

**COMMISSION OF INQUIRY INTO STATE CAPTURE**

**HELD AT**

**PARKTOWN, JOHANNESBURG**

10

**24 JULY 2019**

**DAY 139**

20

HEARING RESUMES

**CHAIRPERSON**: Good morning Ms Gcabashe, good morning everybody.

**ADV LEAH GCABASHE**: Good morning Chairman.

**CHAIRPERSON**: Are you ready?

**ADV LEAH GCABASHE**: Yes I am Chairman.

**CHAIRPERSON**: Thank you. Let us proceed.

**ADV LEAH GCABASHE**: Thank you. Good morning again Mr Dhlamini, good morning Ma'am.

10 **MR EPHRAIM MAKHOSINO DHLAMINI**: Good morning.

**ADV LEAH GCABASHE**: Mr Dhlamini we...

**CHAIRPERSON**: The oath, the oath that you took yesterday Mr Dhlamini continues to apply until you have finished your evidence.

**ADV LEAH GCABASHE**: Microphone.

**MR EPHRAIM MAKHOSINO DHLAMINI**: I confirm Your Worship.

**ADV LEAH GCABASHE**: Thank you. We were actually on page 7 of your statement and we had dealt with most of what is in paragraph 25. But one aspect you had not dealt with was the very last sentence that deals with the sale of milk produced at the dairy farm. Could you just  
20 speak to the issue very briefly thank you?

**MR EPHRAIM MAKHOSINO DHLAMINI**: Correct indeed I would see the milk that is produced from the dairy farm. It will be sold in the townships same street where I reside and there was also – I had a shop at Prinsloo Street in Vrede. There was an Indian guy – an Indian shop there I would see them delivering milk there. It will be sold from there.

As well as the cattle feed was – it was sold or sold there at Thembalihle Township as well.

**ADV LEAH GCABASHE:** Was is it about these activities that you want the Chairman to note? What is your concern or what are you happy about in relation to these activities?

**MR EPHRAIM MAKHOSINO DHLAMINI:** Regarding the activities of selling

1. The cow feed or fodder and the milk when they came to sell the food – the cow feed as well as the milk to us we questioned that  
10 as to how can you sell our – basically our products to us. I mean we are part of the dairy project ourselves and yet you are selling these things to us.

2. We also heard that there is no money in the dairy product and we were wondering why we are not receiving any proceeds out of it or any money out the project because we were part of the project as well.

**ADV LEAH GCABASHE:** So the long and short of it is you were not sure that these were legitimate activities. I am looking at the very last sentence of paragraph 26.

20 **MR EPHRAIM MAKHOSINO DHLAMINI:** Correct it was not legitimate activities because they were selling it – they were selling it at night.

**ADV LEAH GCABASHE:** And this was while the farm was under the management of the FDC?

**MR EPHRAIM MAKHOSINO DHLAMINI:** Correct those were hired.

**ADV LEAH GCABASHE:** Yes. Let us come to your – the concluding

paragraphs Mr Dhlamini and 28 deals with your interaction with the Public Protector. Please tell the Chairman about that?

**MR EPHRAIM MAKHOSINO DHLAMINI:** Although I do not remember the day precisely as to what date it was but she phoned me and requested me to invite the other beneficiaries.

**ADV LEAH GCABASHE:** Who phoned you?

**MR EPHRAIM MAKHOSINO DHLAMINI:** I got a call from one of the employees in the Public Protector's office. She said she was working the Public Protector's office. She is the one who phoned me.

10 **ADV LEAH GCABASHE:** Was it the Pretoria office or the Provincial office in Bloemfontein?

**MR EPHRAIM MAKHOSINO DHLAMINI:** From Pretoria.

**ADV LEAH GCABASHE:** Yes continue. And this would roughly have been when?

**MR EPHRAIM MAKHOSINO DHLAMINI:** It was just recently when she took down our details.

**ADV LEAH GCABASHE:** Had there been no contact before 2018/2019? I am trying to interpret your Manje, Manje I am assuming you mean 2018/2019?

20 **CHAIRPERSON:** I think that question is quite important because I noted yesterday that when he was talking about 2015 he said Manje now.

**MR EPHRAIM MAKHOSINO DHLAMINI:** 2018 she called me it was in November. She informs them that they were coming. That I must call the other people. I then phoned the other people informing them about

the visit of the Public Protector and then later she called me and she requested me to postpone the meeting.

**ADV LEAH GCABASHE:** The Public Protector called you?

**INTERPRETER:** Sorry there is a last part that he said I did not get it.

**MR EPHRAIM MAKHOSINO DHLAMINI:** Okay she said she requested me to postpone the meeting because she had a lot of work to do. She was supposed to visit somewhere else.

**ADV LEAH GCABASHE:** And this is the Public Protector who was communicating this to you?

10 **MR EPHRAIM MAKHOSINO DHLAMINI:** 2018 November. That is correct the call that I received in 2018 November it was the Public Protector herself.

**ADV LEAH GCABASHE:** Continue.

**MR EPHRAIM MAKHOSINO DHLAMINI:** Okay the second time I then received a call from a person who is working from the office of the Public Protector informing me that I should invite the other people or the parties who are affected in this and she gave me the date as well. But we had a misunderstanding on the phone because I had a problem of using my phone contacting them. So I raised this issue of not being  
20 happy using my phone to contact them.

**ADV LEAH GCABASHE:** Continue.

**MR EPHRAIM MAKHOSINO DHLAMINI:** We then had an agreement that they will pay back my airtime on their coming they will replace my airtime by buying it. Okay so what happened is coming to the issue of the date now they wanted to relate – or to tell the people the date so

they phoned people individually. So these people that they were calling did not want to listen to them they said we do not know you, who are you? We know Mr Dhlamini. So they had to call me back to explain to them as to who are they and why they were calling them.

**ADV LEAH GCABASHE:** Yes did that meeting take place?

**MR EPHRAIM MAKHOSINO DHLAMINI:** That is correct the meeting did take place at Mhlabunzima Hall.

**ADV LEAH GCABASHE:** Do you recall when this year that meeting took place?

10 **MR EPHRAIM MAKHOSINO DHLAMINI:** When?

**ADV LEAH GCABASHE:** When?

**MR EPHRAIM MAKHOSINO DHLAMINI:** Though I do not remember but it was this year. She promised us that she will be back to us in three months' time to give us a report back.

**CHAIRPERSON:** Ms Gcabashe do you want to do like yesterday give that spelling for Mhlabunzima Hall for the benefit of the transcribers?

**ADV LEAH GCABASHE:** Oh Chairman let me write it down.

**CHAIRPERSON:** Well I can give it

**ADV LEAH GCABASHE:** Please do it Chairman.

20 **CHAIRPERSON:** M for Mary H l a b u n z i m a. Mhlabunzima.

**MR EPHRAIM MAKHOSINO DHLAMINI:** Mhlabunzima Hall.

**CHAIRPERSON:** Maybe Mr Dhlamini can confirm if that is correct because he would know?

**MR EPHRAIM MAKHOSINO DHLAMINI:** Correct Your Worship.

**CHAIRPERSON:** Okay thank you.

**ADV LEAH GCABASHE:** Thank you Chairman. So back to paragraph 28 and what you relating to the Chairman. I see you mentioned here a May 2019 meeting but I do not want to confuse issues.

**MR EPHRAIM MAKHOSINO DHLAMINI:** Okay.

**ADV LEAH GCABASHE:** Can you just assist the Chairman in – and confirm whether that is the date on which you had this meeting or whether that is a different date?

**MR EPHRAIM MAKHOSINO DHLAMINI:** That is correct it is the date.

**ADV LEAH GCABASHE:** And who was present at that meeting?

10 **MR EPHRAIM MAKHOSINO DHLAMINI:** Busisiwe Mkhwebane herself was there and the others who are working with her. There are many.

**ADV LEAH GCABASHE:** And from the community?

**MR EPHRAIM MAKHOSINO DHLAMINI:** All of the beneficiaries were present except the ones from Memel they were not there.

**ADV LEAH GCABASHE:** So the beneficiaries from Warden attended as well?

**MR EPHRAIM MAKHOSINO DHLAMINI:** Correct Warden beneficiaries were present.

20 **ADV LEAH GCABASHE:** Continue I am looking at your statement, continue?

**MR EPHRAIM MAKHOSINO DHLAMINI:** I was the first one to be asked questions. I was the first one – the first person that they spoke to asking me questions.

**ADV LEAH GCABASHE:** Was this in the open meeting now?

**MR EPHRAIM MAKHOSINO DHLAMINI:** That is correct it was inside

the hall.

**ADV LEAH GCABASHE:** Continue.

**MR EPHRAIM MAKHOSINO DHLAMINI:** Others did not speak to them in an open hall it was done within the hall but privately. At or in conclusion of the meeting I thanked her and I also informed her of the fact that we were not trusted anymore that she will come back to us especially looking at the first report that she gave out we do not know how did she get to that because she did not consult us regarding the first report.

- 10 **ADV LEAH GCABASHE:** Are you talking about the final report that was published in February of 2019? I beg your pardon it is 2018.

**MR EPHRAIM MAKHOSINO DHLAMINI:** Yes.

**CHAIRPERSON:** Let us just go back to the question – to your answer to the question before this one. I understood your answer to be that when you thanked her at the meeting you told her that you had come to a point where you did not trust her. Is that what you are saying – you said or were you saying you did not trust that she would come back to you?

- MR EPHRAIM MAKHOSINO DHLAMINI:** I was saying I was not – I did  
20 not trust her anymore – her as a person.

**CHAIRPERSON:** Okay let us clarify that further. Did you mean that as you were speaking at that meeting you did not trust her anymore or did you mean that before that meeting you did not trust her?

**MR EPHRAIM MAKHOSINO DHLAMINI:** Even now I do not trust her.

**CHAIRPERSON:** But when you spoke to her and thanked her what were



you conveying to her? Were you conveying that you did not trust her as you were speaking or were you conveying that prior to that meeting you did not trust her or was it both?

**MR EPHRAIM MAKHOSINO DHLAMINI:** It is both Your Worship. In that meeting itself we – I – we were not trusting her. Even when she was saying she was coming to attend the meeting with us Your Worship we did not trust her as members of the association.

**CHAIRPERSON:** And did you say that is still the position now?

**MR EPHRAIM MAKHOSINO DHLAMINI:** Correct.

- 10 **CHAIRPERSON:** Okay do you want to elaborate on why you did not trust her or why you do not trust her?

**MR EPHRAIM MAKHOSINO DHLAMINI:** The first report which was published or issued how did she get the facts? How did she arrived at the facts which were contained in the report? Who did she speak to or investigate? How did she conduct her investigation without consultation?

**CHAIRPERSON:** Yes did she not speak to the beneficiaries?

**MR EPHRAIM MAKHOSINO DHLAMINI:** No it was for the first time of her to come this year.

- 20 **CHAIRPERSON:** Had nobody from the Public Protector's office spoken to the beneficiaries before the first report was issued?

**MR EPHRAIM MAKHOSINO DHLAMINI:** No Your Worship what happened is we even went to her office together with Mr Maimane. I was in the – I spoke personally spoke to her in the office with her and I even requested because we came with other people. I requested her to

go and explain to the people and tell them as to when is she going to visit us in Vrede.

**CHAIRPERSON**: Okay let us just make sure we are talking about the same period. We are talk – we are talk – are we talking about the period before the – she released the first report on the dairy farm?

**MR EPHRAIM MAKHOSINO DHLAMINI**: Correct Your Worship before the first report was released we did visit her office together with Mr Maimane in Pretoria.

**CHAIRPERSON**: And did you say you also went there with other  
10 beneficiaries?

**MR EPHRAIM MAKHOSINO DHLAMINI**: That is correct we were fifteen in the combi that we were travelling in.

**CHAIRPERSON**: At that time was her investigation still going on or had it been completed as far as you know?

**MR EPHRAIM MAKHOSINO DHLAMINI**: According to her she said she has investigated the matter. Mr Maimane must proceed and open up a case and she will assist with whatever is needed from her.

**CHAIRPERSON**: Yes. Okay. I am trying to understand the basis for you to say as a beneficiaries you did not trust her and you still do not  
20 trust her. Just tell me any other thing that forms the basis for you saying you do not trust her or you did not trust her?

**MR EPHRAIM MAKHOSINO DHLAMINI**: We heard that she came and visited the Vrede Dairy Project. We heard that from the employees of the project but she never came to us. She went there but never came to see us. We were perturbed as to why did she not come to us. Why

did she visit the project itself without coming to us and speak to us so that really surprised us all.

**CHAIRPERSON:** You must just tell me if my understanding is wrong. From what you say I understand you to be saying the reason why you did not trust her was that you felt excluded from her investigation?

**MR EPHRAIM MAKHOSINO DHLAMINI:** That is correct Your Worship.

**CHAIRPERSON:** Okay thank you.

**ADV LEAH GCABASHE:** Thank you Chairman. Mr Dhlamini would it be correct to say that the expectation of the Public Protector was that Mr  
10 Maimane was going to collect statements from you and submit them to her office? I have read that in court papers that she has submitted. Do you know anything about that?

**MR EPHRAIM MAKHOSINO DHLAMINI:** We were surprised – perturbed again because when we were in her office she said she was only aware of 35 beneficiaries. She said she had no knowledge of the other beneficiaries it was for the first time of her to learn about the other beneficiaries.

**ADV LEAH GCABASHE:** Yes but my question was, do you know anything about her expectation that Mr Maimane was going to collect  
20 statements from you and forward them to her office?

**MR EPHRAIM MAKHOSINO DHLAMINI:** No I do not know.

**ADV LEAH GCABASHE:** Did Mr Maimane at any point say to you that he would collect your statements and forward them to the Public Protector's office?

**MR EPHRAIM MAKHOSINO DHLAMINI:** No he did not utter those

words.

**ADV LEAH GCABASHE:** Did anybody else offer to collect statements from you and forward them to the Public Protector's office?

**MR EPHRAIM MAKHOSINO DHLAMINI:** No I do not remember that because I remember I had a conversation with her on the phone and she said she was coming to collect the statement and I said but why because the Hawks came and collected the statement. Why do you not go to the Hawks and get the statements from them?

**ADV LEAH GCABASHE:** So first things first. At the end of the meeting  
10 in May you had communicated your grievances to the Public Protector, is that correct?

**MR EPHRAIM MAKHOSINO DHLAMINI:** That is correct we did.

**ADV LEAH GCABASHE:** Certain individuals...

**CHAIRPERSON:** I am sorry. I guess what you mean is before the end of the meeting you had told the Public Protector the grievances not after the end of the meeting?

**MR EPHRAIM MAKHOSINO DHLAMINI:** When she came to – when she came to visit us she was asking us questions and they were writing down what we were telling them as to what happened. There was also  
20 media present. So they were writing down what we were telling them.

**ADV LEAH GCABASHE:** I...

**CHAIRPERSON:** So by the end of the meeting you had told her your grievances?

**MR EPHRAIM MAKHOSINO DHLAMINI:** Correct.

**CHAIRPERSON:** Thank you.

**ADV LEAH GCABASHE:** Then in addition to that you say you had a subsequent discussion with her and during that discussion you referred her to the statements you gave to the Hawks?

**MR EPHRAIM MAKHOSINO DHLAMINI:** That is correct. It was now at the time when I was speaking to her telephonically when there was this misunderstanding between ourselves and her. It was yes that time I told her about that.

**ADV LEAH GCABASHE:** Please explain the misunderstanding? I do not – just locate it for us? Was it before the May meeting or after the  
10 May meeting, the misunderstanding?

**MR EPHRAIM MAKHOSINO DHLAMINI:** Firstly she promised to visit us in November 2018.

**ADV LEAH GCABASHE:** Yes.

**MR EPHRAIM MAKHOSINO DHLAMINI:** I – that time I phoned her using my airtime. She postponed the meeting then I had to call the other people and inform them that she was no longer coming. The second time that is when there was this misunderstanding between us that I used my airtime to phone the people and yet she postponed the meeting you did not come. What did not sit well with me is that when  
20 she speaks to me Your Worship she spoke to me like anytime when I call I should find you on the phone if I want to speak to you. I did not appreciate the manner in which she was addressing me.

**ADV LEAH GCABASHE:** And that discomfort of yours came from a telephone discussion before the May 2019 meeting?

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

**ADV LEAH GCABASHE:** But you buried the hatchet at the meeting of May 2019? You resolved your issues?

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** Correct. Indeed she came and we had a discussion with her to dissolve or resolve the issues but we informed her that we do not trust her anymore.

**ADV LEAH GCABASHE:** Yes. If you would then move from that point and explain your interaction with the Hawks.

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

10 The Hawks came and visited Vrede. They were together with NPA. They went to the dairy farm project and I was at Shoprite Taxi Rank. They did not inform me that they were coming to visit the dairy that they were looking for me. Firstly they did not inform me about their coming to the dairy and that they were looking for me.

The next thing I heard that the Vrede Police Officers were looking for me. I went to them. They told me that they have shut down the dairy project and they together with the NPA and they have compiled all the assets which are they. They have a list of the assets. They have compiled the list and from there they left. They went to  
20 Pretoria.

They then – once they were at Pretoria I then received a call from the Brigadier of the Hawks. They were informing me about the date. I still have it.

**INTERPRETER:** The witness is making reference to an SMS regarding the date.

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** The 25<sup>th</sup>

...

**ADV LEAH GCABASHE:** Which year?

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** The meeting was to take place on Saturday and Sunday 25 January 2019 and indeed people attended the meeting to give out the statement. Okay. Lindiwe Masiteng did not attend the meeting to the point that they applied for a warrant. They applied for a warrant to obtain the minutes of the meeting – documents of the meeting because they will  
10 have meetings without us.

So they needed those meetings – minutes of those meetings. Oupa Mahlaba was not - did not attend the meeting as well because he has got businesses or tenders. He was working outside Vrede. So they did not find him. It was a Saturday and a Sunday and people who were present there it was people coming from Memel and ...

**ADV LEAH GCABASHE:** Warden.

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** Warden. Memel and Warden as well as people from Vrede and after that they left. I do not know what happened thereafter.

20 **ADV LEAH GCABASHE:** Can we just interrogate that? Is there anything else you want to add to that meeting? I want to ask you a couple of questions.

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** On 25 January 2019 I called the Hawks Brigadier because we were being threatened by death in Vrede. So because of the threats we – I then

called Brigadier – date 25 January 2019. I am also in the taxi industry. So one of my colleagues forwarded me a video your worship which also – it is more like threatening my life.

It was talking about me like threats to my life and I even phoned Mr Ntombela on 11 June telling him about this video which was - the content was threatening my life.

**ADV LEAH GCABASHE:** Mr Dhlamini – Mr Dhlamini I want you to continue with this evidence but it is slightly different to the meetings with the Hawks. Please allow me just to ask you one or two questions  
10 about the meeting with the Hawks. Do not forget what you are about to tell the Chairman and then we will come back to where you are right now if that is fine. The meetings with the Hawks you say was very well attended.

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

**ADV LEAH GCABASHE:** Did you have officers who were physically writing down statements from each individual member who was there who wanted to give a statement?

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** That is correct. There were officials from the Hawks who were taking down the  
20 statements. They were at the Vrede Police Station. The police officers who were stationed at Vrede Police Station did not want to take down statements. They were the ones who were taking – the Hawks were taking down the statements – the officials.

**ADV LEAH GCABASHE:** You say the Vrede Police did not want to take down statements?



**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** They did not – it seems like they had a discussion between themselves that they wanted to use the police station for that activity specifically because those who are working at the Vrede Police Station they were busy with other duties apart from this. So it looks like there was a discussion.

**ADV LEAH GCABASHE:** Are you aware of the number of statements the Hawks were able to get from the beneficiaries?

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** They  
10 gave me the list of the beneficiaries who were present there when statements were being taken down. So I do believe I trust that they did get all their statements.

**ADV LEAH GCABASHE:** Roughly how many names are on the list if you can recall?

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** 82  
beneficiaries.

**ADV LEAH GCABASHE:** So that means there would approximately have been 82 statements that were made and then taken by the Hawks.

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** That is  
20 correct and may I place it on record Chairman that three of the beneficiaries have already passed on by the time statements were being taken down. So they were represented by their children who were present when statements were taken down.

**ADV LEAH GCABASHE:** Then can you explain to the Chairman who Lindiwe Masiteng is?

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):**

Lindiwe Masiteng was one of the people we nominated to be in the committee together with June Mahlaba and Titus.

**CHAIRPERSON:** If you have moved – if you are moving away from the meeting I want to ask some ...

**ADV LEAH GCABASHE:** No Chairman.

**CHAIRPERSON:** You are not moving away yet?

**ADV LEAH GCABASHE:** Not yet.

**CHAIRPERSON:** Okay.

- 10 **ADV LEAH GCABASHE:** Not yet Chairman. The – the – so the members of the committee were Lindiwe Masiteng, June Mahlaba and (indistinct) Ngqusini?

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** Correct.

**ADV LEAH GCABASHE:** Your evidence is that Lindiwe Masiteng was the recording secretary?

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** She was the Deputy of June Mahlaba.

**ADV LEAH GCABASHE:** And you then make reference to the Hawks asking for the minutes of any meetings they may have held?

- 20 **MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** They were asking me about the whereabouts of Lindiwe. I told them that I saw her. She walked passed there and then I phoned her. They were asking me about the whereabouts of Lindiwe and then I saw – I saw her walking past there and then I phoned her and she said she was busy doing laundry. Then we took a car and we drove to her place of

residence or at her house.

I then pointed out where she stays. They then went and applied for a warrant of search so that they can obtain those minutes. Then the next thing I saw her. She came with – together with the Hawks and she was scared. I managed to speak to her and she said Mr Dhlamini we are being arrested and I asked her what have you done.

**ADV LEAH GCABASHE:** What was her response?

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** I – she said she did advise Oupa that they should come back to us and give us  
10 report backs and not – the report backs instead of taking decisions on our behalf and Oupa did not want to heed to advice or listen.

**ADV LEAH GCABASHE:** Now Oupa Mahlaba is June Mahlaba who was the Chairman of the committee you had selected?

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

**ADV LEAH GCABASHE:** Last two questions on this aspect. Did the Hawks tell you why they wanted your statements?

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** Yes they did indicate that they are taking down our statements regarding the  
20 dairy – the Vrede Dairy Project.

**ADV LEAH GCABASHE:** And did they tell you why they wanted any records that Lindiwe Masiteng the Deputy Chairman might have?

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** Correct because in – in the document that has the list of the members it was clear that who was the Chairperson, the committee that is, who is the

Deputy, who is the Chairman of the committee. So yes.

**ADV LEAH GCABASHE:** I think a last relevant fact to what we are talking about is the following. Mr June Mahlaba the Chairman will come to the Commission and tell the Commission that the committee did not meet. They had no feedback to give to the membership. I just want to place that on record.

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** That would be a lie. A blue lie.

**ADV LEAH GCABASHE:** Chairman I think in respect of the Hawks I  
10 have exhausted the questions I would like to ask.

**CHAIRPERSON:** Yes okay. No thank you. Did the Hawks take a statement from you?

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

**CHAIRPERSON:** And did you sign the statement?

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** It was read back to me and then I attached my signature.

**CHAIRPERSON:** Was – was that during the meeting or was it later after the meeting?

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** My  
20 statement was taken down on a Saturday because on Sunday I was busy with the list because what happened is we were grouped as per language – Zulu, Sotho, Afrikaans. So I was assisting in those – in that activity specifically. My statement was taken down on a Saturday.

**CHAIRPERSON:** Is that the Saturday when you were meeting the Hawks on Saturday and Sunday – the Saturday you are talking about?

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** It was not a meeting. It was about taking down of our statements Saturday and Sunday.

**CHAIRPERSON:** Okay, alright. Now are there statements by other members – other beneficiaries that you actually did see which had been signed that were taken by the Hawks?

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** Correct. When I entered the room where they were working from I saw the others because already there were other beneficiaries who were inside  
10 there. So I saw their statements. They were on the table. I saw them on the table.

**CHAIRPERSON:** Okay. You – you were not given copies when the Hawks left of any of the statements?

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** No.

**CHAIRPERSON:** So there would have been many statements by beneficiaries by the end of that meeting on Sunday – on Sunday. I know you say there was no meeting but by the end of that session on Saturday and Sunday there would have been many statements by beneficiaries that had been taken. Is that right?

20 **MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** Correct because there was a queue of the beneficiaries who were lining up for their statements to be taken down and comparing the queue as well as my list of the beneficiaries they were all attended to.

**CHAIRPERSON:** And before the Hawks left on that occasion did they indicate to you what they were going to do with the statements or what

their plan was or when they would report back to you or when they would tell you anything about what they were going to do with the statements?

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** No.

**CHAIRPERSON:** Since then have there been any communication between the beneficiaries and the Hawks as far as you know?

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** Except when I – I called them regarding the threats, no there has never been any communication.

10 **CHAIRPERSON:** Okay, thank you.

**ADV LEAH GCABASHE:** Thank you Chairman. Chairman maybe I should just place on record that we have been communicating with the – with the Hawks. I know yesterday you had asked the department to give us documentation.

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE:** We have been talking to the Hawks.

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE:** We will continue to talk to them Chairman. We have not been very successful but we will continue ...

20 **CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE:** To speak with them ...

**CHAIRPERSON:** Well ...

**ADV LEAH GCABASHE:** About records that they have.

**CHAIRPERSON:** If there are difficulties I must be informed. If there are difficulties in getting anything from them let me know.

**ADV LEAH GCABASHE:** I will do so at the end of these proceedings  
Chairman.

**CHAIRPERSON:** Okay, thank you.

**ADV LEAH GCABASHE:** Mr Dhlamini let us go back to the threats  
because that is important information as well. You ...

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

**ADV LEAH GCABASHE:** You started saying on that very day on the  
25<sup>th</sup> you got threats. Please just set that out succinctly as a separate  
area of – of interest for the Chairman.

10 **MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** There  
were people who would directly say to us we must be killed whatever  
they are looking for they will not get it. Though I am not going to  
mention names but others will utter those words directly threatening us  
directly in our faces that we have to be killed.

**ADV LEAH GCABASHE:** Are you able to disclose the names of those  
people to the Chairman?

**CHAIRPERSON:** Maybe before he does so maybe he should not do so  
unless you have heard the names and we – we give them notice.

**ADV LEAH GCABASHE:** Maybe you should just write the names down  
20 because I am not familiar with ...

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE:** Those particular names Chairman and we can  
then put in a supplementary affidavit ...

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE:** To deal with the issue.

**CHAIRPERSON:** Yes. Maybe what we can say is he can – he can tell us what was said without saying who said it and then after he has given evidence he can give the names to the legal team and then we will take it from there.

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** They said we must be killed because we are making the other people who are part of the project as well wiser.

**INTERPRETER:** I do not know if I am putting it write your worship. *Ja* that is why we should be killed.

10 **ADV LEAH GCABASHE:** Aware of their rights.

**INTERPRETER:** Thank you very much.

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** We are making them aware of their rights that is why we should be killed.

**ADV LEAH GCABASHE:** And when – when you refer to “we” you mentioned Ncongwane’s name?

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** *Ja*, myself and Mr Ncongwane we are making the other group wiser or aware of their rights. In the video that I made mention of there is a person there who is saying they have hired a killer – someone to kill me  
20 in the video. This – there is a person who is saying Mr Dhlamini should be killed and then this person heard about this threat and then he then said give me this job.

I will do it and then this person then responded by saying it is okay I will arrange a meeting between yourself and the people who want this person to be killed. This person works or is a municipal



official. So he is part of the group that wants us to be killed. I can give this video as well for you to view it but I think I made a mistake by giving this video to the Hawks because the person in the video we stay in the same township with ...

**INTERPRETER:** Sorry I did not get the last part.

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** Well I was going to actually investigate or find out myself from this person to show me the people who are hired or was supposed to kill me. I – I am – I do realise that there is police to protect us but - or the law to  
10 protect us but I do not think it is effective or it is working in our favour. It is so sad Chairman that you would know that these people are making threats to your life or this person is threatening to – to kill you and nothing – the law is doing or it is difficult for you to hand over this person to the law for the law to deal with this person.

**ADV LEAH GCABASHE:** Mr ...

**CHAIRPERSON:** When did you give – when did you give the video to the Hawks?

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** I can make reference to my phone your worship because I did forward this  
20 video to Mr Ntombela. I even called him. I had a conversation with him. He said I must take care of myself ...

**CHAIRPERSON:** Please just repeat that. I want to hear the Zulu part as well. Yes.

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** I should take care.

**CHAIRPERSON:** Yes, okay.

**MR EPHRAIM MAKHOSINO DHLAMINI (through interpreter):** Now I am going to church. I am armed your worship because I have a firearm. So I had to carry my firearm with. Then I took a decision that time your worship that anyone who comes closer to me even if it is in the farm I will not die alone. That is what I said to my children.

**CHAIRPERSON:** So let us try and locate the month when you gave the video to the Hawks. As I understand it your meeting with the Hawks was early this year, was it January or thereabout?

10 **MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** 11 June 2019 when I forwarded the video to the Hawks, it was the 11<sup>th</sup> of June 2019. I remember very well because this person replied, there is a response from this person.

**CHAIRPERSON:** That is Mr Ntombela?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** Yes, Mr Ntombela.

**CHAIRPERSON:** Did you just forward the video to the Hawks and spoke to them on the phone or by SMS or they also met with you and took a full statement about the (indistinct)?

20 **MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** What happened is, Your Worship, I used another phone to call him, whilst on the other phone the video was streaming for him to listen to the conversation or the content of the video so it was a telephone conversation using two phones Your Worship. Even when Busisiwe Mkhwebane was there I streamed this video for everyone to listen it

was in a hall and people were in attendance and I wanted people to hear because they were talking about me in the video.

**CHAIRPERSON:** But you say up to now, the Hawks have not taken any statement from you – written statement from you about the threats?

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

**CHAIRPERSON:** Do you know if there's anything at all that they have done after they received the video concerning your threats?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** No, nothing.

10 **CHAIRPERSON:** And the person you have been communicating with in regard to the threats is a Mr Ntombela?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** That is correct Your Worship, it is Mr Ntombela from the Hawks, as well as at Vrede Police Station, the station commander, he knows about the video.

**CHAIRPERSON:** So did you also show the video to the station commander at Vrede Police Station?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** I made him to listen to the video Your Worship during the passing of Mr – it  
20 was the funeral of Mr Ngwenya, so I made him to listen and in –they were saying whose next and they saying somebody – another will bite the dust if it's not myself it's going to be Mr Ncongwane.

**CHAIRPERSON:** Is that what – is that part of what is said in the video?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** No what I've just said now Your Worship, it's something which was said during

the funeral of Mr Ngwenya, that who is next, in the video itself Your Worship, what is contained there is that Mr Dhlamini should be killed.

**CHAIRPERSON:** And the persons who are having this conversation are shown, they can be seen on the video?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** It's just a recording that does not show a person Your Worship but it's a recording, this person was driving and there's a recording of this person as they are conversing and mention their name, this person is mentioning his name, he says his name is Zwakele.

10 **CHAIRPERSON:** Okay, alright, thank you.

