

COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

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DAY 166

20

PROCEEDINGS COMMENCE ON 18 SEPTEMBER 2019

CHAIRPERSON: Good morning Ms September, good morning everybody,

ADV VERUSCHKA SEPTEMBER: Good morning Chair.

CHAIRPERSON: Are you ready?

ADV VERUSCHKA SEPTEMBER: Yes we are Chair.

CHAIRPERSON: Okay let us proceed.

ADV VERUSCHKA SEPTEMBER: Before we proceed Chair there is one legal representative who by your leave.

10 **CHAIRPERSON:** Hm.

ADV VERUSCHKA SEPTEMBER: Would like to place himself on record.

CHAIRPERSON: Okay.

ADV KGAUGELO BALOYI: Morning Judge.

CHAIRPERSON: Morning, morning.

20 **ADV KGAUGELO BALOYI:** My name is Kgaugelo Baloyi I come from Kgaugelo Baloyi Attorneys in Pretoria. Judge I am coming on record for General Mphego. Judge my instructions at this stage that there is an affidavit that is going to be filed but for now Judge we reserve our rights Judge.

CHAIRPERSON: Thank you.

ADV KGAUGELO BALOYI: Thank you very much.

CHAIRPERSON: Thank you.

ADV VERUSCHKA SEPTEMBER: Good morning Mr Roelofse.

MR KOBUS DEMEYER ROELOFSE: Good morning Chair.

CHAIRPERSON: Good morning. Are you ready?

ADV VERUSCHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: Proceed.

ADV VERUSCHKA SEPTEMBER: Chair yesterday we ended on page 30 of the affidavit which is in bundle KK2.1.

CHAIRPERSON: I have got it thank you.

ADV VERUSCHKA SEPTEMBER: Just to contextualise Mr Roelofse I ask that you please look at Exhibit KK2.3 and in particular diagram 2.

CHAIRPERSON: It does not look like I have got the diagrams – the
10 diagram file here. That – that cannot be your fault. I think we will just
have to adjourn and let them check. It is diagram – I think you said
diagram file and the other one. Oh have you got a spare one?

ADV VERUSCHKA SEPTEMBER: We do have a spare one Chair.

CHAIRPERSON: Okay. Just remember to check with them during the
break. Okay thank you.

ADV VERUSCHKA SEPTEMBER: So diagram 2 of Exhibit KK2.3. Mr
Roelofse is it correct that this diagram talks to part of the evidence that
you provided yesterday in that the first investigation that you were
involved in for purposes of your evidence concerned the Richard –
20 General Richard Mdluli Vosloorus case?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And that was an investigation that
you led which resulted in certain members from Crime Intelligence and
the police to approach you to provide you with information relative to
the abuse of the Secret Services Account and the funds in those

accounts?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And is it also correct that off the information that you received from a certain Mr – certain Colonel Naidoo the – the investigations that have been outlined in diagram 2 not diagram 1. The eleven investigations there are but some of the investigations that you have been involved in but these are the eleven investigations that you place before the commission?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

10 **ADV VERUSCHKA SEPTEMBER:** And then to take us to page 30 of – which takes us to page 30 of your affidavit you now deal with investigation number 5 and you have titled that General Lazarus abuse of Secret Services Account purchasing of vehicles.

CHAIRPERSON: That looks...

ADV VERUSCHKA SEPTEMBER: We at paragraph 94.

CHAIRPERSON: That looks like 4. Is that not roman figure iv?

ADV VERUSCHKA SEPTEMBER: It is at the bottom of page 30 Chair.

CHAIRPERSON: Oh you are at the bottom. I thought you were – okay, alright.

20 **ADV VERUSCHKA SEPTEMBER:** My understanding is we have completed the previous investigation yesterday.

CHAIRPERSON: Oh okay – oh that is the abuse of the safe house?

ADV VERUSCHKA SEPTEMBER: Unless you wish us to address any ...

CHAIRPERSON: No, no.

ADV VERUSCHKA SEPTEMBER: Any other aspect in relation to.

CHAIRPERSON: No it is fine.

ADV VERUSCHKA SEPTEMBER: Colonel Roelofse how did it come about that you were informed of allegations in the – in relation to this investigation?

