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20

PROCEEDINGS RESUME ON 23 JULY 2019

CHAIRPERSON: Good morning Ms Butheleze, good morning everybody.

ADV ZINHLE BUTHELEZI: Good morning Chair.

CHAIRPERSON: Yes are you ready?

ADV ZINHLE BUTHELEZI: Yes Chair.

CHAIRPERSON: Okay.

ADV ZINHLE BUTHELEZI: Chair before I proceed today there are just a few things that I need to clarify from yesterday's evidence with Mr
10 Venter. Mr Venter the first issue that I wish to clarify is that in your evidence yesterday you said there were about 600 people at Premier's office in the Free State. I want to understand what do these people do?

MR ALBERTUS JOHANNES VENTER: Chairperson they are employees which are occupying posts in the structure which consists of the four programmes that I alluded to yesterday. As I have indicated that there is a significant number of community development workers in the department which are – who are attached to programme 4 and those
20 community development workers are distributed in municipalities, the ideal position is one per ward but we do not have sufficient funds to fill all the vacant posts but that is basically a link between the community and the department through programme 4 and the intervention unit in programme 4 to which I also referred yesterday.

ADV ZINHLE BUTHELEZI: Okay. And is this historical or it only came – it only became a case when programme 4 was introduced?

MR ALBERTUS JOHANNES VENTER: Chair it is difficult for me to remember. The community development workers were previously housed in the Department of Cooperative Governance and Traditional Affairs and the intervention unit was in the office of the Premier based – in programme 3 which consisted of both policy and planning and monitoring and evaluation. Those two functions were separated at a certain point in time specifically because the one programme cannot monitor and evaluate the same programme so the idea was to create a separate programme who can independently also monitor the other
10 three programmes in the office of the Premier.

ADV ZINHLE BUTHELEZI: Okay. And the other issue that I wanted to clarify with you is the issue of the Department giving the office of the Premier or using the office of the Premier when they need to draft contracts. I want to understand do different departments in the province have their own legal advisors or legal departments?

MR ALBERTUS JOHANNES VENTER: Yes Chairperson. Only the Department of Sports, Arts, Culture and Recreation does not have in-house or their own legal advisors. All the other departments do have their own legal advisors.

20 **ADV ZINHLE BUTHELEZI:** Yes and what sort of or type of contracts then get to be drafted by your office and which contracts do they draft themselves?

MR ALBERTUS JOHANNES VENTER: Chairperson there was a directive in 2010 that all contracts should be submitted to the office of the state law advisors in the office of the Premier for the reasons that I

alluded to yesterday which I think prompted at least part of that decision. But for instance if it is a repetitive contract for – if I can perhaps refer to a lease agreement which is a standard agreement and it is basically just a small set of information in that agreement that differs from lease to lease. It is not necessary to be referred to us unless significant changes are required.

ADV ZINHLE BUTHELEZI: Okay and yesterday when we parted you were dealing with the opinion that you gave to the municipal manager – Phumalele Municipality Mr Moremi. In the case of municipalities do
10 they also have their own legal advisors? What sort of matters get referred to your office by the municipalities?

MR ALBERTUS JOHANNES VENTER: Chairperson some of the bigger municipalities do have legal advisors but I am also aware that the small municipalities in the province do not have their own legal advisors and there was an invitation to these municipalities from the Executive Council and the Premier that if they have legal problems that it could be referred to the State Law Advisors and we will assist them where we can and we are doing it up to today.

CHAIRPERSON: With regard to matters that relate to departments
20 within the provincial government where – which have their own legal advisors did the need – was the need for those departments to send contracts to the Legal Advisors in the office of the Premier based on insufficient experience or capacity or expertise or was the position that the legal advisors in those departments were in themselves – were themselves experienced people with the required expertise but there

was some other reason why they were nevertheless required to submit contracts to the legal advisors in the office of the Premier?

MR ALBERTUS JOHANNES VENTER: Chairperson at the point in time when the directive was issued it was my sense that there was a turnover of officials in other departments who occupied posts of legal advisors or legal administration offices and the capacity – there were certainly capacity issues. I indicated yesterday that I personally noted signed contracts which does not protect the interest of government or where there are clauses such as the indemnity clause which were
10 contrary to the provisions of the Public Finance Management Act and I raised those concerns and I cannot say that my concerns that I raised prompted that decision. I was not part of the decision making process before that directive was issued. But there were definitely capacity problems. It is better at this point in time but there are also in some departments where there are definitely capacity problems and as I have indicated one department does not have legal advisors at all.

CHAIRPERSON: Who issued the directive?

MR ALBERTUS JOHANNES VENTER: Chairperson the directive was issued by the previous Premier Mr Magashule. I was not present in the
20 meeting but it was a meeting of heads of departments, accounting officers, chief financial officers and heads of supply chain management and it was later on confirmed in a meeting of the Executive Council.

CHAIRPERSON: So you say although you were not party to the decision to issue that directive but you say on your own you are able to say that there were certain capacity challenges at least in regard to

some departments and from that point of view you would have seen the directive as maybe a way of trying to assist with capacity?

MR ALBERTUS JOHANNES VENTER: That is correct Chairperson.

That is how I perceived it at that time.

CHAIRPERSON: Yes okay.

MR ALBERTUS JOHANNES VENTER: And I may just mention Chairperson it was not an isolated incident. We have an electronic case management system through which we manage all the legal work that comes into our unit and I checked yesterday morning and since
10 2010 we handled a 1,423 contracts. So it is a continuous ...

CHAIRPERSON: Yes.

MR ALBERTUS JOHANNES VENTER: Obligation that we have.

CHAIRPERSON: Okay.

ADV ZINHLE BUTHELEZI: Thank you Chair. Let us proceed. On paragraph 2.4 you talk about a further opinion or clarification that you gave to Mr Moremi regarding...

CHAIRPERSON: Is that paragraph 2.4 of his affidavit?

ADV ZINHLE BUTHELEZI: Yes. Of his – of your affidavit yes sorry Chair.

20 **CHAIRPERSON:** That is in Exhibit HH2?

ADV ZINHLE BUTHELEZI: Yes on page 2 of that – of Exhibit HH2 and you attach that clarification as an annexure – Annexure D. Would you please just tell us what – what were you saying in that clarification?

MR ALBERTUS JOHANNES VENTER: Chairperson I assume that the legal advice that Advocate Ditira provided to Mr Moremi the Municipal

Manager on the 23 July 2012 and I refer to Annexure C to my affidavit that that was communicated to the Head of Department and the MEC or either one of the two and they sought an appointment with me to discuss it and I met with both of them. The issue which they raised with me was the fact that they required to have access to the farm to initiate the project as soon as possible. At that point in time the largest portion of the farm as I understood it were let to farmers. And those lease agreements had not expired at that time. Advocate Ditira in her opinion paragraph 9 referred to it. That is the Annexure C on
10 AJV29 Chairperson.

ADV ZINHLE BUTHELEZI: Yes.

MR ALBERTUS JOHANNES VENTER: And she referred to an email of 16 July 2012. And if I remember correctly that email alerted the Department not to engage the farmers with a view to cancel those agreements. We were concerned that it may be regarded as a repudiation. That the repudiation would be accepted and there would be a claim for damages against the municipality which we wanted to avoid at all cost. The further options that she referred to in the last paragraph of her opinion was not clarified and when I met with the MEC
20 and the Head of the Department we discussed other options. As I have indicated in paragraph 4 of my letter and those options were firstly that there should be a lease agreement instead of the company leasing the land from the municipality the Department could enter into a lease agreement with the Municipality. Once the lease agreements with the farmers expired which was not acceptable to the Department because

of their need to as quickly as possible get down to the land or then in order to protect the municipality I proposed that the Department then enter into an agreement with the municipality in terms of which they or which the rights and obligations of the municipality in terms of the lease agreements are assigned and ceded to the Department so that the Department could engage with the farmers without any risk to the municipality. In that meeting the Head of the Department was adamant that he would be able to convince the farmers to an early mutual termination of those agreements and I was not sure exactly he would do
10 it but he was convinced. And I was then requested to amplify the previous advice which Advocate Ditira gave to the municipality and I did that in this letter that I wrote to the Municipal Manager.

ADV ZINHLE BUTHELEZI: Yes and do you know if the – your opinion was followed?

MR ALBERTUS JOHANNES VENTER: Chairperson we – we prepared that Session And Assignment Agreement subsequent to this and it was provided to the Department and the municipality if I remember correctly. I said there was a draft prepared.

ADV ZINHLE BUTHELEZI: You talk about the draft Lease Agreement
20 between the Free State Department and Phumalele local municipality on paragraph 2.5 of your statement.

MR ALBERTUS JOHANNES VENTER: Paragraph sorry?

ADV ZINHLE BUTHELEZI: Paragraph 2.5 of your affidavit it is on page
2.

MR ALBERTUS JOHANNES VENTER: Ja.

ADV ZINHLE BUTHELEZI: Yes. Is this the agreement that was prepared in your office?

MR ALBERTUS JOHANNES VENTER: That is correct.

CHAIRPERSON: May I take you back to page 29 that is the letter from Advocate Ditira. I see that she I think you said it is a she or am I wrong?

MR ALBERTUS JOHANNES VENTER: Yes she.

CHAIRPERSON: Ja that she writes below her name DDG Legal Services. Now you said that your position is DDG Corporate
10 Administration and something else.

MR ALBERTUS JOHANNES VENTER: Ja.

CHAIRPERSON: Okay but you mention the components of your – of your job and they include legal services.

MR ALBERTUS JOHANNES VENTER: Yes.

CHAIRPERSON: So I want to find out whether DDG Legal Services was that she was also occupying the position of DDG but her focus was just legal services or whether that was just meant to refer to relate to the office which you held because as I understand it she reported to you?

MR ALBERTUS JOHANNES VENTER: Yes. Chairperson I may perhaps
20 just explain. I can understand the confusion for a short period she occupied the post of Chief Operating Officer in the Department of Economic Development and Environmental Affairs. And at that post was traded at Deputy Director General in that Department. There was then a decision to abolish that post and she was transferred back to our legal services component but she retained her rank. Although she

occupies up to today the post of Chief Director which is one post level below my own. But her rank is that of a Deputy Director General and she is remunerated at that rank still.

CHAIRPERSON: That is confusing. On the one hand she is paid at the level DDG but the position she occupies and the functions of which she performs are at Chief Director Level.

MR ALBERTUS JOHANNES VENTER: Yes.

CHAIRPERSON: So it is like you – it is like you perform the functions – let me make just an example of a clerk but you are paid at director's level something like that?

MR ALBERTUS JOHANNES VENTER: Chairperson yes. The Section 14 of the Public Service Act which provides for a transfer also provides that if an official is transferred to a post which is lower than the official occupies at the stage of transfer the official will retain their benefits. That is the – how the Act determines it should happen and that is why she occupies that rank.

CHAIRPERSON: But – does the Act not provide for a transfer to a higher position or a lower position depending on circumstances?

MR ALBERTUS JOHANNES VENTER: Chairperson to a lower position in terms when you are transferred to a higher post that must be through a selection process.

CHAIRPERSON: If it is to a higher position?

MR ALBERTUS JOHANNES VENTER: If it is to a higher position.

CHAIRPERSON: Ja no but I am talking about to an equal...

MR ALBERTUS JOHANNES VENTER: Ja.

CHAIRPERSON: Position – of equal level that is fine.

MR ALBERTUS JOHANNES VENTER: Yes.

CHAIRPERSON: But what I am asking is whether the does Act does not actually also allow transfer to a lower position and of course I think that has to be with your consent I take it? But the other transfer maybe also has to be with consent but I know that in public service at least with regard to certain departments but maybe the whole public service you can be transferred even without your consent if it is considered to be in the public interest or something like that.

10 **MR ALBERTUS JOHANNES VENTER**: Correct.

CHAIRPERSON: So – so therefore it cannot – it cannot be that it is as if – if it is a transfer you can only be transferred to an equal position. You can be transferred to a lower position as well.

MR ALBERTUS JOHANNES VENTER: That is indeed correct Chairperson.

CHAIRPERSON: Yes

MR ALBERTUS JOHANNES VENTER: With the retention of your benefits of the post which you occupied immediately before the transfer.

20 **CHAIRPERSON**: Ja well I guess it a side issue. It is a very strange thing to me.

MR ALBERTUS JOHANNES VENTER: Ja.

CHAIRPERSON: That your services are required at a lower position the functions that you perform the responsibilities are at a lower level not at a higher level.

MR ALBERTUS JOHANNES VENTER: Yes.

CHAIRPERSON: But you are paid at a higher level. Now you are not paid for the functions you perform you are paid for functions that you do not perform.

MR ALBERTUS JOHANNES VENTER: Ja that is the effect of that provision.

CHAIRPERSON: Yes.

MR ALBERTUS JOHANNES VENTER: That is the effect.

CHAIRPERSON: Okay alright.

10 **ADV ZINHLE BUTHELEZI:** Thank you Chair. This agreement between the Phumalele Municipality and the Free State Government who are supposed ...

CHAIRPERSON: I am sorry Ms Butheleze I just want to complete what we were talking about. But if the position that she then occupies in your unit is that of Chief Director is that not the designation that should appear in the letters that she writes?

MR ALBERTUS JOHANNES VENTER: I totally agree with you Chairperson.

CHAIRPERSON: Yes.

20 **MR ALBERTUS JOHANNES VENTER:** I mean I raised it with her.

CHAIRPERSON: Yes.

MR ALBERTUS JOHANNES VENTER: Ja it is correct that.

CHAIRPERSON: Not DGG.

MR ALBERTUS JOHANNES VENTER: Ja.

CHAIRPERSON: Because that is not – she does not occupy such a

position in your unit.

MR ALBERTUS JOHANNES VENTER: Yes.

CHAIRPERSON: There is no such position in your unit?

MR ALBERTUS JOHANNES VENTER: Yes that is correct.

CHAIRPERSON: Ja okay.

ADV ZINHLE BUTHELEZI: Thank you Chair. If we may proceed then? We still on point 2.5 of your affidavit. If it is an agreement between this – the Provincial Government and the local Municipality who should be the signatories of that particular agreement?

10 **MR ALBERTUS JOHANNES VENTER:** The lease agreement on behalf of the Free State Provincial Government was supposed to be signed in terms of the Free State Land Administration Act by the Premier. After a decision was taken in consultation with the MEC for Public Works being delegated by the Executive Council and on behalf of the municipality by the municipal manager authorised by the council I presume.

CHAIRPERSON: I am completing out discussion as I think about it – what we were talking about just now about the position for Ms Ditira. It seems that actually legally it is quite risky for her to use a position that does not exist in the unit because if as Chief Director she has powers
20 to make certain decisions and she is required to make those decisions as Chief Director and she makes those decisions and writes DDG Legal Services a position that does not exist somebody who is adversely affected by that decision could challenge it on the basis that she exercised powers that she does not have because as – there is no position of DDG Legal Services. She could only exercise powers that

are attached to Chief Director.

MR ALBERTUS JOHANNES VENTER: Chairperson that is correct.

CHAIRPERSON: Yes

MR ALBERTUS JOHANNES VENTER: Although in terms of the job description of the job that she occupies there are no specific decision making powers.

CHAIRPERSON: Yes

MR ALBERTUS JOHANNES VENTER: And allocated to herself. But I understand completely.

10 **CHAIRPERSON:** Yes.

MR ALBERTUS JOHANNES VENTER: The argument which you make Chairperson.

CHAIRPERSON: Yes. But if she gives legal advice also that legal advice is only supposed to be given in her position as Chief Director.

MR ALBERTUS JOHANNES VENTER: That is correct.

CHAIRPERSON: Not in any other position because there is no position called DDG Legal Services.

MR ALBERTUS JOHANNES VENTER: That is correct.

CHAIRPERSON: Hm.

20 **ADV ZINHLE BUTHELEZI:** Thank you Chair. Now I just want to add on your questions now. Mr Venter do you know how long did she stay with the Department of Economic Development?

MR ALBERTUS JOHANNES VENTER: Chairperson I do not have a vivid memory of the time period but it was not long. It was not long.

ADV ZINHLE BUTHELEZI: Thank you Chair. Then let us go back to

your affidavit. You were saying if it is between the local municipality – Phumalele Municipality and the Free State Department or Free State Provincial Government it was supposed to be signed by a municipal manager and the Premier. In this instance what happened?

MR ALBERTUS JOHANNES VENTER: Chairperson I do not think agreement was ever signed. We did the draft but it was not signed.

ADV ZINHLE BUTHELEZI: So the drafts that you did was for the Premier and the – for the Premier to sign and the Municipal manager to sign?

10 **MR ALBERTUS JOHANNES VENTER:** Yes.

ADV ZINHLE BUTHELEZI: Yes. On paragraph 2.6.

MR ALBERTUS JOHANNES VENTER: Yes.

ADV ZINHLE BUTHELEZI: You deal with the delegation of authority that happened. Could you please just take us through those events?

MR ALBERTUS JOHANNES VENTER: Chairperson in my meeting with the Head of Department and MEC for Agriculture and Rural Development I indicated to them that in my view if the Free State Provincial Government will receive the responsibilities and the obligations in terms of the agreement which the municipality had with
20 the farmers on the land that could fall within the definition of acquire in the Free State Land Administration Act. And if I am correct it means that the Premier must then take the decision to enter into that agreement in consultation with the MEC for Public Works as delegated. And subsequent to our meeting in a meeting of the Executive Council when there was a break in the meeting I was requested by the MEC and

the Head of Department to meet briefly with the Premier and to explain that to the Premier. Which I did and I also explained to the Premier that in terms of Section 5 of The Land Administration Act he is entitled to delegate that authority to a member of the Executive and that the member of the Executive is also authorised in terms of the same section of the act to delegate it to an official of government. The Premier then indicated his willingness to delegate and he requested me to prepare the delegation for him but also to include in the delegation that it is done on the advice of the State Law Advisors which I included
10 in that delegation. I also then prepared a delegation from the MEC for Agriculture and Rural Development to the Head of the Department of Agriculture and Rural Development to enter into the agreement to assign the responsibilities from the municipality to the Free State Provincial Government.

ADV ZINHLE BUTHELEZI: If I may – if I may ask why did you suggest that the Premier should delegate.

