

COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

PARKTOWN, JOHANNESBURG

10

29 AUGUST 2019

DAY 152

20

PROCEEDINGS ON 29 AUGUST 2019

CHAIRPERSON: Good morning Ms Hofmeyr, good morning everybody.

ADV KATE HOFMEYR: Morning Chair.

CHAIRPERSON: Good morning Mr Natasen. Are we ready>?

ADV KATE HOFMEYR: We are indeed Chair.

CHAIRPERSON: Yes thank you.

ADV KATE HOFMEYR: Chair there were a few procedural aspects just to deal with at the outset if I may?

CHAIRPERSON: Yes.

- 10 **ADV KATE HOFMEYR**: The first of those relate to the application that Mr Natasen made to cross-examine Ms Tlatsana.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: At the last hearing of Mr Natasen's evidence there was an opportunity afforded to him to supplement that application in order to set out the grounds on which her evidence was disputed. It has been supplemented.

CHAIRPERSON: Hm.

- ADV KATE HOFMEYR**: And so Chair it is appropriate for me to just place before you then the supplemented version of the cross-
20 examination application. If I may beg leave to hand that up?

CHAIRPERSON: Thank you.

ADV KATE HOFMEYR: The second procedural aspect Chair is you will recall there was a confidentiality regime so to speak that we entered into at the commencement of Mr Natasen's evidence last time and that was [intervention].

CHAIRPERSON: I cannot remember but [intervention].

ADV KATE HOFMEYR: Well let me if I may.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Let me if I may just [intervention].

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Record what was ruled there. Mr Natasen raised the concern that there is a number of his banking information and other documents that had been supplied to the commission not all of which would be relevant to the investigations and mandate of the
10 commission. So Chair you gave a ruling at the commencement of last proceedings that a process would be adopted whereby in the course of the evidence where reference is made to a page of such a document that would be highlighted and then before it was put on the website of the commission after Mr Natasen's evidence is concluded the rest of the page would be blacked out so that we would protect the confidentiality and privacy interests. I only raise it now because that was a ruling about Wednesday many weeks ago.

CHAIRPERSON: Yes, yes.

ADV KATE HOFMEYR: And then secondly there have been further
20 documents supplied since Mr Natasen's last evidence and so it is my proposal that we simply extend the confidentiality regime to all the documents that we traverse today. On the last occasion Chair we heard his evidence on a Friday and you ruled that until the following Wednesday it would not be placed on the website and so my proposal would be that we do a similar thing. We say after three working days

from today it may only then be placed on the website.

CHAIRPERSON: I do not think there will be problem with that. Do you know whether Mr Natasen's legal representative has any objection to that? Is that something that has been agreed?

ADV KATE HOFMEYR: I certainly raised with him that I would address it with you today.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: My specific proposal of the three days I did not discuss with him.

10 **CHAIRPERSON**: Yes.

ADV KATE HOFMEYR: But he is of course free to indicate if he has any difficulty with it.

CHAIRPERSON: Yes. Okay let me hear if he has anything to say?

ADV ANDRE PIENAAR: Morning Chair.

CHAIRPERSON: Good morning.

ADV ANDRE PIENAAR: Nice to see you again.

CHAIRPERSON: Nice to see you.

ADV ANDRE PIENAAR: I have no objection.

CHAIRPERSON: You have no objection?

20 **ADV ANDRE PIENAAR**: No.

CHAIRPERSON: Thank you very much. The ruling to which you have referred that I made will therefore apply to the documents to which you have referred and the three days you proposed would be applicable to it.

ADV KATE HOFMEYR: We are indebted Chair thank you.

CHAIRPERSON: Thank you.

ADV KATE HOFMEYR: The third aspect just at the outset Chair is that the legal representatives for Mr Natasen have engaged with the commissioning correspondence to indicate that they would like an opportunity to re-examine Mr Natasen. It has been the proposal from the legal team to them that that take place immediately after the questioning of Mr Natasen concludes today. We also in advance of today indicated to Mr Natasen's lawyers that we would be happy if necessary to extend beyond four o'clock today so that we could with
10 your leave Chair if it becomes necessary complete the evidence today both questioning and re-examination. So that is our proposal.

CHAIRPERSON: And the – have they indicated if they are fine with that or not yet?

ADV KATE HOFMEYR: Again my understanding is yes but if Mr – it is indeed yes.

CHAIRPERSON: Oh yes he confirms. No that is fine. There will be an opportunity for Mr Natasen's legal representative to re-examine him and as far as possible we will try to make sure we finish today even if it means we go beyond four o'clock. But maybe when we reach four
20 o'clock we can just see how far we will be to finishing and then see whether we need to go up to five or beyond that.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: If we need to go beyond that we might have to just talk more but certainly up to five we can go.

ADV KATE HOFMEYR: We are indebted Chair.

CHAIRPERSON: Okay thank you.

ADV KATE HOFMEYR: Chair there is one final aspect just before we commence with Mr Natasen's evidence and that is a matter that has developed since Ms Tlatsana gave her evidence. That it is appropriate to bring to the Chair's attention. Chair there are two aspects to it. The one is that during Ms Tlatsana's evidence you may recall that she testified about a case of intimidation that she had lodged with the Mafikeng police but in respect of which she had received no feedback whatever. In the course of her testimony you requested that that be
10 followed up by the commission. That was done and so I would like to take a moment now just to update you on that position if I may?

CHAIRPERSON: Yes please.

ADV KATE HOFMEYR: Chair you will find the response to those enquiries in Mr Natasen's bundle. It is the second bundle so it is DD10b and you will find it there at page 442.25.

CHAIRPERSON: YEs.

ADV KATE HOFMEYR: Chair right at the outset I am going to make a general apology before we get too heavily into these papers today. That is that the bundle has been supplemented many times since Mr
20 Natasen's last evidence and so we go to points of points of points later on but I – I hope to be able to navigate through that with everyone today. But we start at page 442.25 Chair with the response that was received to the enquiries that the commissions made after Mr Tlatsana's evidence. And there are aspects of it Chair which are concerning and which we bring to your attention. What was asked was

for an update on the case that she lodged and what you see on page 442.25 is that the case was lodged with a Warrant Officer at the Mafikeng detective service on the 4th January 2018. That was acknowledged you will find that in the second paragraph. And then in the penultimate paragraph the author of this document who is the Deputy Provincial Commissioner for Crime Detection in the North West indicates that they made investigations and upon perusing the docket the officers were and I am quoting “in dismay” to learn that there was nothing positive that the investigator did in the docket and there was no
 10 command and control from the commander’s side. In the last paragraph it goes on to say the Provincial office have since removed the said investigator from the investigation at the detect – Mafikeng Detective to the Provincial office where the case is presently investigated by Provincial Organised Crime. And Chair if you go over the page there is also an indication that disciplinary – a disciplinary investigation against the concerned members has been initiated. Chair we – we give you that update because you specifically asked for it.

CHAIRPERSON: Yes, yes.

ADV KATE HOFMEYR: It appears that no investigation whatever was
 20 done on it.

CHAIRPERSON: Hm

ADV KATE HOFMEYR: And that that was of concern certainly.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: To the Provincial commissioner.

CHAIRPERSON: Yes. And it has been more than a year and half.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: Since the complaint was.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: Was laid.

ADV KATE HOFMEYR: Chair I can also indicate to you that the commission's investigators are seeking to take aspects of that intimidation case forward in our own investigations.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Because there is a possible link with other
10 aspects of the evidence and so they are seeking to work with the police in that regard.

CHAIRPERSON: Yes. Yes. No thank you. Will you just make sure that Mr Natasen is made aware of this response and – and at some stage it would be good to hear how far the investigations are.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: Yes it does not have to be soon but at some stage it would be helpful.

ADV KATE HOFMEYR: Chair.

CHAIRPERSON: Yes.

20 **ADV KATE HOFMEYR:** You – you indicated Ms Natasen I take it you meant Ms Tlatsana.

CHAIRPERSON: Oh no I am sorry I –

ADV KATE HOFMEYR: Not at all.

CHAIRPERSON: Yes, yes.

ADV KATE HOFMEYR: Thank you.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Chair on the topic of Ms Tlatsana though there is a second update that I must bring to the Chair's attention today.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: At the conclusion of Ms Tlatsana's evidence she was requested to provide a further affidavit to the commission in which she would account in full for the full R51 million that came into the account of Koreneka the CC which she was the member of and so the commission took steps after her evidence to follow up with her and
10 to obtain that further affidavit. In the course of those engagements the commission interacted with her lawyer Mr Knight who was present during her evidence. He has indicated that there were threats made and intimidation to Ms Tlatsana after her evidence before the commission the consequence of which is that in fear for her life she has left the Republic. Chair his affidavit setting that out you will also find in Exhibit DD10b and you will pick it up at page 442.27.1. So it is just about two pages on from where we were.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Chair you will see there that this is an affidavit
20 deposed to by Julian Brett Knight who is Ms Tlatsana's legal representative. If you pick it up at paragraph 2 he indicates in that affidavit that he was advised by his client that is Ms Tlatsana that out of fears for her safety after her testimony to this commission she decided to remove herself from the territorial limits of the Republic of South Africa. The precise destination whereof is unknown to him. He

goes on to give the facts as they were relayed to him by Ms Tlatsana.

He says at paragraph 3:

“After having testified before the commission Ms Tlatsana advised that she observed suspicious activity around her residential property in Mafikeng where unknown men who did not identify themselves approached family members enquiring about her whereabouts.”

And if you go over the page he goes on and says:

10 “I am instructed that an attempt was also made to gain entry to her residence.”

At paragraph 5 he records:

“As a consequence of feeling unsafe Ms Tlatsana decided to leave the Republic of South Africa.”

And at paragraph 6 he records:

“That she has advised him that she appointed an auditor to write up the finances of Koreneka CC which he understands is currently in progress.”

20 That is in direct response to the further information that she was required to provide to the commission. Chair when the commission received this information it took it very seriously. We have engaged our own investigators particularly on aspects of security and they are updating us regularly on this as recently as yesterday. But as matters currently stand it does appear that Ms Tlatsana is not within the Republic and as we have it from her lawyer this is the explanation at

least that she gave him for having left the Republic after her testimony.

CHAIRPERSON: This is quite concerning because the impression I have and my recollection of everything relating to this matter is not perfect is that although she would have brought issues of her concerns of – in regard to safety and threats to the attention of the authorities the authorities do not seem to have done anything.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: And she had come and given evidence and according to this affidavit subsequently it appeared that she was under threat and
10 she left. She did not feel it seems protected or safe.

ADV KATE HOFMEYR: Hm.

CHAIRPERSON: Okay I would like to be updated.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: In regard to the matter.

ADV KATE HOFMEYR: Hm.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Thank you Chair.

CHAIRPERSON: Thank you.

ADV KATE HOFMEYR: Chair if I may then suggest that we continue
20 with Mr Natasen's evidence. He was placed under oath on the last occasion.

CHAIRPERSON: Yes maybe because of the lapse of time.

ADV KATE HOFMEYR: Hm.

CHAIRPERSON: We can do the oath again.

REGISTRAR: Please state your full names for the record?

MR VIVIEN NATASEN: Vivien Natasen.

REGISTRAR: Do you have any objection in making the prescribed affirmation?

MR VIVIEN NATASEN: No.

REGISTRAR: Do you solemnly affirm that the evidence that you will give shall be the truth; the whole truth and nothing but the truth, if so raise your right hand and say, I truly affirm.

MR VIVIEN NATASEN: I truly affirm.

CHAIRPERSON: Thank you.

10 **ADV KATE HOFMEYR:** Thank you Chair. Mr Natasen I would like to [intervention].

CHAIRPERSON: Which – which bundle will you be using most of the time?

ADV KATE HOFMEYR: We will start with A Chair.

CHAIRPERSON: A?

ADV KATE HOFMEYR: DD10a.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Chair there will be a few other bundles predominantly we will be using A and B today.

20 **CHAIRPERSON:** Okay.

ADV KATE HOFMEYR: There will be one or two other bundles we will go to.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: But my arrangement with your Registrar is he will make those available to you as and when it is appropriate.

CHAIRPERSON: Okay that is fine.

ADV KATE HOFMEYR: Thank you. Mr Natasen if we can commence in Exhibit DD10a if we may and I would like to start at page 25 there. Now 25 is the part of the statement that you provided to the commission on the 3rd May of this year. That was before a meeting you held with the commission the following Monday on the 6th May. And I would like to pick it up at paragraph 13 on that page because at paragraph 13 is where you deal with the R300 000 that was paid in cash to Mr Van Wyk. Chair just to orientate ourselves you might recall
10 from the last evidence there were a series of electronic transfers out of the Neo Solutions account to an account of Batsomi Investments. There were four in total. But the one outlier is a R300 000 in cash that we had not got to in Mr Natasen's evidence last time and that is the topic I would like to address with Mr Natasen now.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Mr Natasen this was the draft that you returned to the commission on the 3rd May, do you recall that?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: It was signed by you, you can find that on the
20 last page, do you recall that?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And that was a version of your statement that you had worked on previously to produce this document we see at this page, do you recall that? And that was a version of your statement that you had worked on previously to produce this document we see at this

page, do you recall that?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: So if we look at paragraph 13 on that page could you indicate there what explanation you give about the R300 000 that was paid to Mr Van Wyk?

MR VIVIEN NATASEN: I had explained at the time that I had a portion of cash with me. I do not normally obviously have cash at home. Our business does not generate cash so it is not out of the business proceeds. So I had explained at the time that I had disposed of a
10 vehicle, one of my private vehicles and the buyer had secured the vehicle by paying me a portion in cash.

ADV KATE HOFMEYR: And tell us how it came that Mr Van Wyk wanted this R300 000 to be paid?

MR VIVIEN NATASEN: He requested it – a portion in cash because I believe at the time he wanted to secure a vehicle, a classic car that he wanted to buy and he asked for that portion in cash.

ADV KATE HOFMEYR: Okay so if we could just unpack that a bit. When did this happen?

MR VIVIEN NATASEN: I cannot recall exactly but it was at the start of
20 the year. We – he basically called me – I was out of town and he called me and said he needed it and then I had to obviously then make arrangements for my brother to retrieve it.

ADV KATE HOFMEYR: So that was early in 2016, is that correct?

MR VIVIEN NATASEN: That is correct.

ADV KATE HOFMEYR: Prior to the 4th January 2016, correct?

MR VIVIEN NATASEN: Yes. Well on or about that day.

ADV KATE HOFMEYR: It could have been the 4th itself could it?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And explain to us the communication, was it – how did it take place?

MR VIVIEN NATASEN: I assumed – well look he probably called me over Whatsapp. He used to call me over Whatsapp calls because he used to use data.

ADV KATE HOFMEYR: And what did he say precisely?

10 **MR VIVIEN NATASEN:** He first said he needed R300 000 and then I said well I could do the transfer or tell Eugene Ruben to do the transfer. Then – he then said no, no he needed it in cash. Then I said okay fine I happen to have some so I then arranged for him to get it.

ADV KATE HOFMEYR: And what reason did he give for needing those funds on the 4th January 2016?

MR VIVIEN NATASEN: It was to purchase a vehicle he said.

ADV KATE HOFMEYR: Did you make enquiries of him about why he needed it then?

20 **MR VIVIEN NATASEN:** I just knew that he collected cars so – I mean quite often I would also – if I buy a classic car I would buy it if it is a small number I would generally pay cash because the sellers generally want cash.

ADV KATE HOFMEYR: And why facilitate this while you were still on holiday?

MR VIVIEN NATASEN: Well he said he would lose the sale if he did

not do it then.

ADV KATE HOFMEYR: And why did you not suggest to him that he just go to his bank and withdraw R300 00?

MR VIVIEN NATASEN: Well he said that the bank – well I mean that he wanted cash and I said well I happen to have it. It was just that I had it. I mean I was not going to use it for anything so I gave it to him.

ADV KATE HOFMEYR: So you – you did not see it as odd that he would not want to go and get R300 000 cash out of his own bank account?

10 **MR VIVIEN NATASEN:** I just understood it to be short notice that he needed to execute that sale quickly.

ADV KATE HOFMEYR: So he went to you rather than a bank?

MR VIVIEN NATASEN: Well he asked me and as I happen to have it then I gave it.

ADV KATE HOFMEYR: Did you follow up with him afterwards about whether he did purchase the car?

MR VIVIEN NATASEN: No I was still on holiday. When I got back I did not think anything of it. I just obviously had told Eugene to make sure it comes off his – obviously of his loan to – or his account with me into
20 – into – against my shareholder loan account.

ADV KATE HOFMEYR: So let us just explore that a little bit further. Your brother's affidavit before this commission indicates that you and Mr Van Wyk held an interest in vintage cars, is that correct?

MR VIVIEN NATASEN: No we did not have an interest in vintage cars. We had – interest as in shareholding or interest as in [intervention].

ADV KATE HOFMEYR: No, no, no you were interested.

MR VIVIEN NATASEN: We shared a passion about it.

ADV KATE HOFMEYR: It is a passion right that is probably a better word. A passion for vintage cars. Tell us a bit about that? How did that develop in your relationship?

MR VIVIEN NATASEN: At the start when he used to attend functions he mentioned that he used to collect classic Rolls Royce's. He even showed me pictures at the time of some classic Rolls Royce's that he had. He had mentioned – in fact that is why that number resonated
10 with me was he had mentioned previously in the year that he was looking at buying another one and the price range he spoke about was the R300 000. So it sort of resonated when he asked for R300 000 for the car.

ADV KATE HOFMEYR: So the whole car would cost R300 000?

MR VIVIEN NATASEN: Ja it is a 1984 car thereabouts.

ADV KATE HOFMEYR: Oh so – so it was a specific car a 1984 car?

MR VIVIEN NATASEN: No when we spoke about cars it was in that price range for that time of period of car. So a 1984 Rolls Royce would cost in the region of R300 000. He did not have a specific car in mind
20 then.

ADV KATE HOFMEYR: Did you ever look at each other's vintage cars or anything?

MR VIVIEN NATASEN: I had never seen his. He has never come to my home with one but I have never seen it.

ADV KATE HOFMEYR: So...

MR VIVIEN NATASEN: He knew that I had some as well. I had an Anglia and a Chevy.

ADV KATE HOFMEYR: So you never drove them together at any events
MR VIVIEN NATASEN: No, no.

ADV KATE HOFMEYR: And the – did he specifically mention the 1984 car again when he spoke to you in early 2016?

MR VIVIEN NATASEN: No.

ADV KATE HOFMEYR: Thank you. I would then like to go to what you say further down at paragraph 13 on page 25 because there you
10 account much of what you have said already that you were out of town on that day, that you sent your brother to collect the money in the house and meet with the person sent by Mr Van Wyk. And then you go on and say:

“Mr Van Wyk called me later to confirm receipt.”

And you say you can confirm that your brother would confirm this if he was to be called. Of course events have developed since then. Your brother gave an affidavit to the commission.

MR VIVIEN NATASEN: That is right.

ADV KATE HOFMEYR: Together with your affidavit on the 12th July, is
20 that correct?

MR VIVIEN NATASEN: That is correct.

ADV KATE HOFMEYR: And then I would like you please to read what follows thereafter from the sentence “at this stage”?

MR VIVIEN NATASEN: At this stage?

ADV KATE HOFMEYR: Hm.

MR VIVIEN NATASEN:

“I had sold one of my cars a 2009 DBS Aston Martin and the buyer gave me some of the fund in cash. I sold the car for R1.4 million and R300 000 was paid in cash and the balance was paid to my account.”

ADV KATE HOFMEYR: And then carry on.

MR VIVIEN NATASEN:

“And that is the reason why I had cash on hand.”

ADV KATE HOFMEYR: Thank you do you remember why that was
10 added in your statement after the previous version that you had worked on?

MR VIVIEN NATASEN: I cannot recall – I cannot recall why.

ADV KATE HOFMEYR: Do you recall a meeting in April with the commission where they probed why there would be R300 000 lying around at your house? And was this the explanation you gave them?

MR VIVIEN NATASEN: Yes, yes.

ADV KATE HOFMEYR: And then you had a meeting on the 6th May with the commission where this aspect was probed further with you, is that correct?

20 **MR VIVIEN NATASEN:** Yes.

ADV KATE HOFMEYR: And do you recall being asked to provide your bank statements in order to get further support for the version that appears at paragraph 13?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: Do you recall having provided those bank

statements?

MR VIVIEN NATASEN: I think there would have been submitted.

ADV KATE HOFMEYR: And do you recall whether they reflected a payment around that time of R1.4 million into your account?

MR VIVIEN NATASEN: It was not reflected at that time. The buyer obviously secured the car with me but he had a delay in terms of obviously securing his finance so at the time when the finance went through I think we submitted those documents through to you of the agreement of sale that happened later.

10 **ADV KATE HOFMEYR:** Is that the [intervention].

MR VIVIEN NATASEN: But that is – that happened in 2017 I think but you have got the documents.

ADV KATE HOFMEYR: We do. The document you submitted is a sale in September 2018. So can I just be clear. On the 4th January 2016 you had R300 000 in cash at your house because of a sale of a car that only materialised in September 2018?

MR VIVIEN NATASEN: Yes because the buyer obviously he was leaving his employment and he wanted to obviously secure the car. Well he did not at the time have the money to be able to secure finance
20 or he could not get finance for the car so he asked me to obviously wait and that is when we finalised the sale was when he was able to do so.

ADV KATE HOFMEYR: Two years and seven months later?

MR VIVIEN NATASEN: It is – well look he had paid – the car is a special car. It is a collector's item so obviously he wanted to secure it. He paid me the R300 000 to secure it.

ADV KATE HOFMEYR: Mr Natasen do you know that your brother has a different account of why you had R300 000 in your house at the time?

MR VIVIEN NATASEN: No. What does his affidavit saying?

ADV KATE HOFMEYR: Let us go to it.

CHAIRPERSON: Has – has he not seen that affidavit before Mr Natasen?

ADV KATE HOFMEYR: Oh he has it is an affidavit he produced for the commission.

MR VIVIEN NATASEN: Yes, yes.

10 **CHAIRPERSON:** Oh he produced okay, okay.

ADV KATE HOFMEYR: If you go in the same bundle to page 238.144. Well let us just orientate ourselves. Let us go back two pages so that you will see the [intervention].

CHAIRPERSON: I am sorry 238?

ADV KATE HOFMEYR: .1 – apologies. 238.142 Chair is where I would like to commence.

CHAIRPERSON: In the same bundle?

ADV KATE HOFMEYR: I might have inverted the numbers. In the same bundle.

20 **CHAIRPERSON:** 2 – I have got 238.1, 238.2,

ADV KATE HOFMEYR: Apologies Chair you going to have to go quite a bit further because it is – it is a point after 238 but you have got to go all the way down to 238.142.

CHAIRPERSON: Oh okay, okay.

ADV KATE HOFMEYR: Chair I did give the apology at the outset for

these.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: For these dreadful numberings.

CHAIRPERSON: Is that the affidavit of Mr Sherwin Natasen?

ADV KATE HOFMEYR: Correct. Do you have that page Mr Natasen?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: Is Mr Sherwin Natasen your brother?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And this is an affidavit that you produced to the
10 commission?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: It was an annexure to the affidavit that you
provided on the 12th July 2019 on the morning before you testified last
time, do you recall that?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: If you go over to page 238.144.

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: You see at paragraph 9 at the top of the page
your brother says there:

20 “Mr Natasen with a reference to you advised him that
you had built up some cash from selling off some of
his old cars, some sparts – parts and spares and had
scraped up the R300 000 to give to a person that Van
Wyk had designated to collect from the office.”

Do you see that?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: Do you see that that is different to the version you have just given?

MR VIVIEN NATASEN: His understanding was that I had sold an old car.

ADV KATE HOFMEYR: No his understanding is that you had scraped together R300 000 by selling cars in plural, some parts and spares, do you see that?

MR VIVIEN NATASEN: Yes but that is his understanding.

10 **ADV KATE HOFMEYR:** So...

MR VIVIEN NATASEN: I did not specifically tell him I sold my Aston and had a 300 000 deposit there. His understanding was it was from selling of my old cars.

ADV KATE HOFMEYR: But he says this is what you told him. Correct?

MR VIVIEN NATASEN: Ja, but that is his understanding. I did not say - I said I sold car. So that is how he understood it.

ADV KATE HOFMEYR: He understood I sold a car to mean you would scrap together pursuant to numerous car sales and sales of parts and spares R300 000. Is that your testimony?

20 **MR VIVIEN NATASEN:** Well that is his understanding of what I was - he was told but I said I had sold my car.

ADV KATE HOFMEYR: So it is the specific Aston Martin in respect of which ownership only passed in September 2018 that you say you got R300 000 for in cash in early 2016?

MR VIVIEN NATASEN: To secure the car. The buyer needed to secure

the car because obviously he wanted it and he did not want me to sell it elsewhere and when he got the money then or the ability to finance it he financed it.

ADV KATE HOFMEYR: Can you tell us who that purchaser was?

MR VIVIEN NATASEN: I can. It is in my - I think it is in my affidavit.

ADV KATE HOFMEYR: It is not to my recollection.

MR VIVIEN NATASEN: Okay. His name is Gerald Strauss.

ADV KATE HOFMEYR: Strauss. So he paid you R300 000 in cash for a car in 2016 and you remained the owner of it for two years and seven
10 months and then you got paid the balance?

MR VIVIEN NATASEN: Correct yes.

ADV KATE HOFMEYR: And if we were to ask Mr Strauss about that would he confirm that?

MR VIVIEN NATASEN: You are welcome to ask him. We can provide the details.

ADV KATE HOFMEYR: Would he confirm it?

MR VIVIEN NATASEN: He will confirm it.

CHAIRPERSON: Well I am - I was not sure whether - whether that question was - was fine but you have answered. Whether or not he
20 would confirm (intervenes).

MR VIVIEN NATASEN: That is up to him but ultimately I know what happened - what transpired. That is my version.

CHAIRPERSON: Yes. No that is what I am saying that unless you have recently spoken to him and asked him whether if he has called you would confirm that you would not know ...

MR VIVIEN NATASEN: Okay. That is ...

CHAIRPERSON: Whether will he confirm. All you would know is if as far as you are concerned if he tells the Commission what happened he should confirm but ...

MR VIVIEN NATASEN: Correct Chair.

CHAIRPERSON: I think we - I think we do understand. Ms Hofmeyr.

ADV KATE HOFMEYR: Indeed. Thank you Chair. Just one point of clarification when was the cash given to you in relation to the car?

MR VIVIEN NATASEN: It was before I left on holiday.

10 **ADV KATE HOFMEYR**: So when was that?

MR VIVIEN NATASEN: It would have been during early December?

ADV KATE HOFMEYR: Of 2015?

MR VIVIEN NATASEN: 2015.

ADV KATE HOFMEYR: Why did you not go and place it in the bank?

MR VIVIEN NATASEN: I was about to leave on my holiday. So I just kept and sometimes I might need it to buy another car or - or jewellery or watches or something which I would pay cash for with that.

ADV KATE HOFMEYR: So do you generally keep quite a bit of cash available?

20 **MR VIVIEN NATASEN**: I had already testified that I do not.

ADV KATE HOFMEYR: So this was a rare occasion ...

MR VIVIEN NATASEN: Correct, correct.

ADV KATE HOFMYR: Where you kept 300 000?

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: And in December it was your intention to keep

it in cash in case you needed it for a purchase?

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: Either of jewellery or cars. Correct?

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: Why did you then hand it over to Mr Van Wyk on 4 January 2016 if your intention was to keep it for your purchasing?

MR VIVIEN NATASEN: He asked for it and I was going to take it off the monies that I was going to give back to him or it was basically just an offset.

10 **ADV KATE HOFMEYR**: Thank you. I would then like to go to your 12 July statement and we can pick that up at page 2-3-8.6-6 in the same bundle, A.

CHAIRPERSON: 2-3-8 ...?

ADV KATE HOFMEYR: Point 6-6 Chair.

CHAIRPERSON: Thank you. That is not where it starts hey?

ADV KATE HOFMEYR: It does not start there no indeed Chair.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: It starts a few pages back at 2-3-8.6-1.

CHAIRPERSON: Okay.

20 **ADV KATE HOFMEYR**: Mr Natasen can you confirm this is the statement you provided to the Commission on the morning before you testified last time?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And I am picking it up at page 66 - 2-3-8.6-6 because I would like to look at paragraph 24 there because this is the

part of your 12 July statement in which you deal with the R300 000. Do you see that?

MR VIVIEN NATASEN: That is right.

ADV KATE HOFMEYR: And there you say similarly to the testimony you have given today that:

“During or about January 2016 Van Wyk requested that I release the amount of 300 000 ...”

Being the transaction referred to above. That is where you would itemise what payments were made and you say:

10 “...in cash to him as a matter of urgency with the advises that he needed same for an urgent personal purchase.”

Do you see that?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: That is consistent with what you have told us this morning. Correct?

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: Can I just confirm because it maybe that Mr Van Wyk comes to give evidence in due course before this
20 Commission. Did he at any point in this conversation with in early January 2016 refer to the ANC’s annual celebrations and need for cash in relation to that?

MR VIVIEN NATASEN: No.

ADV KATE HOFMEYR: And did he make any reference to reflector jackets that were required for those celebrations and in respect of

which he needed to pay R300 000?

MR VIVIEN NATASEN: Definitely not with me.

ADV KATE HOFMEYR: Thank you; and Mr Natasen you then go on and you say:

10 “In the light of the fact that I was away at the time I
asked my brother Sherwin to attend at my house,
open the safe and to take the amount of R300 000
from my own personal funds in order to make
payment to Mr Van Wyk urgently which Sherwin duly
attended to.”

Do you see there?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: So Mr Natasen it is clear it seems to me from this that it was your own personal funds not the funds of Neo Solutions that were being used to give to Mr Van Wyk on 4 January. Correct?

MR VIVIEN NATASEN: That is correct.

20 **ADV KATE HOFMEYR:** And then it would be fair I suggest unless you hold a different view that it was you in your personal capacity - not Neo Solutions the company but you in your personal capacity - who was now assisting Mr Van Wyk to convert a portion of the monies that have come into Neo Solutions into cash for his own use. Is that correct?

MR VIVIEN NATASEN: Yes. It was personal.

ADV KATE HOFMEYR: What does that mean?

MR VIVIEN NATASEN: I said it is correct that you say that the funds were my personal funds. However I - the transaction was processed

where I took it off the monies that he had with us and that - those funds or that monies against my personal loan account to the company.

ADV KATE HOFMEYR: Can we look at that because you do pick it up at paragraph 25? At paragraph 25 you say there:

“In light of the fact that my own personal funds had been used in order to repay Van Wyk as mentioned in paragraph 24 same would have to be repaid to me from Van Wyk’s funds that Neo Solutions was possessed of in due course.”

10 Do you see that?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: I would just like to explore that a little bit further. You say would have to be repaid. Were they repaid?

MR VIVIEN NATASEN: I deducted it from the amounts that he had with us.

ADV KATE HOFMEYR: Yes but you say here - remember it is your own personal funds. So you had to be repaid. Were you repaid?

MR VIVIEN NATASEN: No. It is still sitting in my loan account with the company. So they were not repaid to me from the company.

20 **ADV KATE HOFMEYR:** What loan account is that?

MR VIVIEN NATASEN: My loan account with Neo Solutions.

ADV KATE HOFMEYR: Which bank account is that bank account?

MR VIVIEN NATASEN: It is not a bank account. It is a - it is a journal entry. It is a general ledger item.

ADV KATE HOFMEYR: Right. So - sorry I am confused because we

will go to it now but there is a particular entry on the bank statements of Neo Solutions that you have identified previously in your affidavits before this Commission and in your 204 Statement relating to this transaction. So forgive me if I was focusing on bank statements.

Let me just make sure that I understand your evidence. So your evidence is that you personally have never been repaid that money. Correct?

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: It has never come into your personal bank
10 account with Nedbank. Correct?

MR VIVIEN NATASEN: No.

ADV KATE HOFMEYR: Thank you. If we can then go to that line item that I was referring to in bank statements that you have previously provided and you will find that at page 14 of the same bundle that we are working in.

MR VIVIEN NATASEN: Page 14?

ADV KATE HOFMEYR: Now Mr Natasen I would just like to orientate you as to what this document is. It is a document that you initially supplied when you produced your Section 204 Statement and which you
20 have subsequently provided to the Commission again as an annexure to your 12 July statement.

Now the way that this is described we need to go back into your statement just to understand. So if we could to that. You go back a few pages and you will find that at page 7 of the same bundle that is DD10A.

MR VIVIEN NATASEN: I think the 300 000 is brought - brought up twice but you are on paragraph 6.

ADV KATE HOFMEYR: I am at paragraph 6 where you say:

“Van Wyk requested that an amount of 300 000 needs to be paid to him in cash and this amount was paid to him on 4 January 2016.”

Do you see that?

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: And then there is a further indication over the
10 page at 11 where you say:

“Van Wyk also requested a portion of funds in cash i.e. an amount of 300 000 given to him in cash on 4 January 2016.”

Right and then as I understand the statement what is attached to it is then the bank statements reflecting that and the other amounts. Is that correct?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: So let us go to page 13 if we may.

MR VIVIEN NATASEN: Yes. I am at (intervenes).

20 **ADV KATE HOFMEYR:** At page 13 those are the bank statements showing the monies coming into Koreneka. Correct?

MR VIVIEN NATASEN: Monies coming into?

ADV KATE HOFMEYR: Sorry.

MR VIVIEN NATASEN: Nedbank from Koreneka.

ADV KATE HOFMEYR: From Koreneka into the Neo Solutions Nedbank

account. Correct?

MR VIVIEN NATASEN: That is right.

ADV KATE HOFMEYR: And then if you go over the page that is what you flag as the entry in the bank account on the 1st - 4 January 2016 related to the 300 000 cash that was paid to Mr Van Wyk. Correct?