MR KOBUS DEMEYER ROELOFSE: Chair once again it was – I was informed by Colonel Naidoo regarding certain allegations and then based on that I tried to follow up to either corroborate – to prove – I mean to corroborate what he said to me. And then ...

10 **ADV VERUSCHKA SEPTEMBER:** And what did Colonel Naidoo inform you?

MR KOBUS DEMEYER ROELOFSE: Well he...

ADV VERUSCHKA SEPTEMBER: Which resulted in this investigation?

MR KOBUS DEMEYER ROELOFSE: Colonel Naidoo informed me in broad terms that vehicles especially luxury vehicles were used to – and I will use the word influence very broadly to influence senior management to pose no obstacle when it comes to what General Lazarus as part of his agenda. In other words as I said yesterday these are methods that was employed to put people in a – in a difficult
20 situation – in a compromising position and then based on that...

CHAIRPERSON: Oh basically they were being maybe indirectly maybe directly bribed so that they would not say anything against General Lazarus.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. The problem with the – the problem with the – that is how it started. The

unfortunate part is it did not stop there.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: When – at that point when that individual are comprised he is not in a position to act.

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: So then this is basically what – what I am referring to when we talking about the vehicles.

CHAIRPERSON: Yes okay.

ADV VERUSCHKA SEPTEMBER: And when is it that you discovered
10 this information about General Lazarus using funds from the Secret Services Account to procure vehicles for senior managers?

MR KOBUS DEMEYER ROELOFSE: It would have been in the timeframe when I spoke to Colonel Naidoo so it would have been after the 20th or on or about the 20th October 2011.

ADV VERUSCHKA SEPTEMBER: If I can take you to page 31 of your affidavit.

CHAIRPERSON: Just before that in paragraph 94 the senior police and other government officials referred to in paragraph 94 would they have been senior to him

20 **MR KOBUS DEMEYER ROELOFSE:** To General Lazarus?

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: Yes Chair they would have been.

CHAIRPERSON: So that would – I take it that since as I understand the position only General Mdludlu was senior to him.

MR KOBUS DEMEYER ROELOFSE: In terms of Crime Intelligence.

CHAIRPERSON: Am I correct about that?

MR KOBUS DEMEYER ROELOFSE: Yes Chair.

CHAIRPERSON: Am I correct about that?

MR KOBUS DEMEYER ROELOFSE: Yes. If we talk about Crime Intelligence yes.

CHAIRPERSON: Ja Crime Intelligence?

MR KOBUS DEMEYER ROELOFSE: Yes.

CHAIRPERSON: Yes, yes, yes. So it means that if there were others senior to him they fell outside – some of them fell outside Crime
10 Intelligence?

MR KOBUS DEMEYER ROELOFSE: That is correct.

CHAIRPERSON: That he tried to influence.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair but maybe I should just correct myself. There – the senior was General Mdludlu the other Generals were on a Major-General level. So in that sense they were on the same level but he held the position within the SSA as the Financial – the Chief Financial Officer.

CHAIRPERSON: Okay.

MR KOBUS DEMEYER ROELOFSE: So he might be on the same level
20 in terms of seniority with the other members at CI who was also Generals.

CHAIRPERSON: Oh so – so – but all of them that you are talking about in paragraph 94 were people who were – he had in Crime Intelligence not anybody outside of Crime Intelligence?

MR KOBUS DEMEYER ROELOFSE: Chair as far as I can remember

there are people outside.

CHAIRPERSON: Crime Intelligence.

MR KOBUS DEMEYER ROELOFSE: Outside Crime Intelligence who also received a vehicle yes.

CHAIRPERSON: Okay alright. No I just – we can deal with them later. I just wanted to have an idea whether it was confined to Crime Intelligence or it went beyond.

MR KOBUS DEMEYER ROELOFSE: No it went beyond Chair.

CHAIRPERSON: Okay.

10 **ADV VERUSCHKA SEPTEMBER:** At page 31 you talk about a discovery that you had in May 2011. Please clarify what that relates to?