**ADV LEAH GCABASHE SC:** Chairman...(intervention).

**CHAIRPERSON:** I heard evidence sometime back in regard to the aviation work stream of reports that had been made to the police a few years ago of threats that were being made to the owner of the company called Koreneka and I was told nothing had been done for a long time about the threats to her. So it's very concerning if threats are made to the lives to people, they report to the Law Enforcement Agencies and nothing happens and the Law Enforcement Agencies don't report back to the people what they are doing about those threats, nobody gets  
20 arrested, nothing happens. So I think after this you'll – as you said you'll arrange for a supplementary affidavit by Mr Dhlamini where he will detail everything about the threats and who he reported to where he will include the names that he is not mentioning now and then the people's names who are mentioned can be given Rule 3 notices and Mr Dhlamini might have to come back when he can mention the names

after they have been given notices and it will be necessary to – for the Commission to establish from the Hawks what's going on about the threats and about the complaint that Mr Dhlamini brought to their attention and what have they done. So we'll need to – the legal team will need to try and get facts as to what's happening both in regard to the Koreneka as well as Mr Dhlamini's matter, thank you Mr Dhlamini.

**ADV LEAH GCABASHE SC:** Thank you Mr Chairman, Mr Dhlamini just to summarise this aspect of your evidence, my question is, are there other people outside of yourself and Mr Ncongwane who you know have  
10 also been threatened?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** Correct, beneficiaries from (indistinct) they do mention the fact that they are getting threats as well but they are afraid to talk about it but yes they are getting threats. We also know of other people who died or who were killed, apart from Mr Ngwenya, there was another gentleman who was investigating the dairy – the Vrede Dairy Project, he was killed before he could even reach Bloemfontein, 10 kilometres to Bloemfontein. Those that killed – they believed he was dead at the scene and yet he was now in hospital that's where he gave out his  
20 statement whilst he was in hospital, to the police. He was on the media, the newspaper (indistinct) as well as on TV, even today I haven't heard what the law enforcers – what steps they have taken. It hurts, it's really disturbing I don't want this to happen to my family members. If this can happen to my family members I'll either be in prison or I'll be dead myself.

**ADV LEAH GCABASHE SC:** You are relating what happened to Moses Chauke in the last account you've just given?

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

**ADV LEAH GCABASHE SC:** In respect of the funeral you attended of Philemon Ngwenya, was he not a beneficiary?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** He was a beneficiary, he was there when we were talking or discussing. He died after being threatened, being told that he will die. The first person to threaten him was Tuto Khanye, then when he uttered or threatened his  
10 life we were all there and the media was there. People, the community members would hear this directly from the people who are responsible for this because in Vrede once you mention the dairy project you won't sleep in your house...(intervention).

**CHAIRPERSON:** I'm sorry, hang on, I think the interpretation wasn't complete, let him just repeat what he said, he said something about Mr Sebenzi Zwane.

**INTERPRETER:** My apologies.

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** My  
apologies, if in Vrede, you have spoken about the dairy project or  
20 Sebenzi Zwane you won't sleep in your house, you'll have to run away from your house because they will chase after you or threaten to kill you. The reason why this issue is now before the Commission it was because of myself and Mr Ncongwane, we had to brave ourselves and come before the Commission and report before everyone is being killed or everyone is killed. They do utter words like we have to be killed,

they don't have any regard for us...(intervention).

**CHAIRPERSON:** I'm sorry before you proceed Mr Dhlamini, you said something, I'm not sure what it means and I don't think the interpreter also understood what you meant (isiZulu language spoken)

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** We are not scared of them we said we should be killed but we are not scared of them. We know when our time comes we will die.

**CHAIRPERSON:** Okay let's just connect that properly so you were saying that certain people tell you that you should be killed but you are  
10 not scared of them.

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** Correct Your Worship.

**CHAIRPERSON:** Yes then proceed.

**ADV LEAH GCABASHE SC:** Now I just want to clarify, Tuto Khanye you have mentioned in your evidence earlier, yesterday.

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

**ADV LEAH GCABASHE SC:** He's one of the people who works in Agriculture your evidence is that he's one of the people who Mr Sebenzi Zwane uses to collect formation from Vrede?

20 **MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** That is correct he is his spy or Mr Sebeni Zwane's spy.

**ADV LEAH GCABASHE SC:** Then my last question is, are you – have you been taking protective measures, other than carrying a firearm are you able to take protective measures to look after yourself?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):**

Anything, for instance if I'm about to hold or call a meeting I will inform the station commander.

**ADV LEAH GCABASHE SC:** Mr Dhlamini are there any – no before we go there, there are two people's names that have popped up the one is Mr Chandrama Prasad who's also referred to as CP, do you know that name at all?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** In passing, no I don't know this person – him, but I heard about his name.

**ADV LEAH GCABASHE SC:** You've heard about his name in relation to  
10 what?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** I heard that he's a problem as to exactly what problem he was causing I wouldn't be able to tell you but I heard that he must be removed or his troublesome, he must be removed.

**ADV LEAH GCABASHE SC:** Where does he work?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** I have no knowledge as to where he works.

**ADV LEAH GCABASHE SC:** Or where did he work?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** I'm not  
20 sure.

**ADV LEAH GCABASHE SC:** That's fine, no not a problem, that's fine. The next name is Mr Willie Basson who will be coming to give evidence here, do you know Mr Willie Basson?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** Yes I do know him he's a resident or he works in Vrede, that is correct.



**ADV LEAH GCABASHE SC:** Yes I just wanted to identify, to understand who you know. So it's Mr Basson you know, you don't really know much about Prasad and you certainly knew Philemon Ngwenya.

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** Very well.

**ADV LEAH GCABASHE SC:** And then you have told the Chairman about Moses Chauke what you know of what happened to Moses Chauke?

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

**ADV LEAH GCABASHE SC:** No that's it, I'm just summarising.

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

**ADV LEAH GCABASHE SC:** Are there any other matters you would like to bring to the attention of the Chairman as we close?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** Yes there is another farmer, from Warden. He was shot from – there was a black car which were shots that were fired from a black car, he died – he died and he was buried but the case did not proceed. It was those people, once you talk about the activities or work which is done in the  
20 Agriculture these people will interject and fight you. There was also another gentleman from Warden who was killed...(intervention).

**ADV LEAH GCABASHE SC:** That's the second one now, you have talked about the first person from Warden, you've heard about the first person – or you've told the Chairman about the first person from Warden who was killed, and you've associated a black car with that

particular assassination?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** Correct.

**ADV LEAH GCABASHE SC:** Do you know the name of he deceased in that case?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** I may not remember his name but I have family members and other farmers from Warden who can give me his name and I do believe Mr Ncongwane knows his name as well.

**ADV LEAH GCABASHE SC:** And then the second person you're about  
10 to tell the Chairman about, who was that?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** The second one is the one who was investigating the issue of the Vrede Dairy Farm who did not even arrive at Bloemfontein.

**ADV LEAH GCABASHE SC:** That's Chauke?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** Yes, the third person is Ngwenya.

**ADV LEAH GCABASHE SC:** Any other matters Mr Dhlamini?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** Nothing else.

20 **ADV LEAH GCABASHE SC:** Chairman unless you have other questions, I have exhausted all the ones I have.

**CHAIRPERSON:** Yes thank you. Mr Dhlamini you said you showed the video to the station commander at Vrede Police Station is that correct?

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

**CHAIRPERSON:** I guess one you had shown him the video and it was

clear from the video that your life was under threat, the police should have done something about it, but I want to find out whether you did ask him to do anything about these threats?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** I did tell him Your Worship, but nothing much in terms of the response that I got from him except that he said, here are my numbers, if you have a problem contact me but you should also protect yourself.

**CHAIRPERSON:** Did they open any file so that they would undertake an investigation into these threats?

10 **MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** There was no record, when I was having a conversation it was just a one-on-one conversation, there was no record of it, it was never written down.

**CHAIRPERSON:** Was – were you showing him the video at the Police Station?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** Yes he was listening to the video at the Police Station.

**CHAIRPERSON:** Was it only the two of you or were there other people that were with you?

20 **MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** It was just the two of us because I did even inform Mr Ncongwane that I'm going to show (indistinct) the video at the Police Station.

**CHAIRPERSON:** Did you say that he makes some notes during the conversation or as he was watching the video?

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

**CHAIRPERSON:** Did he not take any statement from you?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** No he didn't.

**CHAIRPERSON:** Did he not ask any police officer under him to take a statement from you?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** No the answer is no but what he said – not on that day but on another day that, did you inform the Hawks about this incident?

**CHAIRPERSON:** Do you have recollection of more or less when it was – which month it was when you showed the station commander the  
10 video?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** It took a while, I think it was about three months after the incident of receiving the video that I've shown the station commander. The person that I informed, immediately, Your Worship about the video it was Mr Ntombela, I forwarded the video to him and told him about the video.

**CHAIRPERSON:** My recollection is that you said it was in June this year when you – I think 11 June when you informed Mr Ntombela about the video, when you sent it to him, is that correct?

**MR EPHRAIM MAKHOSINI DHLAMINI (through interpreter):** I made  
20 reference to my cell phone messages, Your Worship, so yes indeed it is the 11<sup>th</sup> of June 2019.

**CHAIRPERSON:** So that would mean that it was after the 11<sup>th</sup> of June 2019 when you had a meeting with the station commander at Vrede Police Station and showed him the video, is that correct?

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

Chair it as after the 11<sup>th</sup> of June 2019 that I had a meeting with the station commander of the Vrede Police Station, though I did not note down my activities but the last date that is reflect – or the last entry that I see on my phone is the one that is guiding me as to when the activities or the last date when I received the video.

**CHAIRPERSON:** So after you had shown the station commander this video and you had a discussion, has he followed up in any way with you or sent any of his police officers to take this issue of the threats against you further?

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

**CHAIRPERSON:** And you have not received any report – report backs either from the Hawks or from him about what they may be doing about these threats?

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

**CHAIRPERSON:** Did you say that one of the persons or that the person who was meant to carry out the threats or to kill you, lives in the same area as yourself?

**MR EPHRAIM MAKHOSINO DHLAMINI:** Yes.

**CHAIRPERSON:** He has not been arrested?

20 **MR EPHRAIM MAKHOSINO DHLAMINI:** No he works at the municipality.

**CHAIRPERSON:** Yes. Right now do you move around without any protection from the police or the state?

**MR EPHRAIM MAKHOSINO DHLAMINI:** I think I can protect myself better than them because whatever I told them they did nothing about

it.

**CHAIRPERSON:** Do you wish anything to be done to have these threats investigated?

**MR EPHRAIM MAKHOSINO DHLAMINI:** Okay correct Your Worship threatening to kill someone or killing someone is an offence so they should have investigated the matter. Come to us and look at the video and the name is being mentioned in the video so that they can follow up and to even find out who issued that instruction that this should be carried out, the threats.

10 **CHAIRPERSON:** Hm.

**MR EPHRAIM MAKHOSINO DHLAMINI:** I am – with due respect the South African Law Enforcers are taking time to attend to matters like this. So I have my way that I can deal with this issue.

**CHAIRPERSON:** The – would you like the commission to speak the Law Enforcement Agencies in order to see what protection can be given to you?

**MR EPHRAIM MAKHOSINO DHLAMINI:** Yes if there is anything that they can assist me with they can do it.

20 **CHAIRPERSON:** Okay I would like the legal team to and the administration and the investigators to do what they normally do when people who appear before the commission are under threat to see what can be done. And also to establish why Mr Dhlamini has not been given any report backs either by the Hawks and the Station Commander at Vrede Police Station about the threats to his life that he has brought to their attention and what is being done about investigating these

threats and if there is enough evidence arresting the people concerned. And then once the legal team has spoken to them it must please report back to Mr Dhlamini it must not do like the Hawks and the Station Commander at Vrede. It must report back what transpired in that discussion and I must be kept informed. Is there anything else you want to tell me concerning the either threats to your life or threats to anybody in the – in the – in your organisation relating to the Vrede Dairy Farm before we conclude?

**MR EPHRAIM MAKHOSINO DHLAMINI:** Yes. My request Chair is that  
10 – we request that this dairy project issue be finalised – be dealt with and it be finalised because people in our area they now live in fear. If the government is taking a decision of not funding that project anymore and shut it down so be it because it is clear that this project was never meant for the benefit of us as the community of Vrede. But it was for just criminal activities or criminals.

**CHAIRPERSON:** Did you say it was meant for thieves?

**MR EPHRAIM MAKHOSINO DHLAMINI:** That is correct. Using us our names

**CHAIRPERSON:** Hm.

20 **MR EPHRAIM MAKHOSINO DHLAMINI:** So that they can get the money or the funds from the government. Our lives are now in danger because of this. Looking at the percentage – the share percentage it was clear that we were being deceived. Why we were not given 100% of the shareholding. If this was for the benefit of the farmers why should it be for the – the government should profit from it if it is meant

for the farmers. Even right now the dairy project is functioning and there are a whole lot of activities that are happening there like stealing off the stock and stuff and we know we have cases. Nothing is happening in that dairy – there is no success that will come out of that project.

**CHAIRPERSON:** What would the beneficiaries like to see happen with this dairy project?

**MR EPHRAIM MAKHOSINO DHLAMINI:** Most of the people or beneficiaries have no interest anymore in this project because it  
10 started off on a very bad footing and a lot of people are losing their lives because of this project. So they have no interest anymore.

**CHAIRPERSON:** Hm. Okay. Is that all you still had to say?

**MR EPHRAIM MAKHOSINO DHLAMINI:** Thank you very much.

**CHAIRPERSON:** Hm. Mr Dhlamini I want to thank you for having come to the commission to give evidence. Especially when you came to the commission despite threats to your life. There are many people in the country some of them in high positions in government entities I believe who must know a lot about issues that this commission is investigating including state capture and serious corruption. Who despite my calls  
20 are not coming forward to tell the commission and the nation what they know. But they would all pretend and like everybody to believe they support the work of the commission and yet they withhold very crucial information that is relevant to what the commission is investigating. I have no doubt in my mind that some of them would be past and present high officials within government. And maybe some fear that they may



lose their jobs. And I do not want to make light of any fear for loss of jobs by anybody. But I do want to highlight the appreciation of the commission for somebody like you who despite threats to their lives decide that they will come to the commission and help the commission even if they know that their lives may be under threat. So I just want you to know that the commission fully appreciates what you have done by coming forward to give evidence despite all of these things. And I thank you also for the role you have played to try and make sure that various bodies know what you know about the dairy farm project. The  
 10 commission may not be able to reach any conclusion about the dairy farm project for quite some time but I want to assure you and all the beneficiaries that the evidence that will be given that you have given and that will be given by other witnesses to the commission in regard to this project will be taken into account and considered and findings will be made in the end. Thank you very much once again then Mr Dhlamini you are excused. As I indicated earlier on the legal team will ask to talk to you in order to prepare supplementary affidavit and I have no doubt you will continue to cooperate with them.

**MR EPHRAIM MAKHOSINO DHLAMINI:** Thank you very much.

20 **CHAIRPERSON:** Thank you very much you are excused. We will take the tea adjournment it is twenty past eleven. We will resume at twenty five to twelve. We adjourn.

**REGISTRAR:** All rise.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Ms Buthelezi.

**ADV ZINHLE BUTHELEZI:** Morning Chair.

**CHAIRPERSON:** Yes. Are you ready?

**ADV ZINHLE BUTHELEZI:** Yes we are.

**CHAIRPERSON:** Yes.

**ADV ZINHLE BUTHELEZI:** Chair ...

**CHAIRPERSON:** Let us proceed.

**ADV ZINHLE BUTHELEZI:** Our next witness is Mr Ncongwane. He is one of the – he was one of the intended beneficiaries for the Vrede Dairy Project. He will testify in isiZulu as well. May I ask that the witness be sworn in?

**CHAIRPERSON:** *Ja* let him be sworn in or an affirmation be administered.

**REGISTRAR:** Please state your full names for the record.

**MR MESHACK MPALANI NCONGWANE (through interpreter):** Meshack Mpaleni Ncongwane.

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

**MR MESHACK MPALANI NCONGWANE (through interpreter):** No objections.

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

**MR MESHACK MPALANI NCONGWANE (through interpreter):** Yes.

**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.

**INTERPRETER:** Sworn in.

**MR MESHACK MPALENI NCONGWANE (through interpreter):** (duly sworn, states)

**CHAIRPERSON:** Hang on Lerato. I have said Ms Interpreter that your interpretation is very good. There are just certain aspects where I think you – where he was asked whether he considered the oath binding on his conscience the translation might not have been accurate. (isiZulu). Okay. I am sorry. We will just do it – we will do it afresh. Let us do the whole oath again afresh.

10 **REGISTRAR:** Please state your full names for the record.

**MR MESHACK MPALENI NCONGWANE (through interpreter):**  
Meshack Mpaleni Ncongwane.

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

**MR MESHACK MPALENI NCONGWANE (through interpreter):** No objection.

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

**MR MESHACK MPALENI NCONGWANE (through interpreter):** Yes.

**CHAIRPERSON:** Okay. Okay, I am sorry. I think (isiZulu) is (isiZulu).

20 **MR MESHACK MPALENI NCONGWANE (through interpreter):** Yes.

**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.

**INTERPRETER:** Sworn in.

**MR MESHACK MPALENI NCONGWANE (through interpreter):** (duly

sworn, states)

**CHAIRPERSON:** Thank you very much.

**INTERPRETER:** Thanks.

**CHAIRPERSON:** Otherwise everything was okay. It was just that aspect only.

**INTERPRETER:** Thanks Chair.

**CHAIRPERSON:** Okay, alright.

**ADV ZINHLE BUTHELEZI:** Thank you Chair.

**CHAIRPERSON:** Thank you.

10 **ADV ZINHLE BUTHELEZI:** Chair Mr Ncongwane's statement is in English.

**CHAIRPERSON:** Yes.

**ADV ZINHLE BUTHELEZI:** I have confirmed with him that he does – he can read and understand English ...

**CHAIRPERSON:** Hm.

**ADV ZINHLE BUTHELEZI:** But he prefers to testify in isiZulu.

**CHAIRPERSON:** Okay. Just put questions that are meant to enable him to tell me exactly that to him.

**ADV ZINHLE BUTHELEZI:** Thank you Chair.

20 **CHAIRPERSON:** Hm.

**ADV ZINHLE BUTHELEZI:** Mr Ncongwane do you confirm that your statement is in English but you are able to read and understand the English language?

**MR MESHACK MPALENI NCONGWANE (through interpreter):**  
Correct.

**ADV ZINHLE BUTHELEZI:** Thank you Chair. Chair, may I propose that this bundle containing Mr Ncongwane's statement be marked as EXHIBIT HH3.

**CHAIRPERSON:** The file containing the affidavit by or statement by Mr Meshack Mpaleni Ncongwane will be marked EXHIBIT HH3 and I think we must just for the sake of helping the transcribers spell Mpaleni and Ncongwane. Mpaleni is M-P-A-L-E-N-I. Ncongwane is N-C-O-N-G-W-A-N-E. Thank you. You may proceed.

**ADV ZINHLE BUTHELEZI:** Thank you Chair. Mr Ncongwane do you  
10 confirm that the document that is appearing on EXHIBIT HH3 pages 1 to eight is the statement that you made for the Commission?

**MR MESHACK MPALeni NCONGWANE (through interpreter):**  
Correct.

**ADV ZINHLE BUTHELEZI:** And that the signature on page 8 is your signature?

**MR MESHACK MPALeni NCONGWANE (through interpreter):**  
Correct.

**ADV ZINHLE BUTHELEZI:** Thank you. Mr Ncongwane would you please tell us where do you live?

20 **MR MESHACK MPALeni NCONGWANE (through interpreter):** I stay at Thembalihle township number 2325 Khanye Street Modise Section in Vrede.

**ADV ZINHLE BUTHELEZI:** And what do you do for a living?

**MR MESHACK MPALeni NCONGWANE (through interpreter):** I am a farmer. I have cattle and I also produce milk.

**ADV ZINHLE BUTHELEZI:** Yes. Mr Ncongwane I believe you are aware that the reason for you being here before the Commission it to give us the information that – relating to your connection with the Vrede Dairy Project. Would you please then give us the background information that connected you to this Vrede Dairy Project?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** I was interested in dairy or working with milk. It all started by me attending the meetings with other farms in Qwaqwa regarding dairy or milking.

**ADV ZINHLE BUTHELEZI:** Yes proceed.

10 **MR MESHACK MPALENI NCONGWANE (through interpreter):** Each month we will hold workshops. On another day in this five months or six months we – we then went to Bethlehem where we met up with commercial farmers.

**ADV ZINHLE BUTHELEZI:** So Mr Ncongwane if I may can you just explain which year are you referring here to now? Is it ...?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** From early 2011.

**ADV ZINHLE BUTHELEZI:** Yes you may proceed.

20 **MR MESHACK MPALENI NCONGWANE (through interpreter):** Well we – like I said we attended workshops. So in one of the workshops that we had with the commercial farmers from country lane who are on – who are dealing with dairy as well we were then told or advised that if you have cattle and you have about 25 cattle and you want to invest with those 25 cattle your shares are much better than if you have less than 25 life five which are not yielding any - much money.

**ADV ZINHLE BUTHELEZI:** Yes. So were you intending to have shares with those commercial farmers?

**MR MESHACK MPALENI NCONGWANE (through interpreter):**

Correct.

**ADV ZINHLE BUTHELEZI:** Yes. Then proceed. What happened from there?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** What happened is we then had a meeting. We sat in a meeting with the farmers from Qwaqwa. We formed a cooperative. We then named that  
10 cooperative as MPO - Emerging Milk Producer Organisation. After we have found this cooperative I then went back home. On my arriving at home I met up or there were men who were also interested in the very same dairy project.

I then said to them we need a place where we can work or have our activities there. We need to go and request from the municipality a venue or a place where we can work from. After we have agreed with this I then wrote a letter. I then took it to the town council.

**ADV ZINHLE BUTHELEZI:** Mr Ncongwane which town council now are you referring to? Is it Vrede or Qwaqwa?

20 **MR MESHACK MPALENI NCONGWANE (through interpreter):** Vrede Town Council.

**ADV ZINHLE BUTHELEZI:** Thank you. Proceed.

**MR MESHACK MPALENI NCONGWANE (through interpreter):** I then handed over the first letter that I have drafted to the Mayor.

**ADV ZINHLE BUTHELEZI:** And who was the Mayor at the time?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** It was till Mr John Motaung.

**ADV ZINHLE BUTHELEZI:** Is he still a Mayor to this day?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** That is correct. He is still a Mayor.

**ADV ZINHLE BUTHELEZI:** Thank you. Proceed.

**MR MESHACK MPALENI NCONGWANE (through interpreter):** I then waited for a period of about two months. I then returned back to him to get feedback. On my arrival there I then learnt that the feedback that I  
10 was expecting was not available yet or was not ready yet. I drafted a second letter.

**ADV ZINHLE BUTHELEZI:** Is this still in 2011?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** That is correct. After a month I went to collect the response of the second letter that I had drafted. I then discovered that there was a report back on my request or of my letter. The response that I got or the report back that I got my statement was not clear or understandable; because I had an interest of this – of this thing to succeed I then approached Mr Bheki Radebe. He is a Member of Parliament.

20 **ADV ZINHLE BUTHELEZI:** Is that the Free State Provincial Parliament or the National Parliament?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** National. I then showed him this draft or this letter that I have written. He perused it or read it and he said no it is understandable. It is clear and then I asked him as to what is it that maybe I should correct from



the statement and his response was I do not know.

**CHAIRPERSON:** Who had told you that they were unable to understand your statement or your letter?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** The Mayor Mr Motaung.

**CHAIRPERSON:** Was this a letter – again let us just get that clarification - or was it a statement?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** It was a letter that I had drafted.

10 **CHAIRPERSON:** Did you – had you written the letter in a language that Mr Motaung did not understand?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** It was in English. The letter that I have drafted it was in English – the second letter that I have drafted. It was in English and the heading of it – it was the Requisition of the Land.

**CHAIRPERSON:** So the letter that you had written to Mr Motaung was in English?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** That is correct.

20 **CHAIRPERSON:** And was it Mr Motaung who told you that he could not understand the letter?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** Indeed.

**CHAIRPERSON:** Did you ask him on that occasion what it is that he could not understand so that you could explain it to him?

**MR MESHACK MPALENI NCONGWANE (through interpreter):**

Unfortunately I did not ask him.

**CHAIRPERSON:** Okay, alright. You can proceed. You – you were at a time when Mr Radebe said he did not see anything that anybody could not understand in your letter and then what happened?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** I then took this letter went back to – with this letter to Mr Ralebenya who is an administrative officer at the town hall. He then – he then said to me after reading – after reading this letter he then said he is – he is of the opinion that there should be a supporting letter for the people who will  
10 be funding this project.

**ADV ZINHLE BUTHELEZI:** Yes. Did – then what happened from there? Did you get ...?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** I basically lost hope. I then left it like that.

**ADV ZINHLE BUTHELEZI:** Yes.

**MR MESHACK MPALENI NCONGWANE (through interpreter):** After that – after that had happened then I heard that they will start up a dairy project in Vrede.

**ADV ZINHLE BUTHELEZI:** Yes. Sorry. What I want to know these  
20 letters that you were sending to the municipality and to the town council was it – when exactly in 2011? Was it before November or after November 2011? If you may remember.

**MR MESHACK MPALENI NCONGWANE (through interpreter):** It was in November.

**ADV ZINHLE BUTHELEZI:** Thank you. Then the information that you

had about the opening of the dairy in Vrede when was this?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** It was at the beginning of the year 2012.

**ADV ZINHLE BUTHELEZI:** And where did you hear this news?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** I would hear about it because we were attending meetings in the area or the place where we stayed.

**ADV ZINHLE BUTHELEZI:** Yes. The – the funding or the - the information that they said you should have supporting documents for  
10 funding what – what was this funding?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** Well my understanding - it is just my opinion of what he said to me. My understanding was that he meant by funding that I should have people who will buy cattle for me because his statement was it is pointless to give or provide land to a person and yet that person is – has no plan – or does not have anything to do or will do in the very same or any activities that he will perform in the land.

So rather provide it if you know that this person has cattle and he will use the land.

20 **ADV ZINHLE BUTHELEZI:** Yes. Sorry you said you attended meetings. So other than being a farmer at Vrede were you involved with any of the farmers' organisations?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** At that time I was Chairperson of an organisation called NAFU.

**ADV ZINHLE BUTHELEZI:** And what does that stand for?

**MR MESHACK MPALENI NCONGWANE (through interpreter):**

National Agricultural Farmers Union. It is NAFU.

**ADV ZINHLE BUTHELEZI:** NAFU and what position did you hold there?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** I was a Chairperson for Vrede.

**ADV ZINHLE BUTHELEZI:** Thank you. Mr Ncongwane you then in the statement that you furnished us you detail the number of meetings that you attended that were called by the Government Officials in Vrede around 2012. Some of it overlaps with what Mr Dhlamini has already  
10 testified about but I want you to try and follow the chronology of events starting with the first meeting that you attended. Yes even if you ...

**MR MESHACK MPALENI NCONGWANE (through interpreter):**

**CHAIRPERSON:** Sorry Ms Buthelezi. I just had a look at the statement. It does appear to me that most of the things that he says in the statement are the same as things that Mr Dhlamini has told me about and I am under the impression that he was listening to Mr Dhlamini's evidence.

So I think what we may have to do is just confirm whether he heard all of Mr Dhlamini's evidence about what happened and check  
20 whether the – there is anything in particular that he heard Mr Dhlamini say that is not in accordance with his recollection and then he can tell us that and then after that you can look at each meeting and just see if there is anything different that he says that Mr Dhlamini did not tell us or that does not – is not in accordance with what Mr Dhlamini told us. So we do not have to go through the whole thing again.

**ADV ZINHLE BUTHELEZI:** Understand Chair.

**CHAIRPERSON:** *Ja.*

**ADV ZINHLE BUTHELEZI:** Mr Ncongwane you have listened to the evidence of Mr Dhlamini. I believe you were here inside the hearing venue. You heard him detailing the – the number of meetings that you attended as ...

**CHAIRPERSON:** I am sorry. Let us first check. Were you hear throughout the time yesterday and today when Mr Dhlamini gave evidence?

10 **MR MESHACK MPALENI NCONGWANE (through interpreter):** Yes I was present.

**CHAIRPERSON:** And you were listening to his evidence?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** Yes I was listening.

**CHAIRPERSON:** And will you be able to say if there is something that he said which does not accord with your recollection? Okay. I am sorry. I think I need to put that ...

**INTERPRETER:** Yes.

20 **CHAIRPERSON:** Afresh. When you were listening were you able to pick up things that he was saying that does not accord with your recollection? Okay no that is fine.

**MR MESHACK MPALENI NCONGWANE (through interpreter):** I – from the first (intervenes).

**CHAIRPERSON:** I am confusing you Ms Interpreter. I know I am confusing you and Mr Ncongwane. Okay. At this stage I just wanted to

establish whether he would be able to say yes there maybe or there might not be. She – Ms Buthelezi will ask her about the specific meetings if there is something that he did not recall having happened the way that Mr Dhlamini said. So I just wanted to have an idea that he thinks he will be able to – to indicate if he is asked.

**MR MESHACK MPALENI NCONGWANE (through interpreter):** I can respond to that question.

**CHAIRPERSON:** Oh excellent.

**MR MESHACK MPALENI NCONGWANE (through interpreter):** There  
10 are (intervenes).

**CHAIRPERSON:** Thank you very much. Then you maybe you can take it from there Ms Buthelezi.

**ADV ZINHLE BUTHELEZI:** Thank you so much Chair. Mr Ncongwane then can you just highlight those events that you recall that were not either placed on record by Mr Dhlamini or where you understood things differently.

**CHAIRPERSON:** Maybe – maybe – I am sorry. Maybe you can go according to first meeting, second meeting.

**ADV ZINHLE BUTHELEZI:** Yes.

20 **CHAIRPERSON:** If he is able to and there may be things where he says I do not remember whether they happened at the first meeting or second meeting but let him be able to deal with them in terms of first meeting second meeting and so on.

**ADV ZINHLE BUTHELEZI:** Thank you Chair.

**CHAIRPERSON:** Okay.

**ADV ZINHLE BUTHELEZI:** We will start from the first meeting.

**MR MESHACK MPALENI NCONGWANE (through interpreter):** With regard to the first meeting Your Worship he was able to explain everything that happened or that transpired in the first meeting.

**ADV ZINHLE BUTHELEZI:** Is there anything you wish to add with regards to the first meeting?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** There is nothing to add.

**ADV ZINHLE BUTHELEZI:** Yes and this first meeting are you in the  
10 position to tell us when it was?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** It was – the meeting was early 2012 and my apologies Chair, may I place this on record, most of the community members who were involved or beneficiaries in this project, were elderly people.

