to provide. But having said that I just want to say this that it is totally unacceptable for anybody in our society to want to use violence, intimidation and all kinds of illegal means when they are unhappy about  
20 anybody because our legal system is such that people can go to courts, can go to the police if they have complaints against other people. It is totally unacceptable that any threats should be made to anybody and more so when those threats are made to or concerning a person who is giving evidence before this commission.

I said similar things some time ago when certain threats were

made against a certain witness who gave evidence here. I say the same thing today. It is unacceptable.

People who come to the commission to give evidence and help the commission to understand matters that it is investigating should not be threatened, should not be intimidated. Their families should not be threatened or intimidated or harmed in any way and all good people in this country must take a stand against the use of violence and intimidation.

I am happy that whatever threats have been made have not  
10 made Mr Zuma to change his mind about giving evidence. He is still going to continue and give evidence before this commission but it will be important that all steps be taken by relevant authorities to make sure that the threats he has reported are properly investigated and that they are not carried out.

I also want to address the threat against his counsel. One of the traditions of the bar is that Advocates represent anyone and everyone who needs legal representation and when lawyers represent their clients they are just doing their job. And they should not in any way be threatened or intimidated or be discouraged from representing  
20 whoever they choose to represent. Everybody deserves to be represented by a lawyer when they are in proceedings, in legal proceedings and it is important that as far as possible everyone should get the lawyer of their choice.

So any threats that have been made against Mr Zuma's counsel or any lawyer is totally unacceptable because in this

commission I want every lawyer to feel free to come and represent their clients.

I would ask that whatever assistance the legal team of the commission can provide if Mr Zuma's counsel needs any arrangements to be made for his protection that everything be done to assist in that regard.

I do not want a situation where a lawyer is supposed to come and represent somebody in this commission is no longer able to come and represent them because of threats.

10 So I thought I would just make those remarks and I hope everything will be taken care of.

But before we proceed I had meant to just make one remark and that is that I thought that the proceedings yesterday were characterised by respect, courtesy and cooperation from all sides. From the commission's legal team, the former President's legal team, the former President as well as everybody who was attending and I thought I must just acknowledge that. Indeed even with regard to those who were outside the venue I did not get any reports of incidents. The reports I got seemed to suggest that there was a high level of discipline  
20 and I hope that today and in the days to come this week everything can proceed in that way.

Thank you. Mr Zuma I thought I must also say should a need arise as it happened yesterday to wash hands please feel free to indicate.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Thank you.

**CHAIRPERSON**: Otherwise the next break will be quarter past eleven for tea. Yes Mr Pretorius.

**ADV PAUL JOSEPH PRETORIUS SC**: Thank you Chair.

**CHAIRPERSON**: Hm.

**ADV PAUL JOSEPH PRETORIUS SC**: In relation to what has been said this morning may we just add that the secretariat has an investigative capacity. The issues raised by former President Zuma are a matter of regret firstly and concern secondly and we will ensure that as previously where it has happened before in this commission the matter  
10 is fully investigated and insofar as we can assist in any way whatsoever at least with advice around our experience in the commission in regard to protection or protection itself both in relation to Mr Sikhakhane and former President Zuma it will be done and we will report back to you.

**CHAIRPERSON**: Thank you. Thank you.

**ADV PAUL JOSEPH PRETORIUS SC**: Mr Zuma we will with your leave still be dealing this morning for a while at least with the evidence of Mr Maseko and your response or version in respect of the issues that he raises and we were on page 7 of the bundle FPJGZ7.

**CHAIRPERSON**: We are still using Exhibit GG[a]?

20 **ADV PAUL JOSEPH PRETORIUS SC**: Yes. Bundle A.

**CHAIRPERSON**: Exhibit..

**ADV PAUL JOSEPH PRETORIUS SC**: GG[a]

**CHAIRPERSON**: Exhibit GG[a].

**ADV PAUL JOSEPH PRETORIUS SC**: Exhibit GG[a].

**CHAIRPERSON**: Did we enter these exhibits into the record yesterday?

**ADV PAUL JOSEPH PRETORIUS SC:** I am sorry Chair.

**CHAIRPERSON:** Did we enter these exhibits into the record yesterday?

**ADV PAUL JOSEPH PRETORIUS SC:** Yes we did.

**CHAIRPERSON:** Oh.

**ADV PAUL JOSEPH PRETORIUS SC:** But there is no harm in repeating for the sake of efficiency particularly in relation to documentation Chair that we dealing with two bundles.

**CHAIRPERSON:** To the extent that we might not have done so. The lever arch file which contains Mr Zuma's statement is to be marked  
10 Exhibit GG[a] and the other lever arch file which has got certain annexures in addition to the annexures that are in Exhibit GG[a] will be marked Exhibit GG[b]. Thank you.

**ADV PAUL JOSEPH PRETORIUS SC:** Yes they do not just a minor point contain any statement of the former President but they do contain statements relevant to the questioning this week.

**CHAIRPERSON:** No actually I think what I said was wrong. Because it does not contain his statement.

**ADV PAUL JOSEPH PRETORIUS SC:** Correct.

**CHAIRPERSON:** I am going to correct what I said in regard to the lever  
20 arch file that will marked Exhibit GG[a]. It does not contain any statement by Mr Zuma but it contains statements of certain witnesses and the first statement on the top is that of Mr Themba Mveli James Maseko and the other lever arch file Exhibit GG[b] contains other statements including that of Ms Barbara Hogan. That one of Ms Barbara Hogan is one on top on the other lever arch file. Thank you.



**ADV PAUL JOSEPH PRETORIUS SC:** That by way of introduction Mr Zuma may we go to page 7 and paragraph 32. The next...

**CHAIRPERSON:** I am sorry Mr Pretorius before we do that. Mr Zuma I just want to clarify something that your counsel mentioned yesterday. In terms of your ability to read the words in the documents I think he was expressing a concern that they may be too small.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes.

**CHAIRPERSON:** Are you able to read it is fine?

**MR JACOB GEDLEYIHLEKISA ZUMA:** It is very difficult. It is too  
10 small.

**CHAIRPERSON:** They are small.

**MR JACOB GEDLEYIHLEKISA ZUMA:** I tried to.

**CHAIRPERSON:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Strain my eyes but ...

**CHAIRPERSON:** They are small.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Very small.

**CHAIRPERSON:** Maybe – maybe you might as far as you can Mr Pretorius read to him what needs to – what is necessary for your question and if that is not enough for him to get the context we can  
20 take it from there.

**ADV PAUL JOSEPH PRETORIUS SC:** In the meanwhile I will try and arrange from the secretariat for large copies.

**CHAIRPERSON:** Bigger – ja okay, alright, thank you.

**ADV PAUL JOSEPH PRETORIUS SC:** By way of background to the next section of the evidence of Mr Maseko Mr Zuma. Mr Maseko

testified that around the end of November 2010 he was driving to the North West on a personal journey and he received a phone call from an unknown person who said he worked for the Gupta Media Company and that gentleman requested a meeting with Maseko the following Monday in order to discuss government advertising and the soon to be launched New Age Newspaper. By way of introduction it seems that what follows was a second attempt to persuade Mr Maseko to divert or cause business to be given to the New Age Newspaper by way of government advertising. But that by way of background – was any report against

10 the background that the Gupta's would have known that you had an interest in this project. In fact it was initiated by yourself as I understand from what you said yesterday. The financing of the project clearly would have been a concern to the Gupta's. Did they report to you any concerns about their inability to persuade Mr Maseko to assist them?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No he never.

**ADV PAUL JOSEPH PRETORIUS SC:** Right. Then if we look further down on page 7 in short what happened was that Mr Maseko put the caller off. He said look we will discuss it on Monday. But then an hour

20 later and I am at paragraph 35 on page 7 the phone rang again that is Mr Maseko's phone this time it was Mr Ajay Gupta. He sounded very agitated and he started the conversation with an aggressive tone. He said and I am now over the page on page 8. He said his people told him that I was being difficult. I told him what happened in the conversation with his staff member. Paragraph 37 reads:

“He that is Mr Ajay Gupta then responded by saying something to the effect that he will not tolerate any nonsense and that I did not understand what was going on. He said the meeting must happen on Monday morning.”

It seems that from what Mr Maseko said the response was equally forceful. Mr Maseko says in paragraph 38.

10 “I was extremely offended by what was going on and the manner in which he spoke to me. It hold him that he had no right to give me instructions as he was not my employer. His response was that the meeting must no longer take place on the Monday morning as they had initially demanded but should happen the following morning which was a Saturday. I told him how ridiculous his demand was and that I was out of town for the weekend. He insisted that the meeting will take place on the Saturday morning.”

The evidence of Mr Maseko continues then in paragraph 39. Mr Maseko says:

20 “I told him in no uncertain tems that I will not be spoken to in that manner nor dictated as he was attempting to do. In the process and reflective of my annoyance at an attempt to improperly bully me as a government official I also used an expletive.”

And then Mr Maseko reports a further statement by Mr Gupta to him.

“At this point he told me that I was being uncooperative and that he was going to speak to my seniors in government who would sort me out and replace me with people who would cooperate with him. I cannot recall whether he or I dropped the call. The call ended abruptly.”

He says in paragraph 42.

“On my return to Johannesburg the following week, I briefed Minister Chabane about the developments.”

10 At that stage let us remind the Chair who was Mr – Minister Chabane?

**MR JACOB GEDLEYIHLEKISA ZUMA**: Sorry?

**ADV PAUL JOSEPH PRETORIUS SC**: Who was Minister Chabane at that stage, what post did he hold?

**MR JACOB GEDLEYIHLEKISA ZUMA**: He was a Minister.

**ADV PAUL JOSEPH PRETORIUS SC**: In you...

**MR JACOB GEDLEYIHLEKISA ZUMA**: In the Presidency.

**ADV PAUL JOSEPH PRETORIUS SC**: In the Presidency

**MR JACOB GEDLEYIHLEKISA ZUMA**: Yes.

**ADV PAUL JOSEPH PRETORIUS SC**: And Mr Maseko says he reported  
20 it to him. Now Minister Chabane would have known surely that you were in favour of the progress of the New Age project, would he?

**MR JACOB GEDLEYIHLEKISA ZUMA**: No I had not discussed that with the Ministers. As I say the – I discussed this with the Secretary General and Deputy. It was not a matter of government.

**ADV PAUL JOSEPH PRETORIUS SC**: Alright.

**MR JACOB GEDLEYIHLEKISA ZUMA:** He might have known he might not have known I do not know. I had never – I had not discussed with Chabane.

**ADV PAUL JOSEPH PRETORIUS SC:** So as I understand your evidence then Mr Zuma you say that you saw a need for fair and objective and comprehensive publicity and newspaper reporting and as part of that you discussed with the Gupta's at least the New Age project for now the ANN7 project came later and that you did not discuss that with the Minister in the Presidency?

10 **MR JACOB GEDLEYIHLEKISA ZUMA:** No I had not discussed that.

**ADV PAUL JOSEPH PRETORIUS SC:** Would it not be something that you would discuss and – ordinarily?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Sorry?

**ADV PAUL JOSEPH PRETORIUS SC:** Would it not be something that one would have expected such a thing to be discussed with the Minister and the Presidency if it was a matter that concerned you as President?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No this was not government thing. This was done by business people out there.

20 **ADV PAUL JOSEPH PRETORIUS SC:** Was it a private arrangement not government?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No, no I never said government was involved here.

**ADV PAUL JOSEPH PRETORIUS SC:** Alright.

**MR JACOB GEDLEYIHLEKISA ZUMA:** I think I made the point very clear I informed the Secretary General and Deputy Secretary General

because they are ANC. This had nothing to do with the government insofar as that discussions were concerned.

**ADV PAUL JOSEPH PRETORIUS SC:** Alright so if I may understand then your interactions with the Gupta family certainly insofar as the New Age Newspaper and its establishment were concerned was done in a capacity other than a government capacity not as President?

**MR JACOB GEDLEYIHLEKISA ZUMA:** I cannot – I am not sure whether I hear...

**ADV PAUL JOSEPH PRETORIUS SC:** Well not as head of the  
10 executive you say it had nothing to do with government?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No why I am saying so because you are asking a question as if I should have discussed it.

**ADV PAUL JOSEPH PRETORIUS SC:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** With the Minister.

**ADV PAUL JOSEPH PRETORIUS SC:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** No so I am saying the Minister would – that did not feature in my activities as I say.

**ADV PAUL JOSEPH PRETORIUS SC:** Yes

**MR JACOB GEDLEYIHLEKISA ZUMA:** Because this was not a  
20 government project.

**ADV PAUL JOSEPH PRETORIUS SC:** Yes that is how I understand it.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes.

**ADV PAUL JOSEPH PRETORIUS SC:** So how would you categorise the project then? Private, party political?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No this – this was a private.

**ADV PAUL JOSEPH PRETORIUS SC:** A private?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Project.

**ADV PAUL JOSEPH PRETORIUS SC:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** By a business – by business people.

**ADV PAUL JOSEPH PRETORIUS SC:** Thank you.

**CHAIRPERSON:** I think what he may be seeking Mr Zuma is to establish whether from your side when you were speaking to the Gupta's about this project you were speaking to them just as a private  
10 citizen or as President of the ANC because I think it is clear from what you have said you were not speaking as President of the country?

**MR JACOB GEDLEYIHLEKISA ZUMA:** You mean when I...

**CHAIRPERSON:** When you spoke to the Gupta's.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Hm.

**CHAIRPERSON:** About the New Age Project.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Oh yes, yes.

**CHAIRPERSON:** Ja I think what Mr Pretorius is trying to establish is whether from your side you were speaking to the Gupta's about this project in your personal capacity.

20 **MR JACOB GEDLEYIHLEKISA ZUMA:** Yes, yes.

**CHAIRPERSON:** Or in your capacity as President of the ANC because you have made it clear it was not in your capacity as President of the country. Is that correct?

**MR JACOB GEDLEYIHLEKISA ZUMA:** I discussed with them.

**CHAIRPERSON:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA**: From a personal capacity.

**CHAIRPERSON**: From a personal capacity.

**MR JACOB GEDLEYIHLEKISA ZUMA**: Yes.

**CHAIRPERSON**: Yes thank you.

**ADV PAUL JOSEPH PRETORIUS SC**: We may come back to that issue in relation to another matter arising in the statement of Mr Maseko but for the moment what is apparent from the statement of Mr Maseko just read to you is that the Gupta's were to put it mildly quite forceful in their request or demand to Mr Maseko. That so much is apparent. Do  
10 you agree?

**MR JACOB GEDLEYIHLEKISA ZUMA**: Well if you read what is here.

**ADV PAUL JOSEPH PRETORIUS SC**: Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA**: I think that is what it shows.

**ADV PAUL JOSEPH PRETORIUS SC**: And it seems too that Mr Ajay Gupta at least was very confident of support within Government. What he says is – and this is what Mr Maseko's version is:

20 "At this point he Mr Ajay Gupta told me I was being uncooperative and that he was going to speak to my seniors in Government who would sort me out. He appeared to be confident that he had the support of his seniors in Government who would "sort me out" and replace me with people who would cooperate with him."

That much is also apparent from what Mr Maseko said. Now



would - as far as you are aware insofar as the project is concerned do you know whether Mr Gupta was justified in saying that he had Government support?

**MR JACOB GEDLEYIHLEKISA ZUMA:** I am – I am not sure. Whether I should really interpret peoples mood and how they – they address one another because it is here from the – from Mr Maseko who discusses with Gupta.

**ADV PAUL JOSEPH PRETORIUS SC:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** No how do I interpret them? I  
10 think the trend has been that we actually saying I should be saying something on interactions that I was not part of.

**ADV PAUL JOSEPH PRETORIUS SC:** No I understand that and you – you make a good point.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Hm.

