

COMMISSION OF INQUIRY INTO STATE CAPTURE

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20

PROCEEDINGS RESUME ON 4 SEPTEMBER 2019

CHAIRPERSON: Good morning Ms Norman, good morning everybody.

ADV THANDI NORMAN SC: Good morning Mr Chairman.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Yes thank you. Mr Chairman the witness that we intend calling me this morning is Mr Jonathan Thekiso. That – his statement – there is two bundles before you Mr Chair they would be marked Exhibit CC17.1 and Exhibit CC17.2 to CC18.

CHAIRPERSON: Just repeat that?

10 **ADV THANDI NORMAN SC**: 17 – Exhibit CC17.

CHAIRPERSON: Hm.

ADV THANDI NORMAN SC: And the next – the second one – he has two statements the one is in that bundle and the other one is in Exhibit CC17.2 that is where his supplementary statement is.

CHAIRPERSON: I see – oh why is it written in such small letters 17.1 and 17.2?

ADV THANDI NORMAN SC: Point 2. Oh.

CHAIRPERSON: You see I just see on this one CC17 and I am trying to look for CC17.1 then I realise after some time that...

20 **ADV THANDI NORMAN SC**: Oh they used a smaller font yes.

CHAIRPERSON: Yes, yes. What page is his statement?

ADV THANDI NORMAN SC: His statement in CC17.1 is the very first statement. It will be under the divider marked CC17. And it starts from page 1 the statement itself and then the rest are annexures. Statement it goes – starts from page 1 up to page 10 and the remainder are

annexures.

CHAIRPERSON: Well under divider 17 I have got a SABC letter.

ADV THANDI NORMAN SC: What does the letter say Mr Chairman?

CHAIRPERSON: Under divider 17.

ADV THANDI NORMAN SC: Oh.

CHAIRPERSON: In CC17.1 I have got a letter from – with the letterheads of SABC not a statement.

ADV THANDI NORMAN SC: No I think – I think Mr Chairman you looking – if you could look at the file divider.

10 **CHAIRPERSON**: Okay let us – let us.

ADV THANDI NORMAN SC: File divider CC.

CHAIRPERSON: Let us start afresh. 17.1 is that the correct one?

ADV THANDI NORMAN SC: That is the correct one.

CHAIRPERSON: Okay. Right.

ADV THANDI NORMAN SC: And then if you turn that file you will find a divider that is marked CC17.1.

CHAIRPERSON: Yes, okay, right at the beginning.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Okay no that is fine. I thought it was –

20 **ADV THANDI NORMAN SC**: That is then his initial statement and then a supplementary statement it is in CC17.2 which is in the lever arch file marked CC17.2 to CC18.

CHAIRPERSON: Yes – is there another statement?

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Of his there?

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: And where do I find it? Is it right at the top as well?

ADV THANDI NORMAN SC: It will be on top yes.

CHAIRPERSON: Okay that is a supplementary statement.

ADV THANDI NORMAN SC: Yes. It starts from page 334.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Yes. Thank you. Okay. Thank you Mr Chairman.

CHAIRPERSON: Now before we start I am going to ask you to – in
10 regard to each witness to mention to indicate what each witness’
evidence – under what part of each witness’ evidence will fall in the
terms of reference so that I am satisfied that we are – the witness is
going to be giving evidence that falls under the terms of reference. I
am just going to take some time to refresh our memory about the terms
of reference because I must make sure that the evidence that I hear
falls within our terms of reference. The terms of reference read as
follows:

“A judicial commission of Inquiry the commission is hereby appointed in
terms of Section 82(2)F of the Constitution of the Republic of South
20 Africa 1996.

The commission is appointed to investigate matters of public and
national interests concerning allegations of state capture, corruption
and fraud.”

Then they say under 1.

“The commission shall inquire into make findings, report

on and make recommendations concerning the following guided by the Public Protector's State of Capture Report, the constitution, relevant legislation, policies and guidelines as well as the order of the North Gauteng high court of 14 December 2017 under case number 91139/2016.

10 1.1 Whether and to what extent and by whom attempts were made through any form of inducement or for any gain whatsoever – or for any gain of whatsoever nature to influence members the National Executive including Deputy Ministers, office bearers and or functionaries employed by or office bearers of any state institution or organs of state or directors of the boards of SOE's. In particular the commission must investigate the veracity of allegations that former Deputy Minister of Finance, Mr Mcebisi Jonas and Ms Mentoor were offered cabinet positions by the Gupta family. That is 1.1.

20 1.2 Whether the President had any role in the alleged offers of cabinet positions to Mr Mcebisi Jonas and Ms Mentoor by the Gupta family as alleged.

1.3 Whether the appointment of any member of the National Executive functionary and or office bearer was disclosed to the Gupta family or any other unauthorised person before such appointments were

formally made and or announced. And if so whether the President or any member of the National Executive is responsible for such conduct.

- 10 1.4 Whether the President or any member of the present or previous members of his national executive including deputy ministers or public official or employee of any state owned entities breached or violated the constitution or any relevant ethical code or legislation by facilitating the unlawful awarding of tenders by SOE's or any organ of state to benefit the Gupta family or any other family or individual or corporate entity doing business with government or any organ of state.
- 1.5 The nature and extent of corruption if any in the awarding of contracts, tenders to companies, business entities or organisations by public entities listed under Schedule 2 of the Public Finance Management Act Number 1 of 1999 as amended.
- 20 1.6 Whether there were any irregularities, undue enrichment, corruption and undue influence in the awarding of contracts, mining licences, government advertising in the New Age newspaper and any other government services in the business dealings of the Gupta family with government departments and SOE's.

1.7 Whether any member of the National Executive and including Deputy Ministers unlawfully or corruptly or improperly intervened in the matter of the closing of banking facilities for Gupta owned companies.

1.8 Whether any advice as in the Ministry of Finance were appointed without proper procedures in particular and as alleged in the complaint to the Public Protector whether two senior advisors who were appointed by Minister Des Van Rooyen to the National Treasury were so appointed without following proper procedures.

1.9 The nature and extent of corruption if any in the awarding of contracts and tenders to companies, business entities or organisations by government departments, agencies and entities in particular whether any member of the National Executive including the President, public official, functionary of any organ of state influenced the awarding of tenders to benefit themselves, their families or entities in which they held a personal interest.

2. These terms of reference may be added to varied or amended from time to time.”

So we need to always bear in mind what the terms of reference of the commission are and I just want to make sure that we fall within.

ADV THANDI NORMAN SC: Yes. Thank you Chair the evidence that

we are leading is a continuation of what we stated. We started this last year with the evidence of Doctor Kaufmann who had identified what state capture is and he had testified that if you capture the media that is state capture. We continued with that evidence through the evidence of Mr Sundaram who indicated the attempts to capture the TV stations. So this is a continuation of that. And Chair would recall that Chair has always told us that he needs to answer three questions. The first question is what happened? The second question is how did it happen? And the third question is what must be done in order to make sure that it does not recur? Now state capture as it is this phenomenon does not come as the Chair would know in a bundle identified as state capture. We are adducing evidence to show how the attempts were made and that will fall squarely within 1.1 of the terms of reference because there – there is reference – in fact the preamble that the Chair has read:

“The commission is appointed to investigate matters of public and national interest concerning allegations of state capture, corruption and fraud. So we are dealing with state capture largely of – or attempts to capture the media and that is what we started as I indicated earlier. And if one looks at 1.1 that is based on the Public Protector Report State Capture Report. Whether and to what extent and by whom attempts were made through any form of inducement or for any gain of whatsoever nature to influence members of the National Executive including Deputy

Ministers, office bearers and or functionaries employed by or office bearers of any state institutions or organs of state or directors or board of SOE's."

And then in particular. So the point that you are making Chair is that if there are influences of editorial policies they are influences that direct the way in which news must be broadcast to the public. That is a matter of national interest. And Chair had allowed this evidence of Mr Sundaram tied in with that of Doctor Kaufmann and we believe that

10 these are matters that are critical and they will show – for instance this witness is going to show how in that whole process of executing this and – this animal called state capture how skilled professionals were asked to leave. You will find for example and example of a person who is told go home when the contract still has a period of five years to run. But he is told no you can home. Will you SABC will waive all of its rights. You can go home and then we will simply pay you for that. That is what this witness' evidence is going to be about. About the consistent manner in which executives that could have perhaps protected the SABC from the situation which we described the past two

20 days. All of those employees were asked long before their terms expired, you go you sit at home and then in the process they will employ an acting person and in the process they pay R12 million, R5 million, R4 million. So that is the – that to us Chair is relevant because it demonstrates how some of the actions that are going to come later tied in with what we are demonstrating now would at the end of the day

enable us as the evidence leaders to make the submissions to you that indeed this fell within the terms of reference 1.1 and it was indeed state capture as these witnesses are going to deal with.

CHAIRPERSON: Well you see Mr Sundaram's evidence was tied in with the project of – the establishment of the New Age and ANN7 and there is a specific reference to the New Age in the terms of reference.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: So that was fine. It is connected with the Gupta family and there is specific reference to it to in the terms of reference.

10 Now it is not every wrongdoing that may have been happening in various state owned entities or government departments that falls within the terms of reference. It has got to be wrongdoing that can be connected with the terms of reference. As I was reading them:

1. Is connection with state capture.
2. Is to a very large extent corruption and fraud that is connected with contracts – the awarding of contracts and tenders.

So in other words there may well be a lot of wrongdoing that may have been happening in government departments and state owned entities which was bad and which should be dealt with but which might fall
20 outside the terms of reference of the commission. So it is important therefore that when we look at wrongdoing we are able to link it to check whether it links with the terms of reference. Now I mean I have – I have read all the terms of reference. Most of them are linked to tenders and doing business – outsiders doing business with organs of state or organs of – or cabinet ministers, deputy ministers, other

functionaries and office bearers in government – in state owned entities and government departments doing certain wrong things in order to favour certain individuals with government business and so on. So I am keen that we look at it properly. You say this witness' evidence will fall under 1.1?

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Is that right?

ADV THANDI NORMAN SC: That is right yes.

CHAIRPERSON: Now you know 1.1 appears to have a problem and you
10 might be able to assist me whether there is a problem. Before – before where it says: in particular and then it talks about Mr Mcebisi Jonas and Ms Mentoor before that sentence it does not appear to be complete. It is whether and to what extent and by whom attempts were made through any form of inducement or for any gain of whatsoever nature to influence members of the National Executive including Deputy Ministers, officer bearers and or functionaries employed by or office bearers of any state institution or organ of state or directors of the boards of SOE's. Then it does not say attempts to influence them to do what?

20 **ADV THANDI NORMAN SC:** Yes. That is – Chair would recall that right at the outset when the commission commenced.

CHAIRPERSON: Hm.

ADV THANDI NORMAN SC: As the legal team we had made submissions on the terms of reference.

CHAIRPERSON: Hm.

ADV THANDI NORMAN SC: As to how they should be interpreted.

CHAIRPERSON: Hm.

ADV THANDI NORMAN SC: How far should they go?

CHAIRPERSON: Hm.

ADV THANDI NORMAN SC: And to what extent can they be limited if they have to be limited?

CHAIRPERSON: Hm.

ADV THANDI NORMAN SC: So that is the challenge we have. For example if you take the SABC.

10 **CHAIRPERSON:** Hm.

ADV THANDI NORMAN SC: We are going to deal with the contracts.

CHAIRPERSON: Hm.

ADV THANDI NORMAN SC: We are going to call one or – one of the former Ministers to come and explain to you how certain contracts were entered into.

CHAIRPERSON: Hm.

ADV THANDI NORMAN SC: But we are going to also show you how skilled people were removed in order to enable people who were not qualified.

20 **CHAIRPERSON:** Hm.

ADV THANDI NORMAN SC: To be put in those places so as to enable.

CHAIRPERSON: Hm.

ADV THANDI NORMAN SC: State capture to happen. And unfortunately without us doing that we are not going to be able to assist you when at the end of the day we have to submit a report and

deal with what is it that happened within the SABC.

CHAIRPERSON: You see if you – if you lead evidence that shows how – that shows wrongdoing that was connected with the awarding of contracts and that wrongdoing would have been against the policies.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Of the – of SABC procurement procedures that – that should be fine. That would be fine.

ADV THANDI NORMAN SC: Yes it will be. Yes.

CHAIRPERSON: That might not – you might not even need 1.1 which
10 does not seem to have a value.

ADV THANDI NORMAN SC: Yes, yes.

CHAIRPERSON: You know. It might fall under – under – under 1.4/

“Whether the President or any member of the present
of previous members of his National Executive or
public official or employee of any state owned
entities breached or violated the constitution or any
relevant ethical code or legislation by facilitating the
unlawful awarding of tenders by SOE’s or any organ
of state to benefit the Gupta family or any other
20 family or individual or corporate entity doing
business with government or organ of state.”

If you – if you link it to the awarding of contracts it should fall under that.

ADV THANDI NORMAN SC: It will – Chair the difficulty is one with the evidence as it progresses I cannot take this witness’ evidence

individually.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: And say this evidence on its own will show you state capture.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: I have to link it with the other evidence that you are going to lead.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: And then you will see how the process
10 itself unfolded and how we get to the point of the contracts. Because
in the – in the establishment you need people who are going to
facilitate procurement and we are going to show you how people were
removed and who was replaced and how that process unfolded right up
to the stage then when contracts were entered into, when policies were
changed. So that is the process that you are following. Yes.

CHAIRPERSON: As long as in the end there will be that link.

ADV THANDI NORMAN SC: There will – the...

CHAIRPERSON: There will be?

ADV THANDI NORMAN SC: Ja.

20 **CHAIRPERSON**: But I would like if I could be given a memorandum
that in due course that will show that in the end this is how the
witnesses will link up.

ADV THANDI NORMAN SC: Yes I think...

CHAIRPERSON: Their evidence will link up.

ADV THANDI NORMAN SC: Yes. Yes Chair no I think there is a

memorandum that I had submitted to you Chair.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: But I can update that memorandum.

CHAIRPERSON: If you can update that – that memorandum.

ADV THANDI NORMAN SC: Yes ja but...

CHAIRPERSON: But as we – as we proceed I mean I will take it that that is what you – that is what you are planning to do to end up linking;

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: With – with what others witnesses will say.

10 **MS YOLANDE VAN BILJON**: Yes.

ADV THANDI NORMAN SC: But that the point is always that you are looking at how certain wrong things were done in order to influence the awarding of contracts and business to certain individuals or companies and so on.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Is that understanding fine?

ADV THANDI NORMAN SC: It will lead – Chair I would not be leading this evidence if it did not tie up with that.

CHAIRPERSON: No, no, no.

20 **ADV THANDI NORMAN SC**: That is an assurance that I can give you.

CHAIRPERSON: No, no, no I must – I must be satisfied.

ADV THANDI NORMAN SC: I know Chair but...

CHAIRPERSON: I must be satisfied.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: You satisfy yourself but I must also be satisfied.

ADV THANDI NORMAN SC: Yes. No true, true.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: But also Chair in the rules you have made it our obligation as the legal team.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: The responsibility to place evidence before you and I would not place any evidence that I regarded as irrelevant to the terms of reference. And the evidence that ...

CHAIRPERSON: No, no, no.

10 **ADV THANDI NORMAN SC:** Yes.

CHAIRPERSON: No Ms Norman.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: No, no Ms Norman. You must satisfy yourself that ...

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: That the evidence is relevant.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: But the fact that you have satisfied yourself does not mean that I am satisfied.

20 **ADV THANDI NORMAN SC:** Yes. Chair has not heard the evidence that is the difference.

CHAIRPERSON: Yes but before it is led I must satisfy myself that it will be relevant.

ADV THANDI NORMAN SC: Chair I had placed....

CHAIRPERSON: Because I should not allow evidence that is not relevant.

ADV THANDI NORMAN SC: No true I accept that Chair but I had placed this evidence before Chair last week Wednesday and as I have explained to Chair this evidence is relevant because it shows that the enablers of state capture had decided to remove skilled people...

CHAIRPERSON: Ms Norman.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Ms Norman. I must be satisfied that the evidence that is being led is relevant.

ADV THANDI NORMAN SC: Yes.

10 **CHAIRPERSON:** And falls within the terms of reference.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: I must make a ruling whether it should led or it should not be led.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: You are assisting me to do this job.

ADV THANDI NORMAN SC: Yes.

20 **CHAIRPERSON:** And you are doing quite well but I still need to be satisfied. So that is why it is important if I have questions that you make submissions to say we have submit it is relevant because of a, b, c, d.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: And I listen to what you have to say if I am persuaded I agree if I am not persuaded I do not agree.

ADV THANDI NORMAN SC: Thank you Chair. Chair I...

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Yes. No I hear you Chair I have made submissions.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: That this evidence is relevant because it is going to tie in with other evidence that is going to show ultimately how the contracts were handled.

CHAIRPERSON: No, no in principle that should be fine. So do give me that memorandum that you say you will update but as we go along with every witness.

10 **ADV THANDI NORMAN SC:** Yes.

CHAIRPERSON: We must just keep in mind that we are within the terms of reference.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: And I accept that sometimes it may be difficult to show with the relevance with regard to a particular witness because the relevance might become clearer when another witness comes later on.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: To give – that I accept.

ADV THANDI NORMAN SC: Yes.

20 **CHAIRPERSON:** That it might happen. So – and to that extent you might be aware of some witnesses who are going to come.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Who might clarify certain things but it is important that throughout we keep at the back of our minds that we want to fall within the terms of reference.

ADV THANDI NORMAN SC: Yes thank you Chair.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Alright. Alright then. Let us...

ADV THANDI NORMAN SC: Thank you.

CHAIRPERSON: Let us - let us then have the witness sworn in.

ADV THANDI NORMAN SC: Thank you.

CHAIRPERSON: Thank you.

REGISTRAR: Please state your full names for the record.

10 **MR JONATHAN THEKISO:** Jonathan Thekiso.

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

MR JONATHAN THEKISO: I do not.

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

MR JONATHAN THEKISO: I do.

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

MR JONATHAN THEKISO: So help me God.

20 **MR JONATHAN THEKISO:** (duly sworn, states)

CHAIRPERSON: Thank you. You may start.

ADV THANDI NORMAN SC: Thank you Mr Chairman. Mr Thekiso please could you switch on your mic? Thank you. You have two files next to you. The one is marked EXHIBIT CC17.1 and the other one is marked CC17.2. Do you see that?

MR JONATHAN THEKISO: Yes.

ADV THANDI NORMAN SC: We are going to start with the one that is marked CC17.1. If you could just place that one in front of you.

CHAIRPERSON: Let us - let us first admit it.

ADV THANDI NORMAN SC: Admit them. Yes. Thank you Chair.

CHAIRPERSON: The lever arch file containing the - again it is a sworn affidavit Ms Norman.

ADV THANDI NORMAN SC: Yes. It is - it is written sworn affidavit Mr Chairman but at the end Chair will find that it is just signed.

10 **CHAIRPERSON:** It is not a ...?

ADV THANDI NORMAN SC: No it is actually - this one it is - it is an affidavit. Yes it is.

CHAIRPERSON: The - the lever arch file containing the affidavit of Mr Jonathan Thekiso will be marked EXHIBIT CC17.1 ...

ADV THANDI NORMAN SC: Thank you.

CHAIRPERSON: And the lever arch file containing Mr Jonathan Thekiso's supplementary ...

ADV THANDI NORMAN SC: Affidavit.

CHAIRPERSON: Is a statement or affidavit?

20 **ADV THANDI NORMAN SC:** It is - it is a supplementary affidavit Chair.

CHAIRPERSON: Affidavit.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Will be marked EXHIBIT CC17.2.

ADV THANDI NORMAN SC: Thank you Mr Chairman.

CHAIRPERSON: *Ja.*

ADV THANDI NORMAN SC: Thank you. Mr Thekiso you - is it correct that you are employed by the SABC?

MR JONATHAN THEKISO: That is correct Chair.

ADV THANDI NORMAN SC: In what position are you employed?

MR JONATHAN THEKISO: I am the Group Executive of Human Resources.

ADV THANDI NORMAN SC: Okay. What do you deal with within Human Resources?

MR JONATHAN THEKISO: My role is to provide strategic direction and
10 leadership by aligning the HR strategy to the corporate plan of the SABC to ensure that the organisation can deliver on the mandate. Secondly my role entails sustaining an environment that is characterised by healthy, competent staff members in order to ensure that the SABC becomes an employer of choice but quite critically we work very closely with line management to make sure that they can deliver on the objectives with a view to the SABC achieving the mandate.

ADV THANDI NORMAN SC: Thank you and I would imagine that before
20 you do that you yourself you must be able to say I am qualified enough to be able to tackle this job?

MR JONATHAN THEKISO: I believe so Chair.

ADV THANDI NORMAN SC: Yes. Could you just place your qualifications before the Chairperson please?

MR JONATHAN THEKISO: Chairman I matriculated at Moletsane High School in Soweto.

CHAIRPERSON: I see that he starts ...

(Laughing)

CHAIRPERSON: He - he starts the way I would start.

ADV THANDI NORMAN SC: Would start, yes Chair.

CHAIRPERSON: Yes.

MR JONATHAN THEKISO: In 1992. I have a Bachelor of Social Sciences Degree from the University of Cape Town. I have a Post Graduate Diploma in Management the HR stream from Wits University. I have an Advanced Executive Program from Unisa School of Business
10 Leadership. I also have a Leadership Development Program which was co facilitated by the University of Cape Town and Wits University.

I also have an Executive Financial Management Program from Wits University.

ADV THANDI NORMAN SC: Yes. Thank you. Before you joined the SABC where were you employed?

MR JONATHAN THEKISO: I was employed in both the private and public sectors City of Johannesburg. I have worked for Telkom Directories. I have also worked for Deloitte. I have worked for Vodacom and at Vodacom I had an opportunity to take assignments and
20 I worked in Ghana as well as an assignment in the UK ...

ADV THANDI NORMAN SC: Yes.

MR JONATHAN THEKISO: And in all instances it was an HR environment.

ADV THANDI NORMAN SC: Yes. Thank you very much. So then you have just told us what your obligations are as - as the Head of Human

Resources. You were asked by the investigators of - of the Commission to go through the contracts of the persons that had left the SABC and especially where there were agreements of separation between those people and the SABC ...

MR JONATHAN THEKISO: Yes.

ADV THANDI NORMAN SC: And - and you are just going to take the Chairperson through those to show how these people left but your assessment of all these contracts as you were asked by the investigators of the Commission what - what did - what was revealed by
10 the contracts and the manner in which they were - they were entered into? Just roughly without now pinpointing to specific cases. We are going to deal with that.

MR JONATHAN THEKISO: What was revealed as we were going through the contracts was that people did not want to leave the organisation and they - in most instances - and there were agreements for them to leave the organisation on the basis that they were paid you know *in lieu* of their contracts. For instance somebody might have had two more years to run in their contract.

They were basically told to leave the organisation on the
20 basis of payment amounting to the balance of the contract. So our assessment is that all in all people still wanted to work for the SABC people still wanted to contribute to the SABC but because of reasons we do not know they were essentially asked to leave the organisation on the basis of particular payments.

ADV THANDI NORMAN SC: Yes and then as an HR - I would regard

you as an HR expert given the years that you - and the places that you have been dealing with this. Ordinarily if a person - if there is a dispute between the employer and the employee I would imagine that would be resolved by a disciplinary hearing?

MR JONATHAN THEKISO: Correct.

ADV THANDI NORMAN SC: And you have come across instances where there would be a disciplinary hearing and before the SABC is vindicated on whether or not it is in the wrong - it was in the wrong or it was correct in what it was doing then there is a settlement parting
10 ways. Sometimes that follows even an order from the CCMA that that would vindicate the SABC?

MR JONATHAN THEKISO: That is quite correct and in - in some instances people would have gone through a disciplinary inquiry and the ruling of that inquiry would be that the person ought to be dismissed ...

ADV THANDI NORMAN SC: Yes.

MR JONATHAN THEKISO: But instead of the dismissal taking effect the organisation preferred to enter into a settlement agreement and - and the person basically leaves the organisation as if they had
20 resigned and in addition to that they - you know - they get paid a settlement figure - amount.

ADV THANDI NORMAN SC: Yes and you make - you say you do not find conclusively that there was purging but you say the indications were there. What is your understanding of purging employees?

MR JONATHAN THEKISO: My understanding of purging employees is -

is to basically get them out of the way - you know - for reasons they may not be aware of or for reasons that are known only by the - by the employer or by the person who is actually getting rid of those - that particular employee.

ADV THANDI NORMAN SC: Yes and I would like to just take you and ...

CHAIRPERSON: Sorry.

ADV THANDI NORMAN SC: Oh sorry Chair.