MR KOBUS DEMEYER ROELOFSE: Chair this is – when I –when I am referring to this I am referring to the other members that came forward. Not Colonel Naidoo. So what I am trying to convey here this is when members came forward and made allegations that vehicles were used in this fashion but without any specific detail which I could follow up. So that – it became known to me at that time but the meat of the information – the more accurate information came from Naidoo after I
20 spoke to him after he was – after October 2011.

ADV VERUSCHKA SEPTEMBER: You then talk specifically to a monetary threshold that was permitted for use in obtaining a vehicle and you do so with specific regard to senior managers. Can you please elaborate on this allegation?

MR KOBUS DEMEYER ROELOFSE: Chair this allegation – while I was

talking to General Hankel at the time when he was the intermediary. He informed me and I cannot remember if it was – if he was specific to that timeframe or was it a little bit later – after – at the time when I took his affidavit. He referred me to a conversation that he had with General Lazarus who phoned him and told him that he is entitled to a vehicle from the SSA account to the value of approximately R500 000,00. He said no I do not want a vehicle I do have my vehicle which is in our terms; SAPS terms we talk about a SMS vehicle; senior management vehicles for which they get a subsidy. He said he does
10 not want – he does not need one, he does not want one. He then – he then relayed to me that he then after that he received a call from General Mdluli.

CHAIRPERSON: I am sorry I missed – who was saying he did not want it?

MR KOBUS DEMEYER ROELOFSE: General Hankel.

CHAIRPERSON: Oh yes okay.

MR KOBUS DEMEYER ROELOFSE: He was relaying the story to me.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: Okay. Then ...

20 **CHAIRPERSON:** He got a call from General Mdluli.

MR KOBUS DEMEYER ROELOFSE: Mdluli confirming what General Lazarus' has said that you are entitled to this vehicle. And he again refused he said I do not want the vehicle. So – and – we are aware or I am aware of the fact that senior managers did in fact drive with state vehicles from the SSA account contrary to the SMS packaging because

they already got that. They already have that advantage that financial advantage.

ADV VERUSCHKA SEPTEMBER: And your awareness of these particular individuals that you refer to are those the individuals that you will now talk to?

MR KOBUS DEMEYER ROELOFSE: Yes some of them yes Chair.

ADV VERUSCHKA SEPTEMBER: Who was the first individual that was discovered in your investigation?

MR KOBUS DEMEYER ROELOFSE: Chair during my investigation I
10 discovered that the following vehicles as I mentioned in paragraph 95 were in – were bought through the SSA account for the use of General Mdluli and his office. And when I say his office I use that term also loosely because it was used by him. And in that regard we were able to identify a Mercedes Benz E Class Sedan. A Mercedes Benz 300 – 350CDI. BMW 350D Sedan. A Mercedes Benz ...

ADV VERUSCHKA SEPTEMBER: 530 to correct you.

MR KOBUS DEMEYER ROELOFSE: Sorry?

ADV VERUSCHKA SEPTEMBER: So it is a BMW 540D Sedan.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

20 **ADV VERUSCHKA SEPTEMBER:** Thank you.

MR KOBUS DEMEYER ROELOFSE: A Mercedes Benz ML350 and a Lexus. The total value of those vehicles amounts to more than R3 million.

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: R3.153 730.00.

CHAIRPERSON: The – those amounts are for new hey for as they were when they were bought?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Yes okay. And now this is about what five vehicles, this is five vehicles. Would that be separate from his SMS vehicle as you put it or this would include his SMS vehicle?

MR KOBUS DEMEYER ROELOFSE: That is separate from his SMS vehicle Chair.

CHAIRPERSON: Yes.

10 **MR KOBUS DEMEYER ROELOFSE:** You will remember that I testified that he sold his SMS vehicle as part of the trade in deal.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: So this is separate from that.

CHAIRPERSON: But now did you establish whether he had all these five vehicles available to him at the same time or whether he used one – he had one available to him for a year and then brought another one and gave that one to somebody else or something like that?

MR KOBUS DEMEYER ROELOFSE: Chair that is correct. He used these vehicles over a period of time.

20 **CHAIRPERSON:** Hm.

MR KOBUS DEMEYER ROELOFSE: So he would not necessarily have two or three of the – of these vehicles in his possession at the same time.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: It would have been used and then

given back to a member of CI to be used.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: For – to be utilised further yes that is what happened.