**ADV PAUL JOSEPH PRETORIUS SC:** My question though had a different object and let me ...

**MR JACOB GEDLEYIHLEKISA ZUMA:** Hm.

**ADV PAUL JOSEPH PRETORIUS SC:** Rephrase it. The factual  
20 question that I ask is did Mr Gupta enjoy - as he appears to have said he did - Government support in the New Age Project.

**MR JACOB GEDLEYIHLEKISA ZUMA:** I do not know really.

**ADV PAUL JOSEPH PRETORIUS SC:** You do not know?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Because I – I have never participated in a discussion that discussed that much with Government people.

**CHAIRPERSON:** Maybe one could – could put it this way.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Hm.

**CHAIRPERSON:** From what has been – from what Mr Maseko has said in his statement if what he says is true it appears that Mr Ajay Gupta believed that if Mr Maseko did not cooperate he could get Mr – Mr Maseko’s seniors to “sort him out” to use that word. Maybe let us look at – let us start with who Mr Maseko’s seniors would have been in – in Government. Would it – would it have been the Minister in the Presidency? Is – is – would I be correct?

10 **MR JACOB GEDLEYIHLEKISA ZUMA:** Ja, definitely.

**CHAIRPERSON:** It would be correct?

**MR JACOB GEDLEYIHLEKISA ZUMA:** That would be correct.

**CHAIRPERSON:** And above the Minister it would be the President?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes.

**CHAIRPERSON:** Yes. Is there anything you know which would have made Mr Ajay Gupta if what Mr Maseko is saying is true which would have made him believe that if Mr Maseko did not do what he wanted him to do he could talk to Mr Maseko’s seniors to “sort him out”? Is there anything you know on the basis of which Mr Ajay Gupta could  
20 really say that?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No I do not know.

**ADV PAUL JOSEPH PRETORIUS SC:** Alright. He goes on Mr Zuma on page 9 paragraph 43 to say:

“This matter was of great concern to me especially when I started receiving complaints from Heads of

Communication from other departments complaining that they were being harassed by people from the New Age Newspaper who were demanding either meetings or advertising budgets.”

Do you know anything about complaints of Head of Communication from other departments complaining of harassment at the hands of the New Age Newspaper?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No I did not. Did not get that.

**ADV PAUL JOSEPH PRETORIUS SC:** Right but again it is evident that  
10 the New Age Project under the Guptas if Mr Maseko’s evidence is accepted was being vigorously pursued.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Huh-uh.

**ADV PAUL JOSEPH PRETORIUS SC:** Did they ever report back to you on this? Did you have meetings with the Guptas about the progress of the New Age Project?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Well from time to time they briefed me.

**ADV PAUL JOSEPH PRETORIUS SC:** Right and would they have ...

**MR JACOB GEDLEYIHLEKISA ZUMA:** Hm.

20 **ADV PAUL JOSEPH PRETORIUS SC:** Briefed you about how the financing of the project was to be achieved? It would seem

**MR JACOB GEDLEYIHLEKISA ZUMA:** No.

**ADV PAUL JOSEPH PRETORIUS SC:** A maybe reasonable assumption to make.

**MR JACOB GEDLEYIHLEKISA ZUMA:** No.

**ADV PAUL JOSEPH PRETORIUS SC:** No?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No.

**ADV PAUL JOSEPH PRETORIUS SC:** What – what did they brief you on?

**MR JACOB GEDLEYIHLEKISA ZUMA:** They were just briefing me on the progress they were making.

**ADV PAUL JOSEPH PRETORIUS SC:** Oh and what type of progress would that have been then?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Establishing that business – the  
10 newspaper as it were.

**ADV PAUL JOSEPH PRETORIUS SC:** But you say not the financing?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No not the financing.

**ADV PAUL JOSEPH PRETORIUS SC:** Alright. The next section of the evidence that we would like your comment on Mr Zuma is under the heading:

“My Exit from the Public Service”.

**CHAIRPERSON:** Maybe before that if what Mr Maseko says Mr Ajay Gupta said to him ...

**MR JACOB GEDLEYIHLEKISA ZUMA:** Hm.

20 **CHAIRPERSON:** Namely I will speak to your seniors to “sort you out” and bearing in mind that you have indicated that Mr Maseko’s seniors would have been the Minister in the Presidency and above the Minister it would be the President?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Hm.

**CHAIRPERSON:** If what Mr Maseko says Mr Ajay said is true would

you agree that then Mr Ajay Gupta would have been abusing whatever relationship or friendship he may have had with Mr Maseko's seniors in order to try and get Government work?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Well I would not be able to answer the question correctly because I really do not know what made Mr Gupta – Mr Ajay to say that. The senior that on operational matters the immediate senior and who deals with all of these things would be the Minister not the President. It would be the Minister. That is why Maseko would go to the Minister and report the kind of treatment that  
10 he has got from an individual and it ends there.

I am just making a point that you cannot have the President participating in those kinds of discussions in all departments.

**CHAIRPERSON:** But are you not able to say we do not know Mr Ajay Gupta's version. It might be different from Mr Maseko's version ...

**MR JACOB GEDLEYIHLEKISA ZUMA:** Huh-uh.

**CHAIRPERSON:** But that is why I say if what Mr Maseko is true.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Hm.

**CHAIRPERSON:** Are you not able to say if what Mr Maseko says was  
20 said by Mr Ajay Gupta is true that would have been improper?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes.

**CHAIRPERSON:** Are you able to say that?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No I am able to say so.

**CHAIRPERSON:** Okay.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Absolutely.

**CHAIRPERSON:** Okay.

**ADV PAUL JOSEPH PRETORIUS SC:** You did say Mr Zuma that these sorts of matters would not be discussed with a President but you have also said the matters were indeed discussed privately?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes.

**ADV PAUL JOSEPH PRETORIUS SC:** Some matters were discussed privately?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes.

**ADV PAUL JOSEPH PRETORIUS SC:** So – so ...

10 **MR JACOB GEDLEYIHLEKISA ZUMA:** I said so.

**ADV PAUL JOSEPH PRETORIUS SC:** The Guptas might have felt free to discuss these issues with you in your private capacity as you have already said?

**MR JACOB GEDLEYIHLEKISA ZUMA:** If they discuss anything with – we did not discuss the operational things.

**ADV PAUL JOSEPH PRETORIUS SC:** Paragraph 47 if I may read it to Mr Zuma says:

20                   “Towards the end of January 2011, I received a call from the Minister Chabane asking me to meet him at his office urgently. I met him at his office the following morning. At the meeting, he advised me that he had been instructed by the President to redeploy me or terminate my contract henceforth.”

                  If I may ask we know that at around this time Mr Maseko did actually leave certainly the post that he held at the time as CEO of

GCIS. We know that as a fact. Is that agreed?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes. I think he left around that time.

**ADV PAUL JOSEPH PRETORIUS SC:** And I do not want to go into the detail of the law with you but as I understand it if Mr Maseko was transferred as he was to another department the law says that would be your decision. Do I understand correctly?

**MR JACOB GEDLEYIHLEKISA ZUMA:** It would – yes. It would be the decision taken in the main between - what – what would have  
10 happened. The Minister would have briefed the President because the DGs are actually deployed by the Cabinet – by the Cabinet. That type of report will therefore be given to or reflected in the Government but Ministers would have discussed that with the President.

**ADV PAUL JOSEPH PRETORIUS SC:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** They come because of whatever to say Mr President this is what I am doing and if the President thinks that this is unfair whatever will say but why. They will have to explain. If the explanation – at times the explanation might not even be satisfying but if the Minister says look I just cannot work with this DG.

20 It happens all the time. You cannot force the Minister. So I will say okay proceed and then follow the process.

**ADV PAUL JOSEPH PRETORIUS SC:** So in the ordinary course as required by law you would have participated in any decision regarding a DG in the Department of the Presidency?

**MR JACOB GEDLEYIHLEKISA ZUMA:** In the?

**ADV PAUL JOSEPH PRETORIUS SC:** In the Presidency.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Just repeat. I do not know whether I am getting you.

**ADV PAUL JOSEPH PRETORIUS SC:** Well ...

**CHAIRPERSON:** Just repeat the question I think.

**ADV PAUL JOSEPH PRETORIUS SC:** We dealt with this matter yesterday but it is well to clarify Mr Zuma. As the Head of GCIS Mr Maseko worked in the Department of the Presidency.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Huh-uh.

10 **ADV PAUL JOSEPH PRETORIUS SC:** Correct?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Ja.

**ADV PAUL JOSEPH PRETORIUS SC:** Which fell under yourself at the time?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Huh-uh.

**ADV PAUL JOSEPH PRETORIUS SC:** And the Minister then was Minister Chabane?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Huh-uh.

**ADV PAUL JOSEPH PRETORIUS SC:** So in any decision about the termination of service of Mr Maseko or relation to his transfer you  
20 would have been consulted?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Definitely.

**ADV PAUL JOSEPH PRETORIUS SC:** Right.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Not just by the Minister in the Presidency only - all Ministers.

**ADV PAUL JOSEPH PRETORIUS SC:** Right, okay.



**MR JACOB GEDLEYIHLEKISA ZUMA:** All Ministers.

**ADV PAUL JOSEPH PRETORIUS SC:** Okay. Well Mr Maseko's evidence is that Mr Chabane told him that he had been instructed by the President to redeploy me or terminate my contract henceforth. What do you say about that statement? If you can help us.

**MR JACOB GEDLEYIHLEKISA ZUMA:** No. I never – I never instructed the Minister to do so.

**ADV PAUL JOSEPH PRETORIUS SC:** Did you discuss the issue with the Minister?

10 **MR JACOB GEDLEYIHLEKISA ZUMA:** No the Minister discussed the fact that he would like to transfer Mr Maseko.

**ADV PAUL JOSEPH PRETORIUS SC:** Did he say why?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Well I think there was an issue between the two of them. I cannot remember the details. I cannot remember the details. Like all Ministers he would come for us to be able to either agree so that an action is taken not to discuss - and if at all there were issues which were necessary to be said because it is a big decision he will indicate that. That is because of this and that because ...

20 **CHAIRPERSON:** Well, huh-uh. Just finish before I say something.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Ja, because either we – we can no longer work together or because we do not agree or because I think I do not need him anymore whatever. The discussion would – because he cannot take a decision to change the DG without – because that is not his decision.

**CHAIRPERSON:** Well I think we – the – the time that we are talking about when Mr Maseko was moved from the position of CEO of GCIS ...

**MR JACOB GEDLEYIHLEKISA ZUMA:** Hm.

**CHAIRPERSON:** And he was moved to be Director General of the Department of Public Service and Administration ...

**MR JACOB GEDLEYIHLEKISA ZUMA:** Hm.

**CHAIRPERSON:** Was around 2011 end of January or thereabout.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Hm.

**CHAIRPERSON:** Have you got a recollection of how that happened?

10 Have you got - have you got the picture of how that happened?

**MR JACOB GEDLEYIHLEKISA ZUMA:** That specific ...?

**CHAIRPERSON:** That specific incident of his whether one can call it removal from ...

**MR JACOB GEDLEYIHLEKISA ZUMA:** Hm.

**CHAIRPERSON:** GCIS to Public Service and Administration or a transfer from GCIS to Public Service Administration – Public Service and Administration. Do you – do you recall how that occurred? Obviously having read Mr Maseko's statement and understanding what his version is.

20 **MR JACOB GEDLEYIHLEKISA ZUMA:** Well I do not remember exactly but I know that there was a bit of shifting of the DGs around that time ...

**CHAIRPERSON:** Yes, yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** And the department that handles that is Public Administration.

**CHAIRPERSON:** Hm.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Who will then discuss with the Ministers.

**CHAIRPERSON:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** On whatever reasons ...

**CHAIRPERSON:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** And then once that happens and that would then be reported.

**CHAIRPERSON:** Yes.

10 **MR JACOB GEDLEYIHLEKISA ZUMA:** Once it becomes a decision to the Cabinet.

**CHAIRPERSON:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** I might not remember the details why this happened but I know there was a movement ...

**CHAIRPERSON:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** That was done.

**CHAIRPERSON:** Yes, yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** But I cannot remember the exactly what was the course. At times the changes come because other  
20 – a DG could perform badly in one place and therefore he must go help there and another one is replaced but I cannot remember exactly what - on this particular DG - what was the problem but that matter would have been discussed more in some details at a level of the Minister and the Minister of Public – Public Administration.

**CHAIRPERSON:** Public Service and Administration.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Once they have agreed they will then come with a recommendation. They generally come with a recommendation unless if there is a problem. For example if they cannot work together or if they think this particular DG would perform better there and once they report and say we have discussed the matter. We have agreed ...

**CHAIRPERSON:** Hm.

**MR JACOB GEDLEYIHLEKISA ZUMA:** And then the Cabinet will – we take a decision.

10 **CHAIRPERSON:** Hm. When you read Mr Maseko's statement did you see what he says happened with regard to that – with regard to his removal? He says he was told by Minister Chabane ...

**MR JACOB GEDLEYIHLEKISA ZUMA:** Hm.

**CHAIRPERSON:** That you had called from outside of the country because you were outside of the country at the time.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Hm.

**CHAIRPERSON:** He says he was told by Minister Chabane that you had called and you had said that he must be redeployed. That is Mr Maseko or his services must be terminated and he says Mr Chabane  
20 was not happy with this but he had to carry it out and he said to him because I know you are a good – I think civil servant he said – I will try and make a plan for you and Mr Maseko says he – he did not want – Mr Chabane did not want to so to speak throw him into the street.

So I think what Mr Pretorius is asking is that context – I am just providing a fuller context.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Hm.

**CHAIRPERSON:** Is whether you have any recollection of you having asked Mr Chabane to redeploy him. In other words according to Mr Maseko from what he was told by Mr Chabane the idea that he should be moved from GCIS came from the President and not from Minister Chabane. Are you able to throw any light?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No. I – I think I have a difficulty with that. If – let - let us assume I wanted Maseko out.

**CHAIRPERSON:** Yes.

10 **MR JACOB GEDLEYIHLEKISA ZUMA:** I will wait until I leave the country and when I am very far away then call. It is quite funny. I am not running a department. Why would I have not talked to Minister Chabane when I was here? Why should I wait until I go? It is a little fishy. Now I do not want to make a point but I can make a point because this Commission has experience with this.

At time people use the names of the President. I am sure you had a witness here ...

**CHAIRPERSON:** Yes last week.

20 **MR JACOB GEDLEYIHLEKISA ZUMA:** Which said – he was lying. He had never – he had never had any instructions from the President. I am sure that could happen with the Ministers as well if the Minister is finding it difficult to say to the DG I am now saying go and use the name of the President because I do not see why I should leave the country.

Only when I am abroad then I must attend to this issue. It

definitely – it is very strange and funny and I – I never phoned Chabane about the – this DG when I was abroad. Not at all.

**CHAIRPERSON**: Yes.

**ADV PAUL JOSEPH PRETORIUS SC**: Chair there is a request to address you.

**CHAIRPERSON**: Yes, thank you. Mr (intervenes).

**ADV THABANI MASUKU**: No, I am Mr Thabani (intervenes).

**CHAIRPERSON**: Oh I am sorry.

**ADV THABANI MASUKU**: However – however ...

10 **CHAIRPERSON**: Yes I am sorry.

**ADV THABANI MASUKU**: Yes. Chair – Chair, we together with just the legal team we have a duty to raise concerns ...

**CHAIRPERSON**: Yes.

**ADV THABANI MASUKU**: When we see a development ...

**CHAIRPERSON**: Hm.

**ADV THABANI MASUKU**: In the manner in which our client is being cross-examined. Essentially what is going on now ...

**CHAIRPERSON**: Yes.

20 **ADV THABANI MASUKU**: Is that Mr Pretorius is cross-examining Mr Zuma.