CHAIRPERSON: Is purging not where the employer or somebody in a
10 higher position wants you out of the company or department for an illegitimate reason? In other words is the position not that there has to be an illegitimate reason. If I - if I say you know I think your health is no longer - your health does not allow you to give us 100 percent in terms of what you are capable of doing and I would rather let you go and let me get somebody who can still give us 100 percent.

That would not be purging in the sense in which it is normally understood. Is it no?

MR JONATHAN THEKISO: Correct Chair but if the justification for
20 wanting to get rid of somebody is the fact that there is a problem with your health of course there are mechanisms within the organisation through which we can take the person to ascertain the validity of that assertion surrounding the health of the individual but if there is nothing wrong with the individual and they get told that there is a problem with your health and as a result of a problem with your health - health we think that you might serve a better purpose at home.

If that is the case then that amounts to purging because in a sense you have not advanced justifiable reasons as to why this individual has to get out of the way.

CHAIRPERSON: You - you see the way I see purging and I want you to tell me how you see it is that there has to be an illegitimate reason and maybe illegitimate is too wide. An illegitimate motive maybe because if I am just wrong in understanding what procedure must follow but I am acting in good faith. I have got nothing against you. I am just wrong in understanding what is required.

10 I might have difficulty understanding that to be purging but if I think you are a troublemaker because you keep on asking too many questions on things where I think you should not be asking too many questions. You must just let - allow things to happen and those are wrong things that I want to happen and I think you - I think you think you are clever.

That - that is separate. If you are a trade unionist and you are always giving me problems because you insist on the rights of workers being respected and all of that and that is the reason why I want you out. I think that would be purging. It is an illegitimate
20 reason. If I think you belong to a wrong political person wrong according to me and I only want in that position somebody who belongs to a certain political party.

That is for me on the face of it purging - you know. If I - if you are standing in my way because I want that tender to go to - to be given to so and so and you are insisting that it will only be given to

whoever legitimately wins the bid - the bid. That is purging for me. You understand?

MR JONATHAN THEKISO: Yes.

CHAIRPERSON: But if I think that in your position I think the performance you give me the best you can give me is about 60 percent but I think I want somebody who can give me 80 percent and I - I discuss that openly. It does not appear to me that it might be purging. I just want somebody who can do better than you are doing. You understand?

10 **MR JONATHAN THEKISO**: Yes. Yes Chair.

CHAIRPERSON: Are you more or less agreement with these examples that I am - I am giving? If - if not just indicate where you have a different understanding and share with me your perspective.

MR JONATHAN THEKISO: Thank you Chair. I am - I am in total agreement with - with the examples the Chair is giving but I also want to highlight and - and impress the fact that in most instances in as far the - you know - the - the employees we are dealing with are concerned. Their departure from the organisation was for mostly illegitimate reasons and therefore amount to - to purging.

20 **CHAIRPERSON**: No. Then that is - then I am very interested in that. You know but if - if the reasons are not illegitimate I might not be interested but where the point is the reasons were illegitimate then - then I am quite interested. Yes, thank you.

ADV THANDI NORMAN SC: Thank you. Thank you. May - may I take you to page 5 of - of EXHIBIT 17.1? I beg your pardon to page 38. I

beg your pardon.

MR JONATHAN THEKISO: Page 38?

ADV THANDI NORMAN SC: Yes, 38.

MR JONATHAN THEKISO: Got it Chair.

ADV THANDI NORMAN SC: Thank you. This is one of the - a person who was once employed by - by the SABC Mr Feliti.

MR JONATHAN THEKISO: Yes.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: I am sorry. Did you say page 5?

10 **ADV THANDI NORMAN SC:** Page 38. I beg your pardon Chair. I initially said five. I made - it is page 38.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Thank you. Could you just read that letter into the record so that we can deal with the matters that the Chairperson has raised with you?

MR JONATHAN THEKISO: “Contract of Employment between the SABC and Dingaan Feliti.”

That is the subject.

ADV THANDI NORMAN SC: Yes.

20 **MR JONATHAN THEKISO:** Number one:

“The above matter as reference.”

Number two:

“As you are aware you are employed by the SABC on a fixed term contract basis and your fixed term contract of employment with the SABC will expire by

a - a fluxion of time on 31 August 2018.”

ADV THANDI NORMAN SC: Sorry. Before you move. The letter is dated?

MR JONATHAN THEKISO: The letter is dated 19 April 2016. Sorry Chair.

ADV THANDI NORMAN SC: So this was almost a period of two years before the expiry of that contract?

MR JONATHAN THEKISO: Correct Chair.

ADV THANDI NORMAN SC: Yes. Thank you. Please continue.

10 **MR JONATHAN THEKISO:** Number three:

“You are hereby advised that the SABC will not be renewing or extending your contract - your fixed term contract of employment upon termination thereof on 31 August 2018.”

Which is expiry date. Number four:

20 “Please note that the SABC has in its terms of its own prerogative decided to waive its right to the provision of services and/or rendition of work by you for the remainder of your contract period. Accordingly with effect from Friday 22 April 2016 you are not required to report for duty and/or provide services to the SABC and the SABC will be under no obligation to and will therefore not provide or assign any work or services to you.”

Number five:

“The SABC will in relation to the remainder of your contract period pay you the remuneration as provided for in your fixed term contract of employment payable as a once off lump sum. This includes payment *in lieu* of accrued annual leave, if any. All payments will be subject to the tax laws of the Republic of South Africa.”

Number six:

10 “The SABC will deduct and/or set off the amount due to you, the value of any outstanding loans and/or debts that are repayable and/or due to the SABC.”

Seven:

20 “You will be required to handover all SABC property and assets back to the SABC on or before 22 April 2016 at 15:00 to the Human Resources Manager Group Services. This includes your access card, laptop computer and 3G card as well as your forwarding address and medical card or cards.”

Number eight:

“Due to the SABC having opted to discharge its full payment obligations to you upfront you will with effect from 1 May 2016 be responsible for your own pension fund and medical aid arrangements.”

Number nine:

“Please note that the provisions relating to confidentiality in terms of your fixed term contract of employment are and remain applicable. We request that you comply therefore which includes keeping this letter and the terms contained herein confidential.”

Number 10:

10 “We would like to take this opportunity to wish you everything of the best in your future endeavours.”

ADV THANDI NORMAN SC: So then this person was given from - the letter is written the 19th and the person was given about three days to leave the organisation?

MR JONATHAN THEKISO: Correct.

CHAIRPERSON: Ms Norman I am sorry. Is there a particular reason why you do not mention the name of the person?

ADV THANDI NORMAN SC: I beg your pardon. No, no reason Chair. Mr Feliti. I beg your pardon. It is Mr Dingaan Feliti. I did mention it initially yes.

20 **CHAIRPERSON:** I did not hear.

ADV THANDI NORMAN SC: So Mr Feliti then was given three days from the 19th to 22 April 2016?

MR JONATHAN THEKISO: Correct.

ADV THANDI NORMAN SC: And there are - there is no reason except to say that the SABC itself has decided not to continue with the

employment?

MR JONATHAN THEKISO: Correct.

ADV THANDI NORMAN SC: Would you regard this - what is contained in paragraph 4 would say this was a legitimate or illegitimate reason advanced to any employee for terminating employment?

MR JONATHAN THEKISO: I would say it is illegitimate.

ADV THANDI NORMAN SC: Yes and it was - one would say it was ...

CHAIRPERSON: Well Ms Norman. No reason is - is provided in paragraph 4 or anywhere in the letter. Is it not?

10 **ADV THANDI NORMAN SC:** No Chair. No reason except to say I am using my own prerogative. Yes. So that is basically ...

CHAIRPERSON: *Ja.*

ADV THANDI NORMAN SC: Yes. There is no reason.

CHAIRPERSON: A decision was taken by the SABC that it could do without Mr - I assume it is Mr Feliti ...

MR JONATHAN THEKISO: Feliti.

CHAIRPERSON: And that it would pay him in full for the remainder of his contract which was more than two years.

MR JONATHAN THEKISO: Correct Chair.

20 **CHAIRPERSON:** It does - the letter does not say whether the SABC no longer needs anybody to do the job that Mr Feliti was doing.

MR JONATHAN THEKISO: It does not Chair.

CHAIRPERSON: It does not say and - and one would have understood if the position was that there is no longer any work for him to - to do. You know. Lawyers might argue about whether or not in that event he

should be given the whole amount for the rest of the period but at least one could say that is the reason ...

MR JONATHAN THEKISO: Hm.

CHAIRPERSON: But this letter does not say anything like that. That is your understanding as well?

MR JONATHAN THEKISO: That - that is my - that is my understanding Chair.

CHAIRPERSON: *Ja*. At the time of this letter were you in this position at SABC and therefore would you have known about the circumstances surrounding this term - this letter? I - I ask that question because sometimes Human Resources would be consulted when people - people's contracts are being terminated.

MR JONATHAN THEKISO: No Chair. At the time of the termination of Mr Dingaan Feliti I was not within the SABC. This happened in 2016 and I joined the SABC in 2018.

CHAIRPERSON: Oh, okay. Alright, but being in the Human Resources Department have you had a chance to look at the personnel file relating to Mr Feliti if it is still being kept and see whether there is anything that gives a good - would give us an understanding as to why the SABC took this decision.

MR JONATHAN THEKISO: No, no Chair. The - the only time I came into contact with this documentation was when we were preparing the documents ...

CHAIRPERSON: For the Commission?

MR JONATHAN THEKISO: That is correct Chair.

CHAIRPERSON: Okay. So your knowledge is confined to what is in the letter ...

MR JONATHAN THEKISO: That is correct.

CHAIRPERSON: In terms of the circumstances?

MR JONATHAN THEKISO: That is quite correct Chair.

CHAIRPERSON: Okay, alright.

ADV THANDI NORMAN SC: Thank you Chair and then - then after you dealt with each and every employee that left during that period and where they were set - oh sorry. Maybe - let us finish Mr Feliti and you
10 will see that at page 49 Chair if I may - not 49. If I may just direct you to see page 42. That - that payment is payment that relates to Mr Feliti. Am I right?

MR JONATHAN THEKISO: That is - that is correct Chair.

CHAIRPERSON: Does it relate to Mr Feliti?

ADV THANDI NORMAN SC: Yes. The first - if - if Chair has a look at page 41 ...

CHAIRPERSON: Hm.

ADV THANDI NORMAN SC: Chair will see that - that is the SARS income tax schedule ...

20 **CHAIRPERSON:** *Ja.*

ADV THANDI NORMAN SC: And then the next page - although the name is not written but it continues as the second page but - but we can - we can easily verify that by looking at the - the table that you prepared in your supplementary statement. Then we can just verify the amount. So if you could just quickly - just for the purposes of

answering that question if you could just quickly just turn to your supplementary statement - which is in the next file next to - if you could just turn to page 336 of that.

CHAIRPERSON: Did you say 3-6-6?

ADV THANDI NORMAN SC: Yes. Yes that is correct Chair. 3-3-6
Chair. Double three - 3-3-6.

CHAIRPERSON: Double three six?

ADV THANDI NORMAN SC: Double three six Chair, yes. You will find that payment ...

10 **MR JONATHAN THEKISO:** Yes.

ADV THANDI NORMAN SC: In the one, two, three, four, five, six, seven - in the eighth column Chair at 3-3-6. The name of Mr Feliti appears there and ...

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: General Manager Human Resources appears. The date 22 April and the amount paid to him appears there.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Do you want to read that amount Ms ...?

20 **ADV THANDI NORMAN SC:** Yes. Could you read that? How - how much was that?

MR JONATHAN THEKISO: Okay.

ADV THANDI NORMAN SC: Yes.

MR JONATHAN THEKISO: The amount that was paid to Mr Feliti is R4 697 000 - sorry - 4 697 059,96.

ADV THANDI NORMAN SC: Thank you and then maybe we take another case ...

CHAIRPERSON: So that - that would have been somebody who earned more than a million Rand a year because we know that it is supposed to represent over two years?

ADV THANDI NORMAN SC: Yes Chair.

MR JONATHAN THEKISO: That is - that is correct Chair.

CHAIRPERSON: Yes, okay.

ADV THANDI NORMAN SC: Yes. Thank you and then maybe you could
10 take another example which you could just go to page 247 Chair of Bundle/EXHIBIT CC - sorry - 17.1.

CHAIRPERSON: What page?

ADV THANDI NORMAN SC: At page 2-4-7.

CHAIRPERSON: In - in respect of people such as Mr Feliti it will be important in due course to have evidence that relates to whether somebody else was subsequently employed to ...

ADV THANDI NORMAN SC: Replace him.

CHAIRPERSON: Do the same work that he would have been doing for the remainder of that period.

20 **ADV THANDI NORMAN SC:** Yes Chair.

CHAIRPERSON: And - and obviously also what they were paid ...

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Compared to what Mr Feliti was paid.

ADV THANDI NORMAN SC: Was paid, yes.

CHAIRPERSON: So that - that becomes quite important ...

ADV THANDI NORMAN SC: Yes Chair.

CHAIRPERSON: Because if somebody else was appointed to do that job then it means that for the remainder of the period when Mr Feliti supposed to have been there effectively the institution was paying two people for the same job.

ADV THANDI NORMAN SC: Yes, yes.

CHAIRPERSON: A job that should be done by one person.

ADV THANDI NORMAN SC: One person. Yes, thank you Chair. Thank you.

10 **CHAIRPERSON:** Okay.

ADV THANDI NORMAN SC: Thank you Chair. Then the next person who also parted ways with the - with the SABC that appears at page 247 but what you have in - in relation to this person - his name is Christian Olivier - is a mutual separation agreement but for the purposes of your evidence what you wish to highlight to the Chairperson is the amount and the period for which he was paid. Am I correct?

MR JONATHAN THEKISO: Yes, yes Chair.

ADV THANDI NORMAN SC: Yes and that would appear at page 249.

20 **CHAIRPERSON:** Well do you not want to tell us first tell who we are talking about?

ADV THANDI NORMAN SC: Yes. I did Chair. I said Mr Olivier.

CHAIRPERSON: Oh. Why do I always not hear you when you mention names?

ADV THANDI NORMAN SC: Or maybe I speak to fast. It is

Mr Christian Olivier Chair.

CHAIRPERSON: Is it Mr C Oliver?

ADV THANDI NORMAN SC: That ...

CHAIRPERSON: Olivier?

ADV THANDI NORMAN SC: Olivier, yes.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Yes. There is a separation agreement that appears from pages 250 ...

CHAIRPERSON: Yes.

10 **ADV THANDI NORMAN SC:** And that agreement was not signed by Mr Olivier as you can see but it was signed by the SABC. At - if you look at - maybe at page 254 the copy that you furnished to the Commission is not signed by Mr Olivier.

CHAIRPERSON: Okay sorry I am at 248, should I be moving to ...[intervenes].

ADV THANDI NORMAN SC: Chair could you please move to page 250, we'll go back to 248 I just want to identify the agreement first. Okay at 250 this is called a mutual separation agreement, are you with me?

20 **MR JONATHAN THEKISO:** Yes, yes.

ADV THANDI NORMAN SC: You must please – please don't nod just say yes.

MR JONATHAN THEKISO: Okay.

ADV THANDI NORMAN SC: Thank you and if you look at page 254 of that, you will see that there is no signature appearing on behalf of

Mr Christian Olivier.

MR JONATHAN THEKISO: Yes.

ADV THANDI NORMAN SC: Okay and did you extract this information from your human resources files?

MR JONATHAN THEKISO: That's correct.

ADV THANDI NORMAN SC: Were you able to find any other one that he had signed?

MR JONATHAN THEKISO: No not...[intervenes].

ADV THANDI NORMAN SC: Only what you had furnished to the
10 Commission?

MR JONATHAN THEKISO: Yes.

ADV THANDI NORMAN SC: And then if you turn over the page at page 255 you will see that there is a signature there on behalf of the SABC and that's dated 25 October 2016.

MR JONATHAN THEKISO: That's correct.

ADV THANDI NORMAN SC: Yes but there is also another document which I would like you to just identify where Mr Olivier has signed and said something, that's Chair appears at page 247.

CHAIRPERSON: And the note I at page 248?

20 **ADV THANDI NORMAN SC:** Yes Chair, and then at 247, Chair maybe just – so as to state the reason because the Chair had questions about the reasons, if you go to page 247 could you just read out what the reasons are that are advanced for separating from this employment agreement?

MR JONATHAN THEKISO: Okay the letter is dated the 25th October

2016 addressed to Mr C Olivier who was a General Manager Finance and Operations for the SABC and the subject is, SABC/Mr Olivier, separation,

10 “The above matter and the meetings held on 24th and 25th October 2016 have reference. During the abovementioned meetings management made it very clear that there was a breakdown in the relationship between the SABC and yourself and that the SABC contemplated severing the relationship going forward. You were also informed that management would prepare a separation agreement and would you provide you with a breakdown of the amount being offered. Attached are the following documents, 1) separation agreement and 2) document reflecting on the breakdown of the separation amount offered. Please be informed that your last day in service of the SABC will be the 31st of October 2016. You will also not be required to render any further services within immediate effect. Furthermore, it should be noted that the SABC will effect payment of the said separation amount into your banking account within 7 days from having received the relevant tax directive. The SABC herewith wants to thank you for your contributions made during your tenure with the SABC and we wish you everything of the best for the future”,

20

And this was signed by Mosholi Phaga who was the Group Executive Human Resources acting at the time and then it goes on,

“Christian Olivier hereby acknowledge receipt of the letter

and have noted the content thereof and he signed it and there's also notes that say I do not agree with this and reserve my rights",

And the letter is dated the 25th or is signed on the 25th October 2016.

CHAIRPERSON: Miss Norman?

ADV THANDI NORMAN SC: Yes Chair.

CHAIRPERSON: It won't every letter that he would need to read in full he could just give the gist such as this one to say, according to the
10 SABC the reason was a breakdown of trust of the relationship and this the amount they gave or something like that depending on what really is important.

ADV THANDI NORMAN SC: No, thank you Chair we'll do that, thank you. And then at page 249 you drew our attention to the period for which Mr Olivier was paid and there's various columns could you just talk to those columns that are there and the period for which he was paid?

MR JONATHAN THEKISO: Okay column one shows the current annual TGRP and TGRP stands for total guaranteed remuneration
20 package. The grand total there is R2 172 127.34 so that was the annual amount. The current monthly TGRP is R181 010.61 and the next column shows...[intervenes].

CHAIRPERSON: I'm sorry you said TGRP stands for total...[intervenes].

MR JONATHAN THEKISO: Total guaranteed remuneration package.

CHAIRPERSON: Oh okay and does that amount to your annual salary?

MR JONATHAN THEKISO: That amounts to...[intervenes]

CHAIRPERSON: Normally it does Chair it's the total cost of employment, sometimes I call it total cost of employment.

CHAIRPERSON: Ja okay.

MR JONATHAN THEKISO: The next column shows 24 months and the total amount there is R4 344 254.68. The next column is 36 months shows 36 months in other words the remuneration for 36 months would
10 have been R6 516 382.02 and for 48 month the total amount is R651 638 2000.02 sorry let me take that again, R6 516 382.02, the second last column shows 60 months which is R10 860 636.70 and the last column shows the remainder of contract which is 62 months the total there is R11475 852.39.

ADV THANDI NORMAN SC: So would that mean that remaining period, that's a period of about five5 years, am I right?

MR JONATHAN THEKISO: The remaining period is a period of five years. Let me explain, where this comes from.

ADV THANDI NORMAN SC: Yes.

20 **MR JONATHAN THEKISO:** The employee at the time of the settlement was 54 years and 10 months old, so they were left with two months before they could reach 55 years and at the SABC you qualify for early retirement from 55 years and so this total amount is based on 62 months which is a contract period of five years, so he was effectively paid for five years plus two months which is 62 months.

CHAIRPERSON: How long was his contract – he was on a fixed-term contract?

MR JONATHAN THEKISO: He was on a permanent employee at the time of the settlement.

CHAIRPERSON: Not a fixed-term contract?

MR JONATHAN THEKISO: Not a fixed-term contract Chair.

CHAIRPERSON: Okay and you say he was two months away from qualifying for retirement, early retirement?

MR JONATHAN THEKISO: He was two months away from qualifying
10 for early retirement so he would have been 54 years of age plus ten months, so he was left with two months before reaching age 55.

CHAIRPERSON: Yes.

MR JONATHAN THEKISO: So then, in terms of retirement, ultimate retirement he would have been – he would have reached retirement age at age 60 because the...[intervenes].

CHAIRPERSON: The compulsory retirement age is 60.

MR JONATHAN THEKISO: That's correct Chair.

CHAIRPERSON: Yes.

MR JONATHAN THEKISO: So executives for the SABC can – must
20 retire at age 60 the rest of the employees retire at age 63. So instead of the organisation waiting for Mr Olivier to serve out the five year term leading up to his ultimate retirement at age 60, the organisation decided to let him go at age 54 and ten months and then paid him the balance of the contract which was 62 months. Sorry the balance of the contract which had been 62 months.

CHAIRPERSON: Well I think that is what confused me earlier on, it's not the balance of the contract because you are not a fixed-term contact employee, he was just on an indefinite employment contract.

MR JONATHAN THEKISO: That is correct Chair.

CHAIRPERSON: But once he reached age 60 he would have been obliged to retire.

MR JONATHAN THEKISO: That is correct Chair.

CHAIRPERSON: So basically what they decided is, we will pay whatever you would have earned between now and age 60 so that you
10 can go.

MR JONATHAN THEKISO: That's correct Chair.

CHAIRPERSON: Yes okay.

MR JONATHAN THEKISO: Thank you Chair, I'm advised that it's time for the short adjournment.

CHAIRPERSON: Yes maybe before we do that, is the position that you don't know the circumstances surrounding the break-down of the relationship?

MR JONATHAN THEKISO: It is the position Chair.

CHAIRPERSON: It is the position?

20 **MR JONATHAN THEKISO:** Yes.

CHAIRPERSON: Because Miss Norman this will be important, it could be a waste of tax payer's money but that might have nothing to do with our terms of reference but it could be that it is linked so it will be important to see whether we are able to tie it to our terms of reference.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: And there is an interest in future because I think ordinarily if there's a breakdown of an employment relationship you are not obliged, I think, to pay for the whole period that the employer would have paid you, you are simply obliged to pay – to give them notice. Maybe you might or you might not, depending on a number of things to pay what may be called severance pay but it might be that you're not even supposed to pay severance pay because it's not a retrenchment, you know so therefore one might look at it from the point of view of
10 what is it that the SABC was obliged to pay and what did it pay and how much is that difference and what reasons are really given, what was the motive for paying so much money when there was just a breakdown in the relationship.

ADV THANDI NORMAN SC: Yes Chair thank you.

CHAIRPERSON: Okay alright we'll take the tea adjournment and we will resume at twenty five to twelve. We adjourn.

ADV THANDI NORMAN SC: Thank you Chair.

REGISTRAR: All rise.

INQUIRY ADJOURNS

20 **INQUIRY RESUMES**

CHAIRPERSON: We may proceed.

ADV THANDI NORMAN SC: Yes thank you Mr Chairman. Thank you. The other example that you would like to bring to the attention of the Chair Mr Thekiso is that – that the one that relates to Mr Masinga am I correct? It is the next one we would like to deal with and that you will

find...

MR JONATHAN THEKISO: Yes.

ADV THANDI NORMAN SC: Mr Chairman you will find that at page 122.

CHAIRPERSON: 122?

ADV THANDI NORMAN SC: 122 Mr Chairman Yes. At least I did hear you mention the name this time.

ADV THANDI NORMAN SC: Yes thank you Chair.

CHAIRPERSON: Mr S M Masinga.

10 **ADV THANDI NORMAN SC:** Masinga. That is correct Chair.

CHAIRPERSON: Yes okay.

ADV THANDI NORMAN SC: Yes. The reason given for the termination roughly is that Mr Masinga had engaged in other business interests and therefore a conflict – sorry are you lost? Have you found it?

MR JONATHAN THEKISO: No I am fine, I am fine.

ADV THANDI NORMAN SC: Oh you seem to be looking for something sorry. Are you at page 122 Mr Thekiso?

MR JONATHAN THEKISO: I am.

ADV THANDI NORMAN SC: Yes thank you.

20 **MR JONATHAN THEKISO:** Thank you Chair.

ADV THANDI NORMAN SC: What I am saying is to summarise the reason – could you just summarise the reason without reading it into the record. The reason for the termination of the fixed term executive service agreement?

MR JONATHAN THEKISO: Thank you Chair. The reasons for

termination of the contract of employment by SABC on Mr Masinga was that he was allegedly guilty of a number of misconducts. But before the matter could be ventilated in a proper disciplinary enquiry the organisation decided to terminate the fixed term contract and entered into a settlement agreement with him.

ADV THANDI NORMAN SC: Yes. And if you look at page 133. I beg your pardon, no, no, no I am sorry I turned to the wrong page. I wanted to look at page 130.

MR JONATHAN THEKISO: 130.