**ADV ZINHLE BUTHELEZI:** Yes and...(intervention).

**CHAIRPERSON:** I'm sorry was there something you wanted to say about them being elderly people or you just wanted to make that point only?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** As I  
20 have indicated that most of the beneficiaries were elderly people and we grew up in the farms so when this project was initiated we did not know that it will end up before the Commission and as a result we were not keeping record of the activities of this project and we did not even nominate a committee of individuals who will keep record or record every activity around this project. When the committee that Mr

Dhlamini made mention of in his testimony was nominated or elected, that's when we had hope that there will be record of each and every activity that might be needed around this project that they will keep, basically record of everything. That is why other things like dates and years we are unable to remember as to exactly when did it happen but there are other things where we sit down and we try to recollect of when was the first meeting and who was there or who was hosting the meeting we would then remember.

**CHAIRPERSON:** Okay thank you. Yes, you can continue if you have  
10 not yet finished.

**MR MESHACK MPALENI NCONGWANE (through interpreter):** So those who were more older than us or the elderly people will be assisted by us those who used to attend meeting and opinions and share the opinions with them. Regarding the date, my apologies to you Chair if we do not remember the dates, the background information that I gave you is to clarify the issue of the dates and the years that events took place but as for everything that he has said Your Worship, it is exactly as he has explained it Mr Dhlamini, the only issue will be the dates and the year. There was a misunderstanding where Alta Meyer  
20 was interior coordinator but he made a mistake around her position, she was working at the Agriculture Department, she was the colleague.

**CHAIRPERSON:** And she was a coordinator there?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** Indeed.

**CHAIRPERSON:** Okay thank you. Okay she will now lead you on – on the various meetings but she will ask you whether there's anything else



you wanted to say about the first meeting and when she's done then she'll go to the next meeting.

**MR MESHACK MPALENI NCONGWANE (through interpreter):** I understand.

**ADV ZINHLE BUTHELEZI:** Thank you Mr Ncongwane, on the first meeting is there anything that you would like to add other than what Mr Dhlamini has told the Commission?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** No.

**ADV ZINHLE BUTHELEZI:** Thank you and the second meeting?

10 **MR MESHACK MPALENI NCONGWANE (through interpreter):** The second meeting I was not – I was not in attendance but most of what was discussed there, I got it from Mr Dhlamini.

**ADV ZINHLE BUTHELEZI:** Yes and what he relayed to the Commission is everything that he reported to you about the second meeting at the time?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** Indeed.

**ADV ZINHLE BUTHELEZI:** Thank you, since you're not there then let's move to the third meeting. Is there anything that you'd like to correct or to add with regard to the third meeting, this is the meeting where,  
20 according to your statement where your ID documents were asked for by Ms Alta Meyer.

**MR MESHACK MPALENI NCONGWANE (through interpreter):** It is exactly like Mr Dhlamini has explained it Your Worship – Alta, I mean Chair, Alta Meyer came and requested the ID documents and they were handed over and everything was just happening in a hurry.

**ADV ZINHLE BUTHELEZI:** Yes and do you remember, roughly when it was, it's not on your statement but if you could – even if it's a year or a month of that year, or was it the beginning of the year or towards the end of the year?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** If I'm not mistaken it was right at the beginning – in the year 2012 that is when this project was initiated.

**ADV ZINHLE BUTHELEZI:** Did you say at the beginning of the project, or the beginning of the year?

10 **MR MESHACK MPALENI NCONGWANE (through interpreter):** It was the beginning of the year and right at the beginning of the project or when the project was initiated.

**ADV ZINHLE BUTHELEZI:** Yes and what was happening with regards to the project at that stage, do you know if there was any construction that was started?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** Personally, Your Worship, if I say I did see the construction I would be lying but I heard that there was a construction which has started regards towards this project, but personally I did not see that.

20 **ADV ZINHLE BUTHELEZI:** And you also mention the committee, the committee that Mr Mahlaba spoke about on paragraph 13...(intervention).

**CHAIRPERSON:** Mr Dhlamini.

**ADV ZINHLE BUTHELEZI:** Sorry Mr Dhlamini, when you deal with the second meeting – with the third meeting was this the day in which this

committee was elected?

**INTERPRETER:** Okay I see the witness is taking out a piece of paper I'm not sure whether he's making reference to that but he says, yes in that third meeting the committee was selected or elected and it was selected by Alta Meyer herself in the third meeting.

**ADV ZINHLE BUTHELEZI:** If I remember the evidence of Mr Dhlamini was that you nominated the people that were in the committee?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** As people who had expertise or skills in the farming we assisted in the  
10 election of this committee together with Ms Alta Meyer.

**CHAIRPERSON:** Well let's get that clear because earlier on I understood you to say Mr Alta Meyer selected that committee, did I hear you correctly?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** Alta Meyer is the one who collected the ID's from us, Alta Meyer is the one who elected the committee.

**CHAIRPERSON:** Well to – it's the second time you say she elected or selected the committee but you have also said you are the people who elected them but I think you said together with her, let's try and get this  
20 clear. Did Ms Alta Meyer say to you at that meeting, as beneficiaries, you people need to elect a committee or did that come from you, the beneficiaries, that there should be a committee that must be elected? Let me repeat, did Ms Alta Meyer say to you, that you as the beneficiaries should elect a committee or was it you who came up with the idea that a committee should be elected?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** She, Alta Meyer, came to elect the committee she is the one who selected the committee.

**CHAIRPERSON:** Did she, in that meeting tell you the names of the people who should be members of that committee without you, the beneficiaries, having made that decision yourselves?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** She said she came for the election of the committee with our assistance, therefore we should nominate the names or pick – ja nominate the  
10 people or the names of the people that we want to be in the committee. So she only came for the names of the people that should be in the committee.

**CHAIRPERSON:** Did she say you must decide who must be in the committee and she would take those names?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** That is correct, we nominated the names of the three people who were to be a part of the committee and we also gave them the positions there, it was the Chairperson, secretary and treasure.

**CHAIRPERSON:** Okay Ms Interpreter you may just have to think about  
20 the correct word when you nominate it means that somebody else will still decide if you select or elect you decide.

**MR MESHACK MPALENI NCONGWANE (through interpreter):** We selected them.

**CHAIRPERSON:** Yes and did Ms Meyer accept the names that you, the beneficiaries, selected?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** That is correct.

**CHAIRPERSON:** From what you have now clarified, it seems to me that you shouldn't have said that Ms Meyer elected or selected the people because you are the people who decided on the three people to form the committee.

**MR MESHACK MPALENI NCONGWANE (through interpreter):** That is correct.

**CHAIRPERSON:** Do you understand the difference now?

10 **MR MESHACK MPALENI NCONGWANE (through interpreter):** Yes I do.

**CHAIRPERSON:** And Ms Meyer simply took the names that you gave her?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** Yes.

**CHAIRPERSON:** Thank you.

**ADV ZINHLE BUTHELEZI:** Thank you Chair for the clarification and we now know that Mr June David Mahlaba was the Chair, who was the secretary?

20 **MR MESHACK MPALENI NCONGWANE (through interpreter):** Lindiwe Masiteng.

**ADV ZINHLE BUTHELEZI:** And who did you elect as a treasurer?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** James Ngqousini.

**ADV ZINHLE BUTHELEZI:** I will spell it for the record Chair, it's Ngqosini (name spelt).

**CHAIRPERSON:** Yes let's proceed.

**ADV ZINHLE BUTHELEZI:** Thank you and what was your understanding for the selection of this committee, what was it going to do for you guys?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** They were going to be our representatives whenever there's meetings with agricultural – agriculture officials they are our eyes and ears on any activities around this project and come back and report to us.

**ADV ZINHLE BUTHELEZI:** And did that happen?

10 **MR MESHACK MPALENI NCONGWANE (through interpreter):** It did not even happen, even once.

**ADV ZINHLE BUTHELEZI:** Thank you, in the same...(intervention).

**CHAIRPERSON:** Did you – I'm sorry did you continue to see members of this committee over time and if you did, did you not ask them, what is happening you're not reporting back to us, why?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** May I place in on record Chair that Lindiwe Masiteng, the Chairperson, she had a business, she was selling food, so we would meet her on that level when we're interacting in her business she will say, there are  
20 things to tell you, but we'll sit with Alta and there are things we must tell you but there's not time here to sit down and tell you about those things.

**CHAIRPERSON:** What about the other members of the committee, did you see them from time to time and ask them, why are you people not reporting back to us, what is happening?

**MR MESHACK MPALENI NCONGWANE (through interpreter):**

Unfortunately the only member of the committee I would see or interact with it's Lindiwe Masiteng.

**CHAIRPERSON:** Okay thank you.

**ADV ZINHLE BUTHELEZI:** Thank you Mr Ncongwane so the two other members, Mr Mahlaba and Mr Ngqousini were they locals, were they from Vrede or were they from the other parts of Mpumelela Municipality?

**INTERPRETER:** What's the other place?

10 **ADV ZINHLE BUTHELEZI:** Or were they from either Warden or Memel?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** They are also from Vrede.

**ADV ZINHLE BUTHELEZI:** Thank you.

**CHAIRPERSON:** Why did – if they were also staying within Vrede why didn't the leadership of the Vrede chapter of the African Farmers Association go to one or both of the and confront them and say, why are you people not coming back to report to us?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** It was not easy for them to come to us because they were basically giving us  
20 – running away from us so it was not easy to have this conversation with them.

**CHAIRPERSON:** Okay.

**ADV ZINHLE BUTHELEZI:** So they were avoiding you in other words?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** Yes.

**ADV ZINHLE BUTHELEZI:** Thank you and in the same paragraph 13

you mention that you – when you did not get any reports you became concerned and you reported – or you took your concerns to the media, when was the first time you reported this matter to the media?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** Around 2013.

**ADV ZINHLE BUTHELEZI:** And what was happening, what was your main concern when you raised this issue with the media in 2013?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** The person who brought the media to us it was Dr Radebe from DA he's the  
10 one who came with Mail & Guardian.

**CHAIRPERSON:** Remember Ms Buthelezi we just want to see what it is that he wants to tell us that's different from what Mr Dhlamini told us, I mean a lot of these things are unlikely to be controversial.

**ADV ZINHLE BUTHELEZI:** Thank you, I'll proceed Chair.

**CHAIRPERSON:** Ja so just focus on establishing from him those things that he wants to tell me which Mr Dhlamini might not have covered or those things that Mr Dhlamini covered but he has a different recollection of what happened, otherwise I don't want us to go through the same thing in circumstances where it's unlikely to be disputed.

20 **ADV ZINHLE BUTHELEZI:** Thank you Chair. Other than what we have already told us, with regards to the third meeting and the election of beneficiaries what else would you like to tell us, wasn't told by Mr Dhlamini when he gave his evidence earlier on?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** I remember the visit by DA the year was...(intervention).



**CHAIRPERSON:** Hang on one second, she's asking you, only in relation to the third meeting.

**MR MESHACK MPALENI NCONGWANE (through interpreter):** Okay I wanted to tell the Chairperson about the other things that I know.

**CHAIRPERSON:** Yes, no, no the question was whether there was – there's anything that Mr Dhlamini did not cover in relation to the third meeting or that he covered but you have a different recollection in regard to the third meeting, once you have dealt with that she will move on to something else.

10 **MR MESHACK MPALENI NCONGWANE (through interpreter):**  
Everything is covered.

**CHAIRPERSON:** Okay I think move on to the fourth meeting.

**ADV ZINHLE BUTHELEZI:** Yes let's move to the fourth meeting. Yes this is when – the meeting that was also attended by Ms Alta Meyer, is there anything that you would like to add from what Mr Dhlamini told us already?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** The fourth meeting is about the FDC, isn't it?

**ADV ZINHLE BUTHELEZI:** Yes.

20 **MR MESHACK MPALENI NCONGWANE (through interpreter):** In that meeting I was not present, I was in Durban.

**ADV ZINHLE BUTHELEZI:** So what is contained in this statement it's what was reported to you by Mr Dhlamini, is that correct?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** Yes correct.

**CHAIRPERSON:** Okay then let's move to the fifth meeting, did you attend the fifth meeting?

**MR MESHACK MPALENI NCONGWANE (through interpreter):** At the time when Mr Ace Magashule was in the meeting?

**ADV ZINHLE BUTHELEZI:** Yes.

**MR MESHACK MPALENI NCONGWANE (through interpreter):** Nothing much was said – nothing much was brought or said by Mr Magashule on that day, it is exactly like what Mr Dhlamini has explained it.

**CHAIRPERSON:** Yes.

10 **MR MESHACK MPALENI NCONGWANE [through Interpreter]:** Though I was amongst the group which was there on the day of the meeting with Mr Magashule but I am one of the people who remained behind because of the transport. So I did not go to this dairy itself – the project – where the project was.

**CHAIRPERSON:** There was not enough transport?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** There was not enough transport.

**CHAIRPERSON:** Okay.

**ADV ZINHLE BUTHELEZI:** Thank you Chair. Then you deal with other  
20 meetings that followed. The first one being the meeting it was with MEC Mamiki Qabathe. Is there anything you wish to add?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** No. That is fine.

**CHAIRPERSON:** Yes.

**ADV ZINHLE BUTHELEZI:** And then the next meeting that you deal

with is a meeting with Mr – you saying it is Modiba but Chair the correct surname it is Madiba. It is an official from the Department.

**CHAIRPERSON**: Okay alright. Let us ask him this question. You – you have confirmed that you listened to Mr Dhlamini's evidence you remember that?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]**: Yes I did.

**CHAIRPERSON**: There are other meetings that Mr Dhlamini spoke about. Did you – is there anything that he said about those meetings if  
10 you did attend them that does not accord with your recollection or that he did not cover that you wish to cover?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]**: What I can talk about Your Worship it is the meeting with Mr Madiba.

**CHAIRPERSON**: What is the correct spelling?

**ADV ZINHLE BUTHELEZI**: It is M a d i b a it is not M o – yes.

**CHAIRPERSON**: Oh okay alright. Thank you tell us about that meeting?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]**: Okay  
20 what happened is to talk about the meeting with Mr Madiba. There was a venue where the meeting was held but he delayed coming to the venue where the meeting was to take place. He started at the Mayor's office in the Town Hall for private meeting which lasted about one and a half hours. And then after that they then all came together. It was Mr Madiba, the Mayor, Mr Kolbene and the other officials were there. The meeting was called or hosted by us. Myself and Mr Dhlamini so we

called him into a meeting. On his arrival at the venue he then took over the meeting as if he was the one who called the meeting. That did not sit well with us. Then there was now – it was now time for questions then Mr Dhlamini asked the question, who called the meeting? Is it you who called the meeting or is it us who called the meeting? Because we had an agenda. We had questions that we wanted to put in that meeting. After that question was asked they then admitted to say, okay let us proceed with the meeting in the way that you have planned it or according to your agenda. It was at that stage

10 unfortunately when Mr Dhlamini then walked away from the meeting. We then asked the question, are we still beneficiaries to this project and if indeed we are still the beneficiaries then I personally have a question? Even if I am being told that you are no longer beneficiaries to this project I still have a question to ask. Then I then requested Mr Madiba because he is the one that we have invited into the meeting that please consider that there is elderly people in this meeting. Then we requested him not to be political when responding to issues. Just respond clearly without being political about the issues that we want to get clarity on. And then one of the community members asked a

20 question from Vrede asked a question as to whether is this project a government project or is it a community project? His response was no it is a government project.

**INTERPRETER:** I [indistinct] clarify Your Worship I did not understand this.

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** And

then the next question after the question which was asked is one person from or community member from Memel asked a question if are we still beneficiaries? Or each time when there is a Chairperson is coming to attend – Chief Directors attending a meeting we will have to reregister our names or register our names each time that they come or are we beneficiaries towards this project? Or each time when new people come to a meeting – Chief Directors come to a meeting we have to reregister as beneficiaries.

**ADV ZINHLE BUTHELEZI:** Mr Ncongwane please make us understand  
10 what Mr Madiba said to you on that meeting?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** He explained as to what is a beneficiary.

**ADV ZINHLE BUTHELEZI:** Yes.

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** He even explained as to the fact that he was still new in this position of being a Chief Director so he is not familiar with the activities around that project. Those are the only two issues he touched on not any other matters.

**ADV ZINHLE BUTHELEZI:** So the issue of the beneficiaries  
20 reregistering when a new Chief Director is appointed where did that come from?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** It is because of what he said Mr Madiba himself that he was new in the position so he did not – he was not familiar with the activities around that project hence that question came up. He even said that there

should be a screening – screening of the beneficiaries to be done like is there – are there any elderly people in – amongst the beneficiaries are those – that have cases? And if there are those who are employed – employed somewhere else.

**ADV ZINHLE BUTHELEZI:** Yes and what else transpired during that meeting?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** Not from Mr Madiba there was nothing else that happened.

**CHAIRPERSON:** Did you or anybody among the beneficiaries ask him  
10 why he needed beneficiaries to be screened and why it was relevant whether beneficiaries were elderly people and whether some of them were employed elsewhere. Did you ask him what was the relevance of those factors?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** My question was when should this screening should have taken place or has taken – ja should have taken place because already at that time the dairy was running or already functioning so I wonder if I get it right Your Worship so can I just?

**CHAIRPERSON:** Okay. I think he said the dairy had been running for  
20 three years.

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** Three years.

**CHAIRPERSON:** Did you say that Mr Ncongwane?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** Yes I said so.

**CHAIRPERSON:** And what was the answer that you were given?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** Nothing further was said and there was not response – nothing further was said after that and Mr Madiba was first to attend that meeting we called. It is not like he came there voluntarily into a meeting we had summoned him to attend or called him to attend the meeting.

**CHAIRPERSON:** Well we will go – we will go back to what was discussed at the meeting and how the meeting ended. But let me find out. What was the purpose for you calling him to the meeting?

10 **MR MESHACK MPALENI NCONGWANE [through Interpreter]:** We – we had concerns like time – the concern was the time that has lapsed of the FDC having consulted or come to us – visiting us or coming back to us.

**CHAIRPERSON:** Did you say that your concern was the time that had lapsed since the FDC had taken over but without them having consulted with you?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** They promised to come back to those who were in the meeting two weeks – in two weeks' time and they did not return.

20 **CHAIRPERSON:** And about how much time had lapsed by the time you called Mr Madiba to come to the meeting?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** Quite a while Your Worship – a year I am assuming it is a year because these meetings were not sitting constantly after one – each – or after each meeting. So it was almost a year or a year.

**CHAIRPERSON**: Or more than a year?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]**: Correct.

**CHAIRPERSON**: Okay thank you.

**MR MESHACK MPALENI NCONGWANE [through Interpreter]**: Another problem that – or concern that we have was about the people who took our ID's we did not know where were they going to use our ID's or what exactly were they going to do with our ID's. And – because we are not benefiting anything from that and the concern was what if thereafter we have a problem with SARS since they took our ID's.

10 **CHAIRPERSON**: That is with the South African Revenue Service?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]**: Correct.

**CHAIRPERSON**: Yes okay. So you wanted Mr Madiba to come and explain or give you answers to these questions?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]**: Correct.

**CHAIRPERSON**: Did you ask these questions?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]**: Regarding the concern that we have with South African Revenue Service no. We only asked if – are we still beneficiaries to this project or not?

20 **CHAIRPERSON**: Okay and what else was discussed at the meeting you have not covered yet and how did the meeting end?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]**: Nothing much was discussed after that. What he suggested that since he was new in his position rather we reregister as beneficiaries and then we have the next – the meeting be postponed until December.



**ADV ZINHLE BUTHELEZI:** Did you agree to reregister as beneficiaries?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** It was at that stage when this person or community member from Memel asked the question. Is it going to be a position where – a situation where when there is a new Chief Director we will have to reregister as beneficiaries or what is going to be the position?

**ADV ZINHLE BUTHELEZI:** Yes but was the issue resolved or the meeting was postponed without having resolved the issue?

10 **MR MESHACK MPALENI NCONGWANE [through Interpreter]:**  
Resolving this question or dissolving the meeting?

**ADV ZINHLE BUTHELEZI:** Yes of being beneficiaries and reregistering?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** There was no response towards that question. What was said is that we will have further discussion when we meet again.

**ADV ZINHLE BUTHELEZI:** Yes.

**CHAIRPERSON:** Did another meeting take place between the beneficiaries as an – and Mr Madiba?

20 **MR MESHACK MPALENI NCONGWANE [through Interpreter]:** There was – not in that year until the following in March we then approach Agriculture or we went to Agriculture to find out as to what is happening. So we went personally there to find out what is happening. That was the last time. We did not get any response on – when we went there to find out as to what was happening in March. No response

that we got and that was the last time we saw Mr Madiba.

**CHAIRPERSON**: Yes. Okay thank you.

**ADV ZINHLE BUTHELEZI**: Yes. You said – at that stage it has been three years since the dairy started operating. Should I assume that it was around 2016?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]**: I hope so because the FDC was there in 2015. I think so but the words he uses I hope so because FDC was already in existence by 2015.

**ADV MUZI SIKHAKHANE**: Okay thank you. Then there is another  
10 meeting that you make reference to that was attended by Doctor Masiteng. It is in paragraph 20 of your statement. You are saying it is 2013/2014? I believe you wanted to make a correction there.

**MR MESHACK MPALENI NCONGWANE [through Interpreter]**: I wish to correct the date that date is not correct. The 2012/2014 date is not correct.

**ADV ZINHLE BUTHELEZI**: And what could be your estimate there?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]**: I think it was somewhere in 2017. Wait, wait. Not 2017 no, no, it is not 2017. I think it was somewhere in 2018.

20 **ADV ZINHLE BUTHELEZI**: So it is very recent?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]**: Correct it is just recent.

**ADV ZINHLE BUTHELEZI**: Thank you. We understand that you are not committing to times as you have explained earlier that you were not keeping records. But I am interested of whether Mr – did Mr Dhlamini

cover everything that happened during this meeting with Doctor Masiteng?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** Yes he explained everything.

**ADV ZINHLE BUTHELEZI:** Did you attend this meeting?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** Yes I was.

**ADV ZINHLE BUTHELEZI:** And then you then deal with the meeting that was with the DA. Do you remember when this meeting was?

10 **MR MESHACK MPALENI NCONGWANE [through Interpreter]:** The first meeting we had with DA it was in 2015 23 August that is the first meeting we had with DA. They asked us as to whether were we aware of the name of the project initially when it was initiated, what was the name of the project?

**ADV ZINHLE BUTHELEZI:** Yes so the information you giving us now was not covered by Mr Dhlamini is that correct?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** Yes.

**ADV ZINHLE BUTHELEZI:** Yes proceed.

20 **MR MESHACK MPALENI NCONGWANE [through Interpreter]:** Okay the first name was Mahoma-Mobung and that was the first name of the project and then now there was a second name which is Vrede Dairy. Then the third name was now Community Dairy. All these name when they were changed we were not aware. Basically we were never consulted about the name changing of this dairy project. One minute we would see that it is Mahoma-Mobung the next thing it is Vrede Dairy

Product and the next thing it is Community Dairy. As to why – what was influencing the changes of the names we did not know. And then DA told – Mr Roy from DA then told us that there were Indians who were involved in this project. They left the project in 2015 but he told us that they have shares into the project to the amount of 2.5 million.

**INTERPRETER:** Your Worship I need clarity now in terms of this meeting.

**CHAIRPERSON:** Yes okay alright. You had a meeting with Mr Jankielsohn, Mr Roy Jankielsohn, is that correct?

10 **MR MESHACK MPALENI NCONGWANE [through Interpreter]:** That is correct.

**CHAIRPERSON:** What did he say to you?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** He explained to us about the – when this project was initiated it was not legitimate. It was not done procedurally. They did not follow procedure because it was supposed to be initiated from the Parliament like first. It was first supposed to be is it promulgated in Parliament first? I am not sure if the term is right.

**CHAIRPERSON:** Approved.

20 **MR MESHACK MPALENI NCONGWANE [through Interpreter]:** Approved in Parliament first since it was a big project. Okay Mosebenzi Zwane and them those who were leading the project they took the list to Parliament but I am not sure Your Worship I need clarity whether the list is the list of beneficiaries? The proposal – they were – they took the proposal to Parliament those who were leading the project

they then took it to Parliament Mosebenzi Zwane was one of them. Alright. When this draft of a proposal to taken to Parliament they – it was then discovered that those – the beneficiaries in that project were Indian people. He then – Roy Jankielsohn noticed that from this proposal draft it was the Indian people who were going to benefit from this project but not black people from South Africa. It was when Mr Jankielsohn questioned as to why are the beneficiaries of this project are Indian people where are the black people? Only to discover that there were none. When Mr Jankielsohn was informing us about this  
 10 information it was at the stage when these Indian people were leaving the project. And then he informed us that these Indian people since they are leaving the project their shares that they got from this project are 2. – According to him 2. Something million. And then he was asking from an office that dealt or was dealing with the shares and said, where are the shares of the black people? It was basically the shares of the black beneficiaries and then they said here they are they were 91 million for the black beneficiaries. That was the meeting we held with DA the year 2015 in August.

**ADV ZINHLE BUTHELEZI:** Yes Chair I could see we are already into  
 20 lunch.

**CHAIRPERSON:** Yes I – that is fine but I want us to finish with the witness.

**ADV ZINHLE BUTHELEZI:** The witness.

**CHAIRPERSON:** So that when we come back we have another witness.

**ADV ZINHLE BUTHELEZI:** Thank you.

**CHAIRPERSON:** Ja.

**ADV ZINHLE BUTHELEZI:** Thank you Chair. Yes. Was ...

**CHAIRPERSON:** Is that all you wanted to tell us about that meeting?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** That is all yes.

**ADV ZINHLE BUTHELEZI:** Yes.

**CHAIRPERSON:** Okay. Is there anything else that Ms Dhlamini did not cover that you think is important to tell me?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** No. We  
10 covered almost everything. That is the only thing that he did not mention.

**CHAIRPERSON:** Okay.

**ADV ZINHLE BUTHELEZI:** Thank you. Chair may I – I just need to ask him a few questions?

**CHAIRPERSON:** Ja.

**ADV ZINHLE BUTHELEZI:** Yes. Have you ever been to the dairy farm yourself?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** I went there at the time when there was DA and Mr Maimane and then the  
20 following day there was going to be a visit from – no not the following day – oh the previous day – okay I went twice. When there was Mr Masiteng a day before.

**ADV ZINHLE BUTHELEZI:** Sorry then I do not get it.

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** I went on the day when there was DA.

**ADV ZINHLE BUTHELEZI:** And you were saying the previous day you were – you had a meeting with Doctor Masiteng, is that right?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** Yes.

**ADV ZINHLE BUTHELEZI:** Yes. Was that the first time you were at the dairy?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** Yes.

**ADV ZINHLE BUTHELEZI:** Yes.

**CHAIRPERSON:** Have you subsequently been to the dairy?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** Yes.

10 **CHAIRPERSON:** No, no subsequently. Was that the only time you went there or have you subsequently gone there?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** No.

**CHAIRPERSON:** Okay.

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** Oh we had veld fires so we went there not as a project Your Worship.

**CHAIRPERSON:** Ja.

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** But on – as individuals.

**CHAIRPERSON:** Okay.

20 **ADV ZINHLE BUTHELEZI:** Thank you. And you – did you attend the meeting with the Public Protector that was this year, May?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** May 2019 – I am not sure but it was in May this year.

**ADV ZINHLE BUTHELEZI:** 2019.

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** May

this year.

**ADV ZINHLE BUTHELEZI:** Yes. Did you attend that meeting? Are you happy with what Mr Dhlamini told us?

**INTERPRETER:** Sorry what was the last portion of your question?

**ADV ZINHLE BUTHELEZI:** Are you happy with what Mr Dhlamini told us regarding that meeting?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** Yes I am happy.

**ADV ZINHLE BUTHELEZI:** And did you make a statement with the  
10 Hawks?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** Yes I did.

**ADV ZINHLE BUTHELEZI:** Do you remember when it was?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** The statements it was – I think there was a mistake around the dates. It was last year. It was in 2018 when the – January when we took – the statements were taken by the Hawks.

**ADV ZINHLE BUTHELEZI:** Oh okay thank you. And there were media reports that the farmers in Vrede travelled to Bloemfontein when Mr  
20 Zwane was appointed as a MEC. Did you take part in that trip?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** Indeed it is correct. Ja we travelled in a combi and then we went there indeed.

**ADV ZINHLE BUTHELEZI:** Why did you go there?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** We were happy that a person from our area or where we stay Your Worship



has been nominated as a MEC maybe that will bring change Your Worship in our area where we stay.

**CHAIRPERSON**: Ms Butheleze.

**ADV ZINHLE BUTHELEZI**: Thank you.

**CHAIRPERSON**: We said we only want to cover what he thinks Mr Dhlamini did not cover or what he – what Mr Dhlamini said which does not accord with his recollection.

**ADV ZINHLE BUTHELEZI**: I understand Chair I thought this was not covered by Mr Dhlamini.

10 **CHAIRPERSON**: Let us wrap up. Let us wrap up.

**ADV ZINHLE BUTHELEZI**: It may be my mistake thank you. And do you remember if the trip to Bloemfontein was before or after the dairy project was started?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]**: It was before.

**ADV ZINHLE BUTHELEZI**: Thank you. One last issue that I want you to deal with. The threats that Mr Dhlamini testified about were you – are you aware of any threats that were made? Or are there any threats that were made to you?

20 **MR MESHACK MPALENI NCONGWANE [through Interpreter]**: I am aware or I do have knowledge of the threats all of them. Because what happened is when we left after we buried Mr Ngwenya we were going back to our homes. Before we could even reach our homes someone said if I am not mistaken the two of you are in the list.

**ADV ZINHLE BUTHELEZI**: And have you personally reported to any of

the law enforcement officials?

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** The person who reported that was Mr – the threats it is Mr Dhlamini not myself. I have never reported it.

**ADV ZINHLE BUTHELEZI:** That is all Chair. I have no further questions for the witness.

**CHAIRPERSON:** I take it that you do not have any further matter that you want to bring to my attention other than what Mr Dhlamini has brought to my attention and what you have said, is that correct?

10 **MR MESHACK MPALENI NCONGWANE [through Interpreter]:** While I am grateful to everything that Mr Dhlamini Your Worship has – Chair has said before the commission we are always together and it is exactly what happened.

**CHAIRPERSON:** Yes.

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** We are always together.

**CHAIRPERSON:** Yes no that is fine. I was saying what Mr Dhlamini has said and what you have said so both of you have made a contribution it is not like it Mr Dhlamini only.

20 **MR MESHACK MPALENI NCONGWANE [through Interpreter]:** Yes.

**CHAIRPERSON:** Okay thank you very much Mr Mcongwane for coming to give evidence before the commission we are grateful for having come to give evidence. Thank you very much. You are excused.

**MR MESHACK MPALENI NCONGWANE [through Interpreter]:** Thank you.

**CHAIRPERSON:** Thank you. We are going to take the lunch adjournment we will resume at quarter past two. We adjourn.

**REGISTRAR:** All rise.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Are you ready?

**ADV LEAH GCABASHE:** Yes I am Chairman.

**CHAIRPERSON:** Thank you. Let us proceed.

**ADV LEAH GCABASHE:** Chairman this afternoon we are hearing the  
10 testimony of Dr Tankisi Janki Masiteng.

**CHAIRPERSON:** Thank you.

**ADV LEAH GCABASHE:** Dr Masiteng good afternoon.

**DR TANKISI JANKI MASITENG:** Good afternoon ma'am. Good  
afternoon Chair.

**ADV LEAH GCABASHE:** Are you ready to be sworn in?

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** Thank you.