**CHAIRPERSON**: Hm.

**ADV THABANI MASUKU**: He is cross-examining about issues we are not clear about.

**CHAIRPERSON**: Hm.

**ADV THABANI MASUKU**: Insofar as the terms of reference are

concerned.

**CHAIRPERSON:** Hm.

**ADV THABANI MASUKU:** We – as you – as you recall Mr Chair ...

**CHAIRPERSON:** Hm.

**ADV THABANI MASUKU:** The – Mr Zuma has read this affidavit. We have read it.

**CHAIRPERSON:** Hm.

**ADV THABANI MASUKU:** We took the view that it does not implicate the President in any of the terms of reference that this Commission is  
10 about. That is the attitude we took.

**CHAIRPERSON:** Huh-uh.

**ADV THABANI MASUKU:** Now of course in your – in your discretion you decided the President should come ...

**CHAIRPERSON:** Hm.

**ADV THABANI MASUKU:** And – and take – and give his version of – of events.

**CHAIRPERSON:** Huh-uh.

**ADV THABANI MASUKU:** What is going on now ...

**CHAIRPERSON:** Hm.

20 **ADV THABANI MASUKU:** Is not Mr Pretorius assisting Mr Zuma to give his version.

**CHAIRPERSON:** Hm.

**ADV THABANI MASUKU:** What he is doing he is cross-examining him ...

**CHAIRPERSON:** Hm.

**ADV THABANI MASUKU:** But which is not a problem if Mr Zuma's attitude had been that there are aspects in the statement of Mr Maseko that implicates him fraud, corruption and this State Capture.

**CHAIRPERSON:** Hm.

**ADV THABANI MASUKU:** We – we are not able to follow ...

**CHAIRPERSON:** Hm.

**ADV THABANI MASUKU:** How to fit this cross-examination in which he seeks Mr Zuma to recall meetings where he was not present. In which he seeks Mr Zuma to – to interpret what those meetings meant or even  
10 to give a view of whether those meetings were appropriate or not. It is not fair if this – if the legal team of the Commission wishes to cross-examine Mr Zuma it is important that the – Mr Zuma is in fact given an opportunity to then reflect with a view that he is going to be cross-examined, to reflect on all these things because you said the rules of the Commission say you look at an affidavit that implicates you or that mentions your name.

You make a judgment call on whether or not that the allegations made in that affidavit are of a nature that fit within the investigative powers of the – of the Commission fraud, corruption and  
20 State Capture. Now he is being asked to recall phone calls and meetings where he was not present and to interpret what those meetings would mean.

We think it is unfair because what essentially it means is this if he cannot say for example that he thinks that the meeting between Mr Gupta – Ajay Gupta and Mr Maseko was inappropriate. Then you



must read something into it. It is not right. If the – if the Commission rules for example that this line of questioning is the correct line of questioning that must be adopted.

It is no longer a – a – it is cross-examination. You are trying to prove that Mr Zuma's private conversation had a – had – were somehow relevant to his – the public – to his public interaction or his interaction with the Guptas in – in public. Give him an opportunity to then look at this with a view that he is going to be cross-examined and then he can prepare adequately for cross-examination.

10 Not what – not this – this would say in our – in our view – in our assessment as lawyers it is cross-examination for which a witness ought to have been given a fair opportunity be told that if you are not going to – if you are not going to for example respond to Mr Maseko you may then - let us be called and be cross-examined or not Mr Maseko's case.

He is being cross-examined on what Mr Maseko said. How can the President be expected to remember meetings where he was not there, phone calls that occurred years ago. I do not recall phone calls that happened last week.

20 **CHAIRPERSON:** Hm.

**ADV THABANI MASUKU:** Now - now Mr Zuma must recall conversations that he had with Mr Maseko years ago and what he may have meant.

**CHAIRPERSON:** Hm.

**ADV THABANI MASUKU:** I think let us be fair and stick to what this

Commission is about.

**CHAIRPERSON:** Hm.

**ADV THABANI MASUKU:** The terms of reference bearing in – in mind that Mr Zuma’s assessment of this affidavit is that it does not implicate him in fraud and corruption. If the Commission’s view is that it does let them put those questions to him. Not ask him to remember meetings and – and – if this affidavit anywhere says that Mr Zuma is corrupt in A, B, C and D then he must put that to Mr Zuma because that is – that is exactly within the terms of reference that this Commission is about.

10                    This line of – we do this often but we do it to opponents – I mean to witnesses who we are cross-examining. Not witnesses we are supposed to just inquire about information because we expected that the Commission will be asking for clarity on certain things not pose questions that amount to cross-examination. That is what we – we – that is what we – we thought we would bring to the attention of the – of the – of the ...

**CHAIRPERSON:** Yes.

**ADV THABANI MASUKU:** Of the Committee. Mr Chair we wanted to do that in Chambers ...

20                    **CHAIRPERSON:** Yes.

**ADV THABANI MASUKU:** But we thought no actually it is probably up to - to bring it to your attention now.

**CHAIRPERSON:** Yes.

**ADV THABANI MASUKU:** So that – so that if there is a need for us to then regroup and determine how – how we deal with it.

**CHAIRPERSON:** Yes.

**ADV THABANI MASUKU:** Then we deal with it because if Mr Pretorius wants to continue with cross-examination ...

**CHAIRPERSON:** Hm.

**ADV THABANI MASUKU:** We – we waited yesterday because we realised it was actually cross-examination ...

**CHAIRPERSON:** Hm.

**ADV THABANI MASUKU:** But we said no maybe later on we will see a – an approach that seeks to establish facts. If Mr Zuma says I do not  
10 remember that meeting that should be the end of the matter. Why should it then be asked oh but you would have discussed this privately? What – where is he taking this to? Terms of reference in the terms of reference. Let us be loyal to the terms of reference.

**CHAIRPERSON:** Thank you.

**ADV THABANI MASUKU:** That is – that is what we – we ...

**CHAIRPERSON:** Yes.

**ADV THABANI MASUKU:** We want to put.

**CHAIRPERSON:** I will hear what Mr Pretorius has to say. I had a little  
20 bit of concern in relation to questions that related to the meeting that Mr Maseko had with the Guptas which obviously Mr Zuma did not attend but with regard to the removal or transfer of – of Mr Maseko from GCIS to – to the Department of Public Service and Administration my recollection is that his statement and/or evidence suggested that he was removed from his position as CEO of GCIS because he did not cooperate with the Guptas and that he was told that by the Minister –

Minister Chabane that that was at the instance of the former President.

That is my – my recollection of what he said. Of course if one talks about a phone call that happened many years ago some calls one might recall because of their distinct nature or significance but someone would not recall. Sometimes one might not even recall a call that happened a few months ago but my understanding of Mr Maseko's evidence suggested that the Guptas were unhappy that he did not cooperate with them and that he was removed when there were no grounds to remove him and that that was at the instance based on what  
10 he was told he said by Minister Chabane of the former President but let me hear what Mr ...

**ADV THABANI MASUKU:** Sorry, sorry, perhaps before you take ... (intervention)

**CHAIRPERSON:** Yes?

**ADV THABANI MASUKU:** Firstly in relation to what the Chairperson has just sketched out the first point would be this, Mr Pretorius must say that they are going to bring the Guptas or whoever they allege in the Guptas placed – I mean the witness from the Guptas are going to say that they – who is going to confirm this interaction that Maseko is  
20 talking about, because it is not, you see Chair what you said in terms of your – in terms of reference, was that if you are implicated on the issues that are within the terms of reference then you are going to be given an opportunity to put your version and then put your – and then of course you will be, somebody might ask to cross-examine you, someone might ask to cross-examine you.

We didn't get the impression that the evidence leaders here job would be to cross-examine witnesses, but even on the issue that Mr Maseko complains about that he was fired or he was transferred because of some intervention that came from the Presidency, that's an issue that he says we are assess it, we say in terms of the terms of reference there are no allegations he's making on corruption, if you bring Mr Ajay or Mr – or any of the Guptas here in the Commission and they say to you we did speak to Mr Maseko, we in fact told him that we are the ear of the President and that if he is not cooperating on this  
10 business we will certain invoke, we will use that relationship and get him removed. We think it is highly unfair if the Guptas are not going to be here to testify and to corroborate what Mr Maseko has said here it is just unfair to ask the President to recall or to interpret what role he may have played in the removal of Mr Maseko, but the other thing that reason why we did not think that falls within your terms of reference is because it is something that has to do with how government decides to remove people who are employed there or deploy them or transfer them into different units.

It is not within – if Mr Maseko's allegation is that there was  
20 corruption he must say so in unequivocal terms, or that his removal – his transfer was in pursuance of a corrupt deal, he must say so, it cannot be read through cross-examination, which cross-examination we are not prepared for, because what we were prepared for when we were invited by the Commission was for Mr Zuma to be asked clarity questions, clarification questions, not going through pages and

paragraphs and cross-examining him on issues that he has elected to take a position, a legal position which is that he is not going to get involved in Maseko's speculation about what his meeting with the Guptas, who authorised it what else. If Maseko is bold enough to say I was removed because the President was unhappy that I was not doing the right thing he must say so, and that this right thing that I was being asked to – this right thing that I was doing was in accordance with the law but the President wanted me to do something corrupt, then we are in the terms of reference, then we would have said to the President Mr

10 President Mr Maseko says you are corrupt and this is how he says you are corrupt, and then Mr President would have said okay let me respond, this is my statement.

The Commission would have a statement answering allegation of corruption or State Capture or whatever it is that – and fraud. If Mr Maseko's accusations of Mr Zuma amounted to that he was corrupt, there was a fraudulent conduct on his behalf or that there was something about State Capture that one must read in it. You can't – it is not fair to call a former President to come and talk about how an official of government was removed, when you are not alleging that

20 there was corruption. Please make the allegation that there was corruption and then let the President deal with that, or that there was fraud.

**CHAIRPERSON:** Well you see when you deal with a case in litigation in court it is easy to say when you are for one side the other side must make out its case, because that is litigation. Where it is an inquiry a

person make come and say this is what I know, I am placing before the Commission what I know and what happened and the Commission must inquire whether that may have anything to do with any impropriety, so while on the one hand there must be fairness, there can be no doubt about that, but one also needs to understand that unlike in litigation where one is able to say well that party must make its case clear in the pleadings and in the affidavits, in an inquiry you have a situation where people say I am only here to say what I know, what you make of that in terms of your inquiry whether you think it is relevant or irrelevant but  
10 this is what I am here to say, so one has got to look at all of that.

**ADV THABANI MASUKU:** With respect I understand that Chairperson.

**CHAIRPERSON:** Yes.

**ADV THABANI MASUKU:** But even within the Commission of Inquiry firstly it would be a misunderstanding if you understood Mr Chair that I was invoking a litigation strategy.

**CHAIRPERSON:** No, no, no.

**ADV THABANI MASUKU:** All I am saying is this.

**CHAIRPERSON:** Yes.

**ADV THABANI MASUKU:** That in the statements that you get, even if a  
20 complainant comes here before the Commission and complains, the complaint must be investigated if the allegations that that complainant makes fall within the terms of reference of the Commission. I am saying we advised Mr Zuma that Mr Maseko's statement did not accuse him of any corruption or any fraud, or any State Capture, he is unhappy with some things and all that. What is happening here, and so we said

to Mr Zuma so we do not think that you should put a statement, so that is why you do not have a statement. In terms of the rules you are allowed not to put a statement to explain what Mr Maseko says, because he does not implicate you in what the Commission is about.

So Mr Zuma decides he is not going to put a statement, that is what he has done, but what has happened here is that having taken advantage and used the full right he has in terms of the Commission rules, not to respond to a litigant or to a witness who says, who makes allegations that do not amount to corruption. What is happening here  
10 is just not what we think should be happening and that is why as they say Chair we sit there and we thought no, actually let – because he is a guest of the Commission, let us see how – what they really want from him, what information are they looking from him in relation to Mr Maseko. Does he make the allegation of corruption, fraud and State Capture against him for which he should be called to answer?

And that is why we are anxious with these kind of questions in this kind of forum a lot can be read from the questions that he reads and from the answers they get, and we do not want this Commission to end up in a situation where it is unfair to Mr Zuma because it is said to  
20 Mr Zuma if no one makes allegations of corruption or fraud or State Capture you do not have to put a statement, you do not need to ask Mr Maseko – to cross-examination Mr Maseko on it, and he has done that.

We accept that you can call him to ask clarity questions. Please ask clarity questions and not questions that amount to cross-examining because we go into credibility when we cross-examine a



witness, we go into credibility so Mr Maseko is being measured against – his allegations are being measured against Mr Zuma, and we want to be sure that that is not something that you are trying to invoke, the credibility of the witness and whether he can be trusted for his recollection of what Mr Maseko says, so we are asking the Commission to be fair to the extent that it accepts that Mr Zuma has been called at its instance to seek clarity questions, not to ask questions that amount to cross-examination on what has been happening as cross-examination.

10 **CHAIRPERSON**: Let me hear Mr Pretorius.

**ADV THABANI MASUKU**: Thank you Chair.

**CHAIRPERSON**: Thank you.

**ADV PAUL JOSEPH PRETORIUS SC**: Thank you Chair. I do not want to enter into a long debate as to what questioning is and what cross-examination is, save to say that there is no pleaded case or charge sheet which we are seeking to validate or sections of which we are seeking to prove through our questioning. So insofar as it may be alleged that we are seeking to question, to prove a particular pleaded case in a civil matter or a particular criminal case as represented by a  
20 charge sheet that is simply not correct.

What we are doing is affording Mr Zuma a full opportunity to deal with all the factual evidence that Mr Maseko led, and indeed the implications of that evidence, and it would be grossly unfair to Mr Zuma not to allow him that full opportunity to deal with what might have been said by Mr Maseko and also what might have been intended by him to

have been conveyed, and once Mr Zuma has dealt with it, as he is dealing with it, I really don't see that we are traversing any rules, but insofar as we are Chair you will no doubt pull me up and guide me accordingly, and I am quite willing to accept such – obviously such intervention by yourself.

The second point is in relation to assumed obligation to call the Guptas to corroborate Mr Maseko before questions can be asked, I am not sure that it is correct at all to say that you cannot ask questions about the evidence of one witness until it has been corroborated by  
10 another witness. One need not deal with that issue any further.

Thirdly in terms of reference, I understand the argument to be that unless there is a direct allegation of fraud and corruption against Mr Zuma we are precluded from entering into this arena.

May I just highlight paragraph 1.1 of our terms of reference, which just says whether and to what extent and by whom attempts were made through any form of inducement or for any gain whatsoever nature to influence the improper influence of members of the National Executive and the improper influence of Mr Maseko falls squarely within our terms of reference and it is only fair to Mr Zuma in these  
20 circumstances to ask him what he knew, if anything, about him, to enable him either to distance himself as he has to date completely from that undue influence or to admit that I did have because I was in support of the project. It's not unfair to ask Mr Zuma those questions so he can give his version as to what the import of the evidence of Mr Maseko might be and Mr Maseko's evidence which we were dealing with

now which gave rise to the objection, at least the timing of the objection, is particular in that what Mr Maseko says is that following in the context of Mr Maseko's failure to accede to what may well be argued improper influence he was fired and it would be grossly unfair to Mr Zuma if the leading team were to ask you to make findings in that regard because the evidence was unchallenged and Mr Zuma hasn't had an opportunity to deal with it.

Let me deal with another term of reference, 1.6, it says whether our mandate is to investigate whether there were any  
10 irregularities, undue enrichment, corruption and undue influence in the awarding of contracts, government advertising in a New Age newspaper, so this whole issue of government advertising is particularly highlighted in the terms of reference in relation not only to fraud and corruption, but in relation to any influence that might be argued to be undue and quite fairly to Mr Zuma he commented on that yesterday, saying that the influence sought to be exercised was not entirely proper, he used his own words, I cannot recall them at the moment.