10 **ADV THANDI NORMAN SC:** This is where the agreement is signed by both parties.

CHAIRPERSON: What was his position please? Mr Masinga.

ADV THANDI NORMAN SC: Mr Masinga he was I will give you now Chair. It is – it will be in the list. I will give you now. I beg your pardon Chair. He was the Group Executive Technology.

CHAIRPERSON: Oh okay. Did you say we must go to page 133?

ADV THANDI NORMAN SC: Yes Chair. I wanted to just for the witness to identify – no not to identify the signatures but to see that this was signed on the 21st April 2016. Are you there Mr Thekiso?

20 **CHAIRPERSON:** But are you on another bundle because on this one 133 is the second page of a letter addressed to Mr Matlala not Mr Masinga.

MR JONATHAN THEKISO: Ja.

ADV THANDI NORMAN SC: No Chair. Page 130.

CHAIRPERSON: 130?

ADV THANDI NORMAN SC: 130 yes Chair.

CHAIRPERSON: Okay. I thought two times you said – you agreed when I said 133.

ADV THANDI NORMAN SC: I beg your pardon Chair no I am sure I did not pay attention to the pages.

CHAIRPERSON: Okay 130.

ADV THANDI NORMAN SC: Yes or page 130.

CHAIRPERSON: Yes okay.

ADV THANDI NORMAN SC: Yes. So that is 21 April 2016. Are you
10 there?

MR JONATHAN THEKISO: I am there Chair.

ADV THANDI NORMAN SC: Yes thank you. And then according to the schedule that you have prepared which should appear at page – in the next bundle CC – Exhibit 27.2. It shows that this was – this relationship terminated on 21 April 2016 and that an amount of money was paid to him just over R4 million paid to him.

CHAIRPERSON: What page is the amount reflected?

ADV THANDI NORMAN SC: The amount is reflected Chair – if Chair goes to the bundle X CC17.2 at page 337. And if Chair could count just
20 8...

CHAIRPERSON: Oh I can see Masinga S M.

ADV THANDI NORMAN SC: 8 lines – that is correct yes.

CHAIRPERSON: Ja he was paid R4 539 745.99 – R4.5 effective R4.5 million.

ADV THANDI NORMAN SC: R4.5 million yes thank you.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Yes thank you. The one amount that you did not mention which was a huge – that huge amount or is that one of...

Yes thank you. The one amount that you did not mention which was a huge – that huge amount or is that one of...

CHAIRPERSON: Was he on a fixed term contract?

MR JONATHAN THEKISO: Yes he was Chair.

CHAIRPERSON: And how much time was left, do we know?

10 **MR JONATHAN THEKISO**: Let me check.

CHAIRPERSON: You see all of those things.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Are relevant to give...

ADV THANDI NORMAN SC: Context.

CHAIRPERSON: The idea is to say there was something illegitimate about this.

ADV THANDI NORMAN SC: Yes. Are you looking for information?

MR JONATHAN THEKISO: Yes.

20 **ADV THANDI NORMAN SC**: Alright okay. You just indicate what – what you looking for?

MR JONATHAN THEKISO: Sorry I am looking – I am trying to find the – an indication as to the contract term.

ADV THANDI NORMAN SC: Yes it will be – just a minute.

CHAIRPERSON: Ja...

ADV THANDI NORMAN SC: Although...

CHAIRPERSON: Well the – how much time was left in his fixed term contract if his contract of employment was a fixed term. Oh I think the heading at page 122 indicates.

ADV THANDI NORMAN SC: It appears – may I take Chair to page 128?

CHAIRPERSON: Aha.

ADV THANDI NORMAN SC: 128 shows that his term of – it says Masinga's fixed term contract with the SABC which became effective from 15 May 2015 and was to continue until 31 May 2018.

10 **MR JONATHAN THEKISO:** Yes.

ADV THANDI NORMAN SC: Is hereby terminated with immediate effect.

CHAIRPERSON: Okay I can see that is 3.6.

ADV THANDI NORMAN SC: That is 3.5 Chair.

MR JONATHAN THEKISO: That is correct.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: And this was – the termination was the letter of terminated was dated 24 June 2015?

ADV THANDI NORMAN SC: The letter of termination...

20 **CHAIRPERSON:** Ja at page 122.

ADV THANDI NORMAN SC: Yes that is correct 122 yes Chair. Yes.

CHAIRPERSON: So – so he worked one month?

ADV THANDI NORMAN SC: No Chair it is years. It is from – this is...

CHAIRPERSON: Ja it says 3.6 at 128.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Says: Masinga's fixed term contract with the SABC which became effective from 15 May 2015.

ADV THANDI NORMAN SC: Yes Sir.

CHAIRPERSON: And was to continue until 31 May 2018.

ADV THANDI NORMAN SC: Yes

MR JONATHAN THEKISO: May 2018.

CHAIRPERSON: [Indistinct] terminated with effect from the effective date of this agreement.

ADV THANDI NORMAN SC: Yes.

10 **CHAIRPERSON**: That means he worked ...

ADV THANDI NORMAN SC: Worked for one month.

CHAIRPERSON: For one month one week or something like that.

ADV THANDI NORMAN SC: That is correct yes.

CHAIRPERSON: And then his contract was terminated.

ADV THANDI NORMAN SC: And then he was paid for the full term it appears looking at the amount.

CHAIRPERSON: Ja that may be so but do we have something that does say whether he was paid that amount represented the balance of his contract?

20 **ADV THANDI NORMAN SC**: We do have the schedule Chair which has been prepared.

MR JONATHAN THEKISO: Yes.

ADV THANDI NORMAN SC: In relation to the documents that Human Resources have.

MR JONATHAN THEKISO: Correct.

ADV THANDI NORMAN SC: If I – that amount Chair which you read earlier the R4.5 million.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: That is correct.

MR JONATHAN THEKISO: That is correct.

ADV THANDI NORMAN SC: But then Chair if you look at the settlement agreement itself.

CHAIRPERSON: Hm.

ADV THANDI NORMAN SC: It gives a different amount. It may very
10 well be that there is a reason but it almost doubles that amount.

MR JONATHAN THEKISO: Ja.

CHAIRPERSON: Oh.

ADV THANDI NORMAN SC: If Chair – if I may direct you Chair to page
127?

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Yes thank you. Mr Thekiso would you read paragraph 2.2.7 of the settlement amount? How much – what did they say was going to be the payment there?

MR JONATHAN THEKISO: Okay thanks Chair.

20 “2.2.7 Settlement amount means the net total sum of
R2 678 409.80 which is R2 678 419.80 free of any
deductions, statutory or otherwise payable by the
SABC to Masinga in full and final settlement of all
the legal proceedings and attendant disputes.”

CHAIRPERSON: That suggests that that amount of R2.6 million may

not necessarily be just the remuneration he would have paid for the balance of the term.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: It may be that it is meant to settle whatever disputes there were between the parties.

ADV THANDI NORMAN SC: Between the members yes.

CHAIRPERSON: Because of what it says there. But that is different from the R4.5 million or so that appears in the other bundle and I do not know whether even if you deduct tax.

10 **MR JONATHAN THEKISO**: No.

CHAIRPERSON: It would come to that amount. It seems ...

ADV THANDI NORMAN SC: In fact it is almost double.

CHAIRPERSON: Ja.

ADV THANDI NORMAN SC: It is almost double that amount.

CHAIRPERSON: Ja.

ADV THANDI NORMAN SC: Yes Chair. But Chair the witness is going to come back with the matters that the Chair had raised. The witness is going to come back and do a proper table of the matters that you have raised.

20 **CHAIRPERSON**: Yes.

ADV THANDI NORMAN SC: About the incumbency and all that. Then that way we do not have to waste time going through each and every contract.

CHAIRPERSON: Ja.

MR JONATHAN THEKISO: Ja.

ADV THANDI NORMAN SC: Yes I think it will – it will facilitate that situation.

CHAIRPERSON: Yes but part – well with all the terminations that we are talking about it will be important as I said earlier to show that there is an illegitimate reason. The one that we started with on the face of it.

MR JONATHAN THEKISO: Hm.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: It does appear illegitimate but we might need to get – might be necessary to get more information.

10 **MR JONATHAN THEKISO:** Yes.

CHAIRPERSON: As to why was the contract terminated in circumstances where the person was still available to continue.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: And was there no need for the duties that he would have performed to be performed by anybody or did somebody be – was somebody brought in.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: And what is more important about that one is that there is not even an allegation of any problems in the relationship.

20 **ADV THANDI NORMAN SC:** Yes.

CHAIRPERSON: Between that one and the – the employer. The other – the other two that we have dealt with the one there is an allegation of a break-down in the relationship. And if indeed that was factually correct that might give problems to showing that the money was paid illegitimately but the fact that the person had only worked for one

month and a few days makes that termination quite questionable.

MR JONATHAN THEKISO: Yes.

CHAIRPERSON: You know whether somebody working a month is enough for you to conclude that there is a break-down in the relationship so one needs to see whether there is another reason – there is a different reason.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: The other one I think was – oh this one I think the two – the last two related to trust issues.

10 **MR JONATHAN THEKISO**: Yes.

CHAIRPERSON: Break-down of the relationship both of them I think.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: So they might – they might be more difficult than the first one to establish an illegitimate reason but it always depends whether there are facts which support...

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: What is being alleged but again whatever we are doing we have got to leave room for a situation where a termination is wrong.

20 **ADV THANDI NORMAN SC**: Yes.

CHAIRPERSON: And maybe has no basis – has no proper basis but somebody wrongly thought there was a proper basis and it is not necessarily an illegitimate reason.

ADV THANDI NORMAN SC: True. Yes true Chair.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Thank you Chair. And then with the exercise of – that you have done in respect of each and every one of these terminations which we – you have extracted as those that you believe they talk to this whole project of state capture. But as Chair said then the analysis you going to have to do.

MR JONATHAN THEKISO: Yes.

ADV THANDI NORMAN SC: Another table and you have to come back with that analysis. But just for conclusion these amounts of all these pay-outs during that period of 20 – largely between 2016 most of them, 10 2014, 2016 that grand total of what was paid you reflected in Exhibit 17.2 at page 338.

MR JONATHAN THEKISO: Correct Chair.

ADV THANDI NORMAN SC: And that amount comes to how much?

MR JONATHAN THEKISO: The amount is R102 403 331.97.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Is that the amount – total amount paid to various employees whose contracts were terminated in certain circumstances during a certain period

MR JONATHAN THEKISO: That is correct Chair.

20 **ADV THANDI NORMAN SC:** Yes.

CHAIRPERSON: Okay. Including the ones we have talked about?

ADV THANDI NORMAN SC: Yes.

MR JONATHAN THEKISO: That is correct Chair.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: And in each instance you have got the

name of the employee, you have got the title of the employee and then you have the amounts paid to them. But maybe just – what is important to – you have also titled them. You have got the group – there is largely most group executives.

MR JONATHAN THEKISO: Yes.

ADV THANDI NORMAN SC: You have got group executive technology. You have group executive Chief Executive Office. You have group executive news. You have got group employee relations consultant.

MR JONATHAN THEKISO: Correct.

10 **ADV THANDI NORMAN SC:** So most of – you know you have got all of those people who were holding those senior group executive radio.

MR JONATHAN THEKISO: Correct.

ADV THANDI NORMAN SC: Yes. So then when you come back then you are going to deal – continue with these so as not to waste time do the exercise that the Chair has asked you to do in respect of each and every one.

MR JONATHAN THEKISO: Okay.

ADV THANDI NORMAN SC: And the replacement of the people that you say in most instances were irregularly appointed in the place of
20 these people in some of these people.

MR JONATHAN THEKISO: Correct.

ADV THANDI NORMAN SC: Thank you Chair. With your leave then Chair may this witness be released for now for him to come back and conclude?

CHAIRPERSON: Yes thank you very much.

MR JONATHAN THEKISO: Thank you Chair.

CHAIRPERSON: You are excused for now.

MR JONATHAN THEKISO: Thank you.

CHAIRPERSON: Thank you.

ADV THANDI NORMAN SC: Chair I wish to call now Ms Lulama Mokhobo.

CHAIRPERSON: Yes that is fine.

ADV THANDI NORMAN SC: Thank you. Her statement Mr Chairman is one of the files that the Registrar had placed before you marked CC20
10 and Exhibit CC24 and her statement is marked CC – I beg your pardon.

CHAIRPERSON: The two that we have used in regard to this witness.

ADV THANDI NORMAN SC: We are not going to need.

CHAIRPERSON: Are we still going to need them today?

ADV THANDI NORMAN SC: We will need just the one Chair.

CHAIRPERSON: Yes. 17.

ADV THANDI NORMAN SC: Sorry Chair may I just – we will need only Chair Exhibit CC17.1.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Yes the other one we are not going to
20 need now.

CHAIRPERSON: Is her statement – what page is her statement?

ADV THANDI NORMAN SC: Her statement Chair appears...

CHAIRPERSON: Under 21?

ADV THANDI NORMAN SC: Under – yes it appears under the file divider 21.

CHAIRPERSON: Divider 21. Ja.

ADV THANDI NORMAN SC: Yes thank you.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: May the witness Chair be sworn in?

CHAIRPERSON: Yes please administer the oath or affirmation?

REGISTRAR: Please place your full names for the record?

MS LULAMA MOKHOBO: Lulama Mokhobo

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

MS LULAMA MOKHOBO: No.

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

MS LULAMA MOKHOBO: Yes.

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

MS LULAMA MOKHOBO: So help me God.

CHAIRPERSON: Thank you.

ADV THANDI NORMAN SC: Thank you Chair. Ms Mokhobo could you please just state for the record your qualifications please/

20 **MS LULAMA MOKHOBO**: I have Masters Degree in Instructional Technology from Utah State University. Prior to that I had a BA and Concurrent Diploma in Education from the then university of Botswana and Swaziland now known as University of Swaziland and I matriculated in Orlando High in 1974. My apologies it is so long ago.

CHAIRPERSON: Well you did not have to say it.

MS LULAMA MOKHOB: Yes thank you.

ADV THANDI NORMAN SC: And before oh sorry then on the 16th February 2012 you joined the SABC, is that correct?

MS LULAMA MOKHOB: Yes.

ADV THANDI NORMAN SC: In what capacity were you employed?

MS LULAMA MOKHOB: I joined as the Group CEO of the SABC>

ADV THANDI NORMAN SC: Yes when you joined the SABC where – before you joined it where did you work?

MS LULAMA MOKHOB: Prior to that I had worked as the Group
10 Executive for Public Broadcasting Services and that was from 2005 to 2010.

ADV THANDI NORMAN SC: Still at the SABC?

MS LULAMA MOKHOB: Still at the SABC.

ADV THANDI NORMAN SC: Yes. Could you then tell the Chair what your responsibilities were as a Group Executive office of the SABC?

MS LULAMA MOKHOB: My responsibilities were to lead the
executive team and therefore the entire organisation in delivering on
the strategic imperatives of the SABC in the implementation of all
policies that had been approved by the board and in some instances
20 coming up with new policies and developing new strategies in order to
meet the requirements for the SABC for DTT and other activities. And I
was also a member of the board – an executive member of the board
and by virtue of sitting as an executive member of the board one could
also say I was involved in the development of policies, strategic
direction and to some degree oversight of the organisation.

ADV THANDI NORMAN SC: Yes. Ms Mokhobo you deal with this in paragraph 7 of your state – I beg your pardon you have not identified your statement. I beg your pardon. Sorry. Could you please look at the file that is in front of you that is under folder number 21 – that divider number 21? Is that your statement?

MS LULAMA MOKHOBO: Yes it is.

ADV THANDI NORMAN SC: If you turn to the last page where – that would be at page 9. Is that your signature?

MS LULAMA MOKHOBO: Yes it is.

10 **ADV THANDI NORMAN SC:** Yes. Did you make this statement freely and voluntarily?

MS LULAMA MOKHOBO: Yes I did.

ADV THANDI NORMAN SC: Yes thank you. Thank you just to move then to what you have stated. The reasons for the commission's investigators to approach you, you articulate those reasons at paragraph 7 of your statement?

MS LULAMA MOKHOBO: Yes.

ADV THANDI NORMAN SC: Because they had a particular – a specific request that – could you just tell the Chair why – what you were asked
20 to deal with? Yes.

MS LULAMA MOKHOBO: When I arrived at the SABC the TNA breakfasts ...

ADV THANDI NORMAN SC: Sorry could you just – what you say in paragraph 7 just tell the Chair what is it that you were called to deal with by the – by the investigators.

MS LULAMA MOKHOB: Oh.

ADV THANDI NORMAN SC: Yes.

MS LULAMA MOKHOB: Okay. I was requested to deal with the matters around TNA Media which was the television broadcast arm of TNA and the New Age newspaper which was one of the products of TNA.

ADV THANDI NORMAN SC: Is it – it is correct that you were involved in the signing of the contract between the SABC and the – TNA Media?

MS LULAMA MOKHOB: Yes I was.

10 **ADV THANDI NORMAN SC**: Sorry what was your answer?

MS LULAMA MOKHOB: Yes I was.

ADV THANDI NORMAN SC: Yes you were. Oh before you deal with the contracts could you just tell the Chairperson how did it come about that SABC wanted to do business with TNA Media?

MS LULAMA MOKHOB: I am not very clear of the circumstances under which TNA started broadcasting jointly – well – it started working with the SABC because that happened long before I started at the SABC. However a matter of concern when I arrived there was that they were operating without a contract and the dangers of doing that or
20 quite obvious that there could suddenly be requirements of the SABC that it could not meet and for the protection of the integrity of the organisation and the protection of the product that the organisation was broadcasting it was important for a contract to be entered into.

ADV THANDI NORMAN SC: Yes. So then – so when – they were already – when you say they were already doing business with the

SABC that means that they were already delivering newspaper with SABC?

MS LULAMA MOKHOB: They were already delivering newspaper the live broadcasts were already happening.

ADV THANDI NORMAN SC: And this was happening without any formal contract?

MS LULAMA MOKHOB: Yes.

ADV THANDI NORMAN SC: Yes. And then you deal...

CHAIRPERSON: I am sorry. Do you remember for how long before you
10 came they had been doing this or is that something that you cannot
remember?

MS LULAMA MOKHOB: Chair unfortunately I do not have the detail.

CHAIRPERSON: Yes. Okay.

MS LULAMA MOKHOB: However I am aware that they had been running for – for quite a while.

CHAIRPERSON: For quite some time.

MS LULAMA MOKHOB: This could be tested with the SABC itself.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Yes. Thank you. Then you – you – then
20 you discover that look there was no contract and what are the steps
that you took in order to regularise that situation?

MS LULAMA MOKHOB: At that point it turned out that the then acting head of news Mr Mike Seluma and his executive management team were also aware of this problem – I will call it a problem and they had written a request to the legal department to draft that contract. So

essentially this process was driven by the news department itself.

ADV THANDI NORMAN SC: Yes. And then thereafter then you had this contract which you deal with in paragraph 11 of your statement?

MS LULAMA MOKHOBO: Yes.

ADV THANDI NORMAN SC: Chair that contract would be found at page – starting from page 10.

CHAIRPERSON: Yes I have got it.

ADV THANDI NORMAN SC: Thank you Chair. May I direct your attention Chair to page 30 I am sorry there is two.

10 **CHAIRPERSON:** Yes.

ADV THANDI NORMAN SC: Thank you.

CHAIRPERSON: That is the signature page?

ADV THANDI NORMAN SC: Yes. That is the signature page. Ms Mokhobo is that your signature at page 30?

MS LULAMA MOKHOBO: Yes.

ADV THANDI NORMAN SC: And your names are reflected there?

MS LULAMA MOKHOBO: Yes.

ADV THANDI NORMAN SC: Yes. I would like you ...

20 **CHAIRPERSON:** I am sorry which – her signature is the one on behalf of SABC is that the one?

MS LULAMA MOKHOBO: Yes it is.

CHAIRPERSON: Oh there is your name. Okay thank you.

ADV THANDI NORMAN SC: Yes Chair yes and this was signed on the 13th March 2012?

MS LULAMA MOKHOBO: Yes it was.

ADV THANDI NORMAN SC: Yes thank you. Could you just give the Chair briefly what did you understand as the – the material terms of the agreement – what is it that was expected of the SABC and what was expected of the TNA in terms of the agreement?

MS LULAMA MOKHOB0: In terms of the agreement the TNA was to provide and it did to provide the venues, invite the guests and provide all the requirements that the SABC would need in able to broadcast the show. And all of these the TNA would do out of its own volition without any assistance from the SABC or any legal obligation to the SABC in
10 terms of accessing the different people who appeared on the – for the show. And also the SABC had no responsibility whatsoever with the accessing, the creations sorry of the events themselves.

The SABC's role on the other hand was to broadcast the events. And the reason the SABC – for the SABC it was important to do that was the events were mainly aimed at government and with the SABC's core value being that of public broadcasting and therefore adequately informing and educating the public about what was going on in the country in particular in relation to the principles of the country and how they ran the country.

20 The SABC and myself in particular obviously saw this as an opportunity to do what was right for the public. And therefore initially they presented themselves as something that was for public good and therefore it made sense for the SABC to do it. But secondly there was going to be no exchange of money. The SABC was not going to pay the TNA anything whatsoever for the events and for the expenses that the

TNA incurred if it did incur any expenses regarding the setup. And also the TNA would be under no obligation to pay the SABC any money for the presence of the SABC.

Now that may sound a little bit strange Chair however the reason is quite simple and straightforward. In terms of the Broadcasting Charter and in particular the policies on news the SABC could not and was completely debarred from accepting any sponsorship for the news itself and the reason was quite simply that if it was receiving any monies then it would be difficult for it to remain objective.

10 So if Party X provided the cash and the SABC received the cash and the SABC needed to cover a story on Party X. Then Party X could very easily say but I am paying you. So - so it was to block all possibilities of corrupt activities happening within the SABC News.

CHAIRPERSON: Hm. I would like us to go back. When you arrived there was an arrangement that was already in existence for these breakfast shows. There was no formal contract or agreement between the SABC and TNA or anybody about these. A report must have been given to you even if it is verbal to say this is how this thing came about. I would like to hear that.

20 What were you told was the main motivation that was given to SABC when they were approached to be involved in this thing and what - what was in it for those who approached the SABC. What was in it for the SABC and it maybe that what was in it for the SABC was what you have said namely the news but I would like you to take me from there?

MS LULAMA MOKHOBQ: Chair what I was told was that the - the

approach that the News Department had decided to adopt in “partnership” with TNA was to expose to the public what Government was doing for the public - for the country and to that extent the events seemed to be completely apolitical in the sense that just about all major political parties would go and - and say what they needed to say to the public through this channel and I am thinking of the major parties here.

The DA for instance was - would be present on certain occasions and so would - a number of political parties would be
10 involved. So as I initially said Chair when I was informed of the critical value that that programming was providing and the board itself - Members of the Board were participating very actively in the breakfast and that they would be invited and at the opening of each breakfast whoever was representing the SABC would go to the podium and say a word or two about the event and - and why it was being held.

So there - there was very intense participation from the SABC right at the top level of oversight at the SABC and the political head of the SABC and other politicians. So the - the reasons were sufficiently compelling for me to not say no this is wrong. You cannot do it. They -
20 they were compelling enough to accept that indeed the - the programming played a - a critical role.

CHAIRPERSON: Was your understanding that the idea of these breakfast shows had originated from the News Department or had originated from TNA or from outside SABC?

MS LULAMA MOKHOB: My understanding was that there was a

mutual origination. It is a very strange way to put (intervenes).

CHAIRPERSON: That would be very strange.

MS LULAMA MOKHOB: But what I would suspect is ...

CHAIRPERSON: Yes.

MS LULAMA MOKHOB: With TNA having been the service provider so to speak I am quite sure that they may have engaged the SABC in saying can you come on board and let us do this together.

CHAIRPERSON: Yes. Well maybe somebody else will enlighten ...

MS LULAMA MOKHOB: Yes.

10 **CHAIRPERSON**: Because it is likely that the idea came from one side and the - approached the other side to say this is what we are thinking and then the other side was persuaded and then they - they dealt - dealt with it. So as you understood it. The purpose was to do what with these breakfast shows?

MS LULAMA MOKHOB: The purpose was as - as they kind of sloganised it. It was to - to bring Government to the people. That is how it was sloganised and to the extent that the number of broadcasts increased and the trips to areas outside of Gauteng increased. The argument was those trips and the set ups in the remote areas were
20 important because those people also needed to know what Government was doing.

For instance there is a time towards the elections when I know that from the political parties' perspective it was important for them as part of their rallying of the people it was important for them to go out and talk to the people and to that extent there were quite a

number of regional broadcasts that were done which should be in for instance - I know there was one in - in Mmabatho in particular where the local politicians were - were present and they did the discussion and the question and answer sessions. So that is really it.

CHAIRPERSON: So - so the idea was to so to speak bring Government to the people ...