MR ALBERTUS JOHANNES VENTER: No I did not suggest I advised. I got a sense that he does not want to be involved and that is why I advised that it is possible that he can delegate.

20 **ADV ZINHLE BUTHELEZI:** Yes and with the MEC?

MR ALBERTUS JOHANNES VENTER: The MEC also indicated that he will want to – he wants to delegate that to the Head of the Department who must deal – run with the process.

ADV ZINHLE BUTHELEZI: Yes.

CHAIRPERSON: I think you – I think there is a certain distinction you

want to make between what you did and suggesting that he delegate. Now if you say I advised him to delegate that is very close to I suggested that he should delegate. But I think what you seek to do is that what you want to say is that you gave advice that it is possible – that it was possible for him. It was open to him to delegate if he wanted to.

MR ALBERTUS JOHANNES VENTER: That is indeed correct.

CHAIRPERSON: That is what you want to say?

MR ALBERTUS JOHANNES VENTER: Yes.

10 **CHAIRPERSON:** Okay.

ADV ZINHLE BUTHELEZI: Thank you Chair for the clarity and with regards to MEC how did it come about that he delegated to the HOD?

MR ALBERTUS JOHANNES VENTER: Chair if I remember correctly I indicated to him that he can also delegate. It is authorised in terms of the Act and the indicated that he – that he so wished to do.

ADV ZINHLE BUTHELEZI: Mr Venter there is a principle that is widely known that a delegate cannot delegate further. What then empowered the MEC to delegate further – to delegate further?

CHAIRPERSON: Have you stated the principle correctly Ms Buthelezi?

20 You must be careful.

ADV ZINHLE BUTHELEZI: Yes. It is – it is the principle of *delegatus non potest delegare*.

CHAIRPERSON: *Ja*, but it does not say what you say – what you say it says.

ADV ZINHLE BUTHELEZI: That is my – my sort of summary or my

understanding of what it says. That a delegate cannot ...

CHAIRPERSON: Does it – does it not mean that – well you – you have got to reflect very carefully if you are going to put it to – to a witness.

ADV ZINHLE BUTHELEZI: Yes.

CHAIRPERSON: Certainly if the original power provides for delegation it can be done. Okay. So the option is whether there is provision in the legislation that if you are given this particular power you delegate because if there is such a provision obvious a delegation can happen. The other situation is where there is no – no express provision in the
10 legislation whether you can delegate if you are given power or not and that is when some principle can come in and – and maybe it is not even a principle.

It is – it might just be a presumption rather than a principle. So – but all I am simply saying is just be careful how you put it.

ADV ZINHLE BUTHELEZI: Thank you, thank you Chair.

CHAIRPERSON: I do not know if it is necessary to - to go there ...

ADV ZINHLE BUTHELEZI: Thank you Chair.

CHAIRPERSON: Because I do not know if he is giving evidence as an expert.

20 **ADV ZINHLE BUTHELEZI**: I understand Chair but may – may ...

CHAIRPERSON: So - but you might have – might have to make up your mind whether you want to ask. It just depends what you want to achieve.

ADV ZINHLE BUTHELEZI: Thank you. Was there law or legislation that was empowering the MEC now to delegate further to someone who

is in a lower rank than he was?

MR ALBERTUS JOHANNES VENTER: Chairperson, yes. Section 1 of the Free State Land Administration Act provides that the Premier may subject to conditions and so on delegate to any member of the Executive Council the responsibility of the Premier in terms of this Act and then in terms of Section 5.2 of this Act it provides that the member of the Executive Council may then delegate to any official in the service of the Provincial Government. So it is authorised expressly in the Act.

ADV ZINHLE BUTHELEZI: Thank you. Let us move on to paragraph
10 2.7 of your statement. This is the second advice that you gave to Moremi relative to Section 16 of the Deeds Registry Act. Could you please take us through this opinion that you gave to Mr Moremi?

CHAIRPERSON: I am sorry. Where did you say we should go?

ADV ZINHLE BUTHELEZI: To – it is – it is paragraph 2.7.

CHAIRPERSON: Okay.

ADV ZINHLE BUTHELEZI: Yes and the – the said opinion you attach to your affidavit as Annexure E. Annexure E appears from page 33 Mr Venter.

MR ALBERTUS JOHANNES VENTER: Chairperson in - in
20 December 2012 I received a request for advice from Mr Moremi who submitted documents to me to advise him on. When I read through the documents the documents that was perhaps in my affidavit wrongly - and I apologise for that - referred to a lease agreement. It was not a lease agreement.

It was a Cession and Assignment Agreement and that Cession

and Assignment Agreement ceded and made over all the rights of the municipality in respect of the farm to the Free State Provincial Government and I – when I read through it I immediately sensed that it was inconsistent with my previous advice in the letter that I gave on the structure that I proposed of the assignment of the agreement so that there could be an engagement with the farmers and the lease agreement could then be entered into between the municipality and the Free State Provincial Government.

10 That initial advice was premised also on the fact that the municipality received an annual income from the lease agreements to more or less a million Rand and given the fact that it was a small municipality they simply could not forfeit that in – income over any period of time but the documents that I was presented or provided with by Mr Moremi indicated that the cession and assignment was not for a limited period and that there was no compensation to the municipality in those documents and I advised him accordingly in my letter which is attached that it is inconsistent.

ADV ZINHLE BUTHELEZI: Thank you. Do you have any knowledge then what happened to this agreement after you – your advice?

20 **MR ALBERTUS JOHANNES VENTER:** Chairperson at a very late stage and that was about more than a year after this letter I became aware that there was in fact a transfer of the property to the Free State Provincial Government and a 99 Year Lease concluded with Estina. I was for a long period totally unaware of that.

ADV ZINHLE BUTHELEZI: Thank you Chair. More information with

regards to that issue will be taken up with other witnesses. Thank you Mr Venter. Can we then move to paragraph 2.8 of your statement where you deal with the Beneficiary Agreement or agreements that were brought to you at some stage? Do you remember when these agreements were brought to your attention?

MR ALBERTUS JOHANNES VENTER: Chairperson I cannot recall the exact date but it was towards the end of 2013. When I say towards the end October to December. I – I am not – I do not have the exact date anywhere in my records.

10 **ADV ZINHLE BUTHELEZI:** And who brought this agreement to you – to your office?

MR ALBERTUS JOHANNES VENTER: Chairperson it was Dr Masiteng – (coughing) my apologies. He is an employee of the Department of Agriculture and Rural Development and if I remember correctly he occupied the post of Chief Director District Services and there were people with him and I cannot recall who it was.

ADV ZINHLE BUTHELEZI: Yes and who drafted these agreements?

MR ALBERTUS JOHANNES VENTER: Chairperson I do not know. When they submitted it to me it was already drafted and signed.

20 **ADV ZINHLE BUTHELEZI:** Yes. I understand that at that stage your opinion was sought. What was – if I may rephrase. What was the reason for bringing this agreements to your attention?

MR ALBERTUS JOHANNES VENTER: Chairperson I – my recollection is that my opinion was – was sought on those beneficiary agreements which I was presented with. I was also presented with a list of names

of other beneficiaries except the names that or the name that appear – appeared in the contract. I very briefly looked at that contract and if I think back I am a bit embarrassed how he reacted.

I was quite annoyed what I read and I expressed that in – in no uncertain terms to Dr Masiteng. I noticed that on – he signed on behalf of the department and I asked him whether he was delegated. He indicated not and I say you can thank heavens that you are not delegated because this agreement is not valid because you were not properly delegated.

10 The problems that I just picked up from a very cursory glance at the agreement was that it was not clear what was transferred to the beneficiary. It just referred that the project is transferred and how the other beneficiaries will fit in. At that stage they were not in a cooperative or a company. It was just individuals but it also contained clauses that the beneficiary may dispose of the assets of – of the project.

So I said to them if these beneficiaries now decide to sell these profits or the project assets which you spent a lot of money on tomorrow in terms of this agreement they can do it. So I said to them
20 that that agreement is totally, totally inappropriate for the purpose I think that they wanted to use it for and they left my office. We had no further discussion then on the Beneficiary Agreement.

ADV ZINHLE BUTHELEZI: Thank you Chair. That agreement appears on reference bundle – reference Bundle C page 1333. It is towards the end of that bundle page 1333. Yes. Could you please just take us to

the – those clauses that you were referring to?

CHAIRPERSON: Let me get the bundle first Ms Buthelezi.

ADV ZINHLE BUTHELEZI: Oh so – sorry Chair.

CHAIRPERSON: Reference bundle what?

ADV ZINHLE BUTHELEZI: Reference Bundle C. Reference Bundle C.

CHAIRPERSON: And what page?

ADV ZINHLE BUTHELEZI: 1333. It is towards the end of the bundle. I am advised it is the last document in the bundle.

CHAIRPERSON: I am going to adjourn. Will somebody sort out this
10 file please? We adjourn.

REGISTRAR: All rise.

HEARING ADJOURNS

HEARING RESUMES

CHAIRPERSON: Okay. Let us proceed.

ADV ZINHLE BUTHELEZI: Thank you Chair. Chair I wish to apologise for the – the mess that has ...

CHAIRPERSON: *Ja*.

ADV ZINHLE BUTHELEZI: Was in – in your file.

CHAIRPERSON: No ...

20 **ADV ZINHLE BUTHELEZI**: We have noticed that your file is too full because it has dividers.

CHAIRPERSON: Yes.

ADV ZINHLE BUTHELEZI: Ours do not have. We will separate this file during lunch break.

CHAIRPERSON: No that is fine.

ADV ZINHLE BUTHELEZI: Yes.

CHAIRPERSON: That is fine.

ADV ZINHLE BUTHELEZI: Thank you so much Chair.

CHAIRPERSON: Okay.

ADV ZINHLE BUTHELEZI: Mr Venter you were to refer to the Chair to the clauses in that beneficiary agreement that is appearing on page 1333 of reference Bundle A that where you were not comfortable with.

MR ALBERTUS JOHANNES VENTER: Chairperson the – the first part of the agreement completely did not fit into the project as it was
10 constructed at that time.

CHAIRPERSON: Even the description of the parties on the first page. It is just not on.

MR ALBERTUS JOHANNES VENTER: Indeed Chairperson.

CHAIRPERSON: I mean a project cannot be a party ...

MR ALBERTUS JOHANNES VENTER: Yes.

CHAIRPERSON: To an agreement. Who drafts this – this kind of agreement?

MR ALBERTUS JOHANNES VENTER: Chairperson I have no idea.

CHAIRPERSON: *Ja.*

20 **MR ALBERTUS JOHANNES VENTER:** But what really concerned me was paragraphs 8.2.2 and 8.2.3 on page 1-3-4 of the reference bundle – 1-3-4-0.

CHAIRPERSON: 1-3-4-0.

ADV ZINHLE BUTHELEZI: Yes 1340.

CHAIRPERSON: Is that 1340?

ADV ZINHLE BUTHELEZI: 40 yes.

CHAIRPERSON: Yes.

MR ALBERTUS JOHANNES VENTER: 8.2 starts with the beneficiary shell and then 8.2.2 provides for sell dispensary placing encumber seat signed transfer and so on, project assets and then 8.2.3 use consume alienate sell. Although there was a rider that it must be approved by the department I thought that it was extremely risky to include such clauses in this agreement given the situation on the ground where a beneficiary is now authorised to deal with the project assets in a
10 certain way.

CHAIRPERSON: But also the beneficiary was not a party to the agreement. The beneficiary was a beneficiary ...

MR ALBERTUS JOHANNES VENTER: Yes.

CHAIRPERSON: And was said to represent a project you know or the project and then obligations are placed and rights are given to the beneficiary but *ja*.

MR ALBERTUS JOHANNES VENTER: Chairperson the – the bottom line is ...

CHAIRPERSON: *Ja*.

20 **MR ALBERTUS JOHANNES VENTER:** It was totally ...

CHAIRPERSON: It was ...

MR ALBERTUS JOHANNES VENTER: Inappropriate ...

CHAIRPERSON: Yes.

MR ALBERTUS JOHANNES VENTER: For the purpose it was crafted for.

CHAIRPERSON: Yes.

ADV ZINHLE BUTHELEZI: Yes and - and you said it was signed by someone who was a Chief Director at the time and not by the HOD?

MR ALBERTUS JOHANNES VENTER: That is correct. At least when you dispose of assets in a department it had to be done by the accounting officer and I specifically requested Dr Masiteng whether he was delegated and he indicated no.

ADV ZINHLE BUTHELEZI: Yes.

CHAIRPERSON: Did he explain to you why if he was not – did not
10 have the delegation why he signed an agreement that said he was duly authorised because that is what it says on the first page?

MR ALBERTUS JOHANNES VENTER: Chair to my embarrassment I did not. I was fairly upset as I indicated and it was wrong from me ...

CHAIRPERSON: *Ja.*

MR ALBERTUS JOHANNES VENTER: to – to be upset and did not do my work properly because I was really annoyed.

CHAIRPERSON: Well maybe this was – maybe this was a clear
20 example that contracts in Government departments should not be finalised before they were sent to the legal advisors in the Office of the Premier.

MR ALBERTUS JOHANNES VENTER: Indeed Chairperson.

CHAIRPERSON: If this is what was being done.

MR ALBERTUS JOHANNES VENTER: Indeed.

ADV ZINHLE BUTHELEZI: Thank you Chair. Then let us – let us move on then to – to the oral agreement that you gave to the HOD in

paragraph 2 – 2.9.

CHAIRPERSON: Oral advice.

ADV ZINHLE BUTHELEZI: Sorry, oral advice. I am sorry. I apologise sir. Oral advice that you gave to the Head of Department Mr Thabethe. You deal with that in paragraph 2.9 of your affidavit.

CHAIRPERSON: Must we put away this – this file now?

ADV ZINHLE BUTHELEZI: Yes.

CHAIRPERSON: Okay.

ADV ZINHLE BUTHELEZI: Thank you.

- 10 **MR ALBERTUS JOHANNES VENTER:** Chairperson the Head of the Department Mr Thabethe sent to my office a draft memorandum which he intended to submit to the Executive Council in which it was requested that the Executive Council approve the cancellation of the agreement between the department and Estina. If I remember correctly it was the day before the Executive Council sat or the morning before it sat and I just very briefly looked at it and I realised that it only referred to one agreement.

- At that time I was already aware of the 99 Year Lease and I proposed to him that the amendment should be made that the
20 memorandum should reflect that all agreements between the department and Estina be cancelled specifically which I had in my mind was the 99 Year Lease which was encumbering the land.

CHAIRPERSON: By that time the 99 Year Lease had already been signed?

MR ALBERTUS JOHANNES VENTER: Indeed Chairperson it had.

CHAIRPERSON: Yes.

MR ALBERTUS JOHANNES VENTER: It had been signed.

CHAIRPERSON: And it was on the – and it was – oh that was the one in terms of which the municipality was getting - what did you say - about a million Rand?

MR ALBERTUS JOHANNES VENTER: No Chairperson that 99 Year Lease ...

CHAIRPERSON: Oh.

MR ALBERTUS JOHANNES VENTER: Did not make provision for any
10 compensation ...

CHAIRPERSON: Oh, okay.

MR ALBERTUS JOHANNES VENTER: For the lease period.

CHAIRPERSON: Okay, okay.

ADV ZINHLE BUTHELEZI: Yes and – and that lease was between the Free State Government and Estina. Is that correct?

MR ALBERTUS JOHANNES VENTER: That is correct.

ADV ZINHLE BUTHELEZI: The municipality was no longer involved at that stage?

MR ALBERTUS JOHANNES VENTER: No. At that point in time the
20 municipality transferred ownership of the land to the Free State Provincial Government.

CHAIRPERSON: Yes, okay.

ADV ZINHLE BUTHELEZI: Thank you and then which year was this when you – when you gave Mr Thabethe this oral advice?

MR ALBERTUS JOHANNES VENTER: Chairperson it was in

March 2014. If I remember correctly.

ADV ZINHLE BUTHELEZI: Thank you.

CHAIRPERSON: Do you recall for how long the 99 Year Lease Agreement would have been running by that time – by March 2014 more or less? Two year or anything like that?

MR ALBERTUS JOHANNES VENTER: It was about a year Chairperson.

CHAIRPERSON: About a year.

MR ALBERTUS JOHANNES VENTER: If I remember correctly ...

CHAIRPERSON: Yes.

10 **MR ALBERTUS JOHANNES VENTER:** That 99 - the transfer and the 99 Year Lease were registered against the title deed of the property early in 2013.

CHAIRPERSON: Okay, thank you.

ADV ZINHLE BUTHELEZI: Thank you Chair. You then in paragraph 2.10 you refer – you talk about the – the cancellation of an agreement. This is the Estina and the Department of Agriculture Agreement that was concluded in 2012. Can you just tell us about your involvement and the cancellation agreement?

20 **MR ALBERTUS JOHANNES VENTER:** Chairperson – (clearing throat) apologies. As far as the cancellation letter was concerned the memorandum to the Executive Council indicated that the department lost the grant from the National Department of Agriculture and that as a result of that especially over the – the period for which the contract with Estina was supposed to – to last they are unable to – to fund their obligations in terms of that agreement and they requested permission

from the Executive Council or approval from the Executive Council to cancel the - the agreement.

The Executive Council approved that and I was approached by the head of the department to assist to do the necessary paperwork to cancel the agreement. I prepared the cancellation letter specifically using the paragraph which was referred to yesterday. 15.3 of the agreement – the July agreement between Estina and the department but I crafted the letter in such a way that I kept doors open for a possible review application for the initial contract as well as a review
10 application for the 99 Year Lease.

We had a brief discussion amongst us as legal advisors and we thought that at that point in time that the review application in order to get out of the agreement with Estina was a bit risky. The appropriate functionary in terms of the Act approved the deviation and he was adamant that he had sufficient grounds and we did not think that we would get cooperation for him to be an applicant in a review application.

He would probably be a respondent and it would have created problems. I – we have also protracted legal process.

20 **CHAIRPERSON:** Is that the head of the department?

MR ALBERTUS JOHANNES VENTER: Indeed, yes.

CHAIRPERSON: Yes.

MR ALBERTUS JOHANNES VENTER: Yes Chairperson.

CHAIRPERSON: Okay.