So basically all one needs to do for the moment and going  
20 forward is in fairness to Mr Zuma put to Mr Zuma the import of what Mr Maseko has done, I do not have far to go at all, and I submit the line of questioning has been not only proper but necessary in order to ensure that in relation to all the evidence its import Mr Zuma has a fair opportunity to deal with it.

I have never said to Mr Zuma I put it to you as cross-

examiners who featured prominently on TV in the past have done, that you are wrong and this is the version that we seek to prove.

**CHAIRPERSON:** Yes you would like to respond?

**ADV THABANI MASUKU:** Yes, in the tradition of *audi* I like Mr Pretorius respond to some of the things that he says.

**CHAIRPERSON:** Yes.

**ADV THABANI MASUKU:** Firstly Chair what is astonishing for us is that this Commission clearly was created around the work that the President had done. We have not received a single invitation from the  
10 evidence leaders for them to interview Mr Zuma, privately, as they have done with the other witnesses, to say to Mr Zuma we would like you to give us a view of what is going on here, and to explain certain things, which is what they have done. Mr Zuma has not been treated the same way that other Ministers who have appeared here, who are – appear to be witnesses of the Commission.

A decent way of dealing with this, and I don't mean disrespect to the Commissioner or to the evidence leaders, would have been to say he is a major witness of what they are investigating, let us talk to him first, let us understand what statement we can get from him,  
20 because then it is easier to lead him as they have led other witnesses, other ministers they have led here in the Commission. They have led them because they have been able to put together a statement from them with evidence and therefore they can take the Minister through the aspects. Why has Mr Zuma been brought in this manner, if it was not cross-examine him, so I am saying in respect – this – this – he says

well you know this is not a criminal charge, we are not proving a charge, we are not in a civil trial. He is simplifying the issues, he knows that what is going on here is of interest to the criminal law enforcement processes, he knows that. Why is he diminishing the value of this process by saying nothing, we're not – we don't have a charge sheet, we are not trying to prove a civil claim.

In fact it is not right, now that I know what his views are on this issue it is not right the way he wants to carry on with this. The decent thing to have done if this was a Commission witness, as others  
10 have been Commission witnesses the decent way to have done it is to say you have the helm of the executive that we are looking at, we would like to talk to you about it. We – they addressed a letter to Mr Mantsha, Mr Mantsha will say okay guys we will talk to the President, you come and see him at Nkandla, he will tell you exactly what you want, they then create a statement as they have done with other ministers. Why have they done it this way?

So I am saying ...(intervention)

**CHAIRPERSON:** Yes.

**ADV THABANI MASUKU:** So I am saying let us be fair, in fact when he  
20 says it will be unfair to Mr Zuma, he is not being – that is really a statement that I shouldn't – I think should not be dignified, because what is fair to Mr Zuma is to be treated in accordance with the spirit and the purpose of this Commission. It is not in the spirit of this Commission to come here and say well it is in the terms of reference that we can investigate anything. What he has just read specifically

says it – it is specific, it requires that a witness makes an allegation that there is fraud and corruption, he is not left to speculation, and in fact they could have sorted out most of these things that they are asking now if they had done what they had done with the ministers. If they had gone to him and said look I mean we're now in the middle of a Commission you established, we would like to hear what you say about some of the things that have come up. We will then do a statement and then we are going to bring it to the Commission and then we are going to lead the evidence, lead the evidence not cross-examine you. So  
10 what are we meant to do with this?

It is not right, we would suggest that you seriously consider that proposal of asking them to talk to him about the things that they want; to then make a statement if they want to make a statement and then to lead him properly. This is cross-examination and as his legal team we cannot sit there and – he can say whatever he wants to say, you do not, a cross-examination question is not – it is not practice, and he is more senior than I am, it is not practice that you say I put it to you, that is not how we identify whether this is a cross-examination or not. The fact that he does not say I put it to you does not mean that  
20 the question is not a cross-examination question.

There is serious credibility issues that he is pursuing here, that we are concerned about. This is not how we envisaged that this Commission intends to pursue this issue. We would seriously urge Chair that you consider asking them to see if they cannot have a conversation with the President about these issues so they have a

statement from him, not to simply spring things from him that the way in which they are conducting themselves, that is why I asked the question why has he been brought here in this manner. Why has he not been firstly invited to bring a statement, because they can do that, they cannot tell us that the Ministers that they brought here were firstly implicated on paper and then of course they must have consulted with them, I don't – he can correct me if I'm wrong, a statement was created and then of course you have got their statements here. Mr Zuma does not have a statement created by the evidence leaders. Why is that so?

10 **CHAIRPERSON:** Yes. Thank you. I think what I would like to do is that we take the tea break and at the end of the tea break may I see counsel on both sides in my temporary chambers here, can I see both counsel on both sides and just to try and see if we may at least achieve a common understanding as to where the concerns are and whether there is a way of resolving them in terms of the way forward without me having to make any ruling.

**ADV THABANI MASUKU:** Thank you Chair.

**CHAIRPERSON:** Yes. We will take the tea adjournment now, it is about twenty two minutes past eleven, I think let us aim to resume at  
20 twelve to give ourselves time for tea and time for the meeting that I must have with counsel on both sides.

**ADV THABANI MASUKU:** Thank you Chair.

**CHAIRPERSON:** We adjourn.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** My meeting with counsel on both sides took longer than I had anticipated that is why we were not able to resume at twelve. However I am happy to say that the meeting that I have had with both – with counsel from both sides has been a very constructive and fruitful meeting.

The discussion that I had with counsel from both sides has resulted in an agreement that I do not need to make any ruling on the concerns or objections that had been raised.

A way has been found to try and minimise any prospects of any  
10 feeling of unfairness. Counsel for the former President have indicated that they do not wish to be seen as if they are obstructive by rising all the – very often and raising objections whenever there might be something that they are concerned about.

They have said that they wish Mr Pretorius to be able to ask questions without having to look over his shoulders whether they are rising to object or not. It has been agreed that because they do not intend to do that I will try and be more ready to intervene in case I think there is unfairness in any question. But it has been agreed that we can proceed we do not – I do not need to make a ruling.

20 Mr Pretorius from his side will try and find a way to put questions in a manner that will take account of any concerns that he may think may create unfairness.

So we are going to proceed and Mr Zuma's counsel have indicated that they will really raise an objection if it is something that is quite serious but otherwise they intend to try and allow the proceedings



to flow as much as possible. So we will proceed on that basis and I just wish to thank counsel from both sides for their constructive approach to resolving the issue that we have resolved. Thank you very much.

**ADV PAUL JOSEPH PRETORIUS:** Thank you Chair.

**CHAIRPERSON:** Hm.

**ADV PAUL JOSEPH PRETORIUS:** Mr Zuma may we proceed then? Thank you. You have before you copies of the statements that have been enlarged. I hope that is more convenient for you and that we may  
10 continue our engagement. Thank you. What I would like to put to you in relation to the evidence of Mr Maseko is simply what he told the Chair in his evidence so that you have an opportunity to respond to it. And the import of what his evidence is so that you also have an opportunity to respond to that. And if I may ask you to look at paragraph 47 and 48 on page 9. What Mr Maseko says is that he was told by Mr Chabane that he had been instructed by the President that is yourself to redeploy me or terminate my contract henceforth. You have already told the Chair I understand that you gave no such instruction and you explained how it would come about in the ordinary course that  
20 Director General may have his employment terminated at the hands of the reporting Minister. Do you recall that?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes.

**ADV PAUL JOSEPH PRETORIUS:** Right. He then says in paragraph 48:

“He told me that is Minister Chabane told Mr Maseko

that although he no choice but to implement the instruction from the President, he made a commitment not to throw me in the street because he knew that I was a committed civil servant who had not done anything wrong.”

The essence of that statement by Mr Maseko is that he was told by Minister Chabane that he had been a committed civil servant who had not done anything wrong. Do you have any response or comment about that?

10 **MR JACOB GEDLEYIHLEKISA ZUMA:** No I do not know the – that message. I never gave any instruction to that effect.

**ADV PAUL JOSEPH PRETORIUS:** Yes. Yes. What – what is being said I think by Mr Maseko is that as far as Minister Chabane was concerned he had not done anything wrong, do you know anything about that statement and Mr Chabane’s attitude?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No. I think as I said earlier at that time there was shifting of the DG’s between the departments for a variety of reasons so I never issued any instruction.

**ADV PAUL JOSEPH PRETORIUS:** Then over the page on page 10  
20 there is reference to a cabinet meeting and what Mr Maseko says in paragraph 49 is:

“During the course of the cabinet meeting I was informed that ETV News channel was running with a new story that I was fired.”

Paragraph 50:

“During the tea break I brought this to the attention of Minister Chabane who was shocked that the matter of my imminent exit was somehow leaked to the media.”

Then 51:

“Minister Chabane consulted with the President during the break and an impromptu announcement had to be made to Cabinet that I had been terminated as GCIS CEO and Government Spokesperson.”

That is evidence which relates to a direct consultation or evidence of a direct consultation between Minister Chabane and yourself during a cabinet meeting relating to an announcement that in effect that Mr Maseko had been fired. Do you recall anything about that incident or that alleged incident?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No I recall that the Minister coming to me reporting this and as always then they were going to respond to the newspaper. It was just informing me.

**ADV PAUL JOSEPH PRETORIUS:** Did Minister Chabane give you any background to the – and I use the word firing advisedly because it is used in the statement of Mr Maseko?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No he did not give me – I mean he did not discuss the matter in terms of the background. He was just saying they have got to deal with this matter because at that time there was a shifting of the DG’s but he did not discuss the causes as to why

the other DG was going this way. What he was concerned with at the time was to correct the impression that was being given by the media that he has been sacked. That no he has been shifted to another department.

**ADV PAUL JOSEPH PRETORIUS:** Did you know of the transfer then because that is dealt with in the remainder of page 10 of Mr Maseko to the post of Director General at the Department of Public Service and Administration?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes, yes.

10 **ADV PAUL JOSEPH PRETORIUS:** Was that part of any decision that you made?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No the decision was made by the cabinet.

**ADV PAUL JOSEPH PRETORIUS:** By the cabinet. Let me just give you an opportunity to comment Mr Zuma on the import of the statement of Mr Maseko. Mr Maseko his evidence is that an improper approach was made to him to ensure that the full budget of the various departments for Government advertising was allocated in favour of the New Age Newspaper. That is his evidence. And what he at least seeks to  
20 conclude from his statement is that t the very least he was punished for not cooperating as he was requested to do by Mr Ajay Gupta and in quoting the Minister Chabane as he does in his statement he attributes the decision to dismiss or transfer whatever that decision was to yourself. Do you have any comment on that?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No. I was not the cause of his

being shifted.

**ADV PAUL JOSEPH PRETORIUS:** Right

**MR JACOB GEDLEYIHLEKISA ZUMA:** No.

**ADV PAUL JOSEPH PRETORIUS:** If we may move on...

**CHAIRPERSON:** And maybe – maybe before that. And is it something you have quite a clear recollection of that you – you did not cause him to be shifted. It would have been a request from his Minister?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes.

**CHAIRPERSON:** Okay.

10 **ADV PAUL JOSEPH PRETORIUS:** I would like to go to page 17 if I may and that was the statement of Ms Mentor. Now I am mindful of certain comments made Chair yesterday about the evidence of Ms Mentor whether it was reliable or credible in any sense and whether it would in those circumstances be fair to Mr Zuma to put anything about what Ms Mentor said. From the legal team's point of view firstly that is what was presaged in the correspondence but that is a formality. It needs to be emphasised that no finding has yet been made about the credibility and reliability of her testimony. That is a matter for later consideration and decision by yourself Chair.

20 Having heard all the evidence and having given everybody who is concerned an opportunity to talk. So whatever may be said about her evidence it is cogency or otherwise it is incumbent upon us I understand nevertheless to put her version to Mr Zuma for his comment.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes.

**ADV PAUL JOSEPH PRETORIUS:** In summary Mr Zuma what Ms Mentor testified to was that a member of the Gupta family “offered” and I use that word advisedly in inverted commas because whether it was an offer or not I will deal with in a moment. A Ministerial position in exchange for favouring the commercial interests of the Gupta’s and that she goes further – she says that that offer insofar as it was an offer was made with the knowledge and approval of yourself. Now we can go through it bit by bit. There are other surrounding aspects of her evidence that I can put to you – I should put to you briefly in fairness  
10 but that is the essence of her evidence. Do you want to answer it at a general level or shall we go into the detail?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No I had no interaction with this witness, nothing.

**ADV PAUL JOSEPH PRETORIUS:** Right. She says in paragraph 16 to 21 of her evidence or of her statement rather that she occupied the position as Chair of a Portfolio Committee on Public Enterprises. She said she was and she uses the word elected as Chairperson of the Portfolio Committee on Public Enterprises in 2004 and that in 2010 she was removed from this position. And again what she says is that in her  
20 opinion the reasons for her removal were twofold that she refused to meet with yourself on that China state visit which I think you would recall because it is central to her evidence. Let us just place that evidence properly in its context.

There was a visit to China at a stage at which you were present. She says that there was a request that she meet with you and

that she refused. Do you recall anything about that?

**MR JACOB GEDLEYIHLEKISA ZUMA**: I know nothing about it.

**ADV PAUL JOSEPH PRETORIUS**: Right. She says that another reason for her removal as Chairperson of the Portfolio Committee was that she refused to assist in the closure of the SAA, South African Airways route to India. Do you know anything about that issue?

**MR JACOB GEDLEYIHLEKISA ZUMA**: No I know nothing about that.

**ADV PAUL JOSEPH PRETORIUS**: Right. She does say that she was taken to task in relation to the China trip because Transnet actually  
10 paid for that visit and she was taken to task for that?

**MR JACOB GEDLEYIHLEKISA ZUMA**: Who paid for?

**ADV PAUL JOSEPH PRETORIUS**: Transnet.

**MR JACOB GEDLEYIHLEKISA ZUMA**: Transnet?

**ADV PAUL JOSEPH PRETORIUS**: Yes. Paid – do you know anything about that issue?

**MR JACOB GEDLEYIHLEKISA ZUMA**: No I know nothing about that.

**CHAIRPERSON**: Well would that not be a Parliamentary issue in the National Assembly?

**ADV PAUL JOSEPH PRETORIUS**: Yes well it may be put that that was  
20 the real reason and that is why I am ...

**CHAIRPERSON**: Yes no what I am saying is the action...

**ADV PAUL JOSEPH PRETORIUS**: It is a Parliamentary issue.

**CHAIRPERSON**: Ja, ja which would not involve the Presidency.

**ADV PAUL JOSEPH PRETORIUS**: No, no but in fairness to the President I felt it in order to remind him that many people say that that

was the reason and not the other reasons. Then she talks at paragraph 26 and following Mr Zuma of the visit to China. And she said that she travelled to China in her capacity as Portfolio Committee Chair of Public Enterprises. Do you yourself recall that visit to China? It was in and about August 2010 I know there may have been plenty of visits and it is ...

**CHAIRPERSON**: Well should you not just give him more details. I think it was said it was a state visit but the way you put it it is like whether he recalls Ms Mentor's visit to China.

10 **ADV PAUL JOSEPH PRETORIUS**: Yes it was a state visit and in fact there was a state banquet according to her evidence in China in August 2010. A large contingent of South African officials, Parliamentarians, government officials, executive members apparently intended – attended including she says the Gupta's. And she said at that visit the Gupta's played a prominent role or an organisational role in the visit. Do you recall anything of that nature?

**MR JACOB GEDLEYIHLEKISA ZUMA**: No I do not.

**ADV PAUL JOSEPH PRETORIUS**: Okay.

**MR JACOB GEDLEYIHLEKISA ZUMA**: I do not.

20 **CHAIRPERSON**: Well maybe let us say – I am sorry – do you recall a state visit that may have made to China was it 2011?