MS LULAMA MOKHOBO: Yes.

CHAIRPERSON: And Government would then tell the people what they are doing - what Government is doing I assume ...

10 **MS LULAMA MOKHOBO:** Yes.

CHAIRPERSON: And I guess that to the extent that it would be possible for Government to also hear what people have to say about services - service delivery in the various areas. That is one. So that - that - is - is that correct?

MS LULAMA MOKHOBO: That is correct and in fact sir - Chair there were question and answer sessions.

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: Where there would be an in - personnel from the News Department.

20 **CHAIRPERSON:** A moderator?

MS LULAMA MOKHOBO: A news anchor ...

CHAIRPERSON: Hm.

MS LULAMA MOKHOBO: Who would be present in the breakfast ...

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: And facilitate a discussion between whoever

the main speakers were and the - the audience that was present and they would also run SMS services.

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: So the broader public out there that could not be in the room.

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: Could also ask their questions and the questions would be run ...

CHAIRPERSON: Yes.

10 **MS LULAMA MOKHOBO:** Through.

CHAIRPERSON: Okay and maybe you - you were still going to deal with this. You have said the SABC was not going to be paid for anything and it was not going to pay for anything as you understood it ...

MS LULAMA MOKHOBO: Yes.

CHAIRPERSON: But TNA would make money out of it or not? As you understood it.

MS LULAMA MOKHOBO: You know Chair what I understood was that TNA would find a way to organise the events. As far as I was aware the
20 relationship between TNA and - and the SABC on those aspects was completely ...

CHAIRPERSON: There was a distance?

MS LULAMA MOKHOBO: Arm's length.

CHAIRPERSON: Hm.

MS LULAMA MOKHOBO: It was - it was very distant.

CHAIRPERSON: *Ja.*

MS LULAMA MOKHOB: The SABC had no right to find out how and when they were getting the money and how much it was and therefore in respecting that relationship in that manner I was never aware of the monies that TNA was receiving in the running of the - of the broadcast.

CHAIRPERSON: So - so the - the answer would be - would the answer be that you did not know whether they were going to make money or not make money. You regarded it as SABC. You regarded that as really none of your business. Is that right?

10 **MS LULAMA MOKHOB:** Yes. Yes Chair.

CHAIRPERSON: Okay. Thank you.

ADV THANDI NORMAN SC: Thank you. Thank you Mr Chairman. In paragraph 11 where you have attached the agreement you also indicate who was negotiating on behalf of the SABC this contract?

MS LULAMA MOKHOB: Yes.

ADV THANDI NORMAN SC: Yes and who was that person?

MS LULAMA MOKHOB: Mr Thaba Matebe (?).

ADV THANDI NORMAN SC: And in which department was he?

20 **MS LULAMA MOKHOB:** He was the Acting Head of the Legal Department.

ADV THANDI NORMAN SC: Yes and if I were to take you back again Ms Mokhobo to page 30 where your signature appears and maybe turnover to page 31. I see there is -the full name of Mr Matebe - did he sign on that page?

MS LULAMA MOKHOB: Yes. That is his signature.

ADV THANDI NORMAN SC: Yes thank you and also signed on that page and again at page 30 you signed and Mr Nazeem Howa signed?

MS LULAMA MOKHOBO: Yes.

ADV THANDI NORMAN SC: Yes. Did you - before you entered into this agreement did you as a person personally at your personal level know Mr Nazeem Howa?

MS LULAMA MOKHOBO: No not - not really. It sounds like a bit of a strange question. We - we only got introduced when ...

ADV THANDI NORMAN SC: Hm.

10 **MS LULAMA MOKHOBO:** This matter was being attended to.

ADV THANDI NORMAN SC: Yes and at this stage had you met any of the Gupta family members. Do you - have you ever met them at any - at any point?

MS LULAMA MOKHOBO: I had met - I think it was Atul Gupta ...

ADV THANDI NORMAN SC: Yes.

MS LULAMA MOKHOBO: Many, many years ago and that was long before I joined the SABC the first time early 2000s. Possibly 2003. I cannot remember but this was when the first meeting of BRICS ...

ADV THANDI NORMAN SC: Yes.

20 **MS LULAMA MOKHOBO:** Was coordinated in India and I got invited. At the time President Thabo Mbeki was at the helm of this country and I was invited as a member of his delegation to attend the - the ...

ADV THANDI NORMAN SC: BRICS?

MS LULAMA MOKHOBO: The inaugural - it was called - the inaugural meeting and that is how I - I met him and I must say that at that time

there was no real I would say acknowledgement of each other. It was just people from South Africa saying hello to each other ...

ADV THANDI NORMAN SC: Yes.

MS LULAMA MOKHOB: And that was it.

ADV THANDI NORMAN SC: Yes, thank you and then after your appointment did you have occasion to meet him?

MS LULAMA MOKHOB: After I was appointed it - it was something quite - quite strange. I was - Hlaudi Motsoeneng who was Acting COO came to my office and said I - I have to take you somewhere very
10 quickly and he would not tell me where it was. It was all very hush, hush and we arrived at this massive house and I saw on the wall Sahara Computers and he said well we are here because these people want to congratulate you.

So I went in together with Hlaudi. I do recall that my phone and everybody else's phone was taken and the battery was removed and we led into a dining room where the people who were present proceeded to congratulate me (intervenes).

ADV THANDI NORMAN SC: And who were those people who congratulated you?

20 **MS LULAMA MOKHOB:** I seem to recall that there was - well I think it was Ajay Gupta if I am not mistaken. Atul Gupta I think he was there was well. Duduzane Zuma and Mr Ace Magashule's son. I cannot remember his name and then there was Hlaudi and myself. If there were other people I - I really cannot quite recall them because this was a while ago and we sat at the table.

There was a bit of food and they congratulated me and promptly told me that they would have liked to play a - a role in SABC's DDT future because they were interested in creating a news channel and that they would hope that I would allow them or enable them to get access to a channel and at that point I said to them look I - I do not believe that it would be easy to just give anybody a channel.

I am quite sure that there would have to be a proper tender process and a number of - it would be opened up and we expect that a number of people would apply also to be part of the DDT network of the
10 SABC when it did come about and really there was nothing further to discuss and they - they said congratulations and that was the end of it.

I was not there long - you know. We then promptly went back to the office.

ADV THANDI NORMAN SC: Yes. Now - then what was your - when - when they were saying - what was your understanding of that conversation that you had with them? That you would make it possible. What was your understanding? What is it that they - they wanted from you?

MS LULAMA MOKHOBO: I - I saw it as a - a lobbying of sorts for them
20 to be afforded an opportunity on SABC platforms at that time and like I said I did not go in prepared because I did not know what this was about ...

ADV THANDI NORMAN SC: Yes.

MS LULAMA MOKHOBO: And as I said it was just to congratulate me.

ADV THANDI NORMAN SC: Did you find that conversation in anyway

improper or were you - you found that - I mean I am not going to do what they - they want. I cannot do it until as you say the tender processes have been followed but how - how did you assess that conversation?

MS LULAMA MOKHOB: I - I found it a little bit strange that such a - a proposition could be put to me but then I - I excused them mentally instead of me as well you know this is another lobbying because there is always a lot of lobbying going around with people seeking business opportunities.

10 **ADV THANDI NORMAN SC**: Yes. Then just on the reading of your statement having been appointed on 16 February 2012 and this contract was signed ...

CHAIRPERSON: Before you move ...

ADV THANDI NORMAN SC: I beg your pardon. Sorry.

CHAIRPERSON: To another point Ms Norman.

ADV THANDI NORMAN SC: Sorry.

CHAIRPERSON: This - this sounds very strange to me. Here is a - the Group CEO of SABC. Somebody is saying to her please come I want to take you somewhere and does not want to tell her where. How come
20 you did not insist to Mr Motsoeneng I cannot just go anywhere just because you - you think I should go there? I am not going where I do not know.

MS LULAMA MOKHOB: He was very persuasive Chair and besides with me being new and him being the Acting C - COO at some point - Acting CEO and he - he was persuasive because I kept insisting where

are we going. He said no, you will see. You will see. Come let us just go and there was a car parked ready to take us there. It was not his car. I - I assumed it was a car belonging to - to the Guptas and ...

CHAIRPERSON: It was not his car that he normally used?

MS LULAMA MOKHOBO: No it was not Mr Motsoeneng's car.

CHAIRPERSON: Hm.

MS LULAMA MOKHOBO: It was I assumed a Gupta car with a chauffeur ...

CHAIRPERSON: Yes.

10 **MS LULAMA MOKHOBO:** And I then thought you know what maybe there is no real harm.

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: I had no reason at that point

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: To be suspicious of him.

CHAIRPERSON: And I guess well you might also being new you might have also wanted to build relationships with people that you were working with including the COO and you might not necessarily needed to show distrust or anything without a reason?

20 **MS LULAMA MOKHOBO:** Yes Chair. Particularly ...

CHAIRPERSON: That kind of thing.

MS LULAMA MOKHOBO: Particularly Chair because Hlaudi was such a - a trusted member of the SABC Executive ...

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: And as - as Acting COO he also sat on the

board and ...

CHAIRPERSON: Yes.

MS LULAMA MOKHOB: He was very well loved and ...

CHAIRPERSON: Hm.

MS LULAMA MOKHOB: There were accolades and accolades heaped on him all the time.

CHAIRPERSON: Yes.

MS LULAMA MOKHOB: So I really no real reason ...

CHAIRPERSON: Yes.

10 **MS LULAMA MOKHOB**: To - to be suspicious.

CHAIRPERSON: Yes.

MS LULAMA MOKHOB: And yes.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: But have - having - having gone there to - was it at the residence or was it at the company of Sahara Computers?

MS LULAMA MOKHOB: It was at the - at the residence.

CHAIRPERSON: At the residence?

MS LULAMA MOKHOB: Then it had a clock outside.

CHAIRPERSON: Yes at the residence?

20 **MS LULAMA MOKHOB**: Yes.

CHAIRPERSON: Okay. Having been taken there and now finding out that all this was just so that somebody must have a chance to say congratulations. Did you not find that quite strange? You know. Why must people that one I think you did not know really much and why if they want to congratulate you - why must you be taken to them and -

was that not - did you not find that strange?

MS LULAMA MOKHOB: It was a bit strange Chair.

CHAIRPERSON: Hm.

MS LULAMA MOKHOB: It was a bit strange because there was really no further substance to that.

CHAIRPERSON: Were you upset about it that Mr Motsoeneng take - took you for that really?

MS LULAMA MOKHOB: I was intrigued ...

CHAIRPERSON: Hm.

10 **MS LULAMA MOKHOB**: And maybe slightly annoyed because ...

CHAIRPERSON: Hm.

MS LULAMA MOKHOB: You know I was - here I was taken away from my desk ...

CHAIRPERSON: *Ja*.

MS LULAMA MOKHOB: And - and yes it was around lunch time. So you know ...

CHAIRPERSON: Hm.

MS LULAMA MOKHOB: But I was intrigued.

20 **CHAIRPERSON**: *Ja, ja* but you did not say - did you say anything to him afterwards about it or you just allowed it to just die down?

MS LULAMA MOKHOB: I cannot quite recall what I said to him Chair.

CHAIRPERSON: You cannot remember, yes.

MS LULAMA MOKHOB: *Ja*.

CHAIRPERSON: Okay, thank you.

ADV THANDI NORMAN SC: Thank you Chair and then how soon after

your appointment did this meeting - congratulatory meeting take place?

MS LULAMA MOKHOB: Gosh. I think it was within a week - within the first week.

ADV THANDI NORMAN SC: Of your - of your appointment?

MS LULAMA MOKHOB: Yes.

ADV THANDI NORMAN SC: Yes, thank you and between the time of - you had the congratulatory meeting and the signing of the agreement did you at any stage have any interaction with any of these people or some of the people that had congratulated you at all?

10 **MS LULAMA MOKHOB**: No. I have to think very carefully now because I think what - what happened was in the conversations and these were not formal conversations and not minuted the concern was raised that you know we are busy doing these breakfasts and there is no contract and this was some of the members - Board Members talking about it and I agreed with them that indeed you know you could not have a relationship of this nature which involved the SABC events and personnel going out of the SABC.

Yes they did that regularly in the regular connection of news. However - for other things - however having almost like a - an exclusive
20 relationship with a particular party that it was not proper and in fact Chair it - it was eventually going to be - there was eventually going to be an audit finding because once a relationship is regular then surely it has to be regulated.

Particularly if there are very specific deliverables from - from either party. If you look at in terms of the SABC own process of

acquiring content you have to enter into an agreement. However for the news yes it is different because they have to go and cover what is going on at the time that it is going on. So a contract may not be necessary but in this one because this was a very steady supplier - content supplier. It was important that there be a contract to regulate the relationship.

ADV THANDI NORMAN SC: Yes. So then how frequent was - were these breakfast shows?

MS LULAMA MOKHOB: Chair initially there was supposed to be just
10 two times a month. Now this was 2012. Then 2012 was just two years before the 2014 elections. There was going to be a - a State of the Nation Address in Cape Town, the opening of Parliament and - and various other events - important events were - were happening within the country.

There was there launch of the DDT. There were all kinds of - of events that were happening and for the News Department it was important content for them and - and that is why they actually initiated the contracting process. It was - it was important for them to have access to - to whatever content they could find which spoke directly to
20 the people and - and that is how we ended up in a place where the contract had to be entered into.

Now my signature on the contract was really from a protocol perspective if I can call it that because the - the - TNA had their Chief Executive representing them and I was the Chief Executive of the SABC working with the SABC News Team in this regard. Therefore that is

how my signature came on. I do believe however that it could easily have been handled by the Acting Chief Operating Officer together with the Group Executive of News.

ADV THANDI NORMAN SC: Yes because you have already said that this was more important for the News Department who was at that time heading the News Department?

MS LULAMA MOKHOBO: It was Mr Jimi Matthews. He was Acting Head of News.

ADV THANDI NORMAN SC: Yes.

10 **MS LULAMA MOKHOBO:** First there was Mr Mike Seluma ...

ADV THANDI NORMAN SC: Yes.

MS LULAMA MOKHOBO: Who was there for a very short time and then he - he was removed and replaced by Jimi Matthews.

ADV THANDI NORMAN SC: Yes. I had asked about the frequency and then you started by saying well they were supposed to be twice a month and then when - did those - did they increase over time and if they did to what extent?

MS LULAMA MOKHOBO: They did increase over time. It is - it is very difficult to calculate the extent without looking at the records coming
20 out of the SABC News Department itself and I think it may be worthwhile to get those records. I do not have them.

ADV THANDI NORMAN SC: Yes, yes.

MS LULAMA MOKHOBO: As - as - you can imagine having left the organisation. I have no access ...

ADV THANDI NORMAN SC: Yes.

MS LULAMA MOKHOBO: To a lot of documentation.

ADV THANDI NORMAN SC: Alright. Can I just take you ...?

CHAIRPERSON: But - sorry.

ADV THANDI NORMAN SC: Sorry.

CHAIRPERSON: But from your own recollection what is your sense of how much they increased. Would it have been three - three times a month, four times a month or you cannot even remember that?

MS LULAMA MOKHOBO: I - I ...

CHAIRPERSON: More or less.

10 **MS LULAMA MOKHOBO**: I do not believe Chair that there was an exact formula.

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: They were all driven by ...

CHAIRPERSON: Events?

MS LULAMA MOKHOBO: Events ...

CHAIRPERSON: Okay.

MS LULAMA MOKHOBO: And not necessarily by - by a formula.

CHAIRPERSON: Yes, okay.

20 **ADV THANDI NORMAN SC**: Yes. Maybe we need to deal with the aspect that you mentioned. That you would have your reporters going to the places where the breakfast shows were going to happen. This is a matter that was raised by two witnesses yesterday. By the Head of News, Ms Phathiswa Magopeni and by the Financial Chief - Financial Officer, Ms Yolande Van Biljon that the SABC never invoiced TNA for the costs that they incurred for airtime, for having their reporters

travelling there for - their equipment, for all of those expenses.

They were never invoiced for that. Do you have an explanation as to why that was so?

MS LULAMA MOKHOBO: At the very - from the very outset it had been agreed that the - the content coming out of those breakfasts was very newsworthy and SABC News would not accept money to cover a story of whatever nature and therefore the - the - if we call the event a base for a story. They could not charge for it and therefore it would not be proper for TNA to pay the SABC.

10 Chair you may recall that I mentioned earlier that in terms of the SABC News Policies and the Broadcasting Charter the SABC was allowed to go out and gather news anywhere and to whatever extent that it wanted to. However the SABC News Department could not accept cash/money for doing so because that would effectively cause their dependence to be - how can I put it?

CHAIRPERSON: To be compromised.

ADV THANDI NORMAN SC: Compromised.

MS LULAMA MOKHOBO: To be compromised yes.

20 **ADV THANDI NORMAN SC:** So would that even applied to the expenses that the SABC would have incurred in gathering or in attending the breakfast shows.

MS LULAMA MOKHOBO: Let's put it this way Chair, the SABC worked on budgets so there would be a budget request through news and through rigorous process that would end up with Board approval for the allocation of the budget. SABC news would receive its own budget,

from there, SABC News was free to do whatever it deemed fit and proper and pay for it with their budget. Therefore, the Group Executive head of news together with his management team had it completely within their power to expand the monies that they expanded and to temper the spending of the monies if they felt that it was too high and it is important to state also that any interference on my part, or maybe let me say intervention on my part in this regard would have been viewed as interference as in me preventing news from doing its job. Very, very fine line here, in the sense that as the Editor in Chief of the SABC
10 could not go down to them and say you can't do this, you can do this and they would have to come to me to say we have a problem here, can you help us resolve it. That's the only way that I would get involved with the news department and none of that came to me.

ADV THANDI NORMAN SC: Ma'am from the following paragraphs then you deal with the terms of the contract itself but I'd like to take you to some specific terms of the contract, maybe starting with the one revealing to the frequency of these – if I may just direct you to go to page 15 please.

MS LULAMA MOKHOB: Page 15?

20 **ADV THANDI NORMAN SC:** Yes.

CHAIRPERSON: What's the page number?

ADV THANDI NORMAN SC: Page 15 Chair. According to paragraph four of that, that agreement was going to remain in force for how long?

MS LULAMA MOKHOB: For a period of 36 months.

ADV THANDI NORMAN SC: Yes and then there are just some terms

that I would like you to just highlight there for instance to the one which you have just dealt with, at paragraph 5.6 could you just read that term?

MS LULAMA MOKHOB: “It is specifically recorded that the SABC shall broadcast two events per month and the SABC, shall at all times have final editorial control”.

ADV THANDI NORMAN SC: Yes so did you then, when you said that over time these breakfast shows increased, the number of shows increased, did you then sign another agreement or an addendum to this
10 agreement?

MS LULAMA MOKHOB: There was no addendum signed and once again it had to do with the news department believing that they needed the content and therefore being available to cover the content.

ADV THANDI NORMAN SC: Yes, and may I also take you to the paragraph that deals with costs, which is 17.1.21 if my recollection is correct, if I may just take you to that Chair, I beg your pardon may I just take time Chair to get to that paragraph sorry I’ve marked it, where it says that the SABC shall not be liable to pay sub-contractors, I’ll take you to that, it’s 7.1.21 not 17 it appears at paragraph – at page
20 18, it’s 7.1.21, could you read that term please?

MS LULAMA MOKHOB: 7 point?

ADV THANDI NORMAN SC: 7.1.21, if you go to page 18.

MS LULAMA MOKHOB: Oh okay, it’s a continuation from 7.1.20 and it begins with,

“end at the top there and timeously pay all amounts due to any

sub-contractor in respect of any services rendered by that sub-contractor in terms of this agreement, if relevant. SABC shall not be held liable for payment of any amounts due to such sub-contractors under any circumstances whatsoever and any such contractor shall have no claim for same against the SABC”.

ADV THANDI NORMAN SC: Yes and was there, other than the terms that you find, for example in paragraph seven which were the duties and obligations of the TNA Media, maybe you can just highlight because the one about venues, that’s the more prominent term that
10 most people refer to and that appears at page 16, the TNA Media shall convene the events twice on a monthly basis or as mutually agreed by the parties in writing, if you look at 7.1.1.

MS LULAMA MOKHOBO: Yes.

ADV THANDI NORMAN SC: Yes so until the time you left the SABC you were not privy to any other written terms, changing the original terms of this agreement?

MS LULAMA MOKHOBO: No and Chair I believe that perhaps this was a caveat for the news department to have the flexibility to increase the broadcast to more than the two times per month and I would
20 assume that their in writing possibly happened between them through email or phone calls, I’m not certain there.

ADV THANDI NORMAN SC: Yes and then if you could just highlight those terms that you believe important for our purposes because there’s one – you had – initially you had told Chair that once there is a regular relationship between a particular supplier or maybe [indistinct]

supplier and the SABC so there might be wrong with that relationship but I'm just, for instance in 7.1.10 on the same page it says,

“Ensure exclusivity to SABC as the official broadcast partner of the events”.

So it seems to me at this point then the relationship was regarded as that of a partnership.

MS LULAMA MOKHOBO: I think this word was used quite loosely in the sense that earlier on we do mention that the relationship should not be construed as a partnership of any sorts. This was just loosely put
10 as two parties working together, therefore a party which is TNA a party which is SABC would then, I suppose, in this instance they were trying to emphasise the working together.

ADV THANDI NORMAN SC: Well the paragraph that you want to refer to where you say there was – that this relationship was not to be construed as a partnership, is that paragraph 6.4 on the same page?

MS LULAMA MOKHOBO: Yes.

ADV THANDI NORMAN SC: Okay and then who was going to monitor then the implementation of this agreement?

MS LULAMA MOKHOBO: It was mainly the Chief Operating Officer
20 and this is acting with [indistinct]at the helm together with the Group Executive of News who would be Jimmy Matthews.

ADV THANDI NORMAN SC: Yes and you would have no role to play in making sure that they stuck to the terms of the contract?

MS LULAMA MOKHOBO: No I wouldn't have a role to play once again with the independence of the news department being enshrined

completely.

ADV THANDI NORMAN SC: Yes thank you and if you go – then on to your statement you highlight in your statement, largely, the terms as you've copied them from the contract themselves, am I correct?

MS LULAMA MOKHOBO: Yes.

ADV THANDI NORMAN SC: Yes and all those they go up to paragraph 18 and what is of interest largely is the obligations of the SABC, you deal with those in paragraph 19, that's at page five of your statement.

10 **MS LULAMA MOKHOBO:** Page five?

ADV THANDI NORMAN SC: Yes page five and then at 19.1 the SABC had identified a particular channel where these were going to be held?

MS LULAMA MOKHOBO: Yes Chair.

ADV THANDI NORMAN SC: And that was in?

MS LULAMA MOKHOBO: On SABC2 on the morning live slot.

ADV THANDI NORMAN SC: Yes so the SABC also, 19.2 was going to advertise these events?

MS LULAMA MOKHOBO: Yes it was.

20 **ADV THANDI NORMAN SC:** Yes was that permissible?

MS LULAMA MOKHOBO: Yes it was more promoting that such a story is going to be coming and that happens across all channels for any different event or matter that would be flighted then there would be a showing what was going to be coming up.

ADV THANDI NORMAN SC: Yes and in paragraph 21 you repeat

what you said in your evidence that your understanding was that there was not going to be any invoicing that was going to happen?

MS LULAMA MOKHOB: Yes.

ADV THANDI NORMAN SC: Okay and then you have some figures that you've put in there in paragraph 23, what are you saying in that paragraph?

MS LULAMA MOKHOB: In this paragraph I'm stating that through the investigators from the Commission who came to me to discuss this matter, I found out that, in fact, the outdoor broadcast had cost
10 R20 326 000 over a few years and once again I do not have the exact detail of how many years this was but it was over a few years and I would certainly request that the Commission requests a clear financial breakdown of these from the SABC.

ADV THANDI NORMAN SC: Yes and then in paragraph 24 you say that you can confirm that the events did not stay within the contract because then they suddenly escalated in certain cases almost doubled and then – when this came to your attention or when you realised that, look this is no longer what we had agreed on, what steps did you then take?

20 **MS LULAMA MOKHOB**: As I mentioned earlier I could not intervene on that except to ask why there were so many suddenly and I was informed that they were critical. More and more of the major players within Government were wanting to present their stories, not only Government, SOE's as well were wanting to be given the opportunity to use the platform to inform the public of their work.

ADV THANDI NORMAN SC: Yes and you say in paragraph 26 that you understand that another agreement, after you had left was concluded?

MS LULAMA MOKHOBO: Yes.

ADV THANDI NORMAN SC: Yes with TNA Media.

MS LULAMA MOKHOBO: Yes.

ADV THANDI NORMAN SC: That was on, according to you – what is the date that you highlight there in paragraph 26?