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: Mr Natasen when you testified last time you said that that entry indicates a transfer from the Neo Solutions Nedbank account to the Neo Solutions Standard Bank account. Is that
10 correct?

MR VIVIEN NATASEN: That is correct.

ADV KATE HOFMEYR: Why was it then identified as the entry on the bank statements of Neo Solutions that related to the 300 000?

MR VIVIEN NATASEN: My - my understanding is the accountant at the time processed that transfer to reflect then that - he did the journal entry or ought to have done at the time. The journal entry in the books to show that it goes against my loan account but this was effectively accounting for the fact that this money is no longer part of Van Wyk's monies.

20 **ADV KATE HOFMEYR:** I would just like to leave if we may accounting matters aside from bank statements and monies.

MR VIVIEN NATASEN: Okay, but that is my understanding.

ADV KATE HOFMEYR: Certainly. I understand your evidence to be you used your own personal funds to give R300 000 in cash to Mr Van Wyk. Correct?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And no suspicions were raised for you when he called you on 4 January and asked for cash to buy a car. Is that correct?

MR VIVIEN NATASEN: That is correct.

ADV KATE HOFMEYR: And you did not probe with him why he did not go and get it from the bank?

MR VIVIEN NATASEN: Well I - I understood it to be short notice that he wanted to conclude the sale on the vehicle.

10 **ADV KATE HOFMEYR:** Why would that make a journey to the bank unavailable to him?

MR VIVIEN NATASEN: I do not know how long it takes to secure 300 000 cash from a bank on short notice.

ADV KATE HOFMEYR: Did you ask?

MR VIVIEN NATASEN: I did not.

ADV KATE HOFMEYR: Did you say to him you would - the previous month given him seven million of the 9.9 that he had deposited with your company in November and so why does he not use some of that money?

20 **MR VIVIEN NATASEN:** I did not ask. Remember I understood that to be related to property.

ADV KATE HOFMEYR: And then when you deposed to your 204 Statement and when you give your affidavits to this Commission you highlight this transaction in the bank statement of Neo Solutions on 4 January as being related to the 300 000 in cash that you gave

Mr Van Wyk. Correct?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: But this entry has nothing to do with you personally or Mr Van Wyk. Does it?

MR VIVIEN NATASEN: My understanding is when you deal - help prepare the statement, went and sat with the accountant. The accountant had explained to him that this was to give effect to record on his side that the funds were no longer - they were coming off Van Wyk's amount on the Nedbank account and he accounted for them
10 in the Standard Bank account as then part of Neo Solutions money.

ADV KATE HOFMEYR: Mr Natasen is this statement Mr Judiel's statement or your statement?

MR VIVIEN NATASEN: The statement - Mr Judiel assisted me in preparing the statement when he gave me the facts and he also in - interrogated the accountant at the time.

ADV KATE HOFMEYR: But did you check what was being said in the statement and attached to the statement before you deposed to it?

MR VIVIEN NATASEN: Yes. We - when we sat down he - I understood this to be the nature of why it was reflected here. To - to give effect to
20 the fact that these monies had come off the loan account.

ADV KATE HOFMEYR: But why did you not say but this is not a payment to me and it was me who gave me R300 000 in cash. So I must look for some entry that reflects that R300 000?

MR VIVIEN NATASEN: Because this to me was the - to reflect that it is now out against my shareholder loan account and therefore it is

accounted for correctly in reconciling to the full 9.9.

ADV KATE HOFMEYR: Mr Natasen you will accept though that it is simply a transfer between one Neo Solutions bank account to another Neo Solutions bank account. Correct?

MR VIVIEN NATASEN: That has been my testimony already.

ADV KATE HOFMEYR: Thank you. Mr Natasen you also indicated that you made no inquiries of Mr Van Wyk afterwards about the actual vintage car that he urgently needed monies for. Is that right?

MR VIVIEN NATASEN: I did not.

10 **ADV KATE HOFMEYR:** And do you have any knowledge of whether he did buy a car around that time?

MR VIVIEN NATASEN: I - I testified that I did not have any knowledge.

ADV KATE HOFMEYR: Apologies if I missed that. So you just had no follow up with him about whether the urgent 300 000 was actually used to buy the car?

MR VIVIEN NATASEN: I was still away on holiday. So I think a week or two had transpired when I got back and then obviously I did not think anything of it since.

ADV KATE HOFMEYR: Did you continue to have interactions with him
20 after that point?

MR VIVIEN NATASEN: Yes. He was still obviously on the farming venture. There was still interaction happening.

ADV KATE HOFMEYR: So at no point you asked him whether he concluded the sale that he urgently needed the monies for.

MR VIVIEN NATASEN: I cannot recall if we did or did not discuss it

afterwards.

ADV KATE HOFMEYR: So would it surprise you to learn that he made no purchase of any vintage car around that period?

MR VIVIEN NATASEN: I cannot speculate on that.

ADV KATE HOFMEYR: No I am asking would it surprise you if you were now told Mr Van Wyk made no purchase of any vintage car around that time.

MR VIVIEN NATASEN: Well given what we know of what has happened obviously it does not surprise me but at that point in time I know he had
10 a collection of cars and he had shown me pictures. So based on it I assumed he would have bought one.

ADV KATE HOFMEYR: So do you now accept that he was asking for the R300 000 for something other than a purchase of a vintage car?

MR VIVIEN NATASEN: I cannot speculate on that.

ADV KATE HOFMEYR: Well I understood your evidence to be now knowing everything we know you would not be surprised that he had not purchased the car. What does that mean?

MR VIVIEN NATASEN: Well if - if the funds were used for something then I do not know what they were used for.

20 **ADV KATE HOFMEYR:** But it would not surprise you that they were used for something other than what he told you they were going to be used for.

MR VIVIEN NATASEN: I have answered that already.

ADV KATE HOFMEYR: What was the answer? Just remind me.

MR VIVIEN NATASEN: That it would not surprise me now.

ADV KATE HOFMEYR: Thank you. Mr Natasen just to conclude on this aspect then I would like your comment on these aspects of your evidence. It is clear that you paid Mr Van Wyk R300 000 in cash from your personal funds. Correct?

MR VIVIEN NATASEN: I have said that already.

ADV KATE HOFMEYR: And you thereby enabled him to convert a portion of the money that had been paid into the Neo Solutions bank account into cash. Correct?

MR VIVIEN NATASEN: Thereby enabled - please clarify.

10 **ADV KATE HOFMEYR:** Okay. So remember what happened was the business of Koreneka through an electronic funds transfer that is tracked through the banking system paid 9.9 million into Neo Solutions bank account. Correct?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: There is no electronic transfer record of the R300 000 cash that you paid - you gave to Mr Van Wyk or facilitated been given to him on 4 January 2016. Correct?

MR VIVIEN NATASEN: Yes.

20 **ADV KATE HOFMEYR:** The consequence of that is that funds that are tracked in the electronic banking system were converted to cash in a way that will not be reflected on that system. Correct?

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: So it would not be reflected as a payment out of Neo Solutions directly to Mr Van Wyk. Correct?

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: And it would not be reflected in Mr Van Wyk's own bank account if he had gone to a bank and actually withdrawn the 300 000?

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: That is what I mean when I say convert monies that came into the account in a particular way that can be tracked by an electronic banking system into cash.

MR VIVIEN NATASEN: Correct and that was the basis of the creation of the 204 - the Section 204 affidavit was because of the cash flow.

10 **ADV KATE HOFMEYR:** Indeed and you identified a transaction on 4 January 2016 for this cash payment that had nothing to do with the cash that you gave Mr Van Wyk. Correct?

MR VIVIEN NATASEN: Explain.

ADV KATE HOFMEYR: Mr ...

CHAIRPERSON: I am sorry. Did you ask her - was there - did you give an answer or did you ask her to repeat?

MR VIVIEN NATASEN: No. I am trying to understand.

CHAIRPERSON: Oh, okay. I think please repeat your question.

20 **ADV KATE HOFMEYR:** Indeed. You will recall that the line item on the Neo Solutions bank account - bank statements that you identified in your 204 Statement as related to the 300 000 cash that was given to Mr Van Wyk on 4 January 2016 ...

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: Is the entry we saw at page 14. Correct?

MR VIVIEN NATASEN: That is correct, yes.

ADV KATE HOFMEYR: Do you accept that that bank entry is not reflective of the cash that you gave Mr Van Wyk on that day?

MR VIVIEN NATASEN: I have explained that my accountant processed that transfer to show that that was no longer part of Van Wyk's money and it then became my money through my loan account in the company.

ADV KATE HOFMEYR: Mr Natasen can we leave accounts from bank statements?

MR VIVIEN NATASEN: I do not think you can. I think ...

ADV KATE HOFMEYR: Well ...

10 **MR VIVIEN NATASEN:** They are - they are inextricably linked into the transaction.

ADV KATE HOFMEYR: Explain to me how that is because as I understand what is happening as a matter of banking is Neo Solutions has two bank accounts. Is that right?

MR VIVIEN NATASEN: That is right.

ADV KATE HOFMEYR: And one is with Standard Bank and one is with the Nedbank. Is that correct?

MR VIVIEN NATASEN: That is correct.

20 **ADV KATE HOFMEYR:** So what happens on 4 January according to this banking entry is that monies taken from the Nedbank Neo Solutions account to the Standard Bank Neo Solutions account. Correct?

MR VIVIEN NATASEN: That is right.

ADV KATE HOFMEYR: That has nothing to do with cash that your brother went and collected at your house on 4 January and gave to Mr Van Wyk?

MR VIVIEN NATASEN: I - I have clarified this already. The Neo Solutions Standard Bank account is our normal transacting account. When we engaged with Nedbank the intention was to move our banking across to Nedbank overtime. However our - our day to day transacting and you would have seen it from our bank statements happens in our Standard Bank account.

So the transfer that our accountant at the time did was to reflect that these funds were no longer Van - Van Wyk's monies. They were sitting in the Nedbank account at that time which had not had
10 much other accounting activity which you can see on the statement. So it was placed there because the intention over time was to move across.

However the moment he moved this 300 000 across it was his way of reflecting that these funds now belonged to - via me - into Neo Solutions. That was the way he processed the transaction. So you cannot say that - yes I understand from your perspective. I had given him cash personally.

ADV KATE HOFMEYR: Hm.

MR VIVIEN NATASEN: Right. However the way it is recorded here was
20 to take it off in the way he accounted for it. Take it off the loan account that Brian had into the use by Neo all be repaid to me at some point in time.

ADV KATE HOFMEYR: And it was not repaid to you?

MR VIVIEN NATASEN: I to date have not drawn that money out.

ADV KATE HOFMEYR: So it sits in the Standard Bank account and did

you instruct your accountant to identify this as the entry reflective of ...?

MR VIVIEN NATASEN: No I did not. It - it was the way he processed it in - for his understanding.

ADV KATE HOFMEYR: But why did you regard it then as the entry that would identify for a Section 204 purposes the transaction?

MR VIVIEN NATASEN: When we - when he had explained it to Judiel remember I had first briefed - when Judiel came to me I had then explained to him how this thing had transpired. He went and got the
10 accounting information from the accountant and then we sat together and we went through the affidavit. When I explained to him this is how it happened he said include it.

ADV KATE HOFMEYR: You said include it?

MR VIVIEN NATASEN: Judiel - Jan Judiel.

ADV KATE HOFMEYR: So you were taken his advice as to which item to identify as related to this?

MR VIVIEN NATASEN: *Ja*. He had everything and then his advice was include more - include this in so that you can then reconcile in total to the understanding of the 9.9 million.

20 **ADV KATE HOFMEYR**: In January 2016 Mr Natasen did Neo Solutions have an overdraft facility on its Standard Bank account?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: Are you sure about that?

MR VIVIEN NATASEN: I think you subpoenaed that information.

ADV KATE HOFMEYR: Hm.

MR VIVIEN NATASEN: I think we did in - at that point in time.

ADV KATE HOFMEYR: Well we can go to it in due course because that is not our understanding. That - our understanding is that there was no overdraft facility available in Standard Bank at the time. There was an overdraft facility available ...

MR VIVIEN NATASEN: (Intervenes).

ADV KATE HOFMEYR: In Nedbank. Is that correct?

MR VIVIEN NATASEN: I think that is correct, *ja*.

ADV KATE HOFMEYR: Hm.

10 **CHAIRPERSON:** I am sorry. That answer when you say that is correct ...

MR VIVIEN NATASEN: The Nedbank facility was definitely correct.

CHAIRPERSON: *Ja* but does it mean then ...

MR VIVIEN NATASEN: The Standard Bank I cannot recall when we were shut down - when we were in the process of migration across.

CHAIRPERSON: Yes. No what I want to understand is whether that answer now means that the two of you agree that there was no overdraft at Standard Bank but there was at - at Nedbank?

MR VIVIEN NATASEN: Okay.

20 **CHAIRPERSON:** That is - that is the position?

MR VIVIEN NATASEN: Okay, taken.

CHAIRPERSON: No, no. I am asking whether you - that is what your answer means.

MR VIVIEN NATASEN: I cannot recall the exact date that we moved facilities between the two banks. I was aware there was a Nedbank

facility.

CHAIRPERSON: Yes.

MR VIVIEN NATASEN: I am not sure when the Standard Bank's facility did - did not or cease to exist at that point.

CHAIRPERSON: At some stage there was an overdraft facility ...

MR VIVIEN NATASEN: At Standard ...

CHAIRPERSON: At the Standard Bank account but you cannot remember when it was?

MR VIVIEN NATASEN: Correct.

10 **CHAIRPERSON**: Okay.

ADV KATE HOFMEYR: Let me assist you then if I may. You will find the email in which you move across to Nedbank in EXHIBIT DD10B. So we will move to the other file now Chair if we may and Mr Natasen.

CHAIRPERSON: Is that DD10B?

ADV KATE HOFMEYR: B and you will pick this communication with Standard Bank from Neo Solutions at page 4-4-2.1-3-1.

CHAIRPERSON: 4-4-2. ...

ADV KATE HOFMEYR: Point 1-3-1 Chair.

CHAIRPERSON: 1-3-1.

20 **ADV KATE HOFMEYR**: Mr Natasen do you see the email at the bottom of that page? Apologies. I see ...

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: That is an email as I have it. Can you tell us who it is from and to?

MR VIVIEN NATASEN: So it is from Standard Bank Pamela Lamprecht.

ADV KATE HOFMEYR: No apologies. The - the one in the second half of the page.

MR VIVIEN NATASEN: Okay. From Jerome Jones who is part of my accounting department to Isaac at Standard Bank.

ADV KATE HOFMEYR: And the date of that?

MR VIVIEN NATASEN: It is 28 July 2015.

ADV KATE HOFMEYR: And can you read for us - just clarify were you copied on that email?

MR VIVIEN NATASEN: Yes.

10 **ADV KATE HOFMEYR:** And just indicate to us what has been communicated there by Mr Jones to Standard Bank.

MR VIVIEN NATASEN: "That we will move our business to
another bank with effect from tomorrow -
29 July 2015."

ADV KATE HOFMEYR: So does that give you the satisfaction you need
...

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: To indicate to the Chair that you and I are
agreed that by the time of the transaction in January 2016 you did not
20 have an overdraft facility at Standard Bank but you did have an
overdraft facility at Nedbank.

MR VIVIEN NATASEN: At Nedbank, correct.

ADV KATE HOFMEYR: Thank you. Thank you Mr Natasen. I would
now like to move to an aspect of your testimony last time which had to
be conducted at the level of a hypothetical. You might recall that

because at the time we were dealing with your financial statements ending February 2016 and we were dealing with your evidence at the page of those financial statements where cash and cash equivalents in the business were reflected. Do you recall that?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And when we looked at that number you said something appears wrong about it. Do you recall that?

MR VIVIEN NATASEN: I said yes it does not reflect the facilities on the overdraft.

10 **ADV KATE HOFMEYR:** Indeed and just in fairness to you let us get that page Mr Natasen. You will find it at page 2-10 if my memory serves.

CHAIRPERSON: Are we back to ...?

ADV KATE HOFMEYR: Of DD10A Chair.

CHAIRPERSON: Yes, okay.

ADV KATE HOFMEYR: Unfortunately we are back there. Apologies and it was page 2-0-7.

CHAIRPERSON: 2-0-7?

20 **ADV KATE HOFMEYR:** Yes. You will recall there as I recall your testimony we looked down at the bank overdraft line item which was at the bottom of the page and that is when you said you thought that there was an error. Is that correct?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And then what we did was we had a hypothetical engagement about if we could get the bank statements and

if they could tell us what the position was at end of February 2016 and if they showed that there was not an amount of 2.6 million available to repay Mr Van Wyk at that point then it was the case that Neo Solutions had made use of the funds that Mr Van Wyk had deposited with the company. Correct?

MR VIVIEN NATASEN: Hypothetically yes.

ADV KATE HOFMEYR: Indeed and your answer in fairness to you in the transcript at page 170 line 12 is you said:

“Yes in theory.”

10 Correct. Mr Natasen we have ...

CHAIRPERSON: Hang on. Remember just to articulate your answers so the recording ...

MR VIVIEN NATASEN: Oh. Instead of nodding.

CHAIRPERSON: *Ja, ja.*

MR VIVIEN NATASEN: Thank you Chair.

CHAIRPERSON: Because when you nod it does not get (intervenes).

MR VIVIEN NATASEN: (Intervenes).

ADV KATE HOFMEYR: So Mr Natasen since your last testimony we have been able to establish what the position was in relation to the two
20 bank accounts of Neo Solutions at the end of February 2016, I can take you to those documents. they actually were attached to a second affidavit that your erstwhile accountant provided to the Commission which you have been provided with, let's go to those two bank statements if we may, you'll find them in DD10A bundle and you'll find them at page 238.200.

CHAIRPERSON: 238.200?

ADV KATE HOFMEYR: 238.200 Yes Chair. Mr Natasen this is the record that Mr Patel indicates he used in order to establish the position – cash position of the business at the end of February 2016 and what is relevant if the fifth line down there because that is the balance in the account, if you look at the date column Chair, which is the second from the end on the right-hand side, if you go down to the fifth item that's the last reflected balance on the date of 2016-02-29 which I understand to be the 29th of February 2016, is that as you understand it Mr
10 Natasen?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And will you tell us what the balance there is in the Standard Bank account?

MR VIVIEN NATASEN: Okay this one has been highlighted quite a bit over, I think it's R384 188.22.

ADV KATE HOFMEYR: Right so about R380 000 was sitting in the Standard Bank account, correct?

MR VIVIEN NATASEN: Okay.

ADV KATE HOFMEYR: And then if you go over the page in the same
20 bundle that's the position in the Nedbank account of Neo Solutions as I have it at the end of February 2016, and you'll find it's the last line item on that page, correct?

MR VIVIEN NATASEN: Okay.

ADV KATE HOFMEYR: And what is the balance on that date?

MR VIVIEN NATASEN: Minus R4632 328.23.

ADV KATE HOFMEYR: Right and just to remind ourselves there's no overdraft facility in the Standard Bank account at this time correct?

MR VIVIEN NATASEN: I'm assuming so because of that email.

ADV KATE HOFMEYR: Yes that was your testimony so you had...[intervenes].

MR VIVIEN NATASEN: There was a point that the Standard Bank facilities were re-instated but I'm not sure when that was.

ADV KATE HOFMEYR: Right but as at February 2016 there's only cash available of R384 000, correct?

10 **MR VIVIEN NATASEN:** On the Standard Bank account?

ADV KATE HOFMEYR: Yes.

MR VIVIEN NATASEN: That's – but I'm not sure if there's an overdraft facility.

ADV KATE HOFMEYR: No we've just clarified that in your evidence.

MR VIVIEN NATASEN: No remember we had terminated and moved across but Standard Bank then won our business back and we were in the process then of migrating back, hence the March movements where the transacting happened from Standard Bank. So I'm not sure what those dates are but I know a Standard Bank overdraft facility was then
20 re-instated at some point but I don't know the date of that here.

ADV KATE HOFMEYR: If we get some information from Standard Bank and they indicate it wasn't available in February 2016.

MR VIVIEN NATASEN: Ja then I'll concede that but I'm not sure when, as I'm saying I'm not sure when it was re-instated...[intervenes].

ADV KATE HOFMEYR: If there wasn't an overdraft...[intervenes].

MR VIVIEN NATASEN: It would have been thereabouts on that time because the transacting started happening from Standard Bank from March the next period onward, literally a month after this, so I'm not sure about that date is, Chair, of when the facility was re-instated with Standard Bank.

ADV KATE HOFMEYR: The facility was not re-instated on the 29th of February 2016, then the only cash you have available to you with Standard Bank is R384 000, correct?

MR VIVIEN NATASEN: Yes, if that's the case yes.

10 **ADV KATE HOFMEYR:** And in Nedbank what was your overdraft facility at February 2016?

MR VIVIEN NATASEN: At R5million.

ADV KATE HOFMEYR: So you had used up R4.6million of that amount by the end of February 2016, correct?

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: So the remaining available would be about R400 000 or a bit less because that's R4.632million correct?

MR VIVIEN NATASEN: Yes.

20 **ADV KATE HOFMEYR:** So it's in the order of about R370 000 would have been available in the Nedbank account, correct?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: So as at February 2016 you did not have R2.9million rands available to repay Mr Van Wyk, correct?

MR VIVIEN NATASEN: If he placed a demand on that – on us at that point in time, yes but our ability with the banks is obviously to request

temporary facilities whenever we have project demands, so we do, do that as a matter of course all the time. So had he come through and requested funds on short notice we would have made an application and got an extension against it.

ADV KATE HOFMEYR: So the thing we're interested in at the moment Mr Natasen is whether Neo Solutions, the company made use of the R9.9million that was deposited with it in November 2016 and what we – I want to put to you have established with these two bank statements is that by the end of February 2016 you had used, as a business, the bulk
10 of the R9.9million because available to you at that stage as a level of cash was R300 000 sitting in the Standard Bank account and about R370 000 sitting in the Nedbank account, do you agree with that?

MR VIVIEN NATASEN: We did not make use of the R9.9million because these funds were returned to him a month later, a bulk of the funds were returned to him so as at the year end balance there was an amount of R2.6million that still needed to be returned to him. So as I said already, if he had approached us to request those funds back I would have been able to obviously adjust my facilities and return his money.

20 **ADV KATE HOFMEYR:** Mr Natasen I accept what you've said I want to know whether the monies were used to fund the cash flow of Neo Solutions between November of 2015 and the 29th of February 2016, that's really what I'm interested in.

MR VIVIEN NATASEN: The funds were not in a ring-fenced account so by very nature they are part of our operations, so as I said if he had

approached us to say, can I have my money back tomorrow we would have been able to return these monies by adjusting our facilities accordingly.

ADV KATE HOFMEYR: So they were used to fund the cash flow of the business between November 2015...[intervenes].

MR VIVIEN NATASEN: No I'm not saying that they were inside our operational cash flow of the business because they were not in a ring-fenced bank account.

ADV KATE HOFMEYR: Explain to me the difference, the funds are
10 being...[intervenes].

MR VIVIEN NATASEN: You are trying to imply, with due respect, you are trying to imply that I used his money to run my business.

ADV KATE HOFMEYR: Yes.

MR VIVIEN NATASEN: Right?

ADV KATE HOFMEYR: Yes.

MR VIVIEN NATASEN: That is not the case, the funds were sitting in our operational bank accounts, as I said I always understood that to be his money so if he ever approached me to return his money it would have been returned. It was not a decision where we would use his
20 money to keep Neo as a company alive, that was not there, and I don't appreciate you trying to insinuate that.

ADV KATE HOFMEYR: Mr Natasen just trying to understand the position of your business between November 2015...[intervenes].

MR VIVIEN NATASEN: I appreciate you understanding – I appreciate the understanding but to imply that we manipulated the situation to

utilise that cash flow, it's not correct.

CHAIRPERSON: Miss Hofmeyr will deal with the question the way she decides to deal with it but I think what she – what both of you accept is that at a certain time, and there was less money in the bank account than should have been there if – in order to meet any request from Mr van Wyk for that payment without having to make other arrangements with the bank, I think both of you accept that.

MR VIVIEN NATASEN: Yes.

CHAIRPERSON: Ja that at a certain time there wasn't enough money
10 in the account.

MR VIVIEN NATASEN: Our limits are flexible, Chair, we are a projects business so if I land a large project I sit with the bank and I adjust my limits accordingly to be able to service a project.

CHAIRPERSON: Yes.

MR VIVIEN NATASEN: So if there's any change in my facility requirements I sit with the bank. If we set up facility, let's say R10million then the banks about four/five years ago introduced a charge for unutilised portion of overdraft limits. So we have a policy that we sit with them and we work out the limits at each point in time.
20 So had van Wyk approached me to say, I do require my money now I would have then gone to the bank and say, can I adjust my limit accordingly so that I don't pay that fee for the unutilised portions.

CHAIRPERSON: Yes, no, no I understand that and I think Miss Hofmeyr also understands that. As I understand the position both of you accept that at a certain time the amount that was in the bank

account would not have been enough to repay Mr van Wyk without you having to make arrangements with the bank.

MR VIVIEN NATASEN: Correct.

CHAIRPERSON: Both of you accept that, both of you also accept, don't you, that the money in the account had been used for the business of the – for the business, you both accept that, is that right?

MR VIVIEN NATASEN: They sat within the operational account, yes.

CHAIRPERSON: Yes whatever money, you know and what you are saying is you didn't put Mr van Wyk's money aside it was mixed up so
10 to speak with...[intervenes].

MR VIVIEN NATASEN: Correct we just kept a reconciliation account.

CHAIRPERSON: Yes and that mixed up money if you know what I understand was used for operations of the business but I think what you want to say is, in using the money in the account you didn't have in mind that I'm now using van Wyk's money, what you are saying is, you knew that there is money that may have to be refunded to
...[intervenes].

MR VIVIEN NATASEN: All placed into the farming venture.

CHAIRPERSON: And you took comfort in the knowledge that you
20 could go to the bank anytime and if he needed his money and then be able to pay him.

MR VIVIEN NATASEN: Correct.

CHAIRPERSON: Ja but what I think you are not denying is that the mixed money was used for the operations of the business.

MR VIVIEN NATASEN: Ja they sat in the operational accounts.

CHAIRPERSON: Yes, I don't know if that has helped?

ADV KATE HOFMEYR: It has indeed Chair, I'm indebted.

CHAIRPERSON: Yes okay.

ADV KATE HOFMEYR: Mr Natasen why didn't you put in a separate account if you wanted to identify it as not associated with the business of Neo Solutions?

MR VIVIEN NATASEN: The understanding at the time was that the funds were going to go quite quickly to the farming venture so no separate money market account was set up for that. The intention was,
10 it wasn't going to last that long in the account and obviously the venture took longer than planned and he had drawn by then, so it just became a comedy of errors in not achieving that.

ADV KATE HOFMEYR: Right so it was contemplated in the arrangement with him that it could be placed in the operational account of the business and would be utilised by the business in the interim and as and when he needed it repaid you'd make arrangements for that?

MR VIVIEN NATASEN: Well the intention was to put it to farming, the farming venture or the business venture. When he started to collect or retrieve money back to himself that then changed that scenario but it
20 was not an agreement that it would be used in Neo's operations it was neither discussed nor agreed it just happened.

ADV KATE HOFMEYR: But wouldn't you have wanted to ensure that it was kept separate unless it was going to be utilised by the business?

MR VIVIEN NATASEN: We had a reconciliation running either way was fine it was not the intention to utilise it by the business it was that we

would take it we would then go into the business together he would transfer across and that timing was not expected to be any long period of time at the time when we started this.

ADV KATE HOFMEYR: As a matter of fact though you didn't take steps to ensure that it wasn't used by the business, correct?

MR VIVIEN NATASEN: No as I said it wasn't contemplated.

ADV KATE HOFMEYR: What was not contemplated?

MR VIVIEN NATASEN: That it was going to be there for any long period of time.

- 10 **ADV KATE HOFMEYR:** Thank you, Mr Natasen I'd then like to go to the facility agreements that you had with Nedbank at the time because that's the one that applied the R5million overdraft facility and you'll find that in Exhibit DD10B – Oh Chair I see we're just before the tea break, it is a topic with a new document, maybe it makes sense to take the break now and then we can find those documents over the break.

CHAIRPERSON: Okay we'll take the tea adjournment and resume at half past eleven, we adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

- 20 **INQUIRY RESUMES**

CHAIRPERSON: Okay let us proceed.

ADV KATE HOFMEYR: Thank you Chair. We were going to look at the overdraft facility agreement with Neo Solutions and Nedbank and you will find that in DD10b at page 442.137.

CHAIRPERSON: Please repeat the page?

ADV KATE HOFMEYR: 442.137.

CHAIRPERSON: 442.

ADV KATE HOFMEYR: 137.

CHAIRPERSON: 137. Yes.

ADV KATE HOFMEYR: Mr Natasen can you explain what this document is?

MR VIVIEN NATASEN: It is the agreement for the overdraft facility with Nedbank.

ADV KATE HOFMEYR: And that is an agreement between which
10 entities?

MR VIVIEN NATASEN: Neo Solutions.

ADV KATE HOFMEYR: Hm.

MR VIVIEN NATASEN: And Nedbank.

ADV KATE HOFMEYR: And I see a date at the top of page 442.137
what is that date?

MR VIVIEN NATASEN: It is February 2015.

ADV KATE HOFMEYR: And if you go over to the end of that document
which you will find at 442.142 is that your signature sort of a third of
the way down the page and then in the middle of the page?

20 **MR VIVIEN NATASEN:** Yes.

ADV KATE HOFMEYR: So can you confirm that this was the overdraft
facility agreement in place between Neo Solutions and Nedbank from
February 2015?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: Thank you. And if you can tell us consistent

with your evidence previously at clause 3 it indicates what the amount of the overdraft facility is, what is that reflected there?

MR VIVIEN NATASEN: It is R5 million.

ADV KATE HOFMEYR: Mr Natasen can I suggest you bring the microphone just a bit closer so that for record purposes.

MR VIVIEN NATASEN: Yes sure.

ADV KATE HOFMEYR: It is clear. So you indicated the overdraft facility was R5 million, correct?

MR VIVIEN NATASEN: R5 million.

10 **ADV KATE HOFMEYR**: Thank you. And then if we go over the page to .138.

CHAIRPERSON: I am sorry.

ADV KATE HOFMEYR: Apologies Chair.

CHAIRPERSON: Oh I have just seen it. I did not see at the time the reference to R5 million but I have just seen it.

ADV KATE HOFMEYR: Thank you Chair.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: That is clause 3.1.1 for the record.

CHAIRPERSON: Yes.

20 **ADV KATE HOFMEYR**: And if we go over the page to 442.138 I would like to look at the last clause on that page that reads other conditions. Can you read for us the other condition at clause 8.1?

MR VIVIEN NATASEN: Yes. Okay it is:

“Full transactional banking it is of there it is redacted
and then Neo Solutions moves the Nedbank with a

ninety days of acceptance of this offer.”

ADV KATE HOFMEYR: So that seems to accord with your previous testimony, is that correct? That you had to move your transactional banking facilities from Standard Bank to Nedbank in accordance with this agreement, is that right?

MR VIVIEN NATASEN: That is correct.

ADV KATE HOFMEYR: And there was that email saying in July 2015 that we looked at that we moving it across. So did you comply with this requirement?

10 **MR VIVIEN NATASEN:** Correct. Well over time we were trying to comply but moving or changing the bank details with most of our government clients was very difficult so we were in constant email communications with Nedbank explaining where there were problems altering the information to change it to Nedbank.

ADV KATE HOFMEYR: Thank you. And then over the page at 442.139 you will see there there is a clause 11.1.2, do you see that?

MR VIVIEN NATASEN: 11.1.2 yes.

ADV KATE HOFMEYR: It is under a heading called Undertakings and if I may just read that clause to you? It says:

20 “The borrowers hereby unconditionally and irrevocably undertake and then if you pick it up at sub 2 to furnish Nedbank with the management accounts of the borrower and any security provider on a quarterly basis as soon as they become available and in any event within 30 days after the

end of the period to which such management
accounts relate.”

Do you see that?

MR VIVIEN NATASEN: I see that.

ADV KATE HOFMEYR: Did you comply with that requirement?

MR VIVIEN NATASEN: I think we were providing them instead with a
project schedule showing what projects we were busy with, what
income is coming from the project which they accepted instead of
this. them instead with a project schedule showing what projects we
10 were busy with, what income is coming from the project which they
accepted instead of this.

ADV KATE HOFMEYR: And is there some amendment to this
agreement to that effect?

MR VIVIEN NATASEN: No it was not amended I think we had submitted
those and whenever they requested information of what incoming cash
flows there are we had submitted that and they accepted that.

ADV KATE HOFMEYR: And did you do that on a quarterly basis? What
was the arrangement?

MR VIVIEN NATASEN: It was a monthly basis that they would submit –
20 that the accountants would submit that.

ADV KATE HOFMEYR: And would there be correspondence to that
effect where they were satisfied that 11.1.2 was complied with albeit
that management accounts were not provided?

MR VIVIEN NATASEN: I am not sure. The accounting office would
deal with the bank – the business banker and they would either meet or

discuss it and they would share the schedule out.

CHAIRPERSON: Did they ever complain that you had not complied with this condition?

MR VIVIEN NATASEN: No not that I am aware to me.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Thank you. Mr Natasen you will recall that on your previous day of testimony we had to work with the hypothetical about what the position was at the end of February and thankfully today with the assistance of the bank statements we have been able to
10 confirm what the actual position was because you had indicated in your testimony that there was an error in the financials that we were working for – for 2016 at the time, correct?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: Mr Natasen there was an objection at a point in that evidence from your legal representative as to what the relevance would be if there had been use made of the funds that were received by Neo Solutions from Mr Van Wyk, do you recall that?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: I would like to in conclusion on this aspect
20 explain to you that relevance but before we do that if we can just confirm with you given everything that you now know about the circumstances under which Koreneka received the funds and then Mr Van Wyk wanted to place them with Neo Solutions is it your view as you sit here today that those funds were involved in unlawful activities prior to them coming to Neo Solutions?