**ADV PAUL JOSEPH PRETORIUS**: 2010.

**CHAIRPERSON**: 2010.

**ADV PAUL JOSEPH PRETORIUS**: In or about August 2010.

**CHAIRPERSON**: Ja.



**MR JACOB GEDLEYIHLEKISA ZUMA:** Well I have gone to China several times.

**CHAIRPERSON:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** I might have to look at my records.

**CHAIRPERSON:** You might not recall that in that year.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Ja I am not recalling it.

**CHAIRPERSON:** You had one or not but you have had a few of them.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes.

10 **CHAIRPERSON:** A few state visits?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Ja because I have gone to China a number of times.

**CHAIRPERSON:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** If I do not check my records.

**CHAIRPERSON:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** I will not be able to be exact and give the exact answer.

**CHAIRPERSON:** You would be able to say. Yes. Okay. Thank you.

**ADV PAUL JOSEPH PRETORIUS:** Would you recall any state visit at  
20 which the Gupta's were present and played any role whatsoever?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No I do not. Though never – I do not remember them in any state visit.

**ADV PAUL JOSEPH PRETORIUS:** Would that have happened to your knowledge given your knowledge of the Gupta's and state visits and the like?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No I say – no I have just answered to say I do not remember. Them being a part of our visit at being taken prominent role, what would they be doing because they have got nothing to do with the visit?

**CHAIRPERSON:** When you have a state visit would the President not normally invite South African business people to join for purposes of promoting trade with the country to which the visit is intended?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes that happens but...

**CHAIRPERSON:** That happens.

10 **MR JACOB GEDLEYIHLEKISA ZUMA:** No one of those business people would play a prominent role in the visit.

**CHAIRPERSON:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** They meet other business people. In fact if you go like that only once you go to address them together with the President of that country.

**CHAIRPERSON:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** You come in, you address, you go away.

**CHAIRPERSON:** Yes.

20 **MR JACOB GEDLEYIHLEKISA ZUMA:** You do not participate in the activities.

**CHAIRPERSON:** In the state visit.

**MR JACOB GEDLEYIHLEKISA ZUMA:** All the state visits.

**CHAIRPERSON:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Ja.

**CHAIRPERSON**: So they meet their counterparts’.

**MR JACOB GEDLEYIHLEKISA ZUMA**: Yes.

**CHAIRPERSON**: And discuss business but they do not become part of the state activities.

**MR JACOB GEDLEYIHLEKISA ZUMA**: Not at all. Not at all.

**CHAIRPERSON**: Okay.

**ADV PAUL JOSEPH PRETORIUS**: Alright. She also said in her statement Mr Zuma that on the evening of the state banquet in China she was approached by a gentleman who told her that you wished to  
10 meet with her at the Chinese Presidential Guest house. Do you have any comment or recollection in regard to that?

**MR JACOB GEDLEYIHLEKISA ZUMA**: No. Nothing of that nature.

**ADV PAUL JOSEPH PRETORIUS**: She of course assumed that the man who spoke to her was one of the Gupta brothers.

**MR JACOB GEDLEYIHLEKISA ZUMA**: She assumes that well it is her who saw the person.

**ADV PAUL JOSEPH PRETORIUS**: She assumed that.

**MR JACOB GEDLEYIHLEKISA ZUMA**: I know nothing about it.

**ADV PAUL JOSEPH PRETORIUS**: Then in paragraph 59 if you would  
20 turn to that please Mr Zuma.

**MR JACOB GEDLEYIHLEKISA ZUMA**: Page 59?

**ADV PAUL JOSEPH PRETORIUS**: 59 – paragraph 59 I am sorry.

**MR JACOB GEDLEYIHLEKISA ZUMA**: Paragraph 59. The first thing she says there is that she had been trying for some time to meet with you regarding the Pebble Bed Modular Reaction amongst other things.

Do you know anything about her attempts to meet with you about that issue?

**ADV PAUL JOSEPH PRETORIUS:** No. Nothing.

**ADV PAUL JOSEPH PRETORIUS:** She says too that she communicate with Ms Lakela Kaunda who at the time she thought was your personal assistant in order to secure such a meeting. If we could take that step by step. Did Ms Kaunda – Ms Kaunda work in your office?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Ja Ms Kaunda worked in my office.

10 **ADV PAUL JOSEPH PRETORIUS:** Yes. And who – whose responsibility would it have been to make arrangements to meet with you?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Not Kaunda. Kaunda had nothing to do with that.

**ADV PAUL JOSEPH PRETORIUS:** Not Kaunda.

**MR JACOB GEDLEYIHLEKISA ZUMA:** There are other officials who were dealing with those kind of arrangements not Kaunda.

**ADV PAUL JOSEPH PRETORIUS:** Right. She says that one evening on a Sunday in or around October 2010 and in fairness to that version  
20 changed to September I think or times other than October 2010 she said she received a telephone from Ms Kaunda to say that you could see her the following day. Do you recall anything of that?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No.

**ADV PAUL JOSEPH PRETORIUS:** Right.

**CHAIRPERSON:** On second Mr Pretorius. Lerato. Thank you.

**ADV PAUL JOSEPH PRETORIUS:** In any event what she then said in her evidence and I am moving to paragraph 63. She said that she would be met at the airport in Johannesburg and taken to a place where she would meet with you. I understand from what you have said is that you do not recall any interaction with Ms Kaunda at all.

**MR JACOB GEDLEYIHLEKISA ZUMA:** No.

**ADV PAUL JOSEPH PRETORIUS:** So the details of that interaction is not necessary to deal with.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Not at all.

10 **ADV PAUL JOSEPH PRETORIUS:** Yes – and sorry I might have made an error. No interaction with Ms Mentor.

**ADV PAUL JOSEPH PRETORIUS:** No not at all.

**ADV PAUL JOSEPH PRETORIUS:** Yes. She then says that she was picked up at the airport, taken to a certain business premises Sahara Computers and then taken to what has become known at the Saxonwold compound. She says there that in the course of events that morning Ajay Gupta told her that you knew of this meeting but I take it that consistent with your previous answers that is not a matter that you can comment on.

20 **MR JACOB GEDLEYIHLEKISA ZUMA:** I know nothing.

**ADV PAUL JOSEPH PRETORIUS:** Various issues then were discussed in that meeting but at a stage she says firstly that there would be a cabinet reshuffle in the next week or so. Do you know of a cabinet reshuffle in October 2010 for example and if I could help you there the cabinet reshuffle where Minister Gigaba was appointed to replace

Minister Hogan. That happened around October 2010 as we understand it.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Ja there was a reshuffle I think.

**ADV PAUL JOSEPH PRETORIUS:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** In terms of reshuffle that happens regularly when it is to happen.

**ADV PAUL JOSEPH PRETORIUS:** If she is to believe – be believed at all and I qualify that what I am to put to you on that basis. It appears that Ajay Gupta would have known of a cabinet reshuffle to occur at the  
10 end of October. Now in that regard you did say earlier that there is a consultation process that happens before a cabinet reshuffle. Could someone like Ajay Gupta have known of such a reshuffle?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No.

**ADV PAUL JOSEPH PRETORIUS:** From your own knowledge.

**MR JACOB GEDLEYIHLEKISA ZUMA:** No. Ajay Gupta was not part of Government.

**ADV PAUL JOSEPH PRETORIUS:** No I understand.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Was not even part of the people who normally get consulted.

20 **ADV PAUL JOSEPH PRETORIUS:** So your response to that evidence is not that he might have known but that simply the probabilities are that he did not know? As I understand.

**MR JACOB GEDLEYIHLEKISA ZUMA:** He should not have known.

**CHAIRPERSON:** I – I guess maybe let us ask it this way. Before a reshuffle would happen would there be people with whom you would

have consultation that would know before it happens?

**MR JACOB GEDLEYIHLEKISA ZUMA**: Yes definitely. I consult ...

**CHAIRPERSON**: Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA**: Very selected a few people.

**CHAIRPERSON**: Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA**: I always consult.

**CHAIRPERSON**: Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA**: At no stage I could do the reshuffle without people knowing who are supposed to know. For  
10 example it would be the top six for example would have to know what I am doing.

**CHAIRPERSON**: That is the top six of ANC?

**MR JACOB GEDLEYIHLEKISA ZUMA**: Top six of the ANC, yes.

**CHAIRPERSON**: Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA**: As well as if it is – all of it as well as the alliance top six or five.

**CHAIRPERSON**: Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA**: Those are the people we consult with.

20 **CHAIRPERSON**: Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA**: So it would not be the knowledge that is on me only.

**CHAIRPERSON**: Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA**: There would be those kind of individuals who would know.

**CHAIRPERSON:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes.

**CHAIRPERSON:** And I guess that the best you can say it that you did not tell him or you would not have told him but you cannot know what anyone else who might have known might have done?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Absolutely.

**CHAIRPERSON:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes definitely.

**CHAIRPERSON:** Okay.

10 **ADV PAUL JOSEPH PRETORIUS:** Ajay Gupta according to the statement at least – the written statement that you have before you – said to her two things and I am referring to paragraph 91 if you want to go there Mr Zuma.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Paragraph 91.

**ADV PAUL JOSEPH PRETORIUS:** He said:

“He would put in a word with the President for me.”

And then he said:

“We usually do.”

**CHAIRPERSON:** I am sorry. What page? What paragraph?

20 **ADV PAUL JOSEPH PRETORIUS:** Paragraph 91.

**CHAIRPERSON:** Okay. Huh-uh.

**ADV PAUL JOSEPH PRETORIUS:** So what she said that Ms Mentor ...

**CHAIRPERSON:** Hm.

**ADV PAUL JOSEPH PRETORIUS:** Is and perhaps for the sake of accuracy I should read paragraph 90 ...



**MR JACOB GEDLEYIHLEKISA ZUMA:** Okay.

**ADV PAUL JOSEPH PRETORIUS:** Because the status of the offer maybe debated. Paragraph 90 she said:

“Immediately after ...”

And she is now referring to the discussion between herself and Mr Ajay Gupta.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Huh-uh.

**ADV PAUL JOSEPH PRETORIUS:** “Immediately after his statements about SAA’s India route Ajay Gupta then  
10 very casually and much to my astonishment, proceeded to offer me the position of Minister of Public Enterprises if I would agree to facilitate the closure of SAA’s India route when I became Minister. Ajay Gupta said there would be a cabinet reshuffle in the next week or so and he said he had an offer for me. He said that I could be the next Minister of Public Enterprises if I agree to facilitate the closure of the route.”

But the import of her statement is qualified and in fairness  
20 that qualification should be put to you. She goes on in paragraph 91 to say:

“It is an understatement to say that I was shocked by the offer. I was stunned and wondered how Ajay Gupta had so much power. I responded firstly by informing him that the SAA statistic showed that

the flight to India was doing very well. Secondly I asked how he could be in a position to offer me a position as a Minister. Ajay Gupta said he would put in a word for the President for me. After the statement there was silence in the room after which Ajay stated: "We usually do". I perceived his tone to be boastful. I then asked him who "we" was but he did not respond."

So although she concludes that an offer was made it seems  
10 that what she does say is that Ajay Gupta said he would put in a word with the President for me. I am not sure whether that was a firm offer or not but the question then arises about what she says. Is that Ajay Gupta informed her that he had communications with you in which he would suggest who should be appointed as a Minister. So that is the import of her evidence. Rather ...

(Background noise)

**CHAIRPERSON:** I think I pressed the wrong one.

**ADV PAUL JOSEPH PRETORIUS:** May I conclude the question or do you want to interrupt Chair?

20 **CHAIRPERSON:** No I wanted to say I think your – what you put to Mr Zuma as the essence of what Ms Mentor is saying might not be accurate. My understanding is that what you read says Ms Mentor says Mr Gupta said to her he would put in a word for her to the President for her to get the ministerial position but you said he – she said there was communication which might suggest there had been prior

communication.

**ADV PAUL JOSEPH PRETORIUS:** No.

**CHAIRPERSON:** I do not know if that is there but that is what I heard.

**ADV PAUL JOSEPH PRETORIUS:** No. Let me make it clear.

**CHAIRPERSON:** *Ja.*

**ADV PAUL JOSEPH PRETORIUS:** In fairness to all concerned she says two things. In paragraph 90 she said he made me an offer. Ajay Gupta made me an offer of a presidential position. She qualifies this somewhat in her next paragraph to say:

10                   “He would put in a word with the President for me.”

So her evidence is to the effect that Ajay Gupta said that he would suggest to you or advice or try to persuade or however communicate with you in relation to her future appointment as a Minister of Public Enterprises. So what I am attempting to put to you is the import of the statement that Ajay Gupta said he would put in a word with yourself in her favour. Any response to that? Is that clear?

**MR JACOB GEDLEYIHLEKISA ZUMA:** I do not know what could my response – because they were discussing two of them.

**ADV PAUL JOSEPH PRETORIUS:** Yes.

20   **MR JACOB GEDLEYIHLEKISA ZUMA:** I had nothing to do with it.

**ADV PAUL JOSEPH PRETORIUS:** No I understand.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Absolutely nothing.

**CHAIRPERSON:** I – I think maybe the question should be was your relationship with Mr Ajay Gupta to your knowledge such that he could make such suggestions to you as to who should be appointed Minister?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No not at all. He had nothing to do with what happens in the – in – in Government.

**ADV PAUL JOSEPH PRETORIUS:** So for – for clarity sake ...

**MR JACOB GEDLEYIHLEKISA ZUMA:** Hm.

**ADV PAUL JOSEPH PRETORIUS:** The question put to you is not to comment on what was said between them and to interpret the conversation that happened between them ...

**MR JACOB GEDLEYIHLEKISA ZUMA:** Huh-uh.

**ADV PAUL JOSEPH PRETORIUS:** But merely to raise the factual  
10 question arising out of that.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Huh-uh.

**ADV PAUL JOSEPH PRETORIUS:** That Mr Gupta appeared according to Ms Mentor to be of the opinion that he could talk to you about ministerial appointments. That is the question that has been rephrased by the Chair and is that correct or not correct? You have an opportunity to deal with that allegation.

**MR JACOB GEDLEYIHLEKISA ZUMA:** No. That is why I am saying  
20 discussing two of them about either offering whatever. Other one is being surprised. I am not there. I do not know why they reached that kind of a discussion.

**ADV PAUL JOSEPH PRETORIUS:** Then I have not made myself clear and perhaps the Chair needs to rephrase his question as well.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Hm.

**ADV PAUL JOSEPH PRETORIUS:** The question is not what happened

...

**MR JACOB GEDLEYIHLEKISA ZUMA:** Hm.

**ADV PAUL JOSEPH PRETORIUS:** Or what is interpreted about a conversation at which you were not ...

**MR JACOB GEDLEYIHLEKISA ZUMA:** Hm.

**ADV PAUL JOSEPH PRETORIUS:** Present. The question is did Mr Gupta ever speak to you about an appointment into a ministerial position.

**MR JACOB GEDLEYIHLEKISA ZUMA:** No never.

**ADV PAUL JOSEPH PRETORIUS:** She then continues in her statement  
10 to say that at that stage she became angry, began to speak very loudly and she had become what she refers to as confrontational and I am referring to paragraph 92 and it was at that moment she says that you entered the room and that she immediately informed you of the “offer” that had been made and that you did not react to that communication but tried to calm her down.

That is the essence of what she says in the remaining paragraphs. I am not sure ...

**MR JACOB GEDLEYIHLEKISA ZUMA:** No there is nothing of that nature. I know nothing of – of entering some room.

20 **CHAIRPERSON:** Have you ever been at the Gupta residence at the same time as her?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No.

**CHAIRPERSON:** No.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Never.

**CHAIRPERSON:** Do – do you recall who Ms Mentor is?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes.

**CHAIRPERSON:** You do recall her?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes I do recall.

**CHAIRPERSON:** *Ja.* I am asking ...

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes I recall her.