**CHAIRPERSON:** Okay. Please administer the oath of affirmation.

**REGISTRAR:** Please state your full names for the record.

20 **DR TANKISI JANKI MASITENG:** Dr Tankisi Janki Masiteng.  
Dr Tankisi Janki Masiteng.

**CHAIRPERSON:** Please raise your voice.

**DR TANKISI JANKI MASITENG:** Dr Tankisi Janki Masiteng.

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

**DR TANKISI JANKI MASITENG:** No.

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

**DR TANKISI JANKI MASITENG:** Yes.

**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.

**DR TANKISI JANKI MASITENG:** So help me God.

**DR TANKISI JANKI MASITENG:** (duly sworn, states)

10 **CHAIRPERSON:** Thank you.

**ADV LEAH GCABASHE:** Thank you Chairman. Dr Masiteng if you go to page of your statement - there is a witness bundle on your table. To your left there are some reference files that I will point you to as and when it becomes necessary to do so but for now we are just going to have a look at the document that is in front of you. So if you go to page 1 – oh Chairman my apologies.

My colleague is reminding me that I have forgotten to introduce - to – to ...

**CHAIRPERSON:** The exhibit.

20 **ADV LEAH GCABASHE:** Explain that we are now dealing with EXHIBIT HH5.

**CHAIRPERSON:** The lever arch file containing the statement of Dr Tankisi Janki Masiteng will be marked EXHIBIT HH5.

**ADV LEAH GCABASHE:** Thank you Chairman. I will be make ...

**CHAIRPERSON:** I am sorry. I must just check. Your middle name is it

pronounced as Janki or Yanki?

**DR TANKISI JANKI MASITENG:** Janki.

**CHAIRPERSON:** Janki?

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Okay, thank you.

**ADV LEAH GCABASHE:** Thank you Chairman. I will also be – be using the reference bundles this afternoon. We have now ...

**CHAIRPERSON:** Which one?

**ADV LEAH GCABASHE:** It is A, B, C and D. They have now divided  
10 them into four instead of three files because they were too tight when they were just – it is the reference bundle Chairman but we are not there yet. I was just indicating that we will be going there.

**CHAIRPERSON:** I want to put it closer because nobody put it closer for me.

**ADV LEAH GCABASHE:** Chairman I am just very quickly definitely B, definitely A I know and B.

**CHAIRPERSON:** I have got A and B.

**ADV LEAH GCABASHE:** Thank you Chairman. From my notes those are the two that seem to be the critical ones.

20 **CHAIRPERSON:** Okay.

**ADV LEAH GCABASHE:** For this afternoons purposes.

**CHAIRPERSON:** Okay. Are we going to be needing the media bundle?

**ADV LEAH GCABASHE:** We should not Chairman. I – I just asked the Registrar to leave it here in case ...

**CHAIRPERSON:** Okay.

**ADV LEAH GCABASHE:** But I – I doubt it very much. I – thank you.

**CHAIRPERSON:** Okay.

**ADV LEAH GCABASHE:** Dr Masiteng if you could go to page 1 of your sworn affidavit and as you hold that page if you could just also look at page 6 of the same document and ..

**CHAIRPERSON:** I – I see that it looks like there is a new hand in terms of what is happening. An affidavit is a sworn statement. So I see that we are having sworn affidavits. It is double sworn.

**ADV LEAH GCABASHE:** Yes. So the first sworn is tautology and as  
10 the legal team we did not pick it up. Our apologies but you are correct  
Chairman and I always say that as you make comments the rest of us  
pick up on things that – *ja* we can improve on.

**CHAIRPERSON:** Yes. No that is fine.

**ADV LEAH GCABASHE:** But that is absolutely correct.

**CHAIRPERSON:** *Ja*, thank you.

**ADV LEAH GCABASHE:** Yes. So it is in fact an affidavit because it is a sworn statement as an affidavit. The Chairman is correct. Could you confirm your names on page 1? Is that you?

**DR TANKISI JANKI MASITENG:** Yes, yes.

20 **ADV LEAH GCABASHE:** And then could you then confirm on page 6  
who the deponent is whose – whose signature rather appears where the  
word “deponent” is?

**DR TANKISI JANKI MASITENG:** That ...

**ADV LEAH GCABASHE:** Whose signature?

**DR TANKISI JANKI MASITENG:** That is my signature.

**ADV LEAH GCABASHE:** Is that your signature and on what date and at what place did you sign this affidavit?

**DR TANKISI JANKI MASITENG:** It was signed at Bloemfontein on 28 June 2019.

**ADV LEAH GCABASHE:** Thank you. You are familiar with its contents?

**DR TANKISI JANKI MASITENG:** I am familiar with the contents.

**ADV LEAH GCABASHE:** You have of course given us a very short affidavit in respect of the – the matters you will be testifying to but you  
10 have also taken the liberty of annexing a rather voluminous annex – annexure which represents the court papers that are part of the court record which you would like us to refer to.

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** You confirm that you have been cited as a party both – well in the Asset Forfeiture Application that the National Prosecuting Authority brought and that you also have been facing criminal prosecution in respect of the criminal matters brought but that in respect of the criminal matter that case has been withdrawn against you?

20 **DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** And your full explanation of everything you did you say is in this voluminous annexure that you have ...

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** Favoured ...

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** The Commission with?

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** Thank you. Dr Masiteng I think it is useful just to start off with who you are, what you do. Just the present before we delve into the past.

**DR TANKISI JANKI MASITENG:** Okay.

**ADV LEAH GCABASHE:** Who – who are you qualification wise? What do you do currently?

**DR TANKISI JANKI MASITENG:** Thank you very much

10 Advocate Gcabashe. Chairperson currently I am the Acting Head of the Department of Agriculture and Rural Development in the Free State Province. I – in terms of the qualification I – I have a Doctorate Degree in Agriculture. I have completed it in 2004 from the Central University of Technology.

**ADV LEAH GCABASHE:** Yes. Then prior to being appointed HOD – head of department – in fact can I rephrase that? When were you appointed head of department?

**DR TANKISI JANKI MASITENG:** Through you Chairperson. I – I am acting. I have started acting in – on 24 December 2018. So I am – I do  
20 not even have a year acting.

**ADV LEAH GCABASHE:** And the full name of the department is?

**DR TANKISI JANKI MASITENG:** The Department of Agriculture and Rural Development.

**ADV LEAH GCABASHE:** Okay. The objective today is to try and – and explain to the Chairman what your role has been in the Vrede Dairy



Project matter. So you know that is where we are going to but I think it would be useful for us to start at a slightly different point with first when you joined the department and whether it was called the Department of Agriculture and Rural Development when you joined. I think it will be - that history will inform the Chairman of the context with – in which some of the decisions that we will be discussing were taken in.

**DR TANKISI JANKI MASITENG:** Okay.

**ADV LEAH GCABASHE:** So just tell us a little bit when you joined the  
10 department?

**DR TANKISI JANKI MASITENG:** Chairperson I – I joined the Department of Agriculture when it was still in the homeland. In the Qwaqwa Homeland and in 1996 after the elections after 1994 we – we then moved into the province. We became the Free State Province and one Department of Agriculture but I resigned in – in 2000 and I joined the - the Central University of Technology.

At that time it was Technicon Free State as a full time lecturer and I re-joined the department as a Deputy Director responsible for extension and food security. That was in – in 2002 and I  
20 was promoted then to the Director's position responsible for a district. In – in the province we have four districts plus a metro but in total let us say there are five.

I – I was appointed to head one of those districts which is Xhariep. I was then moved into head office to be responsible for Farmer Support and Development and I was acting a Chief Director

responsible for Agricultural Development Support the position which I was appointed to. That is Agricultural Development Support but in 2012 I was then moved - 1 April – I was then moved to District Services the position which I – I was holding until the 24<sup>th</sup> or I am still holding.

I just paused when I was then appointed to act as a – as a head of the department.

**ADV LEAH GCABASHE:** So in the period 2012 to 2016 specifically you a Chief Director in the Department of Agriculture and Rural Development?

10 **DR TANKISI JANKI MASITENG:** Yes, yes.

**ADV LEAH GCABASHE:** Do you know Mr Peter Thabethe the former HOD of the department?

**DR TANKISI JANKI MASITENG:** Yes, yes I know.

**ADV LEAH GCABASHE:** You served under him?

**DR TANKISI JANKI MASITENG:** I served under him.

**ADV LEAH GCABASHE:** Good.

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** Can you just give the Chairman a short summary of the – his – his move – his promotion to HOD and really I  
20 am more interested in the organogram and how it changed because it is important for the Chairman to be able to understand how or at what stage the then HOD Mr Thabethe took office.

**DR TANKISI JANKI MASITENG:** Okay. Thank you very much Chairperson. What – what we had we had the Department of Agriculture. At that time we did not have Rural Development. Rural

Development was with Public Works. Then Rural Development was moved to the Department of Agriculture and then we had sort of two departments.

That is the Department of Rural Development and the Department of Agriculture and in 2010 Mr Thabethe was appointed as an HOD for Rural Development. That was in 2010 and he moved to Agriculture. It was the same department we now call the Department of Agriculture and Rural Development but with two HODs. We had the head of the Department for Agriculture.

10           We also had the head of the Department for Rural Development. So only in 2012 he then moved to – to Agriculture. There was that movement. The – the HOD for – for agriculture moved to rural development and the HOD for rural development moved to agriculture.

**ADV LEAH GCABASHE:** Who takes those decisions transferring officials from one post to another?

**DR TANKISI JANKI MASITENG:** That – that will be the – the Executive decision that is the movement of the HODs and that is the responsibility of the Premier together with the Executive Council.

20   **CHAIRPERSON:** When you speak about two HODs one for the Department of Agriculture. Another one being the Department of Rural Development.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Are you talking about these two being separate departments or are you talking about them being sections within the

same department?

**DR TANKISI JANKI MASITENG:** It is – it is one department with two HODs. It is – it is no more the Department of Agriculture only. It is now the Department of Agriculture and Rural Development with two HODs and one Executive authority. One MEC but two HODs.

**CHAIRPERSON:** Yes but there cannot be two heads of the same department. Was the arrangement such that one of them enjoyed the rank of HOD but the – there was one of them who was the HOD?

**DR TANKISI JANKI MASITENG:** Yes.

10 **CHAIRPERSON:** That is what ...

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** That was what the position was?

**DR TANKISI JANKI MASITENG:** That is why we were using different terms.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** The one for agriculture we call it an accounting.

**CHAIRPERSON:** *Ja.*

**DR TANKISI JANKI MASITENG:** Yes and then the rural development  
20 was an HOD but that was corrected ...

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** Because then we had to have one department and one HOD.

**CHAIRPERSON:** Okay, thank you.

**ADV LEAH GCABASHE:** So what do you have currently? One

department and one HOD?

**DR TANKISI JANKI MASITENG:** One HOD.

**ADV LEAH GCABASHE:** When Mr Peter Thabethe was there - and I specifically want to look at the period 2012/2013/2014/2015 and 2016 - in that period was that transitional period where you still had the two - two heads of department?

**DR TANKISI JANKI MASITENG:** Yes. That was 2010/2011/2012/2013. No, no *ja*. I think it was up to 2012 and then we had one HOD ...

**ADV LEAH GCABASHE:** So ...

10 **DR TANKISI JANKI MASITENG:** Which was then Mr Thabethe.

**ADV LEAH GCABASHE:** *Ja*.

**DR TANKISI JANKI MASITENG:** There was an interview and then it was - Mr Thabethe was responsible for them both agriculture and rural development.

**ADV LEAH GCABASHE:** As the Accounting Officer?

**DR TANKISI JANKI MASITENG:** As the Accounting Officer now.

**ADV LEAH GCABASHE:** So 2013 he took sole responsibility for decisions that had to be made?

**DR TANKISI JANKI MASITENG:** Yes, yes.

20 **ADV LEAH GCABASHE:** But even in 2012 he would take responsibility for anything that happened within agriculture?

**DR TANKISI JANKI MASITENG:** Yes, yes.

**ADV LEAH GCABASHE:** And at that time you were a Chief Director within agriculture?

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** So you reported to Mr Thabethe?

**DR TANKISI JANKI MASITENG:** In terms of the organogram I report to the HOD.

**ADV LEAH GCABASHE:** Maybe you just very quickly want to take the Chairman through that organogram. I know that you have annexed it to your papers.

**DR TANKISI JANKI MASITENG:** Yes. In – in terms of the organogram that is - in terms of the organogram structure ...

**ADV LEAH GCABASHE:** Just one minute – one minute.

10 **DR TANKISI JANKI MASITENG:** Okay.

**ADV LEAH GCABASHE:** Page 2-6-8 Chairman and we must apologise for the quality of the copy Chairman.

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE:** Mr – Dr Masiteng has undertaken to try and find a better copy for us.

**CHAIRPERSON:** Better copies, okay.

**ADV LEAH GCABASHE:** We – we are now telling everybody that you have a keen interest in them supplying us with documents and – and so you helped Chairman ...

20 **CHAIRPERSON:** Hm.

**ADV LEAH GCABASHE:** By asking Mr Venter for documents.

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE:** Yes.

**CHAIRPERSON:** Thank you.

**ADV LEAH GCABASHE:** Yes.

**CHAIRPERSON:** I am at 2-6-8.

**DR TANKISI JANKI MASITENG:** Okay. Now thanks Chair. In terms of the organogram – organisational structure the Member of the Executive Council responsible for – for the Department of Agriculture and Rural Development is the (intervenes).

**CHAIRPERSON:** I must just – I am sorry to interrupt you Dr Masiteng. This one – this – this copy is just so poor.

**ADV LEAH GCABASHE:** It is a very poor copy Chairman.

**CHAIRPERSON:** It is not worth even looking at it. That is just how bad  
10 it is.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** I cannot read much but you can explain.

**DR TANKISI JANKI MASITENG:** Okay.

**CHAIRPERSON:** It is okay.

**DR TANKISI JANKI MASITENG:** Yes. The – the Executive – the Member of the Executive Council is actually responsible for the Department of Agriculture and Rural Development and it is a political head of the department.

**ADV LEAH GCABASHE:** And then just pause for one second so that  
20 we tidy this up immediately.

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** 2012/2013 who was that political head of the department?

**DR TANKISI JANKI MASITENG:** At that time it was Mr Zwane.

**ADV LEAH GCABASHE:** Thank you.

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** Please proceed.

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** So Mr Zwane was the executing authority ...

**DR TANKISI JANKI MASITENG:** And (intervenes).

**ADV LEAH GCABASHE:** Followed by the HOD.

**DR TANKISI JANKI MASITENG:** By the HOD.

**ADV LEAH GCABASHE:** The Accounting Officer ...

**DR TANKISI JANKI MASITENG:** Huh-uh.

10 **ADV LEAH GCABASHE:** And you were a level below that?

**DR TANKISI JANKI MASITENG:** And then you have – yes you have legs. You will have a CFO as a let us call it a Chief Directorate as a standalone. It reports directly to the accounting office. You will have what we call the District Services which is the Chief Directorate that I am – I am heading. Then you have another Chief Directorate which is let us call it Agricultural Development Support and Livelihoods or let us simplify it by saying it is professional services.

It is a Chief Directorate on its own. It is headed by another Chief Director. At that time it was an Acting Chief Director but there  
20 was a stage when there was a – a person who was transferred from Mpumalanga to Free State who took over that Chief Directorate and you will also have monitoring and evaluation as a – as a Chief Directorate. You will also have Corporate Services.

So in total you would have five Chief Directorates under the Accounting Officer.



**ADV LEAH GCABASHE:** But again context is important. For purposes of the Vrede Dairy Farm matter. The critical elements of the organogram that you are sketching ...

**DR TANKISI JANKI MASITENG:** Hm.

**ADV LEAH GCABASHE:** And please correct me if I am interpreting your evidence incorrectly. First you have got the MEC. Well above the MEC of course you have got the Premier?

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** With an Exco made up of MECs?

10 **DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** Okay. So you have the MEC for the Department of Agriculture and Rural Development. You then have the HOD who is the Accounting Officer. You then have District Services Chief Directorate. That is where you sit?

**DR TANKISI JANKI MASITENG:** Yes, yes.

**ADV LEAH GCABASHE:** But you also have the CFO you have told us.

**DR TANKISI JANKI MASITENG:** Huh-uh.

**ADV LEAH GCABASHE:** Who would report to the – the HOD.

**DR TANKISI JANKI MASITENG:** The Accounting Officer yes.

20 **ADV LEAH GCABASHE:** Accounting Officer.

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** Are those the critical parts of the organogram for purposes of what we are dealing with today?

**DR TANKISI JANKI MASITENG:** Yes. There are – those are the most critical ones. Then after them you will have different legs, different

Director – Directorates. For District Services you will have five Directors because each and every district we have appointed a Director – a Senior Manager for that matter.

**ADV LEAH GCABASHE:** Can you tell the Chairman what the difference districts are within the Free State Province?

**DR TANKISI JANKI MASITENG:** You have Thabo Mofutsanyana.

**ADV LEAH GCABASHE:** And then pause. Explain please to the Chairman is – is the town of Vrede ...

**DR TANKISI JANKI MASITENG:** Yes.

10 **ADV LEAH GCABASHE:** Situated in Thabo Mofutsanyana?

**DR TANKISI JANKI MASITENG:** Yes, yes.

**ADV LEAH GCABASHE:** Thank you. Continue.

**DR TANKISI JANKI MASITENG:** Under Thabo Mofutsanyana you have Vrede Dairy and other projects and we have classified Thabo Mofutsanyana as our dairy hub because you also have other dairy projects. The District Director at that time it was Alta Meyer as an acting. That is why you will hear a lot of Alta ...

**CHAIRPERSON:** Confusion, *ja*.

**DR TANKISI JANKI MASITENG:** Yes.

20 **CHAIRPERSON:** *Ja*, okay.

**DR TANKISI JANKI MASITENG:** She was acting as a District Director and she was not only looking after one project which is Vrede Dairy. She was looking at other projects but it is – it was her responsibility to every now and then keep in touch with the beneficiaries. So there is nothing untoward over the hearing of Alta Meyer. It was her

responsibility.

**CHAIRPERSON:** Okay.

**DR TANKISI JANKI MASITENG:** Then the person who was appointed for the position was Mr George Madiba. That is why you will hear again the mentioning of Mr George Madiba – George Madiba. He was actually appointed as a District Director but Alta Meyer because she was a Project Coordinator then she was every now and then involved in the affairs of the projects and so on and so forth but you also have now the extension officers in all the towns.

10                   Vrede for instance will have its own extension officer but we also strengthen that by appointing the foot security let us call them officers. Those are at the lower level to strengthen the foot security more especially in this red spot sort of towns like Vrede where poverty is high.

**ADV LEAH GCABASHE:** Well while we are dealing with names of people who – who had been mentioned in witnesses' evidence and you speak of extension officers and the foot security officials. Thuto Kganye is he one of the people who works at lower level within ...

**DR TANKISI JANKI MASITENG:** Yes.

20   **ADV LEAH GCABASHE:** The structure of the organisation?

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** Locate him for the Chairman please.

**DR TANKISI JANKI MASITENG:** Thuto was more of a - a foot security officer at the lower level and at a contractual sort of a basis. It was not a permanent appointment.

**ADV LEAH GCABASHE:** And – and people like that would be appointed by whom?

**DR TANKISI JANKI MASITENG:** They are appointed by the department.

**ADV LEAH GCABASHE:** At what level is he appointed? At HOD level or at Chief Directorship level or at District Directorship level? I just want to know who had the authority to appoint in this instance we are talking about Thuto Kganye.

**DR TANKISI JANKI MASITENG:** Yes. All the appointments in the  
10 department are done by the HOD unless delegated depending on the levels but even though they are delegated the HOD must know that there is – we are going to have let us say five in Thabo Mofutsanyana. We are going to have six in Xhariep and so on and so forth.

**ADV LEAH GCABASHE:** So the HOD would actually be appointing all Senior Managers within the Free State Administration, all Middle Managers and even junior officials within the Free State Administration in all five districts ...

**DR TANKISI JANKI MASITENG:** That is right.

**ADV LEAH GCABASHE:** And there is a metro.

20 **DR TANKISI JANKI MASITENG:** Okay. That is why I said unless delegated. Now what happened is that the delegation is such that the HOD will be responsible for the – for the Chief Directors and – and the Senior Managers. The Deputy Directors and the Assistant Directors will be appointed by the Chief Directors and so it goes but the information must be discussed at that level of the HOD to be – to be informed as an

Accounting Officer that there will be appointments not necessarily meaning that the HOD will be sitting there conducting the interviews and so on and so forth.

**ADV LEAH GCABASHE:** The other name that has come up in the evidence that has been placed before the Chairman is that of Xolisa Sibeko. Is that a name you are familiar with also from the Vrede area?

**DR TANKISI JANKI MASITENG:** I am familiar with that. At Vrede I think there – there were two people who were appointed as – as foot  
10 soldiers for foot security purposes ...

**ADV LEAH GCABASHE:** So ...

**DR TANKISI JANKI MASITENG:** But I think I must – that one I must verify properly Chairperson but yes I know at Vrede we appointed not only one person.

**ADV LEAH GCABASHE:** And you – you are taking an educated guess and saying it would have been Thuto Kganye ...

**DR TANKISI JANKI MASITENG:** And ...

**ADV LEAH GCABASHE:** And Xolisa Sibeko.

**DR TANKISI JANKI MASITENG:** Yes, yes, yes Chairperson.

20 **ADV LEAH GCABASHE:** They have of course been mentioned in the affidavit of Mr Dhlamini who gave evidence earlier today and yesterday ...

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** And that of Mr Ncongwane.

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** Mr Jimmy Pashell is another name that has come up. Is that an official within your department as well who you know about?

**DR TANKISI JANKI MASITENG:** Jimmy – Jimmy is an extension officer. Jimmy is at a much higher level.

**CHAIRPERSON:** And extension officer would be at what level in relation to a Director – a Chief Director and so on?

**DR TANKISI JANKI MASITENG:** You – you will have the Director. You will also have a Deputy Director. You will have an Assistant Director  
10 and the controls. Then you will have the technical staff that will be the extension officers, the (indistinct) technicians.

**CHAIRPERSON:** Okay.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Thank you.

**ADV LEAH GCABASHE:** While we are on this topic it would be interesting to understand the difference in functions of the extension officer and the food security officers and I say this – I really want to be quite frank because the evidence that has been led so far seems to imply that the food security officers were simply henchmen of the MEC  
20 and if I got that wrong I will correct it but that is the impression I have had from the evidence that has been led.

Please explain these roles to us because we now know they are located in your department – the Department of Agriculture and Rural Development. We now know that you as a Chief Director know about these particular appointees. Can you tell us a little more

because you – you are able to and willing to?

**DR TANKISI JANKI MASITENG:** The extension officer is a Manager of that particular ward. If we appoint an extension officer for Vrede that person is a Manager of that town. Now under that you would have administrators but the foot soldiers they report to the extension officer and they are assigned with responsibilities of establishing a foot security gardens and other foot security initiatives.

**ADV LEAH GCABASHE:** What qualification does one need to become a food what did you say?

10 **DR TANKISI JANKI MASITENG:** Hm.

**ADV LEAH GCABASHE:** You seem to say soldier. So I do not want to get it wrong.

**DR TANKISI JANKI MASITENG:** Yes. On that one we – it can be at a Matric level plus maybe the training courses that are you are already having or that the department will take you through.

**CHAIRPERSON:** But will you ...

**DR TANKISI JANKI MASITENG:** You do not have to have a formal qualification like an extension officer.

**CHAIRPERSON:** Sorry but were you saying food soldier or foot  
20 soldier?

**DR TANKISI JANKI MASITENG:** Ja, foot soldier.

**CHAIRPERSON:** Foot soldier?

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Oh, okay.

**ADV LEAH GCABASHE:** Thank – thank you Chairman. I was going to

...

**CHAIRPERSON:** Okay.

**ADV LEAH GCABASHE SC:** Thank you Chairman, I did want clarity on that.

**CHAIRPERSON:** Ja, it's foot soldier.

**ADV LEAH GCABASHE SC:** But the official term is a food security officer, what's their title.

**DR TANKISI JANKI MASITENG:** They are officers, they are just officers but at the lower level you do have a district coordinator, food security coordinators, those ones are almost at the similar level like the extensions officers.

**CHAIRPERSON:** Maybe we should ask is of these people who would you put under the label of foot soldiers, so when you talk about foot soldier were you referring to a category of officers in the Department or were you referring to a specific person or was that just ...[intervenes]

**ADV LEAH GCABASHE SC:** A Freudian slip.

**CHAIRPERSON:** Ja, I'm trying to understand because it may be that in a way as acting head of the Department you see the Department as being in a way on or in a war, maybe against poverty, and you have got foot soldiers in this battle, in this war against poverty and maybe that's the context you are using the term foot soldiers, so I am trying to understand what you – who you may have been referring to.

**DR TANKISI JANKI MASITENG:** Thank you very much Chairperson. The whole District Services we always refer to it as the cold face of the department. Those are the people who must be closer to – those are



the officials who must be closer to the people. Now you have these ones that I am referring to, it is just a term that I have used.

**CHAIRPERSON:** Yes, no, no I understand but I wanted to know whether there is a category of officers that you regard as the foot soldiers of the department and if that is the case I wanted to understand that, or whether it's not like they are – there are certain categories of officers that you refer to as foot soldiers, it is just a term that you could use to refer to anybody in the department, that is working for the department.

- 10 **DR TANKISI JANKI MASITENG:** No we always refer the ones that are actually doing this.

**CHAIRPERSON:** At the cold face?

**DR TANKISI JANKI MASITENG:** Yes, yes.

**CHAIRPERSON:** Yes, and those would be extension officers?

**DR TANKISI JANKI MASITENG:** Those will be extension officers, will be the food security officers, will be the animal health technicians.

**CHAIRPERSON:** Yes, yes.

**DR TANKISI JANKI MASITENG:** Will be the soil conservation technicians.

- 20 **CHAIRPERSON:** Yes, yes.

**DR TANKISI JANKI MASITENG:** Will be also, the graduate economics yes they are because they are at the district level.

**CHAIRPERSON:** Yes, yes.

**DR TANKISI JANKI MASITENG:** And those are, ja those are the key ones, and we also have the project officers, those are the ones that we

refer to as the cold face.

**CHAIRPERSON:** Those are the ones who interact with the public and with the farmers, with the community on a daily basis?

**DR TANKISI JANKI MASITENG:** Yes, yes, yes.

**CHAIRPERSON:** Alright.

**ADV LEAH GCABASHE SC:** But to extend the question the Chairman has just asked who would then be monitoring and overseeing projects in the District and I use in this instance the example of the Vrede Dairy Project, so of the personnel you've just told us about who would be  
10 interacting with a project such as the Vrede Dairy Project?

**DR TANKISI JANKI MASITENG:** Ja, what happened is this the District Services will only wait if the project is under construction until a completion certificate is issued but where a project is completed the District Services had to interact, that will also include the project coordinators and so on and so forth, but in this case of a Vrede Project remember an implementing agent was appointed so the District did not have a role as such to play, except to interact with the beneficiaries and also the professional services, that one that has got the engineers, that has got the economies, that has got the research house and so on,  
20 they did not have that much role to play because an implementing agent was appointed.

**ADV LEAH GCABASHE SC:** Good we are going to come back to that when we're looking at the agreement on Estina, I am really trying to get a broad sense and to understand how things would normally work within the Department and I just tried to fit the Vrede Dairy Project really into

the normal structures but I understand what you're saying, we will come back to talk about what an implementing agent is, what the qualities are etcetera, etcetera. Can I then ask you to – the only official who we really haven't spent a bit of time on is the CFO because we now know all the people who essentially would be reporting into the Chief Directorate, which is what you headed, and you report to the HOD, you also have the CFO, just tell us exactly what the functions of the CFO in that environment are, and if there is any difference between the functions today, as you have found them in that office and the functions  
10 in 2012, 13, 14 please just point that out to the Chairman.

**DR TANKISI JANKI MASITENG:** Chairperson let me try to assist then, please that is not my field now but I am trying to assist now.

**CHAIRPERSON:** Yes, yes, I wasn't sure whether you particularly wanted the functions or you wanted to – where in the hierarchy a CFO fits but you said functions?

**ADV LEAH GCABASHE SC:** Yes Chairman because he has explained where in the hierarchy the CFO ...[intervenes]

**CHAIRPERSON:** Yes okay.

**ADV LEAH GCABASHE SC:** And simply I'm taking the liberty because  
20 he happens to be the Acting HOD, and if he has been there for six months I think he knows his namnam now.

**DR TANKISI JANKI MASITENG:** Let me ...[intervenes]

**CHAIRPERSON:** She doesn't necessarily need you to tabulate all of them, she just wants the essential ones.

**DR TANKISI JANKI MASITENG:** Alright.

**ADV LEAH GCABASHE SC:** An overview just to give – just so we can understand that environment, it might not be the same as another environment we've explored previously.

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE SC:** Thank you.

**DR TANKISI JANKI MASITENG:** Let me just summarise it like this Chairperson, to assist. An accounting officer should appoint a CFO, with relevant experience at a senior management level and to demonstrate capacity to interpret, an analyse and present complex  
10 information, manage working capital, assets and liabilities and also meet the reporting requirements, that is the monthly reports under the PFMA, DORA and annual financial statement, so what is happening is that the responsibility of the CFO is also to manage the budget manager, but also at the same time to look at the assets and to ensure that compliance is actually done by the department so the affairs of a – the financial affairs of the department is actually the responsibility of the CFO.

**ADV LEAH GCABASHE SC:** In this structure that you've mapped out for us what is the relationship between the HOD and the Premier, and I  
20 ask this only because we've had evidence placed before this Commission that a number of functions were centralised in the Premier's office and his office is a staff complement of 600 people and just that office, so help us understand the relationship then between the HOD in Agriculture and Rural Development and the Premier and if not – well let's start with the Premier.

**DR TANKISI JANKI MASITENG:** HOD's are appointed by the Premier.

**ADV LEAH GCABASHE SC:** What is the reporting function from the HOD to the Premier or does the HOD give his or her reports to the MEC?

**DR TANKISI JANKI MASITENG:** They give their reports to the MEC, unless requested then they can also send the reports to the Premier via the MEC.

**ADV LEAH GCABASHE SC:** Can the Premier give an instruction to the HOD?

10 **DR TANKISI JANKI MASITENG:** The Premier can give an instruction to the MEC.

**ADV LEAH GCABASHE SC:** Under what circumstances?

**DR TANKISI JANKI MASITENG:** Let's say it's a – like if it is a technical issue like for instance if it is something that the HOD need to investigate and provide a report urgently to the Premier the Premier can go straight, but it remains the responsibility of that HOD to inform the MEC.

**ADV LEAH GCABASHE SC:** Can the Premier instruct the HOD who to contract with?

20 **DR TANKISI JANKI MASITENG:** No, it has to ...[intervenes]

**ADV LEAH GCABASHE SC:** I am coming back to this question from a different angle, but let's leave it just – can he or she instruct an HOD whom to contract or transact with?