MR VIVIEN NATASEN: Sitting here today yes but at that point in time I was not aware.

ADV KATE HOFMEYR: No indeed. I am simply asking today you do take that view?

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: Indeed you even I think took that view after some of this was disclosed to you by Mr Judiel and that is why I have it you had a conversation with Mr Van Wyk that you endeavoured to record at a point in the middle of 2018, is that correct?

10 **MR VIVIEN NATASEN:** I did not endeavour I actually recorded it.

ADV KATE HOFMEYR: Apologies you successfully recorded indeed but as I understood your evidence on that recording it was because you were so concerned to have learnt at that point about the unlawfulness of the activities that produced those funds that you were in essence trying to get Mr Van Wyk to confirm that you had no knowledge of that unlawfulness, is that a fair summary?

MR VIVIEN NATASEN: The way it transpired was that when I became aware that the funds received from Koreneka were not let us use the word kosher I – I then cooperated with Judiel and the authorities in
20 order to provide all the information to show that we were unaware at the time, we were not complicit at the time and we were inadvertently used by Van Wyk to move those monies through us. And that is the basis of how the 204 came about. There was no interaction with Van Wyk at the time he then called me in May of 2018 and that is when I chose to record the call and obviously through that him to admit that I

was not aware that that was state money at the time.

ADV KATE HOFMEYR: I would like to then go to the legislation bundle which I dearly hope has been made available to you there.

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And that the Chair has a copy which could be handed to him.

MR VIVIEN NATASEN: There is one with my transcripts.

ADV KATE HOFMEYR: Oh sorry it did come up in the break I requested it.

10 **CHAIRPERSON:** Oh.

ADV KATE HOFMEYR: If we could just hand it to you.

MR VIVIEN NATASEN: Are we done with DD10?

ADV KATE HOFMEYR: We are at the moment we will go to the provisions of the Prevention of Organised Crime Act. It is a – it is a piece of legislation we looked at last time and you will find the relevant page at 17.

CHAIRPERSON: And I think I have not been furnished with it.

ADV KATE HOFMEYR: Oh

CHAIRPERSON: Oh you are still looking for it okay.

20 **ADV KATE HOFMEYR:** Oh.

CHAIRPERSON: So I forgot that he has got some there. But on the spine it would be written legislation.

MR VIVIEN NATASEN: He is waiting for the page.

CHAIRPERSON: Oh I do not know if she has mentioned the page.

ADV KATE HOFMEYR: The page is page 17, 17.

CHAIRPERSON: Thank you.

ADV KATE HOFMEYR: You will see that this is a page within the copy of the Prevention of Organised Crime Act that has been placed in the legislation bundle. Chair for the record that begins at page 11 but what we are focussing on is the provision that appears at page 17.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: On the last occasion of your evidence we looked both at Section 4 which dealt with money laundering and we looked at Section 5 which dealt with assisting another to benefit from
10 the proceeds of unlawful activity. What I would like to look at today is Section 6 which deals with the acquisition possession or use of proceeds of unlawful activities. And what I am interesting in there is sub B. If I may just read that into the record and then deal with the questions. Mr Natasen that section provides that

“Any person who uses property and who knows or ought reasonably to have known that it is or forms part of the proceeds of unlawful activities shall be guilty of an offence.”

Do you see that?

20 **MR VIVIEN NATASEN:** Yes.

ADV KATE HOFMEYR: So that indicates that use of any proceeds of unlawful activities which ought to have been known to be lawful activities will constitute an offence, is that as you understand it?

MR VIVIEN NATASEN: Well as it is stated here.

ADV KATE HOFMEYR: Indeed. And then to round up in relation to my

learned friend's concern last night – last occasion the reason for probing with you in fairness to you whether Neo Solutions had made any use of the funds that it received from Koreneka and Mr Van Wyk relates directly to Section 6. Because Section 6 says:

“Any person who uses the proceeds which they know or ought reasonable to have known to be the proceeds of unlawful activities will be guilty of an offence.”

Do you see that?

MR VIVIEN NATASEN: I understand the basis of you raising it.

10 **ADV KATE HOFMEYR:** Thank you. Mr Natasen I would then like to go just for a moment to your 204 statement. Because I must confess we had received your affidavit – your 12 July affidavit maybe forty minutes before the evidence started last time on the 12 July and albeit that I had been able to look at it very quickly I have subsequently been able to look at it in a bit more detail in preparation for today. And so there are one or two aspects that I just need to pick up on in relation to that statement. You will find it right at the beginning of Exhibit DD10a. Mr Natasen you gave evidence last time about how this statement came to be prepared and signed, do you recall that?

20 **MR VIVIEN NATASEN:** Yes.

ADV KATE HOFMEYR: As I have your evidence and we can find it in the transcript if it is relevant to do so but I recall you as having said in your testimony that Mr Judiel obtained the bank statements from your accounts team and that he then prepared the draft. He came and sat with you and then you said we obviously read it and I concurred with it

and that is the affidavit I deposed. You did not add to on the transcript but I am sure that was intended. Is that as I recall your evidence correct?

MR VIVIEN NATASEN: That is correct.

ADV KATE HOFMEYR: So just tell me where did you meet with Mr Judiel when you went through this?

MR VIVIEN NATASEN: He had come through to our offices.

ADV KATE HOFMEYR: And are those the offices in Rivonia?

MR VIVIEN NATASEN: That is right.

10 **ADV KATE HOFMEYR:** And you – you then said that you knew that he was a private investigator, is that right?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: As I understand it you had actually put Mr Van Wyk onto Mr Judiel at a point where he was enquiring about the services of a private investigator, is that correct?

MR VIVIEN NATASEN: That is not correct it was Villa who was one of our employees at the time who recommended Judiel.

ADV KATE HOFMEYR: So just tell me how that came up? How did Mr Van Wyk engage with you or your business at all about a private
20 investigator?

MR VIVIEN NATASEN: No Villa Steinberg was one of the people working on the farming business case and [intervention].

ADV KATE HOFMEYR: Sorry and is that person – can I just have the name again?

MR VIVIEN NATASEN: Villa Steinberg.

ADV KATE HOFMEYR: Steinberg is that person employed in Neo Solutions?

MR VIVIEN NATASEN: He was at the time.

ADV KATE HOFMEYR: At the time thank you.

MR VIVIEN NATASEN: Specifically for the farming venture.

ADV KATE HOFMEYR: Right and how does it come about?

MR VIVIEN NATASEN: So when Van Wyk said that he had an issue with his business partner and he was looking for a private investigator then Steinberg – my understanding is Steinberg had recommended
10 Judiel.

ADV KATE HOFMEYR: So did you know that at the time of the recommendation?

MR VIVIEN NATASEN: I found out in passing. I am not sure when they discussed it but I found out in passing during, on or about that time.

ADV KATE HOFMEYR: And did that precede when Mr Judiel started to engage you about the Section 204 statement?

MR VIVIEN NATASEN: No, no that was much earlier.

ADV KATE HOFMEYR: Okay. So there is already a relationship between Mr Van Wyk and Mr Judiel pursuant to somebody in your
20 company putting them together, Correct?

MR VIVIEN NATASEN: That is right.

ADV KATE HOFMEYR: And then at a later point you engage with Mr Judiel about the Section 204 statement, is that correct?

MR VIVIEN NATASEN: When he approached me in October of 2017.

ADV KATE HOFMEYR: Of 2017?

MR VIVIEN NATASEN: That is right.

ADV KATE HOFMEYR: Thank you. And do you recall having paid Mr Judiel an amount in recompense for his work on drafting the affidavit?

MR VIVIEN NATASEN: I was aware that he was going to invoice for travel expenses to come through and obviously obtain the affidavit.

ADV KATE HOFMEYR: So was he paid?

MR VIVIEN NATASEN: I believe so I mean I cannot say yes or no. {indistinct} but I am assuming he was.

ADV KATE HOFMEYR: Well just – just help me with that because that
10 was an indication that you gave to the commission at one of your meetings with them, is that right?

MR VIVIEN NATASEN: Yes I said he was going to invoice for it. I am not sure – if you are asking me if he was paid I cannot – I cannot say that yes or no here.

ADV KATE HOFMEYR: You have not confirmed that right. Do you recall being asked for the confirmation of that payment?

MR VIVIEN NATASEN: Yes I think so you did ask in that – in that session or the commission did.

ADV KATE HOFMEYR: Yes there was also a subsequent email
20 requiring you to provide it. Do you recall that?

MR VIVIEN NATASEN: Okay I think it must be there.

ADV KATE HOFMEYR: And have you taken any steps to establish whether he was paid?

MR VIVIEN NATASEN: I have not since no.

ADV KATE HOFMEYR: But it would not surprise you if he was because

that was the understanding of the arrangement?

MR VIVIEN NATASEN: If – that was the understanding. He did indicate he wanted to be settled for his travel and disbursements.

ADV KATE HOFMEYR: Thank you. Did that strike you as odd that a statement that has to be prepared under the provisions of The Criminal Procedure Act could be the subject matter of a payment to someone who would prepare it for you?

MR VIVIEN NATASEN: It was not that he was being remunerated for the service he was being reimbursed for his travel costs of going back
10 and forth.

ADV KATE HOFMEYR: So it was simply confined to his travel.

MR VIVIEN NATASEN: That was my understanding.

ADV KATE HOFMEYR: To Rivonia. Did he have to travel far?

MR VIVIEN NATASEN: No my understanding he resides in the West Rand and obviously he was engaging between the DCPI in Rustenburg or North West Province and there. So the amount of – I think he indicated around R10 000 for disbursements for travelling back and forth it did not look unreasonable.

ADV KATE HOFMEYR: Okay. R10 000 for travelling back and forth.
20 Did he do so quite a few times?

MR VIVIEN NATASEN: I am – well I did not – I was not aware how many times but obviously he had to engage with the accountants to obtain the data so it would have been a few times that he would have to travel back and forth Chair. As well as obviously head out to the North West or Rustenburg – I believe they were based in Rustenburg.

ADV KATE HOFMEYR: And when you met with him on that day at your offices can you just take us through it. I understood your evidence last time was that he had prepared the draft, is that correct?

MR VIVIEN NATASEN: That is correct.

ADV KATE HOFMEYR: And then I understood you to say you read through it and you satisfied yourself as to its contents, is that correct?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And then you said you deposed to it, is that correct?

10 **MR VIVIEN NATASEN:** That is right.

ADV KATE HOFMEYR: How did you depose to it?

MR VIVIEN NATASEN: With his attorney obviously. The last time. Remember the first time we had done the draft and then when he came through to depose then he had – he had a person on hand. I cannot recall the person's name. It will be on the affidavit.

ADV KATE HOFMEYR: So he brought somebody with him for the purposes of having you depose to the affidavit, is that right?

MR VIVIEN NATASEN: That is right, that is right.

ADV KATE HOFMEYR: And he was in your offices when you did so?

20 **MR VIVIEN NATASEN:** That is right.

ADV KATE HOFMEYR: And you do not recall the name of that person?

MR VIVIEN NATASEN: I do not but he will be the commissioner of the affidavit.

ADV KATE HOFMEYR: Okay so let us to go to the commissioner of oaths page if we can. You will find it at 11. Was it Johannes Marthinus

Heynes?

MR VIVIEN NATASEN: I am assuming so.

ADV KATE HOFMEYR: Okay. Do you recall him being introduced to you?

MR VIVIEN NATASEN: No he just commissioned it for me I do not...

ADV KATE HOFMEYR: So Mr Judiel organised for a commissioner to come with him.

MR VIVIEN NATASEN: That is right.

ADV KATE HOFMEYR: To your offices in Rivonia for the purposes of
10 deposing to the affidavit?

MR VIVIEN NATASEN: Correct yes.

ADV KATE HOFMEYR: And did you depose to it in the presence of Mr Heynes?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And signed accordingly and then he signed, is that right?

MR VIVIEN NATASEN: That is right.

ADV KATE HOFMEYR: What I am curious about in that regard at page
11 Mr Natasen is why then what the commissioner of oaths indicates
20 there is that the statement was sworn before him I am reading from the
third line of the commissioner's indication there. And the deponent's
signature was placed thereon in my presence at Krugersdorp on the 4th
October 2017.

MR VIVIEN NATASEN: No it was at my offices.

ADV KATE HOFMEYR: So why would he have filled in Krugersdorp?

MR VIVIEN NATASEN: I think they had prefilled that section but it was done at my offices. I do not know. I actually did not see that part. All I did was I signed, I passed it to him and then he had filled his.

ADV KATE HOFMEYR: Why do you think they would have prefilled in Krugersdorp if it was being signed in Rivonia?

MR VIVIEN NATASEN: I am not sure. But I am sure you can call him.

ADV KATE HOFMEYR: I am sure we can thank you. And Mr Natasen in your evidence you also indicated that at that meeting when you were finalising all of this Mr Judiel got...

10 **CHAIRPERSON:** I am sorry Ms Hofmeyr.

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: I see that in the commissioner's certificate Mr Natasen that is the same part where Ms Hofmeyr was reading from. I see that the commissioner of oaths says he is the one who took the statement. I certify that the above statement was taken by me. Is that factually correct?

MR VIVIEN NATASEN: No it was Judiel who prepared that statement.

CHAIRPERSON: Yes he just administered the oath?

MR VIVIEN NATASEN: Yes.

20 **CHAIRPERSON:** Yes okay.

MR VIVIEN NATASEN: It looks like a template that they have utilised for this.

CHAIRPERSON: Ja maybe – maybe normally it just says that or maybe he did not pay attention to that part. I do not know. I just picked it up that he says he is the one who took the statement.

MR VIVIEN NATASEN: No it was not. I did not take the statement with him.

CHAIRPERSON: Yes.

MR VIVIEN NATASEN: It was Judiel who assisted me in preparing.

CHAIRPERSON: Yes. Okay.

ADV KATE HOFMEYR: But he was in your presence in Rivonia?

MR VIVIEN NATASEN: That – the deposition thereof.

ADV KATE HOFMEYR: Yes.

MR VIVIEN NATASEN: Yes.

10 **ADV KATE HOFMEYR:** Yes. And then I recall from your evidence last time you said during that interaction somebody was put on the line an investigator officer, is that correct?

MR VIVIEN NATASEN: That was the earlier interaction when he was explaining to me what had transpired. It was not when we finalised this.

ADV KATE HOFMEYR: Yes.

MR VIVIEN NATASEN: It was in an earlier stage that he put – I am assuming the investigating officer on the phone.

ADV KATE HOFMEYR: Why do you say you assume he put the
20 investigating officer on the phone?

MR VIVIEN NATASEN: He said he is phoning...

ADV KATE HOFMEYR: Because your last testimony was that he put the investigating officer on the phone.

MR VIVIEN NATASEN: Ja well I am saying because I did not confirm it anything [indistinct] so I am obviously providing that clarity now to say

that he put – he told me he was putting the investigating officer on the phone and he was obviously – he engaged with her – it was not on a speaker phone and they were discussing that he was preparing an affidavit well obviously with me and that they were – he would be bringing it to me.

ADV KATE HOFMEYR: So did you not hear the call with the investigating officer?

MR VIVIEN NATASEN: I heard him on the call. I heard it was a woman's voice but I did not get the exact words that was being said on
10 the other side. I understood the gist of what he said on this side.

ADV KATE HOFMEYR: And what was he saying?

MR VIVIEN NATASEN: He was basically explaining that he had obtained all the information regarding what had come through to Neo Solutions, how it had moved on and he was preparing an affidavit with me which he would bring through.

ADV KATE HOFMEYR: Thank you. Mr Natasen yesterday evening we provided your attorneys with a further affidavit which we had received literally moments before from the investigating officer assigned to this case. Have you seen that affidavit?

20 **MR VIVIEN NATASEN:** Yes it came through last night.

ADV KATE HOFMEYR: Thank you. Let us go to it. It is in the other bundle DD10a and it is at page 238.287. Apologies when I said the other bundle I should have said the same bundle Chair.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: That was my error.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: We are in – we are still in a and it is 238.287.

CHAIRPERSON: .247?

ADV KATE HOFMEYR: 287 Chair.

CHAIRPERSON: 287.

ADV KATE HOFMEYR: It is right at the back of that file that may assist in navigating.

CHAIRPERSON: I see that I am – Mr Natasen seems to find these pages much quicker than I do.

10 **ADV KATE HOFMEYR:** Maybe that he has been working on it more recently Chair than any of us.

MR VIVIEN NATASEN: No it is the first time I just probably quicker in flipping pages.

CHAIRPERSON: Ja okay.

ADV KATE HOFMEYR: So we now at 238.287 and that is an affidavit deposed to by Ms Mokhosi and if you see at paragraph 3 she was asked to confirm whether she had met or had any interactions with you Mr Natasen in person or telephonically and she said no and she was asked whether anyone else from DPCI had been in contact with or met you
20 and there she says not from the Mafikeng DPCI, do you see that?

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: So Ms Mokhosi has indicated she is not had any interactions with you, do you see that?

MR VIVIEN NATASEN: Correct but that is consistent with what I am saying as well. I deal with Mr Judiel.

ADV KATE HOFMEYR: Yes and so you never engaged with her. I had understood last time that there was a speaker phone, was that incorrect?

MR VIVIEN NATASEN: No he had put her on the phone and I heard the conversation. Well I assumed as I said it was – the investigating officer but he did put someone on the phone and engaged about that he is securing the affidavit and he would be bringing it through to her.

ADV KATE HOFMEYR: Right. And...

MR VIVIEN NATASEN: All I knew it was a woman – a female voice on
10 the other side.

ADV KATE HOFMEYR: Thank you. And Mr Judiel did you engage with him again before you gave evidence here on the 12 July?

MR VIVIEN NATASEN: Yes we did. He supplied an affidavit as well.

ADV KATE HOFMEYR: Thank you. I would like to go to that affidavit if we may? You will find it in the same bundle and it commences at page 238.145. Is that Mr Judiel's affidavit?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: Did you read it before you submitted it to the commission?

20 **MR VIVIEN NATASEN:** I am aware of it yes.

ADV KATE HOFMEYR: Did you read it?

MR VIVIEN NATASEN: And I understood the contents yes.

ADV KATE HOFMEYR: Okay. If you go to 238.147. At paragraph 123 there Mr Judiel describes his involvement in the Section 204 statement. Could you read to us what he says at paragraph 13?

MR VIVIEN NATASEN: He says in paragraph 13:

“It is my understanding that pursuant to my advices to Natasen regarding my investigations herein and the matter under CAZ4908/2017 Natasen prepared and submitted a statement in terms of Section 204 of The Criminal Procedure Act to the investigating officer.”

ADV KATE HOFMEYR: So that seems to contradict your evidence.

CHAIRPERSON: I am sorry.

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

CHAIRPERSON: I was trying to see where...

MR VIVIEN NATASEN: It is the last paragraph on 238.147.

ADV KATE HOFMEYR: Paragraph 13 Chair.

CHAIRPERSON: On?

ADV KATE HOFMEYR: Page 238.147.

CHAIRPERSON: The last paragraph?

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: Oh okay.

20 **ADV KATE HOFMEYR:** Chair if we can just read the relevant part again? This is Mr Judiel explaining his role in the Section 204 statement and I will read it again just for the record.

“It is my understanding that pursuant to my advices to Natasen regarding my investigations herein and the matter under CAZ49/08/2017 Natasen prepared and submitted a statement in terms of Section 204 of

The Criminal Procedure Act to the investigating officer.”

Do you see that?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: That seems to be inconsistent with your evidence about his role, does it not?

MR VIVIEN NATASEN: I do not think it is inconsistent. He was – he was the person who approached me. He assisted me in preparing it and that is the document that went through. I am assuming submitted
10 to the investigating officer is a process but I did not physically meet with the investigating officer if that is what you are trying to imply.

MR VIVIEN NATASEN: No I am not implying anything Mr Natasen I am just looking at his words. He says: Natasen prepared let us stop there. So I understand your evidence quite repeatedly to be Mr Judiel prepared it, correct?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: So that is inconsistent, right?

MR VIVIEN NATASEN: I think well if you obviously going to summons Mr Judiel he will come and account for what he said. I cannot ...

20 **ADV KATE HOFMEYR:** No indeed I am just...

CHAIRPERSON: I am sorry Ms Hofmeyr.

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: Maybe it might not necessarily be inconsistent because if for example you get your attorney to prepare something for you and you sign somebody might say you prepared even though it is

your attorney who prepared so there may be room for that.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: Ja.

ADV KATE HOFMEYR: Chair indeed I am indebted to you.

CHAIRPERSON: But you may see how you ...

ADV KATE HOFMEYR: Indeed if I can follow that up? Mr Natasen I understood your evidence previously and today to place great emphasis on Mr Judiel's role in putting together that statement, is that a fair reflection of your evidence?

10 **MR VIVIEN NATASEN:** Yes. He - he greatly assisted in putting it together.

ADV KATE HOFMEYR: He ...

MR VIVIEN NATASEN: I - you see I do not know what - what the content would be required for a 204.

ADV KATE HOFMEYR: Hm.

MR VIVIEN NATASEN: So he assisted me with that.

ADV KATE HOFMEYR: Hm. Indeed and then on your version he took it away and made it available to the authorities. Is that correct?

MR VIVIEN NATASEN: That is correct.

20 **ADV KATE HOFMEYR:** So all that I am interested in here is that neither of those two things does he take responsibility for in this paragraph. Do you see? He says you prepared it and you submitted it.

MR VIVIEN NATASEN: But like the Chair has said it - it is semantic. I mean it is quite often that the document is prepared by somebody else physically but in the way it is worded here ...

ADV KATE HOFMEYR: Yes.

MR VIVIEN NATASEN: I have - I did not prepare it and - and Mr Judiel can easily - I am sure you can summons him ...

ADV KATE HOFMEYR: Hm.

MR VIVIEN NATASEN: To come and account on exactly how it went down.

ADV KATE HOFMEYR: And you also did not submit it?

MR VIVIEN NATASEN: I did not physically submit it myself to the investigating officer. He did that.

10 **CHAIRPERSON:** There - there may be - what I said earlier on might apply much more easier with regard to preparation but with regard to submission if he submitted it on your behalf one would expect him to make it clear that he was the one who submitted it even if it was your - on your behalf rather than say you submitted it. Do you want to say anything on that?

MR VIVIEN NATASEN: Point taken Chair.

CHAIRPERSON: Yes.

MR VIVIEN NATASEN: I mean obviously he - he can come and ...

CHAIRPERSON: Yes.

20 **MR VIVIEN NATASEN:** Actually account for what ...

CHAIRPERSON: Testify, *ja*.

MR VIVIEN NATASEN: Why he said what he said.

CHAIRPERSON: But - but you certainly did not submit it yourself ...

MR VIVIEN NATASEN: I definitely did not submit it myself.

CHAIRPERSON: And you say he submitted it.

MR VIVIEN NATASEN: I have never met the investigating officer myself ...

CHAIRPERSON: Okay, alright.

MR VIVIEN NATASEN: And that is consistent what the investigating officer is saying.

ADV KATE HOFMEYR: Thank you. Then if we can go to your statement of 12 July. It is again in the same bundle and you will pick it up at page 2-3-8.6-7. Mr Natasen before we look at this part of 12 July statement that you provided do you recall that in the 204 Statement you
10 indicated that you were going to take steps to report the conduct under Section 34 of what is called PRECCA. Do you recall that?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: You did say that. So when you deposed to it in October 2017 you indicated you would take steps to report Mr Van Wyk's conduct under that Act. Correct?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: Thank you. Now at paragraph 30 - 3-0 - on page 2-3-8.6-7 you say there - now this is the affidavit or the statement you provided on 12 July 2019. Can you read for us what you said
20 there?

MR VIVIEN NATASEN: Which paragraph again?

ADV KATE HOFMEYR: Paragraph 30 - 3-0.

MR VIVIEN NATASEN: 30.

"Prior to learning of the aforementioned criminal investigation from Judiel I was unaware of any

issues relating to the transactions between Koreneka and Neo Solutions and Batsamai. Accordingly upon learning of the criminal investigations in the alleged implication of Neo Solutions therein I candidly and voluntarily disclosed the extent of my knowledge and the involvement of Neo Solutions in the alleged criminal activity to the Directorate for Priority Criminal Investigations the DPCI and further submitted a
10 statement under oath in terms of Section 204 of the Criminal Procedure Act 56 of 1955.”

ADV KATE HOFMEYR: So did you have any interactions yourself with the Directorate for Priority Criminal Investigations?

MR VIVIEN NATASEN: No. My understanding from again engaging with Mr Judiel was that there is already case number in play. So there was - there was no further requirement to disclose any further because the - the existing case number would apply over this matter.

ADV KATE HOFMEYR: Why then include in your Section 202 Statement that you would take steps to report it under Section 34?

20 **MR VIVIEN NATASEN:** It is - Judiel inserted that clause anyway but when I - I mean obviously from my previous testimony and my subsequent follow up with Judiel he is understanding was there is already a case number on this exact matter and he would not then be opening up another case file. (Intervenes).

ADV KATE HOFMEYR: So did you specifically engage with him about

the need to ...

MR VIVIEN NATASEN: After I testified the last time because then - because I had not before then understood that I needed to do any further obligation. There was already - he had already said that was all that needed to have been done. That the matter was already with the Commercial Crimes Unit and therefore there was nothing else to be done past that point.

So although yes my 204 makes reference to those further steps. My understanding from Judiel was that those steps were already
10 in play.

ADV KATE HOFMEYR: I just would like to go a bit further Mr Natasen because I am not sure I understand it. I understand your evidence to be Mr Judiel prepared the draft. Correct?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: So he included in the draft that you would take steps to report it under Section 34 of PRECCA. Correct?

MR VIVIEN NATASEN: That is right.

ADV KATE HOFMEYR: If he knew there was already a case number and no need to report it why would he have included that in your
20 statement?

MR VIVIEN NATASEN: I am not sure why he - why that is there. All I am saying is then Judiel himself can come and account for why that is there. All I have done is that when I asked him about it is there anything else I need to do he said he has engaged with the - with the prosecutor and there was no further steps to - to be taken by myself

from it.

ADV KATE HOFMEYR: When did you ask him that?

MR VIVIEN NATASEN: That is straight after we prepared the affidavit. I asked him what else and then again when - when I took the recording I called him again. I said can I submit you the recording that I have got which is further evidence to show that I am - I am - I was not aware that this was State money and then he said no they have got all that they need and there is nothing further for myself.

ADV KATE HOFMEYR: Thank you. Mr Natasen I would then like to go
10 to the evidence of Mr Patel who was your erstwhile accountant if we may. Chair Mr Patel has provided two affidavits. He provided one just the day before Mr Natasen testified the last time. Then there was a follow up from the Commission in relation to that affidavit and then he provided a second one and both of those have been provided to Mr Natasen. Mr ...

CHAIRPERSON: Yes. Is there - are they in the same bundle?

ADV KATE HOFMEYR: They are in the same bundle.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Generally Chair the way it is arranged is when
20 we are in affidavits we are in Bundle A and when we go to other documents I will take you to B but for now we are in A which is the various affidavits and you will find the first affidavit at page 2-3-8.1. Mr Natasen just to confirm for the record you have previously been provided with both of these affidavits. Correct?

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: And you have yourself provided an affidavit in response. Correct?

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: That according to my records were sent through on Tuesday of this week - the 27th. We can go to but ...

MR VIVIEN NATASEN: I am not sure when Deloitte sent it to you but (intervenes).

ADV KATE HOFMEYR: I assume that will be common cause. If we can then go to your affidavit which was the response to this affidavit. You
10 will find it at page 2-3-8.2-6-4.

CHAIRPERSON: 2-3-8.2 ...?

ADV KATE HOFMEYR: 6 - three is where it begins Chair.

CHAIRPERSON: Three, oh.

ADV KATE HOFMEYR: 2-6-3 is where it begins. Sorry 2-3-8.2 - sorry 2-3-8.2-6-3 Chair. I confuse my numbers from time to time. It is right towards the end - 2-3-8.2-6-3. Mr Natasen just to orientate ourselves. Apologies. This is the prior affidavit that you sent through to the Commission on 8 August. It is actually not the one responding to Mr Patel. The one responding to Mr Patel we will come to just now.

20 It is the next affidavit in the bundle. That is the one dated 27 August but I would like to just look at this one for a moment if we may. In this affidavit if you turn over the page to 2-3-8.2-6-4 you say there at paragraph 6. Well let us start at five because you providing some background in this affidavit. You say:

“On 12 July 2019 I was questioned at the

Commission in respect of inter alia certain financial statements and/or documents of Neo Solutions.”

Do you see that?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And then at six you say:

“Prior to such inquiry I had alerted the Commission to the fact that the financial statements of Neo Solutions in respect of the financial year ending February 2017 were incomplete and/or incorrect.”

10 Do you see that?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: Do you understand that as I understand that to mean prior to 12 July when that inquiry took place you alerted the Commission to the fact that the financial statements were incomplete or incorrect?

MR VIVIEN NATASEN: I am assuming so, *ja*.

ADV KATE HOFMEYR: Can you point me to where that was brought to the Commission’s attention before you testified on 12 July?

MR VIVIEN NATASEN: I cannot offhand.

20 **ADV KATE HOFMEYR:** So why would have said that prior to the inquiry you did so?

MR VIVIEN NATASEN: I am not sure. It is here that - I obviously - I will have to go back into our records.

ADV KATE HOFMEYR: Because what - what is interesting is that you did depose to an affidavit the very day before on the 11th but you did

not in that affidavit draw the Commission's attention.

MR VIVIEN NATASEN: Okay.

ADV KATE HOFMEYR: So that would be incorrect then what is stated at paragraph 6?

MR VIVIEN NATASEN: Okay.

ADV KATE HOFMEYR: Do you accept that?

MR VIVIEN NATASEN: Ja. In the absence of seeing anything else, yes.

ADV KATE HOFMEYR: Thank you and if we go to that affidavit it is at
10 2-3-8.1-8-5.3.

CHAIRPERSON: That is quite something. 2-3-8.1-8-5.3.

ADV KATE HOFMEYR: Point 1-8-5.3.

CHAIRPERSON: 2-3-8 ...

ADV KATE HOFMEYR: Point 1-8-5 is where we should possibly start
Chair ...

CHAIRPERSON: Ja.

ADV KATE HOFMEYR: Because that is the filing sheet of 11 July
affidavit.

CHAIRPERSON: Okay, yes.

20 **ADV KATE HOFMEYR:** And then if you go over the page it is an
affidavit by yourself Mr Natasen. Is that correct?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And it does not run particularly long. It is an
affidavit that you provided to the Commission on 11 July. That was the
day before you testified. Do you see that at the end of the affidavit at

2-3-8.1-8-5.5?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And our records reflect that it came through to the Commission just after 5 o' clock on that day. Do you accept that?

MR VIVIEN NATASEN: I am not contesting it.

ADV KATE HOFMEYR: Thank you. Mr Natasen this is where you deal with the production of documents. You will pick it up at 2-3-8.1-8-5.3. They relate to the various documents that you had been required to provide under a summons. Now in this affidavit I - I have read it quite
10 carefully - you say nothing in it about the discrepancies in the financial statements. Do you accept that; and please feel free to remind yourself about its contents.

MR VIVIEN NATASEN: Ja. There is nothing raised here.

ADV KATE HOFMEYR: Thank you. Now despite it not appearing in this affidavit as I understand your evidence you had been alerted to the discrepancies in the 2017 financials ...

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: Already by the 11th. Is that right?

MR VIVIEN NATASEN: Yes. There was a meeting with the auditors on
20 the - on the 10th.

ADV KATE HOFMEYR: Okay. So just in time you met on the 10th which was the Wednesday of the week as I have it. Correct?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And the auditors of which Mr Patel is the relevant responsible person had indicated to you in that meeting that

there were discrepancies in the 2017 financials. Do you recall that?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And do you recall what the nature of the discrepancies were?

MR VIVIEN NATASEN: At that point we did not know the nature. It is just that the - there were several balance sheet items that did not reconcile on the 2017 financials. So the way it transpired was that when the summons was received by the auditors they contacted me. They asked for a copy of the financials or the management accounts
10 that were sent through to the Commission which our accounts department then sent through.

Then they called a meeting to understand what had happened and in the meeting it was then established that Mr Patel then informed me that there was a - the 2017 financials were different. There were discrepancies between the two versions. The version he had signed or authorised versus the version that we had on hand.

ADV KATE HOFMEYR: Yes. Thank you for that because that is my understanding of the nub of the discrepancies. Right. It was that and this is apparent from Mr Patel's affidavit. We can go there if necessary
20 but could you just help me whether you understand his evidence in the same way as I do.

As I understand Mr Patel's evidence he says he met with you on 10 July and in that meeting he discovered that the version of the 2017 financials that had been provided to the Commission with a covering page indicating he had signed off on them were different to

the ones he had actually signed off on.

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: Is that your understanding of his evidence?

MR VIVIEN NATASEN: Well he had already received the copy that we had sent through to the Commission.

ADV KATE HOFMEYR: Indeed. That is the only way he can do the comparison. Right?

MR VIVIEN NATASEN: *Ja, ja.* So he did not - it was not discovered in the meeting.

10 **ADV KATE HOFMEYR:** No.

MR VIVIEN NATASEN: He arrived at the meeting already having that knowledge.

ADV KATE HOFMEYR: Yes. So he asked you to send him the ones that were submitted to the Commission which include a page from his firm indicating that they had compiled them ...

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And which he signed off on and then he goes back to records and he discovers that the financial statements that he actually signed off on from 2017 differ from the ones that were
20 submitted to the Commission. Is that correct?