CHAIRPERSON: Yes. Do have any recollection of what the minimum period was when anyone of these vehicles were used by him before it was given away to somebody?

MR KOBUS DEMEYER ROELOFSE: Chair I do not have that detail with me but it would be part of the – of the case docket which we
10 investigated.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: Because I have the actual documents there.

CHAIRPERSON: Yes but we are not talking about like a week, a month we are talking about quite a long – much longer time or you are not sure?

MR KOBUS DEMEYER ROELOFSE: Chair it depends.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: And in respect of each vehicle.

20 **CHAIRPERSON:** Ja.

MR KOBUS DEMEYER ROELOFSE: Where some of them were longer, some will be a bit shorter.

CHAIRPERSON: Okay.

MR KOBUS DEMEYER ROELOFSE: But I might – what I can inform the Chair is that in respect of the Lexus vehicle.

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: You will see that I will speak later on about a – private properties leased for private use.

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: Now when we did the search and seizure at one of those properties I found the Lexus vehicle in the garage. The vehicle was used by General Mdluli. It was parked there in – at the time when he got arrested. It was left there for more than seven – it was left there from April 2011 until November 2011 where the
10 car was not used. It was just left in the garage. So ...

CHAIRPERSON: Was he – was he on suspension during that time?

MR KOBUS DEMEYER ROELOFSE: He was on suspension during that time ja.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: And it is this Crime Intelligence vehicle that – the vehicle is not being utilised. It was bought for his – for his use.

CHAIRPERSON: Okay.

MR KOBUS DEMEYER ROELOFSE: So that is and the other instance
20 when we search – when we looked for Mr Mdluli prior to his arrest we also found a Mercedes Benz E-Class Mercedes at his pre – at his property which is the top one that I am referring to. The vehicle at that time was not even registered. That is how new it was. So it was over a period of time. Some he used for longer times than others.

CHAIRPERSON: Do you have any recollection whether there could

have been times when there is an overlap? In other words a new one comes but an old one stays for some time before it is...

MR KOBUS DEMEYER ROELOFSE: Chair as far as I can remember there were overlaps.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: Mr Mdluli after his marriage he used to go to Cape Town quite a lot. So he had a vehicle there for his use as well as a vehicle in Gauteng for his use.

CHAIRPERSON: Okay.

10 **ADV VERUSCHKA SEPTEMBER:** Mr Roelofse you mentioned that these vehicle were the outcome of an investigation that you conducted independently. Is that to be understood correctly?

MR KOBUS DEMEYER ROELOFSE: That is – that is true Chair.

ADV VERUSCHKA SEPTEMBER: And these five vehicles over what period was – did your investigation cover?

MR KOBUS DEMEYER ROELOFSE: Chair this covered the period between General Mdluli's suspension which happened on – which happened on the day of his arrest which was the 30th March if I am not mistaken and – 2011 and – and – in other words from his appointment
20 in July 2009 up until the time that he was suspended. The car that I am referring to that we found in the garage was obviously only found afterwards at six over seven months afterwards.

ADV VERUSCHKA SEPTEMBER: Is that then the period referred to in paragraph 95 of your affidavit which is 01 July 2009 until 31 March 2011?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And your discovery of the Lexus was then outside that time period?

MR KOBUS DEMEYER ROELOFSE: Ja the vehicle was bought within that period but the discovery was outside the time period.

ADV VERUSCHKA SEPTEMBER: You then deal with another police member who also benefitted from vehicles that was purchased through the use of state funds by the Secret Services Account.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

10 **ADV VERUSCHKA SEPTEMBER:** Can you please address this individual insofar as your investigation concerned this general.

MR KOBUS DEMEYER ROELOFSE: Chair I did not know about this vehicle. This was – this was information given to me by Colonel Naidoo. It was a Q5 Audi that was bought through the SSA funds for the use of General Monoko Mpshe I as I – in the amount of R557 079.96.

ADV VERUSCHKA SEPTEMBER: What position did this General hold?

MR KOBUS DEMEYER ROELOFSE: At the time she was the Divisional Commissioner in terms of Human Resources if I am not mistaken and in
20 that regard she would have been or she would have played a role in the
250 appointment process within Crime Intelligence because of her
position as the – as the – as a general in charge of personnel.