**DR TANKISI JANKI MASITENG:** It's quite an interesting question Chairperson, but even if you as an accounting officer you still have the

responsibility to say yes I understand but this one is not going to work or I still have to follow the following processes, and you have the responsibility to also report to the Executive Authority to say that there is this request, I still have to follow this and that and that, if you think that it must be taken to the executive you have that responsibility.

**ADV LEAH GCABASHE SC:** Because the Accounting Officer is bound by the provisions of the PFMA.

**DR TANKISI JANKI MASITENG:** Because the Accounting Officer is bound by those provisions but also the provisions does not stop any  
10 request if it is financial or what as long as it is written down.

**ADV LEAH GCABASHE SC:** No, say that again, because I don't think it is correct, but just repeat that, because I will interrogate it with you and give you an example of why I don't think that sounds right.

**DR TANKISI JANKI MASITENG:** Yes, what I am saying is  
...[intervenes]

**CHAIRPERSON:** (laughing) I'm sorry, I'm sorry, it comes across as if it is a threat to implicate him.

**ADV LEAH GCABASHE SC:** My apologies, Chairman he said to me I must not cross-examine him, I am trying to smile as I ask my questions.  
20 But I really am curious.

**CHAIRPERSON:** Ja, no that's fine.

**ADV LEAH GCABASHE SC:** And I know that he has been in the department, he still does it, he has been there a long time, and I am really just tapping into that information. Dr Masiteng you must please understand that I am trying to learn as much as I can for purposes of

the record so that we know roughly what – how the Free State operated, certainly from one perspective, I am not saying you know everything.

**DR TANKISI JANKI MASITENG:** Yes, no thank you very much Chairperson. What I was saying is in terms of the Public Finance Management Act yes it does allow the Executive Authority, in this case I am referring to the political heads, they can give instructions but if that instruction has got something to do with financial commitments it must be in writing and if it is going to result into an irregular it has to be properly packaged and now it must go to National Treasury, to Provincial and to National Treasury.

**ADV LEAH GCABASHE SC:** In fact ...[intervenes]

**CHAIRPERSON:** I'm sorry is it correct to say that what you are saying is that apart from a situation where the instruction must be in writing what you are saying is that any instruction must – that is given by the Executive Authority to the Accounting Officer or Head of Department must be lawful?

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Yes, and if it is not lawful the Head of Department or Accounting Officer is under no obligation to comply with it, do you go that far or do you not go that far?

**DR TANKISI JANKI MASITENG:** No, what I am saying is if it is not lawful as an accounting officer you have that responsibility to engage with your political head and say but these are the challenges that I sort of realise, so I won't be able to execute as such.

**CHAIRPERSON:** Yes, okay, thanks.

**ADV LEAH GCABASHE SC:** But you tie that responsibility into execution or implementation of that decision by the Executing Authority?

**DR TANKISI JANKI MASITENG:** That will be before.

**ADV LEAH GCABASHE SC:** Yes, sorry Dr Masiteng, I am trying to draw a distinction between an instruction that is given that you will do this and do this right now, and an official who prepares documentation on instruction from somebody in authority, so I am trying to understand  
10 your evidence. Are you saying that there is a difference in the attitude of the official who gets an instruction from an executing authority and that of an official, one of the extension officers who is given an instruction does he or she have to execute that instruction or not, I am looking at different levels of operation.

**DR TANKISI JANKI MASITENG:** Yes, there will be most certainly, but remember in government department how it works the Premier's performance agreement informs that one of the MEC, the MEC inform that one of the HOD, the HOD's one informed mine and mine informs the senior managers, so it sort of infiltrates down, so if I give an  
20 instruction in your performance agreement, let's say for instance an accounting officer if I give a Chief Director an instruction inside the performance agreement it will clearly stipulate that one of – that person's responsibility is to support the accounting officer in achieving the following, so now what you are asking about the extent at which it depends for instance on the magnitude, here let's say the instruction is



to implement a one million project, it is different from an instruction to say go and implement a 10 000 project for argument sake and that will be delegated as such to the senior managers and to different levels, that's what I was referring to Chairperson if I was clear.

**ADV LEAH GCABASHE SC:** If in your position as a Chief Director you gave an extension officer an instruction that the extension officer is not happy with would query, what does that extension officer do? At least Chairman allow me to ask a compound question, and I ask this question Dr Masiteng, I have had discussions with you. I ask this question in  
 10 the context of what happened with the Vrede Dairy project. The Chief Director has given an instruction to do certain things, so I don't want to mislead you, I want to understand when one is under some form of compulsion to execute an instruction and when you can say I am sorry I will not do it, because I do not think this is right.

**DR TANKISI JANKI MASITENG:** The – let's take for instance the instruction that comes from let's say from the head of the department and as a Chief Director I think I need X, Y and Z, it will remain my responsibility so that I don't see this one, I don't see that one, but in instances where the HOD is saying I am giving you an instruction and I  
 20 want this and this is the documents that I have got, you have no chance, you will have to scrutinise that document and comply, he is not asking you, he is instructing you, he is not saying do you have an opinion here, what can we do, he is instructing you to assist. Official performance agreement also says I will assist, I will support the HOD in executing the following.

**CHAIRPERSON:** Maybe let's ask the question – let me ask this, as you understand the position in the Agriculture and Rural Development Department when may a subordinate refuse to carry out an instruction given by his or her superior, or is the position that subordinates are always obliged to carry out instructions given to them by their superiors?

**DR TANKISI JANKI MASITENG:** It is the situation of obliging Chairperson.

**CHAIRPERSON:** So is your answer that at least in that department  
10 your understand is that a subordinate who gets an instruction from his or her superior is always obliged to carry it out even if the instruction is unlawful?

**ADV LEAH GCABASHE SC:** No, if you feel Chairperson that this is an unlawful and you provide reasons then you can do it in writing and say but I don't understand this part but in this instance where an accounting officer is saying I have looked at all the other news, I am convinced, I am happy, I am instructing you to compile this for me or to do this for me it is an issue of obliging, you have to oblige.

**CHAIRPERSON:** Now I understand what you are saying to mean that  
20 where as a subordinate you are of the view that the instruction given to you by your superior is unlawful and you express that opinion to your superior but he insists that as far as he or she is concerned the instruction is lawful you as a subordinate become obliged to carry out this instruction that you believe to be unlawful because your superior thinks differently, is that correct?

**DR TANKISI JANKI MASITENG:** Let me put it like this Chairperson, let's say what I'm saying is if you feel, let's see for instance there is nothing, it's just an instruction to say go and do X, Y and Z and you feel that moment I am not comfortable you have all the rights to put it down and say but I don't understand, but instances ...[intervenes]

**CHAIRPERSON:** No, no, let's leave out you don't understand, you do understand.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** What the instruction says you must do.

10 **DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Ja.

**DR TANKISI JANKI MASITENG:** Yes, then you can put it in writing and say but I don't agree with what you are saying I must do because there is nothing, but I am saying instances where let's say the accounting officer for instance is saying I am from this meeting, I am from that and what we must do is this one. In fact what I am going to do is this, I am instructing you to assist me with X, Y and Z, you are obliged.

**CHAIRPERSON:** Now are you obliged as a subordinate to assist him or her even if what he wants to do or she wants to do as far as you are  
20 concerned is unlawful, as long as he says you must assist me, I want this to be done, are you obliged to continue to assist him to do something unlawful?

**DR TANKISI JANKI MASITENG:** No.

**CHAIRPERSON:** You are not obliged?

**DR TANKISI JANKI MASITENG:** You are not obliged in that case.

**CHAIRPERSON:** Okay, I just wanted to understand.

**DR TANBKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Ja.

**ADV LEAH GCABASHE SC:** Yes thank you Chairman, but in that instance what goes through your mind as an official is whether you are meeting your KPI's, your key performance indicators, which you have also annexed to your papers, because your key performance indicators tell you you've got to support, as a Chief Director you must support the HOD.

10 **DR TANBKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE SC:** Am I right?

**DR TANBKISI JANKI MASITENG:** Yes, yes.

**ADV LEAH GCABASHE SC:** But back to the Chairman's question, what then goes through your mind, you know what your key performance indicators are, but you also know that what you are being asked to do could – is irregular, you know therefore that if you don't perform in terms of your key performance indicators you could lose your job. What do you do as an official? This is a perennial problem in government, all levels of government.

20 **DR TANBKISI JANKI MASITENG:** Ja. What is happening Chairperson is that there are levels I think that is where we have to start, in instances where the accounting officer is clear and is saying I will report this as an irregular if I remember those remains the responsibility of the HOD. The HOD is not asking you for your opinion, the HOD is saying you have the responsibility to take this instruction of

just compiling this for me, I am not asking you your opinion and whatever, I am now instructing you to compile and then if you say no it might cause a challenge because it is an instruction, he is not asking your opinion, he is instructing you, he has taken all the risk, he has looked at all the risk and he has accepted the consequences therefore your task is just to compile or to submit to the Accounting Office.

**CHAIRPERSON:** It may be that we will make more progress if we go to the specifics than the general.

**ADV LEAH GCABASHE SC:** Yes.

10 **CHAIRPERSON:** Ja.

**ADV LEAH GCABASHE SC:** Chairman this is where we are right now, so if you look at the reference file the first one page 1313 Chairman I think should be I know there's ...[intervenes]

**CHAIRPERSON:** Is that under A?

**ADV LEAH GCABASHE SC:** That's under D Chairman.

**CHAIRPERSON:** I think – I thought you said A and B, you said A and D.

**ADV LEAH GCABASHE SC:** Sorry Chairman my colleague says it is easier for us to go to page 87 of Dr Masiteng's affidavit, you will find  
20 the same document.

**CHAIRPERSON:** Okay thank you.

**ADV LEAH GCABASHE SC:** And it is easier to handle here.

**CHAIRPERSON:** What page?

**ADV LEAH GCABASHE SC:** 87 Chairman.

**CHAIRPERSON:** Okay.

**ADV LEAH GCABASHE SC:** It is labelled Annexure F. Dr Masiteng page 87 to 89 of your affidavit of your papers deal with the submission you made or let me rephrase that, deal with the submission the Chief Directorate District Services made with respect to the partnership the Department was contemplating entering into with Estina. First we really should go to page 89 where you have three blocks that have various directives, the first says submitted by, the second says recommended, the third says approved. Maybe we should take this, break it down slowly and start off with submitted by your name appears  
10 here, please just explain to the Chairman whether that is your signature or not.

**DR TANBKISI JANKI MASITENG:** No that is not my signature.

**ADV LEAH GCABASHE SC:** And tell the Chairman why it is not signature, where – why you did not sign this document?

**DR TANBKISI JANKI MASITENG:** I did not sign the submission Chair because I believe that at that time I was not even around and also there was a stage I think on the 26<sup>th</sup> it is signed on the 26<sup>th</sup>, I don't think I was around.

**CHAIRPERSON:** Yes.

20 **DR TANBKISI JANKI MASITENG:** Yes, and there was a stage but I think we will deal with that one, there was a stage I was out of the country.

**CHAIRPERSON:** Whose signature appears above your name in that block?

**DR TANBKISI JANKI MASITENG:** This one is the signature of Mr

Sarel van Schalkwyk who is the District Director for Gariep.

**CHAIRPERSON:** Was he one of the people who reported to you at the time?

**DR TANBKISI JANKI MASITENG:** Yes he is the one who reported to me, I think he signed as an Acting or what.

**CHAIRPERSON:** Okay.

**ADV LEAH GCABASHE SC:** So we're looking at the 26<sup>th</sup> of which month and which year?

**DR TANBKISI JANKI MASITENG:** It is the 26<sup>th</sup> of 05/.2012.

10 **ADV LEAH GCABASHE SC:** Now what was submitted on the 26<sup>th</sup> of May 2012, so we go back to page 87, can you just walk the Chairman through what this document is?

**DR TANBKISI JANKI MASITENG:** What was submitted on that date the purpose is to obtain approval to accept the proposal from Estina with regard to the Vrede integrated Dairy Project and secondly to enter into a partnership with Estina to implement an integrated dairy project in Vrede.

**ADV LEAH GCABASHE SC:** Yes, now I accept that you were travelling at this point in time and you have annexed to your papers your passport  
20 details, Chairman we are going to look at them because I think it's correct, the reason they are annexed was because he was travelling in China, if I might just make that submission. Page 74 has the passport picture.

**CHAIRPERSON:** Okay.

**ADV LEAH GCABASHE SC:** So I think the Commission can accept

Chairman if it makes sense to you that ...[intervenes]

**CHAIRPERSON:** Yes, after all he didn't sign the document, ja.

**ADV LEAH GCABASHE SC:** He didn't sign it and the reason was he was travelling in China, so I think instead of leading that evidence I think the Chairman is happy to accept that.

**CHAIRPERSON:** Ja, that's fine.

**ADV LEAH GCABASHE:** But I would like you then to tell the Chairman what you knew about the project and when I say this particular project it is called here the Vrede Integrated Dairy Project before you left for  
10 your trip abroad first and then when you returned from your trip abroad?

**CHAIRPERSON:** I am sorry Ms Gcabashe before we get there. You – if we go back to that block which has got your signature Doctor Masiteng the person who signed there appears to have signed on your behalf pp and your name was put there. That gives the impression that you had authorised that person to sign on your behalf otherwise if he or she was signing as the acting Chief Director in your position one would have expected that he or she would put – would have put her name or his name and written Acting Chief Director District Services or something  
20 to that effect. Do you have any comments to make about what – what one makes of that signature and what is written in that block?

**DR TANKISI JANKI MASITENG:** Yes, no thank you very much Chairperson. I think that is why in my affidavit I have indicated that I have never authorised the person who signed there to sign on my behalf.



**CHAIRPERSON**: Yes.

**DR TANKISI JANKI MASITENG**: Yes.

**CHAIRPERSON**: Okay. Okay. Thank you. And when you – when you left and you travelled you had not been requested to put together this document?

**DR TANKISI JANKI MASITENG**: No.

**CHAIRPERSON**: Okay alright thank you.

**DR TANKISI JANKI MASITENG**: No not at all.

**CHAIRPERSON**: Okay.

- 10 **ADV LEAH GCABASHE**: Can I take you to page 88 just to add to what the Chairman has just asked you. Under point 6 you have a heading Parties Consulted the HOD, the CFO, the Chief Director District Services and the District Director. Now you at the time were the Chief Director District Services do you confirm that you were not consulted?

**DR TANKISI JANKI MASITENG**: I was not consulted Chairperson. I think that is why even the official has made a statement to confirm that he did not actually consult with me. He was only instructed to compile the document and to sign.

- ADV LEAH GCABASHE**: Okay before we leave this document two  
20 questions. Now these three blocks is that a stamp that has your names on it anyway or just I am trying to understand why your name would appear here even when you are out of office. Is that just a particular stamp that you use in the office?

**DR TANKISI JANKI MASITENG**: It is a template Chairperson. I think it is a template. If it has blocks like this I think they use a template.

There is always a sort of a template with the details – my details, the CFO and the HOD. I think what they did they just use a – they used that. So instead of putting the names of the person who actually was going to sign they then put my name. That is why in all fairness he indicated that I am signing on behalf as an acting Chief Director at that time.

**CHAIRPERSON**: But was he acting Chief Director?

**DR TANKISI JANKI MASITENG**: Yes Simele was acting Chief Director at that time Chair.

10 **CHAIRPERSON**: But that is what he should have disclosed. He should not have put your name there if he was not signing on your behalf. He should have put his own name and indicated that he was doing so in his capacity as acting Chief Director.

**DR TANKISI JANKI MASITENG**: Yes Chairperson.

**CHAIRPERSON**: Because as it stands it looks like he was signing on your behalf and therefore he had authority from you that he could submit this document on your behalf.

**DR TANKISI JANKI MASITENG**: No thank you very much Chairperson I think even the Chief Director District Services was actually referring to  
20 the acting not necessarily to myself.

**CHAIRPERSON**: Well there may have – I do not know you know. Those people do not – they know if somebody is acting you refer to them as acting Chief Director you do not refer to them as Chief Director.

**DR TANKISI JANKI MASITENG**: Yes, yes.

**CHAIRPERSON**: If somebody is acting Head of Department you do not refer to them as Head of Department. I would have thought that these people are people of the right level to appreciate those distinctions. Ja anyway okay. Alright.

**ADV LEAH GCABASHE**: Thanks.

**DR TANKISI JANKI MASITENG**: But I think also Chairperson if you allow me. Then the issue was on number 7. Because even if...

**CHAIRPERSON**: Page 87.

**DR TANKISI JANKI MASITENG**: This one, point number 7.

10 **CHAIRPERSON**: Page 88.

**DR TANKISI JANKI MASITENG**: Authority for approval.

**ADV LEAH GCABASHE**: Yes.

**DR TANKISI JANKI MASITENG**: The same page 88.

**ADV LEAH GCABASHE**: Yes.

**DR TANKISI JANKI MASITENG**: Yes. So if you look at that even if this one for argument sake can submit or compile but he has got no authority.

20 **CHAIRPERSON**: No you do not understand Doctor Masiteng. There is the authority to submit. There is the authority to recommend. There is the authority to approve.

**DR TANKISI JANKI MASITENG**: Yes.

**CHAIRPERSON**: Is it not?

**DR TANKISI JANKI MASITENG**: Yes.

**CHAIRPERSON**: So the approval, the authority to approve might vest with the head of department but if you submit something the first

question is whether you are the right person to submit that thing.

**DR TANKISI JANKI MASITENG:** Oh yes, yes.

**CHAIRPERSON:** Do you have authority to submit that thing?

**DR TANKISI JANKI MASITENG:** To submit that yes.

**CHAIRPERSON:** Because when you submit it you associate yourself with that thing. So your name here is being associated with a proposal. It suggests that you initiated the approval. Not that you granted the approval but you initiated the approval by submitting this document. You asked somebody to recommend they recommended. You asked  
10 somebody to approved they approved. So it says all this comes from you. Do you appreciate?

**DR TANKISI JANKI MASITENG:** I tend to differ Chairperson.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** That is not how it works.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** What is happening is I can instruct a person to submit.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** It is me who is instructing any person  
20 to submit to me.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** Because I cannot be a referee and a player. I cannot submit to myself. I cannot recommend to myself.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** But in terms of the government

processes.

**CHAIRPERSON**: Yes.

**DR TANKISI JANKI MASITENG**: Everything that is submitted or – yes submitted it must first go to the CFO if it has got financial implications.

**CHAIRPERSON**: Hm.

**DR TANKISI JANKI MASITENG**: So that is always the case and that is what is always happening in the government sector.

**CHAIRPERSON**: No but if you – if you prepare a document and you submit it you are associating yourself with it.

10 **DR TANKISI JANKI MASITENG**: Yes I agree there ja.

**CHAIRPERSON**: That is what I am talking about.

**DR TANKISI JANKI MASITENG**: I agree.

**CHAIRPERSON**: You are associating yourself with it because if you do not submit it there will be no occasion for anybody to recommend it. There will be no occasion for the person who must approve to approve. So you submit it you are saying this is what I think should happen and then I am asking my immediate senior to recommend or whoever is supposed to recommend. And ultimately the approving authority to also to approve. So you have the person who submits the proposal. You  
20 have somebody who recommends that the proposal be approved. You have somebody who actually provides the approval. But the person who provides the approval can say ...

**DR TANKISI JANKI MASITENG**: Yes.

**CHAIRPERSON**: I was at the end of the queue. So and so submitted this proposal and I am entitled to think that he looked at it properly and

he formulated the proposal and submitted it to so and so because he was thinking that it should be approved. And so and so looked at it and recommended it. And I as the person with authority to approve then approved. Somebody that had already been submitted by somebody else and recommended by somebody else. So on the face of it it associates the name of the person who submitted the proposal with the proposal. That is why it is important that if you have got nothing to do with it it should not reflect your name.

**DR TANKISI JANKI MASITENG:** Okay.

- 10 **CHAIRPERSON:** It should reflect the person – the name of the person who is submitting it. Okay.

**ADV LEAH GCABASHE:** Chairman can I protect my witness?

**CHAIRPERSON:** Protect your witness.

**ADV LEAH GCABASHE:** And suggest Chairman that if an accounting officer did that he or she would simply be rubberstamping documentation that came up from the bottom. That is the first point. But the second one is the more important one Chairman. The facts as set out in this witness' affidavit speak to peculiar circumstances that you might want to consider to be exceptional.

- 20 **CHAIRPERSON:** No, no.

**ADV LEAH GCABASHE:** Given the frame, the legal frame that you have set out.

**CHAIRPERSON:** No, no what I am saying is general. It is general. I am talking general. But – but the first point you raised is not really correct. An approving authority who says I approved this after it was

recommended by so and so who got it from so and so submitted does not necessarily rubberstamp. But that person is simply saying I just did not do it on my own. It had gone through certain stages and those people including somebody whose duty is to apply his or her mind to it concluded that it should – approval should be recommended. So if I have made any mistake in approving I did not just do it on my own there were different stages. Okay.

**ADV LEAH GCABASHE**: I accept that Chairman.

**CHAIRPERSON**: Ja. Okay alright. Thank you.

10 **ADV LEAH GCABASHE**: But can we then come to that exceptional circumstance.

**CHAIRPERSON**: Yes, yes.

**ADV LEAH GCABASHE**: But can I also Doctor Masiteng as you explain your exceptional circumstances I actually want to ask you to turn to the document that you in fact signed. This one was signed by somebody else and that document Chairman we will find at Bundle A and the signature I think is on page 4 of Bundle a reference – reference.

**CHAIRPERSON**: Okay let us stick to reference bundle A.

**ADV LEAH GCABASHE**: Reference bundle A Chairman.

20 **CHAIRPERSON**: Which is under Exhibit HH.

**ADV LEAH GCABASHE**: Yes Chairman.

**CHAIRPERSON**: Yes I have got it. What page?

**ADV LEAH GCABASHE**: And then the signature that we are going to look at is on page 4 Chairman.

**CHAIRPERSON**: 4.

**ADV LEAH GCABASHE:** Yes. I beg your pardon page 5 Chairman.

**CHAIRPERSON:** Okay. Thank you.

**ADV LEAH GCABASHE:** Doctor Masiteng are you there? It is page 5, paginated page 5 right at the top.

**DR TANKISI JANKI MASITENG:** No I do not think I have that.

**ADV LEAH GCABASHE:** Oh the reference bundle ...

**CHAIRPERSON:** He might not be having the right bundle. Look for bundle – another bundle.

**ADV LEAH GCABASHE:** It is not your – not your bundle Doctor  
10 Masiteng. Reference bundle.

**DR TANKISI JANKI MASITENG:** Reference bundle.

**CHAIRPERSON:** Ja somebody should orientate him.

**ADV LEAH GCABASHE:** Reference bundle A.

**CHAIRPERSON:** Okay somebody will come and orientate you which one is bundle – well tell him about others as well so you do not have to go there each time there is a reference to another bundle. Let him know which ones and where to find the others.

**ADV LEAH GCABASHE:** And then please switch your microphone on before you – you give your answers thank you. So we are now looking  
20 at a document that you in fact signed.

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** And again it is titled Approval to Accept the Proposal for the Establishment of Integrated Dairy in Vrede from Estina. Terrible English but anyway that is what is written here.

**DR TANKISI JANKI MASITENG:** Yes.



**ADV LEAH GCABASHE:** Please explain what this document is that you prepared? I take it you prepared it because your signature is there and why you signed it? That is the issue the Chairman raises in the example he gives and this is your – your signature please explain the circumstances?

**DR TANKISI JANKI MASITENG:** This document was actually accompanied by other documents.

**ADV LEAH GCABASHE:** Please tell the Chairman which ones it is important?

10 **CHAIRPERSON:** Ja tell us what the document is first?

**DR TANKISI JANKI MASITENG:** It was – this document was accompanied...

**CHAIRPERSON:** No, no before you come to what accompanied it tell me what this document is that you signed the one that starts at page 2?

**DR TANKISI JANKI MASITENG:** Oh yes. This one it is an approval to accept the proposal for the establishment of an integrated dairy – dairy in Vrede from Estina.

**CHAIRPERSON:** It is a memorandum – is it – it is a memorandum, is that correct? It is a document which you addressed to Mr M P

20 Thabethe head of the Department of Agriculture.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Whose purpose was as stated there in:

- To get the Head of the Department to accept the proposal from Estina/Paras with regard to the establishment of integrated theory in Vrede and

- Enter into a memorandum of agreement with Estina/Paras to implement the integrated dairy project in Vrede.

So that – those – that was the purpose of the document.

**DR TANKISI JANKI MASITENG**: Yes, yes Chairman.

**CHAIRPERSON**: Okay then you can carry on and talk more or tell us what other documents accompanied it.

**DR TANKISI JANKI MASITENG**: Yes Chairperson. This – this document was actually prepared in line with the supporting documents which were brought to my attention by the – by the accounting officer.

10 **CHAIRPERSON**: Mr Thabethe?

**DR TANKISI JANKI MASITENG**: Yes, yes Mr Thabetha.

**CHAIRPERSON**: Yes. Yes tell us what?

**DR TANKISI JANKI MASITENG**: It was the agreement which has already been signed between the – it is an agreement entered into between the Department of Agriculture and Estina.

**CHAIRPERSON**: Yes that is the document...

**DR TANKISI JANKI MASITENG**: Which is 006.

**CHAIRPERSON**: That is the document. Ja page 6 ja. Okay.

20 **DR TANKISI JANKI MASITENG**: And there also it was accompanied by the project proposal.

**CHAIRPERSON**: Yes.

**DR TANKISI JANKI MASITENG**: Which is 26 which was already signed. If we go to

**CHAIRPERSON**: Page 26.

**DR TANKISI JANKI MASITENG**: Page 34.

**CHAIRPERSON**: Oh not page 26?

**DR TANKISI JANKI MASITENG**: Page 34 it was signed on the 15 May 2012. There was also...

**CHAIRPERSON**: I am sorry. I am sorry. Page 20 – page 34 is the end of a document. Where does it start?

**ADV LEAH GCABASHE**: Chairman. It starts – it starts on page 26.

**CHAIRPERSON**: Ja so – ja so it is the same document that I just mentioned where it starts and you mentioned where it ends.

**DR TANKISI JANKI MASITENG**: Yes.

10 **CHAIRPERSON**: Okay, alright.

**DR TANKISI JANKI MASITENG**: It starts with 26 it ends with...

**CHAIRPERSON**: Page 34, at page 34.

**DR TANKISI JANKI MASITENG**: 34 with the signature at the bottom.

**CHAIRPERSON**: Yes and whose signature is that?

**DR TANKISI JANKI MASITENG**: This signature is – it is Sanjeev Gautam.

**CHAIRPERSON**: Yes.

**DR TANKISI JANKI MASITENG**: Yes. And also...

**ADV LEAH GCABASHE**: Do you know Mr Gautam?

20 **DR TANKISI JANKI MASITENG**: I do not know the person. And also there was an EXCO memorandum. I do not see the EXCO memorandum.

**CHAIRPERSON**: EXCO memorandum.

**DR TANKISI JANKI MASITENG**: Yes.

**CHAIRPERSON**: Okay that is a memorandum ...

**DR TANKISI JANKI MASITENG:** Which signed on the 13<sup>th</sup> if I am not mistaken of June.

**CHAIRPERSON:** When you say EXCO are you referring to the Provincial Executive Council?

**DR TANKISI JANKI MASITENG:** The Provincial Executive Council memorandum.

**CHAIRPERSON:** Okay.

**ADV LEAH GCABASHE:** Chairman with your indulgence do you mind very much putting the witness's bundle on one side and then the  
10 reference bundles that we will be referring you to on the other. Because sometimes it is a little easier for us to navigate between the two as we quickly find documents.

**CHAIRPERSON:** Yes, yes.

**ADV LEAH GCABASHE:** For you.

**CHAIRPERSON:** No – okay I am quite – I am quite fine. What would you like us to do?

**ADV LEAH GCABASHE:** So I would like you to go back to the witness's bundle.

**CHAIRPERSON:** I have got it here in front of me yes.

20 **ADV LEAH GCABASHE:** And to go to page 86 of that bundle.

**CHAIRPERSON:** Okay. 86

**ADV LEAH GCABASHE:** 86.

**CHAIRPERSON:** Okay.

**ADV LEAH GCABASHE:** TJM 86. And the resolution that Doctor Masiteng refers to is on that page 86.

**CHAIRPERSON**: Okay I am at 86.

**DR TANKISI JANKI MASITENG**: Yes.

**CHAIRPERSON**: Is that the EXCO memorandum that you were talking about?

**DR TANKISI JANKI MASITENG**: This is the EXCO memorandum I am referring to which was brought to my attention by the accounting officer together with the supporting documents.

**CHAIRPERSON**: Yes. So there were three documents that were given to you?

10 **DR TANKISI JANKI MASITENG**: Yes.

**CHAIRPERSON**: That was the agreement which was already signed. The proposal which was signed by Mr Gautam

**DR TANKISI JANKI MASITENG**: Yes.

**CHAIRPERSON**: Ja. And then this resolution of the Provincial Executive Council.

**DR TANKISI JANKI MASITENG**: Yes there was also a profile.

**ADV LEAH GCABASHE**: Can I ask you then to look at your bundle. You have actually included these documents in your bundle.

**DR TANKISI JANKI MASITENG**: Okay.

20 **ADV LEAH GCABASHE**: Doctor Masiteng.

**DR TANKISI JANKI MASITENG**: Okay.

**ADV LEAH GCABASHE**: So if you look at page 83 of your bundle TJM83 you will find the company profile. 83 has the company profile. Top right hand corner.

**DR TANKISI JANKI MASITENG**: 83. Yes, yes, yes.

**ADV LEAH GCABASHE:** And then if you look at....

**CHAIRPERSON:** That is the Estina Company Profile?

**DR TANKISI JANKI MASITENG:** Yes that will be Estina Company Profile.

**CHAIRPERSON:** Company Profile.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Okay.

**ADV LEAH GCABASHE:** You had this document as well.

**DR TANKISI JANKI MASITENG:** Yes.

10 **ADV LEAH GCABASHE:** Can I ask you to look at page 75 again TJM your witness bundle.

**DR TANKISI JANKI MASITENG:** 75 yes.

**ADV LEAH GCABASHE:** Yes that is the project proposal.

**DR TANKISI JANKI MASITENG:** That is the project proposal.

**ADV LEAH GCABASHE:** That you have just pointed the Chairman to but we found it in the other file.

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** Maybe we should stay with this file for now Chairman?

20 **CHAIRPERSON:** Okay.

**ADV LEAH GCABASHE:** This is the one signed by Gautum on the 15 May 2012.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** Yes Chairperson.

**CHAIRPERSON:** So it was three or was it four supporting documents?

**DR TANKISI JANKI MASITENG:** Four supporting documents.

**CHAIRPERSON:** Okay.

**DR TANKISI JANKI MASITENG:** Yes Chairperson.

**CHAIRPERSON:** Okay. So it was the agreement between the Department and Estina and that – the agreement was already signed

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** It was the proposal it was already signed. It was the EXCO Resolution and then it was the Estina Company Profile.