MR ALBERTUS JOHANNES VENTER: So we opted to invoke the

positions of Clause 15.3 as the cancellation method to – to cancel this agreement and I crafted the letter, forwarded it to the head of the department and he must have sent it off to Estina because in April a letter was sent to my office by the head of the department in which Estina accepted the cancellation.

ADV ZINHLE BUTHELEZI: Yes and then following the – the letter from the head of the department for cancellation who then instructed you to draft the cancellation agreement that is attached to your affidavit as Annexure F?

- 10 **MR ALBERTUS JOHANNES VENTER:** Chairperson – Chairperson I may perhaps just add to give some context to what happened was that in the acceptance of the cancellation by Estina they indicated that there was a certain amount due and owing to them based on invoices already submitted to the department. I engaged with - with the head of the department and he said - sent a set of invoices to me that he has received from Estina.

- 20 It was basically a composite statement referring to invoices which were submitted to the department earlier more or less on a monthly basis and I realised that it – that if you look at the amount due that we will have to have an agreement to formalise that part of Clause 15.3 about compensation for the work done up to the point of cancellation of suspension of the agreement and I then with the information provided by the department prepared that agreement.

ADV ZINHLE BUTHELEZI: This agreement was prepared by yourself?

MR ALBERTUS JOHANNES VENTER: Indeed Chairperson. The

resolution of the Executive Council also provided that the Free State Development Corporation should take over the management of the farm and due to the urgency which I thought it required I did the one agreement and my colleague Advocate Swanepoel did the FDC Agreement.

ADV ZINHLE BUTHELEZI: Thank you and what was the total value of the outstanding invoice? That will be on – on Annexure A of the agreement on page 40 of 8-8-2.

MR ALBERTUS JOHANNES VENTER: Chairperson the information is
10 contained on page AJV36 in paragraph 1.2 of that agreement. It was R106 252 652.

ADV ZINHLE BUTHELEZI: Thank you. The – the – you said the agreement between that involves FDC was drafted by your colleague. Is that correct?

MR ALBERTUS JOHANNES VENTER: Yes.

ADV ZINHLE BUTHELEZI: Who instructed you to draft that agreement – the FDC Agreement now?

MR ALBERTUS JOHANNES VENTER: Chairperson I cannot recall that we had specific instructions. It was just to give effect to the – to the
20 resolution of the Executive Council and to make sure that there is continuity in the management of the farm when the agreement with Estina was cancelled.

CHAIRPERSON: I heard evidence yesterday that in terms of the agreement that had been concluded with Estina – Estina was obliged to have made – to have – to have made a certain financial contribution to

the project but that it never made any payment. So if that is factually correct I am wondering whether the department should have made the – the payments or acknowledge any obligation to make any payments to Estina.

MR ALBERTUS JOHANNES VENTER: Chairperson yes it – it – I think you are correct. At that point in time I was not aware whether any payments were made. As I have indicated I received a set of invoices and I requested the department to just compile it into one document that could be attached to the cancellation agreement instead of
10 separate invoices but my understanding was that these invoices related to work that was already done.

So for value which the department has received at that point in time.

CHAIRPERSON: But of course the department would not have to pay Estina for even services that it may have received from Estina if Estina owed the department an equal amount or even more. Is it not?

My – my recollection from yesterday's evidence was that Estina was meant to make a contribution of about R200-and something million into the project and the department was meant to make a
20 contribution of R300-and something million into the project but that the department made its contribution and Estina did not make any contribution and from what appears at page 36 what the department was saying the department was acknowledging that it owed Estina 106 252 000. Obviously an amount that is less than the amount that Estina is supposed to have paid into the project.

MR ALBERTUS JOHANNES VENTER: Yes. Chairperson Estina – the contribution of Estina if I understood it was towards the completion of the project and its entirety. The R106 million was for what was actually constructed on the ground for which the department – of which the department will now receive the benefit upon consolation. Estina was not supposed to receive any benefits subsequent to – to the cancellation in respect of project assets.

CHAIRPERSON: Well maybe I do not understand. You and I go decide to do a project and we agree that for this project we will put in
10 respective amounts. I put my amount. You do not put any amount. Whatever services you are doing are meant to be in terms of this agreement as I understand. You must tell me if my understanding is correct.

How can you – how can you be entitled to me paying you anything in terms of this agreement when you have not performed in terms of this agreement in terms of the money that you must put in and I am the only one who has been funding this?

MR ALBERTUS JOHANNES VENTER: Chairperson I will try and explain.

20 **CHAIRPERSON:** Yes.

MR ALBERTUS JOHANNES VENTER: My understanding was ...

CHAIRPERSON: I am trying to just understand.

MR ALBERTUS JOHANNES VENTER: Yes.

CHAIRPERSON: Yes.

MR ALBERTUS JOHANNES VENTER: That both parties had to make a

contribution and once both parties had made that contribution there would be a project that would benefit both. The Department of Agriculture through the beneficiaries would receive the benefit and then Estina would receive some – some dividends from the proceeds which the processing plant may render after the milk has been processed.

That is how I understood the relationship. Now the project at that point in time did not progress to its logical conclusion. It was terminated before its logical conclusion. So what was put onto the ground was what – is – is what the department received as assets due
10 to the cancellation of the agreement.

CHAIRPERSON: Was Estina's obligation to make – to make – to pay its contribution? Was that obligation supposed to be performed or carried out at the end of the project?

ADV ZINHLE BUTHELEZI:

MR ALBERTUS JOHANNES VENTER: Chairperson my understanding from the outset was that Estina would construct the processing plant. That is that contribution and that is why the advice was also that that processing plant had to be constructed on land not belonging to the municipality or the Provincial Government in order to make sure that it
20 does not fall within the definition of a public/private partnership.

So that was my understanding that that processing plant would be – Estina's contribution would be to construct the processing plant.

CHAIRPERSON: Is your understanding that this R106 million was actually paid to Estina?

MR ALBERTUS JOHANNES VENTER: Eventually yes Chair.

CHAIRPERSON: Eventually?

MR ALBERTUS JOHANNES VENTER: Yes.

CHAIRPERSON: Yes. Okay, well if – if - the legal team may or may not have looked into the issue but if it has not it should look into the issue whether in these circumstances Estina should have been paid that amount. It may be that ...

ADV ZINHLE BUTHELEZI: We ...

CHAIRPERSON: It may be that it should have been paid. It may be
10 that it should not have been paid but I think we have an obligation to take a position on whether the department had any obligation to – to pay that amount in these circumstances.

ADV ZINHLE BUTHELEZI: We are looking at this issue Chair and issue will be led in that regard, thank you.

CHAIRPERSON: Okay, alright.

ADV ZINHLE BUTHELEZI: Then let us move to the involvement of FDC. Who – if I may ask we said it was the Exco that made a resolution that FDC should take over. Is that correct?

MR ALBERTUS JOHANNES VENTER: That is correct Chairperson.

20 **ADV ZINHLE BUTHELEZI:** Yes and what was the resolution saying. What was FDC supposed to do there? To do what Estina had been doing?

MR ALBERTUS JOHANNES VENTER: Chairperson I cannot remember the exact wording of that resolution but my sense is that the Free State Development Corporation should take over the management of the

project.

ADV ZINHLE BUTHELEZI: Thank you and in your understanding what is the mandate of the Free State Development Corporation? What does it do in the province?

MR ALBERTUS JOHANNES VENTER: Chairperson it is basically to support small, micro and medium – small, medium, micro organisations SMMEs and also to stimulate economic development. I heard the argument yesterday about whether FDC was the appropriate vehicle and I looked at the objectives of FDC as it is contained in the Act – the
10 Free State Development Corporation Act – and with all due respect I think if you look at those objectives it may include the management of this project as an effort to stimulate the economy of the province in that area.

I may just indicate that and I may be right or wrong but my initial perception was that this project was supposed to be the start of a dairy hub in the North Eastern part of the Free State. It would not have been limited to what was on the ground during this period that the project lasted but it would be extended to other farms – could be acquired for beneficiaries with the same type of project where initially a
20 piece of land and a number of cows is given to a beneficiary but the beneficiary is then – there is also a milking dairy – a milking parlour constructed on that other farm in which beneficiaries receive training and eventually have a commercial dairy business on a farm which will then provide milk to this processing plant on the municipal land the initial plant that has been constructed.

So the picture that I had in my mind from the presentation initially was that it was entered creating an economic injection into the Northern Eastern Free State. So as I say with all due respect and once I have heard that if two lawyers agree one is not a lawyer but I see a bit differently than – than my colleagues.

CHAIRPERSON: Well I had the occasion some time back to look at – in the context of evidence in the Commission to look at what I was told was the legislation that gives the FDC powers to do certain things or its - which contains its mandate. So I do not know if you were looking at
10 the same but what I do recall about that legislation is that what is supposed to be stated as the functions is stated as objectives and what is stated as – as objectives are supposed to be stated as functions. Is that the same legislation you looked at?

MR ALBERTUS JOHANNES VENTER: I think so Chair.

CHAIRPERSON: Okay.

ADV ZINHLE BUTHELEZI: Thank you Chair. What would be your – your view on Mr Jankielsohn's evidence that you heard yesterday that as a result of Exco appointing or recommending that FDC be the – should manage the – this dairy – dairy project. It was – the Free State
20 Government was paying an extra million a month because FDC had to employ another implementing agent to operate on the farm.

MR ALBERTUS JOHANNES VENTER: Chairperson I am not really able to comment on that. I was not involved in the conclusion of any agreement between the FDC and any service provider to manage the farm. So I am not sure what motivated certain amounts and on what it

was premised at that point in time. It is very difficult for me to say.

It could be that it was more expensive but I am not sure what premised that additional amount when the contract was concluded.

ADV ZINHLE BUTHELEZI: Thank you and your reference to Exco in this regard you meant the Premier and all the MECs at the time. Is that correct?

MR ALBERTUS JOHANNES VENTER: That is correct. Are you referring to the decision to terminate the – the agreement with Estina?

ADV ZINHLE BUTHELEZI: Thank you.

10 **MR ALBERTUS JOHANNES VENTER:** *Ja.*

ADV ZINHLE BUTHELEZI: Yes and then on paragraph 13 you speak about what happened to the originals of the documents that you referred us to. Could you please take us ...?

CHAIRPERSON: Is that 2.13?

ADV ZINHLE BUTHELEZI: Yes. 2.13.

CHAIRPERSON: Okay.

MR ALBERTUS JOHANNES VENTER: Yes. Chairperson on 26 January last year the Hawks executed a search and seizure warrant on the Office of the Premier. It means the whole department and they
20 obtained records of the minutes and resolutions of the Executive Council and we indicated to them that we have information that fits into what is contained in the warrant both in my office as well as the offices of Advocates Swanepoel and Ditira and we offered to provide them with that and we asked them whether we can make – just make copies for our own records.

So what I currently have is copies of the original documents which were seized by the Hawks in terms of the warrant and I qualify to say that although I cannot be absolutely 100 percent sure that all documents which were in the original file has been copied. From my recollection it looks like it is quite a composite record of what existed prior in the original files.

ADV ZINHLE BUTHELEZI: Thank you. Mr Venter is there anything that you would like to share with the Commission with regards to this project as a whole as to how it was introduced, handled and where it is at this
10 stage?

MR ALBERTUS JOHANNES VENTER: Chairperson as I have indicated yesterday when I initially heard about the project I thought it was a very good idea. I must honestly say I was quite excited and I had this picture in my mind of what will be the outcome of this. It sounded extremely good and I still think that if it was properly managed to its logical conclusion it could still ascertain what was initially envisaged.

What in the meantime happened and I am not an economist of any kind but it was supported in the papers that the price of milk which the farmers are being paid has plummeted significantly. I am aware
20 that – that in some instances and it was reported in newspaper articles and that is where I picked it up that farmers were unable to sell their milk to processing plants and it is fairly big dairy operations that could not sell the milk.

Farmers took their tankers into townships and they just distributed the milk to – to people whoever they wanted it because they

could not sell it. So if you look at this project and my colleagues in the department may be able to give more information it need – it needs now some intervention and in terms of the court order when the farm was forfeited to the state and handed back to the Free State Provincial Government there needs to be a plan that looks at the diversification of farming operations on that farm to benefit the community.

It could include the dairy. It could include - and the court order also provided that a mentor with the necessary skills should be appointed to develop that diversification plan specifically to benefit the
10 community and the processes currently underway to – to try and make the farm viable as a – as a farming operation which benefits specifically the community in that area.

Chairperson if I just may add something and it was discussed yesterday and ...

CHAIRPERSON: Yes.

MR ALBERTUS JOHANNES VENTER: I thought about it last night and that is clause – it is 3.15 – the cancellation clause in the (intervenes).

ADV ZINHLE BUTHELEZI: It is 15.3.

MR ALBERTUS JOHANNES VENTER: 15.3. Chairperson that is the
20 standard clause that we include in most of the agreements where it is appropriate and I thought I should just explain where it comes from. The Free State Provincial Government like other Provincial Governments has a sealed envelope of money which basically consists of an equitable share that is received from National Government determined in accordance with a specific formula, the grants that we

have heard about and then which are additional grounds for specific purposes and then own revenue and following some discussions that we had with Treasury and some budget - Legotla meetings that I attended I discussed it with my colleagues and we thought that we should introduce a mechanism in our contracts that can provide for a reprioritisation of policies which will call a reprioritisation of funds.

If I make an extreme example. If for instance there is a disaster in which a number of homes of people are destroyed there is not a contingency reserved in Government in the Free State Provincial
10 Government that we can use. It simply has to come from a reprioritisation of funds and one of the things that we thought that we could do is to build in a mechanism in our contracts that if it is necessary and if it is possible to terminate a contract at a certain or a project at a certain point in time to make additional funds available to deal with any contingency that may arise we should include that in contracts. So I just thought I should explain that.

CHAIRPERSON: Oh that is – that is where it comes from?

MR ALBERTUS JOHANNES VENTER: Pardon.

CHAIRPERSON: That is where it comes from?

20 **MR ALBERTUS JOHANNES VENTER:** That is where it comes from.

CHAIRPERSON: *Ja.* I think the – the problem is that there is - probably there should be a reference to the kind of situation you are talking about because when one reads it the way it stands it seems to be wide enough for a situation where maybe there was not proper planning ...

MR ALBERTUS JOHANNES VENTER: *Ja.*

CHAIRPERSON: First impression that you know you embarked upon a project without checking whether you have got funds ...

MR ALBERTUS JOHANNES VENTER: *Ja.*

CHAIRPERSON: But one can understand the kind of situation you are talking about. It may be that you know your team could think about whether it is formulated in the best way or not but that is really your – your own decision.

MR ALBERTUS JOHANNES VENTER: Thank you Chairperson. It
10 sounds definitely following the experience here. It is something that we will looking into more carefully.

CHAIRPERSON: No thank you. Are you done?

ADV ZINHLE BUTHELEZI: Thank you Chair. I have no further questions for Mr Venter.

CHAIRPERSON: Yes. No thank you very much Mr Venter. You are excused. Thank you for coming to give evidence to the Commission and to share with the Commission the experiences you have had and the role you played in regard to the advises that you gave and your unit gave in regard to this matter.

20 **MR ALBERTUS JOHANNES VENTER:** Thank you Chairperson.

CHAIRPERSON: Thank you very much.

MR ALBERTUS JOHANNES VENTER: I am glad that I will requested to come and explain. It was – it was a good experience for me as well.

CHAIRPERSON: Yes. I take it that the legal team of the Commission has had a chance to have a look at all the documents that you say you

are keeping or at least copies of documents that were taken by the Hawks to see whether there are no documents there that are relevant for us. Do you know whether that has happened?

MR ALBERTUS JOHANNES VENTER: Chairperson no but ...

CHAIRPERSON: *Ja.*

MR ALBERTUS JOHANNES VENTER: They are more and welcome at any stage ...

CHAIRPERSON: *Ja.*

MR ALBERTUS JOHANNES VENTER: To (intervenes).

10 **CHAIRPERSON:** Okay. If the legal team could check all of those documents to see whether there is not something that is important for our purposes.

ADV ZINHLE BUTHELEZI: Will do Chair.

CHAIRPERSON: Okay. Thank you very much Mr Venter you are excused. We will take the tea adjournment now. It is 26 past 11. We will resume at quarter to 12. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

20 **CHAIRPERSON:** Ms Gcabashe?

ADV LEA GCABASHE SC: Morning again Chairman.

CHAIRPERSON: Morning.

ADV LEAH GCABASHE SC: Chairman we are today dealing with Exhibit HH4 which is the affidavit and Annexures of Mr Ephraim Makhosini Dhlamini. HH4, Exhibit HH4.

CHAIRPERSON: Okay, the file containing the affidavit of Mr Ephraim Makhosini Dhlamini will be marked as Exhibit HH4.

ADV LEAH GCABASHE SC: Thank you Chairman. Chairman with your leave Mr Dhlamini is ready to be sworn in.

CHAIRPERSON: Are we going to use an interpreter today?

ADV LEAH GCABASHE SC: We have an interpreter sitting with Mr Dhlamini.

CHAIRPERSON: Yes. Miss Interpreter are you the same interpreter that was sworn in last week?

10 **INTERPRETER:** Yes Chair I am.

CHAIRPERSON: Yes, so you are duly sworn?

INTERPRETER: Yes I was sworn in Your Worship.

CHAIRPERSON: Yes, okay thank you. We are going to administer the oath or affirmation and the interpreter will interpret the oath. Please stand interpreter.

REGISTRAR: Please state your full names for the record.

WITNESS: Ephraim Makhosini Dhlamini

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

WITNESS: I have no objections.

20 **REGISTRAR:** Do you confirm the oath to be binding on your conscience?

WITNESS: I swear.

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

WITNESS: So help me God.

INTERPRETER: Sworn in.

CHAIRPERSON: Thank you.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): (duly sworn, states)

ADV LEAH GCABASHE SC: Chair just as a preface Mr Dhlamini is one of the beneficiaries of the Vrede Dairy Project. Mr Dhlamini good morning.

10 **MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** Good morning.

ADV LEAH GCABASHE SC: Please turn to page 1 of the witness bundle marked HH4 that you have.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): I am on page 1.

CHAIRPERSON: Well if Mr Dhlamini needs an interpreter him looking at that statement is not going to help, it would have to be the interpreter who looks at the statement and then helps him in terms of interpreting, isn't it?