**CHAIRPERSON:** Yes. I am asking because I think at a certain stage there was – seems to have be something from the Presidency that suggested that at that time you did not recall who she was. So that is why I am asking but you say you do recall her?

10 **MR JACOB GEDLEYIHLEKISA ZUMA:** No I do recall her.

**CHAIRPERSON:** Okay.

**MR JACOB GEDLEYIHLEKISA ZUMA:** I do recall her.

**CHAIRPERSON:** Okay.

**ADV PAUL JOSEPH PRETORIUS:** Well perhaps again to afford you an opportunity to respond on page 54 and Chair ...

**CHAIRPERSON:** Are you moving away from that incident?

**ADV PAUL JOSEPH PRETORIUS:** No I am going exactly to that point.

**CHAIRPERSON:** Oh.

**ADV PAUL JOSEPH PRETORIUS:** Again MPM5 on page 54 is illegible.

20 So it is not of any use to anybody but I do want to refer to a better version of that document. A more direct route this time Chair.

**CHAIRPERSON:** Have you got a clearer copy for counsel for Mr Zuma?

**ADV PAUL JOSEPH PRETORIUS:** Yes.

**CHAIRPERSON:** You say that is a better version of the document at page 54?

**ADV PAUL JOSEPH PRETORIUS:** It maybe that I should afford time to consult. It is 1 o' clock. I do not know when you intend taking the ...

**CHAIRPERSON:** *Ja.* We can take the adjournment now.

**ADV PAUL JOSEPH PRETORIUS:** Long adjournment.

**CHAIRPERSON:** Okay. Let – let us take the lunch adjournment now.

**ADV PAUL JOSEPH PRETORIUS:** And then the matter can be discussed in the meanwhile.

**CHAIRPERSON:** You can – you can discuss the matter *ja.* We will take the short – the lunch adjournment now and resume at 2 o' clock. We  
10 adjourn.

**REGISTRAR:** All rise.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Are you ready Mr Pretorius?

**ADV PAUL JOSEPH PRETORIUS SC:** Thank you Chair. Mr Zuma before the long adjournment you and your representatives were handed a copy of a media statement in more legible form that appeared in the bundle, it's apparent from the document at least, that a media statement was issued by the Presidency on the 15<sup>th</sup> of Mach 2016 and  
20 may I ask who is Bongani Majola or who was he?

**MR JACOB GEDLEYIHLEKISA ZUMA:** He was one of the staff in the Presidency dealing with communications.

**ADV PAUL JOSEPH PRETORIUS SC:** The statement reads, and it's at page 55 – sorry page 54, this document which is at page 54 which is illegible Chair will be replaced by the document now handed to you,

headed, social media comment by former member of Parliament, if I may read it to you sir, it reads,

“The Presidency has received media enquiries about a reported comment on social media by former ANC member of Parliament Ms Vytjie Mentor, the second paragraph reads, President Jacob Zuma has no recollection of Ms Mentor, he is therefore unable to comment on any alleged incident in her career”,

Do you know anything about this statement being issued on  
10 your behalf?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes I do, my office came to check after getting the information from the communications whether I know anything, at that time I must be honest, I had no recollection of this name, totally I gave a very honest answer I’ve never – I don’t know who is this, only after some time when I saw her picture I realised it is a person I know, I couldn’t put the name to the face.

**CHAIRPERSON:** To the face?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Ja.

**ADV PAUL JOSEPH PRETORIUS SC:** So do I have it correct, you do,  
20 having been reminded of how – what she looked like have a recollection of Ms Mentor?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes absolutely.

**ADV PAUL JOSEPH PRETORIUS SC:** And insofar as this particular suggests, otherwise the statement is incorrect?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes.



**CHAIRPERSON:** I'm sorry I didn't hear, was the question whether the statement at page 54 is incorrect, was that the question?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes.

**CHAIRPERSON:** Aren't the two of you speaking at cross-purposes, the statement says- doesn't the statement say that he had no recollection of who Ms Mentor was?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes.

**ADV PAUL JOSEPH PRETORIUS SC:** Chair the statement says President Jacob Zuma has no recollection of Ms Mentor, the  
10 explanation I understand it to be, is that at that time he had no recollection but later on recognising her face, he did have a recollection and that's why I qualified the question in the manner I did.

**CHAIRPERSON:** Well might not have understood but I understood your question to be asking him whether, the statement at page 54 or suggesting that the statement at page 54 is incorrect and with him agreeing whereas my understanding is that the statement at page 54 is correct, according to what he is saying insofar as he had no recollection of who Ms Mentor was but when he subsequently saw the picture, he realised that it was somebody that he knew, that's my  
20 understanding, I may be wrong.

**ADV PAUL JOSEPH PRETORIUS SC:** It's equally correct, I hear what you're saying that's what I understood the position to be and I think what Mr Zuma understands the position to be, I think we're all in agreement, but the point is that insofar as the statement which seemed to suggest that he never has had any recollection of her, it would be

incorrect, but it doesn't suggest that, if the tense is correct, President Jacob Zuma has no recollection on the 15<sup>th</sup> of March 2016.

**CHAIRPERSON**: Yes as at that time?

**ADV PAUL JOSEPH PRETORIUS SC**: Yes so I don't think there's any...(intervention).

**CHAIRPERSON**: Yes Mr Zuma you understand?

**MR JACOB GEDLEYIHLEKISA ZUMA**: I understand.

**CHAIRPERSON**: Yes okay.

**ADV PAUL JOSEPH PRETORIUS SC**: For completeness of the record  
10 Ms Mentor did respond to that Presidential statement or statement issued on behalf of or by the Presidency in NPM6 which is at page 55. Have you a clearer copy of NPM6 Chair?

**CHAIRPERSON**: No I have a very unclear copy.

**ADV PAUL JOSEPH PRETORIUS SC**: Do you have a copy of a clear NPM6, the re-typed note 6?

**MR JACOB GEDLEYIHLEKISA ZUMA**: Yes.

**CHAIRPERSON**: You are talking about ...(intervention).

**MR PAUL JOSEPH PRETORIUS SC**: It was given to your representatives.

20 **CHAIRPERSON**: No, no Mr Pretorius I think you are talking about page 55 and he's says page 55, you are on the same page.

**ADV PAUL JOSEPH PRETORIUS SC**: Literally thank you Chair. I thought he said NPM5.

**CHAIRPERSON**: No I think he said page 55.

**MR JACOB GEDLEYIHLEKISA ZUMA**: Oh in the – oh its page 55, the

red?

**CHAIRPERSON**: Yes the red one ja, I think you have got the right one.

**MR JACOB GEDLEYIHLEKISA ZUMA**: Okay.

**ADV PAUL JOSEPH PRETORIUS SC**: Now that is in very small print it being an extract from social media, have you been given by your legal representatives, a clearer copy, it was given to them before the long adjournment, has it been given to you?

**CHAIRPERSON**: The one in front of you...(intervention).

**MR JACOB GEDLEYIHLEKISA ZUMA**: The small one?

10 **CHAIRPERSON**: No, no the one at page 55 is it legible, can you read it?

**MR JACOB GEDLEYIHLEKISA ZUMA**: No this one is small.

**CHAIRPERSON**: It's small?

**MR JACOB GEDLEYIHLEKISA ZUMA**: Ja.

**CHAIRPERSON**: Okay, have you got a copy...(intervention).

**ADV PAUL JOSEPH PRETORIUS SC**: Chair it's after lunch, it's been a long day, let's take it slowly.

**CHAIRPERSON**: Have you got a copy?

20 **ADV PAUL JOSEPH PRETORIUS SC**: What we have done is we've made a clearer copy of page 55 in a text that is legible, it was handed to my learned friends before the long adjournment and I had hoped that he would have been given a copy, but I'm now asking whether he's had an opportunity to read it.

**CHAIRPERSON**: Have you got a spare copy, I think just – have you got another spare copy or can you defer the question?

**ADV PAUL JOSEPH PRETORIUS SC:** No look, Chair, if I may just stay in control of this process, all I'm asking Mr Zuma is, did your legal representatives give you a clearer copy of page 55 in the long adjournment?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No, the one...(intervention).

**ADV PAUL JOSEPH PRETORIUS SC:** Alright so we must give it to you now?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes because the print is smaller there.

10 **CHAIRPERSON:** Okay.

**ADV PAUL JOSEPH PRETORIUS SC:** Chair I would have hoped that the document that I gave to Mr Zuma's representatives would have been discussed with him, that was the purpose of giving it, it seems it wasn't so let's start again.

**CHAIRPERSON:** No, hang on, I think Mr Masuku wants to say something.

**ADV THABANI MASUKU:** Thank you Chair, my learned friend for the evidence leaders, Ms September, during lunch gave me a single copy which is a copy that we put in the file together, I did not understand it.

20 **CHAIRPERSON:** Yes there's no indication that...(intervention).

**ADV THABANI MASUKU:** That we needed to give it to...(intervention).

**CHAIRPERSON:** Give it to the witness.

**MR ZUMA'S REPRESENTATIVE:** The witness for purposes of what my learned friend suggests we should do.

**CHAIRPERSON:** Ja, no I understand.

**ADV PAUL JOSEPH PRETORIUS SC:** It was clear Chair, I don't want there to be any argument about trivialities or these arguments to be blown up, everybody knew we were going to deal with it...(intervention).

**CHAIRPERSON:** There are two ways of dealing with this, one is for you to ask someone to get another copy or...(intervention).

**ADV PAUL JOSEPH PRETORIUS SC:** We've got copies Chair, I can hand them...(intervention).

**CHAIRPERSON:** You've got copies, okay the witness must be given the copy, Loratto.

10 **ADV PAUL JOSEPH PRETORIUS SC:** And do you have a copy Chair?

**CHAIRPERSON:** I don't have – thank you.

**ADV PAUL JOSEPH PRETORIUS SC:** Just for the record if a copy is given to my learned friend during the course of evidence the clear intention is that the copy is given so that the witness can be given an opportunity to be recognised in relation to it, as I understand it, you have it – no that's what I said before the long adjournment.

**CHAIRPERSON:** No Mr Pretorius I don't think that's fair.

**ADV PAUL JOSEPH PRETORIUS SC:** I said it before the long adjournment.

20 **CHAIRPERSON:** No, no, Mr Masuku has said he was given a copy, not by you, but by Ms September...(intervention).

**ADV PAUL JOSEPH PRETORIUS SC:** Yes on my instruction.

**CHAIRPERSON:** You don't know what transpired between the two of them, Mr Masuku has said that there was no indication that, that was meant for the witness, it's fair for – it would have been fair for them to

think you might have made other provisions for the witness.

**ADV PAUL JOSEPH PRETORIUS SC:** Be that as it may Chair.

**CHAIRPERSON:** Let's move on.

**ADV PAUL JOSEPH PRETORIUS SC:** Let's move one, let's not...(intervention).

**CHAIRPERSON:** I've got – the one I have here that I've been given now is a page that has got two paragraphs but the one that it is supposed to be a replacement of or a clearer version of has got one large paragraph and about three lines before. Does the one, the  
10 clearer version, is the clearer version exactly the same as the illegible version. So in other words I want to know when I look at the clearer version I may be reading something that is not in the illegible version or not?

**ADV PAUL JOSEPH PRETORIUS SC:** No Chair, let me explain, if one goes to the original NPM6.

**CHAIRPERSON:** Yes that's page 55.

**ADV PAUL JOSEPH PRETORIUS SC:** Yes the original page 55, you will see – if I may explain Chair, Chair if I may explain it will – you needn't read it, the first three lines, the first paragraph...(intervention).

20 **CHAIRPERSON:** On the illegible version?

**ADV PAUL JOSEPH PRETORIUS SC:** No is cut off, it's not complete.

**CHAIRPERSON:** Okay.

**ADV PAUL JOSEPH PRETORIUS SC:** The complete version appears on the clearer version.

**CHAIRPERSON:** Okay.

**ADV PAUL JOSEPH PRETORIUS SC:** Right but I'm not going to deal with that, I'm going to deal with the second paragraph on both pages and the second paragraph is the same on both pages.

**CHAIRPERSON:** Okay thank you.

**ADV PAUL JOSEPH PRETORIUS SC:** It seems that shortly after reading the Presidential statement, Ms Mentor posted on social media her response to what appeared in the press release, that you had no recollection of Ms Mentor and she said,

10            "I Chaired the ANC National Parliamentary Caucus when  
President Zuma was he deputy President, he sat next to me  
and spoke through me and with me in Caucus each Thursday  
when Parliament was in session. I sat with him in the ANC's  
political committee each month too, he is the one – it says  
WHI but it should be who was sent by the top six then to tell  
me that the ANC has deployed me to the Chair of Caucus then.  
He is the one who introduced me to the ANC Caucus then as  
the new Chair of Caucus. I had a bi-monthly with him in his  
Tuinhuis offices then, he knew me right from when he arrived  
from exile, he met me frequently on the ground in the Northern  
20            Cape on many occasions. I know President Mbeki and  
Kgalema Motlanthe will never ever say they had no  
recollection of me. As for the Gupta's I'm not there yet a lot  
still need to be told, will leave this here for now",

And the rest is not relevant to the identification issue. Do you have any comment in regard to that, she says, in effect, that she knew

you well from a number of interactions over the years and that by inference you knew her well?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Well I thought we had clarified the point, that when I was asked about her from the beginning I couldn't have any recollection, so I gave that answer, that I have no recollection. Then when I saw her, afterwards, I remembered and therefore she was responding to the statement made by the Presidency at the beginning. What I – I think also what she has written here that I introduced her to the Caucus, I think she's very much mistaken. In the  
10 Caucus, the Chief Whip introduces whatever changes that are there, certainly in Parliament, I'm not sure she was sitting next to me, I'm not sure we need to get to those details really because, in Parliament it's me, a person who sits next to me is the deputy President, next to the deputy President is the speaker, next to the speaker is the deputy speaker so I don't think we need to get into that really.

**CHAIRPERSON:** Well that may be there's some importance in it because I think she gives these details, as I understand what she's saying in order to suggest that it can't be that you did not recall her, that's why she gives these details because if all of these things that  
20 she says are true, then one might say, but then in that event Mr Zuma must have known her very well. So I think that is what she is saying, so if the position is that, for example, with regard to her saying the two of you used to sit next to each other, if the position is that, no, no that could not have – that wasn't there it's important to say, no, no that's not the case because this creates the impression that the two of you



had interacted so closely in terms of work that she's suggesting this idea that you couldn't recall her is not true and therefore it is important to say, well did you know each other as well as she's suggesting and so on in terms of the things that she is mentioning?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No I hear you Chair, all I'm saying when I was asked first, I couldn't remember the name, only later when I saw her and I remembered, oh this is the person. So at the time that I did not remember her, that's when I said, no I don't know this person, that's when she responded but if later I recognise and I  
10 remembered her then I remembered her. All I'm saying with these details which have – that objective to say is impossible but I'm saying she's as well exaggerating because she never sat next to me. I'm just explaining that one without wanting to talk about it, whether it's important point or what but it's not true that she was sitting next to me always, I introduced her to the Caucus it's not the job of the President it's the job of the Chief Whip or the Chairperson of Caucus.

**CHAIRPERSON:** Would the President be involved in Caucuses and so on in Parliament?

**MR JACOB GEDLEYIHLEKISA ZUMA:** President attends the Caucus  
20 meeting, if he's there.

**CHAIRPERSON:** Okay.

**MR JACOB GEDLEYIHLEKISA ZUMA:** As a member.

**CHAIRPERSON:** As a member, not as President?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No as a member of the ANC.

**CHAIRPERSON:** Thank you, Mr Pretorius?

**ADV PAUL JOSEPH PRETORIUS SC:** Thank you Chair. Was the statement ever corrected?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Sorry?

**ADV PAUL JOSEPH PRETORIUS SC:** Was the Presidential statement that you had no recollection of Ms Mentor, ever corrected?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No I don't remember, I don't remember it.