ADV VERUSCHKA SEPTEMBER: Is that the 250 recruitment drive you alluded yesterday that occurred during 20 – the year of 2010 for Crime Intelligence in particular?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: So did this General hold any position within Crime Intelligence? Or how exactly would her involvement have been as the Head of HR in that process?

MR KOBUS DEMEYER ROELOFSE: Chair from what I understand she did not hold the position within Crime Intelligence but she does play a role in – with the – deciding how many posts – how many posts will be available? How much money the budget in terms of that? So she would have played a role in terms of that and that is where here role
10 becomes important and her buy in into this process becomes important. Without that they would not have been able to – to push these things through.

ADV VERUSCHKA SEPTEMBER: But would this General not be entitled to receive a vehicle purchased through the SSA?

MR KOBUS DEMEYER ROELOFSE: Chair no she would not be entitled. In fact she already had – because of her position she had a SMS vehicle to which she was entitled. She had further had – to that she had an official vehicle and that allow her not only to have the vehicle but also a driver that is attached to that vehicle. So in her
20 position she already got those kind of – that is part of her – the post that she was occupying at the time it came with that post. So she already received those benefits. She is not entitled to this vehicle. She is not doing Crime Intelligence business. She is not doing official – an official function of Crime Intelligence.

ADV VERUSCHKA SEPTEMBER: So what exactly were you able to

independently verify through your investigations from the allegations that you received from Colonel Naidoo?

MR KOBUS DEMEYER ROELOFSE: In respect of this specific vehicle?

ADV VERUSCHKA SEPTEMBER: Correct.

MR KOBUS DEMEYER ROELOFSE: Chair I was able to obtain the actual motivation for the vehicle this [indistinct] – this specific vehicle and I would like to quote from the memorandum which allowed them to buy the vehicle. This is now a memorandum from Crime Intelligence
10 applying or motivating for this specific vehicle. It says the following”

“There are times – there are time vehicles are being procured for various operations but without applications. Reason being that these vehicles are being used in highly sensitive operations. These vehicles are utilised by agents. This happens during the course of the year when the need arises.”

That clearly has got absolutely nothing to do with General Mpshe. As I – as I stated right now General Mpshe was never a member of CI. She was never in the agent program as far as I know and she never
20 undertook highly sensitive operations within CI. So in respect of the application or the motivation there is already a misrepresentation made to the state in regards to the – to the – to buying – to the buying of this vehicle.

ADV VERUSCHKA SEPTEMBER: Was there any other misrepresentation that was made that you were – that you are aware of

in relation to this vehicle?

MR KOBUS DEMEYER ROELOFSE: Yes Chair I am aware of the following misrepresentations it was also made. I had an opportunity to see Colonel Barnard at the office of General Hankel. He mentioned to me or he actually mentioned to General Hankel – I was just present that this specific vehicle is registered on their SR register – their asset register as a Q4 – sorry an A4 Audi. And the reason he – he advanced for that is that the Auditor General will pick up this anomaly of a Q5 and that will raise a flag from the Auditor General and they will ask –
10 they will ask questions regarding the purchase of this vehicle. That is why it was registered as an A4 which would not raise that red flag from the AG's office. The AG is not – does not audit each and every transaction so they would look for flags for things that stand out and this would have been one. So this would then negate the auditing process of the Auditor General.

ADV VERUSCHKA SEPTEMBER: Were any disciplinary steps taken in relation to this matter?

MR KOBUS DEMEYER ROELOFSE: Yes Chair. General Lazarus was – was found guilty as part of the disciplinary process in respect of this
20 specific matter. General Mpshe was informed that a disciplinary action will be taken against her and she after being informed she resigned the next day. I do not know if anything happened to Colonel Barnard I am not – I am not aware whether he was charged for this in a disciplinary matter.

ADV VERUSCHKA SEPTEMBER: And then what is the status of the

criminal investigation in relation to this matter if any?

MR KOBUS DEMEYER ROELOFSE: Chair the investigation is done but I – but the unfortunate part is I cannot use the documentation in a court of law because it is not declassified.