20 **ADV LEAH GCABASHE SC:** That is so Chairman, I have gone through the motions of identifying, at least his names, and the fact that he signed the document, he knows that, that is his signature and he remembers the date, he knows the date on which he signed it. I thought if we go through it, jus those formalities, the rest we'll then ask the – he's really going to speak to the document Chairman, this is just for the formality.

CHAIRPERSON: Oh you just want to confirm that – his signature?

ADV LEAH GCABASHE SC: Correct Chairman that he is Ephraim Dhlamini and that's his signature and the date on which he signed the statement.

CHAIRPERSON: Yes I take it that because he signed a statement that is in English that his position is that he does understand English and does understand what the statement says but for purposes of his evidence, he prefers to use another language?

ADV LEAH GCABASHE SC: That is so Chairman, particularly because
10 it was then read back to him but then in isiZulu the statement written in English was then read back to him in isiZulu. So he doesn't really read English, he doesn't read it as well he's not as fluent, he does prefer to give his evidence in isiZulu.

CHAIRPERSON: Well then there is something wrong with the statement, because the statement doesn't say it was read to him, it's him speaking English in this statement.

ADV LEAH GCABASHE SC: It does not say that Chairman, that I concede.

CHAIRPERSON: Yes so if he doesn't understand English then it means
20 what should have been done is that there should have been, either a statement in isiZulu that he made and then somebody else translated that statement into English or there should have been an interpreter certificate that says, I interpreted this statement from that to that from that paragraph to that paragraph to him into isiZulu and this is what he confirmed, but if it is in English and he signs it then it's not correct.

ADV LEAH GCABASHE SC: Chairman, with your leave, could we just confirm with Mr Dhlamini what the position is?

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: Thank you sir.

CHAIRPERSON: Okay I'll adjourn for a short while then you'll let me know once you are ready, we adjourn.

INQUIRY ADJOURNED

INQUIRY RESUMES

CHAIRPERSON: Are you able to proceed?

10 **ADV LEAH GCABASHE SC:** Yes thank you Chairman. Chairman the legal team has had discussions with both beneficiaries, Mr Dhlamini and Mr Ncongwane, they both confirm that they can read and understand English, they have read their statements and understood them and they then signed the statements after having read them and understood them.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE SC: Chairman so I would suggest that the way we proceed is that because Mr Dhlamini in this instance is more comfortable in speaking his mother tongue, isiZulu, I ask the question
20 in English, the interpreter interprets it for him for convenience sake, he responds in the language he is comfortable with, she will then interpret that back into English and we proceed along those lines.

CHAIRPERSON: Yes let's do it that way.

ADV LEAH GCABASHE SC: Thank you Chairman.

CHAIRPERSON: Thank you.

ADV LEAH GCABASHE SC: Thank you Mr Dhlamini can I just ask again, can you please confirm on page 1 that this is your name and on page 9 that, that is your signature.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Indeed your Worship the names that are appearing on page 1 are my names and the signature your Worship attached thereto on page 9 is my signature, I confirm.

ADV LEAH GCABASHE SC: And we call the DCJ, the Chairman in this forum.

10 **INTERPRETER:** I'm used to Court so every now and then you will hear Your Worship, so please pardon me.

CHAIRPERSON: I understand okay, alright.

ADV LEAH GCABASHE SC: Thank you and you confirm that you are familiar with the contents of this statement?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): It was written by me so I will never forget, indeed.

ADV LEAH GCABASHE SC: Thank you very much. Are there any changes that you would want to make to this statement at this point in time?

20 **MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** No.

ADV LEAH GCABASHE SC: Have you had any interviews with any investigative agencies with regards to the Vrede Dairy Farm matter?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Yes.

ADV LEAH GCABASHE SC: Who were these?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): That is

correct Your Worship we did call some people to intervene or to talk to regarding this matter, it was mostly Government officials, Mr Madiba, Ms Gcabashe and Ms Sogwane.

ADV LEAH GCABASHE SC: Can I ask you to do this for the Chairman, I really just want formal agencies such as the Hawks, or the Public Protector as opposed to Government officials whom you may have interacted with.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Correct we did, we did speak to the Public Protector Busisiwe Mkhwebane, we
10 met her twice in her office and she also came down to Vrede to take down our statements.

ADV LEAH GCABASHE SC: Thank you, you'll give the detail of that evidence later, which other agency of Government have you spoken with?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Okay we also spoke to the Hawks Your Worship, I also have a message, a SMS or a text message Your Worship that I received from them and we also met up with them Your Worship on a Saturday and a Sunday, they took down our statements as well.

20 **CHAIRPERSON:** Ms Gcabashe I hope I didn't miss this, you might wish to just take care of evidence like where he lives, because the beneficiaries are supposed to be people who live in a certain area, where he lives and his connection with the project before we going into contact with the Hawks and so on, you might wish to consider doing that.

ADV LEAH GCABASHE SC: Yes Chairman I was just trying to deal with the 65 transcription rule that we have just so that we know who else may have a record in terms of our rule 65 of what this witness might have said to one of our agencies, I start with that straight after that, it was really just a matter of clearing the 65 rule Chairman.

CHAIRPERSON: Yes I always look for the connection with the witness first so – because then after that one knows, who is this one, how does he come into this, yes proceed.

ADV LEAH GCABASHE SC: Thank you Chairman, can I do that, my
10 next question is, where do you live?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): I stay at Thembalihle Township in Vrede, the address Your Worship of my residential house is 2387 Kanya Street.

ADV LEAH GCABASHE SC: How long have you been living there?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Okay I was born in the farms Your Worship in Vrede then I moved to Johannesburg Your Worship with work but I came back here 2000 Your Worship to build – to rebuild my family's property Your Worship and I stayed there at Modisa until now.

20 **ADV LEAH GCABASHE SC:** Are you employed?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): I'm self employed.

ADV LEAH GCABASHE SC: What business are you employed in?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): I'm a farmer, I have 52 cattle in the homage of the Municipality, I am, Your

Worship benefitting or have made proceeds from these cattle and I also have another business of a record bar.

ADV LEAH GCABASHE SC: Thank you. Please describe the environment of Vrede for the Chairman, the environment you live in, which would include Thembalihle Township.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Okay Thembalihle Township of Vrede Your Worship it's a very small area township, there is a high unemployment rate there and mostly people are working in the farms and they are earning far less or less money.

10 **ADV LEAH GCABASHE SC:** Yes continue.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Like I placed it on record Chairperson there is a high unemployment rate in the area so you need to be very creative in terms of trying to make money and most people, Chairperson, just to place it on record, they are working outside Vrede to earn money for a living.

ADV LEAH GCABASHE SC: In paragraph 2 of your statement, you mention that you are the chairman of the African Farmers Association and that Mr Ncongwane is a member as well.

20 **MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** That is correct.

ADV LEAH GCABASHE SC: What is Mr Ncongwane's position in this organisation?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): He's my deputy.

ADV LEAH GCABASHE SC: What does the African Farmers

Association do, what's your core business as an association?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Okay we are representing small farmers in the area and whenever there are any activities coming from the Department of Agriculture we go between the farmers and the Agriculture Department and whenever there is drought we seek assistance from the Agriculture Department and maybe for food and stuff we request help from them, so we're basically representing the small farmers in the area

ADV LEAH GCABASHE SC: Are there a number of such small farmers
10 in your area?

INTERPRETER: Is there – sorry can you please repeat?

ADV LEAH GCABASHE SC: Are there a number of such small farmers
in your area?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): There are a number of farmers, in fact most people live on farming Your Worship in the area, most of the people who are residing in the area, like I said are living on farming, they have cattle that they come with from the farms and remember we consist of people coming from (indistinct) and Warden so mostly they are farmers who live on cattle or
20 farming to survive. Like I stated Your Worship whenever there's drought the cattle won't have something to eat, so I would write a letter representing the small farmers in the area to seek help Your Worship in terms of getting food for the cattle in the area. So I basically assist with that by writing or communicating with the Department of Agriculture.

CHAIRPERSON: More or less, how many member does the African Farmers Association have or the Vrede chapter of the African Farmers Association have?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Okay a year before last Your Worship farmers from Vrede who are belonging to the association Your Worship were 82, and now Your Worship the number is sitting at 120 farmers.

CHAIRPERSON: Thank you.

ADV LEAH GCABASHE SC: Now you state that you have personal
10 knowledge of the meetings that led to the selection of beneficiaries for the Vrede Dairy Farm Project?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): When it was initiated I was there.

ADV LEAH GCABASHE SC: Please explain to the Chairman in short bits when these meetings took place, where these meetings took place, who attended these meetings? Can I just assist you with structure, so if you could start with the first meeting and complete that before you go to the second meeting.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): First
20 meeting I was present we were called in a meeting Chairperson by Mr Zwane who was a MEC at the time, the meeting was held at (indistinct) hall in the township. There Chairperson, we grouped ourselves into other responsibilities what this group will do and what this other group will do. I'd like to place it on record Chair that Government officials were also present in the said meeting, Mr Zwane was present, I know

him, I even know his – I know him personally I even know the father, even the place where I kept my cattle Your Worship it was his father's property before. There was also Mr Thabethe, Mr Motaung, the Mayor as well was present, there was also Jimmy Paghlele station officer, Tuto Ganye was also present, Koliza Sebego, I don't know, Your Worship what was their position in the Agriculture Department but it was at the time when Mr Zwane was the MEC, Mr Sebenzi Zwane, basically what he said is that these people were his eyes and ears since he is interested in the politics Your Worship, whenever he is not
 10 there, they will be there to listen to what people are saying, basically his eyes and ears, when there's meetings and he's not there. There was also Dube Gobene a municipal employee, then the meeting resumed or started...(intervention).

ADV LEAH GCABASHE SC: Can I just ask you, if I might interrupt you, from the community are you able to identify some of the people you know who were at that first meeting?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Mishack Nxuwane, most of them they were there present at the meeting that I can also identify Mishack Nxuwane, William Kanye, ...(intervention).

20 **CHAIRPERSON:** Well maybe let me say there may have been a hundred people there we don't want you to mention all of them so just those that you think, in terms of the roles they played are important then you can indicate that they were – so there were others and you can give an indication of the number if you are able to say, well from the community maybe there must have been about 30 or 40 or whatever

people, you don't need to mention each and every one of them.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Philemon Ngwena was there, Lindiwe Masiteng was also there...(intervention).

CHAIRPERSON: I'm sorry, Philemon, did you say Philemon Ngwena or Philemon Nkwena?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Ngwena.

CHAIRPERSON: Okay and I don't know if Ngwena and Nkwena mean the same thing so maybe (laughter).

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): We
10 almost a hundred chair as community members. Most members were there Your Worship – Chair there were those who were in poultry farming, dairy, pig and red meat and I am representing the red, or I am dealing with the red meat since I have cattle.

ADV LEAH GCABASHE SC: Who addressed you at that meeting?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Mr Sebenzi Zwane was addressing the meeting, Mr Motaung is the one who officially opened the meeting.

ADV LEAH GCABASHE SC: What is the position of Mr Motaung in Vrede?

20 **MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** He is the mayor.

ADV LEAH GCABASHE SC: Thank you continue.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): It was in that meeting where Mr Zwane requested us to group ourselves. He said whenever he is initiating a project he wants it to be a success or a very

successful project. He said if it is going to be a dairy project there should be activities there like milking and then processing the said milk into yoghurt, cheese and everything. Like I've placed in on record Chair, that I have cattle so I was on the group of red meat and then on dairy it was Mr Nxonwane was part of the dairy group and there were about five or six members. After we have grouped ourselves Your Worship – Chair we then wrote down the names so that we would be able to identify who is on which group and how many members are there in each group. He had a – or he has a sense of humour and he
 10 was there cracking jokes and saying that he knows us personally and where we grew up and where we are coming from and that he wants to do good things for all of us. After that the meeting was dissolved...(intervention).

ADV LEAH GCABASHE SC: Before you go to the end of the meeting, how did you receive what Mr Zwane was telling you did it sound like something that could happen that he could bring to Vrede?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Indeed Your Worship – Chair it sounded like a very good project, we were happy with it and we thought it would yield good results but others were
 20 suspicious because of the fact that Mr Motaung was part of the meeting to a point that Mr Sebenzi Zwane did enquire as to how many who don't approve of Mr Motaung. I know a few people did raise their hands those that did not approve of Mr Motaung as the mayor, I know that Mr Nxuwane is one of the people who raised a hand of disapproving Mr Motaung and he then – and he requested, Sebenzi Zwane requested the

reasons why they did not like or disapprove of him. They then gave the reasons as to why they were disapproving of him and one of the reasons Your Worship, was, when we were requesting to get the land he was not responding on the letters or correspondences to him, specifically requesting that we have the land, he never responded, so one of the reasons was that.

ADV LEAH GCABASHE SC: Before you deal with the issue of land that had been requested, go back to what the outcome of the meeting was for you, you were about to tell us about that and I had interrupted
10 you.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): I was not interested in the dairy farm, reason being that I specialise or I have cattle for red meat and I have seen most of the white farmers are not succeeding when they are running a dairy project so that is why I had no interest, my interest was on the red meat since I had cattle.

CHAIRPERSON: When was the – when was this meeting if you are able to remember?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Though I don't remember exactly the date of the meeting because the meetings
20 were done by the municipal workers or Government officials they wouldn't be given the copies of the meetings so I don't have reference to the dates, but when this dairy project was initiated Your Worship, it was the year 2012. Thought I don't remember the dates precisely, because these events were happening quicker and faster.

CHAIRPERSON: Okay thank you.

ADV LEAH GCABASHE SC: There are some media articles that we have collected from open source media and there is one that is written on the 28th of April 2018, Chairman for your reference there is a media bundle that you have at your disposal.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: And this particular article is on page 8. You may want to read it later.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: I am just going to summarise the salient
10 points.

CHAIRPERSON: No that is fine.

ADV LEAH GCABASHE SC: What I would like you to do is tell the Chairman if this is your recollection of what happened on that day in 2012?

MR EPHRAIM MAKHOSINO DHLAMINI: Yes.

ADV LEAH GCABASHE SC: And I quote:

20 “Vrede South Africa with loud speakers blaring city officials drove across the black townships dirt roads in a pickup truck summoning residents to the town hall.”

MR EPHRAIM MAKHOSINO DHLAMINI: That is correct.

ADV LEAH GCABASHE SC:

“The main guest was a local figure who had soared up the ranks of the governing African National Congress and come back with an enticing offer.”

MR EPHRAIM MAKHOSINO DHLAMINI: That is correct.

ADV LEAH GCABASHE SC:

“Over the next few hours the visiting political boss Mosebenzi Joseph Zwane sold them on his latest deal.”

MR EPHRAIM MAKHOSINO DHLAMINI: Yes.

ADV LEAH GCABASHE SC:

“A government backed dairy farm that they as landless black farmers would control.”

10 **MR EPHRAIM MAKHOSINO DHLAMINI:** That is correct.

ADV LEAH GCABASHE SC:

“They would get an ownership stake in the business.”

MR EPHRAIM MAKHOSINO DHLAMINI: Yes.

ADV LEAH GCABASHE SC:

“Just by signing up.”

MR EPHRAIM MAKHOSINO DHLAMINI: That is correct.

ADV LEAH GCABASHE SC:

“They would go to India for training all expenses paid.”

20 **MR EPHRAIM MAKHOSINO DHLAMINI:** That is correct.

ADV LEAH GCABASHE SC:

“To hear him tell it the dairy would bring jobs to the impoverished, help build a clinic and fix the roads.”

MR EPHRAIM MAKHOSINO DHLAMINI: That is correct.

ADV LEAH GCABASHE SC: There is more Mr Dhlamini in that article.

What I wanted to confirm is what you heard at that first meeting is what I have just read to you.

MR EPHRAIM MAKHOSINO DHLAMINI: Yes we did hear about that but in the second meeting where – which was addressed by Mr Mosebenzi Zwane.

ADV LEAH GCABASHE SC: Please explain what you then heard in the second meeting that is different to what you heard in the first meeting?

MR EPHRAIM MAKHOSINO DHLAMINI: What we heard in the second meeting now Chair is that they were going to establish or start up a
10 dairy farm in Vrede with 100 beneficiaries and that as beneficiaries we will have a 52% stake into the farm or the project. It is also correct that 20% was said to be going to go towards the constructions of road of a hospital as well as bursaries for the children or our children in the area. And then 28% will go to the government according to them. It was good news to us and we were happy with that. I was not interested in the dairy farming like I said but when I heard about us being taken to India for training that – for training of whatever is going to happen in the dairy or the farming – okay when you – you will have a choice of what you want to be trained on – which one are you interested in. We
20 were excited about it.

ADV LEAH GCABASHE SC: Now who of government officials attended the second meeting?

MR EPHRAIM MAKHOSINO DHLAMINI: Mr Thabethe was always present where there is Mr Mosebenzi Zwane. The mayor as well was – would be present and Dume. Dume was a municipality employee or

official. Mr Mphahlele from Agriculture too [indistinct] Mr Sebeko they would also be present in the meeting. That is where we would see them in person Your Worship we know them personally anyway.

ADV LEAH GCABASHE SC: Are you saying Mr Zwane was there as well?

MR EPHRAIM MAKHOSINO DHLAMINI: Yes he was. On that day yes he was present.

CHAIRPERSON: Before we go further into the second meeting can I take you back to the first meeting? You told me that Mr Zwane spoke
10 but you did not tell me whether there was anybody from the Farmer's Association who also spoke at the meeting. So I would like to know whether there was anybody who spoke on behalf the Farmer's Association and any other person who spoke on anything that you consider to have been important.

MR EPHRAIM MAKHOSINO DHLAMINI: The main speaker on the day in question Your Worship or the prominent speaker on the day in question it was Mr Mosebenzi Zwane Your Worship – I mean Chair and then the mayor Mr Motaung uttered the words that he is also happy that someone who also grew up in the very same area in Vrede Your
20 Worship is bringing good news to the community. Those were the main speakers on the day in question and those are the people who summoned or called the meeting. No-one else addressed or spoke in the meeting except when we were now socialising Your Worship then joking there – ja that is all.

CHAIRPERSON: Thank you very much.

ADV LEAH GCABASHE SC: Thank you. Can I just also tidy up one last aspect of meeting 1? What – Was Mr Zwane's wife Ms Roseline Zwane who is known as Topsy also at that first meeting?