MS LULAMA MOKHOBO: Come again?

10 **ADV THANDI NORMAN SC:** In paragraph 26 when was that concluded?

MS LULAMA MOKHOBO: On or about the 20th of February 2015.

ADV THANDI NORMAN SC: Yes and then you deal with the renewal of the contract and then paragraph 30 you say the preceding paragraph that certain information was brought to your attention by the investigators of the Commission?

MS LULAMA MOKHOBO: Yes.

ADV THANDI NORMAN SC: And then could you just tell Chair what you're communicating in paragraph 30?

20 **MS LULAMA MOKHOBO:** I really – at no stage during my tenure was I informed or made aware of the fact that TNA Media was in fact charging rather handsome fees from the various State owned enterprises, I was never made aware.

ADV THANDI NORMAN SC: Yes, so that is them charging the other SOE's for the breakfast shows?

MS LULAMA MOKHOBO: Indeed Chair and this had to do with the fact that, as I initially stated, the relationship was completely arms length we only came together at the broadcasting and then separated. Anything else that they did beyond that had nothing to do with the SABC and that is the reason why somewhere in the statement I do mention that the SABC could not be held liable for anything that TNA was involved in.

ADV THANDI NORMAN SC: Okay thank you and then in – from paragraph 32 onwards then you deal with the distribution of the
10 newspapers, that is the New Age?

MS LULAMA MOKHOBO: Yes.

ADV THANDI NORMAN SC: Could you just testify to those paragraphs and at what point did you get involved and to what extent were you involved in the distribution of the New Age within the SABC?

MS LULAMA MOKHOBO: I was never involved with the distribution of the newspapers at all, I was not aware of any contractual arrangement between the newspaper wing of TNA and the SABC and so I was quite surprised to find – shocked actually to find that the SABC had been paying for the newspapers to the amount of R930 873 and I found it
20 very difficult to understand that because my understanding was that the newspapers were being distributed to the SABC just on the basis of the relationship between the SABC and the TNA Media wing. The TNA Media wing would carry stories about the TNA breakfast, so it made sense that certain newspapers would be distributed to the SABC so the SABC could see how they were being reported on and there was, as far

as I knew, there was no agreement for the exchange of money, so I was once again taken aback when I saw that the SABC was in fact buying the newspapers.

ADV THANDI NORMAN SC: Yes and the delivery of the newspapers would that have been something that you negotiated on prior to you signing the contract or advised that it as part of that agreement?

MS LULAMA MOKHOB: The newspapers had nothing to do with the broadcast contract at all, they were not included if there was any negotiation it had to have happened at Mr Motsweni's level and
10 probably Jimmy Matthews and I was never involved in that and I must state that within the delegation authority framework and amount of this nature would not at all require permission from me for the expenditure to be incurred.

ADV THANDI NORMAN SC: What was the threshold of matters that had to be referred to as the Group CEO?

MS LULAMA MOKHOB: They were – I have this thick document which is the delegation of authority document, I'm going to try and see very quickly where this could be done.

CHAIRPERSON: Did it depend on what the subject matter was or it
20 was simply the amount irrespective of...[intervenes].

MS LULAMA MOKHOB: The threshold that could be expanded for instance for an amount of this level it could be approved by a person as low as scale code 300 and a scale code 300 individual would be supervisory level, 125 is General Manager and then above that is Medium Management and scale code 300 would be supervisory level.

ADV THANDI NORMAN SC: Yes and matters that would come to you for your approval, could you just give us the...[intervenes].

MS LULAMA MOKHOBO: Matters that would come to my approval would be spending against approved business plans for content acquisition or commissioning and those would be for scale code 110A which would be myself and scale code 110 which would be Motsweni and Mr T L Olivier's level and those would be for amounts above R50million. So there was a very clear staggered amounts approval framework which was quite categoric in how much who could
10 sign for but I must also state Chair that in cases where there was going to be a purchase order it had to go through and I would assume that there was a purchase order for the purchasing of these newspapers.

ADV THANDI NORMAN SC: In fact if I may just – to confirm the evidence that was received yesterday from Yolande Van Buuren she mentioned a figure of R991 671.89 being the total 2018/2017/2016 – from 2011 up to 2018 that's basically the figure that she gave.

MS LULAMA MOKHOBO: 2011 up to?

ADV THANDI NORMAN SC: From 2011 up to 2018.

MS LULAMA MOKHOBO: Oh okay so it was for over seven years.

20 **ADV THANDI NORMAN SC:** Yes over seven years, yes thank you. Chair there's some other – I would like to take the witness to different matters, the parliamentary committee dealings and engagements and their findings and I'd like to take you to some of the matter that they had raised therein. I notice that it's time for the lunch adjournment, maybe adjourn at this point?

CHAIRPERSON: How much more time do you think – how much time do you think those other matters will take?

ADV THANDI NORMAN SC: They are just relevant for the purposes of making sure that at the end of the day we are able to verify certain information from her, they shouldn't take long.

CHAIRPERSON: About fifteen, thirty minutes or you are not sure?

ADV THANDI NORMAN SC: I'm not sure Chair because there's also the multi-choice and the DTT matters – yes, thank you.

CHAIRPERSON: No that's fine. Let me just ask one or two questions
10 about the newspapers. Were these newspapers that were delivered on a daily basis to SABC that you are talking about?

MS LULAMA MOKHOB0: Chair I'm not quite sure whether they were delivered daily or as and when there was a specific mention of the SABC, I really am not certain of that, however, if they were being paid for then they must have been delivered daily.

CHAIRPERSON: Yes.

MS LULAMA MOKHOB0: I would assume.

CHAIRPERSON: And is it the New Age or it was...[intervenes].

MS LULAMA MOKHOB0: The New Age.

20 **CHAIRPERSON:** New Age, yes so at a certain stage it did come to your attention that the New Age was being delivered to SABC?

MS LULAMA MOKHOB0: Yes and in fact it would be put on my desk so I was aware...[intervenes].

CHAIRPERSON: It was put on your desk but in terms of volumes did you get to know what volumes you were talking about that were being

delivered and whether it was just the headquarters of SABC or it was SABC throughout the country?

MS LULAMA MOKHOB: No Chair I was not aware of the volumes but they would be put at the turnstiles, the entrance where the staff would go in and they could pick up a copy.

CHAIRPERSON: So the way it worked was it that whoever delivered them would put them somewhere and staff members of SABC, as they came in if they wanted to take a copy they could take a copy, is that right?

10 **MS LULAMA MOKHOB**: Yes Chair.

CHAIRPERSON: Yes and you said that initially, maybe not initially but initially you thought or your understanding was that these newspapers were not being paid for by the SABC, is that right?

MS LULAMA MOKHOB: Yes Chair, if there was any payment that was being made during my time it was certainly concealed from me.

CHAIRPERSON: Yes, so initially you thought that they were just giving these newspapers because of the relationship that existed with regard to the breakfast shows?

MS LULAMA MOKHOB: Yes Chair.

20 **CHAIRPERSON**: Yes but of course that would be strange would it not, if they were just giving newspapers without expecting payment for them even if there – even if it was because of that relationship with regard to the breakfast shows.

MS LULAMA MOKHOB: Well Chair there is, in television language what is called a barter deal which is where you get something back in

kind for whatever little bit that maybe has been done. I assumed they were part of a barter deal, obviously not the quantum of the cost of the newspaper, obviously being miniscule compared to what was being paid by the SABC to be able to do – pay for this staff and the [indistinct] etcetera to be able to do the broadcasts.

CHAIRPERSON: So if it was just a few copies, even if it was daily you would have thought that it was part of that arrangement?

MS LULAMA MOKHOB: Yes Chair.

CHAIRPERSON: But once the volumes reached as certain level you
10 wouldn't think that, would you, once the volumes were – it was quite a lot that was being delivered and not being paid for?

MS LULAMA MOKHOB: Chair I must submit that, that is not one of the things that I worried about, that I concerned myself with because I did not think there was anything untoward for the delivery of the newspapers.

CHAIRPERSON: Yes, but as you saw them did you become aware that it was big volumes that were being delivered or that you never saw for yourself in terms of where they were being placed and staff saw them as they came in, you never saw what they volumes were or you
20 just saw the single paper that would be put on your desk each morning?

MS LULAMA MOKHOB: I saw stacks of papers at the entrance into the office blocks and then there would be a copy for me on my desk together with copies from the other newspaper groups that the SABC subscribed to.

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: And it never struck me to probe and find out whether we were paying or not paying because surely if we were paying and it was above board then that information should have been contained in the management accounts that would be issued on a monthly basis but there was never a line item that I saw in the news management accounts that said, TNA Media newspapers, there was never such a line item.

CHAIRPERSON: Well I would have thought that if the volumes were high and one saw that it looks like on a daily basis there's a big stack
10 of the New Age that gets delivered everyday like that, unless something similar was happening with other newspapers, you know, that would catch one's attention to say, this is unusual particularly if anybody can come and just take the newspapers, there's nobody saying pay or anything like that and that it ought to say to somebody, I hope we are not paying for this and maybe I would like to know if we are paying for this or something like that, is that something that you don't think one would expect to occur?

MS LULAMA MOKHOBO: Well what I understood from what I was told was that they were being delivered for free.

20 **CHAIRPERSON:** Yes, okay alright let's take the adjournment we'll resume at five past two, we adjourn.

REGISTRAR: All rise

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes we may proceed.

ADV THANDI NORMAN SC: Thank you. Thank you Mr Chairman. Mr Chairman I placed this afternoon two more volumes before you.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: The one would be the Parliamentary transcripts we do not have to go through them but

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: But for the sake of the witness just to state what – what she needs to respond to and also I have placed back before you Chair Exhibit 27.

10 **CHAIRPERSON:** Okay.

ADV THANDI NORMAN SC: Which deals with the Public Protector's Report of 2014 and lastly I have returned Exhibit 17.1 of Mr Thekiso because there is reference to this witness in that bundle. 17.1.

CHAIRPERSON: Okay alright.

ADV THANDI NORMAN SC: Thank you Mr Chairman.

20 **CHAIRPERSON:** I think the last part of our discussion Mr Mokhobo I wanted to just say that and I maybe I did say it I have forgotten that you have responded that seeing a big volumes or a stack of newspapers or a particular newspaper always being delivered to the – to the institution that should be making money with those newspapers in the circumstances where it would be free or you thought it would be free may have been something that also should have been of concern. To say we do have an agreement with these people that agreement provides for everything as far as our relationship is concerned why are they giving us free newspapers now? You understand that – that

perspective?

MS LULAMA MOKHOB: I quite understand Chair. What I stated earlier was that this could be construed as a form of a butter deal where there is no money exchange but the newspapers would come with content about the breakfast shows. Which should mean that the SABC would have the right to see what had been written up about the breakfast shows. And that Chair I believe very strongly should never have been something that the SABC would pay for. The SABC was already expending a lot of money to cover the broadcasts. Getting the
10 newspaper in return just so the SABC can see what has been covered, what was going on for those people – I mean a lot of the staff at the SABC would not be able to see the breakfasts themselves, the shows because they would be busy at that time. But having the newspaper would kind of give them an indication of what was discussed. And that was really from that perspective but I think perhaps the people who did decide to enter into this commercial contract would have to be interrogated as to why they did it. Because it would have been literally adding money – your last pennies to a very wealthy person and that does not make sense to me.

20 **CHAIRPERSON**: Hm. Thank you.

ADV THANDI NORMAN SC: Thank you Mr Chairman. Ms Mokhobo can I just take you to just a few document we do not have to go to them but just to put first of all I would like to put it to you the findings of the Public Protector. The – you are quite aware of those because the Parliamentary Committee dealt with that, am I right?

MS LULAMA MOKHOB: Yes.

ADV THANDI NORMAN SC: Yes and that related to the increment to the salary of Mr Motsoeneng the second increment?

MS LULAMA MOKHOB: Yes.

ADV THANDI NORMAN SC: And at page 268 the Public Protector made the finding Ms Lulama Mokhobo the outgoing GCEO for her improper that disciplinary steps must be taken for her improper conduct in the approval in the salary increment of Mr Motsoeneng.

CHAIRPERSON: What page number is that?

10 **ADV THANDI NORMAN SC**: That – page 268 Chair which will be in Exhibit CC27.

CHAIRPERSON: CC27?

ADV THANDI NORMAN SC: 27 that is correct Chair. That is the February 2014 Report of the Public Protector.

CHAIRPERSON: Oh well I was looking at this Parliamentary transcripts that is not the one.

ADV THANDI NORMAN SC: It is not, no Chair.

CHAIRPERSON: [not speaking into microphone]

ADV THANDI NORMAN SC: That is correct Chair yes. At page 268.

20 **CHAIRPERSON**: Yes.

ADV THANDI NORMAN SC: Thank you. You – then – those findings of the Public Protector did serve before the Ad-hoc Committee of Parliament?

MS LULAMA MOKHOB: Yes.

ADV THANDI NORMAN SC: And in the transcripts you were asked

extensively about the increment?

MS LULAMA MOKHOB: Yes.

ADV THANDI NORMAN SC: Could you just tell the Chair briefly because it will become relevant in another context later in the evidence before the SABC as to why you approved the second increment of Mr Hlaudi's salary.

MS LULAMA MOKHOB: Yes Chair. The – when I arrived at the SABC I think I have said it before there was an outpouring of adoration on Mr Motsoeneng. There was a belief that he was doing an amazing job and
10 that you know he was not being paid enough even as a Group Executive member not as acting COO. And there was a parity exercise that was being undertaken by the SABC through which people would be looked at from their skill code and then be given an increase if in terms of their skill code they were earning below par. And that was really all that the increase was about. So the Public Protector completely misunderstood that and she thought that he was given the increase as COO and he was not certainly not given the increase. As the Chair may know SABC's COO salaries are very high and that money that was added to his salary was nowhere near the salary of a COO. And what
20 was very sad for me was that in that misunderstanding there was no real room for me to challenge that final finding. I had responded to the draft finding and explained myself on that draft finding but somehow it was ignored. Secondly if indeed I was to be disciplined for having raised his salary just so that he could be on the same level as other Group Executives I am quite sure that the board if it decided to embark

on a disciplinary process against me I am quite sure they would have thrown it out because this is a man that they were very happy with. Ja and the other thing is that it was assumed that I had left the SABC because of the Public Protector Report it was certainly not because of that. My discussion to leave the SABC began in October and that was a few months before the Public Report was – the Public Protector Report was released. It was only released in February on the same month that in terms of my notice period my notice had come to an end. So it was just a sheer coincidence that she released it at that time.

10 And yes I would have stood for – I would have stood up to the disciplinary enquiry and had my name cleared there but it just did not make sense at that point when I was leaving.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Maybe let us get the – let me get the full context to this particular issue. Mr Motsoeneng was receiving a certain salary for the position he held at the time. Was he still acting COO at the time or was he already COO?

MS LULAMA MOKHOB: No he was still acting COO.

CHAIRPERSON: He was still acting COO.

20 **MS LULAMA MOKHOB:** He remained acting COO until I left.

CHAIRPERSON: Okay.

MS LULAMA MOKHOB: It was only after I was gone that he was...

CHAIRPERSON: Yes okay. I think just talk more to the issue than you have. I just want to understand because you know sometimes one read all kinds of things in the newspapers and I would rather hear exactly

the context here. How did the whole thing arise? From what you say it looks like it was not just him?

MS LULAMA MOKHOB: Yes.

CHAIRPERSON: It was looking at other people as well. So I just want to get the full context. How did the issue arise? Who did it apply to? What was done in regard to him? Was there anything done in regard to other people who may have been in the same category? And how much are we talking about? I just want the full context.

MS LULAMA MOKHOB: Oh yes Chair.

10 **CHAIRPERSON**: If you do remember.

MS LULAMA MOKHOB: Chair every year there would be a review process for salaries. And through that process people who were being underpaid would be identified. He was one of those people. HR would then issue a recommendation.

CHAIRPERSON: Who would issue a recommendation?

MS LULAMA MOKHOB: Human Resources.

CHAIRPERSON: Human Resources.

20 **ADV THANDI NORMAN SC**: Yes. Issue a recommendation – they would give a status of the salary level and give a sense of what other people within that band were receiving and then do a recommendation that says we think this person should be at this level. This person should be at another level. Now in Mr Motsoeneng's case his matter had to be approved by the board Chairperson and he duly approved it because he agreed...

CHAIRPERSON: That is the increase?

MS LULAMA MOKHOB: The increase – because he agreed that for the kind of work that Mr Motsoeneng was doing he certainly deserved that increase and he signed off on it and that is how it was paid. There were indeed other people at other levels within the organisation unfortunately I cannot remember them properly but perhaps that record can also be drawn from the SABC to see. It was certainly not just him.

CHAIRPERSON: So is this something that the Human Resources Department would do annually?

MS LULAMA MOKHOB: Yes Chair.

10 **CHAIRPERSON**: Or did it just come because of certain circumstances?

MS LULAMA MOKHOB: At the time it came annually.

CHAIRPERSON: It came annually?

MS LULAMA MOKHOB: Yes.

CHAIRPERSON: And they would look at maybe everybody or certain categories of people that attracted their attention in terms of maybe salary discrepancies or things like that?

MS LULAMA MOKHOB: It went largely according to category.

CHAIRPERSON: Ja.

20 **MS LULAMA MOKHOB**: The levels beneath management who belonged to the bargaining council their salaries were set in a very straightforward manner through the bargaining council process and their increases were also determined through the bargaining council process. But the levels from management and higher those would be subjected to scrutiny as to whether or not the individual was being paid appropriately. And yes in many instances there would influence that

would come from how much the person was contributing to the organisation. If they were very hardworking and – without doing a formal shall I say a very formal, very objective performance review organisation wide you had to rely on the manager saying this person is doing a good job and yes they are being underpaid let us look at their salary increase. Each one of them would bring a different motivation. There had to be a motivation. And on the basis of that motivation then HR would then recommend a salary increase.

CHAIRPERSON: This may be something that you are able to deal with
10 or you might not be able to deal with. Maybe it might be a Human Resources kind of issue but I – I would have thought that there could be an increase that is given that is attached to the position as such and not to the incumbent to say anybody occupying this position as of this year will be paid this. And that when you start looking – looking at how well a particular incumbent is performing his or her duties that – that might be something separate and that it is directed at the person rather than the position and in that case that is when I would think of something like a performance bonus. Because then that answers to the question whether a particular person or incumbent is performing well
20 separate from what a person occupying that position is supposed to be paid irrespective of what the performance is. SABC did not have that kind of distinction?

MS LULAMA MOKHOBQ: Chair is quite right. The – the salary increase was based on what people at that skill code were earning and he was far below them. So he had to be brought up to – to match those

people. There was no performance bonus payment approved during my period, during my time and I was very strict about that. Based on the fact that we were still in a very precarious financial position. Yes the SABC was in slight recovery but there were very clear terms of the government guarantee that the SABC had raised which National Treasury had approved. And those terms were very categorical in stating what the SABC could or could not do with the money. And I was – I was a stickler for sticking to those prescripts that were provided by National Treasury. It would also have been responsible to try and give
10 anybody a bonus when there was this massive recovery that the organisation had to come out of.

CHAIRPERSON: Well you see I raise that because you mentioned that everybody was saying that Mr Motsoeneng was doing so well – was performing so well he deserved an increase. So I am saying I can understand if that arises in a situation where you seek to reward good performance. But I do not expect that to be a factor where you are simply saying somebody who is doing this job should be paid at this rate leaving out the incumbent or whoever may be occupying the position. So that is the background to my question to say why would
20 his performance be relevant to whether he was given this increase if it was simply to put his level – the salary for his position to the level where it should be where anybody coming after him would be paid at that level irrespective of how he or she performed?

MS LULAMA MOKHOBQ: I really do take your point Chair. This came out from how the case was motivated and the almost overwhelming

push for him to get the salary increase and the push was confirmed by Doctor Ngubane so I am putting this as you know yes there was that legitimate reason which was to put him on par but on top of that there was the reasoning that he is also over and above the fact that he is underpaid he is also doing an excellent job.

CHAIRPERSON: But as far as you recall the increase that he got did it simply serve the purpose of putting the salary for a person in his position serving in that position where it was thought it should be irrespective of the identity or performance of the incumbent or was
10 there – was part of the increase to address that and then another part sought to address or reward good performance on his part?

MS LULAMA MOKHOB: Chair it was – the increase was made purely to bring him on par with people of that level.

CHAIRPERSON: Yes, yes. So based on our discussion looking at it now his performance should therefore have been irrelevant?

MS LULAMA MOKHOB: Yes that is true Chair.

CHAIRPERSON: If one looks at it now.

MS LULAMA MOKHOB: In a sense it is – it is true.

CHAIRPERSON: Yes.

20 **MS LULAMA MOKHOB**: Look there were – there were some doubts from other quarters.

CHAIRPERSON: Yes.

MS LULAMA MOKHOB: Based on what later came out from the incumbent.

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: The things that he did which were quite improper and which then raised at that point some rumbles.

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: About whether or not he should have even been given a salary increase. That was obviously based on people's perceptions.

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: Because they had experienced him in that particular way.

10 **CHAIRPERSON:** Yes.

MS LULAMA MOKHOBO: But the fact is he was deserving of an increase.

CHAIRPERSON: Hm.

MS LULAMA MOKHOBO: The – what may be...

CHAIRPERSON: Or rather – or rather he might not have been deserving of an increase himself.

MS LULAMA MOKHOBO: The position.

CHAIRPERSON: But his position.

MS LULAMA MOKHOBO: Yes.

20 **CHAIRPERSON:** The position was...

MS LULAMA MOKHOBO: The position.

CHAIRPERSON: May have been deserving of an increase.

MS LULAMA MOKHOBO: Indeed Chair.

CHAIRPERSON: Yes, yes.

MS LULAMA MOKHOBO: Thank you for that. Indeed his position was

deserving of the increase.

CHAIRPERSON: Okay. Thank you.

ADV THANDI NORMAN SC: Yes. Thank you Mr Chairman. And lastly before Parliament another issue that was canvassed – the one thing that we have not spoken about is the date when you left the SABC. When did you actually resign from the SABC?

MS LULAMA MOKHOB: Shoo I – I – I put in my letter of resignation I think it was in October and in fact at the board strategy session which was held on that particular day I do not have the exact date.

10 **CHAIRPERSON**: Which month?

MS LULAMA MOKHOB: Which was held on that particular day. The board Chairperson of that time Ms Ellen Tshabalala announced to the board my intention to leave. And that was in October.

CHAIRPERSON: Which year was that?

MS LULAMA MOKHOB: That was 2013.

CHAIRPERSON: 2013 oh.

ADV THANDI NORMAN SC: Thank you Chair. Maybe to assist the witness the date that is contained in the settlement agreement for your last day at the SABC is 28 February 2014. Is that the correct date?

20 **MS LULAMA MOKHOB**: Well that was because after – yes the 28 February that was – that was my day.

ADV THANDI NORMAN SC: Your last day. Yes.

MS LULAMA MOKHOB: It was my last day at SABC.

ADV THANDI NORMAN SC: Thank you. Thank you. In Parliament a lot was discussed around the package that you received. You recall

that? Chair on – Chair does not have to go to it but the relevant page is in the Exhibit that has got Parliament transcript which will now be Exhibit because we have not – introducing it for the first time that will be Exhibit 29.

CHAIRPERSON: I am sorry we – Ms Mokhobo I am sorry we left out in our last discussion something that I had mentioned I would like to know. And you may or may not remember it namely what – how much was the increase that was given to him now – maybe you might be able to say it was 10% of whatever he was earning or is that something you cannot remember?

10

MS LULAMA MOKHOBO: Chair it was much more than 10%.

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: That I am certain of.

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: It was not 10%.

CHAIRPERSON: But you cannot remember.

MS LULAMA MOKHOBO: No I cannot remember the exact amount.

CHAIRPERSON: I am sure arrangements can be made to find some documents to

20

MS LULAMA MOKHOBO: Yes.

CHAIRPERSON: If there are – I am sure there would be some documents in the – at SABC.

MS LULAMA MOKHOBO: There should be Chair there should be.

CHAIRPERSON: Okay.

MS LULAMA MOKHOBO: I think the HR Group Executive may be able

to provide the figures.

CHAIRPERSON: The documentation.

MS LULAMA MOKHOB: When he comes.

CHAIRPERSON: Okay no that is fine.

ADV THANDI NORMAN SC: Thank you Chair. Chair the pages that are relevant for this purpose are in the Parliamentary Report which I ask that it be marked CC29 that would be from page 1 until page 28. This is where these matters are discussed in Parliament relating to Motsoeneng relating to the package or settlement agreement relating to
10 Mr Mokhobo and also matters relating briefly to the Multichoice contract which is going to be one of the matters that this stream is going to be dealing with. But just because at that point Parliament did not have these documents before it and also for the record for you to confirm I would like to refer you to Exhibit CC17 – 17.1. This is the bundle that Mr Thekiso had compiled and I would like you to turn to page 155.