**DR TANKISI JANKI MASITENG:** Profile yes.

10 **CHAIRPERSON:** Ja okay.

**ADV LEAH GCABASHE:** So these are the documents that were before you?

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** When you signed?

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** That submission.

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** Now the question the Chairman has been asking is – Did you apply your mind to what you were submitting to the

20 CFO for her to recommend to the HOD?

**CHAIRPERSON:** Or maybe we should ...

**DR TANKISI JANKI MASITENG:** Ja.

**CHAIRPERSON:** Maybe we should say how did you – how did it come about that you were given this and you ultimately signed the document.

**DR TANKISI JANKI MASITENG:** Yes Chairperson.

**ADV LEAH GCABASHE:** Microphone, microphone.

**DR TANKISI JANKI MASITENG:** I think – yes Chairperson. This brings us to the point that all along if you look at all the documentations I was not part. I only became part on the – on this date and the reason being there was a stage I was out of the country for a period of a month. Because I left on the 9<sup>th</sup> I came back on the 6<sup>th</sup>. Now what happened is that on my arrival there was now this documentations which the HOD brought to my attention and said: Look already there is an EXCO on this matter already I have signed an agreement, already there is this  
10 project proposal that has been developed. I am deviating but at that time it did not come out very clear that he is deviating to implement this project. He just said compile for me I am accepting the agreement. I am accepting the proposal from these people I am moving with them.

**CHAIRPERSON:** And deviating in this context did it mean deviating from procurement procedures?

**DR TANKISI JANKI MASITENG:** Yes he was very clear to say I am deviating.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** They are bringing money.

20 **CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** We are also going to bring money there is no any other company which is prepared to bring R200 million. I have already presented it to EXCO I am deviating.

**CHAIRPERSON:** Okay. Okay.

**DR TANKISI JANKI MASITENG:** Yes.



**CHAIRPERSON:** So – so he made it clear to you?

**DR TANKISI JANKI MASITENG:** He make it very clear.

**CHAIRPERSON:** That this was a case where he was deviating from procurement procedures deliberately.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Because for whatever reason he believed it was justified to do so.

**DR TANKISI JANKI MASITENG:** Yes, yes, yes.

**CHAIRPERSON:** Okay.

10 **ADV LEAH GCABASHE:** So the evidence – your evidence is the HOD cannot submit to himself. The submission starts below him.

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** And that is what you were asked to do simply to prepare a submission on the basis of documents that were given to you?

**DR TANKISI JANKI MASITENG:** Yes, yes.

**ADV LEAH GCABASHE:** Do I understand you correctly to say that in addition you recognised that there was a deviation at play in the submission that you were making. Did you recognise that or were you  
20 simply putting documents together?

**DR TANKISI JANKI MASITENG:** No. If you look at this Chairperson this document that was developed it was subsequently replaced by the other. If you look at this one. This one is similar.

**CHAIRPERSON:** No I am sorry – which one? You are pointing to what page?

**DR TANKISI JANKI MASITENG:** The 02. The 02.

**ADV LEAH GCABASHE:** The one signed by – what did you say it was Schalkwyk?

**DR TANKISI JANKI MASITENG:** Yes because I was not aware of that one which was signed on the 26<sup>th</sup>.

**CHAIRPERSON:** That is the one at 2 of reference bundle A.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Ja. Ja.

**DR TANKISI JANKI MASITENG:** Yes.

10 **CHAIRPERSON:** So that is the ...

**ADV LEAH GCABASHE:** You will also find it at page 89 Chairman.

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE:** TJM89.

**CHAIRPERSON:** Yes I will just stick – because he is using 2 I will just stick to that one ja. For now ja.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Okay so this is the document that you signed and you were making a certain point about it just repeat that point ja.

20 **DR TANKISI JANKI MASITENG:** Yes this document if you look at it the purpose is to obtain a [indistinct].

**ADV LEAH GCABASHE:** Sorry Doctor Masiteng may I interrupt you?

**DR TANKISI JANKI MASITENG:** Okay.

**ADV LEAH GCABASHE:** I do apologise. Not this document so you must identify the document it helps with the record. So just start the answer again please but identify which document you are looking at.

**DR TANKISI JANKI MASITENG:** Oh 02.

**ADV LEAH GCABASHE:** Page – the date on the document?

**DR TANKISI JANKI MASITENG:** The date on the document it is 05.07.2012. It is now July.

**ADV LEAH GCABASHE:** And that is the one with your signature?

**DR TANKISI JANKI MASITENG:** This is the one with my signature.

**ADV LEAH GCABASHE:** Thank you.

**DR TANKISI JANKI MASITENG:** Yes Chairperson.

**ADV LEAH GCABASHE:** We know which document you are looking at.

10 **DR TANKISI JANKI MASITENG:** Now the point I was making is that if you look at this document and the one which was submitted by Mr Schalkwyk they are basically the same.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** So I did not understand the instruction properly.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** So I submitted this document.

**CHAIRPERSON:** Yes.

20 **DR TANKISI JANKI MASITENG:** He then brought it back and said no, no, no this is not what I want. I want this – the submission that you have compiled has already been compiled what I want I am deviating. Now there is a document I do not know whether is there a submission now. You will see it was also signed at the same day. That is the one that he was very clear and he brought this one back and said, no, no this is not what I am talking about. I am deviating.

**CHAIRPERSON**: Now when you prepared this one at page 2 which you say is the same as the one that was signed by somebody else had you seen the other one?

**DR TANKISI JANKI MASITENG**: No.

**CHAIRPERSON**: They just happened to be the same but you had not seen the other one?

**DR TANKISI JANKI MASITENG**: No I was not aware of that one.

**CHAIRPERSON**: Ja.

**DR TANKISI JANKI MASITENG**: Yes Chairperson.

10 **CHAIRPERSON**: Oh okay.

**DR TANKISI JANKI MASITENG**: So I was under the impression that the only – the thing that you can do now is to give in the documentations and so on and so forth. You can accept, you can also enter into – because the memorandum of agreement was already there. He was very clear to me to say I am also entering into a memorandum of agreement with them. Yes Chairperson.

**CHAIRPERSON**: Yes. Okay continue.

**ADV LEAH GCABASHE**: Can we then just for one minute look at that resolution? The EXCO resolution. Where is it now?

20 **CHAIRPERSON**: That is at page 86 of the other bundle the one with – with your statement I think. Am I correct?

**ADV LEAH GCABASHE**: That is correct Chairman. Because we have been talking about levels of authority and instructions being given.

**DR TANKISI JANKI MASITENG**: Yes.

**ADV LEAH GCABASHE**: So it is at TJM86.

**DR TANKISI JANKI MASITENG:** 86 okay thanks.

**ADV LEAH GCABASHE:** TJM.

**DR TANKISI JANKI MASITENG:** Alright thank you.

**ADV LEAH GCABASHE:** Your document.

**DR TANKISI JANKI MASITENG:** I have got it.

**ADV LEAH GCABASHE:** What did you understand of this resolution in relation to the instruction you were – been given? What was the import? Why – what was the relevance of this document?

**DR TANKISI JANKI MASITENG:** Chairperson my understanding is that  
10 yes you do have an EXCO resolution and also it comes a directive but it does not imply that you can take it at face value and implement it. So that is why he was saying I am deviating to ensure that I comply also with the EXCO Resolution. It was the EXCO Resolution it is very clear it is talking to the very same Vrede Integrated Dairy Agri Business Project. So my understanding was that as an accounting officer he is saying – he is saying I understand I – there is this commitment however I am now following this process and the process that I am following is to deviate.

**ADV LEAH GCABASHE:** Was the CFO in terms of position your equal  
20 or your senior? Just in terms of levels of authority. CFO the Chief Financial Officer.

**DR TANKISI JANKI MASITENG:** The CFO's are appointed in terms of the PFMA even though we are equal with the – equal with the Chief Directors but there is always that sort of a seniority.

**ADV LEAH GCABASHE:** Could she have refused to recommend what

had been submitted by you ...

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** As Chief Director?

**DR TANKISI JANKI MASITENG:** Yes, yes. That is what I was trying to explain. That the – that the – if you submit to – to the person who recommends. The person who recommends can say no. It happens on several occasions if you initiate but if in this case if it is an instruction the CFO also can say yes it is an instruction but let us look at other processes and so on and so forth and when she is fine she can  
10 recommend and then it goes for an approval.

**ADV LEAH GCABASHE:** Would it also be correct to say that the CFO has a great responsibility to ensure that the Supply Chain Management procedures are complied with?

**DR TANKISI JANKI MASITENG:** They are actually residing in that – in that Chief Directorate.

**ADV LEAH GCABASHE:** So where there is a deviation in terms of those procedures and the Treasury Regulations it really is the duty of the CFO to engage in discussions with the HOD to discuss whether that deviation is regular or not?

20 **DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** So the Chief Directorate's submission is not the last word on this?

**DR TANKISI JANKI MASITENG:** No, not at all.

**ADV LEAH GCABASHE:** At the end of the day the HOD could also say I – I have taken a totally different decision here?

**DR TANKISI JANKI MASITENG:** It happens on several occasions.

**CHAIRPERSON:**

**ADV LEAH GCABASHE:** Despite having an Exco resolution that says we approve of this project?

**DR TANKISI JANKI MASITENG:** My – my understanding is that if you are having an Exco resolution it is like a court order but it does not mean that you can take an Exco resolution as it is. I always make an example of an Exco resolution that says appoint 50 undergraduates. I cannot stand outside here on the street and take 50 undergraduates. I  
10 still have to say look at the issues of agenda, their qualifications and so on and so forth but it is a must do because it is an Exco resolution.

Otherwise you are rendering the whole Executive Council useless in sitting in meetings and taking resolutions but if – there are other processes that you can follow if you do not agree but it is quite a long process because this was done in the presence of the Executive Councils and in the presence of the Accounting Officers – officers in most cases.

**ADV LEAH GCABASHE:** So you ...

**CHAIRPERSON:** Well – I am sorry. So – but there maybe a – there  
20 may be a situation where the Exco resolution tells you about the ultimate objective says this is what must be achieved but it does not tell you about the how.

**DR TANKISI JANKI MASITENG:** The how part of it, yes.

**CHAIRPERSON:** Then that is up to you to make sure that the manner in which you achieve that objective is a lawful manner.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** But of course you may well have a situation where the Exco resolution either makes it clear as to the how ...

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Or it might not make it clear but there is no way of achieving that objective without breaking the law. You could have that situation as well in theory.

10 **DR TANKISI JANKI MASITENG:** In theory.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Because if - if the process which you must follow ...

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** In order to appoint 50 graduates.

**DR TANKISI JANKI MASITENG:** Huh-uh.

**CHAIRPERSON:** Requires three months ...

**DR TANKISI JANKI MASITENG:** Yes.

20 **CHAIRPERSON:** And the Exco resolution says within one week appoint 50 graduates. Then it prevents you from following a lawful procedure if you are going to comply with it. Is it not?

**DR TANKISI JANKI MASITENG:** Yes, yes.

**CHAIRPERSON:** Yes. Okay.

**ADV LEAH GCABASHE:** Now my understanding of the response that Premier gave to the Public Protector on the – the deviation we speak of



that the CFO ought to have interrogated more closely was that the Supply Chain Management procedures allow for a wide range of exceptions. It is not a close list and it – it should not be interpreted as a close list. The close list being emergency situations sole provider.

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** I do not know if it is a fair question but do you have a view on this because I know you are not the CFO but would this be a correct interpretation?

**DR TANKISI JANKI MASITENG:** I do not want to – to guess in this regard honestly Chairperson. I think I will be subjecting myself to speculation.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Okay.

**ADV LEAH GCABASHE:** That is fine. We – we are hoping Mr Thabethe will come in any event and Ms Dlamini and we can raise the same issues ...

**DR TANKISI JANKI MASITENG:** Okay.

**ADV LEAH GCABASHE:** With them; but to then go back to the program itself or the project itself.

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** The Vrede Dairy Project. Explain to the Chairman where this project was located in the strategy of the department and here I have in mind I – I have heard of the address by the Premier in 2012 that spoke to this issue and to the Mohuma Mobung

initiative or strategy. Please explain to the Chairman where the Vrede Dairy Project idea came from and where it fitted in the District Services suite of projects.

**DR TANKISI JANKI MASITENG:** Chairperson the – let us start first with one of the – the key strategies in the – in the province was to focus more on the agro-processing value adding and Mohuma Mobung was actually initiated in 2011. So Mohuma Mobung was a strategy that deals with the mega – let us call them mega projects as well as food security projects and when it comes to the mega projects they must  
10 have an element of agro-processing value adding.

So that is why when the – the project – I had – actually I came into the picture after July but my understanding was that Vrede Dairy was part of – is one of the projects under Mohuma Mobung as a strategic guide. It is not Mohuma Mobung but it is one of the projects. In the same way as we are having boiler projects as well as the HER as well as the feed lots and so on and so forth.

So the issue here was that Mohuma Mobung was developed to actually concentrate on more high impact projects that could employ more than 100 people or so. So that is how Vrede Dairy actually came  
20 into been. It was one of the projects under Mohuma Mobung which was actually initiated in 2011. If I may just – let me just take the Chairperson through one of the issues that we are saying here. Chairperson I say Mohuma Mobung for instance is a multi-mega public and private partnership business concept which revolves around income generation through funding in the rural areas of the province and the

creation of on and off farm agri business value chain enterprises and Black Economic Empowerment.

That is what the concept centred around. The total budget required for the implementation of Mohuma Mobung strategy for instance is more than 1.2 billion over a period of four years and has the potential of creating more than 10 000 decent and permanent jobs and more than 100 000 indirect jobs. That was the idea. So that is why when Vrede Dairy was actually presented it was a very lucrative and good project that fit into this guide Chairperson.

- 10 **ADV LEAH GCABASHE:** You see Mr – Dr Masiteng the reason it is important to locate the Vrede Dairy Project within Mohuma Mobung is as I understand matters the Vrede Dairy Project became Mohuma Mobung simply because all resources were directed at the Vrede Dairy Project certainly in the period 2012 to 2014. Would that be a correct summary of what happened?

- DR TANKISI JANKI MASITENG:** No. That – that will not be the correct summary Chairperson. We – we end up having an allocation called Mohuma Mobung. Under that one you will have an allocation for Vrede Dairy but you will also have an allocation for mechanisation for life  
20 stock and other agricultural activities. So it is – it is not true to say now all the resources were channelled.

No there were also other initiatives which the grant itself was taking care of. This is to say it – Mohuma Mobung is not Vrede Dairy but Vrede Dairy is a project within Mohuma Mobung.

**CHAIRPERSON:** I think – I think what Ms Gcabashe might have meant

is that in the perception of many people this Vrede Dairy Project became like that is what they are talking about when you ...

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** When you talk about this whole bigger project which has got various components but in the perception of some people or many people it seemed to represent the whole thing when in fact it was not the whole thing.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** You would agree with me?

10 **DR TANKISI JANKI MASITENG:** Yes I agree Chair.

**CHAIRPERSON:** And that there may have been people with that perception you would agree with that?

**DR TANKISI JANKI MASITENG:** Yes Chairperson.

**CHAIRPERSON:** Ja, okay.

**ADV LEAH GCABASHE:** We – we will interrogate that matter further Dr Masiteng with the financial people who were involved at the time but I think where you can assist the Commission is in relation to what you were calling the grant just now. I presume you mean the CASP grant.

**DR TANKISI JANKI MASITENG:** No.

20 **ADV LEAH GCABASHE:** Which grant?

**DR TANKISI JANKI MASITENG:** I am referring to the voted fund.

**ADV LEAH GCABASHE:** Coming from (indistinct)?

**DR TANKISI JANKI MASITENG:** It is a provincial allocation.

**ADV LEAH GCABASHE:** So you had the provincial allocation for agriculture?

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** That is what you are calling the voted fund?

**DR TANKISI JANKI MASITENG:** Yes Chairperson.

**ADV LEAH GCABASHE:** And you are saying from those funds there was an allocation for Mohuma Mobung?

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** As there would be for other ...

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** Areas; but the allocation for Mohuma Mobung  
10 you say did not go exclusively to the Vrede Dairy Farm Project in  
2013/2014?

**DR TANKISI JANKI MASITENG:** No. We did not have Mohuma Mobung  
as an allocation at that time. I think it started in the 2013/2014  
financial year.

**ADV LEAH GCABASHE:** But this is the point Vrede Dairy Farm was in  
existence as of 5 July 20212.

**DR TANKISI JANKI MASITENG:** Yes you had an allocation under foot  
security – which is foot security. That is why I said that is why  
ultimately we had a Mohuma Mobung sort of grant which was catering  
20 for different projects but Vrede Dairy was – was supported at that  
period under a normal voted fund which was a foot security and so on  
and so.

**CHAIRPERSON:** Let us take the – well one we normally stop at four  
but sometimes we go beyond that. I can go up to five. Is that what you  
would like?

**ADV LEAH GCABASHE:** I would prefer that Chairman.

**DR TANKISI JANKI MASITENG:**

**CHAIRPERSON:** Yes. Would you be fine with that?

**ADV LEAH GCABASHE:**

**DR TANKISI JANKI MASITENG:** Yes, yes Chairperson.

**CHAIRPERSON:** Okay, alright. Let us take an adjournment now and it is just after four. We will resume at quarter past four. We adjourn.

**REGISTRAR:** All rise.

**INQUIRY ADJOURNS**

10 **INQUIRY RESUMES**

**ADV LEAH GCABASHE SC:** I think it's doable Chairman.

**CHAIRPERSON:** Yes, from your side Dr Masiteng?

**DR TANKISI JANKI MASITENG:** Yes thanks Chair.

**CHAIRPERSON:** Okay thank you.

**ADV LEAH GCABASHE SC:** And I think it's because much of the evidence is evidence other people should really be speaking to, the essential evidence from this witness really turned on those memos, submissions that he signed.

**CHAIRPERSON:** Okay.

20 **ADV LEAH GCABASHE SC:** But I think that some of what I am going to explore in the next hour feeds into that memo.

**CHAIRPERSON:** Okay, no that's fine.

**ADV LEAH GCABASHE SC:** You were explaining the vote that the Department of Agriculture gets. I also however want you to explain to us the CASP budget, so if you turn to your affidavit page TJM094, TJM,

which are your initials Dr Masiteng, 094.

**CHAIRPERSON:** You must be consistent Ms Gcabashe.

**ADV LEAH GCABASHE SC:** I asked for permission Chair to straddle  
...[intervenes]

**CHAIRPERSON:** No, no, I've said that – I am talking about the page numbers all along you have been saying page 86 without the TJM00.

**ADV LEAH GCABASHE SC:** Absolutely, I apologise, you are correct Chairman, it's the first time I use the zero.

**CHAIRPERSON:** Ja, otherwise whoever reads – looks for another page  
10 and not this one, so just to be consistent.

**ADV LEAH GCABASHE SC:** For the record page 94, thank you Chairman.

**CHAIRPERSON:** Thank you.

**ADV LEAH GCABASHE SC:** Can you please explain this document to me, and I know it's looking at a particular year, 2013/2014, but what's concerning me is the evidence you have given on what monies were used for Mahoma Mabung and what was used for the Vrede Dairy Project, so maybe this will explain or support what you are saying and help me understand it a bit better.

20 **DR TANKISI JANKI MASITENG:** Yes, yes.

**ADV LEAH GCABASHE SC:** What is this document and is this a document that is generated every year.

**DR TANKISI JANKI MASITENG:** Okay thank you very much Chairperson once more. This is actually a business plan framework for CASP for all the projects when you apply for funding you use this

template. Now what happened is that ...[intervenes]

**ADV LEAH GCABASHE SC:** Please the acronym CASP?

**DR TANKISI JANKI MASITENG:** It's Comprehensive Agricultural Support Program.

**ADV LEAH GCABASHE SC:** Thank you.

**DR TANKISI JANKI MASITENG:** Now what happened is that because internally as the Provincial Department we have to compile what we call a Provincial Business Plan of which Vrede Dairy was then included into the Provincial Business Plan as one of those projects that we have to  
10 present to National for funding, so that is why this business plan was then compiled, with the amount and if you look at the amount, the total amount talks to the Esco memo, that 140million, that is why for CASP you would request 53million but you are saying DART will avail 60million to give you the total of 140, this is the document which is also compiled by the Agricultural Economics of our department.

**ADV LEAH GCABASHE SC:** But when I read this page 94 I see the total CASP amount of R53 950 000, and then I see the total available budget at the bottom which is 114million. I also know that the department allocated 114million over a three year period to the Estina  
20 Dairy Project. The amount above that 114million reads 60 050 000. When I look at this document it says to me the 60 050 000 that ought to have gone to production inputs, mechanisation, other infrastructure and revenue enhancement is now going to form part of the 140million that's going to go to Estina because you had budgeted 114million for Estina. If I am misreading it please just help us understand what this



represents?

**DR TANKISI JANKI MASITENG:** Yes you are correct Advocate Gcabashe.

**ADV LEAH GCABASHE SC:** You see because earlier you said to us no, no, no, we put money into various items, and I know you are talking about the vote.

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE SC:** But the point really about the Estina project is that money was taken from other areas that the department  
10 ought to have been servicing and put into this one mega project because you had identified it as a mega project.

**DR TANKISI JANKI MASITENG:** Yes, what is happening Chairperson is that let us say for instance now you see I am just trying to apply my mind here, I'm just assisting. What is happening Mahoma Mabung would be for instance allocated 80million for argument's sake.

**CHAIRPERSON:** Which would be for different components.

**DR TANKISI JANKI MASITENG:** Which would be for different components for argument's sake, and then what this document is trying to say to us is that yes out of that 60 will be utilised to top up the 53  
20 and give you a total of 140.

**ADV LEAH GCABASHE SC:** I hear you.

**CHAIRPERSON:** So the total CASP budget for the 2013/2014 year was R53 950 000, is that correct?

**DR TANKISI JANKI MASITENG:** No, no Chairperson. The total budget for CASP for that financial year, the allocation for the province, let me

just look at the presentation that we made, that would be 108, 108 under the same document, that is the presentation that the Department has made to DAF at that time, it will include quite a number of initiatives of which dairy will be one of them but not to say the allocation for the province was 53million, it was more than that.

**CHAIRPERSON:** Where is the 108 to which you refer, which page? You referred to 108 and I can't see 108 at page 94 where I see R53 950 000, where is the 108.

**ADV LEAH GCABASHE SC:** It's annexure?

10 **DR TANKISI JANKI MASITENG:** It's Annexure K.

**CHAIRPERSON:** Annexure K?

**DR TANKISI JANKI MASITENG:** Yes Chairperson that TJM108 Annexure K.

**ADV LEAH GCABASHE SC:** Yes.

**DR TANKISI JANKI MASITENG:** Yes, that is the presentation which was done on the 30<sup>th</sup> of January 2013.

**ADV LEAH GCABASHE SC:** Yes.

**DR TANKISI JANKI MASITENG:** To the National Assessment Panel.

20 **CHAIRPERSON:** I'm sorry please tell me the page rather than the annexure, what page is annexure K?

**ADV LEAH GCABASHE SC:** Page 108 Chairman, but like you I cannot find the figure.

**CHAIRPERSON:** Oh 108 is the page number, I thought it was the amount of money, 180million or something. Okay, alright, so at page 108 is the beginning of a certain document and you say that document

represents, it does indicate the budgets for CASP in regard to the 2013/2014 financial year.

**DR TANKISI JANKI MASITENG:** Yes Chairperson.

**ADV LEAH GCABASHE SC:** And where is the amount ...[intervenes]

**DR TANKISI JANKI MASITENG:** Then you go to 118.

**CHAIRPERSON:** 118?

**DR TANKISI JANKI MASITENG:** Yes Chairperson.

**CHAIRPERSON:** Yes I'm there.

**DR TANKISI JANKI MASITENG:** Yes now you see the breakdown  
10 there.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** The breakdown begins to indicate to us that in total on the conditional grants the province received 206million but that 206million 8.5million of it was land care of which 57million was for Ele Maletse which is another conditional grant, so the rest would be CASP Advocate.

**CHAIRPERSON:** Okay there are two boxes there, you're talking to the bottom box is that right?

**DR TANKISI JANKI MASITENG:** The first, let's take the first one.

20 **CHAIRPERSON:** Financial year grants.

**DR TANKISI JANKI MASITENG:** The financial year grants.

**CHAIRPERSON:** 2013/2014 yes.

**DR TANKISI JANKI MASITENG:** It will say CASP, the amount is 140million, the allocation for the Province.

**CHAIRPERSON:** Oh when there is – there is something that's been

blackened out at the top there, and then on the side, so it's comprehensive agricultural support program, that is the long term for CASP?

**DR TANKISI JANKI MASITENG:** For CASP.

**CHAIRPERSON:** Oh okay.

**DR TANKISI JANKI MASITENG:** And then the allocation for that financial year.

**CHAIRPERSON:** Is 140.

**DR TANKISI JANKI MASITENG:** Is 140 of which the 53 is then  
10 requested to assist the Vrede Dairy, not the whole budget.

**CHAIRPERSON:** Oh, okay, it's 140 204 000 for the whole  
...[intervenes]

**DR TANKISI JANKI MASITENG:** For the whole CASP.

**CHAIRPERSON:** For the whole CASP.

**DR TANKISI JANKI MASITENG:** Yes Chair.

**CHAIRPERSON:** Okay and then the 53 950 000 that we see at page 94  
comes from that amount?

**DR TANKISI JANKI MASITENG:** From the 114 yes.

**CHAIRPERSON:** Yes, okay, okay, so where it says total CASP on page  
20 94 it means total contribution from CASP to this dairy project.

**DR TANKISI JANKI MASITENG:** To the Province.

**CHAIRPERSON:** To the Province.

**DR TANKISI JANKI MASITENG:** To the Province, the Province has  
received conditional grants every financial year.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** Now you will go and present the projects that you want them to be funded, and once they have approved those projects you then come back and enter into now the other processes of beneficiaries agreements and so on, because there is an approval at a national level.

**CHAIRPERSON:** So a CASP from National level?

**DR TANKISI JANKI MASITENG:** Yes it comes from National.

**CHAIRPERSON:** So that 140 comes from National?

**DR TANKISI JANKI MASITENG:** It's a national allocation.

10 **CHAIRPERSON:** But it is allocated to the particular province, that's Free State only.

**DR TANKISI JANKI MASITENG:** It's Free State only, other provinces might get ...[intervenes]

**CHAIRPERSON:** So the money sits with National, with the National Department but when you have satisfied them that you have got projects that fall under CASP and you have worked out how much is needed then if they are happy then they give you the money.

**DR TANKISI JANKI MASITENG:** They transfer the money.

**CHAIRPERSON:** Oh, okay.

20 **DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Now I understand.

**ADV LEAH GCABASHE SC:** Yes, but let's look at these documents again, so I've got one finger on page 94, another on page 118 and another at page 119.

**DR TANKISI JANKI MASITENG:** 119.

**ADV LEAH GCABASHE SC:** So if we go back to page 118, to the second block that's entitled District budget breakdown, we get to Thabo Maphutzanjane, page 118.

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE SC:** So I am at the second block.

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE SC:** And so the allocation, this is per district.

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE SC:** The allocation for Thabo Maphutzanjane  
10 is for dairy, pigs, soya.

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE SC:** And that's 66million.

**DR TANKISI JANKI MASITENG:** That's 66 million.

**ADV LEAH GCABASHE SC:** Okay, if you go over the page to 119 you – the second block again has commodities supported, we then get to dairy, 53 950 000.

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE SC:** That is the figure that corresponds to the one on page 94.

20 **DR TANKISI JANKI MASITENG:** Exactly.

**ADV LEAH GCABASHE SC:** So of the total budget you say of 140million that comes into province from CASP only 53 950 000 would go to the Vrede Dairy Farm.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** That's about one third of the allocation.

**DR TANKISI JANKI MASITENG:** That's about one third of the allocation yes.

**CHAIRPERSON:** Yes, okay.

**ADV LEAH GCABASHE SC:** But having given that one third of the allocation according to page 119 to dairy it leaves very little for other projects, so the other projects that are supported, commodities supported, game, livestock, poultry, agro-processing, essential oils all of those are Thabo Maphutzanjane projects that are supported by CASP?

10 **CHAIRPERSON:** You have to say yes, nodding is not recorded.

**DR TANKISI JANKI MASITENG:** Yes, yes.

**ADV LEAH GCABASHE SC:** So if CASP is providing 53million, almost 54million for the Vrede Dairy Project, and the total budget for Vrede, for the Vrede Dairy Project is 114million where does the shortfall come from?

**DR TANKISI JANKI MASITENG:** The shortfall will have to come from the voted fund.

**ADV LEAH GCABASHE SC:** Which portion of the voted fund?

**DR TANKISI JANKI MASITENG:** The Provincial allocation.

20 **ADV LEAH GCABASHE SC:** But it is itemised as well, isn't it? Or has it got general items so you can easily take ...[intervenes]

**DR TANKISI JANKI MASITENG:** Yes let's say, like I've indicated if it's 80million for instance you would say already I have this 53million, now I am shortfall of 60, then from 80 I am taking 60 to total, that's how it works in most cases.

**ADV LEAH GCABASHE SC:** You know the reason I have a real interest in these numbers is because when I go back to the documents you say you were given, when you made your submission, I look at the feasibility study for instance that you had, the feasibility study in fact you didn't have the feasibility study because the feasibility study was only concluded in October of 2012. Chairman if I might just find the document.

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE SC:** And I know you are simply assisting Dr  
10 Masiteng and we will be leading the same evidence with other witnesses, the reference bundle Chair is reference bundle B is reference Bundle B and the page is 482.

**DR TANKISI JANKI MASITENG:** I've got it.

**ADV LEAH GCABASHE SC:** It comes back to understanding not just your approval or your submission but the approval of the project, because if you are saying that the intention is to have a bankable project, a commercially viable project that also uplifts the people of Vrede, one you need to have the money for it, which is why we are looking at the CASP allocation and you've mentioned the vote, but more  
20 importantly the underlying premise for initiating the project has to be sound, you would agree? Dr Masiteng?

**DR TANKISI JANKI MASITENG:** Yes, yes Chairperson.

**ADV LEAH GCABASHE SC:** If I ask you to look at page 546 of that same feasibility study.

**DR TANKISI JANKI MASITENG:** 546?



**ADV LEAH GCABASHE SC:** 546, just above conclusion there's a little sub-heading that's part of the financial performance projected for this project, they say here that it would take 12 to 14 months for the dairy to become operational. This would – I am reading what is written here, this would result in a loss of 8.48million in 2012 to 2013, and 1.83million in 2013 to 14. Now this is a feasibility study that was done, the questions that arise in my mind are the following, when you look at the prospects of this project at any point becoming a commercially viable project which I understood to be the intention of the department,

10 and the feasibility study itself tells you from the first 114million that you are going to put into this project in the first year you are going to lose 8.48million, and in the second year you are going to lose another 1.83million and I really am just looking at one aspect, I am not even looking at the whole recommendation, doesn't that require at some level, maybe not at your level, some interrogation, the viability of the project given the limited funds you have.