MR EPHRAIM MAKHOSINO DHLAMINI: I do believe I trusted she was present on the day in question because there were a lot of people who were present when Mr Zwane was there or when he came there. The councillor by the name of Koko was also there. Those are the names Your Worship which do not appear in the statements because we only mentioned the names of the people who were there to address us, the
10 main speakers of the meeting.

ADV LEAH GCABASHE SC: Just for context that name I again get from a media article we got from the open network which is in the media bundle on page 12.

MR EPHRAIM MAKHOSINO DHLAMINI: Does he have?

ADV LEAH GCABASHE SC: No he does not have to go. I just want it on record.

MR EPHRAIM MAKHOSINO DHLAMINI: The name – which name?

ADV LEAH GCABASHE SC: Of Ms – Mrs Rosaline Zwane.

MR EPHRAIM MAKHOSINO DHLAMINI: I know her physically or in
20 person and I know that in most of the meetings that will be held in the area Your Worship and the municipal meetings she would be present. So I know and I do believe that she was present on the day in question though there were a lot of people who attended the meeting.

CHAIRPERSON: Well I do not know if it is going to be important but you have said two things. You said you believe or trust that he was

there and you have said you know that she was there. It cannot be both. It has got to be one. Did you see her at the meeting therefore if you saw her you know that she was there. If you did not see her you may believe that she was there because there were many people who were there but you do not know. So which of the two is it?

MR EPHRAIM MAKHOSINO DHLAMINI: The reason my response is I trust or I believe that she was present Your Worship it is because I did not see her physically that she was present in the meeting. I am just believing or trusting that she was part of the meeting without having
10 seen her sitting in the meeting.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE SC: Thank you Chairman. At – was – were – were representatives for the beneficiaries selected at any point in time?

INTERPRETER: Where are we now the first or second?

ADV LEAH GCABASHE SC: No it is a general question. No, no were they chosen at any point in time?

MR EPHRAIM MAKHOSINO DHLAMINI: On that day this was explained as to – they explained the shares and how are you going to benefit from
20 the whole thing regarding the shares and that the government will purchase cattle per person so that one can have them contributed into the dairy product – I mean project. We were then also advised that those who are having cattle for red meat should sell their cattle so that they can have more shares – money to buy or purchase shares into the dairy project.

CHAIRPERSON: Okay no before you proceed I think Ms Gcabashe would like to repeat her question. You might have misunderstood the question.

ADV LEAH GCABASHE SC: Mr Dhlamini can I ask you to do this. I will come back to the evidence you have just given. Because it is important. At this point in time I simply want to know if the community of Vrede Thembalihle township selected certain persons to represent beneficiaries to this dairy project?

MR EPHRAIM MAKHOSINO DHLAMINI: No.

10 **ADV LEAH GCABASHE SC:** I do not want you to focus on the second meeting. I simply asked the question as a general question.

MR EPHRAIM MAKHOSINO DHLAMINI: Yes after a while yes we did elect the representatives.

ADV LEAH GCABASHE SC: Would you be able to recall roughly when that committee was selected?

MR EPHRAIM MAKHOSINO DHLAMINI: The committee was selected after Alta Meyer took our ID's and sent them – or took them to Pretoria and I assume it was now the fourth meeting.

20 **ADV LEAH GCABASHE SC:** When I look at paragraph 16 of your statement you mention Ms Meyer asking for your Identity documents so it is page 5 paragraph 16.

MR EPHRAIM MAKHOSINO DHLAMINI: Indeed it was Ms Meyer and the day was Saturday.

CHAIRPERSON: Maybe it is the convenient time.

ADV LEAH GCABASHE SC: Thank you Chairman.

CHAIRPERSON: Does it look like we might go up to five o'clock today?

ADV LEAH GCABASHE SC: It does Chairman.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: If we want to complete both witnesses.

CHAIRPERSON: Yes. Ja.

ADV LEAH GCABASHE SC: But we have made arrangements for them to continue tomorrow.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: If for any reason we cannot.

10 **CHAIRPERSON**: Yes.

ADV LEAH GCABASHE SC: Conclude today.

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

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Are we ready?

ADV LEAH GCABASHE SC: Yes were are Chair.

CHAIRPERSON: Thank you.

20 **ADV LEAH GCABASHE SC**: Mr Dhlamini there are a couple of things I just wanted to explore with you. The first one – can I just tidy up the issue of the beneficiary representatives so that is the first one I will go to just to conclude that evidence. After that I will actually just take you back to evidence you had given earlier on about the cows that you were going to get from the project. So if you – if you allow me to that is

what I would like to do.

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): Yes.

ADV LEAH GCABASHE SC: Thank you. So my question had been whether you had elected or selected people to represent the beneficiaries in all things to do with the Vrede Dairy Farm?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): Yes we did.

ADV LEAH GCABASHE SC: Do you recall the names of those people and how many people you selected?

10 **MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** Three representatives. Lindiwe Masiteng, June Mahlaba, Titus **Nusen**.

ADV LEAH GCABASHE SC: Yes and did you at any point have sight of a Beneficiary Agreement that the department would have prepared and presented to the beneficiaries?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): No. The first time I had sight of that document it was at the time when Busisiwe Mkhwebane came.

ADV LEAH GCABASHE SC: So if Mr June Mahlaba were to come to the Commission and say that he signed a Beneficiary Agreement in the
20 presence of other beneficiaries - and I hope I am correct in - in what I have heard him saying - including yourself. You would say that that is incorrect?

CHAIRPERSON: Okay. I am - I am sorry - I am sorry. Before he - he responds. I think the interpreter did not understand the question correctly. You might wish to just repeat.

ADV LEAH GCABASHE SC: Thank you, thank you.

INTERPRETER: Thanks your worship.

ADV LEAH GCABASHE SC: Thank you Chairman. So if I say to you that Mr June Mahlaba will come to this Commission if he gets the opportunity to tell the Commission that he signed a Beneficiary Agreement in the presence of other beneficiaries and if I am not mistaken in your presence as well.

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): That is not true.

10 **ADV LEAH GCABASHE SC:** What position did Mr June Mahlaba occupy in that group that you selected to represent you?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): He was the Chairperson and if I remember well your worship I am the one who selected or elected him.

ADV LEAH GCABASHE SC: Can I also ask this question? Were any of the other beneficiaries - to your knowledge - asked to sign a Beneficiary Agreement?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): No.

CHAIRPERSON: What was Mr Mahlaba Chairperson of?

20 **MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** He was the Chairperson of the dairy project. They wanted to nominate or elect us to be part of this as well your worship but we had a problem because we had other positions that we were already handling. So we felt it was too much for us. So rather him to be the – I mean the Chairperson of the dairy project.

CHAIRPERSON: You mentioned three people a few minutes ago which included I think is it Mr Mahlaba or (coughing)?

ADV LEAH GCABASHE SC: No, no.

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): Yes.

ADV LEAH GCABASHE SC: It is Mr June Mahlaba – B-A.

CHAIRPERSON: Yes.

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): Yes.

CHAIRPERSON: Yes. Was he among the three people that you mentioned a few minutes ago when you said you elected three people?

10 **MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** Yes.

CHAIRPERSON: Was he the Chairperson of the committee that was made of those three people?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): Correct your worship.

CHAIRPERSON: What did you call that committee?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): We elected this committee your worship at the time when elder was there. We were required to select or nominate people who were going to represent us your worship in this dairy project. Whenever there is
20 some activities in this dairy project these are the people who will represent us and come back and report to us.

CHAIRPERSON: So they might not have had a specific formal name as a committee but they represented your interest in the dairy project?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): There was no formal name your worship of this committee. It was just a

committee representing our interests whatever activities which were taking place in the dairy project they would go and be our representatives and come back and report to us.

CHAIRPERSON: Thank you.

ADV LEAH GCABASHE SC: But the department accepted that this was the committee that you had accepted – that you had selected?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): I agree.

ADV LEAH GCABASHE SC: You have explained the role of the beneficiary committee.

10 **MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** That is correct your worship. Their role was to attend the meetings on our behalf but they are not going there to take decisions on our behalf. They need to come back and consult us before a decision is taken.

ADV LEAH GCABASHE SC: Did you ever get any report from that beneficiary committee?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): No.

ADV LEAH GCABASHE SC: Did you get an explanation from the Chairman or any member of the committee as to why they had not reported on anything to the membership that they represented?

20 **MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** No we have never received any explanation.

ADV LEAH GCABASHE SC: Can I then – thank you Mr Dhlamini- can I then just go back a step to evidence you were giving slightly earlier? You spoke of 10 head of dairy cows being given to beneficiaries?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): Correct.

ADV LEAH GCABASHE SC: Did I also hear you say that it would – those would have been exchanged for red meat cattle that the beneficiary had owned originally?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): No. No what the Government said was each beneficiary will get 10 cattle or cows. They will be taken to the dairy project where the milking process will happen. Us who owned the red meat or the cattle we are to sell those and buy other cattle that we will then take to the dairy project for our shares to increase but that did not happen.

10 **ADV LEAH GCABASHE SC:** But it was not a condition of being a beneficiary that you sell your red meat cattle?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): No it was not.

ADV LEAH GCABASHE SC: You could elect – you could decide to sell your cattle if you felt you wanted to take a greater shareholding in the dairy project?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): Okay. That is what they actually suggested that you were to sell the red meat cows in order for you to get cows so that you can get greater shares
20 but my fear was you do not count them before they hatch. So that was my problem.

ADV LEAH GCABASHE SC: You do not count your chickens before they hatch?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): Before they hatch yes.

ADV LEAH GCABASHE SC: I like the Zulu expression. It is better than the English Chairman.

CHAIRPERSON: Well the ...

INTERPRETER: The literal meaning is you do not name the child before the birth of the child.

ADV LEAH GCABASHE SC: Yes.

CHAIRPERSON: Yes. Just so that there – there is no misunderstanding. Do you confirm that those who owned red meat cattle if they sold their cattle or any of their cattle they would only get
10 more shares in the dairy project if they bought cattle for the dairy project? In other words – in other words they would not just sell their cattle and then get more – more shareholding.

They would have to add – they would have to buy dairy cattle and add them to the dairy project.

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): That is correct your worship. What happened is the Government promised each beneficiary 10 cattle and then those who own cattle with red meat they were then told - suggested that they sell the cows/cattle that produce red meat and then buy the cows that produce dairy and take
20 them into the project – the dairy project then your shares will be increased or greater shares from 52 percent to more depending on what you have invested after buying the dairy cows.

CHAIRPERSON: Ms Interpreter ...

INTERPRETER: Yes.

CHAIRPERSON: I think your interpretation is very good but there -

there is a part which I think you might not have got correct. It is not my understanding that he is saying it was suggested to them that they should sell their cattle. My understanding is that he is saying it was an option which they could ...

INTERPRETER: Hm.

CHAIRPERSON: Use if they want to or not use.

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): It was not an option your worship. It was not an option. It was something that they were imposing on us that we should sell the red meat cows in
10 order for us to get the dairy cows - the cows that produce dairy.

CHAIRPERSON: Okay. I must have complete misunderstood. I do not know about Ms Gcabashe but ...

ADV LEAH GCABASHE SC: Chairman I – I have the benefit of having consulted twice ...

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: With this witness.

CHAIRPERSON: Okay, okay.

ADV LEAH GCABASHE SC: Yes.

CHAIRPERSON: Okay. So – so just so that I understand. In terms of
20 what they told you that is now as I understand Mr Mosebenzi Zwane in terms of what he told you was it possible for somebody who had red meat cattle to become a beneficiary in the dairy project without selling his or her cattle?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): Yes your worship. We do have shares even the – we do have shares your

worship. Those who own cattle who produce red meat yes we still have shares into the dairy project.

CHAIRPERSON: Okay. So in the end those who had red meat cattle were not compelled to sell their red meat cattle in order to have shares in the dairy project?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): Let me explain it like this. What Mr Motaung said he had allocated the land which is our land the farmers land which is about 4 000 hectares. He said he is actually giving that to the dairy project meaning that there is
10 no space anymore available for us who are owning the cattle that produces red meat.

CHAIRPERSON: Okay. Is that what Mr Motaung said at the first meeting or is it your interpretation of what was said that you are telling me?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): Those are the words he uttered your worship in the second meeting. Those are the words which were uttered by Mr Motaung that he has given away the land for the dairy project.

CHAIRPERSON: Thank you. Ms Gcabashe.

20 **ADV LEAH GCABASHE SC:** Thank you Chairman. Mr Dhlamini but it is correct that you and other small farmers had not been using the land that was allocated to the dairy farm for your red meat cattle. You took your cattle to different land that you owned for them to find their feed etcetera.

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): Just to

tell you like right now in that land there is no space for our cows. I have about 15 cattle and a bull which was purchased for me by (indistinct) at 120 000. There is no place there but there are cattle pens and even now it – it was injured on – on the leg. It could not walk properly.

ADV LEAH GCABASHE SC: So you had hoped that Government would give you land for your cattle?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): That is correct. We did try. We made efforts to the point that we even went to
10 Land Reform and through the database and I was really shocked to discover that the people from Vrede they are not buying land for them.

CHAIRPERSON: Mr Dhlamini please listen very carefully to the questions and try and answer just that question that is being asked.

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): I understand.

CHAIRPERSON: Okay. Please proceed.

ADV LEAH GCABASHE SC: Thank you Chairman. Mr Dhlamini I really only want clarity on this one point. 4 400 hectares was purchased for the dairy farm?

20 **MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** The land was already available. It was a wide farmer's lease which was already in existence or it was existing already.

ADV LEAH GCABASHE SC: You are correct and with a couple of transactions that is the land that was identified for the Vrede Dairy Farm.

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): That is correct.

ADV LEAH GCABASHE SC: While that was going on even before while those commercial farmers were using that land the people of Thembalihle who had cattle had to look after their cattle and find grazing for them wherever they could? Can you just stop there?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): We were given the land. Per farm I was given a portion of land. A farmer would share a portion of – not per farmer but about seven farmers. For
10 instance in a portion you will have about seven farmers who their cows are grazing in that land to a point that they did not even look at the fact that per cow how many graze – it is grazing per year. So as a result we would find ourselves – there is no food enough for the cows or fodder enough for the cows to feed.

ADV LEAH GCABASHE SC: Mr Dhlamini I really just want to ask you to help me separate issues.

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): Yes.

ADV LEAH GCABASHE SC: It is important because I have read your statement. I understand your statement.

20 **MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** Yes.

ADV LEAH GCABASHE SC: So I am just going to go slowly again. I really just want to clarify the issue of the commercial farmers who occupied the 4 400 hectares of land that ended up being part of the Vrede Dairy Farm Project.

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): Okay.

What happened is Mr Motaung informed us that there was a 99 lease project for the commercial farmers or wide farmers which I do not know when it actually took place or happened but Mr Motaung told us about it and he further informed us that he was taking that land for the project.

ADV LEAH GCABASHE SC: Yes. I have no difficulty with that. I understand that evidence.

CHAIRPERSON: But I just want to say again Mr Dhlamini I know it is in the afternoon. Just listen carefully to the question as interpreted to you by the interpreter and try and just answer that question. If
10 Ms Gcabashe wants to ask you about something else she will ask you but just answer that question. If you keep on not answering the question and giving evidence about other things we will take much longer to finish.

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): I understand.

ADV LEAH GCABASHE SC: I have also understood your evidence that the municipality gave you specific land where you and others could keep your cattle.

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): Yes.

20 **ADV LEAH GCABASHE SC:** I have also understood you to say that, that land that the Municipality allocated to you was not appropriate for the cattle farming you and your colleagues were involved in?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Yes.

ADV LEAH GCABASHE SC: The only thing I was trying to clarify was that, when those commercial farmers occupied that 4 400 hectares you

occupied a complete different piece of land that was allocated to you by the Municipality.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Yes, that is correct.

ADV LEAH GCABASHE SC: I have also understood your evidence in that you have said you have been agitating with Government, you have been asking Government for better grazing land for your cattle?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): That is correct.

10 **ADV LEAH GCABASHE SC:** I'm satisfied with that. Can I then come back to the last point that mixes these two strains of evidence a little bit and the question is, did anybody that you know, sell their cattle in the expectation that they would be allocated dairy cows by the Vrede Dairy Project?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Yes there are.

ADV LEAH GCABASHE SC: Can you give us, just one or two names and the reason I ask you is this, again, Mr June Mahlaba, in his affidavit has stated that to his knowledge nobody sold their cattle in the
20 expectation that they were going to be allocated dairy cows by the Vrede Dairy Project.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Piet Mokwena he sold his cattle.

ADV LEAH GCABASHE SC: How many did he sell, if you know the number?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): I don't know the number but I know for the fact that when – on the day when Mrs Mkwabena was there, there were a few people who said they sold their cattle. That is where they were then requested to look or make reference to the documents as to where this cattle were sold and how much, she will return to collect those documents and she never returned.

ADV LEAH GCABASHE SC: Yes but at least that clarifies that point, the only point was, did anybody sell their cattle in the expectation in
10 receiving others, you answered that.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Yes.

ADV LEAH GCABASHE SC: Can I ask you this question as well, for those people – and this is – what was told to you, I'd like to know what either Mr Zwane or Mr Motaung told you in 2012/2013, did they indicate where the dairy cows that the beneficiaries would buy would be kept?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Yes we were told that they would be kept at the dairy, where there will be a dairy project.

ADV LEAH GCABASHE SC: Can you just help me understand, how
20 that was going to work, if they explained it at all. So if I was a beneficiary and I had ten cattle, I would take them across to the dairy and I would have to go there everyday to milk them or the dairy would milk them, did they explain these details to you?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Okay what happened is, according to what the Government was going to do is

to buy these ten cows per beneficiary and then the ten cows will go straight to the dairy product and then we would then have to undergo training in India, then it is up to an individual as to whether, in the training you choose milking or feeding the cattle.

ADV LEAH GCABASHE SC: Yes, you are making it clear. So my understanding of your evidence is, as a beneficiary therefore, you would find an employment opportunity at the farm, have I got this right?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Correct we were supposed to – immediately when the dairy project started we
10 were supposed to all started working there, so yes it was employment in the dairy project.

ADV LEAH GCABASHE SC: Of course you did not get employment at the dairy farm?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): No.