MR VIVIEN NATASEN: That is correct, yes.

ADV KATE HOFMEYR: That is the nature of the discrepancy as I understand it. Correct?

MR VIVIEN NATASEN: Prior to my testimony, yes.

ADV KATE HOFMEYR: Yes. So this is - indeed and your testimony

just to be clear last time Mr Natasen it only dealt with the 2016 financials.

MR VIVIEN NATASEN: *Ja, ja.*

ADV KATE HOFMEYR: Right and we are only talking about a discrepancy that Mr Patel identified with the 2017 financials. Correct?

MR VIVIEN NATASEN: That is right.

ADV KATE HOFMEYR: Right. So that is the discrepancy and he - I understand he is concerned about it as you were. Correct/

MR VIVIEN NATASEN: Correct, yes.

10 **ADV KATE HOFMEYR:** Because as I understand his affidavit it had been presented to the Commission that a set of financials that he signed off on were actually not the ones that he had signed off on and prepared. Correct?

MR VIVIEN NATASEN: That is right.

ADV KATE HOFMEYR: Thank you and then your evidence last time was that the next morning so that is 11 July Mr Patel and his firm resigned as the auditors of Neo Solutions. Correct?

MR VIVIEN NATASEN: Well we received that notification via your office.

20 **ADV KATE HOFMEYR:** That ...

MR VIVIEN NATASEN: He did not send us correspondence resigning directly with us. It was actually notified via the attorneys.

ADV KATE HOFMEYR: Sorry just explain that to me.

MR VIVIEN NATASEN: It was the correspondence via the attorneys that notified us of resignation. It was not directly to me.

ADV KATE HOFMEYR: From whom?

MR VIVIEN NATASEN: From Patel's attorneys to - to our attorneys.

ADV KATE HOFMEYR: Yes, sorry. So it did not involve the Commission?

MR VIVIEN NATASEN: Well the affidavit was also submitted to you at the same time.

ADV KATE HOFMEYR: Sorry, but just to be clear. It was communicated to you through the attorneys of Mr Patel and your attorneys that they were resigning as your auditors?

10 **MR VIVIEN NATASEN:** Correct yes.

ADV KATE HOFMEYR: And that happened on the morning of 11 July the Thursday. Correct?

MR VIVIEN NATASEN: That is right, yes.

ADV KATE HOFMEYR: Thank you; and then I would like to go to Mr Patel's affidavit again if we may and you find that at 2-3-8.1 and if you go through - that is the start of Mr Patel's affidavit and then if you go to the end of his affidavit. You will find it at page 2-3-8.5.

CHAIRPERSON: Did you say point five?

ADV KATE HOFMEYR: Yes Chair.

20 **CHAIRPERSON:** *Ja.*

ADV KATE HOFMEYR: That is the last page - page of Mr Patel's affidavit and I would like to pick it up at paragraph 12 on that page. At paragraph 12 he says:

"On the morning of 11 July 2019 I received
WhatsApp messages from Mr Natasen. A

screenshot of which is attached marked G and the contents of which speak for themselves.”

Do you see that?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And then if we turn over the page - well it is a few pages we have to go to get the WhatsApp message. You will find that at 2-3-8.6-0.

CHAIRPERSON: 2-3-8.6-0?

ADV KATE HOFMEYR: 6-0 yes.

10 **CHAIRPERSON:** Okay.

ADV KATE HOFMEYR: Before we look at the WhatsApp message. Mr Natasen did you read Mr Patel's affidavit as being concerned about the fact that Neo Solutions had submitted financial statements to the Commission purporting to have been signed off by him when they were not signed off by him?

MR VIVIEN NATASEN: Yes. There were concerns because there are two sets of financials also signed off by me using my signature page as well. So it is concerning to both of us.

ADV KATE HOFMEYR: Indeed and then he attaches the WhatsApp
20 message and he says the contents of which speak for themselves. I would like to go through that. My proposal is that we read the full WhatsApp message into the record. My proposal is that you read what you said and I read what Mr Patel said.

MR VIVIEN NATASEN: Okay.

ADV KATE HOFMEYR: So can we go through it. It is at 2-3-8.6-0.

MR VIVIEN NATASEN: Okay. So I am the one in white on the left.

ADV KATE HOFMEYR: Indeed.

MR VIVIEN NATASEN: “Hi, please advise what is status. My
attorneys want to prep correspondence.”

ADV KATE HOFMEYR: And then Mr Patel on the right hand side Chair
responds:

“Hi, our attorney is dealing with the matter.”

MR VIVIEN NATASEN: Then I said:

10 “Okay are you - you just buying time or issuing
correspondence of the difference. I just need to
know how to prep.”

ADV KATE HOFMEYR: And then Mr Patel responds to say:

“We will revert back to you later.”

MR VIVIEN NATASEN: Okay. Then I said:

“Rajiv we have come a long way. We really need
your help here. We have to be able to reconcile
this else it will hurt all of us. Let us just work
together on fixing this please.”

20 **ADV KATE HOFMEYR**: Thank you and then Mr Natasen you were
invited by the Commission to respond to Mr Patel’s first affidavit and
then on receipt of his second affidavit - that affidavit and that is I
understand it is what you took up in your affidavit provided on
27 August.

MR VIVIEN NATASEN: That is right.

ADV KATE HOFMEYR: So if we can go to that one which is right

towards the end of this file Chair and you will find it at page 2-3-8.2-6-7.

MR VIVIEN NATASEN: That is not in my bundle.

ADV KATE HOFMEYR: 2-3-8.2-6-7 is not there.

MR VIVIEN NATASEN: It goes from 2-6-6 to 2-7-4.

ADV KATE HOFMEYR: Oh that is an oversight. Possibly we can just hand one up to you from my learned friend.

MR VIVIEN NATASEN: Yes sure.

CHAIRPERSON: Does Mr Natasen not have that one?

10 **ADV KATE HOFMEYR**: It does not appear to have been placed in his file.

CHAIRPERSON: Oh.

ADV KATE HOFMEYR: It is his affidavit though.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: So if I can beg leave just to hand up a duplicate so that ...

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: We can work off it.

CHAIRPERSON: Okay.

20 **ADV KATE HOFMEYR**: Mr Natasen at page 2-3-8.2-6-7 you commence the affidavit and then over the page at 2-6-8. I understand you in paragraph 5 to say you want to place the WhatsApp communication in context.

MR VIVIEN NATASEN: In context.

ADV KATE HOFMEYR: Is that right?

MR VIVIEN NATASEN: That is correct, *ja*.

ADV KATE HOFMEYR: Before we do the context could we just pause a little on its actual wording and for that purpose Chair I suggest that maybe we just take out the WhatsApp message where it appeared previously and apologies for not asking you to do that at the time. That you will find at 2-3-8.6-0 and then we can deal with the context once we have dealt with the words.

CHAIRPERSON: Yes. I have got it.

ADV KATE HOFMEYR: Thank you. So if we look at 2-3-8.6-0 which is
10 the actual WhatsApp communication. It is early in the morning as I see it - 09:48 and you are asking him for a status update. Is that a fair description?

MR VIVIEN NATASEN: Yes. There were several attempts to call him before that though.

ADV KATE HOFMEYR: Which he was not answering?

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: So then you endeavoured to WhatsApp communicate with him?

MR VIVIEN NATASEN: That is right.

20 **ADV KATE HOFMEYR:** And you say you want a status update because your attorneys are prepping correspondence. Correct?

MR VIVIEN NATASEN: That is right.

ADV KATE HOFMEYR: And his response says his attorney is dealing with it. Is that right?

MR VIVIEN NATASEN: That is right.

ADV KATE HOFMEYR: And then you say:

“Okay. You just buying time or issuing correspondence of the difference. Just need to know how to prep.”

Why would he be buying time Mr Natasen?

MR VIVIEN NATASEN: So the context was that the initial summons to the auditors was apparently dispatched on the 28th - I think - June similar to request from us but it never arrived to them because he had moved premises apparently. So they received it on short notice. Just
10 too also contextualise the meeting that happened with the auditors happened with their attorneys present and the second part of the meeting happened with our attorneys present.

So when it came about in the meeting that there were discrepancies on the 2017 financials then we - we then discussed we needed to identify what caused these differences and if there as bad news that we had to correct the financials. Then we had to do that jointly and approach the Commission directly with corrected financials and the words “buying time” referred to them exercising the right to say they have time to prepare a response so that we could understand what
20 caused these differences in the financials and we had asked them to do that because we felt it would make both parties look very bad to come here with financials that are not aligned.

So we were wanting to work together. They undertook - so when that meeting concluded they undertook to give me the very resource that was working on compilation engagement to actually come

to the office and assist us in identifying the differences and - and that is why I made so many calls to him that morning was to send a resource through.

So that we could understand what caused these differences and come and account. So if - if whichever - we at that point did not know which version was correct as well from our perspective. So we said we needed to be able to come in and explain the differences and that will restore credibility for both parties and that was the context of these messages.

10 **ADV KATE HOFMEYR:** Why would there be any debate as to which the correct version was because it was clear which version had been signed off by Mr Patel?

MR VIVIEN NATASEN: We were clear about that. However Mr Patel also said that he had relied heavily on the accountant preparing the information and by that point in time we were also then starting to become aware that the accountant on our side had also not prepared the information correctly. So Mr Patel could have relied on incorrect data in terms of his compilation engagement as well and that was discussed in the - in the meeting.

20 So we - at that point it was - yes it was ones that he had signed off but we also at that point of that meeting had known then that a lot of the information that was used to generate the financials may not have been correct.

ADV KATE HOFMEYR: Why would that have been a concern to Mr Patel? He does not accept any responsibility for the documents. It

is ...

MR VIVIEN NATASEN: Fair enough.

ADV KATE HOFMEYR: Provided by Neo Solutions?

MR VIVIEN NATASEN: Fair enough but we wanted it right.

ADV KATE HOFMEYR: Yes. So why would he be wanting to buy time?

MR VIVIEN NATASEN: The buying time was to then exercise this - his rights to say I have only received notice of the summons which was given to him two days or that very day of the 10th is when he received the correspondence from the Commission asking him for that
10 information and therefore we felt that he could have sent a request back to say he needs time to be able to respond. That was the context of the buying time statement.

ADV KATE HOFMEYR: And it is - it is an either or. You ask him is he buying time or is he issuing correspondence of the difference.

MR VIVIEN NATASEN: With the difference.

ADV KATE HOFMEYR: Yes.

MR VIVIEN NATASEN: Because that was also discussed in the meeting. He - at that meeting when it closed his attorney said they would consider what their version was and they would come back to us
20 as to whether they were going to request the extension or whether they would submit a - an affidavit explaining the difference.

ADV KATE HOFMEYR: And - so at that stage you did not know whether he was going to submit an affidavit?

MR VIVIEN NATASEN: I did not know what path he was going to take.

ADV KATE HOFMEYR: Was it not fairly important to make known to

the Commission that financial statements that had been prepared and presented to it were incorrect?

MR VIVIEN NATASEN: That was the intention. We were wanting to come to you jointly to explain that there were differences that we were not aware of in the financials that were on file. That was the intention. There was no intention to actually hide from that.

ADV KATE HOFMEYR: Right. So he would either buy time and not disclose that and take more time or he would disclose ...

MR VIVIEN NATASEN: No, not - not disclose but for - to work with us
10 in terms of identifying what caused these discrepancies. So we could come back to the Commission with one uniform response.

ADV KATE HOFMEYR: Hm.

MR VIVIEN NATASEN: That was the intention of that - of that comment.

ADV KATE HOFMEYR: And then you say just need to know how to prep.

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: Why would whether he was buying time or bringing it to the Commission's attention that there was a difference
20 between the financials he signed off on and those submitted to the Commission influenced your prep for your evidence?

MR VIVIEN NATASEN: Because obviously we needed - if he was going to come up with the discrepancies we would obviously need to be able to respond on our side. If it was that we would then jointly make a statement together that the financials are incorrect and we working

together on reconciling it and then we will come back to the Commission with a later date on the exact discrepancies and what caused them. That was what we were debating.

ADV KATE HOFMEYR: Either way though Mr Natasen I would suggest to you that it was incumbent upon Neo Solutions to make that clear to the Commission. Was it not?

MR VIVIEN NATASEN: No fair - you understand we also received it and we were arriving the next day. So our statement then obviously would have then had to cover that as well.

10 **ADV KATE HOFMEYR:** Yes, but ...

MR VIVIEN NATASEN: We were aware that was ...

ADV KATE HOFMEYR: But the statement you produced on 11 July did not reflect the discrepancy at all. Did it?

MR VIVIEN NATASEN: Well we were not - we were still trying to obviously identify these discrepancies on our side and we were still waiting for his resource to come in and assist.

ADV KATE HOFMEYR: Mr Natasen that is why ...

MR VIVIEN NATASEN: That is why we got the notice of their termination.

20 **ADV KATE HOFMEYR:** Indeed. It is just why I spent a bit of time getting clear earlier what the discrepancy was. The discrepancy as I understand it when you met on the 10th it was made known to you was that Neo Solutions had submitted financial statements to this Commission purporting to have been signed off by Mr Patel which were not signed off by Mr Patel.

MR VIVIEN NATASEN: That is right.

ADV KATE HOFMEYR: Why was it not incumbent upon you to make that known to the Commission as soon as possible?

MR VIVIEN NATASEN: Well we - we wanted to identify what caused the discrepancies first so we can come with the solution and the problem at the same time. That was our intention.

ADV KATE HOFMEYR: So it was not enough just to say hold on Commission. You are dealing with financials purporting to have been signed off by the company's auditors that were not signed off by the
10 company's auditors.

MR VIVIEN NATASEN: As I said we had immediately started a process then to try and rebuild these differences ourselves. I was not aware that you were going to get to the financials during my testimony anyway but it was our intention obviously to bring a - a response to you as soon as we had an idea ourselves as to what caused it.

ADV KATE HOFMEYR: Mr Natasen why do you say it was not clear that I would get to the financials in that testimony?

MR VIVIEN NATASEN: I mean I - I did not contemplate it at that point but our intention was to be able to identify what caused the differences
20 and then bring you a complete response around it. Not that we bring you or there is a problem hold but we were going to bring it as one complete package.

ADV KATE HOFMEYR: And then later on he says, back at page 238.60,

"Will revert back to you later".

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And then you say,

“Ranju we’ve come a long way really need your help here we have to be able to reconcile this”,

What had to be reconciled?

MR VIVIEN NATASEN: Reconciled in terms of the differences and the discrepancies between the two sets of financials, you’ll see he didn’t actually supply you with a complete WhatsApp conversation which is at the back of my affidavit...[intervenes].

10 **CHAIRPERSON:** Well you can refer to where it is.

MR VIVIEN NATASEN: It’s at 238.273.

CHAIRPERSON: What page again?

MR VIVIEN NATASEN: 238.273.

CHAIRPERSON: Okay.

MR VIVIEN NATASEN: Okay so Chair, at that point we had established as well at that meeting, we had established that the 2016 financials on our system on Pastel had been overwritten by 2017 data. So at this point in time I was still trying to reconstruct that information within our records and we had nothing to work from on our side. So my
20 frantic, if you can call it frantic messages to Ranju or to Mr Patel was to try and gain some assistance from him in terms of being able to reconstruct the data. So where it ends on his,

“Lets work together on fixing this”,

And you’ll see straight after that I messaged him to say,

“Have you guys got the 2016 trial balance, the TB refers to

trial balance and then I asked was it 2017 that was with this discrepancy right and then can we chat on the phone I need to understand where I stand with you guys”.

So that was again, requesting the assistance for them to send the resource to come and help me identify the discrepancies that existed or that we had only found out the day before. So there was no intention to hide anything it was to be able to make sure we maintain credibility that when we – the moment we identified the discrepancies was to be able to identify what caused them and then bring them
10 through to the Commission as one complete response saying, we are aware that we gave you this we now – we have detected this issue and here’s the corrected version or here’s reasons for the differences between the two sets, that was the intention of this.

ADV KATE HOFMEYR: Mr Natasen, why did you say to him – I’m back at page 238.6 C,

“We haven’t been able to reconcile this as it will hurt all of us”.

MR VIVIEN NATASEN: It’s damaging to both companies’ reputations.

ADV KATE HOFMEYR: Mr Natasen as I understand Mr Patel’s version, he signed off on a set of financials and when those same
20 financials were provided to the State Capture Commission different financials were placed under his accompanying letter. Why would that hurt Mr Patel at all?

MR VIVIEN NATASEN: I think by the very fact that any company or person that’s mentioned coming to the Commission is automatically facing a reputational risk.

ADV KATE HOFMEYR: Not if that person, if I may, is the person who brings to the attention of the Commission something that is incorrect.

MR VIVIEN NATASEN: Fair enough but there's also – you must also understand that the understanding that Mr Patel has around his responsibilities for compilation and what he's saying in his affidavit is very different to my understanding and when I say here, that we've come a long way, Mr Patel assisted me in a dispute resolution process with SARS where he was, him and his team were closely involved in resolving the disputes we had with SARS at that point in time in our
10 2010 to 2014 financials. So when I say I've come a long way here, he's aware of shortcomings in my own accounts department. So his undertaking to me when it comes to compilation of my financials is far more – the obligation he gave me for himself is far greater than what he's purporting it to be right now. So he had given me undertakings that he's the watchdog over my accounts department to ensure that the financials and the management accounts are correct when he prepares them far beyond just what he's saying as his responsibility ended at purely compilation. He was aware of the process that we went through the ADR and SARS and he assisted me greatly with that and he had
20 given me undertakings that he would be a better watchdog than a conventional accountant. That is the context of this item.

ADV KATE HOFMEYR: And off the back of his affidavit he traversed none of that did he?

MR VIVIEN NATASEN: Exactly.

ADV KATE HOFMEYR: All he said in his affidavit is,

“I signed off on a version, I’ve seen a different version presented to the State Capture Commission, that’s concerning I don’t know how that happened, I’m bringing it to your attention State Capture Commission and I’m referring you to WhatsApp communication which speaks for itself, correct?”

MR VIVIEN NATASEN: Correct and that’s not the version that is there we will cover it quite extensively under my re-examination.

ADV KATE HOFMEYR: Indeed, at this point I’m just interested in what Mr Patel said to the Commission.

10 **MR VIVIEN NATASEN:** Ja.

ADV KATE HOFMEYR: Correct, and then if we go into your affidavit again, if we may, which is a response to this, you’ll find it at 238.268 that’s where you start engaging the context of the WhatsApp, do you see that?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And then you’ve actually traversed quite a bit of that already in your testimony so I’d like to go over the page 238.269 and pick it up at paragraph 10 there you’re talking about the tasks that you were going to undertake to try and sort this accounting mess, for
20 want of a better description. Can you just read into the record what you say at the beginning of paragraph 10 there?

MR VIVIEN NATASEN: On paragraph 10?

ADV KATE HOFMEYR: Yes indeed.

MR VIVIEN NATASEN: “I undertook the above task due to the fact – despite the fact that I verily believed that Neo Solutions is not

obliged to prepare audited financial statements as the sole director and shareholder of Neo Solutions, I felt that”...[intervenes].

ADV KATE HOFMEYR: No that’s fine if we can just stop at that sentence if we may, you say there Neo Solutions is not obliged to prepare audited financial statements, is that right? I understood from your testimony last time you understand that because the Companies Act does not require it, is that right?

MR VIVIEN NATASEN: Yes.

10 **ADV KATE HOFMEYR:** Was Neo Solution ever under any legal obligation otherwise to provide audited financial statements?

MR VIVIEN NATASEN: Well we aware of now from the overdraft facility that there would have been a requirement to provide one there.

ADV KATE HOFMEYR: What do you mean, we’re aware now that the overdraft facility required it?

MR VIVIEN NATASEN: Well I’m saying, at that point in time as a private company I wasn’t aware of the obligation under the overdraft facility so that’s probably why I’m making this statement here now.

ADV KATE HOFMEYR: When did you become aware?

20 **MR VIVIEN NATASEN:** Well I’ve signed the overdraft facility document but obviously in there I hadn’t recalled that there was an obligation to produce financial statements to the bank.

ADV KATE HOFMEYR: So when did you become aware?

MR VIVIEN NATASEN: Well when you now pointed it out to me now, I recalled that it’s the case.

ADV KATE HOFMEYR: So Chair it's probably not necessary to go there because Mr Natasen confirms but that overdraft facility agreement we were looking at earlier from Nedbank requires quarterly management accounts to be provided and audited financial statements to be provided within a period at the end of the financial year of the company. So Mr Natasen I understand your evidence to be until you received that document a day ago from the Commission you weren't aware that Neo Solutions had to provide audited financial statements to your bank?

- 10 **MR VIVIEN NATASEN:** All I'm saying is the requirement from the interaction with the banks was fairly relaxed in that we had been providing them with the cash flows schedule and the banks – as long as the churn was being shown in the bank account they didn't put pressure on us for anything else.

COMMISSIONER: Sorry so your answer was generally speaking, relating to the general position?

MR VIVIEN NATASEN: Correct.

CHAIRPERSON: That generally you didn't think there was an obligation?

- 20 **MR VIVIEN NATASEN:** Correct.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Did Nedbank ever ask you for audited financial statements?

MR VIVIEN NATASEN: They may have asked the accounting team because the business banker used to interact with the accounting staff.

ADV KATE HOFMEYR: Would that not have been brought to your attention?

MR VIVIEN NATASEN: You must understand Chair that I'm very operational in the field, I live on the projects and the team – between the accounting team and the outsource to many financial services the back office was being administered and looked after by them. I'm very operational on the projects themselves, so whether they raised it with me or not, I'm living out in the field and generally they would attend to the stuff internally at the office.

10 **ADV KATE HOFMEYR:** Mr Natasen why then do you say that as a positive fact Neo Solutions had no obligation to provide audited financial statements?

MR VIVIEN NATASEN: I'm saying that as ordinarily as a private company not needing for anything else, that's our normal course of business.

ADV KATE HOFMEYR: So let me just clarify for our purposes you weren't aware that the R5million overdraft facility agreement you'd concluded with Nedbank in 2015 required your company to provide audited financial statements?

20 **MR VIVIEN NATASEN:** I was aware at the time of signing but I was also aware that it was in normal flow, so all I'm saying is, I didn't recall it, I didn't treat it as a priority, the fact that the ongoing financial information was being sent to the bank and they were seeing churn in the account, it then dropped off everybody's radar screen.

ADV KATE HOFMEYR: Did your company produce audited financial

statements in compliance with it's obligation which you've just testified you were aware of in 2015?

MR VIVIEN NATASEN: The – you mean that's the financials that Patel would have produced then or the management accounts that they produced?

ADV KATE HOFMEYR: No that's different to audited financial statements is it not?

MR VIVIEN NATASEN: For 2015 we have not submitted anything to SARS yet we're still busy with the process of – obviously we had come
10 through an ADR process with them and then we were taking the opening balances from there into reconstructing the records after that. So the last official response of financial statements was given – is the 2014 financials that is the finalised dispute resolution with SARS and Patel was assisting us with all of those processes with SARS. It took a long time to conclude the ADR process with SARS which was only concluded, I think, towards the end of 2017.

ADV KATE HOFMEYR: I thought earlier you'd said 2014.

MR VIVIEN NATASEN: 2014 financials but the ADR process on finalising 2014's results was only concluded in 2017, maybe possibly
20 2018.

ADV KATE HOFMEYR: Mr Natasen you'll forgive me I am just struggling to follow your version on this aspect. I understand your evidence to be you knew in 2015 when you signed your facilities agreement that audited financial statements were required, correct?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: Why did you say in an affidavit then that Neo Solutions is not obliged to prepare audited financial statements?

MR VIVIEN NATASEN: In the normal course of a small company under the Companies Act we weren't.

ADV KATE HOFMEYR: Mr Natasen that is not what is said here, do you accept that?

MR VIVIEN NATASEN: Fair enough I will then concede, I hadn't recalled that it was an obligation under the overdraft facility agreement.

ADV KATE HOFMEYR: Yes and you recalled it when the documents
10 were sent to you two days ago, is that right?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: Mr Natasen you then, at 269 continue to say that there was a controversy, this is at paragraph 11, you say,

“Further as a businessman I was very concerned about the risk of reputational harm which could be suffered by Neo Solutions and [indistinct] in such a situation especially in light of the controversy which Neo Solutions is involuntarily involved in by being associated with certain parties”,

Just help me there, what is that controversy?

20 **MR VIVIEN NATASEN:** I'm saying by the very fact of being implicated by – with van Wyk and the SA Express saga that is what this is referring to.

ADV KATE HOFMEYR: And involuntarily, what does that mean there?

MR VIVIEN NATASEN: Because – well we were unaware that the funds were State money at the time, so we wouldn't have participated

in this had we known it was State money.

ADV KATE HOFMEYR: Thank you and then if we go over the page you are dealing there with your imploring of Mr Patel assist in reconciling and you say there at 13,

“I implored Patel to attend to reconciling the financial documentation as well to provide the relevant trial balances as a matter of urgency so that my aforementioned concerns would not materialise and hurt all of us and also because I had no idea who else had seen such incorrect financial statements”,

10 Can I just stop there, who else could have seen the incorrect financial statements?

MR VIVIEN NATASEN: I have no idea who – whether it was sent out to anyone else, those incorrect financials where under the control of Rueben at our accounts department, so there was no instruction from me to distribute it with anyone else so this is – we’ve made a generic statement here that we’re not sure of it’s distribution.

ADV KATE HOFMEYR: So would people in your employ be distributing the financial statements of Neo Solutions without you knowing?

20 **MR VIVIEN NATASEN:** I’m saying the fact that they were two different sets of financial statements right, and we’ll deal later with the fact that Mr Reuben – we’ve now established that at least R740 000 was misappropriated from the company directly to his own bank account. So would there be any reason for him to take two sets of – or create two sets of financials, yes maybe to distract from what he was doing

but if he circulated those incorrect financials somewhere else, I'm not sure of it, and this is what this statement is intended to...[intervenes].

ADV KATE HOFMEYR: So it's got nothing to do with Mr Patel?

MR VIVIEN NATASEN: No.

ADV KATE HOFMEYR: Right.

MR VIVIEN NATASEN: But because his signature is on that document it does have an implication to him, like with my signature.

ADV KATE HOFMEYR: Mr Patel as I have it has no difficulty with the ones he signed off on, correct?

10 **MR VIVIEN NATASEN:** Yes I understand what you're saying but the fact is that there are two – there's an implication by already being at the Commission so the context of this wording is exactly against that.

ADV KATE HOFMEYR: Just explain that?

MR VIVIEN NATASEN: The fact than now, Mannie's name is brought up at the Commission as is our name then has a reputational impact so we need to work together on resolving it, that was the context.

ADV KATE HOFMEYR: Thank you and then you go at paragraph 17 on that page to say – well let me go a little bit higher, you say at 16,

20 "To affirm the aforementioned context the full WhatsApp conversation between myself and Patel is attached",

And we've looked at that previously and then at 17, could you read to us what you say at 17?

MR VIVIEN NATASEN: I said,

"The Commission's legal team is incorrect and improperly or prematurely claiming that my messages were intended to

influence Mr Patel to give false evidence to the Commission.

In fact, there's no attempt by me of any such nature and for the Commission's legal team to cast such aspersions is spurious".

ADV KATE HOFMEYR: Mr Natasen why do you say the legal team of the Commission is casting aspersions on you?

MR VIVIEN NATASEN: The insinuation that you – obviously by reading just this without the full context would appear – or you would try to create a case that I'm trying to influence Patel not to cooperate which
10 is not the case at all. All I said was we need to work together to get to the bottom of this and then come with a cohesive response so that we can clarify what caused these discrepancies.

ADV KATE HOFMEYR: Mr Natasen do you recall how you were asked or invited by the Commission to address Mr Patel's affidavit in correspondence before you presented the affidavit yourself?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: Do you recall that the correspondence said that there were certain allegations in Mr Patel's affidavit.

MR VIVIEN NATASEN: Yes.

20 **ADV KATE HOFMEYR:** And those were identified akin to a sort of Rule 33 process, you're familiar with that I understand because you've received a Rule 33 notice in relation to Ms Tslatsana's evidence correct?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: So it's allegations lying in the affidavit of the

person that you're alerting about the fact of the affidavit, do you accept that?

MR VIVIEN NATASEN: I don't understand the context of it but...[intervenes].

ADV KATE HOFMEYR: Let me explain, we can maybe go to the correspondence if that would help it's at 442.34 and that's in bundle DD10B Chair. Chair the letter begins at 442.32, do you have it Mr Natasen?

MR VIVIEN NATASEN: Yes.

10 **ADV KATE HOFMEYR:** And it's a letter addressed to yourselves on the 15th of July 2019, do you see that?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: That was the Monday after you testified on the Friday, wasn't it?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: So this letter – have you read this letter before?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: It's following up on aspects of the evidence as
20 I have it and then if you go over to 442.34 you'll see at paragraph 8 on that page the Commission writes,

“Finally on 11 July 2019 you were provided with a copy of Mr Patel's affidavit that had been provide to the Commission on even date, and it says, the affidavit makes the following allegations against Mr Natasen”,

Do you see that?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And then they're set out in paragraph 8.1 and then over the page at paragraph 8.2, do you see that?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: Mr Natasen I just want to pause there because in your testimony just now the Commission is trying to make out a case, right, do you accept that all that's being said here is that there's certain allegations against you in the affidavit of Mr Patel?

10 **MR VIVIEN NATASEN:** Yes.

ADV KATE HOFMEYR: And do you accept that at the time your further context was not available to the Commission?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And do you accept that you were invited to respond to it?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And when took issue with this you were again invited to respond to it and provide the context is that correct?

MR VIVIEN NATASEN: Yes.

20 **ADV KATE HOFMEYR:** So do you understand the circumstances in which paragraph 8 of this affidavit and particularly over the page at paragraph 8.2 it was recorded that there is an allegation in Mr Patel's affidavit that you, Mr Natasen had endeavoured to influence Mr Patel to give false evidence to the Commission?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: Thank you.

CHAIRPERSON: I don't know whether you completed the point which I thought you were seeking to make Miss Hofmeyr, I understand Miss Hofmeyr's last few questions in relation to this – to be meant to suggest to you that the Commission's legal team might not have sought to make any allegations...[intervenes].

ADV KATE HOFMEYR: Ja I understand the context it's contained in...[intervenes].

CHAIRPERSON: You accept that?

10 **MR VIVIEN NATASEN:** I accept that.

CHAIRPERSON: Yes, okay alright.

ADV KATE HOFMEYR: So when you – thank you Chair just follow that up because his affidavit contends to demand an immediate unconditional and irrevocable withdrawal of the allegation.

MR VIVIEN NATASEN: Chair I think we're going to deal with this as well under my re-examinations so...[intervenes].

CHAIRPERSON: Yes but deal with it now because the re-examination that will happen is intended to clarify what might not have been dealt with adequately. So it's better if you deal with it now and if there is
20 something that your counsel wishes to clarify later on, he will do so.

MR VIVIEN NATASEN: Okay, can you repeat the question?

ADV KATE HOFMEYR: Yes, so given your answer to the Chair I take it that you don't, any longer demand that the Commission's legal team immediately, unconditionally and irrevocably withdraw the allegations made?

MR VIVIEN NATASEN: I'm saying there's a perception that we attempted to influence that is incorrect there is a context that we provided and if that perception still exists that we attempted to influence then we would obviously seek correction on that and we will deal with that there.

ADV KATE HOFMEYR: Mr Natasen you accept it's not the legal team of the Commission's allegation, is it?

MR VIVIEN NATASEN: Yes okay I'll concede that for now for moving on.

10 **ADV KATE HOFMEYR:** Thank you, Mr Natasen there was a matter, it's a brief matter before we break and then Chair there's only one matter after lunch break that I will deal with but just before that, we dealt with a donation last time that appeared in your 2016 financials...[intervenes].

CHAIRPERSON: Are we back to the other bundle?

ADV KATE HOFMEYR: No we won't even need to go to the bundle Chair because it relates simply to the testimony of Mr Natasen last time. We were looking at a donation entry in your 2016 financials, do you recall that?

20 **MR VIVIEN NATASEN:** Yes.

ADV KATE HOFMEYR: And I asked whether you knew what – to whom that donation had been made, do you recall?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And then your testimony was, you didn't recall but then you and I agreed if we could get the accounting records that

may be disclosed, do you recall that?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: Mr Natasen we've been indebted to you since that evidence to have provided us with those accounting records which you've managed to assemble.

MR VIVIEN NATASEN: Ja the partial portion it's an ongoing process.

ADV KATE HOFMEYR: It's an ongoing process, in fairness it sounds as though the accounting system in your business is in complete shambles, is that fair?

10 **MR VIVIEN NATASEN:** We've technically been sabotaged, the information has been totally removed from premises, obviously in an attempt to cover up the fraud. The nature of the fraud obviously was he had amended beneficiary data so even where we had payments that appeared to be valid to suppliers, there actually had been altered bank accounts to be other bank accounts and then the supporting documents are non-existent, so the reconstruction process is a long hard haul for us right now. So whatever we've been able to put together has forwarded across.

ADV KATE HOFMEYR: Thank you I found no documents there dealing
20 with the donation, did you come across anything?

MR VIVIEN NATASEN: When we attempted to establish what caused these donations from what we can see it's far less than that but we are busy reconstructing the records so I can't yet answer – I know for a fact we've no way made anywhere close to those kinds of amounts as donations but until I reconstruct the record I cannot come back and say

what that exact number was, it's definitely not R2million though.

ADV KATE HOFMEYR: Right so when you signed as the director of Neo Solutions, those February 2016 financials, did you – were you not aware that there was an overly exaggerated donation amount in it?

MR VIVIEN NATASEN: No I didn't – as I said I relied on the fact that Mr Patel was checking these financials and he was the watchdog over the process. So if it was put in there I didn't even look at that number, I signed off.