MS LULAMA MOKHOB: I am not sure where to find it Chair.

ADV THANDI NORMAN SC: Oh sorry it is in – could you please assist/A

CHAIRPERSON: I think somebody must help her.

20 **ADV THANDI NORMAN SC**: Sorry could you just help her. 17.1.

CHAIRPERSON: She has not dealt with 17.1

ADV THANDI NORMAN SC: Yes sorry. Yes thank you at page 155.

MS LULAMA MOKHOB: Page?

ADV THANDI NORMAN SC: Page 155. It starts – the separation agreement starts from page 154.

MS LULAMA MOKHOBO: Shoo the numbering here is not...

ADV THANDI NORMAN SC: On top.

CHAIRPERSON: The red numbers on the top right hand corner.

MS LULAMA MOKHOBO: On the top – oh okay and it is page 1?

ADV THANDI NORMAN SC: 154.

MS LULAMA MOKHOBO: 154. Yes I see where it begins.

ADV THANDI NORMAN SC: Yes thank you. Is that the separation agreement between you and the SABC?

MS LULAMA MOKHOBO: Yes.

10 **ADV THANDI NORMAN SC:** Yes thank you. And then the amounts that you received they appear at page 155.

MS LULAMA MOKHOBO: Yes.

ADV THANDI NORMAN SC: Yes there was a lot of debate around how much you received. What was Parliaments information about what you had received?

MS LULAMA MOKHOBO: Parliament was totally misinformed and I am not sure what the reason was apart from probably trying to damage my reputation. Parliament was given a figure of between R8 and R11 million and it was widely reported in the media reports and I was
20 ridiculed when in fact it was totally untrue. That is not the amount that I had received.

ADV THANDI NORMAN SC: Yes. Could you then for the record and also to set that record straight just read out to the Chairperson the amounts as reflected on that page?

MS LULAMA MOKHOBO: Chair I received R4 221 179.22 which was

equivalent to twelve months of my gross cost to company at the – which was equivalent to the total remuneration that I was already earning at that time. Then I received a further R1 400 736.00 which was for the restraint of trade agreement which effectively barred me from being employed by an entity within the same industry. And there was a further accrual of annual leave which was R395 652.51 it seems like a lot but I hardly ever took leave.

ADV THANDI NORMAN SC: Yes. Thank you. And then lastly.

CHAIRPERSON: I am sorry that would have been roughly how much
10 when you add the – all the three figures?

ADV THANDI NORMAN SC: Yes. That was before tax am I correct?

MS LULAMA MOKHOB: Yes it was before tax.

CHAIRPERSON: Ja.

ADV THANDI NORMAN SC: Those amounts – just.

MS LULAMA MOKHOB: It was about R5.6

CHAIRPERSON: I thought you would just remember without calculating.

MS LULAMA MOKHOB: Chair it was a long time ago and there is a lot of stuff that I have buried.

20 **CHAIRPERSON:** Okay well.

MS LULAMA MOKHOB: It was around R5.

CHAIRPERSON: About 6 – about 6?

MS LULAMA MOKHOB: About almost R6 million yes.

CHAIRPERSON: About R6 million.

MS LULAMA MOKHOB: Yes Chair.

CHAIRPERSON: Yes okay.

ADV THANDI NORMAN SC: Thank you Mr Chairman.

CHAIRPERSON: Thank you.

ADV THANDI NORMAN SC: And then lastly there is something that Parliament dealt with in its enquiry which is something that is going to come later but there is a witness already who is going to – who has given a statement to the commission that is going to be called. A Mr Roy Kruger.

MS LULAMA MOKHOB: Yes.

10 **CHAIRPERSON**: I am sorry Ms Norman we may – I just want to make sure we do not leave this without ...

ADV THANDI NORMAN SC: Oh yes Chair.

CHAIRPERSON: With anything hanging.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: The amount that was equivalent to twelve months salary or remuneration why were you given that amount?

MS LULAMA MOKHOB: The - the agreement was that I would be paid for just one year.

CHAIRPERSON: Sorry.

20 **MS LULAMA MOKHOB**: The agreement was that I would be paid for just one year. It - it was an amount that I suppose would be equivalent to what the CCMA would recommend to the entity or if - if an employee was leaving before completing their contract. Something like that Chair.

CHAIRPERSON: Well you know earlier on and I assume you may have

been sitting there. We had Mr Thekiso dealing with people who were paid certain monies/amounts and so on and as I understand the - the focus seems to look at - at least some employees may have been paid more than they should have been paid and the reasons or motives may have been illegitimate for doing that.

So you - you did not deal of course with the question of why you left and that maybe relevant to why you were paid that amount but if you had decided to leave on your own without there being any dispute or anything. I know of no reason why you or anybody on a fixed term
10 contract would have to be paid for any - any amount if it was just their decision that they want to leave. So that is why I am - I am asking.

MS LULAMA MOKHOBO: Chair at that time there was a level of desperation in particular by the Chair of the Board for me to go because I had challenged a lot of her decisions very vigorously and she was - she was very angry with me.

CHAIRPERSON: Hm.

MS LULAMA MOKHOBO: There are board minutes ...

CHAIRPERSON: Hm.

MS LULAMA MOKHOBO: That show how locked horns over the - the
20 MultiChoice Contract ...

CHAIRPERSON: Hm.

MS LULAMA MOKHOBO: Because I just did not agree with it ...

CHAIRPERSON: Hm.

MS LULAMA MOKHOBO: At all.

CHAIRPERSON: Hm.

MS LULAMA MOKHOBO: There were some clauses and I have analysed some of the clauses. I have written them down.

CHAIRPERSON: Hm.

MS LULAMA MOKHOBO: Although I have not given them to the evidence leader ...

CHAIRPERSON: Yes, yes.

MS LULAMA MOKHOBO: Which were completely inappropriate ...

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: But they - the Chair of the Board then
10 decided that Mr Motsoeneng and Mr Olivier who were both acting in their capacities incidentally should go ahead and sign that contract and she was very abrasive with me.

CHAIRPERSON: Hm.

MS LULAMA MOKHOBO: I had to take a week off - slightly less than a week off to take care of my granddaughter who was gravely ill. So I took emergency leave ...

CHAIRPERSON: Hm.

MS LULAMA MOKHOBO: And in that week while I was gone they then decided to meet with MultiChoice and quickly conclude the contract ...

20 **CHAIRPERSON:** Hm.

MS LULAMA MOKHOBO: And then quickly agree that the contract must be signed ...

CHAIRPERSON: Hm, hm.

MS LULAMA MOKHOBO: But the - the process was fundamentally flawed.

CHAIRPERSON: Hm.

MS LULAMA MOKHOB: I did not agree with the process in the first place.

CHAIRPERSON: Hm.

MS LULAMA MOKHOB: Of how they arrived at - at Mr Motsoeneng and Mr Olivier signing the contract but secondly there were clauses that were just totally improper ...

CHAIRPERSON: Yes.

MS LULAMA MOKHOB: That were included there.

10 **CHAIRPERSON:** Yes.

MS LULAMA MOKHOB: That was the first instance ...

CHAIRPERSON: Hm.

MS LULAMA MOKHOB: Where we locked horns and it was really ugly. It was very, very ugly. The second instance was when the then Minister of Communications Mr Yunus Carrim was getting frustrated with there being no industry agreement on the - the set-top boxes that were going to be used for the digital transformation of the country and in terms of the digital migration policy of 2012 which was in force at that time it was important for those set-top boxes to have a - a control
20 mechanism which was set to do a whole lot of things that would benefit the public including the ability for the public to access messaging to connect to the internet and be able to do whatever they needed to do using the set-top boxes without even having to go and buy a - a computer and - and to me and to a whole lot of other people that was what expanding the knowledge, economy to the poor was about.

The poor needed to have access but it was impossible for them to - and - and the argument was that. Well there is cellular telephone and how people access content via cellular. It is extremely expensive. Now those set-top boxes particularly for the (indistinct) were going to be given for free and if they had a set-top box which was encrypted and which could enable connectivity to a telephone line so it would have return path.

Then you would have citizenry in the most far flung parts of this country. As long as they had even an old black and white box who
10 would be able to access Government documents. Their children would be able to access content for them to - to study. It is a - the - the benefits were just enormous but all of that was - was thrown out when the MultiChoice Contract was entered into.

CHAIRPERSON: With regard to the last issue are you saying that you and Minister Carrim were at opposite ends ...

MS LULAMA MOKHOBQ: No.

CHAIRPERSON: Right.

MS LULAMA MOKHOBQ: No Chair. Mr - Minister Carrim agreed completely with the digital migration policy as it was published in 2008.
20 He agreed with it and as I said so did a whole lot of us. I am - I am already originally trained as an educationist. So for me I saw a massive benefits for the children of this country and the adults and anybody who needed to be informed.

So he was in agreement with that but he was frustrated because after the - the SABC had signed the MultiChoice Contract the

SABC and the MultiChoice Contract effectively prescribed to the SABD that the SABC could not accede to the inclusion of encryption on the said topics and by doing that ...

CHAIRPERSON: Hm.

MS LULAMA MOKHOB: They basically threw out the entire plan that the SABC had and other industry players ...

CHAIRPERSON: Hm.

MS LULAMA MOKHOB: Who saw the benefit ...

CHAIRPERSON: Hm.

10 **MS LULAMA MOKHOB:** Of encryption.

CHAIRPERSON: Hm.

MS LULAMA MOKHOB: They threw it out.

CHAIRPERSON: Hm.

MS LULAMA MOKHOB: Now Minister Carrim was caught between two - two parties who were not agreeing with - with each other. The one party of which MultiChoice was part of was saying there should be no encryption. There should be a simple set-top box. After all people will eventually find these TV sets that would have these things built onto them and this has still not happened up to today.

20 You still need a decoder box from MultiChoice in order to see their signal. So I am not sure where they were coming from there. The other argument was that cellular telephone penetration was - was very high and people could access data and - and whatever. The third most ridiculous notion was that the SABC would willy-nilly switch off people using the encryption technology and that is absolutely not what it was

intended for.

The SABC would never do that at least not under my watch if I was still there when this was launched. Then you had on the other hand people who agreed with my perceptions with the views that were expressed by the late Minister Matsepe-Casaburri when she wrote the - the - she launched the ...

CHAIRPERSON: The policy?

ADV THANDI NORMAN SC:

MS LULAMA MOKHOBO: The policy and many other Ministers who
10 agreed with - with that approach. So Minister Carrim was caught
between the two parties. The one strong voice saying no, no. The
other strong voice saying yes ...

CHAIRPERSON: Now was ...

MS LULAMA MOKHOBO: And so he brought everybody together.

CHAIRPERSON: Was the other voice Ms Tshabalala the Chairperson of
the board.

MS LULAMA MOKHOBO: The - the Ms Tshabalala voice was that there
should be no encryption.

CHAIRPERSON: Yes and MultiChoice - no she was on the same side
20 as - as MultiChoice?

MS LULAMA MOKHOBO: She was on the same side as - as
MultiChoice.

CHAIRPERSON: Yes but you were on ...

MS LULAMA MOKHOBO: I was on the other ...

CHAIRPERSON: On the other side?

MS LULAMA MOKHOB: Yes Chair.

CHAIRPERSON: And you know that Minister Carrim was in agreement with you?

MS LULAMA MOKHOB: He was on the other side.

CHAIRPERSON: He was in agreement with you?

MS LULAMA MOKHOB: Yes.

CHAIRPERSON: You and him were - were on the same side on this issue?

MS LULAMA MOKHOB: We were on the same side.

10 **CHAIRPERSON**: Yes, yes.

MS LULAMA MOKHOB: Together with his ...

CHAIRPERSON: Deputy?

MS LULAMA MOKHOB: His Deputy, his DG ...

CHAIRPERSON: Yes.

MS LULAMA MOKHOB: And other people.

CHAIRPERSON: Yes.

MS LULAMA MOKHOB: Everybody was in agreement.

CHAIRPERSON: Well it - it - that issue the MultiChoice as well as this - this digital - it was called digital?

20 **MS LULAMA MOKHOB**: Digital migration.

CHAIRPERSON: Yes. Digital migration is something that the Commission - is one of the things that it is looking at. I am not sure how far the investigators are but it is looking at it and I - I am aware of - of some of the things because I sat in the Constitutional Court in a matter that came to the Constitutional Court at some stage about the

issue of that policy and all of those court papers ...

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Should be collected. So and - and I would urge you if the investigators or the Commission might not have got much information from you in regard to that aspect. I would urge you if possible to give the Commission as much information as you know ...

MS LULAMA MOKHOB: Yes Chair.

CHAIRPERSON: Because one of the things that certainly when the matter came before the Constitutional Court I could not understand is
10 why it was taking so long for Government to make up their mind one way or another on the issue and I think I seem to remember that at some stage in the public media maybe in the court papers I do not - I cannot remember that the - the ruling party on its side was saying what has been done is not in accordance with the policy.

This might not have been at your time. It might have been at - at a different time but it was one of those things where - where you do not understand why it is taking so long to implement and if there are challenges why do people not just make up their mind. This is the right thing. If it is the right thing we are doing it. If it is not the right thing
20 make up your mind and make it clear where - where you stand but you say that - you - you are saying that your departure from the SABC was not really because you just wanted to leave and there was no problem.

You say there were - there was a problem or there were some problems but you say in particular you as the Group CEO and the Chairperson of the Board at the time Ms Tshabalala you were in

disagreement on the issue of - on this issue of digital migration and - and MultiChoice. The MultiChoice Agreement making it almost redundant to look at - at the digital migration or being inconsistent with the whole idea.

You know and the two of you were - could not agree on that and she was insistent that she wanted it to go - to happen.

MS LULAMA MOKHOB: In fact Chair she - she instructed Mr Motsoeneng and Mr Olivier to go ahead and sign the contract even though the contract had not been processed appropriately within the
10 organisation. In terms of the - the delegation of authority ...

CHAIRPERSON: Huh-uh?

MS LULAMA MOKHOB: It made - it makes a very clear pronouncement on this. It says in page 2 of the applicable delegation of authority framework.

CHAIRPERSON: Yes, yes.

MS LULAMA MOKHOB: Paragraph 2.4. It says:

20 “Board Committees are generally constituted with powers of recommendation only. However subject to certain statutory limitations the board may in its discretion delegate decision making authority in any area to one or more of the Board Committees.”

Now what had happened is whatever Mr Motsoeneng, his team and Ms Tshabalala were convinced was the right approach for the SABC should have been brought for scrutiny. At the very least it should have started with the - the Group Executive members scrutinising this

in terms of the correct due process and once the Group Executive had satisfied themselves that the contract - MultiChoice Contract was fair.

It was good. It made sense or it was not good but say they had said it was good. It made sense. They would then have to refer it to the Finance Investment and Procurement Sub Committee. That Sub Committee would do the same rigorous process and within that process Chair there will be critical things like risk assessment. The ability for the SABC to do what it still needed to do as per its mandate with or without the contract and - and to be put through a stress test to see
10 whether it is - it was truly illegible for signing off and once the Finance Investment and Procurement Sub Committee had done that and it agreed that it was fine.

It would then have to be taken to the board. For the board to give its final stamp of approval and once the board had done that then the document could go off and be signed with MultiChoice but it did not happen that way. The last discussion at the Finance Investment and Procurement Sub Committee and at that time it was chaired by Mr Mavuso, Vusumuzi Mavuso.

Was there perhaps said okay can this then go to the next
20 level for discussion but when they came out of that meeting - now I was not in that meeting. That is when I was on leave. When that meeting ended people then rushed off and decided that there was approval. They could go ahead and sign. So it was entered into unlawfully. Just from that perspective failure to adhere to process.

CHAIRPERSON: There was some rush to have it signed ...

MS LULAMA MOKHOB: Yes.

CHAIRPERSON: During the time when you were on leave?

MS LULAMA MOKHOB: Because I was an encumbrance.

CHAIRPERSON: Because you were standing in the way?

MS LULAMA MOKHOB: Yes, yes Chair.

CHAIRPERSON: So would it be - would it reflect your thinking to say you were pushed out of the SABC?

MS LULAMA MOKHOB: Indeed Chair. In fact attempts to push me out had been going on for quite a while. I think at least three times
10 there were rumours swirling around the organisation that I was going to be suspended or was going to be fired and there were lots of lies that were being said about me. The most ridiculous ones being that I was a shareholder at ETV.

Now ETV together with - was - was on the side of the set-up box control - the encryption ...

CHAIRPERSON: Yes.

MS LULAMA MOKHOB: And therefore because I was saying yes encryption ...

CHAIRPERSON: Yes.

20 **MS LULAMA MOKHOB**: And we having industry discussions around these matters. They said I was a shareholder at ETV and my children - two children - were working for ETV and then people could go to that bottom pit of lies to tarnish my name. So much was said. I mean it was said I was lazy. I was not doing my job etcetera and things just got to head and ...

CHAIRPERSON: With regard to your children?

MS LULAMA MOKHOBO: Yes Chair.

CHAIRPERSON: It was not true. They were - you had no children working at ETV?

MS LULAMA MOKHOBO: It was an absolute untruth.

CHAIRPERSON: Hm.

MS LULAMA MOKHOBO: There was never an attempt by my children to look for work at ETV.

CHAIRPERSON: Yes. So - so it was - was it those two reasons around
10 which you and the Chairperson of the Board at the time could not agree?

MS LULAMA MOKHOBO: There - there were further other reasons. I locked horns many times ...

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: With Mr Motsoeneng.

CHAIRPERSON: With - ja. Yes.

MS LULAMA MOKHOBO: He undermined my authority.

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: Many, many times ...

20 **CHAIRPERSON:** Hm.

MS LULAMA MOKHOBO: And quite a few times Ms Tshabalala gave me a dressing down in front of my staff and I could never understand ...

CHAIRPERSON: Hm.

MS LULAMA MOKHOBO: Why she would that. There was absolutely no decorum ...

CHAIRPERSON: Hm.

MS LULAMA MOKHOBO: And the reason was quite simply that Chair I was refusing to do things that were not according to policy.

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: I was refusing to do that ...

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: And therefore they had to find a way to sully my name as far as possible.

CHAIRPERSON: Hm.

10 **MS LULAMA MOKHOBO:** I know for a fact that they canvassed the - the agreement of some top politicians.

CHAIRPERSON: Hm.

MS LULAMA MOKHOBO: That I should - I should go.

CHAIRPERSON: Hm, hm.

MS LULAMA MOKHOBO: So at a point when I decided I was going to go was when this final - it was like a final push Chair when the lies came out about me and my children and ETV and - and all of that.

20 That is when I realised that these people were capable of killing me because I just did not understand how anybody could have so much malice and having locked horns with the Chair we - we both agreed that perhaps it was time that I should go and I drafted a memorandum to her stating that I think it was time for me to go and I hope I will be quickly compensated because I was being forced to leave my seat at the time when I was not ready to through their actions and by the time Chair - I think it is very important to note that - and this is

something that is never reported on.

That under my leadership the SABC finances became extremely healthy.

CHAIRPERSON: Hm.

MS LULAMA MOKHOBO: I had - I had ensured that the advertising industry rebuilt their belief in the SABC and indeed they did. So advertising money started coming into the SABC. I made sure that all the leaking taps were closed. By leaking taps I mean Chair opportunities to spend money wilfully for ...

10 **CHAIRPERSON:** Improperly?

MS LULAMA MOKHOBO: Improperly - were closed and I did not succeed on all aspects but where things came to my attention that could potentially cost SABC to lose money I simply said no and because of that the dislike for me increased phenomenally and the disrespect was just so - so intense.

You can imagine being a Group CEO and walking down the corridor and you know that your staff are thinking whatever they are thinking of you because they have heard this or they were present in a meeting when this was said. It is not comfortable at all and I realised

20 Chair that it was indeed time for me to go.

CHAIRPERSON: Well some of this might not have been part of - of - or at least maybe the details of - of what you intended dealing with but it is quite important and to the extent that it may be necessary whatever you might not be able to deal with which surrounds that issue. What led to your departure? What happened?

It might be necessary for - for you to come back if need be because it is - it is quite important to understand those things because certainly there has been evidence here in regard to other SOEs and to - to the fact that people who were standing for what is right and resisting any attempts to do wrong things for standing in the way of people who wanted to do wrong things would be pushed out in one way or another and it is important to - for me to know everything that might make me understand whether yours is definitely that situation but from what you have said and I am still going to hear other witnesses it - it may well be
10 that situation.

So - but to come back to the amount that you were paid - so it seems from what you have said that when you wrote to the Chairperson and maybe attached the memorandum or the agreement - draft agreement. You - you said you were prepared to go and you hope that you would be compensated appropriately. Is that right?

MS LULAMA MOKHOB: Yes Chair. I did not write the memorandum myself. She engaged the services of an external party ...

CHAIRPERSON: Yes, okay.

MS LULAMA MOKHOB: Who drafted the separation agreement.

20 **CHAIRPERSON**: Yes.

MS LULAMA MOKHOB: I was not involved ...

CHAIRPERSON: Yes.

MS LULAMA MOKHOB: With that at all.

CHAIRPERSON: Okay, okay but whoever it was - was doing so on your behalf or on behalf of both parties?

MS LULAMA MOKHOBO: No on behalf of - on behalf of the Chairperson (intervenes).

CHAIRPERSON: Oh on behalf of the Chairperson?

MS LULAMA MOKHOBO: Yes.

CHAIRPERSON: So there had been a discussion between you and the Chairperson ...

MS LULAMA MOKHOBO: The - the ...

CHAIRPERSON: Before the person was instructed to draft it?

MS LULAMA MOKHOBO: Yes indeed Chair.

10 **CHAIRPERSON:** And in terms of that discussion you had indicated that you were prepared to leave?

MS LULAMA MOKHOBO: I indicated that I was - I was intending to leave ...

CHAIRPERSON: Okay, yes.

MS LULAMA MOKHOBO: And however I would stick to my statutory obligation of ...

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: Serving out notice for three months ...

CHAIRPERSON: Yes.

20 **MS LULAMA MOKHOBO:** And the funny thing Chair is that towards the end of my probation period she wanted me to extend and stay until after the elections.

CHAIRPERSON: Hm, hm.

MS LULAMA MOKHOBO: 2014 was election year ...

CHAIRPERSON: Hm.

MS LULAMA MOKHOB: And she asked me to stay on until after the elections. At that point I - I just thought - you know - I cannot do this anymore.

CHAIRPERSON: Hm, hm.

MS LULAMA MOKHOB: I had reached the end of my tether.

CHAIRPERSON: Hm, hm. Okay, but the - the amount that you were given which I think you said represented or the agreement says represented 12 months remuneration.

MS LULAMA MOKHOB: Yes Chair.

10 **CHAIRPERSON**: Who came up with that - that amount?

MS LULAMA MOKHOB: She came up with it.

CHAIRPERSON: She came up with the amount?

MS LULAMA MOKHOB: Together with ...

CHAIRPERSON: The third party?

MS LULAMA MOKHOB: The third party.

CHAIRPERSON: Yes.

MS LULAMA MOKHOB: The third party is a well-known ...

CHAIRPERSON: Lawyer or not really?

MS LULAMA MOKHOB: Lawyer who ...

20 **CHAIRPERSON**: Hm.

MS LULAMA MOKHOB: Who deals a lot with SABC staff matters.

CHAIRPERSON: Oh, okay alright. So - so the amount did not come from you?

MS LULAMA MOKHOB: No.

CHAIRPERSON: It came from their side?

MS LULAMA MOKHOB: It came from them. From their ...

CHAIRPERSON: *Ja*, their side.

MS LULAMA MOKHOB: Calculations.

CHAIRPERSON: *Ja* and the way they explained it to you was that this is what - the CCMA would normally award. Is that right?

MS LULAMA MOKHOB: Yes Chair.

CHAIRPERSON: Where - was - were you told that this is what the CCMA would award if for example you took them to - the SABC to the CCMA or ...?

10 **MS LULAMA MOKHOB**: Yes. The CCMA would as - as ...

CHAIRPERSON: Constructive dismissal or anything like that?

MS LULAMA MOKHOB: *Ja*. The CCMA would as - almost a standard practice award one year.

CHAIRPERSON: That is what you were told?

MS LULAMA MOKHOB: Yes.

CHAIRPERSON: Okay and then you accepted that?

MS LULAMA MOKHOB: Then I accepted.

20 **CHAIRPERSON**: So in - in a way was it to you like a settlement to make sure that after that there would be no further litigation or how did you see it?

MS LULAMA MOKHOB: True Chair.

CHAIRPERSON: Or just as some compensation for the fact that you were not finishing your term?

MS LULAMA MOKHOB: I had to claim compensation if I was not finishing my term would have been too paid out the remainder of my

contract ...

CHAIRPERSON: Yes, yes.