ADV LEAH GCABASHE SC: But there are those members of the community who did get employment at the dairy farm?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): That is correct, the members of the community did, some did get employment but not the farmers.

20 **ADV LEAH GCABASHE SC:** When you distinguish between the farmers and the members of the community are you saying that the farmers are the ones who had cattle and the members of the community who got employment were people with different skills?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): That is correct, I do differentiate between the farmers as well as the members

of the community because of the skills. We have the skills as farmers, we have undergone workshops, so we were supposed to work in the dairy project and if there was a lot of work and we needed more labourers we were going to hire or bring in people that will assist in the farm because we are trained and they are not trained.

ADV LEAH GCABASHE SC: Do you know what happened to the promise that you would be trained in India?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Yes I do.

ADV LEAH GCABASHE SC: Please explain to the Chairman.

- 10 **MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** What happened is Your Worship, Mr Sebenzi Zwane, instead of taking the farmers to India, for training, he took his choir, Msingi Zane choir to India for training and what happened is, they did not even stay for long there because they ate chilli sauces or whatever there and then they got sick, they had running tummies.

ADV LEAH GCABASHE SC: Yes there are media reports and we have reference documents that we will present you in due course, Chairman, just to confirm some of the evidence he is giving on who went across to India but can we...(intervention).

- 20 **CHAIRPERSON:** Maybe I can just ask and maybe it is the same question you are going to ask, did Mr Sabenzi Zwane have a music choir before this dairy project was started?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): That is correct because his father was a preacher so there as a church at his parental home, so yes.

CHAIRPERSON: I think his father was pastor.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Correct, he was a pastor.

CHAIRPERSON: So before this dairy project started Mr Sabenzi Zwane had a music choir that he had and are you saying that, that is the choir that he took to India instead of taking the farmers to India for training?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Correct.

CHAIRPERSON: Maybe you want to take it from there?

ADV LEAH GCABASHE SC: No Chairman, I think that – we'll just give
10 you the documentary evidence.

CHAIRPERSON: Yes, I assume that he didn't take the choir to India for – to have them trained as farmers?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): They told us Your Worship, like I've said our township it's a very small township and we know each other, so those kids did inform us.

CHAIRPERSON: Yes but my question is, were they taken to India for the same purpose for which the farmers would have been taken there, namely training as farmer?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):
20 According to those kids, Your Worship, they were taken there to be trained on the dairy project.

CHAIRPERSON: Okay thank you.

ADV LEAH GCABASHE SC: I'd like to just move on a little bit to your paragraph 17 Mr Dhlamini where you speak about refusing to give out (indistinct) ID, your ID copies, you know you were talking about that at

the meeting. Please just explain that scene to the Chairman.

CHAIRPERSON: I'm sorry, I'm sorry to interrupt I know that at some stage earlier he was moving into tell me about the second meeting after having spoken about the first meeting and I see that the part that you are talking about relates to, according to his statement the third meeting. I wonder whether it would not be convenient to make sure we are done with the second meeting but if, in terms of themes that part belongs to a theme that fits more with what we have dealt with that's fine but it would help me more if we finish with the first meeting, we go
10 to the second meeting and then third meeting.

ADV LEAH GCABASHE SC: Chairman I believe we are done with the second meeting, if you very quickly look at the paragraph 12 where it starts, it's about the attendance, 13 relates to what they were told about the cows, where the cows would stay etcetera, the 4 000 hectares, 14 deals with the shareholding 52%, 28%, 20%, that split, hospitals, roads...(intervention).

CHAIRPERSON: So we have dealt with it?

ADV LEAH GCABASHE SC: We have dealt with it Chairman and then their expectations for better future, we've dealt with that.

20 **CHAIRPERSON:** Okay maybe I can just ask a few questions, maybe I might have missed something. Do you recall more or less when it was that you had the second meeting where, I believe Mr Zwane addressed you again?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): I don't remember very well because it was like – everything was happening in

a hurry.

CHAIRPERSON: The first meeting was in 2012, I take it that the second meeting was also in 2012?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Ja it was very close, it was not long after the first meeting.

CHAIRPERSON: Yes and was it held at the same venue as the first meeting?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Correct.

CHAIRPERSON: And was it essentially the same people who attended
10 even if it's not really everybody?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): That is correct.

CHAIRPERSON: Yes okay thank you.

ADV LEAH GCABASHE SC: Thank you Chairman. Can I then just confirm that the third meeting would also have taken place in 2012?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Though I don't remember very well, but the third meeting it was a meeting where they request of taking our ID's.

CHAIRPERSON: And it was not long after the second meeting that you
20 had the third meeting, is that correct?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): It was after a few months.

CHAIRPERSON: Okay thank you.

ADV LEAH GCABASHE SC: So I had asked you just to explain to the Chairman what your view was on that day with respect to the physical

ID copies that were being requested from you.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): What happened is, it was a Friday, we were requested to bring our ID's and then on a Saturday there was a meeting at the town hall, before the meeting started, I met with the farmers we had a caucus meeting requesting them not to give the ID's...(intervention).

ADV LEAH GCABASHE SC: You were requesting them not to hand up their ID?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Correct,
10 the reason why I requested them not to hand over their ID's it is because I've already heard that the farms were released and Pretoria is requesting the identity document of the beneficiaries.

ADV LEAH GCABASHE SC: Are you talking about Government funds here?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): That is correct.

CHAIRPERSON: Okay let me just check, what you had heard was it that the Government in Pretoria wanted the list – wanted a list of beneficiaries or is what you heard that the Government in Pretoria
20 wanted the ID's of the beneficiaries?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): I was in a meeting in Bethlehem, neighbour meeting, I heard that there was some infighting about the dairy project and who are the beneficiaries there because the Government funds had been released or out.

CHAIRPERSON: Okay, is what you had heard therefore, that the

Government in Pretoria wanted a list of the names of the beneficiaries or is what you had heard that the Government in Pretoria wanted the ID's – ID books of the beneficiaries, or both?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): What I'd like to explain is that the beneficiaries were elected after – or they were taken after the money or the funds had been released, that's what I want to explain.

CHAIRPERSON: No Mr Dhlamini, I'm asking you again, please just listen to the question and answer that question and other issues that
10 you might wish to tell me which you have included in your statement that Ms Gcabashe knows about, she will ask you about those issues in due course. Okay, earlier on you said you had a caucus meeting with your members is that correct?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):
Correct.

CHAIRPERSON: And you said that you told them that they should not hand up their ID books, is that correct?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Correct.

CHAIRPERSON: And you said that you had heard something and I
20 thought that you said that you heard that the Government in Pretoria wanted a list of the beneficiaries but the interpreter seems to have said, you said you heard that the Government in Pretoria wanted the ID books, so that is why I was asking you to clarify what you heard.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): The list-
the names of the beneficiaries, the list of the names of the

beneficiaries.

CHAIRPERSON: Okay that's what you had heard, namely the Government in Pretoria wanted the names of the beneficiaries?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Correct.

CHAIRPERSON: Okay thank you. If you had told me that, what five minutes ago, we would have covered a lot more ground now.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): I apologise.

CHAIRPERSON: Okay, alright thank you.

10 **ADV LEAH GCABASHE SC:** Mr Dhlamini I know the time is important but we'll actually go through all of your evidence, I think that the Chairman will allow us to do that.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Yes.

ADV LEAH GCABASHE SC: So the purpose for – can I rephrase that, so can you explain to the Chairman what you then decided to do, did you present your ID number so that your name could be put on the list, did the other members of the community do the same or what happened?

INTERPRETER: So do you mean, did they provide the ID numbers.

20 **ADV LEAH GCABASHE SC:** So that those ID numbers and names could be entered on the list that was going to go to Pretoria or did he continue to say, don't do it?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): What happened is, after the caucus Your Worship, I noticed that they did not take my advice or whatever I was saying to them so when we went back

then they were giving out their – they gave up the – ja they've given them their ID copies, so they were making copies of the ID's now. So yes, we then handed over the ID's.

ADV LEAH GCABASHE SC: And you joined the group that was permitting officials to make copies of their ID documents?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): That is correct.

CHAIRPERSON: Did your members reject the idea of not giving their ID books or – at the caucus meeting?

10 **MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** Nobody responded exactly it was just something else, nobody responded.

CHAIRPERSON: Oh okay, but when you went to the meeting then they gave their ID books for – to be copied?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): That is correct.

CHAIRPERSON: And then you did the same?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): I then followed suite.

CHAIRPERSON: Okay.

20 **ADV LEAH GCABASHE SC:** And the official who was coordinating this was Ms Alta Meyer?

MR EPHRAIM MAKHOSINO DHLAMINI: Yes.

ADV LEAH GCABASHE SC: Ms it is a female.

MR EPHRAIM MAKHOSINO DHLAMINI: Ms – Ms Alta Meyer.

ADV LEAH GCABASHE SC: Ms Meyer also asked you to sign certain

forms, is this correct?

MR EPHRAIM MAKHOSINO DHLAMINI: No not on that day they only took the ID's only.

ADV LEAH GCABASHE SC: When did she ask you to sign forms and at the same time tell you about the rules of the project?

MR EPHRAIM MAKHOSINO DHLAMINI: Second meeting Ms Alta Meyer was there. It was on that meeting where we also elected the committee.

CHAIRPERSON: Okay let us just get this clear. You see it is important
10 to give me a clear picture as to what happened in a particular meeting and we close that off and move onto something else.

MR EPHRAIM MAKHOSINO DHLAMINI: Yes Sir.

CHAIRPERSON: Let me ask a few questions.

1. Who called the third meeting?

MR EPHRAIM MAKHOSINO DHLAMINI: Kholiza, Thuto, they are the ones who notified us about this meeting. Alta Meyer was coming to that meeting.

CHAIRPERSON: So please just repeat the two names of the people who called the meeting?

20 **MR EPHRAIM MAKHOSINO DHLAMINI:** Thutoganye, Kholiza Sibeko.

CHAIRPERSON: Who were they in the whole scheme of things?

MR EPHRAIM MAKHOSINO DHLAMINI: They were hired by Mr Mosebenzi Zwane when he came in as a MEC. He said he is employing them to be his eyes and ears exactly their job description Your Worship I would not be able – I mean Chairperson I would not be able to tell you

but he said they were there to be his eyes and ears in the meeting in his absence.

CHAIRPERSON: So they were government officials from the Department?

MR EPHRAIM MAKHOSINO DHLAMINI: I heard that they were contracted or they had a contract in the government.

CHAIRPERSON: Now you told us with regard to the first meeting that what was written in the article that Ms Gcabashe read was true namely that the way the first meeting was called was by way of people who went around with I think loud-halers saying there would be a meeting. Is that how the third meeting was also called?

MR EPHRAIM MAKHOSINO DHLAMINI: For the third meeting Your Worship there was a loud-haler and some of us were called.

CHAIRPERSON: Yes. And at the meeting, the third meeting was it Ms Meyer – was it only Ms Meyer who was the speaker?

MR EPHRAIM MAKHOSINO DHLAMINI: If I remember well it was Dume Kobene. Yes.

CHAIRPERSON: Are you now saying Ms Meyer was one of the speakers but there was another speaker Ms Kobene is that what you are saying?

MR EPHRAIM MAKHOSINO DHLAMINI: Yes.

CHAIRPERSON: And this third meeting was it called as a follow-up meeting in relation to the dairy project?

MR EPHRAIM MAKHOSINO DHLAMINI: I am confused.

CHAIRPERSON: Okay. This meeting was called as a meeting relating

to the dairy project?

INTERPRETER: The third meeting?

CHAIRPERSON: The third meeting.

MR EPHRAIM MAKHOSINO DHLAMINI: It was – it was a meeting. There was nothing to be discussed there but to take the ID's so that they will be taken to – or hand over their ID's so that they can be taken to Pretoria.

CHAIRPERSON: Yes thank you.

MR EPHRAIM MAKHOSINO DHLAMINI: That is all.

10 **CHAIRPERSON:** Thank you.

ADV LEAH GCABASHE SC: Thank you Chairman. I am going to take you back to your paragraph 17 and the second sentence of that paragraph reads as follows:

“The farmers did not heed to my advice and we went ahead to provide our details including copies of our Identity documents to Ms Meyer who asked us to sign certain forms and who told us about the rules of the project.”

20 My question is, I understand that this happened a number of years back. Just for the Chairman to have an idea as to when these documents or these forms were signed and when you were told about the rules of the project in the statement you locate that in the third meeting but please Mr Dhlamini you are at liberty to say Chairman you will excuse me I actually think this is when this thing happened. So please just explain to the Chairman if this is correct record or if you

think this record here in paragraph 17 is incorrect?

MR EPHRAIM MAKHOSINO DHLAMINI: It was Alta Meyer who was just taking the ID copies and then only gave us just a few rules of what should happen in the dairy project. Nothing hectic like do not take out the assets that belongs into the dairy project like garden spade nor [indistinct] should be taken out of the dairy project or the cows taken out. So basically those were the rules – small rules that she was giving us, just minor. Not taking out a fodder or grazing food. It was just about the ID's only.

10 **ADV LEAH GCABASHE SC:** That explains what you may have referred to here as the rules of the project. Is that correct?

MR EPHRAIM MAKHOSINO DHLAMINI: The rules of the project came up in the fourth meeting. If I understand very well here it was only about the taking or handing over of the ID's only. After that third meeting then she came to the fourth meeting.

CHAIRPERSON: Before you tell us about the fourth meeting. What Ms Gcabashe was trying to establish from you with regard to the last sentence of paragraph 17 is this. What Ms Gcabashe was trying to establish from you in regard to the last sentence of paragraph 17 is the
20 following: Did she tell you that is Ms Meyer about the rules of the project at the third meeting or is the position that she did not tell you about the rules of the project at that meeting. She told you about the rules of the project at another meeting or is the position that you cannot remember at which meeting she told you about the rules of the project?

MR EPHRAIM MAKHOSINO DHLAMINI: I do not remember well Your Worship as to whether she informed us about the rules of the project in the third meeting, the meeting where the ID's were taken or were handed over or when exactly.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE SC: Yes thank you. Thank you Mr Dhlamini. Then the last thing to clear up is just the matter of those certain forms that we – you talk about in the same sentence. Can you just assist with that? Did you or did you not sign certain forms at the time that you
10 were handing up your ID documents?

MR EPHRAIM MAKHOSINO DHLAMINI: If I remember well I think the word documents that we signed there are forms that we signed.

ADV LEAH GCABASHE SC: Would this have been at the time that you were handing in your ID's for copies to be made?

MR EPHRAIM MAKHOSINO DHLAMINI: It is a long time ago. I – it is – it happened long time ago I do not remember.

ADV LEAH GCABASHE SC: That is fine because you have Mr Ncongwane who might remember some of the details. So I do not think you should worry too much about it Mr Dhlamini, you are doing your
20 best.

CHAIRPERSON: And maybe just to put you at ease it may be that in the end it does not matter whether it was in the second meeting or first meeting what is important is were there forms that you signed and what those forms were? So do not worry much about that.

MR EPHRAIM MAKHOSINO DHLAMINI: Yes.

ADV LEAH GCABASHE SC: Can I actually move on to the Imbizo that took place at Frankfort. Please just tell the Chairman what that was about?

MR EPHRAIM MAKHOSINO DHLAMINI: There was an Imbizo at Frankfort Mr Zokwana was there and Lesedi FM was there as well.

ADV LEAH GCABASHE SC: Would you remember roughly when that would have been?

MR EPHRAIM MAKHOSINO DHLAMINI: I do not remember the day exactly but I remember that I wanted to raise this issue of dairy Vrede
10 one of the people who wanted to raise the issue of the dairy – I mean dairy project.

CHAIRPERSON: And who called the Imbizo?

MR EPHRAIM MAKHOSINO DHLAMINI: We were told that there is a government Imbizo Agricultural department Imbizo. The people that I saw there was Mr Zokwana and Thebethe and other people were in the other – association with us from Qwaqwa.

ADV LEAH GCABASHE SC: Continue what happened at that meeting?

MR EPHRAIM MAKHOSINO DHLAMINI: We raised some issues or complaints. I raised my hand. I did get the opportunity to speak out
20 about the dairy project Vrede dairy project.

INTERPRETER: Your Worship [indistinct] clarity.

CHAIRPERSON: Yes.

MR EPHRAIM MAKHOSINO DHLAMINI: I raised an issue about the dairy project which is at Vrede and that they are now Indians people there, the Gupta's who – I could hear that they were talking but the

language I could not get it clearly as to what language was this because I could pick it up that they are not conversant in English or their English was not – I could not understand it. As well as they could not even speak Sesotho. I had a problem with the language of the Gupta's what exactly they were saying.

ADV LEAH GCABASHE SC: Can I just get clarity on this? Because I am reading the statement as you are talking. In the statement you refer to Ma Gupta but are you talking about knowing that these people were members of the Gupta family or are you simply referring to them
10 as a class of people who would be Indian and that is – I just want clarity – and that is why you used the term Ma Gupta?

MR EPHRAIM MAKHOSINO DHLAMINI: We would see them there. We were already informed that they are a – the Gupta family who are working in the dairy project.

ADV LEAH GCABASHE SC: Who had informed you that you had members of the Gupta family working at the dairy project?

MR EPHRAIM MAKHOSINO DHLAMINI: We – there are people who are working in the dairy project who are living with us in the same township and some we are related to. They are the ones who informed us that
20 there is a Gupta family that is working in the dairy project.

ADV LEAH GCABASHE SC: Yes continue. What did you then say at the Imbizo?

MR EPHRAIM MAKHOSINO DHLAMINI: I raised the issue that our identity documents were used to get the dairy project running and we have not received any proceeds. It is functioning fully but we have not

received any proceeds therefore I was requesting Mr Zokwana to help us, Zokwana to help us.

CHAIRPERSON: And Mr Zokwana was Minister of Agriculture Forestry and Fisheries. Is that the one you are referring to?

MR EPHRAIM MAKHOSINO DHLAMINI: That is correct.

ADV LEAH GCABASHE SC: What was Minister Zokwana's response to you?

MR EPHRAIM MAKHOSINO DHLAMINI: He said I used wrong names or I referred to these people with – like with wrong names then Mr Thabethe then said he will intervene and sort this thing out.

ADV LEAH GCABASHE SC: Did Mr Thabethe in fact resolve the difficulty you were placing before the Minister at that Imbizo?