ADV VERUSCHKA SEPTEMBER: If we can then turn to page 33 of your affidavit where you start with the next investigation that you place before this commission and that is titled General Lazarus use of Secret Services – SSA to fund upgrades to private premises. Is that correct?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

10 **ADV VERUSCHKA SEPTEMBER:** And like you did in relation to the purchasing of vehicles where you spoke to particular individuals that you discovered in your investigation so too are there certain individuals that you – that your investigations revealed regarding upgrades to private premises, is that correct?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. If I may this also emanates from Colonel Naidoo which I followed up and in an effort to corroborate what he says. He informed me that General Mdluli received comprehensive – received a comprehensive security upgrade at his private residence. When I was able to retrieve some of those
20 documentation from Crime Intelligence which was handed to me the value of that upgrade was valued at R190 735.00.

ADV VERUSCHKA SEPTEMBER: And that was information that you verified through your investigation?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. I have the documentation showing this transaction. Unfortunately also classified.

ADV VERUSCHKA SEPTEMBER: Was that General Mdluli's private home – official residence private home?

MR KOBUS DEMEYER ROELOFSE: That was his private home which is situated in Dawn Park, Boksburg.

ADV VERUSCHKA SEPTEMBER: The next security upgrade relates to a particular Lieutenant General can you please address the next individual that your investigations unveiled?

MR KOBUS DEMEYER ROELOFSE: Chair this is again General Monoko Mpshe. She received again according to Colonel Naidoo she
10 received a security upgrade at her private residence to the value of about R40 000.00. I did request these documents I was not – I was not provided the documents from Crime Intelligence. But we were able to identify some of the individuals, private individuals who actually installed the security upgrades. So that is why I am – I am dealing with an approximate amount of R40 000,00 because I cannot confirm from Crime Intelligence side what the actual amount was that was paid to the service providers.

ADV VERUSCHKA SEPTEMBER: So were you then able to verify whether or not the SSA was used to fund these renovations?

20 **MR KOBUS DEMEYER ROELOFSE:** Yes Chair I was able to verify that and through the payments and the bank statements.

ADV VERUSCHKA SEPTEMBER: Payments and bank statements of whom?

MR KOBUS DEMEYER ROELOFSE: Of the – of the – of the service provider.

ADV VERUSCHKA SEPTEMBER: The next individual that you refer to is a Minister who received upgrades to private premises. Can you please address that part of your evidence?

MR KOBUS DEMEYER ROELOFSE: Yes Chair. Again according to - (clearing throat) sorry - according to Colonel Naidoo he informed me about security renovations that he had undertaken or that was undertaken at a private residence of the then Minister of Police Mr Mthethwa in KwaMbonambi in KwaZulu-Natal.

There was a risk - there was a risk assessment done on
10 31 May 2010 on the premises on the instruction of General Mdluli. Colonel Naidoo submitted the claims to the value of R195 581,45 on 14 September 2010 and then I list the other - that is the total amount. So it was three - three payments to the value of 195 581,45.

The one was submitted on 14 September 2010, 13 December 2010 and 31 January 2011 totalling that amount. General - Colonel Naidoo was responsible for the claims in this regard. He would put in the claim and he would - in respect of the work that has been done ...

ADV VERUSCHKA SEPTEMBER: Has your ...

20 **MR KOBUS DEMEYER ROELOFSE:** And I was ...

ADV VERUSCHKA SEPTEMBER: Has your investigation established whether Minister Mthethwa was aware of the source of the funding for the - for the renovations?

MR KOBUS DEMEYER ROELOFSE: Chair that I cannot say. I do know that - that is again according to Naidoo - Colonel Naidoo. He was

present when General Mdluli and the Minister was at the - his premises at - in Natal - KwaZulu-Natal. So whether he actually knew where the money came from or not that I cannot - I will speculate if I - if I say that.

What I do know is that the Secret Service Account did make payment for this and there was a security risk assessment done and it was approved by General - General Mdluli.