ADV KATE HOFMEYR: You didn't look at that number or any other
10 part of the financial statements when you signed off confirming their accuracy?

MR VIVIEN NATASEN: I would have cast my eye around the totals of the income, the nett income then obviously looked at the balance sheet that it looked reasonable and that was it but without going into specifics of numbers.

ADV KATE HOFMEYR: Do you think that's so reasonable approach for a chartered accountant to take when signing off on the financials of his business?

MR VIVIEN NATASEN: I'm not operating as a chartered accountant in
20 my business.

ADV KATE HOFMEYR: Mr Natasen I know that's an aspect that you want to take up in relation to Mr Louventell's affidavit and we'll do that after the break, do you accept that in your testimony on the last occasion you accepted that you were a chartered accountant in business?

MR VIVIEN NATASEN: Yes I did concede it then.

ADV KATE HOFMEYR: You now take a different view, correct?

MR VIVIEN NATASEN: I'm saying obviously we will be guided by Mr Louventell's affidavit when we go through that.

ADV KATE HOFMEYR: No I'm just asking whether you, now, say that you're not a chartered accountant in business.

MR VIVIEN NATASEN: I'm saying the provisions to how a chartered accountant in business is measured in terms of his responsibilities to the company is related to what services he performs within that
10 company. I'm not operating as a chartered accountant in my company, I'm technically a project manager.

ADV KATE HOFMEYR: So when you conceded that last time it was in error?

MR VIVIEN NATASEN: It wasn't in error it was being put on the spot at that point in time saying, yes I am a chartered accountant, I am one in business I wasn't aware of the specific obligations and provisions relating to that. I'm not operating in the accounts department of my own business, I've outsourced that activity to an internal accounting department as well as an external compilation engagement where they
20 undertook to provide certain services to me. So I'm allowed to rely on those services in order to assume certain things, which I did at that point in time.

CHAIRPERSON: So basically what you are saying is, I am an accountant I do have the knowledge that can be reasonable expected of an accountant but in the business I am not operating as an accountant,

I've hired somebody else as an accountant to look after the business.

MR VIVIEN NATASEN: Yes Chair, internally and externally.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Thank you Chair and Mr Natasen when did you come to the realisation that you're not a chartered accountant in business?

MR VIVIEN NATASEN: It was on the advice of the – straight after the last testimony I appointed an independent chartered accountant to come in and obviously help me with the books because it was also
10 evident that the 2016 financials were incorrect from the interrogation at that point in time and we subsequently established that the 2015 records were also incorrect. So there's a process of reconstruction that's been happening and then in the mandate given to the independent accountant that we've appointed was also to guide me on the rights and obligations and a chartered accountant in business and whether my understanding of my role is within the context of what Advocate Hofmeyr purported at that point in time.

ADV KATE HOFMEYR: Thank you, Chair my proposal is, with your leave to take the break now and then we will move to Mr Louventell's
20 affidavit after the break.

CHAIRPERSON: Yes that's fine, we'll take the lunch adjournment and we'll resume at two o'clock. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Let us proceed.

ADV KATE HOFMEYR: Thank you Chair. Chair I indicated before the break that we would dealing with an affidavit of Mr Lowenthal You will find that in Exhibit DD10a right at the end and it commences at page 238.274.

CHAIRPERSON: I have got it thank you.

ADV KATE HOFMEYR: Thank you and Mr Natasen do you have it?

MR VIVIEN NATASEN: I am there yes.

ADV KATE HOFMEYR: Mr Natasen this was an affidavit that was
10 forwarded to the commission yesterday evening, is that correct?

MR VIVIEN NATASEN: That is correct.

ADV KATE HOFMEYR: And please explain to us who Mr Lowenthal is?

MR VIVIEN NATASEN: He is an independent expert that I appointed straight after the testimony that I gave in July to come in and assist us with firstly with the books, the reconstruction of the books as well as advising me in terms of my obligations as a chartered accountant in business.

ADV KATE HOFMEYR: Did his brief include preparing this affidavit?

MR VIVIEN NATASEN: Yes.

20 **ADV KATE HOFMEYR:** So has he been remunerated for preparing this affidavit?

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: And can you just confirm he indicates at paragraph 1 that he is an adult male chartered accountant. He does not indicate any legal training, are you aware of him being a lawyer?

MR VIVIEN NATASEN: No I am not aware that he is a lawyer.

ADV KATE HOFMEYR: Thank you. And can I just clarify he talks in this affidavit about a number of facts related to what has gone on in Neo Solutions can we assume that he learnt of those facts through you?

MR VIVIEN NATASEN: Yes through me and obviously engaging with the team now assisting with the reconstruction of the books.

ADV KATE HOFMEYR: Thank you. If we go over the page to page 238.275. You will see at the top of that page paragraph 5 Mr Lowenthal

10 says:

“Mr Natasen informed me that it had recently come to his attention that the signed unaudited annual financial statements of Neo Solutions that had been handed by staff member Jerome Jones to the commission were on closer inspection materially incorrect or incomplete and that he advised the commission that he would arrange to reconcile the accounting records and recompile the unaudited annual financial statements of Neo Solutions for the financial periods ending but not limited to the periods ending 2016 and 2017”

20

Do you see that?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: Do you confirm that that is what you informed him?

MR VIVIEN NATASEN: That is what I told him.

ADV KATE HOFMEYR: When you say there then I am going to deal with what you said to him that the annual financial statements had been handed by staff member Jerome Jones to the commission. Why – why did you indicate to him who presented them to the commission?

MR VIVIEN NATASEN: I think when we gave him the brief I explained that when I was requested to provide the accounting statements that I informed Jerome and Jerome is the one who then sent the email across.

10 **ADV KATE HOFMEYR:** Sent the email across to whom?

MR VIVIEN NATASEN: If it was requested by the obviously to the lawyers but it is not that relevant here. He just brought it up because that was the brief that I gave him at the time.

ADV KATE HOFMEYR: No I understand...

MR VIVIEN NATASEN: I think it is completeness.

ADV KATE HOFMEYR: I just – I want to...

MR VIVIEN NATASEN: But there is no – there is no intention as to why Jerome specifically.

ADV KATE HOFMEYR: Because you would take responsibility no doubt
20 for the financial statements of your company that were provided to the commission.

MR VIVIEN NATASEN: Yes but that is a different context. What I am – what he is saying here is not whether I am taking responsibility or not it was in the brief? He has captured his brief into his statement.

ADV KATE HOFMEYR: No I understand so I am just clarifying with

you.

MR VIVIEN NATASEN: Ja I am not – I am not...

ADV KATE HOFMEYR: There is no attempt here to distance yourself from the responsibility.

MR VIVIEN NATASEN: I am not distancing myself from my role.

CHAIRPERSON: Okay, okay one at a time.

ADV KATE HOFMEYR: Apologies Chair. Just to be clear the 2017 financial statements that were provided to the commission were provided pursuant to a summons, correct?

10 **MR VIVIEN NATASEN:** That is correct.

ADV KATE HOFMEYR: And it was a summons to you, correct?

MR VIVIEN NATASEN: That is right.

ADV KATE HOFMEYR: And you are responsible for the financial statements that were then forwarded to the commission by your attorneys?

MR VIVIEN NATASEN: The ones that were submitted by Jerome to the attor – ja I am not – at this point in time are you trying to establish whether I am trying to abdicate any responsibility as the person as the director of the company? The answer is no I am not trying to.

20 **ADV KATE HOFMEYR:** Thank you. Mr Natasen further down on page 7 Mr Lowenthal defines monies. I just want us to understand what he means by that because he tracks it through his affidavit and the definition of monies comes at paragraph 7.3, do you see that?

MR VIVIEN NATASEN: Right.

ADV KATE HOFMEYR: So he says part of his brief as I read this was

to investigate how the R9.9 million and then he defines that as the monies had flowed into and out of Neo Solutions, is that accurate?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: So when we talk about monies I just want to get clarity that you and I understand this affidavit in the same way it means the R9.9 million that this commission is interested in, correct?

MR VIVIEN NATASEN: In this context yes.

ADV KATE HOFMEYR: Thank you. I would then like to progress through the affidavit really to the conclusion of the work that Mr
10 Lowenthal did and you will find that at page 238.278. And this sort of conclusory paragraph there is paragraph 12. But maybe you can assist us before we get there in just describing what it was that Mr Lowenthal did and what it is that he uncovered?

MR VIVIEN NATASEN: So his objective around accounting for the monies on the R9.9 million specifically was to establish that what was received was traced through the bank statements. As part of the reconstruction of records process his brief with the accounting personnel now was to ensure that it was correctly posted as it should have been to the suspense account called Koreneka so in the
20 reconstructed books that have been now prepared or are in the process of being prepared there is now a suspense account that correctly reflects how it ought to have been at that point in time. But the – in accounting for the monies he traced the monies coming in and he traced the monies going out obviously save for the R300 000 issue.

ADV KATE HOFMEYR: Did he specifically raise the concern about the

R300 000?

MR VIVIEN NATASEN: What do you mean by concern?

ADV KATE HOFMEYR: You said he – he has accounted for everything except the R300 000.

MR VIVIEN NATASEN: He is unable to verify past the point of my management – my representation that he was paid the cash obviously so that is the only point that he was – obviously the journal entry around the R300 000 is the journal entry in the suspense account moving from Koreneka the amount which would have been R2.9 on the
10 4 January comes down by R300 000 so at year end it was R2.6 million and that R300 000 is in my shareholder loan account or director's loan account.

ADV KATE HOFMEYR: So did he raise any concerns around the R300 000?

MR VIVIEN NATASEN: Not concern. All he said was he cannot verify my statement.

ADV KATE HOFMEYR: Hm. Then if we pick it up at 12 this is as I understand it is his concluding paragraph in relation to the work that was done. And he says there:

20 “Accordingly I confirm that I am satisfied that the relevant accounting records of Neo Solution as reconstructed now more accurately reflect the monies flow through Neo Solutions for the affected period ended February 2016 and April 2017.”

Do you see that?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: As I read that it tends to suggest that they have now been reconstructed, is that right?

MR VIVIEN NATASEN: Those specific accounts have been reconstructed. There are still other suspense accounts that have been created which we busy resolving. So until we – it sits in suspense until we identify the exact transaction then it moves either to the correct income statement item or balance sheet item. But he had to focus specifically on these due to urgency of coming back to the commission.

10 **ADV KATE HOFMEYR:** What does he mean when he says now more accurately reflect, do you know?

MR VIVIEN NATASEN: You will have to ask him.

ADV KATE HOFMEYR: Okay. You were not...

MR VIVIEN NATASEN: He has been hired as an expert so he will have to come and explain that.

ADV KATE HOFMEYR: Were you involved with him in the compilation of this affidavit?

MR VIVIEN NATASEN: No I saw this affidavit when it was already submitted to the lawyers.

20 **ADV KATE HOFMEYR:** Thank you.

CHAIRPERSON: Maybe the – maybe the question should be what is your own understanding of what he means there because whatever he was doing he was doing for your company and you needed to be satisfied that he has done it properly and obviously you need to understand what he has put together.

MR VIVIEN NATASEN: Chair I mean I am – at the risk of speculating.

CHAIRPERSON: Or did you not understand it?

MR VIVIEN NATASEN: It – I mean in an accountants speak I think that is how they would say it is that more accurately means it is accurate but there might be something they might not know that is how they normally semi-disclaim something but I cannot speculate on his behalf.

CHAIRPERSON: Yes. Okay.

ADV KATE HOFMEYR: More accurately can I just interrogate with you suggest that they were previously accurate and now they are more
10 accurate, do you agree with that?

MR VIVIEN NATASEN: I do not know. I – to me they were definitely not accurate.

ADV KATE HOFMEYR: Indeed.

MR VIVIEN NATASEN: And I think he starts off by saying they were not accurate. Because they were not posted to a suspense account.

ADV KATE HOFMEYR: Correct.

MR VIVIEN NATASEN: So when he says more accurately it if definitely coming from the [indistinct] that is was not accurate in the first place. Yes the bank statements are accurate because they reflect that the
20 money has flowed but anything past that on the journalising was not accurate.

ADV KATE HOFMEYR: Indeed. So if you were giving your concluding remarks here can I take it that you would say the previous manner in which they were captured was not accurate?

MR VIVIEN NATASEN: I have already testified to say that.

ADV KATE HOFMEYR: And now they are now accurately reflected?

MR VIVIEN NATASEN: In the current versions yes.

ADV KATE HOFMEYR: Thank you. And so the commission has not yet received these reconstructed financials has it?

MR VIVIEN NATASEN: No as I said there are still several suspense account items. We are having to go back to suppliers from 3 – 4 years ago to obtain invoices so that we can correctly post these transactions. So there is quite a long process underway to get that right.

ADV KATE HOFMEYR: And can you just help me is it usually – is he
10 engaged on a compilation basis?

MR VIVIEN NATASEN: No, no, no. We will have a separate accounting team that will be appointed for the compilation. He is appointed on a factual findings basis with the specific mandate to address these issues.

ADV KATE HOFMEYR: So was he specifically asked to satisfy himself as to the accuracy of the treatment that is now been given to the monies?

MR VIVIEN NATASEN: Yes as part of this scope yes.

ADV KATE HOFMEYR: Thank you. I would then like to go to how he
20 has treated it in the reconstructed financials and you will find that starting to be described at paragraph 13 on that page 278. Just remind us previously how was it accounted for?

MR VIVIEN NATASEN: It was posted to my loan account.

ADV KATE HOFMEYR: And you and he have agreed that was incorrect?

MR VIVIEN NATASEN: Yes he from the start had said this [indistinct] should have been in the suspense account.

ADV KATE HOFMEYR: Well he says here the way that he has treated it if you go over the page to 238.279 at paragraph 14 it is really his concluding paragraph again as I have it. He says

“Accordingly I instructed the accounting staff of Neo Solutions to reflect monies that is the ones we are interested in as funds held in an interest free loan account from Van Wyk or his nominee Koreneka and
10 to be recorded as a liability and a loan ledger account.”

Do you see that?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: So do you and he agree that that is the correct treatment?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: Mr Natasen if Neo Solutions had got a loan from a bank and would be very fortunate if it was able to achieve the loan that I am going to describe an interest free loan from a bank that
20 was payable on demand. Would it receive the same accounting treatment?

MR VIVIEN NATASEN: Repeat the question/

ADV KATE HOFMEYR: So if Neo Solutions went to a very kind bank and received an interest free loan repayable on demand would it also be recorded as a liability in a loan ledger account in its financials?

MR VIVIEN NATASEN: Definitely not I do not know if a bank will give you an interest free loa.

ADV KATE HOFMEYR: No indeed.

MR VIVIEN NATASEN: In the first place so it is very hypothetical what you are saying.

ADV KATE HOFMEYR: No indeed let us work with the hypothetical. If Neo Solutions got an interest free loan from a bank repayable on demand would it be reflected in the accounting records as a liability in the loan ledger account?

10 **MR VIVIEN NATASEN:** It – well there is no such situation. A bank any formal institution whose revenue would be based on lending money would always charge interest. If say let us another institution. If I went and borrowed the money from any other person.

ADV KATE HOFMEYR: Right.

MR VIVIEN NATASEN: Than the bank let us say that.

ADV KATE HOFMEYR: Thank you. Super.

MR VIVIEN NATASEN: Then that would work that yes I would then reflect it as a liability in the same way.

ADV KATE HOFMEYR: Let us think another third party then I can see
20 your difficulty with it being a bank.

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: So another third party loans money to Neo Solutions interest free repayable on demand you would reflect it as a liability in the loan ledger account, correct?

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: Thank you. We have already traversed in your evidence that the monies that were received from Koreneka were not ring fenced, correct?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And they were used to fund the cash flow of the business in the period between November and February, correct/And they were used to fund the cash flow of the business in the period between November and February, correct?

MR VIVIEN NATASEN: No I did not say that I said they were in our
10 operation bank accounts.

ADV KATE HOFMEYR: Yes sorry you did have an engagement with the Chair about that. As I have your evidence you agreed that it was used in the operations.

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: Of Neo Solutions.

MR VIVIEN NATASEN: But not used to fund my cash flow as if there was an intent for it to be used to fund my cash flow. That was not a admission I made. The admission was it was sitting in our operational accounts of the business.

20 **ADV KATE HOFMEYR:** And used.

MR VIVIEN NATASEN: At that point.

ADV KATE HOFMEYR: In the operations of the business between November 2015 and the end of February 2016, correct?

MR VIVIEN NATASEN: That is right.

ADV KATE HOFMEYR: And that suggests to me that it is quite

accurately a loan then to Neo Solutions is it not

MR VIVIEN NATASEN: No not at all.

ADV KATE HOFMEYR: So why is it being reflected as a liability in the loan ledger account?

MR VIVIEN NATASEN: It is reflected as a liability because where else would you post that suspense account? It is a suspense account that is in credit therefore – and like I said from the start no matter what happened I would owe Brian that money back if he ever came to demand it. So therefore it is in the right place but it is – to use the
10 word loan as if he lent us the money is not correct to make that statement.

ADV KATE HOFMEYR: Mr Natasen.

MR VIVIEN NATASEN: It was monies that was placed in the accounting treatment of it was to create a suspense account called Koreneka and in the final version, the accurate version of the trial balance and the financials that were being produced it will sit as a liability.

ADV KATE HOFMEYR: Correct.

MR VIVIEN NATASEN: But to call it a loan in the context that he lent us the money as a loan is not correct.

20 **ADV KATE HOFMEYR:** How does it differ from the hypothetical that we engaged in a moment ago? Can I just explain what I mean by that? We postulated another third party company that lent Neo Solutions an amount of money interest free repayable on demand that was used in the operations of the business would that be a loan?

MR VIVIEN NATASEN: If you engaged on it being a loan in the first

place and the money was lent in the first place then I agree with you.

ADV KATE HOFMEYR: So...

MR VIVIEN NATASEN: But this money was not in our books in that way. This was in a suspense account and the correct placement of this in the suspense account – of the suspense account in our financials will be sitting as a liability.

CHAIRPERSON: So is your point this that you would accept it as a loan if when it came it came on the basis that it was a loan?

MR VIVIEN NATASEN: Correct. Correct.

10 **CHAIRPERSON:** If it did not come on that basis then you would not take it as a loan?

MR VIVIEN NATASEN: The exact wording Chair on our trial balance right now is it is called suspense account Koreneka.

CHAIRPERSON: Yes, no, no I am trying to make sure that I understand you correctly. The fact that you do not take it as a loan in circumstances where it did not come to you as a loan in the first place does not – does not mean that it is not a liability?

MR VIVIEN NATASEN: Correct.

CHAIRPERSON: On your part towards the person who brought it.

20 **MR VIVIEN NATASEN:** Ja Chair I think our learned friend is implying that a loan and a liability are the same thing. Right a liability is an obligation to repay somebody. A loan is where you have borrowed money. And we have not borrowed the money.

CHAIRPERSON: So had I understood you correctly?

MR VIVIEN NATASEN: Correct yes.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Mr Natasen when you take money from another person to – when you – let me clear. When a company like Neo Solutions takes money from another entity to use in its business which is repayable on demand and which attracts no interest is that not a loan?

MR VIVIEN NATASEN: We did not take the money to use in our business.

ADV KATE HOFMEYR: As a matter of fact you did use it though?

10 **MR VIVIEN NATASEN**: It was not...

ADV ANDRE PIENAAR: Chair sorry. Could I please maybe add some ...

CHAIRPERSON: Yes.

ADV ANDRE PIENAAR: Some clarity.

CHAIRPERSON: Ja come forward.

ADV ANDRE PIENAAR: Thank you. I think my learned colleague from the commission's legal team is confusing the accounting principles here. As Mr Natasen and yourself have said okay really what it boils down to is the intention and the nature of the monies that were
20 provided to Neo Solutions. If one looks at Mr Van Wyk's intention in making the payment albeit channelled through Koreneka the intention was the monies be invested for the purposes of a farming venture. It was not a loan in the strict sense that my learned colleague is referring to that would attract interest in the ordinary course. Okay. Earlier in the testimony this morning it became clear to everyone that my learned

colleague was confusing the aspect of loan account and banking account. She asked the question, what account with the bank is that particular loan account? A loan account is a liability created in the company's books of account indicating its indebtedness to a third party. That third party could be a director, a shareholder or a bank. So the nature of the monies here is all ...

CHAIRPERSON: Yes no I ...

ADV ANDRE PIENAAR: Important then I think Mr Hofmeyr is confused.

CHAIRPERSON: I think so far I certainly understand what Mr Natasen
10 is saying.

ADV ANDRE PIENAAR: Correct.

CHAIRPERSON: Ms Hofmeyr she might still have some question but I do understand what Mr Natasen says. The distinction that he is putting forward but I will hear – we will hear if Ms Hofmeyr.

ADV ANDRE PIENAAR: Thank you Chair.

CHAIRPERSON: Still has some questions.

MR VIVIEN NATASEN: Thank you Chair.

ADV KATE HOFMEYR: Thank you. Mr Natasen did you discuss at all
20 with Mr Van Wyk that you would use the funds that he was giving you in the operations of the business?

MR VIVIEN NATASEN: I have already testified on the basis that the funds were never intended to be with us for any long period of time. It was going to go straight into the farming venture. The fact that it never materialised on time then gave rise to a situation it was kept in the operations. And I have already said several times that should he have

approached us to say return the money or the farming venture would have turned on his funds would have then been deployed. So the portions that he utilised back for himself would have had to come back into the farming operation as well as any monies we would have been sitting with at that point in time. So I think again through you Chair there was never an intention or a discussion that we would utilise these funds in our operation. It was an unintended consequence of the fact that it did not move in and out as soon as it was supposed to.

ADV KATE HOFMEYR: What do you mean by unintended?

10 **MR VIVIEN NATASEN:** The fact that it sat there that long meant that it stayed in our books that long. So it would have moved in and out even before our financial year end had the farming operation turned on in the time lines that we were working to.

ADV KATE HOFMEYR: Mr Natasen your previous testimony was that that farming venture was on a long term trajectory do you recall that?

MR VIVIEN NATASEN: I recall my testimony as the intention was that we would get it going quickly and then we realised that the owner was haggling over prices. There was a far more detailed investigation that ended up happening. But the initial investigation was it it was going to
20 happen very quickly.

ADV KATE HOFMEYR: And when it did not happen quickly did you then engage with him and explain to him that it was being used in the operations of Neo Solutions?

MR VIVIEN NATASEN: No we did not that it was being in the operation no.

ADV KATE HOFMEYR: Thank you. And your evidence then is that there was no loan agreement ever with Mr Van Wyk, is that right?

MR VIVIEN NATASEN: No because as I said it was going to be put to the farming venture as soon as possible.

ADV KATE HOFMEYR: And that did not ever happen, correct?

MR VIVIEN NATASEN: That – well by then he had withdrawn all his money any way by the time we got to the farming venture closure of the project.

ADV KATE HOFMEYR: If we go over the page to page 238.280. Mr
10 Natasen there is a heading there called Benefit Derived. Before I get the benefit of your understanding of what Mr Lowenthal is saying here we would just like to pick up on an aspect that is relevant to the question of benefit from your testimony this morning. As I understood your testimony you made it clear that even though you did not have the R2.6 million available at the end of February sitting as cash in the Neo Solutions.

MR VIVIEN NATASEN: Available funds.

ADV KATE HOFMEYR: Bank accounts had there been a call for it you would have taken steps to get other facilities, is that accurate?

20 **MR VIVIEN NATASEN:** To extend our facilities yes.

ADV KATE HOFMEYR: Indeed. Those facilities would not come free would they?

MR VIVIEN NATASEN: They would come at a cost correct.

ADV KATE HOFMEYR: Indeed. As I have it from your Nedbank facility agreement there is at least an activation fee of R50 000, do you recall

that?

MR VIVIEN NATASEN: That is on the original agreement but not for further extensions they would not – they do not charge it on extensions.

ADV KATE HOFMEYR: There would be some cost associated with the extension though?

MR VIVIEN NATASEN: Well at least an interest cost.

ADV KATE HOFMEYR: Indeed. So that the fact that you did not have to acquire those additional facilities was a benefit in the hands of Neo Solutions, was it not?

10 **MR VIVIEN NATASEN:** We – I think when we deal with this here we come up with the discussion around benefit derived Chair. I think post my earlier testimony we obviously applied our minds to this and from the advice of Mr Lowenthal and from a discussion with my own legal team and from the history of what we have seen other entities that find out later that they were unknowingly involved in obviously state funds that have flowed through is then we came up with let us tender. If there has been an unintended benefit that has been derived now through the interest saving or in terms of the facilities costs or in a positive balance if the facility moved to a positive balance then we
20 would be tendering that we will offer to pay the affected institution the interest component back. And that is the benefit – that is the basis of this clause in his affidavit.

ADV KATE HOFMEYR: Thank you. I did not understand Mr Lowenthal to be postulating the need for further facilities to have been obtained, did you understand him to be dealing with further facilities in these

paragraphs?

MR VIVIEN NATASEN: No, no.

ADV KATE HOFMEYR: Thank you. That is why I was asking before we got to what he had derived as the benefit. A question about if you had had to get further facilities.

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: And you accepted that that would come at a cost to Neo Solutions, correct?

MR VIVIEN NATASEN: Correct.

10 **ADV KATE HOFMEYR:** And your saving of that cost was an additional benefit, correct?

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: Let us now go to what Mr Lowenthal did do. Explain to us what benefit he concluded was received by Neo Solutions?

MR VIVIEN NATASEN: So he has [indistinct] an amount of R217 494.00 as the interest saving by us on the – on the overdraft facilities.

ADV KATE HOFMEYR: And as I have it you have tendered to return
20 that to the appropriate beneficial owner should that ever be required?

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: Would that be Mr Van Wyk or would that be Koreneka?

MR VIVIEN NATASEN: It would be the effected state entity that lost these funds. From my understanding.

ADV KATE HOFMEYR: And at paragraph 19 on that page 238.280 Mr Natasen Mr Lowenthal there says:

“Owing to the fact that neither Mr Natasen nor Neo Solutions made specific use of the monies.”

Then he goes on to say:

“There was no intent to benefit either Mr Natasen or Neo Solutions as the total monies were received by Neo Solutions were paid out by Neo Solutions within a few months of receipt.”

- 10 Can I just ask where does he get those facts from owing to the fact that neither Mr Natasen nor Neo Solution made specific use of the monies?

MR VIVIEN NATASEN: That is from his – obviously from our representations and his interrogation of the accounting team now that is there now. But you will have to ask him this.

ADV KATE HOFMEYR: So you – you cannot help us on why he says there that Neo Solutions made no specific use?

MR VIVIEN NATASEN: You will have to ask him that.

ADV KATE HOFMEYR: But I understood you to say he would have got that information from you or your accounting team, correct?

- 20 **MR VIVIEN NATASEN:** We gave him the facts as we saw it and he was appointed to then evaluate those facts and make a obviously produce this report.

ADV KATE HOFMEYR: So – because he would not know those facts, would he?

MR VIVIEN NATASEN: Well he was appointed to an investigation. So

through that he would gain whatever facts he could and then draw inferences from that.

ADV KATE HOFMEYR: Thank you. And at 20 he goes on and he says: “However there was a consequential unintended benefit that accrued to Neo Solutions due to the fact that the monies while in the overdrawn bank accounts of Neo Solutions reduced the overdraft amounts owing by Neo Solutions to the banks. I just want to understand the plural there. Why is he talking about overdrawn bank accounts, overdraft amounts and banks?

10 **MR VIVIEN NATASEN:** I think you will have to ask him those wording. He again produced the report.

ADV KATE HOFMEYR: Yes I am just – he is working on the information you give him about your company, correct?

MR VIVIEN NATASEN: And whatever facts he could gain from the books and records that he was able to detect.

ADV KATE HOFMEYR: But we must not or on the back of your evidence today read this to suggest that there were other overdraft facilities relevant because we have confirmed already there was only one bank with an overdraft facility?

20 **MR VIVIEN NATASEN:** Ja so you will have to ask him this.

ADV KATE HOFMEYR: No I am asking a factual question now.

MR VIVIEN NATASEN: There were no – as I said at the start of today I was not sure when the Standard Bank facilities were reinstated. So you – obviously from the records you have you saying it was not at that point in time. They would have been reinstated during March and some

of the payments happened during the period of March of the next year or the next financial year so therefore that might be but I cannot speculate.

ADV KATE HOFMEYR: Thank you. And why does he call them an unintended benefit? Did you give him that word?

MR VIVIEN NATASEN: No that is from his report.

ADV KATE HOFMEYR: How does he make a conclusion about what the intention was behind the benefit without engaging you about it?

MR VIVIEN NATASEN: From my explanations there was never an
10 intention for us to utilise the funds for our business there was never a loan so by inference he would assume then it is unintended. If we never intended it – the intended use of the funds was to move to the farming venture. So anything different to that was not what the intention was.

ADV KATE HOFMEYR: Thank you. You conveyed that information to him?

MR VIVIEN NATASEN: I explained the transaction history to him.

ADV KATE HOFMEYR: Thank you. If we then go over the page to 238.281. I would like to pick up the topic of unaudited annual financial statements of Neo Solutions. And I would like to pick it up at
20 paragraph 24 there if we may because Mr Lowenthal as I read this paragraph makes some comments about whether your signature on certain documents resulted in things becoming binding and enforceable against Neo Solutions. Did you ask him particularly to comment on this aspect?

MR VIVIEN NATASEN: I asked him to look at our obligations or my

obligations in terms of the fact that there were signed documents that were out there that were inaccurate. And he was then required to respond to that.

ADV KATE HOFMEYR: Do you...

MR VIVIEN NATASEN: So these I am assuming is in response to that.

ADV KATE HOFMEYR: Thank you. Do you accept that whether something is binding or enforceable or not is a legal question?

MR VIVIEN NATASEN: From an accounting perspective as and he is – from my understanding of what Mr Lowenthal has done his brief was to
10 look at as well apparently from what I understand he does testify a lot on matters like this and from that basis he looked at it not just purely from an accounting but an obligation from an accounting perspective in terms of the act not as a lawyer.

ADV KATE HOFMEYR: So when...

MR VIVIEN NATASEN: But again you will have to call him.

ADV KATE HOFMEYR: When he says at paragraph 24 maybe you can just read paragraph 24 for us.

MR VIVIEN NATASEN: So he states here that:

20 “Neo Solutions is not statutorily required to have audited financial statements and Mr - Mr Natasen’s signature electronic or handwritten on the compiled unaudited annual financial statements does not in my opinion result in same becoming binding or enforceable against Neo Solutions and/or Mr Natasen unless specifically having being

compiled for reliance upon by a stated known third party for a particular need.”

ADV KATE HOFMEYR: Mr Natasen earlier in your evidence today we traversed the requirement of audited financial statements in your Nedbank facility agreement. Do you recall that?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: Did you make that known to Mr Lowenthal before he deposed to this affidavit?

MR VIVIEN NATASEN: I am not sure if he has access to the agreement
10 with Nedbank at that point in time.

ADV KATE HOFMEYR: My question was did you make it - bring it ...

MR VIVIEN NATASEN: No.

ADV KATE HOFMEYR: To his attention?

MR VIVIEN NATASEN: As I stated in my testimony I was only reminded of it now when obviously ...

ADV KATE HOFMEYR: A day or so ago ...

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: When the Commission provided you with that ...

MR VIVIEN NATASEN: Correct.

20 **ADV KATE HOFMEYR:** Agreement? So his conclusion here as I understand it is that:

“There is no obligation for as long as no third party creditor is being asked to place reliance on the financial statements.”

Do you read it in the same way?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: And insofar as we have now confirmed because your memory was refreshed two days ago that there was a legal obligation to provide those audited financial statements. I assume you would then differ from the conclusion he draws here.

MR VIVIEN NATASEN: You can ask him that but ...

ADV KATE HOFMEYR: Mr Natasen the question was do you differ from the conclusion he draws here.

MR VIVIEN NATASEN: If - if the obligation to report to Nedbank was
10 made aware to him then I - I agree.

ADV KATE HOFMEYR: Thank you.

CHAIRPERSON: I am not sure what the value of his opinion is in paragraph 24.

ADV KATE HOFMEYR: Indeed Chair.

CHAIRPERSON: He is not a lawyer.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: Hm.

ADV KATE HOFMEYR: Insofar - Chair and the only reason for exploring it if I may is insofar as there is any respect in which an
20 expert accountant might be able to shed light on in accounting practice what the requirements of audited financial statements are. That is the only reason for probing it further.

CHAIRPERSON: Yes, yes.

ADV KATE HOFMEYR: But we have Mr Natasen's evidence ...

CHAIRPERSON: Ja.

ADV KATE HOFMEYR: On that. Mr Natasen the next topic on that page is “Chartered Accountant in Business” and we have traversed that already in your evidence. I - what do you understand Mr Lowenthal to say about the position of a Chartered Accountant in Business and its application to you?

MR VIVIEN NATASEN: My - my understanding from him is my role with the company is operational. I serve more role on projects. I have outsourced the accounting activities to an internal accounting department as well as an externalised accounting practice. So I am not
10 serving in my capacity as a Chartered Accountant in the operations of Neo Solutions.

ADV KATE HOFMEYR: Do you accept as a Chartered Accountant though the general obligations that apply under the Code would still apply to you given - even though you are not a Chartered Accountant in Business?

MR VIVIEN NATASEN: No I do not agree with that.

ADV KATE HOFMEYR: So the ethics of the profession of accounting ...

MR VIVIEN NATASEN: The ethics do apply. I have never said that that does not. In terms of the obligations of looking into detail on the books
20 and results of the operations I outsource that activity.