INTERPRETER: The surname is?

ADV LEAH GCABASHE SC: Thabethe.

MR EPHRAIM MAKHOSINO DHLAMINI: No.

ADV LEAH GCABASHE SC: Can we...

CHAIRPERSON: What – I am sorry. What was your understanding of what Mr Zokwana was referring to that he seems to have found objectionable in the words that you had used?

20 **MR EPHRAIM MAKHOSINO DHLAMINI:** He did not want me to refer to these people as Gupta's.

CHAIRPERSON: Oh is that what Mr Thabethe said he would sort out or did MR Thabethe say he was going to resolve the difficulties that you had raised with Mr Zokwana?

MR EPHRAIM MAKHOSINO DHLAMINI: Mr Thabethe was saying he

was going to resolve the issue of the dairy Vrede project.

CHAIRPERSON: Just again I know you said it about two minutes ago. What exactly was the problem that you told Mr Zokwana about regarding the Vrede dairy project?

MR EPHRAIM MAKHOSINO DHLAMINI: I was telling him about the dairy project, Vrede dairy project. Our names were taken. Funds were released from the government. The dairy project is functional and we are not getting any money from it. The promises that were made that we will be taken to India for training it did not happen. This means that
10 there is some

INTERPRETER: Your Worship I am not sure if the...

CHAIRPERSON: Criminal activity.

MR EPHRAIM MAKHOSINO DHLAMINI: Criminal activity yes criminal activity is going on and yet our ID copies were used.

CHAIRPERSON: Yes and so is – is that what Mr Thabethe said he was going to resolve then?

MR EPHRAIM MAKHOSINO DHLAMINI: That is correct.

CHAIRPERSON: Now I know that you said you cannot remember around about when the Imbizo was held but if you think back at the time
20 when the third meeting was held and you look at the time when Imbizo was held about how much time would you say lapsed between Imbizo between the time that the third meeting had happened before the Imbizo was held?

MR EPHRAIM MAKHOSINO DHLAMINI: A long time – a long time indeed.

CHAIRPERSON: More than a year?

MR EPHRAIM MAKHOSINO DHLAMINI: I assume it was more than a year.

CHAIRPERSON: Okay thank you.

ADV LEAH GCABASHE SC: Mr Dhlamini at this Imbizo you heard Minister Senzeni Zokwana?

MR EPHRAIM MAKHOSINO DHLAMINI: Yes.

ADV LEAH GCABASHE SC: Were there any other members of Parliament or members of the Provincial Legislature in attendance?

10 **MR EPHRAIM MAKHOSINO DHLAMINI:** From Parliament I saw Mr Senzeni Zokwana. And then Mr Thebethe I saw him from Bloemfontein. There were others though I did not know their names.

CHAIRPERSON: And the – Mr Thebethe that attended that meeting that you talking about is it the one who was the Head of the Provincial Department of Agriculture in the Free State?

MR EPHRAIM MAKHOSINO DHLAMINI: That is correct.

CHAIRPERSON: And Mr Senzeni Zokwana did not attend the Imbizo?

MR EPHRAIM MAKHOSINO DHLAMINI: No.

CHAIRPERSON: Thank you.

20 **ADV LEAH GCABASHE SC:** So you are not able to identify the other VIP's or the other officials who were at the Imbizo?

MR EPHRAIM MAKHOSINO DHLAMINI: I would not be able to identify them but there was also Lesedi FM but the others I would not be able to – be in a position to identify them.

ADV LEAH GCABASHE SC: Let us move onto the fourth meeting which

was convened you say in or about 2014. Who was in attendance at that meeting?

MR EPHRAIM MAKHOSINO DHLAMINI: The fifth meeting.

ADV LEAH GCABASHE SC: The fourth meeting.

MR EPHRAIM MAKHOSINO DHLAMINI: Alta Meyer, Municipal officials or employees, councillors, that is where we even nominated or elected the committee.

ADV LEAH GCABASHE SC: Yes what – what else happened at that meeting?

10 **MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** It was where Ms Alta Meyer want to take questions or did not want to respond to the questions because people want to ask her questions. It is where we elected the committee but she did not want to accept questions when people wanted to ask her questions.

ADV LEAH GCABASHE SC: Who did she say had asked her to come and see you in Vrede?

INTERPRETER: Can I get the question again?

ADV LEAH GCABASHE SC: Whom did she say requested her to visit Vrede?

20 **MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** According to her she said it was Mr Ace Magashule.

ADV LEAH GCABASHE SC: And why was she in Vrede?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): What I noted was the election of the committee. She further informed us about the changes that were to take place in the dairy project. That the

Agriculture Department as well as the Municipality had been now removed from the dairy project. FDC is going to take over.

ADV LEAH GCABASHE SC: So your understanding had all along been that the operations or what was happening at the Vrede Dairy Farm involved the Department of Agriculture and the Municipality?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): That is correct.

ADV LEAH GCABASHE SC: And the Free State Development Corporation was a completely separate entity?

10 **MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** That is correct. They were a separate entity. The first time we heard about them it was on that day and we had people talking about it during the week.

ADV LEAH GCABASHE SC: Now the Free State Development Corporation took over the running of Estina sometime around August 2014. That means that this meeting would have taken place just a little before that.

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): It happened so fast. I do not remember exactly as to whether it was a
20 week after that meeting that they have taken over – the FDC have taken over the project but it was shortly – it happened shortly a week or a week after.

ADV LEAH GCABASHE SC: Oh so you actually got to – to find out or to know that the FDC had taken over the Vrede Dairy Project?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): Yes.

ADV LEAH GCABASHE SC: Who told ...?

CHAIRPERSON: I am sorry. I am sorry. I think the interpreter might not have understood your question. I think Ms Gcabashe wanted to establish from you whether you are saying at the time of this meeting what you learnt was that the FDC had already taken over not that it was going to take over ultimately. Okay. I will put the question.

At this meeting was your understanding that the FDC had already taken over as opposed to it will still – it will take over ultimately.

10 **INTERPRETER:** The fourth meeting now your worship.

CHAIRPERSON: Whatever meeting they were talking about.

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): It was about to. It is not like they have already taken over.

CHAIRPERSON: Oh, okay. *Ja*. Her question was about I think whether before it had – before the meeting it had already done so. That was my understanding at least of the meeting – of the question but at least you are clarifying that it was still to take over.

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): That is correct your worship still to take over.

20 **CHAIRPERSON:** The tense can make a big difference in meaning.

ADV LEAH GCABASHE SC: But soon thereafter and I was suggesting to you that in or about August the FDC did take over the farm. So my question to you was did you find out that in fact the FDC had now taken over the farm?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): What

happened is after this meeting then indeed these people were presented to us. We saw them. We were told that these are the people who are now running the project. That is when I said to them you are not going to nominate other beneficiaries. We are there already as beneficiaries that are already existing for this project. So we met those people. We saw those people.

CHAIRPERSON: Okay. Ms Gcabashe I think I may have thought that the interpreter misunderstood the question but she – she might have heard the question correctly. Are you asking what knowledge he had at
10 the time he was attending the meeting or are you asking what knowledge he gained after the meeting as to the role of the FDC?

ADV LEAH GCABASHE SC: Chairman I was satisfied that he said that at the time he attended the meeting they were informed that the FDC was about to take over. My subsequent question was then when did you find out that in fact the FDC had taken over. So there were two separate questions Chairman.

CHAIRPERSON: Yes, okay. Now I understand it. It is all about – it is all about tense. Now I understand. Okay but you do not remember the date when you found out that the FDC had taken over but are you able
20 to indicate how soon after the fourth meeting it was that you learnt that the FDC had taken over?

INTERPRETER: The last part of the ...

CHAIRPERSON: Okay. Let me – you say you or I understand that you might not recall the date when exactly you might have heard that the FDC had taken over. Do you want to interpret that part; but are you

able to say how long after the fourth meeting you learnt that the FDC had by then taken over?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): It was the day when Alta Meyer came to tell us that the FDC is taking over the running of the dairy project. I think it was more like this week and then the following week they took over the running of the project.

ADV LEAH GCABASHE SC: Now can you please explain what you set out in paragraph 20 where - and I will just paraphrase - you discuss the question whether or not you were recognised as beneficiaries. When
10 did that discussion take place?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): Well what happened is your worship/Chairperson is that in the week that the FDC took over the running of the project it was that day when we saw them and we met up with them and then we told them that they are not going to be nominating other people as beneficiaries because we are there already as existing beneficiaries and we therefore requested them to bring documentation to that effect that shows that we are beneficiaries.

Documents like for instance there is a bank account open that
20 really shows that we are beneficiaries.

ADV LEAH GCABASHE SC: Where did that meeting take place?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): At the town hall.

ADV LEAH GCABASHE SC: And who attended that meeting?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): Though

I do not remember well but FDC was there. Already we were told by Tuto and the municipal officials that they intend nominating other beneficiaries. So we were in that meeting with the FDC and then I raised this issue of them not nominating other beneficiaries because we were existing beneficiaries.

ADV LEAH GCABASHE SC: Please just clarify before you go further. Who intended nominating new beneficiaries?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): FDC.

ADV LEAH GCABASHE SC: Do you have any names of the officials
10 from FDC who attended the meeting you are relating?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): It was for the first time seeing them your worship. I am not sure if they were picked up from the streets but it was for the first time to see them on the day in question.

ADV LEAH GCABASHE SC: Now what exactly did Tuto and Koliza – in fact you said it was Tuto and ...

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): Koliza.

ADV LEAH GCABASHE SC: Koliza?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): Yes.

20 **ADV LEAH GCABASHE SC:** What did they say to you?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): They were advising us based on the fact that the Agricultural Department as well as the municipality were already now removed from the dairy project. That FDC is now taking over. We should not agree to – we should not agree to them nominating or selecting other new

beneficiaries. Even in the news article - Bloemfontein newspaper - they did mention the fact that they will be nominating new beneficiaries. That there was an article in a Bloemfontein newspaper that they will be nominating new beneficiaries. We heard that from Tuto and Koliza.

ADV LEAH GCABASHE SC: What was the position you then took at the meeting with the FDC? What was the outcome of that meeting?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): The meeting just ended your worship after I have – Chair after I had
10 requested them to go and get documentary proof or documents that show that we are the beneficiaries of this project. Until they produce such then the meeting was then dissolved just like that.

ADV LEAH GCABASHE SC: How many members of the community attended that meeting?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): A lot of beneficiaries – a lot of us.

ADV LEAH GCABASHE SC: And how had they been contacted and told about that FDC meeting?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): The
20 meeting that we had with Ms Alta Meyer she did inform us of the date – the day that they were coming to see us.

ADV LEAH GCABASHE SC: Can you then just tell us about the fifth – what you call the fifth meeting in your paragraph 21?

CHAIRPERSON: And just before you say that can you – you deal with that. Can you just tell me again whether Ms Meyer was employed at

the Office of the Premier or whether she worked for the Department of Agriculture or where she worked?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): From Mr Ace Magashule's office.

CHAIRPERSON: That is where – that is where she worked in the Office of the Premier?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): She said she was sent by the Premier.

CHAIRPERSON: Okay. When you say she was from the Premier's Office is that because of what she told or whether you also know as a
10 fact that she worked in the Premier's Office?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): She told us that.

CHAIRPERSON: Thank you. Then you can deal with the fifth meeting.

ADV LEAH GCABASHE SC: Thank you Chairman. Could you then just tell the Chairman briefly what happened during the fifth meeting? So who attended it and what happened at that meeting?

INTERPRETER: And when?

ADV LEAH GCABASHE SC: What – who attended, what happened,
20 when it happened – when the meeting took place?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): The fifth meeting it was called by the Premier Mr Ace Magashule.

ADV LEAH GCABASHE SC: Can you just stop there for one minute? Did the Premier personally call the meeting or did people he delegated to do so call the meeting?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): He delegated Tuto and Koliza.

ADV LEAH GCABASHE SC: Yes continue.

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): That all beneficiaries are called upon to attend a meeting. Mr Magashule the Premier wants to meet with us.

ADV LEAH GCABASHE SC: Where was this meeting intended to take place?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): At the
10 town hall.

ADV LEAH GCABASHE SC: Yes continue. What then happened on that day?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): The meeting did not take place. Instead there was transport made available by buses that took – there were – there was transport by bus made available. They then took us and the other people who were there from the Women's League they took us to the dairy project.

ADV LEAH GCABASHE SC: Continue.

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): Some of
20 the farmers could not get into the transport because the bus was now full with the ANC Women's League. I then got a lift from Mr Mahlaba with his car. Then we went to the dairy project. Mr Zwane was there at the dairy project. Mr Ace Magashule. There were others though. I do not remember them well but I remember that Mr Madiba was there. I spoke to him on that day.

ADV LEAH GCABASHE SC: Was Tuto there? Was Koliza there?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): They would not be left out in any event.

ADV LEAH GCABASHE SC: So that means yes they were there?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): Yes they were there.

ADV LEAH GCABASHE SC: Did you meet with the Premier and with Mr Zwane?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): We saw
10 them. They were present there but they were observing the whole structure of the dairy project and the building but they were there. They did not speak to us. There was no meeting that they called or conducted and from there we heard that they were serving refreshments of food and then we left.

ADV LEAH GCABASHE SC: So the – the upshot of that meeting was that you did not get the opportunity to speak to the Premier?

MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter): Yes.

ADV LEAH GCABASHE SC: I want to then just deal with some of the other meetings but can I just clear one matter Chairman? My colleague
20 has been checking on the employment of Alta Meyer ...

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: And there is a – a document in the Reference Bundle A at page 2-3-4. You may just want to make a note. It is a document to General Managers. It is from the Agriculture and Rural Development Department and it is a document that says:

“Inquiries are to be made to Ms Meyer –
A C Meyer.”

And that the – on the second page there is a note that says:

“Ms Meyer is an acting director.”

So from this document Chairman and if we look at the ENS Report which we will be dealing with on Friday her name there as well is on as a Coordinator of the Vrede Dairy Project but in the employment as I understand it from the documentation Chairman of the Department of Agriculture and Rural Development not the Premier’s Office.

10 **CHAIRPERSON**: Okay.

ADV LEAH GCABASHE SC: Thank you Chair.

CHAIRPERSON: Okay, thank you.

ADV LEAH GCABASHE SC: Briefly tell the Chairman about the meeting that ME ...

CHAIRPERSON: I am sorry before he does so I normally take a short break at four if we are going to go beyond four. So maybe we should take that. Just 10 minutes.

ADV LEAH GCABASHE SC: Thank you Chairman.

CHAIRPERSON: So ...

20 **ADV LEAH GCABASHE SC**: That would be convenient.

CHAIRPERSON: *Ja*. We will adjourn and then we will resume at 10 past four. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay, let's proceed.

ADV LEAH GCABASHE SC: Thank you Chairman. Mr Dhlamini we are at page 6, and that's paragraph 22, and I really just want you to give the Chairman a quick summary of what happened when MEC Qabathe (spelt) attended a meeting with you. I know you have summarised in one sentence what happened but I know that you in the narrative you just may want to add one or two more details.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Correct, we did have a meeting with her, she called us into a meeting, she
10 wanted to hear ...[intervenes]

ADV LEAH GCABASHE SC: Mic.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Indeed she called us into a meeting, she wanted to find out about the documents issue, but she did not tell us much or said much that is of good news to us. She wanted to find out about the documents. Oh correction, she wanted to find out about us going to media. She wanted to find out about us going to the media, that was the reason why she called a meeting. Correction when I used documents, and then she, like I said there were no good news that she said to us except to
20 find out about us going to the media and then she called frogs, when you want to go and fetch water and the frog is making sounds Your Worship you just ignore it and go to fetch water, as you have intended, just ignore it. She further told us about how she got the position and that they have been there for too long kind of thing or campaigning. That is all she said which was not good news for us. She just insulted

us.

CHAIRPERSON: What was your understanding of who she was referring to as making noise like a frog that had to be ignored?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): My understanding was she was referring that to us, myself and Mr Mungani, because we are the ones who approached the media.

CHAIRPERSON: Okay, what had you been told was the purpose of that meeting with her?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): It was
10 not clear the purpose of the meeting Chairperson, it was just about the issue of us having gone to the media regarding this issue.

CHAIRPERSON: Okay.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): There was a mayor and councillors in that meeting and they were laughing, nothing much was said in that meeting, they were just laughing.

ADV LEAH GCABASHE SC: And Chief Director Mr Modiba was with you as well at that meeting.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Yes.

ADV LEAH GCABASHE SC: What contribution did he make to the
20 discussions?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): I did not hear his contribution or what he said.

ADV LEAH GCABASHE SC: What did you then do? You the individual.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): We remained there until the meeting was dissolved.

ADV LEAH GCABASHE SC: Can you clarify for the Chairman are we talking about one meeting where MEC Qabathe and Chief Director Modiba were present or are we talking about two separate meetings, one where MEC Qabathe and Mr Modiba were present and a different one where Mr Modiba was on his own, just for clarity.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): This meeting it's the one where there was MEC Qabathe.

ADV LEAH GCABASHE SC: Mr Dhlamini when you explain ulo and point the record does not know what you are pointing at.

10 **MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** It's a ...[indistinct] meeting.

ADV LEAH GCABASHE SC: Yes, the first one was MEC Qabathe.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Yes.

ADV LEAH GCABASHE SC: With officials.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Correct.

ADV LEAH GCABASHE SC: And one of those officials happened to be Chief Director Modiba.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Yes.

20 **ADV LEAH GCABASHE SC:** Then a separate meeting took place at a later stage.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Yes.

ADV LEAH GCABASHE SC: I am just looking at your paragraph 22, where you say no progress was made on our complaint it should be about the dairy so I left that meeting. Tell us about that meeting with Mr Modiba and why you left that meeting.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): We wrote to Mr Modiba myself and Mr Nqongwane, that's the meeting where I decided to walk away. It was in that meeting where the councillors wanted to take over the meeting from us, like asking, questioning us individually and basically assessing us as to who is smarter than the other one. We wrote to Mr Modiba requesting him to come to the meeting, we, myself and Mr Nqongwane had questions to ask him, not them asking us questions so they took over the meeting. We wrote to him because we are the ones who had questions, not them taking over
10 the meeting. It was at that stage when I then walked away from the meeting.