ADV VERUSCHKA SEPTEMBER: And this risk assessment that you refer to is that in relation to the process that you spoke of yesterday
10 insofar as where there is a need for a security upgrade to the private - private premises of a member and that the threat assessment is done in order to establish the need and extent of a security upgrade to be funded by Public Works?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. In - in all of these instances that is what should have happened. In respect of the Minister of Police at the time if I am not mistaken the - Parliament sets aside I think it is - it is roundabout R100 000,00 for a - for a Minister for security upgrades on his private residence.

Any additional amount is - is for his own - at his own cost. I
20 cannot speculate as to what the Minister knew or did not know. I know that the amount was more than the R100 000,00 that was needed for the - for the security upgrade. I did not see any - any risk assessment. It was done on the home of General Mdluli in terms of the documentation that was provided to me.

I cannot speculate on General Mche (?) because I did not

receive the actual documents to see whether there was a risk assessment done or not.

ADV VERUSCHKA SEPTEMBER: It was your evidence that Colonel Naidoo informed you that he was responsible for the submission of claims in relation to these renovations?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. In respect of General Mdluli, General Mche and the then Police Minister, Minister Mthethwa.

ADV VERUSCHKA SEPTEMBER: In regard to the claims that
10 Colonel Naidoo submitted for the renovations to
Minister Nathi Mthethwa's home did he inform you about those claim
documents having any particular purpose?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. He informed me that he had copies of those claims in his office where he worked at the time. I went with him. I - I went to fetch the copies of the documents. He then relayed to me the story as to why he had copies - why he was asked to make copies of the documents.

According - (background noise) sorry Chair - according to
Colonel Naidoo General Lazarus requested him - sorry - to make claims
20 after it became apparent that General Bheki Cele the then
Commissioner of - of SAPS and Minister Mthethwa had lost touch with
each other.

According to Colonel Naidoo the documents were to be given to General Cele to ensure the - that the Minister could not act - act against him. This is however also an example of an investigation which

was never finalised due to SAPS' failure to assist and providing important investigative documents.

So - and this falls within the category of what I described earlier placing people at - putting them in a situation where they cannot get out from and putting them at risk and it was a common theme that came apparent throughout this investigation from Crime Intelligence from the Secret Service Account.

ADV VERUSCHKA SEPTEMBER: So we do understand that this investigation is ongoing?

10 **MR KOBUS DEMEYER ROELOFSE:** Chair it is ongoing in the sense that it continue once we were - once we are given access to declassified documents relating to - to this event.

ADV VERUSCHKA SEPTEMBER: The next investigation on page 34 is titled General Lazarus and I cannot pronounce the first name with respect Chair but it is Mr P Marimuthu.

CHAIRPERSON: Panganathan I think, but that is my own pronunciation.

ADV VERUSCHKA SEPTEMBER: Thank you Chair.

CHAIRPERSON: Well Mr Roelofse might know ...

20 **MR KOBUS DEMEYER ROELOFSE:** I ...

CHAIRPERSON: How it is pronounced.

MR KOBUS DEMEYER ROELOFSE: I have it the same way Chair as (intervenes).

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: Panganathan ...

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: Marimuthu.

ADV VERUSCHKA SEPTEMBER: Thank you. Please give us insight into how your investigation into this individual started ...

MR KOBUS DEMEYER ROELOFSE: Once ...

ADV VERUSCHKA SEPTEMBER: And progressed.

MR KOBUS DEMEYER ROELOFSE: Once again Chair it was - it was started through the - the information provided by Colonel Naidoo. The premise this - according to Colonel Naidoo - the premise under which
10 this took place is because in late 2010 CI went through a restructuring process which would have an infect - an effect on appointments within CI and positions and where people are being placed or not.

ADV VERUSCHKA SEPTEMBER: And who was ultimately responsible for the sign off for that restructuring process in your investigations as you understood it to be?

MR KOBUS DEMEYER ROELOFSE: Chair that would be the SAPS National Commissioner which - which would have been Bheki - General Bheki Cele at the time. Now according to Naidoo as part of the restructuring General Lazarus as the CFO want to - wanted to retain
20 and augment an operational capability which - within CI which fell - which fell outside his mandate.

This was contrary to the working methodology within CI because his unit being the SSA is considered to be an operational unit. It is - it is operational support unit. Chair if I may elaborate on that.

ADV VERUSCHKA SEPTEMBER: Please.