**DR TANKISI JANKI MASITENG:** Like you are correctly indicating, remember you have professional services, which then has to come in and interrogate this, the District Services will have to wait for the

20 completion certificate, so you are correct, I agree with you, the economists in this case will have to look into all the issues then.

**ADV LEAH GCABASHE SC:** The economists sits in District Services?

**DR TANKISI JANKI MASITENG:** No, they sit in ...[intervenes]

**ADV LEAH GCABASHE SC:** Where does the economists sit?

**DR TANKISI JANKI MASITENG:** They sit in the Professional Services,

that is another Chief Directorate.

**ADV LEAH GCABASHE SC:** So the economists must be able to look at a feasibility study like this.

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE SC:** And make recommendations on the bankability of a project like this and the commercial viability?

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE SC:** Of a project like this.

**DR TANKISI JANKI MASITENG:** Yes Chairperson.

10 **ADV LEAH GCABASHE SC:** Do you know if that happened?

**DR TANKISI JANKI MASITENG:** No I will be speculating.

**ADV LEAH GCABASHE SC:** You see because this particular feasibility study is dated October 2012.

**DR TANKISI JANKI MASITENG:** Yes Chairperson, the issue would be when you develop this business plan you also have to take into consideration other supporting documents, so that's why I am afraid to say yes they did look into this, because this was done in October, the business plan was developed for 13/14. So they might have taken into consideration quite a number of documents that will include also an  
20 analysis of this, but I am speculating Chairperson and I am afraid to do that to the Commission.

**ADV LEAH GCABASHE SC:** Yes Dr Masiteng I have heard your evidence that you were given documents, you were asked to make a submission, you made the submission and passed it on to the next level, that is the essence of what you have said, and that you did not

interrogate the documents that you were given?

**DR TANKISI JANKI MASITENG:** No what I did I didn't interrogate the documents, the instruction was very clear, I have this, I have satisfied myself just compile for me this deviation.

**ADV LEAH GCABASHE SC:** Yes I think with respect to this project, or this aspect, the financials, we will deal with it with a different witness Chairman because I do not think that Dr Masiteng can take this point any further from where he sat in 2012. Can I ...[intervenes]

**CHAIRPERSON:** The one point I wanted to raise is this, to the extent  
10 that you were asked by the HOD to prepare a document where he made it clear to you that he was deviating from the procurement procedures, was your understanding that he needed something, he needed a document that he would adopt as his own and all you would be was simply a compiler of the document yourself, or was the position that you understood that you would by compiling the document become also yourself one of the people who would be said to have made it possible for approval to be granted, or for the deviation to happen.

**DR TANKISI JANKI MASITENG:** Not in this case Chairperson, in this case I am a compiler, because remember in the first place there were  
20 documents which were completed already, so I did not have a say on those ones, I did not have the inputs whatever, it was just to compile.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** Yes Chairperson.

**CHAIRPERSON:** So you saw your job as simply ...[intervenes]

**DR TANKISI JANKI MASITENG:** Simply a compiler in this case.

**CHAIRPERSON:** And you thought everything was so to speak his.

**DR TANKISI JANKI MASITENG:** Yes, yes Chairperson, yes.

**CHAIRPERSON:** Okay.

**ADV LEAH GCABASHE SC:** In the normal course of things however for a project of the size of Estina you would have a planning session long before anybody signed any contract, am I correct?

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE SC:** You would apply the plan, in fact it would have been drawn from the strategy of government, whatever you put  
10 into the plan, you would have gone through the budget to make sure you had the money, this is in the normal course, you would make sure you have the money to sustain the project, but in this instance none of these things preceded the signing of the contract with Estina.

**DR TANKISI JANKI MASITENG:** Chairperson I am also disadvantaged in this case because I was not in the picture Chairperson, I was not in the picture from the beneficiaries were identified, when meetings were held, I only had one meeting with the beneficiaries which Dhlamini was talking about, that was in October 2017, that was my first meeting with them, which is not a surprise because I am the Chief Director, I have  
20 directors who every now and then meet with them.

So in this case I only came into a picture after, so it is a little bit difficult, I am actually cornered Chairperson.

**CHAIRPERSON:** Yes, well if you don't know you are not cornered you just say you don't know, but I either now or after the question if you want to take the question further I just want to go to the document that

you prepared after the HOD said no, no not this one, because that one had been done, but it depends whether Ms Gcabashe still wants to take that question further that she had asked you.

**ADV LEAH GCABASHE SC:** Not this particular one Chair, I think I should move onto one or two other aspects.

**CHAIRPERSON:** Oh okay.

**ADV LEAH GCABASHE SC:** Yes.

**CHAIRPERSON:** May I find out where that document is, we saw the one which you said the HOD rejected and said that one had already  
10 been prepared and he asked you to prepare another one, where is that one?

**ADV LEAH GCABASHE SC:** You are looking for the one that you had ...[intervenes]

**DR TANKISI JANKI MASITENG:** The one that includes deviation, that one does not talk to deviation, there is the one that talks about the same document, same date, but that one now talks about the deviation.

**CHAIRPERSON:** Because he wanted you to compile a document that would show that there were grounds to deviate, is that right?

**DR TANKISI JANKI MASITENG:** Yes.

20 **CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE SC:** Chairman with your leave let me just go through the file quickly.

**CHAIRPERSON:** Or what we can do if your learned colleagues can look for it we can move on, you can ask other questions and then we will come back and maybe they will have found it when we come back.

**DR TANKISI JANKI MASITENG:** Okay.

**CHAIRPERSON:** Okay let's move on to other questions, we will come back to it.

**ADV LEAH GCABASHE SC:** Chairman if we might then just explore your understanding of an implementing agent, you mentioned this right at the outset, you said you understood Estina to be an implementing agent, what is the importance of that, Estina being an implementing agent?

**DR TANKISI JANKI MASITENG:** An implementing agent takes – it is  
10 sort of project management, takes charge of the implementation of the project from the word go up to its completion and once – that will include the appointment of the service providers, that will include also the purchase or the procurement of material and once that has been completed now you will have, the engineers are always with the levels of construction, but once that completed there must be a completion certificate so in this case Estina was appointed to do the feasibility study, to do the business planning, to do the water issues and so on and so forth. The way I look I am just saying these things Chairperson based on the document that I have seen.

20 **CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** It was appointed actually to do almost everything and then bring a product, to say here is a product now bring your own beneficiaries and department out.

**CHAIRPERSON:** Well maybe when you say I am out you may be answering the question better, I wanted to ask why Estina would do the

feasibility study or would be the implementing agent when in fact they are to benefit from the project, they are party to the project. Shouldn't the implementing agent be somebody else or is it my ignorance of how these things are done in government?

**DR TANKISI JANKI MASITENG:** Chairperson your analysis is correct, I won't be able to respond to that.

**CHAIRPERSON:** But you look like you have something to say, do you want to say what you are thinking?

**DR TANKISI JANKI MASITENG:** Not as such Chairperson I was saying  
10 you are correct in your analysis.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** To say in instances I appoint you as an implementing agent, you must actually – we must clear, you do up to this file and then after that you get out, then in case you want to participate further.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** And then you can indicate and say, I want to bring in my – this so that I can buy in these shares and so on and so forth.

20 **CHAIRPERSON:** Yes, yes okay thank you.

**ADV LEAH GCABASHE:** You see part of the Chairman's difficulty is my difficulty as well that you have Estina's an implementing agent and a management agent but not only that you also have the same people who prepared that company profile you looked at, that feasibility study that you looked at, the business plan that you look at – you looked at

so all documentation that has been prepared is given to – is being assessed at the end of the day a decision is taken to give the project to the same people who had no competitors who prepared this documentation. It is very incestuous the manner in which this carried out.

**DR TANKISI JANKI MASITENG**: That is why Chairperson I wanted to limited my answer to the question, what is the implementing agent?

**CHAIRPERSON**: Well we want you to assist us with as much information as possible including telling us whether to your knowledge  
10 the way things were done in regard to this project including the role that – the roles that Estina played was the correct way of doing things. What was done wrong, what deviated from the norm? What was the normal way of doing these things and what were the procedures which were supposed to be followed? What – who qualified to do what? Because it just seems that Estina was taking roles where – which should be done by somebody who does not have an interest in the project but Estina had an interest in the project?

**DR TANKISI JANKI MASITENG**: Yes Chairperson. When you look at the – the setup. I am appointing you as an implementing agent for a  
20 project of let us say 570 million. But you are saying to me I think this is a good investment I also want to put in 200 million. Or fairly speaking you would say this sounds good. Are you experienced in this kind of an activity and so on and so forth and if you say yes I am experienced I have got market, I have got 200 million over and above what you are going to invest you might be attracted to enter into such a



deal Chairperson. But in instances whereby you do not bring anything then it becomes a problem.

**CHAIRPERSON**: Yes. But also why should you take my word for it? Why should you not – if you do not have the knowledge or expertise to make an assessment whether I have the expertise and knowledge that they – that I say I have. Why do you not go to somebody else and say, make an assessment of this person who wants me to spend millions on a certain project and says he has a lot of experience and he will put in some money as well. Just give me an assessment? Is this person the  
10 right kind of person to be involved with? Do they have this – the kind of expertise and experience that is required? Would you not be expected to do that?

**DR TANKISI JANKI MASITENG**: Yes Chairperson. That is why when you look at I think it is a profile there is a statement that they have also entered into a memorandum of agreement with the Paras which – which have got all the knowledge in as far – which are actually leading. That – I am just giving what – what I have also checked and so on and so forth.

**CHAIRPERSON**: Yes. Yes.

20 **DR TANKISI JANKI MASITENG**: So by so doing you are saying, okay I have got this one but I also have this one has partnered with this one that I recognise, that I respect who is actually in the big league and so on and so forth. So those are some of the things. I am just giving.

**CHAIRPERSON**: Ja.

**DR TANKISI JANKI MASITENG**: The perspective Chairperson as you

have requested me to do.

**CHAIRPERSON**: Yes.

**DR TANKISI JANKI MASITENG**: Other than that I do not see any other reason Chairperson.

**CHAIRPERSON**: Yes but tell me you are now Acting Head of the Department and maybe by virtue of that position you have – you now have access to some documents that you might not have had access to as Chief Director.

**DR TANKISI JANKI MASITENG**: Yes.

10 **CHAIRPERSON**: In regard to this project. To your knowledge is there any document in the custody or possession of the Department which shows or which came from Paras signed by Paras people, legitimately in terms of which they said they were party to this whole arrangement with Estina?

**DR TANKISI JANKI MASITENG**: No I have never seen one myself Chairperson.

**CHAIRPERSON**: You have never seen one?

**DR TANKISI JANKI MASITENG**: I have never seen one but I have seen the statement in the profile and where it says, Estina have just entered  
20 into a Memorandum of Agreement with the Paras.

**CHAIRPERSON**: Yes.

**DR TANKISI JANKI MASITENG**: Yes but I have never seen the Memorandum of Agreement between Paras and Estina.

**ADV LEAH GCABASHE**: In – in.

**CHAIRPERSON**: Do you...

**ADV LEAH GCABASHE:** In fact Chairman if it might assist you page 284 of the reference bundle A has got a Memorandum of Understanding not Agreement – Understanding signed by Estina and Paras. This document was submitted to the Department. It is bundle.

**CHAIRPERSON:** What page?

**ADV LEAH GCABASHE:** Reference bundle A page 284.

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE:** But the essence of this Memorandum of Understanding Chairman as I have read it is that it is valid for one  
10 year.

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE:** It is signed – it is actually – if you look at page ...

**CHAIRPERSON:** Are you looking at it as well?

**ADV LEAH GCABASHE:** 295 Chairman.

**CHAIRPERSON:** I am sorry are you also looking at it?

**DR TANKISI JANKI MASITENG:** Yes I am looking at it Chairperson.

**CHAIRPERSON:** Yes okay. Yes.

**ADV LEAH GCABASHE:** Page 295 has the signatures but the date is  
20 not legible.

**CHAIRPERSON:** 295?

**ADV LEAH GCABASHE:** 295 Chairman.

**CHAIRPERSON:** Yes I see yes.

**ADV LEAH GCABASHE:** Oh Chairman if you go to 285 this Memorandum of Understanding is dated 11 April 2012. 11 April 2012

page 285.

**CHAIRPERSON**: Yes.

**ADV LEAH GCABASHE**: So it is an April 2012 document. The parties to this document are Paras and Estina. Ms Sanjeev Gautam is the authorised signatory for Estina and Mr Gajender Kumar is the authorised signature for Paras which is also known as VRS Foods Limited. Page 295.

**CHAIRPERSON**: Now to – now have you seen this document before?

**DR TANKISI JANKI MASITENG**: No Chairperson no I have not.

10 **CHAIRPERSON**: You are seeing it for the first time.

**DR TANKISI JANKI MASITENG**: No Chair I am seeing it for the first time this one.

**CHAIRPERSON**: Yes. Now obviously you have – you have looked at it Ms Gcabashe?

**ADV LEAH GCABASHE**: I have – I have Chairman.

**CHAIRPERSON**: Excuse me. Does it in substance or effect say that Paras and Estina are entering into partnership or some corporation relating to the Vrede Dairy Project – Vrede Farm Dairy Project?

20 **ADV LEAH GCABASHE**: It does Chairman. It says that they will enter into an association that – they do not call it a partnership.

**CHAIRPERSON**: Yes.

**ADV LEAH GCABASHE**: So Estina would be similar to an agent as and when they needed expertise they would ask the Paras people to assist them with their expertise. That is the essence.

**CHAIRPERSON**: It is general. Is it general?

**ADV LEAH GCABASHE:** It is.

**CHAIRPERSON:** It is not specific to this particular project?

**ADV LEAH GCABASHE:** It is to the extent Chairman at 285.

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE:** That it says that Estina at paragraph B – so you have an A, B and C.

**CHAIRPERSON:** Hm.

**ADV LEAH GCABASHE:** It says that Estina – third line well Estina will play an active role in identifying and securing opportunities in the  
10 territory being South Africa and the company will assist Estina with the technology and commissioning of those identified opportunities.

**CHAIRPERSON:** Ja that still does not say anything about this particular project.

**ADV LEAH GCABASHE:** I know they do – they do mention the dairy...

**CHAIRPERSON:** Oh okay.

**DR TANKISI JANKI MASITENG:** Ja.

**ADV LEAH GCABASHE:** They do Chairman.

**CHAIRPERSON:** Oh have you picked it up somewhere?

**DR TANKISI JANKI MASITENG:** Yes I have picked it up somewhere  
20 where they are saying – the company has been – that is A under ...

**ADV LEAH GCABASHE:** Yes.

**DR TANKISI JANKI MASITENG:** That is under. It says the company has been in the business of implementing Dairy Projects and production and marketing of the dairy products.

**ADV LEAH GCABASHE:** Chairman if I might be of assistance? Page

287 the product means a dairy project and dairy products. The project refers to the strategic partnership between Estina and the Department of Agriculture and Rural Development in the Free State Province of South Africa to implement a dairy project in the province.

**CHAIRPERSON**: Oh okay so at least that is specific.

**ADV LEAH GCABASHE**: Yes.

**CHAIRPERSON**: But you made the point that it is for one year.

**ADV LEAH GCABASHE**: It is a one year. My reading of it at the time it is.

10 **CHAIRPERSON**: And the project was going to be for a much longer period.

**ADV LEAH GCABASHE**: A three year project Chairman.

**DR TANKISI JANKI MASITENG**: Three year.

**CHAIRPERSON**: Yes, yes.

**ADV LEAH GCABASHE**: And Chairman the question you really ask at the outset is – is there a documents that we know comes from Paras?

**CHAIRPERSON**: Yes.

**ADV LEAH GCABASHE**: And can be authenticated by Paras.

**CHAIRPERSON**: Yes, yes. Ja that is the –

20 **ADV LEAH GCABASHE**: That is your question.

**CHAIRPERSON**: Because even – even though there might – there might be somebody's signature here who purports to be a director. Well I see it just says director. And then there is something written I do not know what. So the question is was this authenticated? Was this authenticated? Did anybody do their homework that was supposed to

be done to make sure that Paras was party to this agreement and would provide? As far as you know are you able to indicate whether anybody did that kind of homework?

**DR TANKISI JANKI MASITENG**: No Chairperson I am unable to.

**CHAIRPERSON**: You are unable to say.

**DR TANKISI JANKI MASITENG**: Yes.

**CHAIRPERSON**: And you have not seen anything in the records relating to this project that tells you that that homework was done?

**DR TANKISI JANKI MASITENG**: No, no Chairperson. Except the  
10 mentioning of Paras.

**CHAIRPERSON**: Paras yes. Do we even know whether the Department knew who Paras was other than what they may have been told either by Estina people or by those who may have supported the idea of this project? Do we know anything along those lines? Do you know anything from yourself?

**DR TANKISI JANKI MASITENG**: No, no Chairperson.

**CHAIRPERSON**: You do not know?

**DR TANKISI JANKI MASITENG**: No.

**ADV LEAH GCABASHE**: Do you know as a fact that Mr Peter Thabethe  
20 visited India to go and speak to the Paras people at Paras? Do you know anything about that?

**DR TANKISI JANKI MASITENG**: No. No.

**CHAIRPERSON**: Okay. Well I do not know from the legal team and the investigation side but it may be important that communication with Paras be made so that they can say whether they know anything about

this.

**ADV LEAH GCABASHE:** Chairman a letter was written to Paras it should have been about if not three weeks ago in that region.

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE:** Last I knew we were still waiting for them to respond.

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE:** What the media has inferred is that Paras has denied completely having anything to do with this dairy farm.

10 **CHAIRPERSON:** Yes, yes.

**ADV LEAH GCABASHE:** Or with South Africa.

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE:** But we have sent a letter out.

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE:** Chairman as the commission and we are waiting for a response.

**CHAIRPERSON:** Okay.

**ADV LEAH GCABASHE:** What we have also done Chairman is try to find out if this particular Mr Kumar might have been in the country in

20 April of 2012.

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE:** And therefore he signed this document while he was in South Africa.

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE:** In April of 2012.



**CHAIRPERSON**: Yes.

**ADV LEAH GCABASHE**: We will be coming back with the information that we source.

**CHAIRPERSON**: Ja.

**ADV LEAH GCABASHE**: Mr Peter Thabethe really is the person who can assist with much of this information.

**CHAIRPERSON**: Yes of course also it is necessary to just check with Paras whether they had anybody by that name around that time?

**ADV LEAH GCABASHE**: We have googled Chairman and yes if it is – if  
10 he is not the founder he is the senior person in Paras.

**CHAIRPERSON**: Yes. Okay well that is...

**ADV LEAH GCABASHE**: Mr Kumar.

**CHAIRPERSON**: Let us hope Google is reliable enough.

**ADV LEAH GCABASHE**: Which is why the investigators have through the secretariat.

**CHAIRPERSON**: Have sent a letter.

**ADV LEAH GCABASHE**: Sent a proper letter out.

**CHAIRPERSON**: No that is fine.

**ADV LEAH GCABASHE**: Making enquiries on behalf of the  
20 commission.

**CHAIRPERSON**: Okay that is fine. But what is important is that the Acting Head of the Department even though he might not have been acting Head at that time the Acting Head who has access to all the records of the Department insofar as this project may be concerned says he has not come across any document that suggests that any

authentication, authentication was done. Okay thank you.

**ADV LEAH GCABASHE:** Chairman I have just got a few short questions left.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** The first being Doctor Masiteng do you know anything about the registration of Mahoma-Mobung PTY Limited as a company on the 11 October 2013?

**DR TANKISI JANKI MASITENG:** I do not know that. I only learnt from when you were asking me Chairman it was for the first time.

10 **ADV LEAH GCABASHE:** Yes that is fine. Do you know of Mr Kamal Vasram he is the Director, sole director of Estina?

**DR TANKISI JANKI MASITENG:** I was introduced to Mr Kamal by the Hawks on the 14<sup>th</sup> and the 15<sup>th</sup>. I do not know him. It was for the first time I see that person.

**CHAIRPERSON:** 14<sup>th</sup> and 15<sup>th</sup> of when this month?

**DR TANKISI JANKI MASITENG:** No it was the 14<sup>th</sup> of February 2018.

**CHAIRPERSON:** Okay.

**DR TANKISI JANKI MASITENG:** When the Valentine's Day.

**CHAIRPERSON:** Yes.

20 **DR TANKISI JANKI MASITENG:** And also I met the other group on the 15<sup>th</sup> that was on my son's birthday and that was for the first time I see the family related to the Gupta's it was for the first time.

**ADV LEAH GCABASHE:** In court

**DR TANKISI JANKI MASITENG:** In?

**ADV LEAH GCABASHE:** This was in court?

**DR TANKISI JANKI MASITENG:** That was in court. Yes I was taken to Johannesburg where there was other groups – that is why I am saying I was introduced to the Gupta's by the Hawks. I have never seen them after that.

**ADV LEAH GCABASHE:** Do you know of Mr Chandrama Prasad who is reputed to have been the project officer of Estina?

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE:** At the farm.

**DR TANKISI JANKI MASITENG:** Yes there was a visit I made and then  
10 I found him there as a project manager and also to the offices of the Department he also went there.

**ADV LEAH GCABASHE:** Now there is a witness who will come and say that Mr Prasad know nothing about dairy and that Estina as an IT company knew nothing about dairy. Was that your assessment when you visited the farm and found Mr Prasad there?

**DR TANKISI JANKI MASITENG:** At that time there were I think there was a vet also who had an experience on the animal side. I think in my opinion I was quite happy with the way he was explaining, analysing the diseases and what he is dealing with and so on. But with Prasad I did  
20 not see any dairy except a manager.

**ADV LEAH GCABASHE:** The person who was giving you an explanation was the vet not Prasad?

**DR TANKISI JANKI MASITENG:** Was the vet.

**CHAIRPERSON:** Well Mr Jankielsohn, Jankielsohn.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON**: Indicated when he gave evidence that Estina was actually an IT company. It was – it had nothing to do with – with farming and with you know dairy farming. Do you know anything about that?

**DR TANKISI JANKI MASITENG**: Chairperson I also learnt about that. Quite frankly I was not aware until I saw it on the media and so on and so forth but I was not aware at all about that.

**CHAIRPERSON**: Yes.

**DR TANKISI JANKI MASITENG**: Yes Chairperson.

- 10 **ADV LEAH GCABASHE**: Then there is Mr Ashook Narayan who is said to have been an economic advisor in the Premier's office. Have you met him?

**DR TANKISI JANKI MASITENG**: I struggle to even – Ashook I might have met him but not maybe like discussing or whatever.

**CHAIRPERSON**: Well you are the Acting Head of the Department now would it shock you if somebody in your department gave a dairy farming project to an IT company or is it – or not necessarily?

**DR TANKISI JANKI MASITENG**: To implement?

**CHAIRPERSON**: To do what Estina was supposed to do here.

- 20 **DR TANKISI JANKI MASITENG**: Chairperson if I – I – let me put it like this. If you give it to a person who does not have that experience there must be an assurance that that person will project manage and use the expertise to implement the project.

**CHAIRPERSON**: But normally would the position not be that you would want to give a job to somebody who has that expertise and experience?

**DR TANKISI JANKI MASITENG:** Preferably Chairperson.

**CHAIRPERSON:** Yes. If you deviated from that there would have to be proper justification which could happen maybe where you want to give people who have not been given opportunities before but then you take precautions to make sure that the job will be done.

**DR TANKISI JANKI MASITENG:** Yes Chairperson.

**CHAIRPERSON:** Yes. So as we talk – as we speak now do you know of any justification why an IT company could have been given a job for a dairy – dairy farming?

10 **DR TANKISI JANKI MASITENG:** My apology once again Chairperson I was not in the picture at all.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** But you now have records. You are the Acting Head. You have access to the record. Does it look like there was justification to give this job to Estina?

**DR TANKISI JANKI MASITENG:** Chairperson except the fact that they are also bringing in their contribution and they have partnered with a much more experienced strategic partner in the form of Paras otherwise  
20 there is nothing that I can deduce.

**CHAIRPERSON:** But are you saying because they were going to spend their own money on the project and because they were relying on Paras who was said to have the expertise.

**DR TANKISI JANKI MASITENG:** Yes Chairperson.

**CHAIRPERSON:** Because of that you would say there was

justification?

**DR TANKISI JANKI MASITENG:** I would say yes there was.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** Yes reasons for – to consider.

**CHAIRPERSON:** That is assuming that Paras has the expertise and that indeed it was party to the project.

**DR TANKISI JANKI MASITENG:** Definitely Chairperson.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** Yes.

10 **CHAIRPERSON:** Okay. And you would have authentic – you would have made sure you authenticate?

**DR TANKISI JANKI MASITENG:** Yes Chairperson.

**CHAIRPERSON:** Whether Paras is really party to this thing.

**DR TANKISI JANKI MASITENG:** Yes Chairperson.

**CHAIRPERSON:** And I wonder whether in addition the Department would have wanted to make sure that Paras also signs into some documents just other than having their own arrangement with Estina.

**DR TANKISI JANKI MASITENG:** Yes you are correct Chairperson.

20 **CHAIRPERSON:** So that – so that – because if Paras has an arrangement or agreement with Estina only – if they have a fight and Paras pulls out you will not know necessarily.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** You might not know.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** You may know, you might not know. Whereas if Paras

has signed something with you as well then you have a way of knowing when they have pulled out and then you know we cannot continue with these ones alone because they do not have the expertise.

**DR TANKISI JANKI MASITENG:** I agree with your analysis Chairperson.

**CHAIRPERSON:** Yes. Thank you.

**ADV LEAH GCABASHE:** Chairperson what – also interesting is the fact that the FDC took over after Estina left. Was the FDC the type of entity that could do the work you expected to be done at the farm?

- 10 **DR TANKISI JANKI MASITENG:** If we look at the EXCO memorandum also the whole idea of bringing FDC it was to instil a business element into the projects itself. That was the main purpose and also if you look at the [indistinct] processing value adding that is partly the mandate also of the FDC. So FDC was brought in to actually instil that element of business so that the project can sustain itself. The project can begin to do what is intended for – that is to benefit the beneficiaries and also to benefit other milk producers. Because the idea was to see to it that the processing plant is in operation so that you can begin to collect the milk and process it there and supply the school feeding schemes.
- 20 Those were the things which I am saying the whole idea was actually very good.

**CHAIRPERSON:** Well once Estina had pulled out I assume that that meant Paras also pulling out to the extent that Paras may have been part of the project.

**DR TANKISI JANKI MASITENG:** Yes Chairperson.

**CHAIRPERSON**: Now Paras was relied upon for the expertise and experience required to run this project?

**DR TANKISI JANKI MASITENG**: Yes.

**CHAIRPERSON**: Is that right? Who remained who had the expertise and experience that Paras had provided as far as you know?

**DR TANKISI JANKI MASITENG**: That was the project manager. Because the project manager ...

**ADV LEAH GCABASHE**: Is that Mr Prasad?

**DR TANKISI JANKI MASITENG**: Yes the CP continued with the FDC.

10 **ADV LEAH GCABASHE**: But Mr Prasad had no qualification in dairy or dairy farming.

**DR TANKISI JANKI MASITENG**: Yes I am just saying from that movement of Estina now out you had a project manager by the name of Prasad. Now Prasad FDC is taking over. You still have Prasad. I am just responding to that one. But in terms of what the Chairperson wants to find out I would say – I would go back to your analysis and say if we did have a document that also [indistinct] like we were going to be in the position to say you can go but remember we still have an agreement with you, you need to complete the following outstanding  
20 activities.

**CHAIRPERSON**: Yes but my question is a slightly different one. Estina has pulled out. With Estina pulling out Paras pulled out.

**DR TANKISI JANKI MASITENG**: Yes.

**CHAIRPERSON**: That is my understanding.

**DR TANKISI JANKI MASITENG**: Yes.



**CHAIRPERSON**: The expertise on the basis of which the expertise that Paras was thought to bring in is now gone. Who remained or who was there in regard to the project with the expertise and experience that was required which would take the place of Paras? Was there anybody?

**DR TANKISI JANKI MASITENG**: No. That is why I am saying Chairperson the only people who remained were the people who were part of that let us call it partnership of Estina Paras that the whole team that was working then was never sought of relieved with Estina.

10 They remained with the FDC.

**CHAIRPERSON**: But did they have the expertise – the necessary expertise and experience?

**DR TANKISI JANKI MASITENG**: Except the experience having learnt – having started with the project but the expertise and so on I do not think they had that expertise.

**CHAIRPERSON**: Yes.

**DR TANKISI JANKI MASITENG**: Yes.

**CHAIRPERSON**: Do you...

**DR TANKISI JANKI MASITENG**: Because the expertise will include  
20 also the issues of marketing and so on and so forth.

**CHAIRPERSON**: Do you know whether since then because I was told that the project continues. Do you know whether since then steps have been taken to ensure that the project has the expertise or experience that is required for it to operate viably?

**DR TANKISI JANKI MASITENG**: Yes Chairperson what we did in terms

of also the court order the Department is now in charge of the project.

**CHAIRPERSON**: Yes.

**DR TANKISI JANKI MASITENG**: That is in line with the court order.

**CHAIRPERSON**: Yes.

**DR TANKISI JANKI MASITENG**: We have a senior managers responsible for research and also some of our researchers they are the one who are now assisting on the dairy project.

**CHAIRPERSON**: So now the necessary expertise and experience is there?

10 **DR TANKISI JANKI MASITENG**: Is there Chairperson.

**CHAIRPERSON**: Yes.

**DR TANKISI JANKI MASITENG**: Yes.

**CHAIRPERSON**: Okay. Have your learned friends found the document they were looking for?

**ADV LEAH GCABASHE SC**: No they have not. They have not Chairman and I must apologise. I know we have seen that document and Dr Masiteng knows that we have.

**DR TANKISI JANKI MASITENG**: I know *ja*.

20 **ADV LEAH GCABASHE SC**: But I think Chairman it is a fair question to ask him just to give you a summary of what he thought the deviation could entail. What ...?

**CHAIRPERSON**: Well did you say it is in the bundle?

**ADV LEAH GCABASHE SC**: It is not in this bundle Chairman ...

**CHAIRPERSON**: It is not in this bundle ...

**ADV LEAH GCABASHE SC**: But I ...

**CHAIRPERSON:** Or any of the bundles?

**ADV LEAH GCABASHE SC:** Or any of the bundles that you have  
Chairman ...

**CHAIRPERSON:** Oh, okay.

**ADV LEAH GCABASHE SC:** And I do apologise ...

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE SC:** Because I am very sure that we have that  
document.

**CHAIRPERSON:** Will ...

10 **ADV LEAH GCABASHE SC:** Somewhere in the other documentation.

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE SC:** Yes.

**CHAIRPERSON:** Well I saw you holding some document there. Is it  
the document?

**DR TANKISI JANKI MASITENG:** Yes Chairperson.

**CHAIRPERSON:** Oh, okay. Then copies can – can be made. Have you  
seen it in any of the bundles that you looked at?

**DR TANKISI JANKI MASITENG:** No.

20 **CHAIRPERSON:** Okay but you – but you – you have got – is there a  
copy?

**ADV LEAH GCABASHE SC:** Which document are you referring to  
Dr Masiteng? I just want to be sure we are talking about the same  
document.