**CHAIRPERSON:** No Mr Pretorius, if it was correct, that he didn't recollect who Ms Mentor was would there be a need to correct that?

10 **ADV PAUL JOSEPH PRETORIUS SC:** Yes because it gives an incorrect impression.

**CHAIRPERSON:** Well base on what he explained, his – I understand him to say, I may have known the face but I didn't put the name to the particular face or is your understanding...(intervention).

**ADV PAUL JOSEPH PRETORIUS SC:** Chair that's matter for submissions later but clearly the impression gained from the Presidential statement is an impression that turns out, it appears, to be certainly capable of qualification and I'm simply asking was it every qualified or corrected, I don't want to make a big song and dance about  
20 it Chair, really.

**CHAIRPERSON:** Okay.

**ADV PAUL JOSEPH PRETORIUS SC:** Can we move on Mr Zuma to paragraph 118.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Paragraph 118?

**ADV PAUL JOSEPH PRETORIUS SC:** Yes, what happened thereafter is

that Ms Mentor wanted to lay charges and she says in paragraph 118 on page 50.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Page 50 – page hundred and?

**ADV PAUL JOSEPH PRETORIUS SC:** Paragraph 118 page 50.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Okay.

**ADV PAUL JOSEPH PRETORIUS SC:** It seems you and I are the only ones that get on very well in this role Mr Zuma, she wanted to lay charges, do you see that, against you and some others.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Hm-mmm.

- 10 **ADV PAUL JOSEPH PRETORIUS SC:** She says she made a statement and then at a later stage she requested her statement from the police but said that it had been – she was told that it had been sent to Pretoria and then they were asked – she was asked to meet with representatives of the police. Let me just get my note, if we could go to paragraph 119, I'm afraid Chair there's a page missing, I don't know how that happened but I worked off a copy where the page was not missing so I have my notes, and can we take a short adjournment so I can get the page?

**CHAIRPERSON:** Okay, five minutes?

- 20 **ADV PAUL JOSEPH PRETORIUS SC:** Five minutes Chair.

**CHAIRPERSON:** Okay we'll just take a five minutes adjournment for the page to be found, thank you, we adjourn.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Are we able to proceed?

**ADV PAUL JOSEPH PRETORIUS**: Thank you Chair.

**CHAIRPERSON**: Thank you.

**ADV PAUL JOSEPH PRETORIUS**: The pages were all there in the first place they were just misplaced.

**CHAIRPERSON**: Oh okay.

**ADV PAUL JOSEPH PRETORIUS**: So if one looks at the typed page on the original – typed number on the original page one will see page 50 and page 33. Do you see that Chair?

**CHAIRPERSON**: Yes.

10 **ADV PAUL JOSEPH PRETORIUS**: Then the next page is page 34 but page 49 read.

**CHAIRPERSON**: Oh.

**ADV PAUL JOSEPH PRETORIUS**: And then the next page is page 51 paragraph 35 typed.

**CHAIRPERSON**: So is the – is the red numbering that is wrong?

**ADV PAUL JOSEPH PRETORIUS**: Red numbering is wrong but the page numbering typed on the original page is correct. Are you with us Mr Zuma?

**MR JACOB GEDLEYIHLEKISA ZUMA**: Just [microphone off].

20 **CHAIRPERSON**: At page 50, can you see page 50 the red 50.

**MR JACOB GEDLEYIHLEKISA ZUMA**: The red 50 yes.

**CHAIRPERSON**: Ja below it you have got a black 33 – the red 50 below it there is a black 33. Can you see the number in the middle of the page 33?

**MR JACOB GEDLEYIHLEKISA ZUMA**: Ja 33.

**CHAIRPERSON**: On page 50.

**MR JACOB GEDLEYIHLEKISA ZUMA**: I have got there.

**CHAIRPERSON**: Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA**: And then 50.

**CHAIRPERSON**: Ja if you go to the next page.

**MR JACOB GEDLEYIHLEKISA ZUMA**: Yes.

**CHAIRPERSON**: The red page number says 49 instead of 51.

**MR JACOB GEDLEYIHLEKISA ZUMA**: Okay.

**CHAIRPERSON**: It should say 51 but it says 49.

10 **MR JACOB GEDLEYIHLEKISA ZUMA**: Yes.

**CHAIRPERSON**: But if you look at the black number in the middle of the page it is 34.

**MR JACOB GEDLEYIHLEKISA ZUMA**: 34 yes.

**CHAIRPERSON**: So the black numbers are correct but the red ones there seems to have been a problem.

**MR JACOB GEDLEYIHLEKISA ZUMA**: Okay.

**CHAIRPERSON**: Yes. Okay. Thank you.

**MR JACOB GEDLEYIHLEKISA ZUMA**: Okay.

20 **ADV PAUL JOSEPH PRETORIUS**: So Mr Zuma all we need for now if you would look at the black numbering is pages 33 and 34 we need not worry for the moment about the rest.

**MR JACOB GEDLEYIHLEKISA ZUMA**: Okay.

**ADV PAUL JOSEPH PRETORIUS**: So basically if one looks at paragraph 118 on page red 50. You have that?

**MR JACOB GEDLEYIHLEKISA ZUMA**: Hm. 159?

**ADV PAUL JOSEPH PRETORIUS:** 18.

**MR JACOB GEDLEYIHLEKISA ZUMA:** 118?

**ADV PAUL JOSEPH PRETORIUS:** 118.

**MR JACOB GEDLEYIHLEKISA ZUMA:** 118 yes.

**ADV PAUL JOSEPH PRETORIUS:** Do you have that?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes.

**ADV PAUL JOSEPH PRETORIUS:** On that page and in that paragraph Ms Mentor says or said that she went to lay charges against yourself and some ministers of cabinet and certain board members of certain state owned enterprises. She did that in Cape Town. Then in  
10 paragraph 119 she says she subsequently requested the statement from the police but was told it was with the Hawks. And that was in Pretoria. In paragraph 120 she said and I will read it:

“A member of the Hawks Advocate Mtolo along with another member of the Hawks whose name I do not recall then came to my house with a typed version of the statement. Advocate Mtolo advised me that the reason for the delay was that I had complained about President Zuma and that their hands were  
20 consequently tied. They could not proceed with my complaint while the President was names in my complaint.”

She continues to say Mr Zuma:

“After much deliberation I agreed to remove Mr Zuma’s name from the affidavit in the hopes that the

Hawks would investigate my complaints. As far as I am aware the Hawks do not seem to be actively investigating the matter and there does not seem to have been any progress in this regard.”

A few matters arising from that paragraph against that background Mr Zuma was it ever reported to you by anyone that a complaint had been laid against you and a charge had been raised by Ms Mentor?

**ADV PAUL JOSEPH PRETORIUS:** Nothing.

**ADV PAUL JOSEPH PRETORIUS:** Never com.

10 **MR JACOB GEDLEYIHLEKISA ZUMA:** Nothing yes.

**ADV PAUL JOSEPH PRETORIUS:** The conduct reported here that a complainant had been advised by a member of the Hawks to exclude the President’s name – any President for that matter. How do you regard such conduct?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Well I know nothing about this matter.

**ADV PAUL JOSEPH PRETORIUS:** Is such conduct acceptable though, that is what I am saying? Had you known about it or had you been told about it would you have responded in any way?

20 **CHAIRPERSON:** I am sorry I think I missed the question. Just repeat the question.

**ADV PAUL JOSEPH PRETORIUS:** Ja I am just asking if he has any view of the allegation made by Ms Mentor. You are free to comment.

**ADV PAUL JOSEPH PRETORIUS:** No I...

**ADV PAUL JOSEPH PRETORIUS:** I am inviting a comment or you need

not comment if you wish.

**MR JACOB GEDLEYIHLEKISA ZUMA:** No I have got no idea what is happening here.

**ADV PAUL JOSEPH PRETORIUS:** Right. Well if I can just clarify. What the Hawks said was that they could not proceed with the complaint – they do not say they were told or given orders by anyone. They simply say that as long as your name appeared in the charge sheet or in the charge laid rather they could not proceed with it. That is what they say. Do you have any comment on what they said?

10 **MR JACOB GEDLEYIHLEKISA ZUMA:** Well it is difficult to have a comment because I do not know why even that statement was made.

**ADV PAUL JOSEPH PRETORIUS:** Right.

**MR JACOB GEDLEYIHLEKISA ZUMA:** I do not know what caused them to make such a statement whatever.

**ADV PAUL JOSEPH PRETORIUS:** Well clearly they believed that they could not proceed with the complaint. If this is to be believed and I qualify on that basis.

**CHAIRPERSON:** Let me just hear the full question first.

**ADV PAUL JOSEPH PRETORIUS:** Yes.

20 **CHAIRPERSON:** I think Mr Masuku wants to say something but let me hear the full question first.

**ADV PAUL JOSEPH PRETORIUS:** The question is simply do you have the – I am inviting you to make a comment if you wish to make a comment on the allegation that a member of the Hawks told a complainant that because your name appeared in the complaint they



could not proceed with the complaint. That is all I am saying and I am inviting you to comment if you wish.

**MR JACOB GEDLEYIHLEKISA ZUMA:** No let me not comment because I do not know what was the cause of that.

**ADV PAUL JOSEPH PRETORIUS:** The matter proceeded at – not in any respect that needs to be dealt with ...

**CHAIRPERSON:** I am sorry I think Mr Masuku wants to either give you something or address me.

**ADV THABANI MASUKU:** Chair the

10 **CHAIRPERSON:** Yes.

**ADV THABANI MASUKU:** I understand the question to be that the Hawks said something about this matter.

**CHAIRPERSON:** Hm.

**ADV THABANI MASUKU:** But this is not an affidavit from the Hawks.

**CHAIRPERSON:** Hm.

**ADV THABANI MASUKU:** This is Mr – this is an affidavit from Ms Mentor.

**CHAIRPERSON:** Ms Mentor.

20 **ADV THABANI MASUKU:** Ms Mentor. It must be made clear that it is Ms Mentor who says this is what they said. Not – the impression must not be given that the Hawks.

**CHAIRPERSON:** Yes.

**ADV THABANI MASUKU:** Are themselves saying this.

**CHAIRPERSON:** Hm. Okay. Mr Pretorius.

**ADV PAUL JOSEPH PRETORIUS:** I thought I had made that clear but I

hear what my learned friend says.

**CHAIRPERSON**: Hm.

**ADV PAUL JOSEPH PRETORIUS**: But I am...

**CHAIRPERSON**: Well do you want to just put that beyond doubt? I am not sure ...

**ADV PAUL JOSEPH PRETORIUS**: Well Chair I recall saying at a stage if the statement of Ms Mentor is to be believed at all. She alleges that Advocate Mtolo advised me that the reason for the delay was that I had complained about President Zuma and that their hands were  
10 consequently tied. So if there has been mis – any misunderstanding it can be clarified on that basis. I am not sure if affects the gravamen of the question but the point as Ms Mentor said and if she is to be believed I repeat she says that Advocate Mtolo of the Hawks advised that the reason for the delay in processing the complaint was that you had been mentioned. I invited you to comment and you have given your answer.

**CHAIRPERSON**: I think the answer was that you could not comment Mr Zuma is that correct?

**MR JACOB GEDLEYIHLEKISA ZUMA**: Yes correct.

20 **CHAIRPERSON**: Yes okay.

**MR JACOB GEDLEYIHLEKISA ZUMA**: Correct.

**ADV PAUL JOSEPH PRETORIUS**: As I understand it you have had an opportunity to examine the statement.

**ADV DANIEL MANTSHA**: Sorry Chairperson I just want to put certain point here.

**CHAIRPERSON:** I am sorry.

**ADV DANIEL MANTSHA:** I was before the commission...

**CHAIRPERSON:** I am sorry Mr Mantsha. Can I ask the leader of the legal team to assist? Normally you have the leader of the team addressing the Chair and if she – if he is going to arrange for somebody else to address then it is – arrangements are made. I do not know – Mr Sikhakhane are you able to? Okay thank you.

**ADV DANIEL MANTSHA:** I think it will be fair to put to the witness that Mr Mtolo has applied to cross-examine that witness. Meaning that the  
10 statement which is attributed to him are in dispute by him. So it is not fair if there is a version already of Mr Mtolo that it is also not put to the witness.

**CHAIRPERSON:** Well..

**ADV MUZI SIKHAKHANE:** That is the point I want to make.

**CHAIRPERSON:** Mr Mantsha we cannot allow ... – Mr Sikhakhane can you address me? Thank you Mr Mantsha.

**ADV MUZI SIKHAKHANE:** Chair I think – I think he should proceed.

**CHAIRPERSON:** Thank you.

**ADV MUZI SIKHAKHANE:** And I will deal with ...

20 **CHAIRPERSON:** Okay you will – you will – okay thank you.

**ADV MUZI SIKHAKHANE:** I think the point is made.

**CHAIRPERSON:** Thank you very much. Proceed Mr Pretorius.

**ADV PAUL JOSEPH PRETORIUS:** Yes. Mr Zuma in fairness to yourself once again we can open a channel of communication of some order here. Your legal representative and I stress the singular will

have an opportunity to re-examine you as a matter of right. And if anything needs to be clarified or if you ever think of anything by way of explanation that opportunity will be available. But for the moment if you want to take a moment to read you have been informed that Advocate Mtolo has a different version but what I am putting to you here is the statement of Ms Mentor not Advocate Mtolo that is what she says. And you have given your answer.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes.

**ADV PAUL JOSEPH PRETORIUS:** So at least we are on the same page  
10 I think.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Okay.

**ADV PAUL JOSEPH PRETORIUS:** Thank you. The matter then came before the Public Protector and I know in your opening you have made some submissions or statements concerning the Public Protector process and so if you wish to comment on any of the paragraphs following paragraph 124 on page red 51 please feel free to do so. If you need time to look at them that is in order. I know it is a matter of some – that to which you paid some attention thus far in these proceedings. I do not intend to ask you any questions in relation to the  
20 latter part of the statement.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Okay.

**ADV PAUL JOSEPH PRETORIUS:** But if you wish to comment you free to do so.

**MR JACOB GEDLEYIHLEKISA ZUMA:** No.

**ADV PAUL JOSEPH PRETORIUS:** May we then...

**CHAIRPERSON:** Well if you are moving away from that statement Mr Pretorius I have got some questions.

**ADV PAUL JOSEPH PRETORIUS:** Yes.

**CHAIRPERSON:** With regard to Ms Mentor's statement – evidence that she was at one stage in – at the residence of the Gupta's when either Mr Ajay Gupta or one of the Gupta brothers offered her the job of Minister of Public Enterprises and she says you entered the room when she was getting I think she says confrontational because she took objection to somebody other than the President offering her the job of a  
10 Minister. She says that when you entered the room she rose – she stood up and she says as is customary as is protocol when the President comes in she says Mr Gupta just continued sitting down. She says you spoke to her, asked her to come down because she was agitated because of this offer that was made to her by somebody other than the President and she says you asked her to come down and when she indicated that she wanted to leave because she did not want to miss her flight she says you walked her to the car outside and you even carried her bag and walked with her. She says when you came to the car you said your goodbyes and – and I think you said something like  
20 we will see each other Ntombazane I think she says you used that word, Zulu word Ntombazane and she said you were – you were calm, you tried to calm her. She says she told you about what Mr Gupta had said to her but she says you were concerned about calming her down and you walked her to the car and you helped her with her bag. You have no recollection whatsoever of any incident like that?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No recollection at all. Nothing absolutely nothing.

**CHAIRPERSON:** And – and is it – it is not possible that it could have happened? It is not a question of you do not remember but maybe did happen. Are you positive it never happened?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Never, never.

**CHAIRPERSON:** Yes

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes.