MS LULAMA MOKHOBO: Which was three years.

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: But I was not willing to engage in that - in that fight.

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: For the sake of mind ...

CHAIRPERSON: You were just ...

10 **MS LULAMA MOKHOBO**: Integrity.

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: I thought well - you know - and - and also the fact that there was a - a restraint of trade.

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: It meant that my family and I would suffer ...

CHAIRPERSON: Hm.

MS LULAMA MOKHOBO: For the period that I was under the restraint. So it - it was just fair that ...

CHAIRPERSON: Hm.

20 **MS LULAMA MOKHOBO**: I should be compensated some money for - for not being allowed to work within the industry ...

CHAIRPERSON: Hm.

MS LULAMA MOKHOBO: That I have been in for ...

CHAIRPERSON: Hm.

MS LULAMA MOKHOBO: At that point it was more than 20 years.

CHAIRPERSON: Yes but - but the one thing you are clear about is that you were pushed out?

MS LULAMA MOKHOBO: Yes Chair. Indeed.

CHAIRPERSON: Yes and ...

MS LULAMA MOKHOBO: Certainly.

CHAIRPERSON: And this - all of this related to you being pushed out?

MS LULAMA MOKHOBO: Yes.

CHAIRPERSON: Okay. Thank you and - and you say you have been pushed out of SABC for standing for what you believed was right and
10 refusing to be party to anything that was wrong?

MS LULAMA MOKHOBO: Yes Chair.

CHAIRPERSON: Thank you.

ADV THANDI NORMAN SC: Thank you Mr Chairman. Just for the purposes of the record. You - you would recall that after our consultation you were requested by me that another statement would be required just on the MultiChoice ...?

MS LULAMA MOKHOBO: Yes and I ...

ADV THANDI NORMAN SC: Yes.

MS LULAMA MOKHOBO: Started writing.

20 **ADV THANDI NORMAN SC:** Yes, thank you. Yes, thank you. Can I just - just to place the evidence of one witness that is going to come after you - maybe some time next week who just on this issue of MultiChoice - his statement you do not have to go to it. I will just read out to you what he says. It is EXHIBIT CC20 to 24 Chair. This is Mr Roy Kruger. He says in paragraph 46:

“The DOC ...”

In - in fact if I may start from paragraph 44 just to confirm what (intervenes).

CHAIRPERSON: Just repeat the page number.

ADV THANDI NORMAN SC: Page 12 Chair of CC20 to 24.

CHAIRPERSON: Are we on the same bundle or a different bundle?

ADV THANDI NORMAN SC: No - no this is the bundle - sorry. It is the same bundle. I beg your pardon. The same bundle that has got this witness' statement. I beg your pardon. The right - it will be under - his
10 statement is under ...

CHAIRPERSON: Oh, yes.

ADV THANDI NORMAN SC: Divider number 20.

CHAIRPERSON: Okay. I have got

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: I have got it and what is the page number?

ADV THANDI NORMAN SC: The page number is page number 12. Are you there?

MS LULAMA MOKHOB: No, I do ...

ADV THANDI NORMAN SC: I will - I will just read out to you.

20 **MS LULAMA MOKHOB**: Yes ma'am.

ADV THANDI NORMAN SC: He is talking about the very issue that you are going to deal with in your other statement - the MultiChoice issue - the set-top boxes but this is what he says in paragraph 44.

“Minister Yunus Carrim set up a forum to try and get all parties to agree to using a STB Control System

or come to a consensus as to how to run the SADDT Network according to the existing SA Policy Document.”

45:

“MultiChoice and the supported by Mr Motsoeneng opposed all suggestions of STB Control in the DDT Network.”

46:

10 “The DOC received letters of support and go ahead on the use of the SENTECH STB Control System from both the then GCEO Ms Lulama Mokhobo and then Chairman Ms Ellen Tshabalala.”

That is what he says. So I just wanted to put to you that what you have said that you were in support but then he also says that Ms Tshabalala was also in support of - of that.

20 **MS LULAMA MOKHOB**: Yes Chair. Very, very strangely we had made thorough presentations to the board on the DDT position of the SABC which included the set-top box control and all the arguments regarding the benefits for the country. Not for the SABC for the public and the board was happy and approved that policy position and on that basis Ms Tshabalala then wrote and we co-signed that letter.

Then suddenly I am not sure what the date - what the date is on that letter. It is - it is very important to recognise the date because then suddenly she wrote a subsequent letter to Mr Carrim and I - I do not have a copy of that letter but I remember vividly and in that letter

she capitulated and said the SABC was not going to support the set-top box control.

ADV THANDI NORMAN SC: Yes.

MS LULAMA MOKHOBO: Now what I cannot quite recall was how that was synchronised with the signing of the MultiChoice Contract.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: I - I cannot quite recall that. So it would be
10 very good to see ...

ADV THANDI NORMAN SC: Yes.

MS LULAMA MOKHOBO: The dates of the letter because then we can work it back to ...

CHAIRPERSON: Yes.

MS LULAMA MOKHOBO: When the MultiChoice contract was signed.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Yes, thank you.

CHAIRPERSON: *Ja.* No all of things will be ...

20 **ADV THANDI NORMAN SC:** Yes. Will be dealt ...

CHAIRPERSON: Quite important to pursue and all ...

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Of the documentation and whatever knowledge and information that you have please give - give it to the Commission because ...

MS LULAMA MOKHOB: I shall do so.

CHAIRPERSON: It is very important. My recollection is that there was a lot of money that was involved in - in that whole thing and that it took so many years. I mean up to now ...

ADV THANDI NORMAN SC: Hm.

CHAIRPERSON: I think sometime this year there was something in the newspaper. I do not know what development ...

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: About them.

10 **MS LULAMA MOKHOB**: Thank you.

ADV THANDI NORMAN SC: In fact Chair we will show - we will give - we will have a witness that is going to talk to that.

CHAIRPERSON: To deal with that.

ADV THANDI NORMAN SC: And will demonstrate how those boxes are just lying somewhere in some warehouses ...

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Without being delivered.

CHAIRPERSON: Yes.

20 **ADV THANDI NORMAN SC**: So that is the evidence that we are going to lead next week.

CHAIRPERSON: *Ja, ja.* No ...

MS LULAMA MOKHOB: And yet vast amounts of money were paid for that.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Yes, yes. I think there was something in the

newspaper sometime this year and I think I - I asked Mr Pretorius and Mr Nombembe to take note and make sure that it is pursued because ...

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: It was something like there lying somewhere ...

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: And nothing is being done ...

ADV THANDI NORMAN SC: Yes. We will

CHAIRPERSON: And where money is being lost.

ADV THANDI NORMAN SC: Yes. The investigators have got all that

10 Chair.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: We will show it to you next week.

CHAIRPERSON: Okay, thank you.

ADV THANDI NORMAN SC: Thank you. Thank you.

MS LULAMA MOKHOBO: And those Chair were set-top boxes without encryption. So if there was this excitement about distributor set-top box without encryption why were they not distributed. I do not understand.

ADV THANDI NORMAN SC: Yes, thank you.

20 **CHAIRPERSON**: Yes, yes. No, thank you.

ADV THANDI NORMAN SC: Thank you very much Chairman.

Mr Chairman that is for now the evidence from this witness.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Thank you.

CHAIRPERSON: Thank you very much Ms Mokhobo.

MS LULAMA MOKHOB: Thank you Chair.

CHAIRPERSON: And I understand that there is another statement that you had already started working on.

MS LULAMA MOKHOB: Yes I have started working on it Chair.

CHAIRPERSON: Yes. So in - you - you will probably maybe asked to come back at some stage. Arrangements will be made but thank you very much for coming to share your knowledge with - with us about these issues. For now you are excused.

MS LULAMA MOKHOB: Thank you Chair.

10 **CHAIRPERSON**: Thank you.

ADV THANDI NORMAN SC: Thank you. Thank you very much. Mr Chairman may I ask for leave to change seats and that my learned friend Ms Rasivhetshele ...

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Can take over the next witness?

CHAIRPERSON: Okay. How - how much time? 10 minutes, five minutes?

ADV THANDI NORMAN SC: Chair the only - five minutes Chair.

CHAIRPERSON: Five minutes.

20 **ADV THANDI NORMAN SC**: Yes, thank you.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Thank you.

CHAIRPERSON: We will adjourn for five minutes.

ADV THANDI NORMAN SC: Thank you.

CHAIRPERSON: We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes, are you ready?

ADV MPHO RASIVHETSHEL: We are indeed Chair, we are ready.

CHAIRPERSON: Yes.

ADV MPHO RASIVHETSHEL: Chair before you, you will have two files, the first file being CC52C16.

CHAIRPERSON: That's the one I have been having.

10 **ADV MPHO RASIVHETSHEL:** Yes indeed so Chair.

CHAIRPERSON: Yes okay.

ADV MPHO RASIVHETSHEL: And the second one is CC25.

CHAIRPERSON: Yes.

ADV MPHO RASIVHETSHEL: It is a small presentation file.

CHAIRPERSON: Mmm.

ADV MPHO RASIVHETSHEL: Chair today we have a witness
...(intervention)

CHAIRPERSON: Have we admitted the one for – CC25?

20 **ADV MPHO RASIVHETSHEL:** No Chair we haven't admitted CC25 as
yet.

CHAIRPERSON: Do you want us to admit it when you refer to it?

ADV MPHO RASIVHETSHEL: Yes indeed, we can admit it now as –
by the Chair's direction.

CHAIRPERSON: (microphone off) the file containing the statements of
– no I think we're D, now I see it says statements.

ADV MPHO RASIVHETSHEL: Oh yes we did, sorry Chair, my mistake.

CHAIRPERSON: You are much younger than me, you should not forget so easily.

ADV MPHO RASIVHETSHEL: I shouldn't Chair.

CHAIRPERSON: Okay, alright, yes.

ADV MPHO RASIVHETSHEL: Thank you Chair, today's witness is Mr Krige, he forms part of the well-known SABC 8, just to bring to the Chair's attention that Mr Krige has a flight to catch later this afternoon, so if we have not finished with Mr Krige's evidence by four o'clock if
10 the Chair would just approve for us just to go just a little bit after four o'clock, that would be much appreciated.

CHAIRPERSON: *Ja*, no that's fine. Can we swear this one in now?

ADV MPHO RASIVHETSHEL: Yes, may the witness be sworn in?

CHAIRPERSON: *Ja*, administer the oath or affirmation.

REGISTRAR: Please state your full names for the record?

MR JAKOB DANIEL KRIGE: Jakob Daniel Krige.

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

MR JAKOB DANIEL KRIGE: No.

20 **CHAIRPERSON:** Do you solemnly affirm that the evidence you will give shall be the truth, the whole truth and nothing but the truth, if so raise you right hand and say I truly affirm?.

MR JAKOB DANIEL KRIGE: I truly affirm.

CHAIRPERSON: Thank you, yes you may proceed.

ADV MPHO RASIVHETSHEL: Thank you Chair. Mr Krige can you

please turn, if you have not over already to folder CC12 in the file, on page one what document is that? On the first page, you will see the page numbers are written in red on your top right hand corner

MR JAKOB DANIEL KRIGE: *Ja*, it is my affidavit.

ADV MPH O RASIVHETSHEL: And will you please turn to page 9 of that document.

MR JAKOB DANIEL KRIGE: Yes.

ADV MPH O RASIVHETSHEL: Is that your signature in the middle of the page?

10 **MR JAKOB DANIEL KRIGE:** Yes that is my signature.

ADV MPH O RASIVHETSHEL: And you deposed to this affidavit on the 12th of August 2019?

MR JAKOB DANIEL KRIGE: *Ja*.

ADV MPH O RASIVHETSHEL: Mr Krige you have also stated that you do want to make a correction in your affidavit?

MR JAKOB DANIEL KRIGE: *Ja*, on point number 14 there was a mistake slipping in saying that Mr Matthews is the Chief Financial Officer but he in fact was the Acting Chief Executive Officer.

ADV MPH O RASIVHETSHEL: Thank you.

20 **CHAIRPERSON:** Did you say paragraph 14? Oh yes, *ja*, I can see. You will arrange for a supplementary affidavit?

ADV MPH O RASIVHETSHEL: Yes Chair, I have already had a conversation with Mr Krige about that.

CHAIRPERSON: Okay, *ja*.

ADV MPH O RASIVHETSHEL: Thank you Chair. Other than that Mr

Krige everything is true and correct on the affidavit?

MR JAKOB DANIELS KRIGE: *Ja.*

ADV MPHONG RASIVHETSHEL: Mr Krige where are you currently employed?

MR JAKOB DANIELS KRIGE: I retired on the 31st of May from the SABC.

ADV MPHONG RASIVHETSHEL: And before being employed ... (intervention)

CHAIRPERSON: Is that this year?

10 **MR JAKOB DANIELS KRIGE:** Say again?

CHAIRPERSON: Is that this year?

MR JAKOB DANIELS KRIGE: *Ja*, on the 31st of May I retired.

CHAIRPERSON: Okay.

ADV MPHONG RASIVHETSHEL: And Mr Krige before your retirement on the 31st of May where were you, how long were employed by the SABC, just give us just a short background of your career?

MR JAKOB DANIELS KRIGE: I have been employed 1990 at the SABC, five years as a field reporter, seven years as a senior producer and then the last 15 years I was the Executive Producer of the Current
20 Affairs Show, shows of RSG, the Afrikaans Radio Station.

ADV MPHONG RASIVHETSHEL: And on paragraph 3 Mr Krige you were approached by the investigators of the Commission. Can you just elaborate onto the purpose as to why the investigators approached you?

MR JAKOB DANIELS KRIGE: *Ja*, I was a part of a group called by the

media the SABC 8 after we have been dismissed by the SABC in 2016 and as far as I understand I was approached to explain the process and what happened at that stage.

ADV MPH O RASIVHETSHEL: And in paragraph 7 you highlight the start of the editorial interference.

MR JAKOB DANIELS KRIGE: Yes.

ADV MPH O RASIVHETSHEL: From your line managers, can you talk about you know when this editorial interference commenced?

MR JAKOB DANIELS KRIGE: Yes, there was always a sort of editorial
10 interference but one of the most profound instances was on 5th
February 2014 when the Acting Head of News at that stage Sebolelo
Ditlhakanyane, came into my office and informed me that we could not
report on any of the activities of the EFF, the Economic Freedom Front
party at that stage, and when I asked her why she said it was an order
from the 27th floor, and my understanding was that it was coming from
the former CEO Mr Motshlale Motsoeneng, which was strange because
he was not the editor in chief and he had nothing to do with news, so I
couldn't understand the instruction and I explained to her that it was
not possible to ignore any political party, it was just before an election
20 period and she said we had no choice because it was a directive from
the top and I told her that we will go on broadcasting news and not
ignore the EFF.

Ten minutes later I received a call from the Secretary of Mr Jimi Matthews who was the former Head of News at that stage, the Head of News at that stage, he requested me to come to his office,

where in the presence of Ms Ditlhakanyane, gave me a speech about not conforming to the rest of the SABC and accused my team of thinking that they were an island on their own. He proceeded to tell me that I have to obey all instructions from Sebolelo Ditlhakanyane on which I responded that if she gives me instruction I will listen to it, and evaluate it and then act accordingly, it depends on what the instruction is. *Ja*, that was what happened there.

What happened also was that on the same year in December Mr Motsoeneng appointed Ms Ditlhakanyane in a permanent position as
10 Head of News, Mr ...(intervention)

CHAIRPERSON: I'm sorry, I'm sorry Mr Krige, please finish the story about that discussion on the 27th, was it the 27th floor?

MR JAKOB DANIELS KRIGE: *Ja*, that comes later *ja*.

CHAIRPERSON: *Ja*, but I think about whether you, the program was allowed to be aired what you wanted to air on TV and they were saying no don't, I want to know ultimately what happened to it?

MR JAKOB DANIELS KRIGE: *Ja*, what happened was that there was an outcry in the media after it became known that the SABC did not want to broadcast any EFF stories, and then the next day or the next –
20 within two days the SABC put out a statement denying that there was any instruction to that effect. So then we carried on with coverage of the EFF.

CHAIRPERSON: But on the day that you got instructions were you not planning to air that on the same day?

MR JAKOB DANIELS KRIGE: We planned to do that and we did that

during our midday program, we had an interview with the EFF which we broadcast.

CHAIRPERSON: Oh you did go ahead?

MR JAKOB DANIELS KRIGE: *Ja, ja.*

CHAIRPERSON: Despite the instruction?

MR JAKOB DANIELS KRIGE: *Ja.*

CHAIRPERSON: Okay, okay.

ADV MPHO RASIVHETSHEL: Mr Krige that directive, that instruction that you had received not to broadcast the EFF was that in line with the editorial policy at the time?

MR JAKOB DANIELS KRIGE: No not so, it was not in line with any of – not in line with the Constitution, not in line with the BCSA's ...(intervention)

CHAIRPERSON: It was just completely wrong?

MR JAKOB DANIELS KRIGE: *Ja*, it was just completely wrong, there was no way that you can ignore a political party in any country or any news for that matter that comes to your attention.

CHAIRPERSON: Did Mr Jimi Matthews during – you said he gave you a speech or a lecture, did he say why it was that the EFF should not be you know events or anything connected with it should not be broadcast?

MR JAKOB DANIELS KRIGE: No he did not explain that instruction, the only thing that he said that I must listen to my line managers in that sense the Acting Head of News and that I should listen and obey all their instructions but he did not give me the time, the opportunity to

discuss that specific instruction?

CHAIRPERSON: Yes, so he spoke in general?

MR JAKOB DANIELS KRIGE: *Ja, ja.*

CHAIRPERSON: And then the acting head of – did you say it was Ms Dithakanyane?

MR JAKOB DANIELS KRIGE: *Ja, Dithakanyane ja.*

CHAIRPERSON: Yes, Acting Head of Radio News. *Ja*, also this was a radio broadcast, not a TV broadcast that you were planning.

MR JAKOB DANIELS KRIGE: *Ja*, that's right.

10 **CHAIRPERSON:** So, and when you were speaking with Mr Matthews you parted with him on the basis that you would listen to whatever instruction that Ms Dithakanyane would be giving you and evaluate it, implying that if you thought that it was a lawful instruction that was in line with the policy of SABC you would comply but if you thought it was unlawful or contrary to the SABC's policies you would not comply, is that what you were implying?

MR JAKOB DANIELS KRIGE: That's correct, at the SABC and according to our editorial policy the decision making stops at the Executive Producer and that was my position, it is only when you are
20 uncertain of certain decisions that you must make or when there is a lot of money involved to do a trip or whatever that you would see the upwards referral route, then you will go to your superior or your next line manager and discuss it with her, if you are uncertain of the content of certain issues then you will do that, but usually the buck stops at the Executive Producer and anything from outside we would deem as

interference into your programs.

CHAIRPERSON: So on that day you went ahead and broadcast whatever you wanted to broadcast in regard to the EFF, contrary to Ms Dithakanyane's instruction.

MR JAKOB DANIELS KRIGE: Her instruction *ja*.

CHAIRPERSON: Were there any consequences to you as a result of you not complying with that instruction or not really?

MR JAKOB DANIELS KRIGE: No consequences as I said shortly after that the SABC put out a statement which of course ...(intervention)

10 **CHAIRPERSON:** Denying?

MR JAKOB DANIELS KRIGE: *Ja*, protected me and my point of view and said *ja* there is no such an instruction, although it happened, *ja*.

CHAIRPERSON: Yes it had happened, okay thank you.

ADV MPHOS RASIVHETSHEL: Thank you. Mr Krige let's jump onto paragraph 12 of your statement where you highlight a second incident of an editorial interference with the SABC announcing that they were not going to cover any protest action.

MR JAKOB DANIELS KRIGE: *Ja*, ...(intervention)

20 **CHAIRPERSON:** I may have, I am sorry, I may have interrupted your planning, I think he was starting on turn about Mr Motsoeneng appointing Ms Dithakanyane in the permanent position when I interrupted him, I don't know if he had finished that part.

MR JAKOB DANIELS KRIGE: *Ja*,, I was just referring to the fact that later that year Mr Motsoeneng appointed Ms Dithakanyane in the permanent position of Head of Radio News, Mr Matthews was appointed

as the GE of News and Current Affairs while another employee, Ms Nonthando Maseko became the Head of Television News, the announcement was made on the same day and if – and later in 2019 when Mr Joe Slovo was – a report was released all three of them were fingered as part of people that was part of giving instructions to the News Room, I think it was just with making that point.

CHAIRPERSON: Okay, thank you.

ADV MPHO RASIVHETSHEL: Chair a witness that we have allocated for Friday would be able to talk to this report in detail. Going back to
10 paragraph 12 Mr Krige you highlighted a media statement issued by the SABC saying they were not going to cover any protest action.

MR JAKOB DANIELS KRIGE: *Ja.*

ADV MPHO RASIVHETSHEL: Can you talk to this, can you give us the foundational phases to you know why this began and you know how the editorial interference how was it implemented then?

MR JAKOB DANIELS KRIGE: The SABC released a press – sent out a press release on the 26th of May 2016 where they banned all coverage of violent protest action. Now it was very strange to us and also to the media outside because that's clearly a form of censorship, so on the
20 30th of May we invited three guests to our show in the morning to discuss this development, it was Tim du Plessis who was from Media 24, Professor Frans Kruger who was from Wits University and Mr Thladi Motsoeneng who at first he declined, he did not arrive at the studio. So we had a discussion on this policy which was clearly not editorially sound, it was not Constitutionally sound, you cannot withhold the

information from the people, if you look at the BCSA, if you look at ICASA's regulations and also at our own editorial policy ,it is totally out of line.

So we had a discussion and the next morning, the 31st of May, we conducted a studio interview with Mr Motsoeneng, who was accompanied by Mr Anton Heunis who was his sort of – I don't know what he was, he was never introduced, but he sat in the studio maybe because he could understand Afrikaans, and afterwards there was a debate between me and Mr Motsoeneng and Mr Heunis regarding the
10 content of the previous day's interview and I told them we had a problem as journalists to read about certain policy or issues in the media and no one within the SABC ever communicated the directive directly to us and then I was issued up to the 27th floor, where I was joined by Mr Heunis, the Acting Head of News, Mr Simon Thebele, Mr Matthews, Jimi Mathews, who was the Acting Chief Executive Officer at that stage, Ms Ditlhakanyane, and a colleague Ms Kravani Pillay who was the Executive Producer of SAFM at that stage, and what happened there was that each one of the people made turns to explain certain things. I took notes of it which I typed afterwards, if the Chair wants I
20 can just go through what happened there at that meeting.

CHAIRPERSON: Yes, okay.

MR JAKOB DANIELS KRIGE: Mr Motsoeneng started in saying we are cleaning up the organisation people are doing their own stuff. There are many journalists outside that want to work for the SABC, the environment outside is bad. And he continued saying no person is

independent, the SABC is independent, this is a new SABC, you must adapt or find a job somewhere else.

Then he said that Tim du Plessis was from a rival organisation, and we cannot allow people from outside to say anything negative about the SABC, and he also accused us that we asked Frans Kruger leading questions during the interview and then he switched over to something that my colleague, Kravani Pillay, will later explain when she testifies, about Editors Forum, which was one of the programmes that must go, and then Anton Heunis was the advisor, sort of advisor for Mr
10 Motsoeneng, said I am an RSG listener, I know I am not a journalist but you misunderstand editorial freedom and that we are asking leading questions.

And then he asked me why ...(intervention)

CHAIRPERSON: I'm sorry, I am sorry, what is RSG listener?

MR JAKOB DANIELS KRIGE: RSG is the Afrikaans Public Broadcasting station on the SABC bouquet, have got a radio station for each and every language so RSG ...(intervention)

CHAIRPERSON: Oh, it is a radio station?

MR JAKOB DANIELS KRIGE: Ja, it's a radio station, like SAFM is for
20 t he English speaking people, RSG or Ekukwezi ...(intervention)

CHAIRPERSON: Nkozi FM and so on.

MR JAKOB DANIELS KRIGE: Ja, for the different radio stations, so RSG is the Afrikaans radio Station.

CHAIRPERSON: What is the full name?

MR JAKOB DANIELS KRIGE: Radio Sonder Grense.

CHAIRPERSON: Okay, okay, okay, thank you.

MR JAKOB DANIELS KRIGE: So then Anton Heunis asked me why didn't we do an insert about that show that the presence of cameras on unrest scenes leads to violence, and ...(intervention)

ADV MPHOS RASIVHETSHEL: Sorry Mr Krige, can you just identify who Foete is, because there are ...(intervention)

MR JAKOB DANIELS KRIGE: Foete, okay Foete was my nickname, that is not my real birth name.

CHAIRPERSON: Okay.

10 **MR JAKOB DANIELS KRIGE:** It comes from Maphuta when I was a small boy sir.

CHAIRPERSON: Oh, is it like Maphuta in isiZulu?