ADV KATE HOFMEYR: Agreed. We might have been at cross purposes. So I can just be clear. You accept I have it from your evidence that the ethics of the profession continue to apply to you. Is that right?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: Do you also comply with the obligation to provide annual CPD Declarations given your registration as a Chartered Accountant?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: What do those involve?

MR VIVIEN NATASEN: It - it involves submitting your timesheets in terms of the work you do.

ADV KATE HOFMEYR: And I think it relates to ongoing development. Is that right?

10 **MR VIVIEN NATASEN:** Yes.

ADV KATE HOFMEYR: Thank you and have you done so with SAICA?

MR VIVIEN NATASEN: Well we submit the timesheets and they obviously look at it and see whether it qualifies.

ADV KATE HOFMEYR: Thank you and just in terms of those ethical obligations do you regard it as one of the ethical obligations of an accountant not to bring the profession into disrepute?

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: And do you regard a Chartered Accountant who signs off on financial statements as accurately reflecting the affairs of
20 the business where that is not so could be involved in bringing the profession into disrepute?

MR VIVIEN NATASEN: I have not signed those financials in any capacity as a Chartered Accountant. So I do not believe it is relevant.

ADV KATE HOFMEYR: Oh. So sorry. So if on the page where you signed them you somewhere put next to your name Chartered

Accountant would then the obligation arise?

MR VIVIEN NATASEN: No I am saying my capacity in the operations of Neo Solutions I am a Director ...

ADV KATE HOFMEYR: Hm.

MR VIVIEN NATASEN: And obviously I am the person - the shareholder of the business but in the capacity as Director and Chief Executive I sign those financials there but not purporting that I have examined the books and records as any CA would as a service.

ADV KATE HOFMEYR: Mr Natasen we understand each other entirely.

- 10 Let me just be clear on my question. My question did not suggest that you played the role of a Chartered Accountant in Business because I have read what Mr Lowenthal has said and not that it should be relevant for the present determination but I do not see a basis on which to refute what he says.

That is why the questions have progressed. I am talking about the general ethical obligations of a Chartered Accountant wherever they find themselves and even if they are not conducting the activities of a Chartered Accountant in Business. Do you understand where we are ...

- 20 **MR VIVIEN NATASEN**: Yes.

ADV KATE HOFMEYR: For the question?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: I understand your evidence to be it is part of the ethical obligations of a Chartered Accountant not to bring the profession into disrepute. Correct?

MR VIVIEN NATASEN: Yes.

ADV KATE HOFMEYR: I then asked whether a Director of a company who is a Chartered Accountant who signs off on financial statements indicating with his signature that they correctly reflect the financial position of the company in circumstances where they do not. Do you regard that as bringing the profession into disrepute?

MR VIVIEN NATASEN: I have signed those financials on the basis that my internal accounting team as well as the external accounting team have done their homework and satisfied themselves that this was
10 correct. Even on the matter of **Garth vs Epherus (?)** that - those financials were prepared by Mannie (?) Financial Services.

So yes you - in the previous testimony you put me on the spot in terms of saying there should have been an inference and I should have known better but the person who is being remunerated to actually prepare those financials should have known better. Right. I made a reasonable assumption that the financials brought through to me after Mannie has been through them are reasonably correct and I signed them on that basis.

ADV KATE HOFMEYR: Does that mean you did not read the page
20 where your signature appears?

MR VIVIEN NATASEN: No I understand what it is saying there but I am saying we satisfied. I understand this obligation is placed back on me as a Director of the company. I understand those. I am not derogating from that but it also says I must put in reasonable steps within the operation to make sure that they are correct.

The undertaking that Many (?) Financial Services have given me was that they were the vetting agent to make sure that those were correct which they are now shielding themselves from but ultimately after the SARS audit process they had undertaken to - to do those steps for me. So I relied on the fact that those steps were being performed.

ADV KATE HOFMEYR: Thank you. Chair those conclude our questions in relation to Mr Natasen's evidence and Mr Lowenthal's affidavit.

CHAIRPERSON: Okay. Thank you. Then we can start with
10 re-examination.

ADV KATE HOFMEYR: If I may just take a moment Chair to clear up.

CHAIRPERSON: To clear up.

ADV KATE HOFMEYR: So that there is space.

CHAIRPERSON: Okay. That is fine.

ADV ANDRE PIENAAR: Thank you Chair.

CHAIRPERSON: Thank you. You may proceed.

ADV ANDRE PIENAAR: Before I start Chair I would just like to go back
to an issue raised by my learned colleague this morning with regards to
Ms Tlatsana's recent absence from the Republic of South Africa. My
20 client mentioned to me during the break that he was quite taken aback
by the fact that it was mentioned during the course of these
proceedings specifically and at the beginning of the testimony today
because again it creates a negative impression and one draws a
negative inference that my client or Neo Solutions was somehow
complacent in the threats or intimidatory tactics levelled against

Ms Tlatsana.

So I just wanted to place on record that and I will agree with me that there was no association created by the two.

CHAIRPERSON: Not - not that I have heard of. My understanding is - my impression is that the threats maybe related to threats or intimidation that Ms Tlatsana had given evidence about previously. Now they may or may not be related to her departure from the Republic - may or may not be connected with those about which she gave evidence but certainly I know nothing and I have heard nothing that
10 would necessarily connect her disappearance to your client.

ADV ANDRE PIENAAR: Thank you.

ADV KATE HOFMEYR: Chair if I may.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Chair just to be clear I - I understand Mr Natasen to be quite concerned about the reference to it this morning as though there is any link to his evidence. I think it is of benefit to the Chair just to explain why it was raised this morning.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Chair today we place before the full cross-
20 examination application of Mr Natasen ...

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: To cross-examine Ms Tlatsana.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: If I may be permitted to ask Mr Natasen whether he does not agree that the fact that she might be out of the

Republic is relevant to the - your request to cross-examine her. Do you accept that?

MR VIVIEN NATASEN: It does affect our ability to cross-examine here.

ADV KATE HOFMEYR: Indeed. Thank you Chair.

CHAIRPERSON: Yes. Yes. No, I think ...

MR VIVIEN NATASEN: I think Chair ...

CHAIRPERSON: I - I ...

MR VIVIEN NATASEN: Just to clarify why I raise it with my attorney ...

CHAIRPERSON: Oh, okay. I think maybe let me hear your counsel
10 first. He might say you - you ...

MR VIVIEN NATASEN: He might cover me.

CHAIRPERSON: He would like you to - to explain.

ADV ANDRE PIENAAR: Well I think ...

CHAIRPERSON: You just wanted to clarify it?

ADV ANDRE PIENAAR: No, no Ms Hofmeyr actually pre-empted my
second point which was ...

CHAIRPERSON: Yes.

ADV ANDRE PIENAAR: Her absence now makes cross-examination
difficult if not impossible. Simply because as I understand the direction
20 given to us by the Commission in making our application to
cross-examine Ms Tlatsana our application was given to her and the
request was made to her by the Commission to submit a further
affidavit in reply and based on that the Commission would then
determine whether or not cross-examination was necessary and to what
extent.

So it - it does bring about a question as to how and if and when we are going to be given the opportunity to cross-examine her.

CHAIRPERSON: Yes. No it does raise that question. As things stand on the basis of what we know and I certainly only heard this morning that apparently she is out of the country. On what we know now we do not know if and when she may come back to make herself available but as Ms Hofmeyr indicated I think the Commission's investigators are looking into the issue.

At some stage in the future it ought to be possible to reach a
10 conclusion whether she will come back or not and obviously that information would be shared with you.

ADV ANDRE PIENAAR: Thank you.

CHAIRPERSON: Thank you.

ADV ANDRE PIENAAR: Thank you Chair. I am going to get straight into the re-examination or cross-examination of Mr Natasen.

CHAIRPERSON: Yes.

ADV ANDRE PIENAAR: I am not going to belabour the Commission with detailed references to specific documents.

CHAIRPERSON: Yes.

20 **ADV ANDRE PIENAAR:** Save for one or two that ...

CHAIRPERSON: That is fine.

ADV ANDRE PIENAAR: That we need to deal with ...

CHAIRPERSON: Yes.

ADV ANDRE PIENAAR: Because I obviously want to summarise the examination in chief of my learned colleague and based on that

summary I will then address Mr Natasen on various points.

CHAIRPERSON: Hm.

ADV ANDRE PIENAAR: Okay.

CHAIRPERSON: That is fine.

ADV ANDRE PIENAAR: I will try and keep it as concise as possible.

CHAIRPERSON: That is fine.

ADV ANDRE PIENAAR: Mr Natasen I would like to start with the issue of Chartered Accountant in Business because it is something that was raised on 12 July - beginning of the testimony and a lot of emphasis
10 was placed on it by the Commission's legal team and you were asked to make certain concessions. Correct?

MR VIVIEN NATASEN: That is correct.

ADV ANDRE PIENAAR: And you made those concessions. You conceded that you were a Chartered Accountant in Business?

MR VIVIEN NATASEN: Yes I do.

ADV ANDRE PIENAAR: You conceded that you had read the Code of Good Practice of Chartered Accountants?

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: You conceded that you understood and
20 appreciated the contents of that Code?

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: Okay. You agreed today given the advises that you have received subsequent to 12 July as also your own investigations into the matter as also Mr Lowenthal's advises to you that those concessions were incorrect?

MR VIVIEN NATASEN: Those were incorrect.

ADV ANDRE PIENAAR: Correct. Now much has been made today specifically about the fact that Mr Lowenthal is not an attorney. You are not an attorney. Mr Judiel is not an attorney. No one is an attorney but the one person that is an attorney is my colleague Ms Hofmeyr and she was the one who raised the issue initially and brought the Code to your attention. Correct?

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: Okay and the - the intention behind bringing
10 the Code to your attention was to say to you Mr Natasen you are not just a Director of Neo Financial Services. You are not just the sole shareholder. You are a Chartered Accountant in Business and therefore you are held to a higher standard than an ordinary Director. Correct?

MR VIVIEN NATASEN: It is Neo Solutions not ...

ADV ANDRE PIENAAR: Neo Solutions.

MR VIVIEN NATASEN: Ja.

ADV ANDRE PIENAAR: Correct?

MR VIVIEN NATASEN: Correct.

ADV KATE HOFMEYR: Chair if I may.

20 **CHAIRPERSON:** Sorry, yes.

ADV KATE HOFMEYR: Thank you. Chair just at the outset I - I think it is important to indicate that it is our submission that the scope of re-examination requires non-leading questions to be put to a witness and my concern at this point ...

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Just to put it on record ...

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Is that the nature of the questions being put to Mr Natasen at the moment are leading questions.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Thank you Chair.

CHAIRPERSON: Counsel for Mr Natasen.

ADV ANDRE PIENAAR: That is not my understanding of the rules but I accept what Ms

10 **CHAIRPERSON:** Yes.

ADV ANDRE PIENAAR: Hofmeyr is saying. So I will try and ...

CHAIRPERSON: Yes. You will try ...

ADV ANDRE PIENAAR: Limit my line of questioning to questions which do not lead the witness.

CHAIRPERSON: (Intervenes).

ADV ANDRE PIENAAR: Of course.

CHAIRPERSON: Yes, thank you.

ADV ANDRE PIENAAR: Mr Natasen I am going to read you a section of the Code and I would like your comment on it. It says:

20 “A professional accountant - Chartered Accountant in Business might be an employee, contractor, partner, Director, owner, manager or volunteer of an employing organisation. The legal form of the relationship with the professional accountant with the employing organisation has no bearing on the

ethical responsibilities placed on the professional accountant.”

Okay. You have read that?

MR VIVIEN NATASEN: That is right.

ADV ANDRE PIENAAR: Okay. I am going to read you Section 260.11 A1 of the Professional Code and it says that and I am going to go to the relevant portion of the paragraph. It says:

10 “There is a greater expectation for financial, technological, physical and intangible resources on such individuals to take whatever action is appropriate from the public interest to respond to non-compliance or expected non-compliance other than professional accountants with the employing organisation. This is because of senior professional accountants’ roles, positions, spheres of influence within the employing organisation.”

Right?

MR VIVIEN NATASEN: Right.

20 **ADV ANDRE PIENAAR:** Do you under - what do you understand from those two provisions read together in the context of Ms Hofmeyr’s line of questioning and her assertions to you that you were a Chartered Accountant in Business as opposed to simply a sole Director and shareholder of Neo?

MR VIVIEN NATASEN: I believe I have - I have not been through - sorry again through you Chair. I have not been operating in the

capacity as a Chartered Accountant. I had to my mind put in checks and balances in the accounts department and with the external entity in order to provide me the comfort that the books and records are correct and being correctly prepared.

So when I signed these financials there was no inclining at that point in time that I am signing them off as a Chartered Accountant. The definition of Chartered Accountant in Business there is something I have now been drawn attention to, to give it a focus on post the earlier testimony but from my recollection I have - I have got checks and
10 balances.

I had - my understanding was that I had at that point in time in the company and I made reasonable assumptions that the books and records were accurate as I was signing them off with adequate controls in place.

ADV ANDRE PIENAAR: So you would disagree then if I said to you, you are held to a higher standard signing off those financials than you would ordinarily be held to if you were the Chartered Accountant preparing those financials?

MR VIVIEN NATASEN: I - yes, I disagree.

20 **ADV ANDRE PIENAAR:** You disagree, okay and would you agree that in your capacity as Director and sole shareholder of Neo that you are not engaged by Neo as an employee organisation as defined within the Code?

MR VIVIEN NATASEN: I confirm that I am not.

ADV ANDRE PIENAAR: Okay. So therefore strictly speaking those

provisions of the Code dealing with professional accountants and Chartered Accountants in Business have no application to you?

MR VIVIEN NATASEN: That is correct based on reading it like that.

ADV ANDRE PIENAAR: Okay.

CHAIRPERSON: Well the last two were - were leading but I will - I will let go. Let us proceed.

ADV ANDRE PIENAAR: Chair I disagree with you. I have read the Rules very carefully about leading questions and ...

CHAIRPERSON: Let us proceed. It is okay.

10 **ADV ANDRE PIENAAR**: Let us just proceed ...

CHAIRPERSON: Let us proceed, *ja*.

ADV ANDRE PIENAAR: Because we need to get through this and I am entitled to re-examine the witness.

CHAIRPERSON: Let us proceed.

ADV ANDRE PIENAAR: These are questions that have been put to the witness by the Commission's legal team and there I - I believe I am entitled to (intervenes).

CHAIRPERSON: No, no you - you must proceed.

ADV ANDRE PIENAAR: Thank you.

20 **CHAIRPERSON**: I was just indicating you have undertaken to - to try and ...

ADV ANDRE PIENAAR: I am trying to keep it as concise as possible.

CHAIRPERSON: No, no I accept that. I accept that.

ADV ANDRE PIENAAR: So Mr Natasen following on that okay if you are not a Chartered Accountant in Business and you were presented

with the financials which were prepared by your accountants in conjunction with your accounting staff and representations were made to you regarding the accuracy of those financial documents.

Do you see any problem with you being able to sign those documents without having any reference whatsoever to the original books of prime entry, the source documentation, the ledgers, previous financials any other financial information of the company that would be relevant to the financials that have been drafted and prepared and put before you for signature?

- 10 **MR VIVIEN NATASEN:** My understanding is that Many (?) Financial Services would have done those steps before I received the - the financials to sign.

ADV ANDRE PIENAAR: Good. In fact it is obligation of the company to hand over the books of prime entry, the source documents and the like ...

MR VIVIEN NATASEN: Correct.

ADV ANDRE PIENAAR: To the accountants who then compile the financial information.

MR VIVIEN NATASEN: That is correct.

- 20 **ADV ANDRE PIENAAR:** Okay. In an accurate way based on the correct reporting standards and then at a later stage the auditors would come in if ...

MR VIVIEN NATASEN: If auditors.

ADV ANDRE PIENAAR: If auditors are necessary and warrant it in terms of the - the relevant legislation and they would then do sampling

in order to determine whether or not the accounts that have been prepared were correct. Is that your ...?

MR VIVIEN NATASEN: That is my understanding.

ADV ANDRE PIENAAR: Okay. So do we - do we both - I certainly accept but do you accept that based on the representations of your accountants and your internal accounting staff when those financials were put before you, you felt comfortable that they were accurate and that you could sign them.

MR VIVIEN NATASEN: That is correct as well in the context of Patel
10 had given me assurance that he was the watchdog checking over the work of - of Ruben.

ADV ANDRE PIENAAR: Yes. You said so. Okay. I am going to leave the professional Chartered Accountant in Business issue there. Simply because I do not believe it warrants any further attention. It is not applicable. Let us just go for a moment to the obligation - statutory obligation that rests on the company for the purposes of the production and dispatch to third parties of audited financial statements. Are you familiar with Section 30 of the Companies Act Mr Natasen?

MR VIVIEN NATASEN: Yes.

20 **ADV ANDRE PIENAAR:** Are you familiar with the regulations to the Companies Act?

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: Okay. Are you aware that based on the turnover of Neo that it has a status as either a small, medium or large organisation ...

MR VIVIEN NATASEN: That is correct.

ADV ANDRE PIENAAR: Within the regulations?

MR VIVIEN NATASEN: That is correct.

ADV ANDRE PIENAAR: Are you - if I ask this question let me change it because I know that Chair is going to take an issue. Where does Neo rank in that status?

MR VIVIEN NATASEN: Our current turnovers - turnovers over the periods the last four/five years have been below 50 million.

ADV ANDRE PIENAAR: Below 50 million. So then having regard to
10 Section 30 of the Companies Act Regulation 27 thereof it would - Neo would qualify as a small enterprise. Correct?

MR VIVIEN NATASEN: Small to medium, *ja*.

ADV ANDRE PIENAAR: Small to medium.

MR VIVIEN NATASEN: It is below 50, *ja*.

ADV ANDRE PIENAAR: And then the circumstances there is no obligation on the company to produce audited financial statements?

MR VIVIEN NATASEN: That is correct.

ADV ANDRE PIENAAR: Okay. So the questions that were led by my learned colleague on 12 July relating to your obligation in terms of the
20 Companies Act to produce audited financial statements was incorrect?

MR VIVIEN NATASEN: That is right.

ADV ANDRE PIENAAR: Okay. Mr Natasen much - much has been made during the examination in chief of the fact that your various statements furnished to the Commission over the period since the Commission first engaged with you have been by and large inconsistent

and inaccurate. Is that correct?

MR VIVIEN NATASEN: That is correct.

ADV ANDRE PIENAAR: Okay. In fact one of the terms most frequently used by my learned colleague has been Mr Natasen I refer to your previous testimony. Okay. That is the lead in to I refer you to your previous testimony and I now refer you to a specific statement and there are inaccuracies and discrepancies. Correct?

MR VIVIEN NATASEN: That is correct.

ADV ANDRE PIENAAR: Okay. I will give you some examples of some
10 of the discrepancies that have been raised by my learned colleague and these come straight from the EXHIBIT DD10A which is the transcription from the last hearing on 12 July. Ms Hofmeyr says you misled the Commission in your prior submission in that there actually were three meetings held with Judiel and not two. You had previously signed witness statements.

ADV KATE HOFMEYR: (Intervenes).

CHAIRPERSON: Sorry, sorry.

ADV KATE HOFMEYR: If I may just request a reference. So that we can follow.

20 **CHAIRPERSON:** Hm.

ADV ANDRE PIENAAR: Page 63 line 15 page ...

CHAIRPERSON: Hang on one second.

ADV ANDRE PIENAAR: Ja.

CHAIRPERSON: Ms Hofmeyr wants to say something.

ADV KATE HOFMEYR: Thank you.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Chair I was just requesting our learned friend to give us a reference in the transcript when he refers to it. Just so that we can pick it up. Chair you also have a copy of the transcript as well. Thank you.

CHAIRPERSON: Oh I was - I am not sure that I - I knew that - oh for 12 July?

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: Ja, okay. Yes.

10 **ADV ANDRE PIENAAR:** Chair as I said to you I do not want to belabour the Commission with us having to reference specific documentation in specific files again. I think what - a better approach would be for Ms Hofmeyr if she verily believes that I am misrepresenting the assertions made by her when I reference them in the transcription. I think she should just say so and then we can go to those specific ...

CHAIRPERSON: Yes. I think her request was for you to mention where in the t

ADV ANDRE PIENAAR: I am ...

20 **CHAIRPERSON:** Where in the transcript.

ADV ANDRE PIENAAR: I am more than happy to.

CHAIRPERSON: Yes.

ADV ANDRE PIENAAR: It is page 63 line 15. Page 67 line 21. Page 69 line 20. Page 80 line 2 and these are just examples ...

CHAIRPERSON: Yes, okay.

ADV ANDRE PIENAAR: Of the alleged inconsistencies that consistently feature in Mr Natasen's statements.

CHAIRPERSON: Yes.

ADV ANDRE PIENAAR: There was no meeting scheduled for 10 May between yourself and the Commission. You were made aware of your right to legal representation and there appeared to be multiple versions submitted by you through your engagements with the Commission. So those are just some of the examples of the alleged inconsistencies and I do not think my - my learned colleague can dispute the fact that she
10 has on several occasions said to you with reference to one or more documents that there are inconsistencies but the fact of the matter is that these inconsistencies or what as lawyers would refer to (indistinct) there is nothing material that turns on them.

Okay. They are for example the - the issue of the three meetings versus two. Mr Natasen explained that yes he was incorrect in - in the second statement and that. He had actually forgotten about the previous meeting but the question is what relevance and what - why is it material? Why is that missing meeting material to what the Commission is investigating and what the allegations are that
20 Ms Hofmeyr is putting forward.

CHAIRPERSON: What - what you may wish to do is see what you wish to put to him for him to say something and see what you might wish to reserve for when submissions are made when you can say no reliance should be placed on this or that or that.

ADV ANDRE PIENAAR: *Ja.* I am not making a specific submission or

a specific statement.

CHAIRPERSON: Yes.

ADV ANDRE PIENAAR: I am making a general submission ...

CHAIRPERSON: Yes.

ADV ANDRE PIENAAR: As regards to the fact that there have been multiple inconsistencies alleged in various statements submitted by Mr Natasen and I do not think anybody here would disagree with me. I think that - that is common course. I am getting to the point that I - that I intend raising.

10 **CHAIRPERSON:** Yes.

ADV ANDRE PIENAAR: Mr Natasen earlier on today you questioned me - it was actually during the lunch - and you asked me where it was - where - where the line of questioning that was being led by the Commission's legal team was - was going. What - what the purpose of it was?

MR VIVIEN NATASEN: *Ja*, I did ask that.

ADV ANDRE PIENAAR: Is that correct?

MR VIVIEN NATASEN: That is correct.

20 **ADV ANDRE PIENAAR:** And I explained to you that because you couldn't understand and I'm just relaying what - you couldn't understand why time after time inconsistencies had been brought to your attention and as you quite rightly said these were of no consequence, these are immaterial inconsistencies, where is the Commission going with its questions, and I explained to you that the Commission's investigations have a two-prong approach, the first is the

204 statement that you gave, okay, and in that regard the Commission's assertions, obviously Ms Hofmeyr hasn't said it expressly, but that's where her line of questioning is going, is that because there are inconsistencies in the statements, and I making a put to you, I want you to either agree or disagree, because there are inconsistencies in your statements the effect of that is in terms of Section 204 of the Criminal Procedure Act is that we haven't given honest and frank testimony, so that's the first part of the 204 attack for use of a better word, the second is the POCA legislation that my learned colleague referred you to, and specifically Section 6 thereof, which – and I will just read it to you again quickly just so that you – to jog your memory, Section 6 deals with acquisitions, possessions, or use of proceeds of unlawful activities, and basically what it says is that if you have possession of property and you know or ought reasonably to have known that if one is part of the proceeds of unlawful activities you're guilty of a criminal offence, right?

MR VIVIEN NATASEN: Yes I recall that.

ADV ANDRE PIENAAR: Okay, so the second prong of the attack of 204 is to try and convince on the evidence, to try and convince potentially the authorities that you are guilty not only of the inconsistencies, the misrepresentation, the lack of frankness and honesty in your evidence but you're also guilty of having used proceeds that you ought to have known or you knew were the proceeds of unlawful activities, so that's the – I'm answering your question now because I'm getting to the very point that we need to touch on.

The last prong of the attack is that the 204 statement, and I see that my colleague was belabouring the point this morning, the 204 statement itself hasn't been validly taken and therefore it's legally unenforceable, okay.

So we have effectively a three-prong approach. We've got the lack of frankness and honesty, because of your inconsistent statements, we've got the fact that the 204 is not a legally viable document because it wasn't taken by a properly authorised person in the correct manner, and lastly you're in violation of the POCA
10 legislation because you had use of the 9.9million and therefore you are guilty of a criminal offence.

So we have to deal with these in cross-examination because they are obviously very material issues and obviously affect how this matter proceeds. Mr Natasen let's just deal with the inconsistencies as a starting point. Would you agree with the submission that the inconsistencies to date that have been raised with you are immaterial and irrelevant to the ...(intervention)

CHAIRPERSON: That is quite leading.

ADV ANDRE PIENAAR: Chair this is the third time we've touched on
20 the issue of the leading questions.

CHAIRPERSON: Mmm.

ADV ANDRE PIENAAR: I'm asking Mr Natasen whether he believes in his opinion, I'm not asking for a qualified – I'm asking for his subjective opinion whether he believes that the inconsistencies that had been raised by my learned colleague in his various statements are of a

material nature or not. It's a very simple question, it's not a legal question, it's not a question that requires a chartered accountant in business to answer, it's a simple question based on subjectivity. I don't think it's a leading question.

MR VIVIEN NATASEN: Maybe I can respond.

CHAIRPERSON: Yes.

MR VIVIEN NATASEN: When I was first contacted by the Commission I went in using the 204 which was already issued in October of 2017, so when i was contacted I actually went to them with
10 the evidence, at that point in time. The further evidence I had was the recording which the DCPI Hawks did not have, so when I took the recording I contacted Yudeel and said do you want this recording because it actually proves totally clearly that I was not aware that this was S A Express' money and they said no they had what they needed and he doesn't believe they needed it, if they wanted it they will ask for it, so in March of this year when I was contacted by the Commission I went to them, the investigating team with exactly that, thinking that okay this is already a matter that is sitting at the Hawks, they are probably needing the evidence to go into the State Capture process to
20 see whether it can flow any further.

That was my understanding when I started the process. Then more and more questions started to come. Now remember at the time when I was brought, when this was brought to my attention by Yudeel then I said here's all the information, then he assisted me in preparing the affidavit. If the affidavit is scant or doesn't reflect every single

point my understanding now as the Commission's investigators pick up more and more they're looking for more clarity, so everything that has been provided to date is to provide that clarity that has been sought at each point in time, so to me yes, if there's something I had not known at that point in time that I pick up now that the information is different, as I pick it up I shared that, so it's not – the inconsistency should not be considered as misrepresentations, the inconsistencies are because it appears that the Commission is requiring a much further level of detail than we had three years ago when this matter came about and

10 that's really how it's evolved from there.

ADV ANDRE PIENAAR: Thanks Mr Natasen, I think that quite succinctly answers the majority of that question, but the fact of the matter is that your various statements are very consistent throughout, the thread of the statements is by and large identical throughout all the statements, the only thing that differs is the additional information that's provided and as you just quite rightly said that happens through specific context where specific information is sought and in effect you then supplement the statements as you go along, but supplementation doesn't equate to inconsistency, would you agree with that?

20 **MR VIVIEN NATASEN:** That's correct.

ADV ANDRE PIENAAR: Okay, Mr Natasen insofar as – we're going to go into this in a lot more detail, but insofar as your knowledge as regards the unlawfulness of the funds that you had in your account, that you had in your account that flowed from Koroneka into Neo Solutions account, you've already testified, I'm just confirming this,

that you had no knowledge as to the unlawfulness of the source of those funds, is that correct?

MR VIVIEN NATASEN: At the time definitely not.

ADV ANDRE PIENAAR: At the time definitely not, and in the circumstances and in terms of the requisite legislation, specifically POCA to which my learned colleague referred there has to be intent, you had to have known of the unlawfulness in order to to violate that legislative provision is that correct?

MR VIVIEN NATASEN: Yes.

10 **ADV ANDRE PIENAAR:** Okay. And because you had no knowledge there was no violation correct?

MR VIVIEN NATASEN: That's my understanding.

ADV ANDRE PIENAAR: Correct, okay. Mr Natasen let's just deal with the 204 affidavit, you gave testimony this morning that the affidavit was prepared by Mr Yudeel and that he presented it to you and that he in effect did that with Ms Magotsi on the phone and that pursuant to that statement having been prepared you then deposed to it and it was submitted, is that correct?

MR VIVIEN NATASEN: That's correct.

20 **ADV ANDRE PIENAAR:** Okay. The 204 itself Mr Natasen as you quite rightly pointed out earlier is a standard form affidavit save for the content that you include or incorporate is that correct?

MR VIVIEN NATASEN: Ja, I think so.

ADV ANDRE PIENAAR: It's a reference to the specific sections of the Act and your obligation to lodge criminal complaints is something that

and I know you said you weren't familiar with 204's but would you appreciate that that's part of the legislation and has to be incorporated ... (intervention)

MR VIVIEN NATASEN: As a standard clause.

ADV ANDRE PIENAAR: By implication into that affidavit.

MR VIVIEN NATASEN: Correct ja.

ADV ANDRE PIENAAR: So when my learned colleague questioned you on that and asked you whether or not you had read that provision and whether or not you had taken unnecessary steps how will you
10 respond to that, just to be clear?

MR VIVIEN NATASEN: Well as I said at the time I had spoken to Yudeel and Yudeel said that the matter was already under a case number at the Commercial Crime Unit so therefore there was no need to do any further reporting, all they would do is append it to their existing case file, that was my understanding from Mr Yudeel at the time.

ADV ANDRE PIENAAR: Okay so as far as you are concerned the affidavit, the 204 was taken legally, given the fact that Mr Yudeel represented that he was a private investigator, correct?

20 **MR VIVIEN NATASEN:** Yes.

ADV ANDRE PIENAAR: And that he was working with the DPCI.

MR VIVIEN NATASEN: That's correct.

ADV ANDRE PIENAAR: And that he had been tasked by the relevant person, Ms Magotsi in securing the 204 affidavit and you then were privy to a conversation although you didn't hear the exact exchange,

you were privy to the conversation, I understood from that that Ms Magotsi had directed Mr Yudeel to take the 204 affidavit under oath from you.

MR VIVIEN NATASEN: That's correct.

ADV ANDRE PIENAAR: So as far as you were concerned at the time in giving the 204 the 204 was taken by a legally authorised person.

MR VIVIEN NATASEN: That was my understanding at the time.

ADV ANDRE PIENAAR: And that the 204 was binding on you.

MR VIVIEN NATASEN: That's correct.

10 **ADV ANDRE PIENAAR:** And the contents of the 204 would in your submission, and let's take into account the allegations by my learned colleague that there are inconsistencies, would you say that the 204 accords with the various other statements that you submitted to the Commission to date.

MR VIVIEN NATASEN: It still does.

ADV ANDRE PIENAAR: It still does.

MR VIVIEN NATASEN: In my view it still does.

ADV ANDRE PIENAAR: Is there any respect in which you believe it digresses or diverges from those statements?

20 **MR VIVIEN NATASEN:** Well I don't believe there's inaccuracies, the monies that were received were validly paid back to him, the accounting for the R300 000 is what Advocate Hofmeyr has disputed but I have explained that, it was placed in there to account for the full 9.9million.

ADV ANDRE PIENAAR: Okay, so I think we will leave it there, my

point was simply that as far as you were concerned you verily believed that the 204 subpoena was being taken by a legally authorised representative, that it contained the necessary legislative prerequisites and that it was legally binding on you.

MR VIVIEN NATASEN: That's correct.

ADV ANDRE PIENAAR: Would you submit that to date from inception of this matter, in other words when the Commission first contacted you, till today, that you have given frank and honest testimony to this Commission?

10 **MR VIVIEN NATASEN:** Yes.

ADV ANDRE PIENAAR: Is there any aspect of your testimony to date save for where you have belaboured under the misconception for example with the chartered accountant and business that you were obligated to comply with the code which you weren't, is there any other instance where you believe that your testimony has not been frank and honest.

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: So you believe that you have complied with the provisions of Section 204 of the Criminal Procedure Act?

20 **MR VIVIEN NATASEN:** Yes.

ADV ANDRE PIENAAR: Do you believe that the protection afforded by 204 should be afforded to you under the circumstances?

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: Okay, is there any reason you believe that the 204 protection shouldn't be afforded to you?

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: Mr Natasen let's then move on to – we have dealt with your knowledge as regards the unlawfulness of the funds, we have dealt with the validity and enforceability of the 204, and we have dealt with the inconsistencies and your honest and frank testimony, okay, which is as I said earlier the thrust of the attack or approach taken by the Commission in its line of questioning, that's where they were attempting to get. The problem for the Commission thus far though, if I may submit, and I am not going to make it your submission,
10 is that there isn't any hard and fast evidence which makes you complicit in any of the alleged criminal activities of which you are accused, right.

You were unwittingly the victim, or Neo was unwittingly the victim of money laundering activities, would you agree with that?

MR VIVIEN NATASEN: With what we know now yes.

ADV ANDRE PIENAAR: I don't want to put words into your mouth but this is the testimony that has been given today. You will agree with that?

MR VIVIEN NATASEN: Yes.

20 **ADV ANDRE PIENAAR:** Okay at the time of receiving the funds you had no knowledge that the funds were unlawful or that they come from a State organisation?

MR VIVIEN NATASEN: Definitely not.

ADV ANDRE PIENAAR: Had you known what would you have done?

MR VIVIEN NATASEN: I wouldn't followed through on any of that

transaction had I known that it was from a State Enterprise.

ADV ANDRE PIENAAR: Would you have brought it to Mr van Wyk's attention immediately?

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: Okay were you surprised by Ms Tlatsana's original affidavit implicating you?