**CHAIRPERSON:** Yes. And – and you said you have – you also do not  
10 remember that she had been trying to meet with you for some time on  
some issue that related to the Portfolio Committee in which she was  
involved before – before this incident?

**MR JACOB GEDLEYIHLEKISA ZUMA:** I do not remember that either.

**CHAIRPERSON:** Hm.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Members of Parliament there is  
a person in Parliament who is responsible for the matters of the  
President and Deputy President. Anyone if you have difficulties to find  
the President or the Deputy President will go to that person who works  
with the President and that is the person who arranges meetings.

20 **CHAIRPERSON:** Yes. And that is the person through whom she would  
have had to go

**MR JACOB GEDLEYIHLEKISA ZUMA:** Absolutely.

**CHAIRPERSON:** To go in order to arrange for a meeting?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Absolutely.

**CHAIRPERSON:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Absolutely that what – would have happened.

**CHAIRPERSON:** Hm. You – you might not be able to say but do you by any chance know why if indeed this did not happen why Ms Mentor would say it happened and gave – and give the kinds of details that she has given?

**MR JACOB GEDLEYIHLEKISA ZUMA:** I do not know why.

**CHAIRPERSON:** You do not know?

**MR JACOB GEDLEYIHLEKISA ZUMA:** I do not know.

10 **CHAIRPERSON:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Absolutely.

**CHAIRPERSON:** Of course in this commission the investigation has not been finalised as far as I know to establish whether the airlines have got a record of her flying to Johannesburg on the dates that she had given. So we are waiting to see whether there is such a record of her having come to Johannesburg then.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Okay.

**CHAIRPERSON:** But I just thought it is important that I get a categorical answer.

20 **MR JACOB GEDLEYIHLEKISA ZUMA:** Okay.

**CHAIRPERSON:** Hm. And then I would like to take you back to Mr Maseko. You do not have to go to the statement. When everything is done I have to make certain findings on evidence that I have heard. And it is important therefore that I should get clarification and get perspectives from different people. Mr Maseko has come to the

commission and said he had been CEO of GCIS and he had performed his duties very well. No-one in terms of his seniors had complained about him not doing his work properly and he says – he said Minister Chabane actually said that he was a very good I think civil servant might be the name – the word that was used – the term that was used. He said he was very happy with his work and he says he never asked to be removed from the position of CEO of GCIS and to be transferred to Director General of the Department of Public Services and Administration. And he says the only reason why he was – as far as he

10 knows he was removed is what he was told by Minister Chabane. Namely that you had called and said Mr Maseko needed to be redeployed or his services terminated. And actually if I recall correctly he said Minister Chabane told him that by the time you arrived back in the country Ms Maseko should no longer be at GCIS. And he says he believes that he was removed from this position at GCIS of CEO because he did not cooperate with the Gupta's. Now part of this has been – you have been given a chance to comment of [indistinct] but I think I wanted to give you a full picture and enable you to see whether you have anything to add to what you had said.

20 **MR JACOB GEDLEYIHLEKISA ZUMA:** No I have nothing to add. Absolutely nothing. Because DG's deal with Ministers not the President. There is no President who can say I do not like this DG. Not working with me. Unless you talk about the DG at the President – at the President's office. No reason why I should look at the DG down there and say I do not want - take it – take him out. It can never



happen. It is Ministers who deal with the DG"s. If there would have been any discussion there will be discussion if the Minister is reporting to the President and says this is what I wish should happen. In other words presenting the matter so that the matter is going to be discussed. It never goes this way.

**CHAIRPERSON:** But is your evidence that this is what normally happens – this is what normally happens in terms of the removal of DG's and you cannot specifically remember the circumstances under which Mr Maseko was removed or is the position that you have a clear  
10 recollection that the circumstances under which he was removed involved Minister Chabane asking you if you could transfer him to the Department of Public Services and Administration.

**MR JACOB GEDLEYIHLEKISA ZUMA:** No that is what happens. Ministers if they have got whatever view about their accounting officers they make – they have the case whatever it is they then consult with the President. It has never started from the President because the President is not working with the person.

**CHAIRPERSON:** He said also that as I understand his evidence I hope I am not misrepresenting him. As I understood his evidence he said –  
20 or suggested that his removal was done very urgently. Was effected very urgently, very quickly because of what he said Minister Chabane told him that you – by the time you arrive back he should not be in that position. And he says it was so urgent that Minister Baloyi who was Minister of Public Service and Administration at the time had not been consulted about him – that is Ms Maseko being taken to his department

to be DG. He says Minister Baloyi had for the first time from him that he was going to be his new DG. You do not know anything about that?

**MR JACOB GEDLEYIHLEKISA ZUMA**: No nothing.

**CHAIRPERSON**: Ja.

**MR JACOB GEDLEYIHLEKISA ZUMA**: It does not work like that really.

**CHAIRPERSON**: Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA**: I do not think you could have a Minister of Public Administration not knowing and then just people saying here is a person. Because Ministers if for an example there is  
10 to be a shift Ministers discuss among themselves.

**CHAIRPERSON**: Hm. Because...

**MR JACOB GEDLEYIHLEKISA ZUMA**: And they come to say when the – they have got an agreement to say no this is what we are doing. Seeking endorsement therefore from the cabinet.

**CHAIRPERSON**: And he said that as a result of the way in which he had been placed in the Department of Public Service and Administration Minister Baloyi was not happy and their relationship did not become good and he resigned before his term could come to an end. So I am just giving you the full picture. That is the – that is what he say – he is  
20 saying – he says I had no reason to leave GCIS I did not ask to be transferred to the Department of Public Service and Administration. My Minister was happy with my performance and I was transferred to the Department of Public Services and Administration in circumstances where the Minister of that department was not consulted. He was not happy that I had been imposed on him. Our relationship was not good.

I resigned before the expiry of my term. You might not have anything further to add but I am just giving you a full picture of what his evidence is.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Hm.

**CHAIRPERSON:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** No I have nothing to add really.

**CHAIRPERSON:** Yes, yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** I have nothing to add.

**CHAIRPERSON:** Okay thank you. Mr Pretorius.

10 **ADV PAUL JOSEPH PRETORIUS:** Thank you Chair. Mr Zuma you did mention that you were suffering from the flu is it okay to continue still?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Ja we can continue.

**ADV PAUL JOSEPH PRETORIUS:** Good. May we go to bundle B I would like to deal with the statement of Barbara Hogan. It is in bundle B.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Bundle B.

**ADV PAUL JOSEPH PRETORIUS:** GG[b] Exhibit GG[b]. You will find the statement at the beginning of that bundle under Tab 5.

20 **MR JACOB GEDLEYIHLEKISA ZUMA:** Hm. It is there okay. I thought it was called bundle B. Oh ja. Here it is.

**ADV PAUL JOSEPH PRETORIUS:** Do you have that bundle before you and that statement?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Yes.

**ADV PAUL JOSEPH PRETORIUS:** And can I take you please to the second statement because there is short statement which I am not

going to deal with but a longer statement which forms the subject matter of evidence. It appears at page 399 in the red markings.

**MR JACOB GEDLEYIHLEKISA ZUMA**: 399.

**ADV PAUL JOSEPH PRETORIUS**: Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA**: Okay.

**CHAIRPERSON**: Well the actual statement starts at 400 is it not?

**MR JACOB GEDLEYIHLEKISA ZUMA**: Ja it starts at 400.

**CHAIRPERSON**: The actual statement Mr Pretorius?

**ADV PAUL JOSEPH PRETORIUS**: Yes the contents page is page 399

10 and the substantive part of the statement is at page 400. If I am – in the – I will come back to the paragraph headed the Purpose of the Statement at the end. These are really conclusions that we may deal with at the end of the statement.

**MR JACOB GEDLEYIHLEKISA ZUMA**: Okay.

**ADV PAUL JOSEPH PRETORIUS SC**: But for the moment can we turn to page 403? One of the topics that has been dealt with by a number of witnesses Mr Zuma in this Commission thus far is the manner in which State Owned Entities Board Members are appointed and the manner in which Chief Executive Officers, Chief Financial Officers and perhaps  
20 other Senior Executives are appointed and perhaps you can help us with the knowledge and experience you have in regard to appointments of SOE Board Members and SOE Senior Executives and the relationship between the manner in which those appointments take place and what we have learnt is the policy of deployment and if I may I would like to ask you some questions about that in relation to what

Ms Hogan says in particular. If I can read paragraph 18 of her statement. She says:

“A general illustration of the appointment process of a CEO and/or a Board Member during my tenure as Minister of the DPE ...”

That is the Department of Public Enterprises.

10 “...was that, under the direction of the Director General of DPE, the DPE would conduct professional searches, head hunt candidates, follow up on recommendations by industry experts or, in some cases, recommendations by the Board.”

A Deputy Minister at the time Mr Zuma as you would know was Mr Godongwana. She says that:

“Mr Godongwana and I would constantly engage on these issues and the DG would draw on the skills and expertise of specialist sectoral units within the DPE with respect to suitable candidates.”

She then goes on before I ask you to comment please Mr Zuma in paragraph 19 to say:

20 “Once I had approved of the compilation of a Board, I would send a Cabinet decision memorandum to the Economic Sub-Committee of Cabinet for approval, and then to the Cabinet for final approval. A Minister may make a special appeal to the President to bypass the Sub-Committee process

and proceed straight to Cabinet for final approval of matters that are urgent.”

She goes into more detail later which we can do before you answer if you wish but do you have any comment on the general process that Ms Hogan says was followed under her tenure as Minister?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No. I think the – the process as described here that is how it is.

**ADV PAUL JOSEPH PRETORIUS SC:** That is how it is?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Hm.

10 **ADV PAUL JOSEPH PRETORIUS SC:** And when you say how it is, is that for the time during which you were President or including before and after?

**MR JACOB GEDLEYIHLEKISA ZUMA:** Even before and there is one – there is one system that works.

**ADV PAUL JOSEPH PRETORIUS SC:** One system?

**MR JACOB GEDLEYIHLEKISA ZUMA:** *Ja.*

**ADV PAUL JOSEPH PRETORIUS SC:** In paragraph 20 she says:

20 “Sub-Committees of Cabinet meet every second week and Cabinet meets in the week following the Sub-Committee meeting. The President chairs Cabinet meetings and approves the agenda drawn up by the Cabinet Secretariat, so he has a decisive role on what goes onto the agenda.”

That mentions the President in particular. Do you have any comment about the process there outlined?

**MR JACOB GEDLEYIHLEKISA ZUMA:** It is correct.

**ADV PAUL JOSEPH PRETORIUS SC:** It is correct. Then she continues again in paragraph 20:

“As part of the Cabinet collective, Ministers do, however, tend to involve Cabinet in the exercise of their powers to appoint the CEO, both as the Executive Authority in terms of the Public Finance Management Act and as the shareholder representative on behalf of the State.”

10 And do you have any comment in regard to that qualification to the procedure that she raises?

**MR JACOB GEDLEYIHLEKISA ZUMA:** No comment.

**ADV PAUL JOSEPH PRETORIUS SC:** She then says in paragraph 21:

“The Department of Public Enterprises conducted an assessment of the extent of Cabinet’s involvement in order to establish the trend and the nature of its involvement.”

She then speaks of a review. She says:

20 “To this end, a review was conducted of previous decisions of Cabinet spanning from April 2002 to February 2009 relating to appointments of CEOs of a variety of SOEs. The results showed that Cabinet’s involvement varied between approval (ten times), concurrence (six times) and noting (twice) of the relevant Minister’s decision, indicating that

every CEO appointment is dealt with on a case by case basis having considered the size, importance and circumstances facing the SOE at the time of making the appointment.”

Perhaps in fairness to you I should ask an introductory question. Do you know anything of that survey?

**MR JACOB GEDLEYIHLEKISA ZUMA**: Which survey?

**ADV PAUL JOSEPH PRETORIUS SC**: She refers to a survey or a review more accurately. She said:

10           “There was a review conducted of previous decisions of Cabinet spanning the period April 2002 to February 2009.”

Do you know anything of such a review?

**MR JACOB GEDLEYIHLEKISA ZUMA**: Review of the SOEs?

**ADV PAUL JOSEPH PRETORIUS SC**: Yes. Appointment – well it is a review of previous decisions of Cabinet. In other words what was reviewed were the decisions of Cabinet relating to the appointment of CEOs of a variety of State Owned Entities. So it is a review of Cabinet decisions but those decisions of Cabinet related to appointments of  
20 CEOs of SOEs.

**MR JACOB GEDLEYIHLEKISA ZUMA**: They would – I mean the review of decisions not a particular decision.

**ADV PAUL JOSEPH PRETORIUS SC**: No not of a particular decision.

**MR JACOB GEDLEYIHLEKISA ZUMA**: Hm.

**ADV PAUL JOSEPH PRETORIUS SC**: It just – it appears that the



review was (intervenes).

**CHAIRPERSON:** May – maybe Mr Pretorius – maybe – maybe let me put it this way. I think I understand what you – you want to put to him. It looks like what Ms Hogan is talking about is that there was a review of how decisions to appoint CEOs of SOES had been taken by Cabinet over a certain period of years and it looks like she is saying that was a review of how those decisions were taken during the period April 2002 to February 2009.

Do you know anything about such a review to see how  
10 Cabinet had been making those decisions between that period – 2002 to 2009?

**MR JACOB GEDLEYIHLEKISA ZUMA:** I – I do not ...

**CHAIRPERSON:** You do not know anything about it?

**MR JACOB GEDLEYIHLEKISA ZUMA:** I do not recall it ...

**CHAIRPERSON:** Yes.

**MR JACOB GEDLEYIHLEKISA ZUMA:** For now.

**CHAIRPERSON:** Okay.

**MR JACOB GEDLEYIHLEKISA ZUMA:** Absolutely.

**CHAIRPERSON:** It might have been a departmental review that might  
20 not have involved maybe the Cabinet Mr Pretorius.

**ADV MUZI SIKHAKANE:** Chair ...

**CHAIRPERSON:** Yes.

**ADV MUZI SIKHAKANE:** I am about to overrule my own client. I think it is – I would like us to adjourn for the day.

**CHAIRPERSON:** Okay.

**ADV MUZI SIKHAKANE:** It is with your ...

**CHAIRPERSON:** How much time?

**ADV MUZI SIKHAKANE:** If he is not – no for the day.

**CHAIRPERSON:** Oh for the day?

**ADV MUZI SIKHAKANE:** Yes.

**CHAIRPERSON:** Okay.

**ADV MUZI SIKHAKANE:** If it is fine with the Chair.

**CHAIRPERSON:** No.

**ADV MUZI SIKHAKANE:** I am overruling the former President.

10 **CHAIRPERSON:** We can adjourn. You overruling the former President?

**ADV MUZI SIKHAKANE:** It is the only time I will ever have to do this.

**CHAIRPERSON:** Mr Pretorius any problem?

**ADV PAUL JOSEPH PRETORIUS SC:** I have no objection. It has been a strenuous day ...

**CHAIRPERSON:** A long day, yes.

**ADV PAUL JOSEPH PRETORIUS SC:** And ...

**CHAIRPERSON:** Yes.

20 **ADV PAUL JOSEPH PRETORIUS SC:** Far from me to judge it seems that ...

**CHAIRPERSON:** Yes.

**ADV PAUL JOSEPH PRETORIUS SC:** It would be appropriate ...

**CHAIRPERSON:** Okay.

**ADV PAUL JOSEPH PRETORIUS SC:** To take a break.

**CHAIRPERSON:** Okay. Well I must also say earlier on I had given

instructions that the air conditioner should be put on. It was quite hot. I do not feel like it is on now. I do not know whether that instruction was not carried out or whether it is just that the house is fuller than normal. Alright. We – we will adjourn for the day and we will start at 10 tomorrow morning. We adjourn.

**REGISTRAR:** All rise.

**INQUIRY ADJOURNS TO 17 JULY 2019**