ADV LEAH GCABASHE SC: So this meeting obviously took place after the Premier had come to the dairy and after MEC Qabathe had been to Vrede?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): That is correct.

ADV LEAH GCABASHE SC: In terms of timeframes Mr Dhlamini if the FDC took over running the firm in mid-August, around the 14th of August 2014 are you able to give the Chairman a rough idea as to when
20 these meetings, the Qabathe meeting and the subsequent Modiba meeting would have taken place? Would it have been in 2014, after August 2014 or would it have been early in 2015 just so the Chairman has a timeframe.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Okay what happened is FDC has already taken over, Mr Zwane was then our,

stepped down was removed and then there was now Ms Qabathe and then Mr Modiba.

ADV LEAH GCABASHE SC: The MEC, she is female.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): MEC, okay MEC Qabathe. And then Qabathe as well stepped down, was removed, then Mr Modiba or Chief Director Modiba took over, that is at that stage when we wrote to him to invite him to a meeting.

ADV LEAH GCABASHE SC: So I was trying to find out if the meeting with Modiba took place in 2014 or 2015, I'm just trying to locate that
10 meeting.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): It is recently if I remember well, it can happen that it was in 2015.

ADV LEAH GCABASHE SC: It is important because the next person you had a meeting with was Dr Masiteng, Dankise Masiteng.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Yes.

ADV LEAH GCABASHE SC: Roughly when did that meeting take place?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Although I do not remember the date but the following day Mr Maimani was
20 coming over at the dairy project in Vrede.

CHAIRPERSON: Do you mean your meeting with Dr Masiteng happened the day before your meeting with Mr Maimane?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Correct.

CHAIRPERSON: Thank you.

ADV LEAH GCABASHE SC: Thank you. Tell us about that meeting

with Dr Masiteng.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): In that meeting there was also Mr Modiba, there were three. Though I do not remember the other one, who it was, the meeting was supposed to be held at the Agriculture Department only to discover that there was no, the space was small or there was not enough space. I know that I did not mention that in my statement but I am mentioning it now. Tundo calls me he said there is Mr Masiteng and Mr Modiba they are calling you.

10 **ADV LEAH GCABASHE SC:** Dr Masiteng and who, Mr Modiba?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Mr Modiba and the other one, they were standing outside so I went outside.

ADV LEAH GCABASHE SC: Were you alone or were you accompanied by somebody?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): I was alone.

ADV LEAH GCABASHE SC: Yes?

CHAIRPERSON: Okay I am sorry, I thought earlier on you said Mr
20 Tundo said to you Dr Masiteng and Mr Modiba were calling you, did I hear you correctly?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Yes, they were three thought I don't remember the other one.

CHAIRPERSON: Oh it's the third one that you don't remember?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Yes.

CHAIRPERSON: Okay thank you.

ADV LEAH GCABASHE SC: Continue, so you went outside?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): The other farmers were in a house in the Agriculture Department, I went to them ...[intervenes]

ADV LEAH GCABASHE SC: Who, when you say them who are you talking about?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Dr Masiteng, and Mr Modiba and this guy who I do not know.

10 **CHAIRPERSON:** When you were called, when Mr Tudo said Dr Masiteng and Mr Modiba were calling you were you inside the premises of the Department of Agriculture?

ADV LEAH GCABASHE SC: Yes I was inside the house.

CHAIR: Were you where the meeting was going to take place together with other farmers?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Yes.

CHAIRPERSON: And the two who you were told were calling you were they outside of the room where you were and other farmers were?

20 **MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** They were outside the room where we were at with the other farmers but inside the yard Your Worship of the Department of Agriculture.

CHAIRPERSON: Had they been in the same room where you and the other farmers were but they left the room before you were called?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Your Worship may I get clarity of that. We were inside the house where the

meeting was to be held then Tundo called me and said Dr Masiteng and Mr Modiba they are calling me outside.

CHAIRPERSON: When Mr Tundo told you that were the two men, Dr Masiteng and Mr Modiba inside the room where the meeting was to be held or were they already outside?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): They were outside.

CHAIRPERSON: Okay, thank you.

ADV LEAH GCABASHE SC: Yes, so you went outside?

10 **MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** Yes.

ADV LEAH GCABASHE SC: Where was Kulisa, where was Tundo when you went outside?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Kulisa was not there, Tundo was present, Kulisa was not there, Tundo myself we went out together and he said no you can speak to Mr Dhlamini he is not a bad person after all.

ADV LEAH GCABASHE SC: Who was he saying this to?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): He was referring that to Dr Masiteng, Mr Modiba and this other third man that I
20 don't know his name

ADV LEAH GCABASHE SC: Yes continue.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): I did not hear exactly what they were saying to me or the conversation between myself and them to a point that I ended up telling them that you are now calling me by names and my vote is my secret. It was at that

stage Your Worship when I asked them or I told them what is a baby snake and they said it is a snake and then I said I will always remain the ANC member.

CHAIRPERSON: Well there is something that must have been discussed between you on the one hand and them on the other before you reached that point, because they are the ones who had called you isn't it?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Well what I know what happened was Tundo said you can speak to Mr
10 Dhlamini he is not a bad person, so according to them they assumed that Tundo has already told me whatever they wanted to tell me.

CHAIRPERSON: But you must have asked them why did you call me, and I assume they would have told you, did you not ask them why did you call me and if you did what did they say to you?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): No they didn't say and the next thing it was like it is just a small space here, we need to move to the Municipality Hall.

CHAIRPERSON: Were they therefore not calling you as the leader of the farmers association in Vrede to discuss with you the suggestion
20 that the meeting should move to a bigger place?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): I am still coming there because I learnt that after when I was with them at the time that was never conveyed to me or said to me.

CHAIRPERSON: Thank you.

ADV LEAH GCABASHE SC: Thank you Chairman. At that point did

you then go back into the facility where everybody else was?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Yes.

ADV LEAH GCABASHE SC: And did the meeting proceed?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): No we then changed the venue.

ADV LEAH GCABASHE SC: Having changed the venue did the meeting proceed?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Yes indeed it did proceed.

10 **CHAIRPERSON:** Okay before we get into that meeting let's go back to the time when you were with the three men outside the room where the meeting was going to be held initially.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Outside now Chair? Yes.

CHAIRPERSON: I just want you to be sure that this is not a case where maybe you can't recall what they said because it doesn't seem to make sense that they called you and you did not ask why did you call me but you talked about them calling you names and then you went back into the room. Are you sure you remember exactly that they did
20 not say anything to you about why they had called you?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Honestly I did not ask them as to why were they calling me and they did not say anything.

CHAIRPERSON: So did the four of you just look at one another outside there and said nothing and then you went back?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): I shook their hands, that is where I was waiting for them to say something, they said nothing, that's when I uttered those words, a baby snake, because they were now referring to me as a DA member. That is at that stage where I told them as to what is the baby snake. They laughed, then they said we must change the venue.

CHAIRPERSON: I'm sorry, I missed something, I think you said they were calling you something, I didn't hear, what were they calling you?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): They
10 were calling me by name saying I am DA.

CHAIRPERSON: You are?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): DA.

CHAIRPERSON: DA, they were saying you are a DA member?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): A DA
member, a DA political party member.

CHAIRPERSON: Oh, okay. Oh okay.

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): I was
saying that not them Your Worship, that people were making ja that I
am DA member, not them specifically. I wanted them to come out Your
20 Worship with the reason why they called me.

CHAIRPERSON: Oh okay, is that the reason why you were telling them
that you would remain a member of the ANC?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Correct.

CHAIRPERSON: Oh, okay. But you earlier on you said you only heard
later or maybe I misunderstood, did they say when you were them

outside that venue, that the meeting should shift to another place, a bigger venue, did they say that there or did they not say that?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): No Tundo is the one who came and said we must shift from this venue to a bigger venue.

CHAIRPERSON: Okay, thank you.

ADV LEAH GCABASHE SC: You then moved to the bigger venue?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Correct.

ADV LEAH GCABASHE SC: And the meeting proceeded?

10 **MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** Yes the meeting proceeded.

ADV LEAH GCABASHE SC: Who was in attendance at the time?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): Dr Masiteng, Mr Madiba and this other gentleman that I don't know. This is how the meeting resumed, on our arrival at the municipal premises they had a separate caucus to the point that we started asking ourselves as to what were they doing there because it was time for a meeting to be held. On their arrival then the meeting proceeded. I was the one who was asking questions. I was basically challenging them as
20 to how this thing was supposed to have happened.

ADV LEAH GCABASHE SC: What are you describing as this thing?

MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter): That the dairy project the people who have only 48% shares take the decisions on our behalf. Chair I take the decisions on our behalf. That we are the ones who were supposed to be making decisions.

INTERPRETER: Your Worship I need help.

CHAIRPERSON: Yes.

MR EPHRAIM MAKHOSINO DHLAMINI: Oh meaning they forgot in the process that they were supposed to proceed with the project Your Worship which was already initiated at [indistinct].

CHAIRPERSON: It sounds like sleeping on the wheel.

ADV LEAH GCABASHE SC: Or on the job.

CHAIRPERSON: Or on the job. Ja. Was your understanding that when they said that they were admitting that they had not done things the
10 right way with regard to the project?

MR EPHRAIM MAKHOSINO DHLAMINI: That is correct Your Worship they did admit they were supposed to follow the procedures that I mentioned.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE SC: And how – how was that meeting concluded?

MR EPHRAIM MAKHOSINO DHLAMINI: They agreed with me how the meeting was concluded is that they agreed with me that they did not do as they were required – as per the agreement as to how this project is
20 going to be run. Like sleeping on duty. But now they agree with me and they should have done things the way I am advising them to and then that is how the meeting was then dissolved.

ADV LEAH GCABASHE SC: You also mention in your last sentence of paragraph 23 that as you were asking questions there were municipal officials who tried to deflect those questions.

MR EPHRAIM MAKHOSINO DHLAMINI: That is correct and the person who was interfering a lot during that – me asking questions Your Worship it was a counsellor by the name of Dume Kobede who was working for the municipality, Kobede.

ADV MUZI SIKHAKHANE: Oh I thought Dume Kobede worked for the ANC that is what is what is noted at your paragraph 8.

MR EPHRAIM MAKHOSINO DHLAMINI: Yes.

ADV LEAH GCABASHE SC: Oh he was ANC counsellor but he was also a member of the ANC?

10 **MR EPHRAIM MAKHOSINO DHLAMINI:** He was a counsellor I am not sure of his position currently but then he was a counsellor.

CHAIRPERSON: Now after they had admitted that they had slept on the job and that they should have done exactly what you were suggesting should have been done what was the way forward that was agreed upon at the meeting if there was any way forward that was agreed upon?

MR EPHRAIM MAKHOSINO DHLAMINI: Nothing was said after that. There was no response after that.

20 **CHAIRPERSON:** Are you sure about that because I would have thought that if there is a project that is going on and there is dissatisfaction and everyone acknowledges that certain things have not been done right I would have thought that there would also be a focus on how do we correct the mistakes that we have made.

MR EPHRAIM MAKHOSINO DHLAMINI: It did not happen that way and according to my observation it was a way of preventing us from meeting

with Mr Maimane the following day because he was coming the following day to see us.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE SC: Talk to the Chairman about that meeting with Mr Maimane?

MR EPHRAIM MAKHOSINO DHLAMINI: And then the day came to meet with Mr Maimane at the dairy project farm. There were community members from Warden and Memel. They refused us to get into the dairy project premises.

10 **ADV LEAH GCABASHE SC:** Can – can I interrupt you? Your paragraph 24 you say Warden beneficiaries were with you but not the ones from Memel. So let us just get the record right.

MR EPHRAIM MAKHOSINO DHLAMINI: Yes correct.

ADV LEAH GCABASHE SC: So what is the correct version?

MR EPHRAIM MAKHOSINO DHLAMINI: There were people or community members from Warden not Mamel if I remember well.

ADV LEAH GCABASHE SC: Then the second question I have you then talk about they refused you entry or they stopped you from entering, who are they?

20 **MR EPHRAIM MAKHOSINO DHLAMINI:** There were security guards who are manning the gate.

ADV LEAH GCABASHE SC: At this point in time were you with Mr Maimane?

MR EPHRAIM MAKHOSINO DHLAMINI: That is correct.

ADV LEAH GCABASHE SC: Was he given entry?

MR EPHRAIM MAKHOSINO DHLAMINI: Yes he was allowed to get into the – inside the premises.

ADV LEAH GCABASHE SC: And how large was the group that remained outside the premises?

MR EPHRAIM MAKHOSINO DHLAMINI: It was a lot of people who were outside but Mr Maimane was supposed to choose people or a delegation that was supposed to come inside with him.

ADV LEAH GCABASHE SC: Okay so tell us what then happened?

MR EPHRAIM MAKHOSINO DHLAMINI: After he chose his delegation
10 the people that he wanted with him inside. The next thing we realised that the other group was also now inside the premises and apparently they were now allowed to get inside. I do not know who they called to give them permission to be inside the premises as well.

ADV LEAH GCABASHE SC: Was this the first time you were visiting the dairy?

MR EPHRAIM MAKHOSINO DHLAMINI: It was now for the second time, my second visit. I went even the time when Mr Ace Magashule was there as well.

ADV LEAH GCABASHE SC: Yes continue. So you entered the
20 premises with Mr Maimane?

MR EPHRAIM MAKHOSINO DHLAMINI: There were other things that – or issues that we were talking about to a point that I asked them about the tractor which was given to us by the Agriculture Department. I was actually seeing it there.

ADV LEAH GCABASHE SC: Could you identify that specific tractor?

MR EPHRAIM MAKHOSINO DHLAMINI: Yes.

ADV LEAH GCABASHE SC: How were you able to identify it?

MR EPHRAIM MAKHOSINO DHLAMINI: We once – or we – we used this tractor it was an agreement between ourselves [indistinct] that we will use this tractor for an example we will give it to a person to use it for a certain days maybe two days and bring it back. It was an agreement that was there between ourselves and Tutu.

ADV LEAH GCABASHE SC: Was this the only item you recognised as one that government had given to – or the Department of Agriculture
10 had given to the community of Vrede?

INTERPRETER: Your Worship I am not sure if the names – I am not familiar with the equipment that he is making. So I am not sure if the names are correct. I know that it is a tractor and he mentioned tractor.

CHAIRPERSON: Okay take your time to ask him to explain any equipment that you do not know.

MR EPHRAIM MAKHOSINO DHLAMINI: It was the tractor itself and the equipment Your Worship that you use with the tractor.

ADV LEAH GCABASHE SC: Yes. Continue.

MR EPHRAIM MAKHOSINO DHLAMINI: Another thing that we saw Your
20 Worship it is a poison that is used to kill cows.

ADV LEAH GCABASHE SC: That is a plant.

MR EPHRAIM MAKHOSINO DHLAMINI: It is a plant.

ADV LEAH GCABASHE SC: That – and if cattle eats it they die?

MR EPHRAIM MAKHOSINO DHLAMINI: That is correct.

ADV LEAH GCABASHE SC: Did you see quite a large field of that

particular plant?

MR EPHRAIM MAKHOSINO DHLAMINI: That is correct.

ADV LEAH GCABASHE SC: Please describe to the Chairman when that plant emerges? It has been described to me but please describe what you know of that plant to the Chairman?

MR EPHRAIM MAKHOSINO DHLAMINI: It is a green plant. We call it...

CHAIRPERSON: You can use that – you can use that term just as he uses it.

10 **MR EPHRAIM MAKHOSINO DHLAMINI:** Okay. We call it Delamoon. It is a plant that invades Your Worship. It comes out from – if the grass grows it grows together with grass. There was a dead cow there Your Worship it was – the carcass was still lying there. And the mother Your Worship was there like crying for ja sent like crying. That is where we then noted that there was a problem with the management it was not up to standard or the correct standards.

CHAIRPERSON: Yes the – and that still during the – Mr Maimane's visit you observing this during that time?

MR EPHRAIM MAKHOSINO DHLAMINI: That is correct.

20 **ADV LEAH GCABASHE SC:** And the FDC was managing the farm at that point in time?

MR EPHRAIM MAKHOSINO DHLAMINI: That is correct.

ADV LEAH GCABASHE SC: Any other comments on that visit?

MR EPHRAIM MAKHOSINO DHLAMINI: We also saw the area where the milking of the cows was taking place and those cows were very old.

There was no activity that was going to – productive activity that was going to take place. Those cows were very old.

ADV LEAH GCABASHE SC: What time of the day was this visit of yours?

MR EPHRAIM MAKHOSINO DHLAMINI: We left from the township to the dairy farm itself around ten and we were there for a long time. Although I do not remember exactly for how long but we were there for quite a while.

ADV LEAH GCABASHE SC: Did you talk to the management, did you
10 talk to any of the employees?

MR EPHRAIM MAKHOSINO DHLAMINI: That is correct we did. We even spoke to the guy who was operating the tractor and we also wanted to know how much were they earning.

ADV LEAH GCABASHE SC: And who was engaging the employees in these discussions? Was it Mr Maimane or was everybody talking to whoever they could find?

MR EPHRAIM MAKHOSINO DHLAMINI: Okay what happened is Mr Maimane asked me to come with him and when he is engaging someone he will then ask me to comment about that or ask questions. So I
20 would get the opportunity to ask questions.

ADV LEAH GCABASHE SC: I see.

CHAIRPERSON: We – we have gone past five o'clock. Your learned friends have not helped you with telling you the time.

ADV LEAH GCABASHE SC: No.

CHAIRPERSON: We had planned to stop at five. So we are going to

stop now. I understand that Mr Dhlamini's available to come back tomorrow morning. Let us confirm that?

MR EPHRAIM MAKHOSINO DHLAMINI: Yes.

CHAIRPERSON: Okay thank you. So we will adjourn now and tomorrow do we start at ten or would you like us to start a little earlier?

ADV LEAH GCABASHE SC: A little earlier please Chairman.

CHAIRPERSON: Would help.

ADV LEAH GCABASHE SC: Yes.

CHAIRPERSON: Okay let us start at half past nine then tomorrow.

10 **ADV LEAH GCABASHE SC:** Thank you.

CHAIRPERSON: So we start at half past nine tomorrow. Okay we will adjourn and tomorrow we will start at half past nine. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS TO 24 JULY 2019