MR VIVIEN NATASEN: Well I was aware of the 204 already so at that point in time – at the point of the 204 is when I was aware that the funds were not from a – well that it came from a Government
10 department.

ADV ANDRE PIENAAR: Were you surprised that Ms Tlatsana had come on record and accused you of being involved in these activities?

MR VIVIEN NATASEN: Well I wasn't aware of Tlatsana's name until Yudeel approached me for the 204, before that I was just aware that van Wyk had a partner and I was aware that there was a dispute with the partner that he was going to retrieve the control of the bank accounts.

ADV ANDRE PIENAAR: For the record you had no direct dealings with Tlatsana?

20 **MR VIVIEN NATASEN:** I never heard the name Tlatsana until much later.

ADV ANDRE PIENAAR: And for the record there was no invoicing activities between Koroneka and Neo?

MR VIVIEN NATASEN: Definitely not.

ADV ANDRE PIENAAR: Okay, had there been invoices I think would

your internal accounting staff have raised it with you?

MR VIVIEN NATASEN: Well Brian worked closely with them but from what I understand there should not have been any invoices, because this was not related to an invoice based transaction.

ADV ANDRE PIENAAR: So you stand by your advices in the 204?

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: And just to go back to your point on the supplementation of the statements as things progressed through to where they are now, at each and every stage all of your affidavits were
10 deposed to on the basis that information contained in those statements was to the best of your knowledge and belief at the time of making those statements correct?

MR VIVIEN NATASEN: That's right.

ADV ANDRE PIENAAR: Okay. What do you understand by to the best of your knowledge and belief at the time?

MR VIVIEN NATASEN: It is what I know as either the facts or what I can draw inferences on as existing at that point in time.

ADV ANDRE PIENAAR: Does that knowledge and belief change at all at any time?

20 **MR VIVIEN NATASEN:** No, not around the source of funds definitely not.

ADV ANDRE PIENAAR: No but I'm saying in the context of the various statements as they progressed your knowledge and belief, I'm assuming it changed as circumstances ...(intervention)

MR VIVIEN NATASEN: Well as more information comes to light we

then obviously supplemented the documentation.

ADV ANDRE PIENAAR: So if there were investigations conducted, if meetings transpired, if conversations were had with third parties, like Mr Yudeel, with the Commission with your legal representatives based on those interactions your statements could have changed over time?

MR VIVIEN NATASEN: That's correct.

ADV ANDRE PIENAAR: Okay so where one says when one deposes to an affidavit on the basis that to the best of your knowledge and belief the facts therein contained are correct, true and correct.

10 **MR VIVIEN NATASEN:** That's right.

ADV ANDRE PIENAAR: Is it correct that your understanding is based on your knowledge and belief at that time of making a statement, what's in that statement is correct, but that it can change over time.

MR VIVIEN NATASEN: That's correct.

ADV ANDRE PIENAAR: Okay. Mr Natasen if we can move on to the receipt of these funds from Mr van Wyk and the due diligence that was conducted by you. Now I suspect, but I am not going to make it my personal submission, but I suspect that part of the chartered accountants and business relates to the high standard that was
20 expected of you by the Commission when accepting these funds from Mr van Wyk because much was made of the fact that your due diligence, if I can put it that way, on Mr van Wyk was less than would have been expected by the Commission and there was argument made or questions that were put to you regarding the fact that Mr van Wyk mentioned that he did not wish to have a lifestyle audit and in fact the

inquiry actually went around in circles for quite some time on this very point, and I just want to clarify it because it's obviously highly material to whether you ought to have known as the POCA legislation requires that the proceeds were from an unlawful source.

So let's just, as my colleague likes to say, let's just unpack this a little. Let's start with the requirement for lifestyle audits. Are lifestyle audits a regular occurrence in the public sector?

MR VIVIEN NATASEN: My understanding is that they are, especially on State Owned Entities.

10 **ADV ANDRE PIENAAR:** And what would you believe the reason for that to be?

MR VIVIEN NATASEN: It is to identify whether there's sources of income that are – that obviously from State monies that may have ended up in the hands of officials.

ADV ANDRE PIENAAR: So it is not untoward for a State official in any capacity to have a lifestyle audit conducted?

MR VIVIEN NATASEN: No it is not unusual, I saw them as a regular occurrence.

ADV ANDRE PIENAAR: And there doesn't have to be suspicion of any
20 unlawfulness, it's often done on the basis that it is practice.

MR VIVIEN NATASEN: Correct.

ADV ANDRE PIENAAR: And Mr Natasen in terms of SARS you mentioned earlier ADR and money and the fact that you have had to deal with SARS on various occasions, as far as you are aware does SARS conduct lifestyle audits?

MR VIVIEN NATASEN: My understanding is that they do look at your asset base and your lifestyle against the income you're declaring.

ADV ANDRE PIENAAR: Isn't it almost common practice for lifestyle audits to be conducted every time there is an audit of a taxpayer?

MR VIVIEN NATASEN: I think they reconcile the assets, or the movement in assets to ...(intervention)

ADV ANDRE PIENAAR: So why then do you believe that the Commission is so focused on the issue of lifestyle audit when you mention in passing Mr van Wyk had said he didn't really want a lifestyle
10 audit, why do you think that the Commission's legal team focused on that issue so much?

MR VIVIEN NATASEN: My understanding at the time was that ...(intervention)

CHAIRPERSON: No, no, no, I don't think that is helpful, you need to ask him a question will focus on clarifying whatever answer he may have given, in regard to that question.

ADV ANDRE PIENAAR: Thank you Chair. Do you believe that it was your obligation as a business man, not a chartered accountant, because you weren't conducting yourself as a chartered accountant in
20 business or otherwise within Neo, you were simply a director and a shareholder and as you said quite heavily involved in projects and a business opportunity had arisen with Mr van Wyk do you think you were obligated in the circumstances to interrogate him on his comment in passing regarding lifestyle audit?

MR VIVIEN NATASEN: I felt it was a regular occurrence so he

mentioned it in passing, that's why I didn't take it further, it wasn't a specific forensic audit that was being conducted against him from my understanding.

ADV ANDRE PIENAAR: And am I correct if I remember your testimony the lifestyle audit comment made in passing was in relation to the fact that the reason for him wanting to pay the funds to Neo was that he didn't want a lifestyle audit on his personal accounts and affairs, is that correct?

10 **MR VIVIEN NATASEN:** My understanding was they would – if there was a regular lifestyle audit then this was income that he was deriving from private business and he was already planning to leave S A Express anyway so he felt he didn't want it accruing to him at that point in time.

ADV ANDRE PIENAAR: So you saw untoward about the comment that he made in passing?

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: With regards to the lifestyle audit.

MR VIVIEN NATASEN: No, I relied on the undertakings that he gave me that it was definitely not State money.

20 **ADV ANDRE PIENAAR:** Yes, would it be correct submission to say that no one wants a lifestyle audit?

MR VIVIEN NATASEN: Ja, that's a fair comment.

ADV ANDRE PIENAAR: Why do you think it's a fair comment?

MR VIVIEN NATASEN: Everyone believes that a lifestyle audit of some sort will look to find to find something at some point in time, so by

nature it is a negative thing, it's like having to collect on insurance or pay insurance.

ADV ANDRE PIENAAR: Correct, okay and given the fact that the amount that was going to be transferred. Did you believe that that in itself warranted further investigation?

MR VIVIEN NATASEN: Not at all, I mean the founding deal was going to be obviously much bigger than that and he was actually showing credibility, he always purported he was a successful businessman before he went to S A Express, that he came from private sector first,
10 so I had no question that he had the money and the assets to be able to come up with his share of the money to invest in the farming enterprise.

ADV ANDRE PIENAAR: Mr Natasen is Neo a accountable institution?

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: In terms of the relevant legislation, FICA legislation?

MR VIVIEN NATASEN: No definitely not.

ADV ANDRE PIENAAR: Are you an accountable person in terms of that legislation?

20 **MR VIVIEN NATASEN:** No definitely not.

ADV ANDRE PIENAAR: Are you an accountable person in terms of that legislation?

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: Mr Natasen I am going to put a number of requirements to you, not really requirements, I am going to run off a list

of accountable organisations or institutions per the legislation and I am going to ask whether Neo or yourself, because it refers to person or organisation, falls within any of these categories, and I just want you to say yes or no. A practitioner who practices as defined in Section 1 of the Attorneys Act?

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: Okay, a Board of Executors or trust company or other person that invests, keeps in safe in custody, controls or administers trust property within the meaning of the Trust Property

10 Control Act.

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: An Estate Agent as defined in the Estate Agents (indistinct)

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: An authorised user of exchange as defined in the Security Services Act?

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: A manager registered in terms of the Collective Investment Schemes Control Act?

20 **MR VIVIEN NATASEN:** No.

ADV ANDRE PIENAAR: A person who carries on the business of a bank as defined in the Banks Act?

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: A mutual bank as defined in the Mutual Banks Act?

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: A person who carries on long-term insurance business defined as Long-term Insurance Act?

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: A person who carries on the business of making available gambling activity as contemplated in Section 3 of the National Gambling Legislation?

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: A person who carries on the business of
10 dealing in foreign exchange?

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: A person who carries on the business of lending money against security of securities.

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: A person who carries on the business of financial service provider requiring authorisation in terms of the Financial Advisory and Intermediary Services Act.

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: A person who issues, sells or redeems
20 travellers cheques?

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: Postbank referred to in Section 51 of the Postal Services Act.

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: The Ithaba Development Finance Corporation

Limited?

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: A person who carries on the business of a money remitter?

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: Okay, so you don't as either a person or organisation, Neo being an organisation, fall within the ambit of the Act as accountable institution, correct?

MR VIVIEN NATASEN: Correct.

10 **ADV ANDRE PIENAAR:** So is there any obligation you know of that requires you as a business person entering into a business related transaction with a third party at arm's length to identify and verify the transaction?

MR VIVIEN NATASEN: No that I am aware of.

ADV ANDRE PIENAAR: Okay, so I mean would you agree that no business in this country could really be conducted if every single time money exchanged hands for purposes of a potential business transaction if there was a requirement to identify and verify and effectively FICA the party you were dealing with, would you agree with

20 that?

MR VIVIEN NATASEN: Ja, I think it would be a ...(intervention)

ADV ANDRE PIENAAR: In the context of that do you believe that you took reasonable steps in your due diligence, investigation of Mr van Wyk?

MR VIVIEN NATASEN: At that point in time I believe I did.

ADV ANDRE PIENAAR: At that point in time you did. He was a friend of yours?

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: Okay, you were aware of his background based on what he had informed you of?

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: You trusted him?

MR VIVIEN NATASEN: Yes he was as I said he was – I dropped my guard before he was a friend.

10 **ADV ANDRE PIENAAR:** Yes, did you have any reason not to trust him Mr Natasen?

MR VIVIEN NATASEN: No there was nothing that came across that would lead me to question that he has done anything wrong.

ADV ANDRE PIENAAR: No third party said something to you about Mr van Wyk and said you've got to be careful of this man?

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: No, any circumstances that occurred that gave rise to any concern whatsoever on your part?

MR VIVIEN NATASEN: No.

20 **ADV ANDRE PIENAAR:** The fact that he was involved in State employment, the fact that he was an employee of the State?

MR VIVIEN NATASEN: That's why my concern came about for him to give undertakings that it was not money from the State.

ADV ANDRE PIENAAR: That was the only concern you had?

MR VIVIEN NATASEN: That was the only concern.

ADV ANDRE PIENAAR: And just again tell us why that was a concern of yours?

MR VIVIEN NATASEN: Obviously if it was State related I would have no part of it, so from my perspective he gave undertakings it was private, he was wanting to come into farming venture, he was obviously wanting to leave S A Express, he told us June 2016 was the date that he was going to leave, and that's what I worked off.

ADV ANDRE PIENAAR: So you had no reason whatsoever to believe that there was anything untoward with regards to Mr van Wyk or his
10 proposition that he enter into a farming venture with you and that he capitalise Neo Solutions for that purpose?

MR VIVIEN NATASEN: There was none at the time.

ADV ANDRE PIENAAR: And when I say Neo I mean obviously there was going to be an incorporated entity called the Stal that was going to be set u for the venture once it materialised as I understood your testimony, but until then it was capitalisation.

MR VIVIEN NATASEN: That's right.

ADV ANDRE PIENAAR: And there was mass confusion about this morning about the application of the 300 000 and how it had been dealt
20 with in the banking accounts, and let's just revisit that quickly because it really isn't complicated, so I just want to set the record straight. You had sold the vehicle 1.4million if I recall correctly, was financed and the other 300 was paid in cash?

MR VIVIEN NATASEN: Correct.

ADV ANDRE PIENAAR: You were sitting with R300 000 in your safe at

home, correct?

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: And that Mr van Wyk had asked for those monies to be paid out to him, you had them available, you paid them out?

MR VIVIEN NATASEN: That's right.

ADV ANDRE PIENAAR: Why weren't you concerned by his request for the payment of the R300 000 given the fact that he had, as Ms Hofmeyr put it, requested repayments of certain other funds which he had
10 received why were you not concerned about the R300 000 cash request?

MR VIVIEN NATASEN: We had known about his passion for the cars and he had indicated previously he was intending to buy a 1984 I recall at the time earlier, so I assumed when he called me that he was trying to purchase or an equivalent vehicle, so the R300 000 sort of resonated in my head, from earlier discussions.

ADV ANDRE PIENAAR: Does it matter whether it was for a vehicle or not, if he asked you for R300 000 and you were will to (indistinct) and does it matter what the underlying *causa* was.

20 **MR VIVIEN NATASEN:** No not at all. He was a friend as well.

ADV ANDRE PIENAAR: I do not believe it does.

MR VIVIEN NATASEN: So I assumed he was wanting to buy it and he would obviously – I was sitting with funds of his anyway that he was entitled to.

ADV ANDRE PIENAAR: Ja I guess the only reason that my learned

colleague raised issue with the R300 000 was because it formed part of the R9.9 million ultimately.

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: That flowed into Neo, correct?

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: Okay.

MR VIVIEN NATASEN: If I did not have the R300 000 I would have then said I would EFT another R300 000 and he would have to make a plan to purchase the vehicle himself.

10 **ADV ANDRE PIENAAR:** Yes.

MR VIVIEN NATASEN: But because it was on hand it was given to him.

ADV ANDRE PIENAAR: And because R300 000 was still outstanding to him.

MR VIVIEN NATASEN: Correct.

ADV ANDRE PIENAAR: Or his nominated entity in respect of the repayment of the R9.9?

MR VIVIEN NATASEN: That is correct.

20 **ADV ANDRE PIENAAR:** Okay. And much has been made about the overdraft facilities and the fact that – and let me just divert for a second the fact that there was a provision and overdraft facility contract dealing with the obligation to provide audited financial statements we have dealt with that. You said that the bank never asked for it. It was not the bank's practice and now we know in terms of the relevant legislation that it was not even necessary. So let us leave that aside. And even if the bank had asked for it you could say to

the bank actually let me qualify no obligation is – no obligation exists on me in legislation to provide the audited financial statements. And whilst it might be a provision of this contract I could take legitimate issue with it. Let us just leave that for a second. I want to go back to the overdraft facility. Much has been made about the R300 000 and how Mr Ruben accounted for it in the books of account at Neo Solutions and the fact that there is a notation on the banking account that says Neo Solution loan. Let us just delve into that again because it really is not complicated but there seems to be mass confusion between loan,
10 the word loan, the concept of a liability in the financial sense and the concept of a loan account in the financial sense. Do you understand that a loan account is not actually a banking account Mr Natasen?

MR VIVIEN NATASEN: Yes, yes.

ADV ANDRE PIENAAR: You understand that.

MR VIVIEN NATASEN: It is a general ledger [indistinct].

ADV ANDRE PIENAAR: It is actually a financial obligation raised in the books of account of the company.

MR VIVIEN NATASEN: That is right.

ADV ANDRE PIENAAR: Okay and that it could either be a debit loan
20 account or a credit loan account?

MR VIVIEN NATASEN: Ja either two are from the account.

ADV ANDRE PIENAAR: And you understand that the reason that Mr Ruben in his wisdom which we now know was actually fraudulent conduct in his wisdom decided to apply it in a way he did was because in his mind he was accounting for the money that was...

MR VIVIEN NATASEN: He was keeping track of that record.

ADV ANDRE PIENAAR: He was keeping track and he wanted to make sure that whatever money was indebted to Van Wyk or his nominees was repaid in full?

MR VIVIEN NATASEN: Correct.

ADV ANDRE PIENAAR: Okay. So do you – we see any inconsistency in the statement and reference to the R300 000, is there anything that sparks inconsistency in your mind?

MR VIVIEN NATASEN: No.

10 **ADV ANDRE PIENAAR:** Nothing. Okay. Mr Natasen before we leave the issue of the R300 000 let us just delve into it a bit further. Just for the sake of my colleague. Because it was as Mr Lowenthal when we get to his affidavit a bit later it was an interest free loan. This is how it was corrected because it was the provision was...

MR VIVIEN NATASEN: The entire R9.9 million.

ADV ANDRE PIENAAR: Sorry?

MR VIVIEN NATASEN: The ...

ADV ANDRE PIENAAR: No, no we talking about the – ja we talking – sorry we talking about the money that the – the money that was – that
20 is still to be paid intended to the relevant party in respect of the benefit received. That was applied as an interest free loan but the reason I mention it now is because if we dealing with an overdraft facility, the loan accounts, the issue of a loan as a liability. We are just trying to distinguish these concepts so that there is no confusion on the part of the commission's legal team. But this is how we got back into it Ms

Hofmeyr said but she was using the analogy of a loan from the bank. And she said but no bank would charge – would give you an interest free loan and you conceded that right. And you said but that was very different because that is a liability, that is an actual loan and then I actually jumped up and I said well actually it depends on the intention with which the monies are advanced and the nature of the monies so advanced. That determines how you deal with it from an accounting perspective, correct?

MR VIVIEN NATASEN: Correct.

- 10 **ADV ANDRE PIENAAR:** Okay. We will get to Mr Lowenthal's affidavit shortly and I will just take you through those provisions again and we will decide what – whether or not the accounting for those monies has been done correctly because I know that was in the last part of the examination in chief that was a large part of the discrepancy that was raised. So we dealt with the R300 000. Again the causa for the R300 000 really is of no consequence. Mr Van Wyk asked you for the R300 000. Monies were still due to him and you paid it out of your personal funds and

- CHAIRPERSON:** Please, please do not make a speech to the witness
20 put questions to the witness.

ADV ANDRE PIENAAR: Chair I am entitled with all due respect. I am entitled...

CHAIRPERSON: You are not entitled to make a speech.

ADV ANDRE PIENAAR: No, no, no Mr Chair I am not making a speech I am entitled....

CHAIRPERSON: Please put questions to the witness.

ADV ANDRE PIENAAR: Chair I am entitled to reiterate the evidence that was given this morning leading to a question.

CHAIRPERSON: You are entitled to...

ADV ANDRE PIENAAR: No, no I am entitled to...

CHAIRPERSON: You are entitled to do that – you are entitled to do that.

ADV ANDRE PIENAAR: I am sorry I disagree with you.

CHAIRPERSON: You are entitled to do that but ...

10 **ADV ANDRE PIENAAR**: I disagree with you I am not making a speech. Trust me if I make a speech you will know I am not making a speech.

CHAIRPERSON: Please –okay let us try again. Continue.

ADV ANDRE PIENAAR: Let us try again Mr Natasen. Okay I am sorry I was reiterating the evidence already given. I apologise. Mr Natasen the issue of the R300 000 because I really just do not understand the issue with the R300 000. Am I correct in saying that R300 000 was still owing to Mr Van Wyk pursuant to the repayment of the R9.9?

MR VIVIEN NATASEN: Still owing to Van Wyk no.

ADV ANDRE PIENAAR: After advance of the other monies?

20 **MR VIVIEN NATASEN**: So we had – he had been paid 7 back during December so there was still on – in January there was still R2.9.

ADV ANDRE PIENAAR: Okay so there was still money owing to him?

MR VIVIEN NATASEN: There was still money yes.

ADV ANDRE PIENAAR: Okay. So when you advanced the R300 000 it was your understanding as you said this morning but I will not reiterate

this morning's testimony that money was still owing to him. You would advance it personally from the money that you had in your safe and that the company would then account for it?

MR VIVIEN NATASEN: That is correct.

ADV ANDRE PIENAAR: Okay. Is there anything untoward regarding a transaction of that nature in your?

MR VIVIEN NATASEN: in my mind no because the contra entry in the books of account went through my shareholder loan account. So it was taken off what was owing to Van Wyk and put it into my side.

10 **ADV ANDRE PIENAAR:** I mean I often pay for expenses on behalf of my firm and it goes straight to my loan accounts so I do not understand the issue with it. But maybe I am just incorrect. Mr Natasen the accounting of that money at the time was done by whom?

MR VIVIEN NATASEN: By ...

ADV ANDRE PIENAAR: The accounting for that money?

MR VIVIEN NATASEN: It was done by Ruben.

ADV ANDRE PIENAAR: By Ruben and who was Mr Ruben? Let us just understand who exactly he was?

MR VIVIEN NATASEN: He was the internal accountant at the office.

20 **ADV ANDRE PIENAAR:** He was an accountant?

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: Was he a contractor or an employee?

MR VIVIEN NATASEN: He was an employee.

ADV ANDRE PIENAAR: He was an employee so he was under your direct control and supervision?

MR VIVIEN NATASEN: That is right.

ADV ANDRE PIENAAR: Did you direct and control how he administered the accounts?

MR VIVIEN NATASEN: No he was working with the external accountants in terms of the chart of accounts, how the trial balance was laid out. Because of previous errors during the SARS process the entire chart of accounts for 2015 onwards was to be remapped to be able to give effect to better bookkeeping. So he was working with them in terms of putting that together and accounting for the interest.

10 **ADV ANDRE PIENAAR:** But my question to you was – my question to you was did he perform his duties under your direct control and supervision?

MR VIVIEN NATASEN: Yes he reported to me in the company.

ADV ANDRE PIENAAR: But did you give him instruction on how his accounting function should be rendered?

MR VIVIEN NATASEN: No, no.

ADV ANDRE PIENAAR: Okay. So you did not tell him R300 000 was paid by me in cash to Mr Van Wyk's driver or to Mr Van Wyk and I want you to account for it in the books of account of Neo in the following
20 way?

MR VIVIEN NATASEN: No I said to him please make sure you make a note of it so that we do not overpay him from the 9.9 back.

ADV ANDRE PIENAAR: Okay.

MR VIVIEN NATASEN: He must take a note that this R300 000.

ADV ANDRE PIENAAR: So you were not giving specific direction as to

how accounting entries were made in the books of accounts of Neo?

MR VIVIEN NATASEN: No, no, no.

ADV ANDRE PIENAAR: Okay. Mr Natasen the issue of benefit has been bandied about backwards and forwards since this inquiry started. And I have explained in the simplest of terms why benefit is so important to the commission because they can show that you have benefitted it would be a use in terms of the Poka legislation if you have use of these illicit funds and you knew or you ought to have known that they were from an unlawful source then you are immediately guilty of an offence, correct?

10

MR VIVIEN NATASEN: Correct.

ADV ANDRE PIENAAR: Okay so a lot has been made about you having utilised the funds that you have received and another misconception that arose this morning was the fact that because the funds were integrated for use of a better word into the overdraft funds that the company in effect had use of those funds.

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: That is the submission that has been made. Mr Natasen to be clear on that point we again went back to the concepts and which are critical in this issue well of unlawful proceeds or unlawful funds, source of funds. Intention versus nature. Okay. Did you intend for the funds to be utilised as part of your cash flow?

20

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: Okay. Did you intend for those funds to support the business operations of Neo Solutions?

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: Did you intend for the funding to be specifically incorporated into the overdraft funds as supposed to being ring fenced in a separate account?

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: Was it your intention to have any use or benefit from those funds?

MR VIVIEN NATASEN: No.

10 **ADV ANDRE PIENAAR:** Do you – you have conceded to the commission's legal team that and you have conceded it in your most recent statements that you in fact did derive benefit from the funds that were received?

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: Okay. And who advised you that you had received benefits?

MR VIVIEN NATASEN: I think post the earlier testimony when we saw that the discussion of benefit was coming about then we sat with our – between our own legal team and obviously the external advisor Lowenthal is when we established that there is an inadvertent benefit
20 that had been derived.

ADV ANDRE PIENAAR: An indirect benefit?

MR VIVIEN NATASEN: An indirect benefit.

ADV ANDRE PIENAAR: So in other words it was not intended it was something that arose...

MR VIVIEN NATASEN: It was definitely not intended.

ADV ANDRE PIENAAR: Okay. So the funds were received, they were meant to be capitalised into the company for the purposes of the farming venture, correct?

MR VIVIEN NATASEN: Into a separate company yes.

ADV ANDRE PIENAAR: Into a separate company ultimately but initially they went into Neo?

MR VIVIEN NATASEN: That is right.

ADV ANDRE PIENAAR: Okay. And they were – there was [indistinct] with the funds in the overdraft facility, everything was intertwined and
10 intermingled and as a result the interest that would have been – would have accrued to the overdraft facility...

MR VIVIEN NATASEN: That would have been incurred ja.

ADV ANDRE PIENAAR: Was less than it would have been had those funds not been intermingled or intertwined with the funds in the overdraft facility?

MR VIVIEN NATASEN: That is correct.

ADV ANDRE PIENAAR: Is my understanding correct?

MR VIVIEN NATASEN: That is correct.

ADV ANDRE PIENAAR: And that is the benefit that was derived?

20 **MR VIVIEN NATASEN:** The indirect benefit.

ADV ANDRE PIENAAR: Besides the benefits there was another benefit that my learned colleague raised this morning I think regarding transactional charges and...

MR VIVIEN NATASEN: And a setup fee.

ADV ANDRE PIENAAR: Setup fees that is correct. Okay but those

were all you would agree unintended benefits?

MR VIVIEN NATASEN: Correct.

ADV ANDRE PIENAAR: And unintended usage?

MR VIVIEN NATASEN: That is right.

ADV ANDRE PIENAAR: When you – when you took the money from Mr Van Wyk did you ever contemplate that you would use those for funding the operations of Neo?

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: For the transactional charges on the account.

10 **MR VIVIEN NATASEN:** No.

ADV ANDRE PIENAAR: For any benefit whatsoever to Neo Solutions save for the ultimate onward capital investment in Distell and the farming operations?

MR VIVIEN NATASEN: The intention was to move it to Distell for the farming.

ADV ANDRE PIENAAR: Okay. So in accepting the funds you saw no benefit at the time save for the fact that it was an agreement between you and Mr Van Wyk that those funds would be paid over?

MR VIVIEN NATASEN: That is correct.

20 **ADV ANDRE PIENAAR:** Okay. Let us just deal with – we have got – we have – obviously there has been substantive amount of testimony regarding how the funds were paid over, the way they were channelled, conduit through Koreneka, the repayment to Batsomi it is all a matter of record and I do not again want to [indistinct] the commission. But let us just focus quickly on and I am going to get to the repayment of the

funds because it is quite important. But let us just focus on again before we leave this point behind. The knowledge you had with regards to the source of the funds and the fact that they were illegal you testified this morning that during May you had a conversation with Mr Van Wyk he had phoned you and...

MR VIVIEN NATASEN: In May 2018.

ADV ANDRE PIENAAR: May 2018 sorry and you had recorded the conversation is that correct?

MR VIVIEN NATASEN: That is correct.

10 **ADV ANDRE PIENAAR:** You are entitled to record the conversation in terms of the Riga Legislation yes, no.

MR VIVIEN NATASEN: Yes I felt I did it was to corroborate that the fact that I did not ...

ADV ANDRE PIENAAR: You were a party to the conversation?

MR VIVIEN NATASEN: That is right.

ADV ANDRE PIENAAR: Therefore in terms of Section 5 of the Rika legislation you are entitled to record it, correct?

MR VIVIEN NATASEN: Correct.

ADV ANDRE PIENAAR: So there is nothing untoward about that. And
20 why did you record it just for the sake of completeness?

MR VIVIEN NATASEN: I had not engaged with Van Wyk since late or mid to late 2017 so – and by then I had already issued the Section 204 through Judiel so the fact that he called me out of the blue I had just landed back in Johannesburg from a trip. He called me as I was on the bus being ferried from the plane to the terminal so I told him I would

call him back from the car. When I got into the car I recorded the conversation from my second phone whilst the conversation was on my speaker phone.

ADV ANDRE PIENAAR: Chair we did discuss this morning the possibility of playing the recording that Mr Natasen took of his conversation with Mr Van Wyk it is critical. It is critical to whether or not Mr Natasen had knowledge of the unlawfulness of the funds or the source of the funds. So if you would indulge me Chair. We have already made arrangements with your – with your visual staff to...

10 **CHAIRPERSON:** How long is it – duration?

ADV ANDRE PIENAAR: It is ten minutes Chair.

CHAIRPERSON: Okay that is fine. Ms Hofmeyr you know about it.

ADV KATE HOFMEYR: Indeed Chair.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: There is a full transcript of it in the ...

CHAIRPERSON: There is a transcript?

ADV KATE HOFMEYR: There is indeed.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: But I understand Mr Pienaar to want to play it

20 and I have no objection if he takes ten minutes.

CHAIRPERSON: Yes no then that is in order.

ADV ANDRE PIENAAR: There is certain nuances that are lost if one just reads the transcription.

CHAIRPERSON: No that is fine.

ADV ANDRE PIENAAR: It is so much better to actually listen to it.

CHAIRPERSON: That is fine.

CHAIRPERSON: Do you – do you propose that we listen to it until it finishes or do you propose to stop in between?

ADV ANDRE PIENAAR: Chair should we listen until it is finished and then maybe take a break?

CHAIRPERSON: Ja that is fine. Ja. Ja that is fine.

[RECORDING BEING PLAYED]

ADV ANDRE PIENAAR: Thank you Chair.

CHAIRPERSON: Okay.

10 **ADV ANDRE PIENAAR**: Chair it is five to four.

CHAIRPERSON: Yes.

ADV ANDRE PIENAAR: If you indulge me for five more minutes I can finish this aspect off?

CHAIRPERSON: Yes if you – if you will be able to finish that aspect.

ADV ANDRE PIENAAR: Just a few questions.

CHAIRPERSON: That is fine let us finish that aspect.

20 **ADV ANDRE PIENAAR**: Mr Natasen if I go to the transcript of that conversation that we have just heard with Mr Van Wyk and yourself which appears at VN238.174 and we go to and you will see there is paragraph numbering on the side and we go to paragraph 10. You say: Then he said he wanted a statement from me because otherwise they were going to charge me. So I said but ja everything – sorry but I did everything cleanly and I was told by you that it was [indistinct] clean. Okay so you say that.

MR VIVIEN NATASEN: Yes I did.

ADV ANDRE PIENAAR: Again at paragraph on the next page, continuation of paragraph 20. So let us just read from the bottom. But this transaction was not related to SA Express was it?

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: That is what you say. Mr Van Wyk responds no, no, no, no, no. But let me tell you what the problem is now. Then he goes on to say your name might be appearing in an article. Then again at paragraph 20 on the same page. I thought it was a North West project it was not a SA Express Project right? Mr Van Wyk: No I do not
10 – I do not know what Jan and this woman have cooked up. So Mr Natasen this is evidence in the strongest sense corroborating your assertions that at all times you were fully aware the – fully unaware of the illegality of these funds that you were receiving from Mr Brian Van Wyk that had been routed through Koreneka, correct?

MR VIVIEN NATASEN: Ja he had made obviously before this at the time he had made several undertakings that it was definitely not government money and this goes back towards – obviously in this conversation I had to get him to admit that.

ADV ANDRE PIENAAR: Was this a solicited phone call?

20 **MR VIVIEN NATASEN:** No not at all. He had called me actually.

ADV ANDRE PIENAAR: Was this planned in any way?

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: Had you discussed the scripting of this particular discussion?

MR VIVIEN NATASEN: Definitely not.

ADV ANDRE PIENAAR: It does not appear so because it was very poor scripting if it is but – so you – he phoned you, you answered the call you said I will phone you back. You recorded the conversation.

MR VIVIEN NATASEN: Phone you back when I am in the car.

ADV ANDRE PIENAAR: And this is a transcript of what transpired.

MR VIVIEN NATASEN: That is correct.

ADV ANDRE PIENAAR: And from this transcript it is abundantly evident that you had no knowledge of the fact that the source – the source of the funds was either SA Express or that the funds had any
10 illegal source whatsoever.

MR VIVIEN NATASEN: That is correct.

ADV ANDRE PIENAAR: Okay. Chair I think I am going to leave it there and then we can get onto the rest of the ...

CHAIRPERSON: Yes. Okay are you able to give some indication of how much more time you need?

ADV ANDRE PIENAAR: The only other thing I really want to deal with Chair is the affidavit of Mr Lowenthal and then very briefly just the two affidavits.

CHAIRPERSON: Yes.

20 **ADV ANDRE PIENAAR:** By the two employees.

CHAIRPERSON: Yes.

ADV ANDRE PIENAAR: And Mr Natasen but that will be very brief.

CHAIRPERSON: Okay.

ADV ANDRE PIENAAR: So I would say I am hoping to do it in the next hour.

CHAIRPERSON: Yes. Okay no that is fine. Let us take the – an adjournment of ten minutes. We will resume at ten past four. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES:

CHAIRPERSON: Okay. Let us proceed.

ADV ANDRE PIENAAR: Sorry Chair. I would just like to refer Mr Natasen to ...

10 **CHAIRPERSON:** You can put on yours as well Mr Natasen, *ja*.

ADV ANDRE PIENAAR: I would just like to refer Mr Natasen to the affidavit of Howard Andrew Lowenthal (?). It is VN 2-3-8.2-7-4.