MR JAKOB DANIELS KRIGE: *Ja*, that is correct Chair.

CHAIRPERSON: (laughing) well I can understand what it means but I think a lot of people do understand, yes thank you.

MR JAKOB DANIELS KRIGE: And then he asked us why didn't we use research to show that the President (indistinct) duly to violence and then I asked him, but I said to him but if you liaise with your auditors before hand and if you told us that you were going to give this
20 instruction then we would have used the research that you based your instruction on and then Mr Motsoeneng said but I don't believe in research. He said you must defend the organisation, no journalist is independent, the CEO has a final responsibility for news, which was also strange to me because the CEO has got nothing to do with news. The COO as the Chief Operating Officer which deals with operations

and the CEO is the editor in chief, it was only shortly after that that we realised that Mr Motsoeneng changed the editorial policy and it was signed off in February, three months earlier, which made him the *de facto* Head of News.

CHAIRPERSON: Oh.

MR JAKOB DANIELS KRIGE: But we didn't know that, it was never communicated, it only came later.

CHAIRPERSON: Do you recall who would have signed that, would it have been himself, making himself head of, the person with final say on news or was it somebody else who ...(intervention)

MR JAKOB DANIELS KRIGE: What happened there's a process that we started in the end of 2014, at that stage the editorial policy in place was from 2004 and we had to renew it so we started with a process at the SABC to discuss the policy. I was part of three of those discussions, and then the head of that group, the policy making group, said they are going to the – taking the policy to the public and afterwards they will come back to us and give feedback regarding the changes that would be accepted. It never happened, it never happened and we only realised later that it was pushed through with no consultation, no feedback to the people of the SABC and between the lines, it was a small paragraph, you could see that the COO was now in charge of news, who was Mr Motsoeneng.

CHAIRPERSON: Okay.

MR JAKOB DANIELS KRIGE: At that stage Motshlade turned to the Acting Head of News with Mr Simon Thebele and he said Simon if

people do not adhere get rid of them, we cannot have people who question management, this is the last time we have a meeting of this kind, from now on you handle things on your level, and then Mr Matthews the only thing he said it is cold outside, if you don't like it you can go, you have two choices, the door or the window. And that was about it in that meeting.

ADV MPHO RASIVHETSHEL: Mr Krige can we jump onto paragraph 15 where you highlight a pre-election workshop, can you just shortly just explain what is the purpose of a pre-election workshop, you know who
10 attends a pre-election workshop and so forth?

MR JAKOB DANIELS KRIGE: The pre-election workshop usually it is attended by all the original editors and the news editors from all the Provinces, it is usually we had a workshop like that every year to bring all the editors together at one place, but at that stage we – I don't think we had one in a while but before that specific election in 2016 everyone was flown in from all the provinces and we had an election workshop where we discussed the strategy and the planning. It was a sort of a planning meeting for the coverage of the coming election.

ADV MPHO RASIVHETSHEL: Okay, and in this election you highlight
20 that Mr Motsoeneng had made certain statements which you had recorded in notes.

MR JAKOB DANIELS KRIGE: *Ja.*

ADV MPHO RASIVHETSHEL: In handwriting notes, in handwritten notes.

MR JAKOB DANIELS KRIGE: *Ja.*

ADV MPHO RASIVHETSHEL: And those notes are – you have attached them as Annexures 03 and 04, Chair that would be on pages 78 – he has also highlighted them in the statement because it is difficult for one to read the handwritten notes.

MR JAKOB DANIELS KRIGE: *Ja*, it is quite difficult.

ADV MPHO RASIVHETSHEL: And the second set would be on page 79.
Mr Krige ...(intervention)

CHAIRPERSON: Did you move away from 78 or are you still at 78?

ADV MPHO RASIVHETSHEL: No Chair I did not, these were just to
10 indicate that these were actually the handwritten notes from that meeting.

CHAIRPERSON: Oh, okay.

ADV MPHO RASIVHETSHEL: I am just going to head back into the paragraph because it will be quite difficult to look at those handwritten notes, but he has captured them in his main statement, in his main affidavit.

CHAIRPERSON: Okay, okay. So we go back to his statement?

ADV MPHO RASIVHETSHEL: His statement, and that would be paragraph 16 on page 6.

20 **CHAIRPERSON:** Okay. Was his statement at the beginning? No, it is not ...(intervention)

ADV MPHO RASIVHETSHEL: It is not the beginning, it's under folder 12, page 6.

CHAIRPERSON: Folder 12. Okay and what paragraph?

MR JAKOB DANIEL KRIGE: 16

ADV MPHO RASIVHETSHELE: Paragraph 16.

CHAIRPERSON: Okay.

ADV MPHO RASIVHETSHELE: Mr Krige am I correct in saying this is an extraction from what Mr Motsoeneng was saying?

MR JAKOB DANIEL KRIGE: *Ja.*

ADV MPHO RASIVHETSHELE: And I have noted that you have put this complete paragraph in quotes. Is this what - word for word as to what Mr Motsoeneng was saying or was it just - you know - were you paraphrasing? Can you just explain?

10 **MR JAKOB DANIEL KRIGE:** It - it was a bit of both. What I did I jotted down certain words that he was saying and then directly after that I - I typed it out as - as stated here in this affidavit.

ADV MPHO RASIVHETSHELE: Okay. Can you just read out 16.1? What was ...

MR JAKOB DANIEL KRIGE: Huh-uh.

ADV MPHO RASIVHETSHELE: Stated by Mr Motsoeneng?

MR JAKOB DANIEL KRIGE: Mr Motsoeneng spoke to us in two different - at two different occasions. The gist of it was that the SABC's independent - no individual is independent. He said:

20 "There is an agenda for the corporation driven by three Directors, the CEO, the COO and the CFO."

He said:

"Do not focus on negative stories. It is important that you balance stories. Told human stories - is politicians not human beings? Reporters at the

SABC do not know the world. When they report they mislead listeners.”

He said:

“Go to America. There is poverty. They do not show it. They do not show when their soldiers die. I will take you to BRICS country and you can just go to a hotel. You will see that South Africa is better.”

Then he referred to the Editorial Policy. He said:

10 “Look - look at the Editorial Policy. We have removed news and replaced it with content. If you as SABC mess up the organisation you mess up your life. I am in charge. News is now part of operations. We change the world. We must have news with content. I am in charge. You must adhere to any instruction. President Zuma is the President of the country. I do not regard him as ANC. You cannot treat him the same. We will give him more time and you can question everyone ...”

And he mentioned Gwede Mantashe and other names.

20 “...except your President. We need to respect him especially you SABC. I expect you to align you with my instruction.”

ADV MPHOSASIVHETSHELE: And - Mr Krige and what was the response to these statements that Mr Motsoeneng were saying? I mean you have a room full of editors and people in the profession who are

very knowledgeable about editorial policies and how a broadcasting should work. What was the response to his statements - Mr Motsoeneng's statements?

MR JAKOB DANIEL KRIGE: I am not sure about what the other people's reaction was. We were so used to what we call (indistinct) speak at that stage that he was just - we thought he was just blabbering on. At that stage what I did I messaged a - a colleague of mine back at Auckland Park asking to go through our internet which - where the Editorial Policy is displayed and to see which policy the SAB
10 - the SABC is using and there was no - no sign of the 2016 or the new Editorial Policy.

It was still the old 2004 policy. So I was puzzled. The people did not show a lot of reaction. There were no one questioning the fact that - that he said that but he also left directly after that - Mr Motsoeneng left and we - there was no time to discuss this - these instructions.

ADV MPH O RASIVHETSHELE: So there was no pursuing what he had said at the time. Just - everybody just left it in the air?

MR JAKOB DANIEL KRIGE: *Ja.* You know how workshops work. You
20 sit there and you listen and you make notes and afterwards everyone is doing anyway their own things - you know- and as I said at that stage it was very confusing within the newsroom especially after 26 May statement. We did not know what to do. We did not know to react because you cannot cover a protest or broadcast protest.

You still covering it but do not - do not - you do not broadcast

it. Do you send out a team of reporters to a scene but if there is violence then you - you take them back to the office. So everything was very confusing at that stage and there was not a lot of guidance from - from someone like Mr Jimi Matthews who was at that stage the - well according to us the Editor in Chief.

He just said he derives his oxygen from the newsroom and there is not a lot of oxygen at the 28th Floor where he - where his offices was and he said he was not going to give any editorial guidance. So he left it to Mr Motsoeneng to give us editorial guidance.

10 **CHAIRPERSON:** I see that you put what Mr Motsoeneng said in quotation marks. Did you mechanically record what he was saying?

MR JAKOB DANIEL KRIGE: Hm.

CHAIRPERSON: In paragraph 16.1 you just read that whole paragraph which is in quotation marks. Did you mechanically record what he was saying?

MR JAKOB DANIEL KRIGE: There - there was a recording made by people who were there but this comes from my notes and it also formed part of an affidavit that we - we sent into the Constitutional Court ...

CHAIRPERSON: Yes.

20 **MR JAKOB DANIEL KRIGE:** In 2016.

CHAIRPERSON: So you - you accurately just wrote down what he was saying?

MR JAKOB DANIEL KRIGE: *Ja.*

CHAIRPERSON: Okay, thank you.

ADV MPH O RASIVHETSHELE: Thank you Chair. Mr Krige there has

been evidence of potential purging that had happened at the SABC and you highlight in paragraph 17 that you - you yourself became a victim of this purging at the SABC. Can you just elaborate on how that came to be about - how that came along?

MR JAKOB DANIEL KRIGE: *Ja.* What happened after the - the statement to ban violent protest on 26 May? There was an outcry from all over the country from the media and especially the NGOs and there was a protest march planned to three of the SABC's offices and on the morning on 20 June we - I participated in a line talk - daily line talk
10 where the Acting Head of News Mr Simon Tebele gave instructions to remove three of the stories from our top story list.

To explain we have a diary every day and there is a list of top stories and then there is a diary of each and every region. So as an editor seated in Johannesburg I can have a look at the top - top stories and then look at all the regions and see all the promised stories that should arrive before the end of the day or for the next morning's shown.

So it gives you an indication of what to expect and the top stories are the most important stories and we try every program and news bulletin - bulletin to try to focus on those stories. So that
20 morning Mr Simon Tebele removed three of the stories. It was Y2K. The right to know campaign that organised marches to the SABC to complain against the - the policy of not showing violence - violent protest *ja* and at that stage the Economics Editor Ms Thandeka Gqubule questioned Mr Tebele's decision and then he explained to her that it - it must be removed because it is - it is about us - the SABC and I

understand it that that meeting on the 27th Floor where they said we cannot we criticise the SABC.

We cannot allow people to criticise the SABC and I made that connection at that stage. So they removed those stories because it was negative or it was about the SABC and that whole meeting was recorded by my colleague Suna Venter which we later transcribed and it is or what you see here is - is part of that transcription where Mr Tebele said those stories are out as discussed earlier.

10 Then Thandeka explained that we - she - she does not want to be part of a decision like that and she said and if this whole issue ends up in court and she and I quote there:

“And when we fall foul of the law - God forbid - we better just have recall it even the dissenting voices. Please record my voice as dissenting.”

Then I said:

20 “I totally agree with you. The initial decision or initially they said we cannot give other newspapers a platform to criticise the SABC. That I totally understand. They are in the media but this is not a media issue. It is not other newspapers or opposition or whatever. This is NGO. It is out there and if we ignore them we are busy censoring our own news and that is totally unacceptable.”

At that stage Suna Venter who was my colleague at RSG said:

“And as junior as I am please record my voice as dissenting against this.”

On which I replied:

“We cannot allow people/individuals in this company making decisions on behalf of journalists. If we are going to carry on with that we are going to lose all integrity. The little integrity that we have at the moment.”

And then it carried on. Mr Tebele acknowledged the fact that
10 we - we opposed the decision to remove the stories from the diary and then three days later on 23 June Ms Gqubule and Ms - Ms Venter and myself were called in separately and notified of our suspension.

ADV MPHO RASIVHETSHELE: Mr Krige let us just go back. The removal of these three stories were against the Editorial Policy. Is that correct?

MR JAKOB DANIEL KRIGE: *Ja.* At the SABC we always have the - the problem as part of one of the SOEs and also as part of the media. It is - it was always difficult to - to report on yourself or what happened in your own - in your own company. So I can understand from certain
20 people’s point of view that you do not - there is a lot of companies that forbid people to talk about their own company but in our - in our situation we were also part of the media and according to me we had - if there is anything negative about the SABC we have to put it on - out there.

Get people to react. Give the - the SABC the right to respond

and report it as - as our Editorial Policy expects from us. We cannot - we are not in a position - as soon as - there is 22 million people in the country that there only source of news is the SABC. They cannot afford newspapers. They cannot afford DSTV. So it is very important for the SABC to fulfil that role of - of giving news to each and everyone in this country and we cannot ignore something like that.

ADV MPHOS RASIVHETSHELE: And did Mr Tebele give any justifiable reasons that are in line with the Editorial Policy as to why these three stories should not be aired?

10 **MR JAKOB DANIEL KRIGE:** No. His only reason was - was it is - it is about us. That was his only reason and then we continued with the - the line talk. There was no further discussion allowed.

ADV MPHOS RASIVHETSHELE: And subsequent to that encounter about the removal of these three stories was that when you were dismissed?

MR JAKOB DANIEL KRIGE: *Ja.* What happened then we went to the Labour Court on 18 July. There was a - a disciplinary hearing. I think Ms Krivani Pillay will - will explain that what happened there. There was a - they tried to - to conduct a disciplinary - disciplinary hearing but it was never concluded and then we were waiting for a next date to
20 appear and before we appeared we were all dismissed. I was dismissed with - along with seven other colleagues.

ADV MPHOS RASIVHETSHELE: So from the time from the disciplinary hearing to your dismissal - if - if I am correct that is less than 24 hours?

MR JAKOB DANIEL KRIGE: What happened was the initial disciplinary

hearing there - there was a planned meeting to go to the Constitutional Court on the Friday. We called it Black Friday and we were supposed - me, Thandeka and Suna - were supposed to lead the - the march to the - to the Constitutional Court and 23 hours earlier before that we - I received a phone call from - from the Disciplinary Committee and telling me that I must be at the disciplinary hearing the same morning as the - as the march to the - to the Constitutional Court which was a breach of their own Disciplinary Code because you need to give someone at least 24 hours' notice.

10 You must remember at that stage we were locked out of the SABC and we had not access to our computers, to any files, to anything that you could use in a disciplinary - during a disciplinary hearing to defend yourself.

ADV MPHO RASIVHETSHELE: And the Labour Court found your dismissals were ...

MR JAKOB DANIEL KRIGE: In valid.

ADV MPHO RASIVHETSHELE: Not lawful - in valid ...

MR JAKOB DANIEL KRIGE: *Ja.*

ADV MPHO RASIVHETSHELE: And you were reinstated thereafter?

20 **MR JAKOB DANIEL KRIGE:** *Ja.* As if we were never dismissed, *ja.*

ADV MPHO RASIVHETSHELE: Chair Mr Matthews responded to the 3.3 Notice that was issued on behalf of Mr Krige. That would be CC25. The small presentation file. Mr Krige there is a small presentation file just next to you on top - CC25. I am just going to highlight the relevant paragraphs. His response is from page 18.

CHAIRPERSON: That is his response to Mr Krige's statement?

ADV MPHO RASIVHETSHELE: Indeed so Chair.

CHAIRPERSON: Yes, okay and you will put his response to Mr Krige for Mr Krige to comment on - on what Mr Matthews has to say?

ADV MPHO RASIVHETSHELE: Yes Chair.

CHAIRPERSON: Okay.

ADV MPHO RASIVHETSHELE: Mr Krige are you there on page 18?

MR JAKOB DANIEL KRIGE: I am on page 18, yes.

ADV MPHO RASIVHETSHELE: Paragraph 13 he states that:

10 "In the Rule 3.3 Notice dated 13 August 2019 it is suggested that I have been implicated in paragraphs nine, 10, 11, 14 and 14.6 of Mr Krige's affidavit. I accordingly respond thereto as follows."

Paragraph nine of the affidavit:

20 "As I have indicated earlier in his affidavit the Editor in Chief at the SABC was CEO Motsoeneng. He made all decisions in relation to editorial and newsworthy matters and in that vein he made decisions about what could or could not be reported. It is in that context that I have repeatedly indicated that the environment at the SABC at the time was toxic or corrosive and that everybody was expected to conform to his instructions failing which the prospect of termination loomed large."

Next paragraph:

“On that day Sebonelo Dithlakanyane informed
Krige ...”

CHAIRPERSON: Well maybe do you want to let him comment if he has
any comment on paragraph 30.1?

ADV MPHOS RASIVHETSHELE: Indeed so Chair.

CHAIRPERSON: Is there anything you want to say about what
Mr Matthews says in paragraph 30.1 that has been read to you?

MR JAKOB DANIEL KRIGE: He is only half right. My paragraph nine
refers to something that happened in 2014.

10 **CHAIRPERSON:** Yes.

MR JAKOB DANIEL KRIGE: When Mr ...

CHAIRPERSON: He was no longer there?

MR JAKOB DANIEL KRIGE: When - when Mr Motsoeneng was - no.
He was CEO but according to the Editorial Policy at that stage the
Editor in Chief was - was the CEO and I think it was
Ms Lulama Mokhobo ...

CHAIRPERSON: Yes.

MR JAKOB DANIEL KRIGE: Who testified earlier at that stage.

CHAIRPERSON: Yes.

20 **MR JAKOB DANIEL KRIGE:** So it is wrong of him to say that Mr -
Mr Motsoeneng was in fact the *de facto* news boss in 2014.

CHAIRPERSON: Yes.

MR JAKOB DANIEL KRIGE: Maybe he knew something that I - that I
did not know at that stage but

CHAIRPERSON: Okay.

MR JAKOB DANIEL KRIGE: According to our Editorial Policy it was still the CEO.

CHAIRPERSON: Yes, okay.

MR JAKOB DANIEL KRIGE: However the - the later part of that is correct. That in 2016 by - at that stage Mr Motsoeneng was already the Editor in Chief.

CHAIRPERSON: Huh-uh.

ADV MPHO RASIVHETSHELE: The next paragraph:

10 “On that day Sebonelo Dithlakanyane informed
 Krige who was her direct report about Motsoeneng’s
 instructions regarding the EFF. In light of
 Mr Krige’s response to her she approached me for
 advice about him not only in relation to this incident
 but in relation to his generally confrontational
 approach towards her in the past. It is was general
 - it was in that general context of his historical
 conduct towards her which in my view often
 bordered on racist and sexist conduct that I thought
 it would be appropriate to intervene and inform him
20 that his attitude towards Dithlakanyane was not
 appropriate nor acceptable.”

MR JAKOB DANIEL KRIGE: *Ja.* That is an easy way out. It is one of the - the most common excuses if - if a man differs with a woman. It is either sexist and if she is Black then - then it is racist. He is playing the - the man and not the ball. The issue here was an instruction from

my superior - my line manager that we cannot report on any EFF activities. That is the issue.

Not - not the fact that I am sometimes confrontational. Of course in a - in a newsroom it is a robust environment and sometimes we are confrontational and it does not matter if it is a man or a woman or Black or - or Coloured. It is not the issue. That is not the issue. The issue is was the instruction that Sebonelo gave me lawful or not but he tries to avoid it by using - you know - sexist or a racist implication.

- 10 **ADV MPHO RASIVHETSHELE**: Okay. Responding to your paragraphs 10 and 11 of your affidavit. It reads:

“In paragraph 10 Mr Krige avers that on 1 December 2014 I was appointed in the position of Group Executive News. In paragraph 11 Mr Krige makes a broad assertion that I have been fingered in other words implicated in the report. His assertion is general and non-specific and I have in any event dealt with the relevant portions of the report above.”

- 20 **MR JAKOB DANIEL KRIGE**: Well I read Mr Joe Thloloe’s report and it was definite that him - he, Sebonelo and Simon Tebele was giving instructions via certain people to the newsroom. So if that is not fingered. I am not sure what - what he means. Maybe I made the wrong deduction. We can look - look at it when we discuss the Joe Thloloe report and the implications of that.

ADV MPHONG RASIVHETSHELE: In response to paragraphs 14 and 14.6 of Mr Krige's affidavit. Mr Matthews replies:

10 "In these paragraph Mr Krige suggests that I have either - I was involved in or sought enforcement of Motsoeneng's decisions to ban any coverage of violent protest. I have indicated earlier in this affidavit Motsoeneng made all critical decisions as they relate to SABC and politics. It was him that reported and it was his instructions that I ultimately carried out and the report confirms Motsoeneng firmly established that he as the COO has the final responsibility for news. I accordingly repeat the contents of paragraphs 15 and 16 above for Mr Krige's contents. I also confirm that I tendered my resignation before the decision to dismiss the SABC eight was taken or implemented."

20 **MR JAKOB DANIEL KRIGE:** *Ja*, this is very sad that the newsroom was not protected at that stage. If - if Mr Jimi Matthews said that - that Mr Hlaudi Motsoeneng had the final say about news and it is maybe just an indication of what - what was going on in the newsroom? You must remember at that stage we were not informed that the CEO is not the *de facto* head of - of news or the Editor in Chief.

At that stage the SABC had not told anyone as far as I know that - that there was a change in the Editorial Policy but *ja*. He resigned. That I agree with before the decision to dismiss but there

was no one not one line manager not one person in the SABC that stood up and defended any - any of the dismissals or any - any of the suspensions. Not one and he was part of that.

ADV MPHO RASIVHETSHELE: Thank you Mr Krige. Chair just to go to the information about the transcripts. We do have a recording of the meeting that Mr Krige did highlight but however that recording from what I have been informed is not clear enough. However if the Chair wants to have a listen to it we can provide the Chair with that recording. However you know I have been told by the tech - by ...

10 **CHAIRPERSON:** Is it anything for which there is a transcript already here?

ADV MPHO RASIVHETSHELE: No the - it has not - there has not - it is for - it is for what is said in Mr Krige's statement. There has not been any dispute of the authenticity or ...

CHAIRPERSON: *Ja.* No, no I am talking about the recording that you are talking about.

ADV MPHO RASIVHETSHELE: Yes Chair.

CHAIRPERSON: Is it a recording in respect of which we already have a transcript here?

20 **MR JAKOB DANIEL KRIGE:** *Ja.*

ADV MPHO RASIVHETSHELE: Yes.

CHAIRPERSON: Now if - if there is a transcript it is - it is okay.

ADV MPHO RASIVHETSHELE: Thank you Chair.

CHAIRPERSON: *Ja.*

ADV MPHO RASIVHETSHELE: And in - well paragraphs 24 to 25

speaks about the transcriber - how - how these were transcribed in your affidavit and so forth and you did hand in a recording to the investigators. However as we relayed it was not clear enough for us to play but it is a true reflection of what is stated in your affidavit?

MR JAKOB DANIEL KRIGE: It is Chair, *ja*.

ADV MPHONG RASIVHETSHELE: And that would conclude the end of Mr Krige's affidavit as well. Mr Krige if there is anything that you would like to add on top of - if there is anything that you feel that we have not relayed but we have come to the end of your - of your affidavit.

10 **MR JAKOB DANIEL KRIGE:** Maybe just one thing and referring back to Mr Matthews' argument or affidavit is that - that people must understand that the newsroom at that stage there was a toxic fear. There was uncertainty. We - there was no protection from anyone. Not Mr Matthews. Not Mr Tebele.

Not Mr Motsoeneng and it was a very, very difficult situation to work - work in and I think if I can just mention what happened yesterday with Ms Phathiswa Magopeni the new Head of News. That is - that is the sort of leadership that we need in a newsroom and you need a newsroom that is bulletproof. That is free from interference
20 where you can do your job as any other journalist should do and that did not happen during 2016. That is all I want to say.

ADV MPHONG RASIVHETSHELE: Chair just to bring the Chair's attention to - we do have a transcribed - a transcription of that recording. It is on page 121 of CC12.

CHAIRPERSON: Okay. That is fine. That is fine.

ADV MPHO RASIVHETSHELE: And that would conclude the evidence of Mr Krige.

CHAIRPERSON: Thank you very much Mr Krige for - for coming and for sharing with the Commission your experiences. Thank you very much.

MR JAKOB DANIEL KRIGE: Thank you Chair.

CHAIRPERSON: You are excused.

MR JAKOB DANIEL KRIGE: Thank you.

CHAIRPERSON: Thank you. Tomorrow how many witnesses have we
10 got?

ADV MPHO RASIVHETSHELE: We have got - as far as I know we have two witnesses.

CHAIRPERSON: So we could start at 10?

ADV MPHO RASIVHETSHELE: Yes Chair. 10 o'clock.

CHAIRPERSON: Okay. We will adjourn the proceedings for the day and we will start at 10 o'clock tomorrow. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS TO 5 SEPTEMBER 2019