**CHAIRPERSON:** Well somebody can just ...

**DR TANKISI JANKI MASITENG:** The one – there was ...

**CHAIRPERSON:** Show it to you.

**DR TANKISI JANKI MASITENG:** There was a question from the Chairperson that had two submissions.

**ADV LEAH GCABASHE SC:** Okay.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** The second one that ...

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** Deals with the deviation.

**CHAIRPERSON:** Yes that is the one now ...

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

**CHAIRPERSON:** I was looking for.

**ADV LEAH GCABASHE SC:** Then I am satisfied it is the correct one.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Yes, yes. Okay. Can I have a look at the document – at your copy? I will bring it back.

**ADV LEAH GCABASHE SC:** Chairman, can I ask him two short questions

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE SC:** That we can just dispose of.

20 **CHAIRPERSON:** Yes that is fine.

**ADV LEAH GCABASHE SC:** Mr Dhlamini referred to you in his evidence yesterday and said you had met him and spoken to him outside the hall just before a meeting. Do you confirm that that discussion did take place?

**DR TANKISI JANKI MASITENG:** Yes I confirm that.

**ADV LEAH GCABASHE SC:** And what was that discussion about?

**DR TANKISI JANKI MASITENG:** When I arrived there I was informed that – remember it was for the first time I met with the group and I was informed that Mr Dhlamini is actually the one who is – who is leading the group and I could sense that the venue is too small and I then said okay it is fine. Request Mr Dhlamini to come here so that we can agree on the venue.

I was a little bit surprised on the issues of the – we – we do not where do you belong to with the farmers. Not at all. You are not  
10 allowed to do that as Government Officials. It does not matter which political party are you affiliated to. What is fundamental is the service that you are requesting.

**ADV LEAH GCABASHE SC:** Then the other important aspect is the Beneficiary Agreement.

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE SC:** The Chairman was interested in understanding how you came to sign that Beneficiary Agreement.

**DR TANKISI JANKI MASITENG:** Yes, yes.

**ADV LEAH GCABASHE SC:** As soon as the Chairman finishes reading  
20 can you please give him an explanation?

**DR TANKISI JANKI MASITENG:** Okay.

**CHAIRPERSON:** Copies of the - the document will be made and I suggest that we – we mark – we include it in the – in the bundle.

**ADV LEAH GCABASHE SC:** In the reference bundle Chairman?

**CHAIRPERSON:** Well you can decide whether in his – in the – in the

file that has got his statement or in the reference bundle but it should be included. It is important but I just want to ask some questions. I see Dr Masiteng that – (clearing throat) excuse me – the document is dated 5 July 2012 which I think is the same date ...

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** As the other document ...

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** And it is addressed to Mr M Peter Thabethe the head of Department Agriculture exactly the same way as the other one.

10 **DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Is that correct?

**DR TANKISI JANKI MASITENG:** Yes Chairperson.

**CHAIRPERSON:** And in terms of the purpose it appears that it has a third purpose which the other document did not have. Is that right?

**DR TANKISI JANKI MASITENG:** Exactly Chairperson.

**CHAIRPERSON:** But the first two bullet points under – under the purpose would be the same as the other document. Is that right?

**DR TANKISI JANKI MASITENG:** Yes Chairperson.

**CHAIRPERSON:** The third purpose says:

20                    “It is to get approval from the head of department to deviate from the normal Supply Chain Management processes and procedure and appoint Estina/Paras to implement establish integrated dairy in Vrede.”

You – you remember that?

**DR TANKISI JANKI MASITENG:** Yes Chairperson.

**CHAIRPERSON:** And – and on page 2 it says among other things:

“The department in consultation with Estina/Paras have identified 4 400 hectares of municipal land in Vrede.”

And then in the next paragraph it says:

“Paras involvement in milk industry will improve milk productivity locally, provincially, nationally and internationally.”

Then it says a lot of things about Paras. Paras’ involvement  
10 in the internationally market including Germany, France, Turkey, Belgium and so on and then in that same paragraph on page 2 that is the middle paragraph it says:

“The Paras are international recognised and would like to maintain that recognition. It is against this background the department is seeking to deviate against the normal SCM processes and procedures and enter into a Memorandum of Agreement with Estina/Paras to implement and manage the operations of the project during its life cycle.”

20 That is part of what it says. Then – and then on page 3 paragraph 4:

“The department has set aside R30 million under Mohuma Mobung in the current financial year 2012/2013 for this initiative. The intended period for the completion of this initiative is over a period of three years.”

Five:

“All relevant role players will be informed about the outcome of the submission.”

Six:

“The parties consulted the executive management of the Department of Agriculture and Rural Development. Phumelela Local Municipality Management and the management of Estina/Paras.”

That means all those have been consulted and then under  
10 paragraph 7 the heading is “Authority for Approval”. Then it says:

“The Authority of Approval is vested in the head of the Department of Agriculture.”

Paragraph 4 - there is recommendation. That is now eight.

“It is recommended that approval is granted by the head of department to:”

Bullet point 1:

“Accept the proposal from Estina/Paras with regard to the establishment of integrated dairy in Vrede and ...”

20 Bullet point 2:

“Enter into a Memorandum of Agreement with Estina/Paras to implement the integrated dairy project in Vrede.”

Bullet point 3:

“To deviate from the normal supply chain



management processes and procedure and appoint  
Estina/Paras to implement establish integrated  
dairy in Vrede.”

And then below that is – are three blocks similar to the ones  
we saw in regard to the – in the other document. The first block says:

“Submitted by”

And then there is a signature and then says:

“Dr T J Masiteng GM District Services.”

Then the next block says:

10 “Recommended/Not recommended”

And not recommended is crossed out which means it has  
been recommended and there is a signature and it says:

“Ms S Dlamini CFO DARD.”

The next block says:

“Approved/Not approved”

And there is a signature and it says:

“Mr P M Thabethe HOD Agriculture.”

Now I – I have said that under paragraph 8 there is a recommendation  
there.

20 **DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Who is making that recommendation?

**DR TANKISI JANKI MASITENG:** It is – it is the CFO.

**CHAIRPERSON:** Hm. No, no. That is before the block. I know you do  
not have the benefit of ...

**DR TANKISI JANKI MASITENG:** Oh.

**CHAIRPERSON:** Looking at – at the document but as I understand it from the beginning of the document you are the one who is speaking here. Is it not?

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Who is writing here?

**DR TANKISI JANKI MASITENG:** Yes, yes.

**CHAIRPERSON:** *Ja.* So you are saying these things on page 1 and page 2?

**DR TANKISI JANKI MASITENG:** Yes Chairperson.

10 **CHAIRPERSON:** Okay and page 3. You are saying all of these things. Then we come to eight. There is a recommendation under paragraph 8 on page 4 and it says:

“It is recommended that approval is granted ...”

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** “...by the head of department.”

**DR TANKISI JANKI MASITENG:** Yes. It is granted.

**CHAIRPERSON:** To.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** And then there are those three bullet points.

20 **DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** And then at the bottom there are those three blocks.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** So I am asking the question who is making that recommendation under paragraph 8.

**DR TANKISI JANKI MASITENG:** Is the HOD.

**CHAIRPERSON:** Hm.

**DR TANKISI JANKI MASITENG:** The HOD is the one who is saying – the recommendations he will be saying Chairperson. If you are saying it is recommended that approval is granted yes it means the HOD.

**CHAIRPERSON:** Well ...

**DR TANKISI JANKI MASITENG:** If you are – if you are saying ...

**CHAIRPERSON:** Can he be recommending to himself?

**DR TANKISI JANKI MASITENG:** Yes. Most – most probably yes.

**CHAIRPERSON:** Hm.

10 **DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** You say he is recommending to himself?

**DR TANKISI JANKI MASITENG:** Yes. Remember what is happening with this kind of submissions in the department you are very clear as an Accounting Officer that this is what I can recommend. If ...

**CHAIRPERSON:** No but – but the – the actual the approves I thought that was the understanding.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** He does the approval?

**DR TANKISI JANKI MASITENG:** Yes of what ...

20 **CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** He is supporting. You do not just approve anything.

**CHAIRPERSON:** Yes, yes.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** But – but documents such as this emanate from a

lower level.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Is that correct?

**DR TANKISI JANKI MASITENG:** Yes that is correct.

**CHAIRPERSON:** Okay and maybe without talking about this one in particular but generally they would emanate from a lower level and if the requirement is that before they reach the HOD they must go through – through somebody else who must make a recommendation.

**DR TANKISI JANKI MASITENG:** Yes.

- 10 **CHAIRPERSON:** Then the person who initiates the document is actually the one who is seeking a recommendation from somebody and ultimately approval from the head of department. I am talking generally now. (Intervenes).

**DR TANKISI JANKI MASITENG:** Yes I understand you clearly.

**CHAIRPERSON:** You understand.

**DR TANKISI JANKI MASITENG:** You are correct. You are 100 percent correct.

**CHAIRPERSON:** And I am correct?

**DR TANKISI JANKI MASITENG:** Yes.

- 20 **CHAIRPERSON:** Yes. Now I am saying to you I am looking at this document on the basis that that would be – that was (indistinct) as well.

**DR TANKISI JANKI MASITENG:** Yes Chairperson.

**CHAIRPERSON:** And – and then I ask the question who therefore was making the recommendation that is at paragraph 8.

**DR TANKISI JANKI MASITENG:** In the normal processes?

**CHAIRPERSON:** No, no I am back now on this document.

**DR TANKISI JANKI MASITENG:** On this one?

**CHAIRPERSON:** Ja.

**DR TANKISI JANKI MASITENG:** It means ...

**CHAIRPERSON:** Hm.

**DR TANKISI JANKI MASITENG:** The – the CFO in this case ...

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** Is now recommending to the  
10 Accounting Officer ...

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** And the Accounting Officer is  
approving.

**CHAIRPERSON:** Yes but the C – the CFO did not write these things  
here.

**DR TANKISI JANKI MASITENG:** Exactly.

**CHAIRPERSON:** That is correct.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** They were written by somebody else.

20 **DR TANKISI JANKI MASITENG:** Yes. What is happening in most  
cases ...

**CHAIRPERSON:** Hm.

**DR TANKISI JANKI MASITENG:** The – such a submission ...

**CHAIRPERSON:** Hm.

**DR TANKISI JANKI MASITENG:** Cannot be recommended by the CFO

...

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** If she does not have input on it.

**CHAIRPERSON:** Yes.

**MR TANKISI JANKI MASITENG:** It can go to and fro 10 times ...

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** Until she is saying I am happy ...

**CHAIRPERSON:** Yes, yes.

**DR TANKISI JANKI MASITENG:** And the same applies to the HOD.

10 **CHAIRPERSON:** Yes, yes.

**DR TANKISI JANKI MASITENG:** It can – the HOD can even decide to say I am no more approving it and then return it.

**CHAIRPERSON:** You see if there was no block here saying submitted by and with somebody's signature there I would say and all that we had was the CFO's signature and the approval. Then I would say that I need to look at only the two ...

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** If I want to find out who is speaking – who is saying it is recommended that approval is granted by the head of department. I  
20 would look at those who are here.

**DR TANKISI JANKI MASITENG:** Ja.

**CHAIRPERSON:** Okay. Now the fact of the matter is that there are three people here.

**DR TANKISI JANKI MASITENG:** Hm.

**CHAIRPERSON:** Yourself, the CFO and the head of department. The

CFO has recommended. The head of department has approved.

**DR TANKISI JANKI MASITENG:** Huh-uh.

**CHAIRPERSON:** So my impression is that the person who is making the recommendation at paragraph 8 would be the compiler of the - or the person who submits the document. So I want you to comment on that. Why should I not read this along those lines?

**DR TANKISI JANKI MASITENG:** You are correct Chairperson ...

**CHAIRPERSON:** Hm.

**DR TANKISI JANKI MASITENG:** With your analysis to say ...

10 **CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** If for instance let me say I am requesting a car.

**CHAIRPERSON:** Hm.

**DR TANKISI JANKI MASITENG:** A subsidised vehicle.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** Then I – I will submit - it is not even necessary because we have a policy now to say ...

**CHAIRPERSON:** Yes, yes.

20 **DR TANKISI JANKI MASITENG:** You do not need a hundred people signing ...

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** Documents.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** They will just maybe submit. It will go to the Director. It will go to the Chief Director but it still has to go to

the CFO.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** The CFO is the last person who will then recommend to – to the HOD. That is under – let us categorise under a normal ...

**CHAIRPERSON:** Situation.

**DR TANKISI JANKI MASITENG:** Submission ...

**CHAIRPERSON:** Yes, yes.

**DR TANKISI JANKI MASITENG:** Which I am – I want.

10 **CHAIRPERSON:** *Ja*.

**DR TANKISI JANKI MASITENG:** It is me who is requesting a pen.

**CHAIRPERSON:** Yes, yes.

**DR TANKISI JANKI MASITENG:** It is me who is requesting a laptop.

**CHAIRPERSON:** *Ja*. It like when you are ...

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** When you – when a Chief Director wants to go on leave. Maybe not – let us not say Chief Director a Director.

**DR TANKISI JANKI MASITENG:** Yes.

20 **CHAIRPERSON:** When they want to go on leave. The Chief Director who I assume would be their immediate superior ...

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Would need to sign whether – maybe recommend. I do not know.

**DR TANKISI JANKI MASITENG:** They approve.

**CHAIRPERSON:** Maybe ultimately somebody else must approve.



**DR TANKISI JANKI MASITENG**: There are delegations.

**CHAIRPERSON**: There are delegations.

**DR TANKISI JANKI MASITENG**: The Chief – in this case ...

**CHAIRPERSON**: Yes.

**DR TANKISI JANKI MASITENG**: Let us say it starts from the Deputy Director or the Assistant Director.

**CHAIRPERSON**: Yes.

**DR TANKISI JANKI MASITENG**: The Deputy Director ...

**CHAIRPERSON**: Yes.

10 **DR TANKISI JANKI MASITENG**: Will recommend or support ...

**CHAIRPERSON**: Yes.

**DR TANKISI JANKI MASITENG**: And then the Director will also maybe say I know ...

**CHAIRPERSON**: Or recommend.

**DR TANKISI JANKI MASITENG**: recommend.

**CHAIRPERSON**: Yes.

**DR TANKISI JANKI MASITENG**: And then the CFO signs. The Chief Director in this case ...

**CHAIRPERSON**: *Ja*.

20 **DR TANKISI JANKI MASITENG**: Approves.

**CHAIRPERSON**: Approves, yes.

**DR TANKISI JANKI MASITENG**: Yes.

**CHAIRPERSON**: Yes. So that – that is the context of

**DR TANKISI JANKI MASITENG**: Those are the ladders.

**CHAIRPERSON**: Which I am looking at that you have somebody who is

requesting. You have got somebody who needs approval ...

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Ultimately ...

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** But the person who has the authority to approve does not want to or cannot approve unless somebody else has recommended and therefore there is ...

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** A requestor, there is a recommender and there is an  
10 approver.

**DR TANKISI JANKI MASITENG:** Exactly.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** That is why we are saying in most ...

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** If it was according to ...

**CHAIRPERSON:** Normal.

**DR TANKISI JANKI MASITENG:** Let us say – no. If we are saying we want to do away with other officials to sign documents.

**CHAIRPERSON:** Yes, yes.

20 **DR TANKISI JANKI MASITENG:** We could say HOD it is you who wants this.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** Compile it and approve it yourself ...

**CHAIRPERSON:** Yes, yes.

**DR TANKISI JANKI MASITENG:** But in this case the HOD has got the

powers to say compile it for me.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** You cannot just write it and say here is it.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** You will still have to say okay you want it ...

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** Then I am compiling it to you.

10 **CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** It still has to go to another person ...

**CHAIRPERSON:** *Ja.*

**DR TANKISI JANKI MASITENG:** And then it goes to the HOD.

**CHAIRPERSON:** So is your point that although here it – it does look like you – you were making the recommendation. You were just doing what the HOD wanted you to do?

**DR TANKISI JANKI MASITENG:** Yes which could be any person.

**CHAIRPERSON:** *Ja.*

**DR TANKISI JANKI MASITENG:** In this case yes.

20 **CHAIRPERSON:** But not that it was something coming from – from you.

**DR TANKISI JANKI MASITENG:** No not at all.

**CHAIRPERSON:** *Ja.*

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** He wanted to achieve a certain objective and he asked you to prepare a document. You prepared a document. He had

told you that he was deviating.

**DR TANKISI JANKI MASITENG:** Yes, yes.

**CHAIRPERSON:** He thought there were enough grounds to deviate. You might have had a different view but your attitude was it is his decision and I will prepare the document.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** The only problem is just that your name is there, your signature is there.

**DR TANKISI JANKI MASITENG:** Yes. I could have just compiled it,  
10 give it to him.

**CHAIRPERSON:** Yes. You could have said well I do not want – I can prepare it for you but ...

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** It will be in your name not in my name.

**DR TANKISI JANKI MASITENG:** Exactly Chair.

**CHAIRPERSON:** Yes, okay. Thank you. Lerato take (intervenes).

**ADV LEAH GCABASHE SC:** Thank you Chair. We found the copies that we had.

**CHAIRPERSON:** Oh have you found it? Oh, give it to Dr Masiteng.  
20 Thank you very much. Okay, thank you. I am done.

**ADV LEAH GCABASHE SC:** We will add it to the reference bundle Chair.

**CHAIRPERSON:** Okay. No that is fine.

**ADV LEAH GCABASHE SC:** And so this document we will simply paginate properly and put in your reference bundle.

**CHAIRPERSON:** No that is fine.

**ADV LEAH GCABASHE SC:** If I may just ask one last question arising from the questions you have been asking Dr Masiteng?

**DR TANKISI JANKI MASITENG:** Yes.

**ADV LEAH GCABASHE SC:** From this document Dr Masiteng you did not stand to benefit anything really ...

**DR TANKISI JANKI MASITENG:** No, nothing at all.

**ADV LEAH GCABASHE SC:** By ...

**CHAIRPERSON:** Hm.

10 **ADV LEAH GCABASHE SC:** Compiling it in the manner in which you compiled it.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** Hm. Okay, thank you. Are you done?

**ADV LEAH GCABASHE SC:** The only other thing you were interested in Chairman were the Beneficiary Agreements which were drafted. Well whether they were prepared by Dr Masiteng. I do not know if you still want to hear his version of those Beneficiary Agreements.

**CHAIRPERSON:** I – unless you – well you have looked at them. Unless there - there is something important if they are there.

20 **ADV LEAH GCABASHE SC:** It – it was really just why they were compiled in that particular manner. So they had not separated the different beneficiaries.

**CHAIRPERSON:** Oh.

**ADV LEAH GCABASHE SC:** The clauses did not really make sense.

**CHAIRPERSON:** Oh.

**ADV LEAH GCABASHE SC:** So when Mr Venter was here you were interrogating that issue.

**CHAIRPERSON:** Oh.

**ADV LEAH GCABASHE SC:** Dr Masiteng has an explanation. Maybe he should give us a very short explanation so on record ...

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE SC:** He has given you an explanation.

**CHAIRPERSON:** Okay. No I think ask – ask him because I have forgotten what my line of questioning was, *ja*.

- 10 **ADV LEAH GCABASHE SC:** So Dr Masiteng could you just explain to the Chairman how you came to be responsible for those Beneficiary Agreements and why they were drafted in the manner in which they were drafted.

**DR TANKISI JANKI MASITENG:** Thank you Chairperson. What happened is that as a compliance issue after an approval you must enter into a Beneficiary Agreement with those beneficiaries. That is ...

**CHAIRPERSON:** Oh. That – is that the agreement that was between the department and the projects?

**ADV LEAH GCABASHE SC:** Correct.

- 20 **DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** And the project with the assistance of the beneficiary or something like that.

**ADV LEAH GCABASHE SC:** Correct. That is the one ...

**CHAIRPERSON:** Yes, okay. Now I remember, yes.

**ADV LEAH GCABASHE SC:** That bothered you a bit.

**CHAIRPERSON:** Yes, yes. Now well what was strange to me is when I looked at – at those agreements at least one of them they just did not seem to be you know – some of the aspects did not seem to make sense like it was between the department and the dairy project. You cannot have an agreement with a project you know but maybe if whoever drafted them and if you say it is you it is because you are not – I should not say you are not – you might not be a lawyer.

I do not know all your qualifications. You might not be a lawyer and therefore you - you might not have appreciated those  
10 things.

**DR TANKISI JANKI MASITENG:** Okay. No, no thank you very much Chairperson. The – the agreement was not actually drafted by myself.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** It was drafted by our legal team. We also realised with time that – remember that was in 2013.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** Then we realised that there are certain clauses that ...

**CHAIRPERSON:** Hm.

20 **DR TANKISI JANKI MASITENG:** We have to clean off which our legal team has gone through that. We also went through AGs recommendations ...

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** And findings and then it was correct but fact of the matter is that that one Chairperson ...

**CHAIRPERSON:** Hm.

**DR TANKISI JANKI MASITENG:** Was signed with the beneficiaries ...

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** of the dairy project.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** That was the thing ...

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** And you cannot take a project to national ...

10 **CHAIRPERSON:** Hm.

**DR TANKISI JANKI MASITENG:** If it does not have beneficiaries.

**CHAIRPERSON:** Hm.

**DR TANKISI JANKI MASITENG:** That is why they were forced to give us that - the list – the first list ...

**CHAIRPERSON:** Hm.

**DR TANKISI JANKI MASITENG:** Of the beneficiaries ...

**CHAIRPERSON:** Hm.

**DR TANKISI JANKI MASITENG:** And the second list which was now going with the beneficiary agreement ...

20 **CHAIRPERSON:** hm.

**DR TANKISI JANKI MASITENG:** Had to go with the IDs ...

**CHAIRPERSON:** Hm.

**DR TANKISI JANKI MASITENG:** Because now we are sure that this project has been approved ...

**CHAIRPERSON:** Hm.



**DR TANKISI JANKI MASITENG:** And that I did because I was delegated to do that ...

**CHAIRPERSON:** Hm.

**DR TANKISI JANKI MASITENG:** And I can read to you the letter that was delegating that responsibility to me.

**CHAIRPERSON:** No, no. The issue was not so much the delegation in terms of what I was looking at. It was simply the content and ...

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** And certain aspect – aspects of it. So – but – but the  
10 agreement that I – I am talking about that was the one which was saying the agreement is between the Department of Agriculture and then instead of telling – of giving the name of the beneficiary. It would give the name of the project ...

**DR TANKISI JANKI MASITENG:** Okay.

**CHAIRPERSON:** And then below that it would say something like in association with then the beneficiary. That is the one I am talking about.

**DR TANKISI JANKI MASITENG:** You are spot on Chairperson.

**CHAIRPERSON:** *Ja.*

20 **DR TANKISI JANKI MASITENG:** We have corrected that in

**CHAIRPERSON:** *Ja.*

**DR TANKISI JANKI MASITENG:** The new agreement.

**CHAIRPERSON:** But that was your legal department that had drafted that one?

**DR TANKISI JANKI MASITENG:** Yes. It was drafted a long time - I

think it was drafted ...

**CHAIRPERSON:** Oh.

**DR TANKISI JANKI MASITENG:** In 2010. We have been using it ...

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** Until 2013 after this one.

**CHAIRPERSON:** *Ja*.

**DR TANKISI JANKI MASITENG:** when we said no, no, no. There are certain things that ...

**CHAIRPERSON:** *Ja*.

10 **DR TANKISI JANKI MASITENG:** No more relevant in this case.

**CHAIRPERSON:** Okay. No that is fine.

**DR TANKISI JANKI MASITENG:** Yes.

**CHAIRPERSON:** That is fine. Thank you.

**ADV LEAH GCABASHE SC:** Just for the record Chairman that particular agreement is on page 1-3-3-3 of ...

**CHAIRPERSON:** 1333?

**ADV LEAH GCABASHE SC:** correct ...

**CHAIRPERSON:** Hm.

**ADV LEAH GCABASHE SC:** Chairman of Reference Bundle D.

20 **CHAIRPERSON:** Okay, thank you.

**ADV LEAH GCABASHE SC:** Just for record purposes.

**CHAIRPERSON:** Thank you.

**ADV LEAH GCABASHE SC:** Chairman ...

**CHAIRPERSON:** Otherwise I am done.

**ADV LEAH GCABASHE SC:** Chairman otherwise those are the ...

**CHAIRPERSON:** Questions.

**ADV LEAH GCABASHE SC:** Issues we really wanted to raise with Dr Masiteng.

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE SC:** Unless there are other matters that he thinks are important that we have not touched on that he does want you ...

**CHAIRPERSON:** Hm.

**ADV LEAH GCABASHE SC:** To – to know about we – we ...

10 **CHAIRPERSON:** Yes, you are done.

**ADV LEAH GCABASHE SC:** Have done our bit.

**CHAIRPERSON:** Is – is there anything else that you feel the Commission should know about this whole project that you have not mentioned?

**DR TANKISI JANKI MASITENG:** No Chairperson. Thank you very much for the opportunity. Chairperson I just want to indicate that there has never been a – a meeting where I was called and corruption into this project was discussed with me. Not at all.

**CHAIRPERSON:** Okay.

20 **DR TANKISI JANKI MASITENG:** I – I have no idea whatsoever ...

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** About the ...

**CHAIRPERSON:** Issues.

**DR TANKISI JANKI MASITENG:** I am also shocked about some of the things Chairperson.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** That is why I am also in – in understanding the – the District Directors and the project coordinators emotions and feelings around these things ...

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** And I know they were doing it out of their own heart. They were doing their job.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** They knew about ...

10 **CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** These other challenges that ...

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** That we are confronted with Chairperson.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** But thank you very much Chairperson ...

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** For the opportunity.

20 **CHAIRPERSON:** The – just the last part if you are able to say. You might not be able to say off the top of your head. More or less how much is – are the taxpayers paying for this project annually maybe in the last three years? More or less not necessarily the exact figure. In what - what region in terms of amounts are we talking about as it continues?

**DR TANKISI JANKI MASITENG:** Hm.

**CHAIRPERSON:** Or is that difficult to say without (intervenes)?

**DR TANKISI JANKI MASITENG:** It is a little bit difficult Chairperson because even the court order ...

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** Is suggesting that look there department must budget for the project.

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** I think it was – it is done in good faith  
10 to say ...

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** You cannot let it fall.

**CHAIRPERSON:** Yes, okay.

**DR TANKISI JANKI MASITENG:** You have to invest. So we are still budgeting ...

**CHAIRPERSON:** Yes.

**DR TANKISI JANKI MASITENG:** For it ...

**CHAIRPERSON:** Okay.

**DR TANKISI JANKI MASITENG:** In terms of the court order ...

20 **CHAIRPERSON:** Okay.

**DR TANKISI JANKI MASITENG:** But I think I can go into – we will be able to abstract from our last report ...

**CHAIRPERSON:** (Intervenes).

**DR TANKISI JANKI MASITENG:** I might be able to ...

**CHAIRPERSON:** And – and send it to the legal team just to say maybe

from the time it started this is what has been paid – has been spent annually up to – up to now the previous financial year by the Provincial Department and maybe national. I do not know. Just to give us a full picture of how much money has gone into it.

**DR TANKISI JANKI MASITENG:** No problem.

**CHAIRPERSON:** So if you could prepare something like that and be in touch with the legal team that would be very helpful.

**DR TANKISI JANKI MASITENG:** No thank you very much.

**CHAIRPERSON:** Yes, yes. No thank you very – thank you very much  
10 for coming to give evidence to the Commission. We appreciate it. You are excused.

**DR TANKISI JANKI MASITENG:** Okay, thank you.

**CHAIRPERSON:** Thank you.

**ADV LEAH GCABASHE SC:** Thank you – thank you Chairman. We have your bundles for tomorrow.

**CHAIRPERSON:** Yes. No that is fine.

**ADV LEAH GCABASHE SC:** And we will be handing those up.

**CHAIRPERSON:** Yes. Tomorrow how many witnesses have you got?

**ADV LEAH GCABASHE SC:** There are two witnesses Chairman ...

20 **CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE SC:** And they as you can see ...

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE SC:** Their bundles are fairly slim.

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE SC:** It is Mr Doctor Radebe and

Mr Willie Basson.

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE SC:** They should not take too long Chairman.

**CHAIRPERSON:** Oh okay. No that is fine. Is Mr Thabethe coming?

**ADV LEAH GCABASHE SC:** We have ...

**CHAIRPERSON:** This week.

**ADV LEAH GCABASHE SC:** No.

**CHAIRPERSON:** Not this week.

**ADV LEAH GCABASHE SC:** No Chairman. We have tried to engage

10 Mr Thabethe.

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE SC:** We continue to try.

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE SC:** We will come back to you by Friday ...

**CHAIRPERSON:** Okay.

**ADV LEAH GCABASHE SC:** When we break to tel you what progress  
we are making.

**CHAIRPERSON:** Okay.

**ADV LEAH GCABASHE SC:** We are not making much progress at this

20 point Chairman but we will see.

**CHAIRPERSON:** Yes. Okay. No that is – that is fine.

**ADV LEAH GCABASHE SC:** If I might say the intention is to have  
Mr Thabethe come – he certainly has got 3.3 notices. The CFO Dlamini  
got 3.3 notices.

**CHAIRPERSON:** Ja.

**ADV LEAH GCABASHE SC:** MEC Rockman Finance, MEC Thabethe Agriculture, MEC Lamleli Agriculture. They all have 3.3 notices ...

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE SC:** And then Mr Zwane and Mr Magpele ...

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE SC:** But it is scheduling those appearances Chairman that might be a little bit of a challenge. We will see how it goes.

**CHAIRPERSON:** Yes. Okay, no. Arrangements need to be made for –  
10 for the legal team to say to them we would like to talk to you about what certain witnesses say about you and/or to say we would like you to provide your version by way of affidavits but preferably if they agree an interview where they can put their version and statements can be prepared or if an arrangement is made with their lawyers to say we will provide their statements.

We will prepare them and an agreement would have to be made in terms of timeframes. That would still be fine but in the end it will be important that they come and give their side of the story as well.  
*Ja, ja.*

20 **ADV LEAH GCABASHE SC:** Thank you Chair.

**CHAIRPERSON:** And – and be questioned, *ja*. Okay. We – tomorrow we can start – we should – we can start at 10 I guess.

**ADV LEAH GCABASHE SC:** Chairman we have an additional hearing that you slotted in for my colleagues at half past four. So we ...

**CHAIRPERSON:** Oh in the afternoon.



**ADV LEAH GCABASHE SC:** In the afternoon.

**CHAIRPERSON:** Yes.

**ADV LEAH GCABASHE SC:** So we must be done by four, 04:15.

**CHAIRPERSON:** Yes but how does it look like in terms of the people you have?

**ADV LEAH GCABASHE SC:** 10 o' clock my colleague said. They will be leading these witness Chairman. They said 10 o' clock as a starting time is perfect. They do not think they need more than two hours for each witness.

10 **CHAIRPERSON:** Yes. Okay, alright. We will then adjourn and tomorrow we will start at 10 o' clock. We adjourn.

**REGISTRAR:** All rise.

**INQUIRY ADJOURNS TO 25 JULY 2019**