CHAIRPERSON: Which - which bundle again?

MR VIVIEN NATASEN: Bundle A.

ADV KATE HOFMEYR: It is A.

ADV ANDRE PIENAAR:

MR VIVIEN NATASEN: It is the affidavit bundle. It is right at the back of A.

ADV KATE HOFMEYR: It is EXHIBIT (intervenes).

20 **CHAIRPERSON:** Oh. At the back of A, okay. Yes, thank you.

ADV ANDRE PIENAAR: Mr Natasen you testified earlier that Neo had *ex post facto* the last attendance at the Commission of Inquiry appointed Mr Lowenthal. Just take us through that appointment.

MR VIVIEN NATASEN: So he was - he is an independent expert that was recommended by the legal team. I have had no interaction with

him before. He is not a friend, an associate in other way. He is a truly independent person that has been brought on-board just to help me firstly with the reconstruction and secondly with the mandate around accounting for the monies and thirdly relating to the issue of my role as a Chartered Accountant in Business.

ADV ANDRE PIENAAR: Mr Natasen much has been made of the fact that certain persons with whom you have had dealings with had been remunerated for their services such as Mr Judiel for his travel expenditure and ancillary expenditure and Mr Lowenthal for the
10 production of this expert report. Is that correct?

MR VIVIEN NATASEN: That is correct.

ADV ANDRE PIENAAR: Okay. What inference do you draw by that line of questioning?

MR VIVIEN NATASEN: I - I assume they are questioning the independence of the parties that were involved at this point as independent experts.

ADV ANDRE PIENAAR: That is how I understood it as well. Do you believe that Mr Lowenthal is completely independent?

MR VIVIEN NATASEN: I believe he is.

20 **ADV ANDRE PIENAAR:** Okay. Do you believe that he is skilled and experienced enough to handle the mandate that was given to him?

MR VIVIEN NATASEN: From the credentials presented to me yes.

ADV ANDRE PIENAAR: And from your dealings with him?

MR VIVIEN NATASEN: From my dealings he has been professional and he seems to be getting to the grips of the issues very quickly.

ADV ANDRE PIENAAR: Is he very knowledgeable ...

MR VIVIEN NATASEN: Ja. He is knowledgeable ...

ADV ANDRE PIENAAR: As an accountant?

MR VIVIEN NATASEN: In the reactions I have had he appears knowledgeable.

ADV ANDRE PIENAAR: Okay. What was the mandate that was given to Mr Lowenthal?

MR VIVIEN NATASEN: Once again to inter - assist with the reconstruction of the books. We further - initially it was just over the
10 years effected by these transactions but we found that in order to reconstruct the books we had to go all the way back to the end of 2014 which is the last SARS audited year and rebuild from then onward. So his - his scope has been increased to cover 2015 - year end 2015/2016 and 2017.

ADV ANDRE PIENAAR: Did Mr Lowenthal have difficulties in fulfilling his mandate?

MR VIVIEN NATASEN: Not that I am aware of. Obviously the collation of data and securing of documents is obviously an issue but it is part of his findings really.

20 **ADV ANDRE PIENAAR:** But what were the real issues there?

MR VIVIEN NATASEN: Hm.

ADV ANDRE PIENAAR: Just take us through them.

MR VIVIEN NATASEN: It appears when we - firstly the - in terms of the financial records of 2016 they had to be totally rebuilt from scratch because Pastel had been overwritten. So we - we have been

recapturing - so what he did at the start of his mandate was he actually opened up new Pastel ledgers and then guided the accounting team now on the chart of accounts that was to be created as well as the capturing process.

Where there is uncertainty they post to a suspense account and then he reviews the suspense account when the documents come and then allocates that to the appropriate account in the reconstruction process.

ADV ANDRE PIENAAR: Mr Natasen if I can refer you specifically to
10 paragraph 7 where Mr Lowenthal confirms his mandate - 7.3 specifically. It is on page 2 ...

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: Of his affidavit. You can just read that.

MR VIVIEN NATASEN: "To investigate how 9.9 million had
flown in into two separate tranches of five million
and 4.9 million on the 11th and 12 November from a
company Koreneka Trading and Projects to Neo
Solutions Nedbank account and subsequently paid
out in five tranches four million, three million with
20 respective dates and a further 1.4 million and 1.2
million which paid out in March 2016."

He goes on further:

"To reflect the payments to Batsamai Investment Holding were accounted for in the accounting records of Neo Solutions and to reallocate such

flows if appropriate to correctly nominated ledger accounts and to account for them for the further fifth tranche being a further R300 000 that was paid out in cash according to Mr Natasen to a driver of Van Wyk.”

ADV ANDRE PIENAAR: Okay. So besides the fact that he had to undertake a reconstruction of Neo’s financials several years backdating 2018. In addition to that more specifically he was tasked with an inquiry into the receipt of the 9.9 million from Koreneka and how that was dealt with in the books of account at Neo and then he as further
10 tasked if I understand correctly and you can correct me if any of this is wrong.

He was further tasked with the correction of those entries to the extent that they were incorrect. Is that correct?

MR VIVIEN NATASEN: Well we need to create financial records how to submit to SARS because obviously those financial years now need to be put in. So that is part of his scope and mandate is to (intervenes).

ADV ANDRE PIENAAR: That is part of it but specifically he was asked because obviously you were interrogated in ...

20 **MR VIVIEN NATASEN:** Correct.

ADV ANDRE PIENAAR: Examination in chief on the 9.9 and how it was accounted for on the books of account at Neo?

MR VIVIEN NATASEN: That is correct, yes.

ADV ANDRE PIENAAR: Okay and - and much was made on 12 July of the fact that there were various inconsistencies in the financials as

well. Is that correct?

MR VIVIEN NATASEN: That is correct.

ADV ANDRE PIENAAR: And - and you did say on several occasions that the - it appeared that the books of account were incorrect?

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: The financials were incorrect?

MR VIVIEN NATASEN: Correct. Especially around the donation.

ADV ANDRE PIENAAR: Especially around the donations and notwithstanding our vociferous pleas that no further examination should
10 take place on the financials the inquiry continued. Did it not?

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: Okay and it was for that reason that you felt it incumbent to appoint Mr Lowenthal to attend to the reconstruction, the identification of the various source documents, the application of those source documents to the - the books of prime entry, the reconciliations that were needed, the adjustments that may have been needed etcetera to bring the books of account into - into order?

MR VIVIEN NATASEN: That is correct.

ADV ANDRE PIENAAR: Okay. Do you think he fulfilled his mandate?

20 **MR VIVIEN NATASEN:** Well the reconstruction is still underway but in terms of accounting for the monies he has done that.

ADV ANDRE PIENAAR: He has done that?

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: And where he says it is mostly accurate would you agree with that submission by him?

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: And how do you understand mostly accurate? What is your understanding? I know you have dealt with this before today but if I can just get you to revisit that.

MR VIVIEN NATASEN: Well my understanding is that specifically on the - on the flow of monies those are accurately recorded now but in terms of obviously the 300 000 he has relied on my representation that he was paid.

ADV ANDRE PIENAAR: Okay but he can - he can - he does not have
10 actual proof that it was paid because it was a cash transaction ...

MR VIVIEN NATASEN: Correct.

ADV ANDRE PIENAAR: But he relies on the fact that you ...

MR VIVIEN NATASEN: It is my assertion.

ADV ANDRE PIENAAR: Ja, your assertion. You paid those monies
back ...

MR VIVIEN NATASEN: And he is posted the journal according to ...

ADV ANDRE PIENAAR: And they post - he has posted the journal into
the Neo accounts. Okay. Just on that score let us jump forward and go
to the relevant paragraph where he deals with the application of the
20 300 000. My apologies. I am just struggling to find it. This clean copy
was given to me by my legal team and I had scratched and marked on
mine.

I am now struggling to find the provision - specific provision.
Anyway I can - I can from memory put to you that the way it was dealt
with that it was dealt with as an interest loan in the loan account of - of

yourself and Neo Solutions (intervenes).

MR VIVIEN NATASEN: Is it Clause 14 (intervenes).

ADV ANDRE PIENAAR: Is that correct?

MR VIVIEN NATASEN: You are looking for Clause 14?

ADV ANDRE PIENAAR: Is it 14?

MR VIVIEN NATASEN: His findings relating to the money.

ADV ANDRE PIENAAR: Yes, sorry. You are right.

CHAIRPERSON: What page is that?

ADV ANDRE PIENAAR: That is - Chair that is page 6 of 11 and it is
10 paragraph 14.

MR VIVIEN NATASEN: 2-3-8.2-7-9.

CHAIRPERSON: Oh. That is paginated page 2-3-8.2-7.9?

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: Correct.

CHAIRPERSON: Okay. Thank you.

ADV ANDRE PIENAAR: It says:

20 “Accordingly I instructed the accounting staff of Neo
Solutions to reflect the monies being the 9.9 funds
held on interest free loan account from Van Wyk
and being recorded as a liability in the loan ledger
account due to the fact that the monies do not
belong to Neo Solutions.”

So what Mr Lowenthal was doing there he was accounting for
the 9.9 in the books of account of Neo Solutions because if I
understand correctly and just correct me if I am wrong please when the

monies were capitalised into Neo which were intended for the (indistinct) ultimately and the - and the capitalisation of that company for the purposes of the farming venture.

It was not properly recorded in the books of account of Neo is that correct?

MR VIVIEN NATASEN: It was posted to my shareholder loan account.

CHAIRPERSON: (Intervenes).

ADV ANDRE PIENAAR: And you understand why that is wrong and that is ...

10 **MR VIVIEN NATASEN**: Correct.

ADV ANDRE PIENAAR: At least something that you raised on the 12th. You said you were not sure why it had been posted to your loan account.

MR VIVIEN NATASEN: That is correct.

ADV ANDRE PIENAAR: Okay but now we understand that Mr Lowenthal is an independent Chartered Accountant has assessed the books of account. He has assessed that particular receipting of funds. He has looked at the intent of those funds - sorry the intent with which those funds were paid over as well as the nature of those funds
20 and he is concluded that the application of those funds should be dealt with in the following way.

Namely interest free loan account and recorders liability in the loan ledger. Correct?

MR VIVIEN NATASEN: That is right.

ADV ANDRE PIENAAR: Okay. You also testified on the 12th and in all

your statements and I want to deal with this in an allegation of inconsistency as well that you received no - Neo Solutions received absolutely no benefit whatsoever from the receipt of those - those funds from Mr Van Wyk which were conduited through Koreneka.

In retrospect given that your testimony was that you had received no benefit. Is that still correct? That submission.

MR VIVIEN NATASEN: Well we - we obviously now have found that there was an indirect benefit through the interest saving against the overdraft. So that is the response where we have now tendered to
10 obviously pay such interest back to the affected state institution.

ADV ANDRE PIENAAR: Okay. So once - once you are told who that money should be paid back to you are willing to pay that money back?

MR VIVIEN NATASEN: That is correct.

ADV ANDRE PIENAAR: And once that money has paid back do you believe that you have received any benefit of any nature whatsoever save for maybe charges on the account that were unintended. Do you believe that you have received any benefit?

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: None whatsoever?

20 **MR VIVIEN NATASEN:** It is even stated in the recording we did not dispute.

ADV ANDRE PIENAAR: Correct.

MR VIVIEN NATASEN: That we did not benefit.

ADV ANDRE PIENAAR: Okay. So if you have received no benefit and you were not aware of the unlawful source of the funds why would you

have participated in this transaction in the first place?

MR VIVIEN NATASEN: The intention was to go into business and the farming venture specifically. So we only participated to - to the extent that this was his share of the monies to come into - invest into the farming venture.

ADV ANDRE PIENAAR: Right and the farming venture was a real transaction?

MR VIVIEN NATASEN: Ja. There is - there is business plans. There is an email emanating from him where he reviewed the business plans.

10 **ADV ANDRE PIENAAR:** Correct. Can we (intervenes)?

MR VIVIEN NATASEN: So he was directly - I was not even on the project specifically myself. He worked with that - with Villa and the rest of the team in developing that business plan to give effect to the company.

ADV ANDRE PIENAAR: Correct and there is a record which we have given the Commission of all the - all the documentation surrounding the farming venture?

MR VIVIEN NATASEN: Correct. The marketing valuations, the business plans and so on have been submitted as part of the
20 (intervenes).

ADV ANDRE PIENAAR: Okay. So this was a legitimate venture that existed. This was not a fabrication of your imagination. This was a legitimate venture.

MR VIVIEN NATASEN: Correct.

ADV ANDRE PIENAAR: That you intended investing in with

Mr Van Wyk?

MR VIVIEN NATASEN: Correct.

ADV ANDRE PIENAAR: And the 9.9 was his financial contribution to that transaction?

MR VIVIEN NATASEN: Well - well it was 10 million each that had to go (intervenes).

ADV ANDRE PIENAAR: Initially but there would have been more - there would have been more (intervenes).

MR VIVIEN NATASEN: Then there was the loan to be secured yes.

10 **ADV ANDRE PIENAAR:** Mr Natasen in furtherance of the legitimacy of that transaction. I am going to refer you to the affidavits of Kumla (?) Caddesi (?) and Jerome Jones are two employees that work for you. Is that correct?

MR VIVIEN NATASEN: That is correct.

ADV ANDRE PIENAAR: What capacity are they employed in?

MR VIVIEN NATASEN: Kumla is my P - personal assistant and Jerome is in the accounting unit.

ADV ANDRE PIENAAR: And how long have they worked for you respectively?

20 **MR VIVIEN NATASEN:** Kumla since - I think - 2006 or seven. Jerome since 2011.

ADV ANDRE PIENAAR: Okay and they salaried employees?

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: Okay. Mr Natasen tell me in their affidavits - I do not want to sit and read the whole affidavit but effectively they

mention the farming business transaction and they mention that they have various interactions with Mr Van Wyk around that transaction.

MR VIVIEN NATASEN: Yes that is right.

ADV ANDRE PIENAAR: Okay.

MR VIVIEN NATASEN: I think Chair just to give context. I am very rarely at the office. I am normally out in the field on projects. So the interactions between Van Wyk, the accounting unit, the team on hand if he needed a vehicle to go and inspect the farm and so he would get it issued from the company and they would just get approval for it in
10 accordance with our policy.

So a lot of the interaction on the day to day basis if he was in the office it would have been via the personnel that was on hand.

ADV ANDRE PIENAAR: And you asked them to confirm by way of deposing two affidavits in respect of those interactions?

MR VIVIEN NATASEN: Correct, yes.

ADV ANDRE PIENAAR: Okay. So is there any reason for these two employees to lie?

MR VIVIEN NATASEN: No not at all.

ADV ANDRE PIENAAR: Any reason for them to fabricate the whole
20 transaction or the farming venture and Mr Van Wyk's investment and ...?

MR VIVIEN NATASEN: No not at all.

ADV ANDRE PIENAAR: Okay. So I mean for all intents and purposes Mr Natasen this was a legitimate transaction that you intended investing in and Mr Van Wyk indicated that he had some interest. That

he would like to invest as well and that he had funds that were due to him from some or other transaction which you skirtingly inquired.

You asked as many questions as you thought were relevant and necessary in the circumstances and he then paid that money over as you understood as part of him investing in this transaction with you. Is that correct?

MR VIVIEN NATASEN: That is correct yes.

ADV ANDRE PIENAAR: Okay and that is what your staff believed. That is what you believed. Okay. That is what the documentation
10 shows.

MR VIVIEN NATASEN: That is correct.

ADV ANDRE PIENAAR: All the documentation supports that. Okay. So there is no reason to believe that this was as is the case in many corrupt activities involving money laundering, corruption, maladministration, utilising state funds, state capture. Most of those transactions entities and businesses are set up as a front. Okay. Is that one of these cases?

MR VIVIEN NATASEN: Definitely not and I did indicate in - on - in my previous testimony I also took comfort from the fact that he did not ask
20 for the money back straightaway. There was a full month that lapsed before he requested the funds for and it sounded like a genuine thing. He had mentioned to me previously that he was trying to secure a property in Blue Valley and this - when he mentioned that he wanted the funds for that.

I did not see anything wrong with it but from what we have

seen so far even on the Koreneka transactions the money flows happened almost immediately to other conduits and it was given back to him as quickly as possible. This was not the case with us.

ADV ANDRE PIENAAR: Okay. Let us just leave that point for the moment and just quickly go to paragraph 15 and we - there is a discussion in Mr Lowenthal's affidavit or the content in that affidavit dealing with Ruben who was as you have testified. He was your internal accountant. He was a salaried employee.

He was tasked with the handling of the internal accounts
10 under your overall direction and control but that you would not advise him as to how the specific accounting entries would take place. Is that correct?

MR VIVIEN NATASEN: That is correct.

ADV ANDRE PIENAAR: You gave him control of the accounts and he would oversee your accounts staff. Is that correct?

MR VIVIEN NATASEN: That is right because I was rarely in the office he would - he would manage of them.

ADV ANDRE PIENAAR: Okay. Mr Lowenthal at paragraph 15 says:

20 "Further to the above during the reconstruction of the accounting records and perusal of the source documentation of Neo Solutions it came to my attention that Ruben had apparently misappropriated funds belong to Neo Solutions which the bookkeeper of Neo Solutions and myself calculated it to be in the amount of approximately

R746 689-and some cents.”

Is that correct?

MR VIVIEN NATASEN: *Ja.* This the current number. Chair we identified this from where he had altered the beneficiary payee details to his own bank account. So the report that came from the bank was all payments made to that specific bank account because it is difficult in the standard reporting system we have to be able to draw out the payee.

It is only listed as the payee details but not the actual bank
10 account. So there was a special report that came from the bank where we identified so far these. We are still now searching for where he has altered or could have altered to pay to other beneficiary bank account details. That might then increase this number.

ADV ANDRE PIENAAR: *Ja.* Mr Natasen it is not unsurprising then that the accounts were in a state of disarray.

MR VIVIEN NATASEN: Yes, yes. I think from what we see now (intervenes).

ADV ANDRE PIENAAR: Do - do you suspect that Mr Ruben had manipulated the accounts in order to potentially hide his fraud?

20 **MR VIVIEN NATASEN:** I think from - from looking at the accounting records and the lack or the missing documents that are there we have clearly been sabotaged by him to cover up all these - these misappropriations.

ADV ANDRE PIENAAR: Do you intend taking legal action against Mr Ruben?

MR VIVIEN NATASEN: *Ja.* We - we obviously have got this document with all - with all the direct ones where he has changed it himself. As we identify more - but we are obviously instituting a - a criminal case now.

ADV ANDRE PIENAAR: *Ja.* 23 and 24 of Mr Lowenthal's affidavit very quickly.

10 "In light of the fact that Neo Solutions is a private company the unaudited annual financial statements are drafted mainly for the attention and use of the sole Director and sole shareholder both Mr Natasen and are not intended to be relied upon by third parties such as creditors. Accordingly the annual financial statements are not audited and are compiled and used to reflect the inaccurate financial position and result of operations of Neo Solutions internally periodically."

20 Much was made again of the fact that you had signed the financial statements and that you were a Chartered Accountant in Business and how could you have signed them without knowing unequivocally that every figure stated in those financials - financial statements were correct. Correct?

MR VIVIEN NATASEN: Correct, yes.

ADV ANDRE PIENAAR: You said you relied on Mannie as the accounts firm that you had appointed for the production of these accounting statements. Correct?

MR VIVIEN NATASEN: That is right.

ADV ANDRE PIENAAR: What was your mandate to Mannie?

MR VIVIEN NATASEN: The mandate as I said had - it had been raised on what happened with the SARS process on the ADR where he had given me undertakings that he would be the watchdog of ensuring that the books are correct going forward especially with regard to further SARS submissions in the new financial years.

So clearly in the way he is now put his affidavit together he is now reneging on that - on that responsibility he took on. So it was far
10 more than just taking the numbers that Eugene or Ruben had given him and just putting it into a set of financials. He was to interrogate the books much deeper than that and he did not do that.

ADV ANDRE PIENAAR: And he did not do that?

MR VIVIEN NATASEN: And he did not do that.

ADV ANDRE PIENAAR: So he - Mannie actually breached its mandate to Neo?

MR VIVIEN NATASEN: Correct.

ADV ANDRE PIENAAR: Okay. Evidence has been led regarding the affidavits filed or the statements filed by Mr Patel on behalf of Mannie
20 dealing with the Annexure G which is your text message. We have dealt with that this morning. I do not intend revisiting it. I think you gave it the necessary context and interpretation which was required but the fact remains that Mannie breached their mandate to Neo.

Then at the 11th hour after receiving a summons from the Commission which terminated their mandate. Is that correct?

MR VIVIEN NATASEN: That is correct.

ADV ANDRE PIENAAR: Okay. Did they give you reasons for terminating the mandate?

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: No. Did they engage with you in potentially reinvigorating the relationship and coming to your assistance to rectify the - the issues?

MR VIVIEN NATASEN: They did try. They currently perform for other mandates for other entities that I am a shareholder and Director of. So
10 they approached us via the - that entity to ask if they could obviously guide us in terms of responding and they undertook then to give a confirmatory affidavit to us to support what exactly transpired at the meeting when we met on 10 July and they reneged on that commitment literally this week.

ADV ANDRE PIENAAR: So do I understand correctly that if they got further work through Neo or its ...

MR VIVIEN NATASEN: I think they were concerned that they would obviously lose their ...

ADV ANDRE PIENAAR: Lose the ...

20 **MR VIVIEN NATASEN:** Appointments at the other which is significant revenue to them (intervenes).

ADV ANDRE PIENAAR: And on what basis ...?

MR VIVIEN NATASEN: Terminating on one they would have to terminate on all.

ADV ANDRE PIENAAR: And on that basis they were trying to

backpedal ...

MR VIVIEN NATASEN: Correct.

ADV ANDRE PIENAAR: And come to the party?

MR VIVIEN NATASEN: That is correct.

ADV ANDRE PIENAAR: Okay. That - that does not sound like a professional organisation. That sounds like a - a firm of accountants that have breached their mandate and are only concerned about the financial implications to themselves as opposed to financial implications to Neo.

10 **MR VIVIEN NATASEN:** That is correct.

ADV ANDRE PIENAAR: Do you see an issue with that?

MR VIVIEN NATASEN: They obviously now - it is - it is clearly indicating that they backtracked then and they have realised they made a mistake. Now they are not sure where they stand but obviously all the appointments with us or any entity I am associated with would be terminated.

ADV ANDRE PIENAAR: Okay. Just to clarify the issue of the signature on the financial statements. So those financials despite what my learned colleague has - tried to assert are only meant for internal
20 purposes. Is that correct?

MR VIVIEN NATASEN: That is correct.

ADV ANDRE PIENAAR: They were not submitted to SARS?

MR VIVIEN NATASEN: These financials definitely not. The last with SARS is 2014.

ADV ANDRE PIENAAR: Were any submitted to any third parties?

MR VIVIEN NATASEN: Not that I am aware of.

ADV ANDRE PIENAAR: Okay. Was that ever the intention?

MR VIVIEN NATASEN: No, no.

ADV ANDRE PIENAAR: Okay. So they were for internal purposes more than anything else?

MR VIVIEN NATASEN: *Ja.*

ADV ANDRE PIENAAR: Okay. (Intervenes).

MR VIVIEN NATASEN: (Intervenes) the banks had an obligation or there is a contractual requirement there. The banks get a schedule
10 from us and that schedule shows all our incoming revenue per project and they actually rely on that in terms of our overdraft facilities and that goes to them monthly.

ADV ANDRE PIENAAR: Is there any aspect of Mr Lowenthal's affidavit which you disagree with?

MR VIVIEN NATASEN: No.

ADV ANDRE PIENAAR: Do you think the steps that Mr Lowenthal has taken in the reconstruction of the financials - in your opinion either as a lay person in business alternatively as a Chartered Accountant - you think the steps are reasonable?

20 **MR VIVIEN NATASEN:** Yes.

ADV ANDRE PIENAAR: Do you think they are the correct steps that had to be taken?

MR VIVIEN NATASEN: I think they keep us focused on ensuring that the transactions are being posted correctly ...

ADV ANDRE PIENAAR: Hm.

MR VIVIEN NATASEN: For those periods.

ADV ANDRE PIENAAR: Yes. Were - were the steps explained to you before they were taken? Did Mr Lowenthal say I - this is what I believe the issue is, this is what I think the solution is?

MR VIVIEN NATASEN: Ja. He clarified his scope before ...

ADV ANDRE PIENAAR: He clarified?

MR VIVIEN NATASEN: At the start of his appointment.

ADV ANDRE PIENAAR: So but - but for the main issues that needed to be rectified he explained what - what form that rectification would take?

10 **MR VIVIEN NATASEN:** That is correct.

ADV ANDRE PIENAAR: And why it was necessary and you agreed with that?

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: Okay. I am not going to get into the independent Chartered Accountant in Business issue again because I just do not think it warrants any further dealing or attention with. Mr Natasen before I end off - oh. Do you believe Mannie - Mannie Financial Solutions ...

MR VIVIEN NATASEN: Financial Services.

20 **ADV ANDRE PIENAAR:** Sorry. Financial Solutions, ja Mannie Financial Solutions. That is how it is ...

MR VIVIEN NATASEN: Oh.

ADV ANDRE PIENAAR: It is termed. Do you believe that they were negligent in giving effect to their mandate?

MR VIVIEN NATASEN: My understanding from that when they

approached me with their interaction now and the confirmatory was they relied on an Excel spreadsheet from Ruben in order to compile the financials and that does not make sense to me because that was definitely not their mandate or the agreement and undertaking that they had given me.

ADV ANDRE PIENAAR: And they were being remunerated for those services?

MR VIVIEN NATASEN: They were being remunerated for that.

ADV ANDRE PIENAAR: Okay. Before I end off and I am almost there,
10 thank you Chair. I would just like to ask you some questions generally regarding this inquiry and I would like to know what your subjective opinion is. I am not asking you in your capacity as Director of Neo, shareholder, Chartered Accountant. I am just saying subjectively what is your opinion?

Why do you believe that Ms Tlatsana implicated you in this transaction given the recording that we have heard - your discussion with Mr Van Wyk, given the fact that the farming venture was a legitimate transaction, given the fact that you were unaware of the source - the illegality of the source of the funds.

20 Given that the money was repaid in full and that you have tendered any benefit that you have received. Why do you think you specifically - I know there were other people - why do you think you specifically were implicated by Ms Tlatsana?

MR VIVIEN NATASEN: Well we - we received the funds. So by virtue of us receiving those funds from Koreneka we were implicate. However

we were the one party. So if Koreneka has received 51 million which is Ms Tlatsana's testimony. We received 9.9 of that but through Judiel she was already in possession of the fact that the 9.9 had been paid back.

Yes, bar the 300 000 issue but it was paid to Batsamai and they had already confirmed that Batsamai was Brian Van Wyk's partner. So we were the one entity that had already cooperated to showing that the funds received had been returned to Van Wyk. Where the remaining parties the 28 million or so that she is sitting with has not
10 been accounted for it.

The nine million was literally laundered into cash and delivered by SPV to Brian's doorstep. The other parties no mention has been made of where those funds have been - gone and to me I cannot understand why as an entity that has proven at the start when the Commission started with us we had given them the audio recording which confirmed that I was unaware of the source of funds.

So to me two days of the Commission's time has been spent on trying to prove I am not a good accountant as opposed to actually getting to the crux of where these funds have really gone from a state
20 capture perspective. So I - I fail to understand why so much effort is trying to prove whether I reasonably ought to have known when I can prove that I did not know and I acted on the basis that these funds came from a dividend source that was going to be utilised in a venture with us.

There has been no cover up from my side. This is valid

monies that - at the time I thought it was valid monies and I was going into business with Van Wyk. I was not trying to mislead or hide or do anything untoward with these funds. When he started drawing his money back we had given him back.

So yes there was an indirect benefit derived by us having held those funds which we are now tendering to say we will reimburse the state for those that we have enjoyed the benefit of but there has been no intention or knowledge that the funds were not - that they not from a reputable source when we got them.

10 **ADV ANDRE PIENAAR:** Did you say Ms Tlatsana still has 20 ...?

MR VIVIEN NATASEN: Yes. From what I recall it is in the region of 28 million that she is ...

ADV ANDRE PIENAAR: 28 million ...

MR VIVIEN NATASEN: At the point where she sees the called back there was - there should have been 28 million somewhat from the testimony and the recon that is there. There is 28 million still unaccounted for by herself.

ADV ANDRE PIENAAR: Do you think that the fact that she was a willing participant the fact that she ought - she ought to have known
20 better given the nature of the transaction that she was dealing with and the fact that there - there are monies that she still has in anyway is connected or correlated with the fact that she has now left the Republic?

MR VIVIEN NATASEN: Well I mean I cannot speculate on that. All I can say is that ...

ADV ANDRE PIENAAR: (Intervenes).

MR VIVIEN NATASEN: It is a matter of record that 28 million is still unaccounted for and she has refused to account on it and I am being called to account on whether I am a good accountant or not.

ADV ANDRE PIENAAR: And as far as you are aware has Mr Van Wyk being subpoenaed or summoned to this inquiry?

MR VIVIEN NATASEN: As far as I am aware - well I do not know of any knowledge of that. So I am assuming not yet.

ADV ANDRE PIENAAR: Okay. Do you believe he should be here?

10 **MR VIVIEN NATASEN:** Well through my - my evidence and Tlatsana's evidence he has been implicated. So I think he should be here to account for his side ...

ADV ANDRE PIENAAR: Ja.

MR VIVIEN NATASEN: As to what he has done with the money (intervenes).

ADV ANDRE PIENAAR: He is the common denominator so to speak.

MR VIVIEN NATASEN: Correct.

ADV ANDRE PIENAAR: Why do you think the Commission has focused so vigorously on your testimony, why do you think ...(intervention)

20 **CHAIRPERSON:** Well that's not re-examination.

ADV ANDRE PIENAAR: It is, I need to ask ...(intervention)

CHAIRPERSON: And that doesn't really arise from anything that was led earlier on.

ADV ANDRE PIENAAR: But Chair I don't understand it myself and ...(intervention)

CHAIRPERSON: Yes, but re-examination as we both know is there to clarify evidence that has been dealt with earlier.

ADV ANDRE PIENAAR: As the Chair pleases. Do you still wish to cross-examine Ms Tlatsana, if given the opportunity.

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: If we returns to the Republic.

MR VIVIEN NATASEN: Correct.

ADV ANDRE PIENAAR: And if the Commission obviously allows for it.

MR VIVIEN NATASEN: Yes.

10 **ADV ANDRE PIENAAR:** And what do you want to examine her on, what specifically do you want to ask Ms Tlatsana?

MR VIVIEN NATASEN: Well specifically how she accounted for the transaction, I have been asked to account right down to my financial statements as to how the transactions were accounted for in my books, so we need to deal with how it was accounted for on her side, whether she had ever interacted with me at any point in time during the flow of funds, because I had never met or spoken or didn't know of her existence at any point until Yudeel brought it to my attention in October of 2017, so it's obviously to confirm that I was not complicit or party to
20 any of the State Capture that occurred here.

ADV ANDRE PIENAAR: Did you read the transcription of Ms Tlatsana's evidence?

MR VIVIEN NATASEN: Yes.

ADV ANDRE PIENAAR: Was she interrogated on her financial standing, her financials of Koroneka?

MR VIVIEN NATASEN: Not that I can see no.

ADV ANDRE PIENAAR: One moment Chair. Chair I think I am going to leave it there, thank you very much.

CHAIRPERSON: Thank you.

ADV ANDRE PIENAAR: Thank you for your indulgence, I apologise if I pushed the envelope in terms of the questions that I was asking and leading.

CHAIRPERSON: No, no thank you.

ADV ANDRE PIENAAR: And I apologise if I may have unintendedly
10 cast my esteemed colleague in bad light, it is not my intention and I apologise, and I am going to leave it there. Thank you very much.

CHAIRPERSON: Thank you.

ADV KATE HOFMEYR: Thank you Chair, if I may just one or two concluding aspects.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Chair there is in our submission a fundamental reason why lawyers representing their clients do not ask leading questions of their clients when they examine them. There is also a fundamental reason why lawyers do not generally speak to their clients
20 after they are called and before they are re-examined. The Chair the underlying reason is because it diminishes the credibility of the witness's evidence and the reason for that is because the adjudicator or decision maker is then not left with clarity as to whether the answers given by the witness are the witnesses answers or they are the sculpted answers of a lawyer.

Chair at the commencement of Mr Pienaar's questions I raised the concern about the leading questions. I raised it simply because it is not simply that it is a rule of ethics, it is because it undermines the evidence of the witness and I draw it to your attention Chair because in due course we will submit to you that you should take that impact of the type of questioning and the type of engagement into account when you weigh Mr Natasen's evidence today.

Thank you Chair.

Chair one last thing, just Mr Natasen recently gave evidence
10 about Ms Katslana refusing to submit an account of her financials, Chair you will recall in her evidence she undertook to do so and in the explanation I gave this morning, the evidence of her attorney, which I read out to the hearing indicated that she had appointed an auditor to do so, so it is not clear to me where Mr Natasen obtained the information that she had refused to account for those funds. It was a matter that we did ask her and you specifically indicated you would want after her testimony.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Thank you Chair.

20 **CHAIRPERSON:** Yes okay, thank you. Thank you very much Mr Natasen we have come to the end of your evidence, should a need arise in the future and I don't know if it will arise for the Commission to request you to come back you will be requested but for now you are excused.

MR VIVIEN NATASEN: Thank you Chair.

CHAIRPERSON: Thank you. We are going to adjourn the proceedings.

Ms Hofmeyr tomorrow we start normal time?

ADV KATE HOFMEYR: We do indeed Chair.

CHAIRPERSON: We can start at normal time.

ADV KATE HOFMEYR: Safely so.

CHAIRPERSON: Yes, okay. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS TO 30 AUGUST 2019