MR KOBUS DEMEYER ROELOFSE: What it - what it means is that Crime Intelligence have an operational - have operational units which needs to be supported. General Lazarus was in the position as the Head of the SSA to provide that support. If he - if he has an operational capability within his - within his unit he becomes the referee and the player.

He is supposed to make sure that one of his tasks is supposed to make sure that funds are spread evenly and that give - and given according to needs. If he has this kind of power he is in the
10 position to - to decide who gets what and he can also then also reward himself in respect of whatever he wants to do and this is largely the reason why we have these instances of people being placed in a very difficult situation because these claims and these transactions were dealt with within that operational unit which was run by General Lazarus.

He could not go outside that trust circle for this kind of arrangement. So that in essence is what - what this means. It is not - it is not a working ideology that Crime Intelligence had before that. There needs to be a Chinese wall between the two.

20 **ADV VERUSCHKA SEPTEMBER:** So what is the importance of the roll of Mr Marimuthu in the context of the restructuring process?

MR KOBUS DEMEYER ROELOFSE: Chair according - as I said this is according to Colonel Naidoo. Mr Marimuthu was seen as a close confident, close friend of General Cele dating back to his time as the Minister of Transport - the MEC for Transport in KwaZulu-Natal. I do

not have prior - I did not have prior knowledge of that.

I did not know Mr Marimuthu. I knew about General Cele because he was the Head of the - the National Commissioner. In any event according to General - according to Colonel Naidoo General Lazarus approached Mr Marimuthu to assist him - by introducing him to General Cele.

He wanted a direct relationship with General Cele. This is now General Lazarus and according to my information as I stated earlier he had - he was a member of the Executive Committee, the MEC
10 for Transport in KwaZulu-Natal where this relationship was - was formed between him - between Bheki - General Bheki Cele and Mr Marimuthu.

He then went further. He says that Mr Marimuthu facilitated a series of meetings in which General Cele agreed to - to this restructuring proposals made by General Lazarus in respect of Crime Intelligence. Colonel Naidoo also alleges that General Cele was paid in cash to secure the support in relation to General Lazarus restructuring proposal allowing operational capability.

Mr Marimuthu also received some benefits from his
20 relationship as Mr Marimuthu was registered as a contact person/informer at CI and he was - in that process he was paid large sums of money to influence General Cele to support General Lazarus. Colonel Naidoo also indicated that the personally paid R50 000,00 to Mr Marimuthu on one of such occasion and then I refer to FM08 which was Mr Marimuthu's main handler at the time.

ADV VERUSCHKA SEPTEMBER: If we can pause there then for a moment. The information that you present now before this Commission is information that you - you source from Colonel Naidoo?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: To what extent have you been able to verify any aspects of this information?

MR KOBUS DEMEYER ROELOFSE: Chair I can - at this point in time I - I can verify the R50 000,00 payment that was made. I have a copy of that document. That is the copy of the document that was not
10 declassified by SAPS and that was placed in a - in an envelope and agreed by them that it could be handed up to - to yourself Chair.

So that is that document. That confirms the payment and it was dealt with if I am not mistaken by Naidoo. It also contains a memorandum explaining the reason why Mr Marimuthu had to be paid for the period of a year. I think in the amount of R50 000,00 a month. Although I was only able to retrieve the one - the one payment. I do not have the other documentation relating to that. It was not provided to me.

ADV VERUSCHKA SEPTEMBER: Chair the evidence that is presented
20 in relation to that sealed document is then in accordance with the agreement that this witness is in no way stopped from presenting the evidence save for the document not being presented to the Commission as such which at this stage we do not intend to rely on.

In regard to Mr Marimuthu you have now through your investigations verified certain payments that were made to him and

those verifications were done independently. Have you established any other conduct action untoward behaviour in relation to Mr Marimuthu and appointments of individuals?

MR KOBUS DEMEYER ROELOFSE: Yes Chair I did. I just want to rectify something quickly. I - I think I have a mistake. When I - when I referred to the R50 000,00 to - paid to Mr Marimuthu it was according to Colonel Naidoo paid by him. I do not have the document relating to that but I do have the document relating to the R50 000,00 that was paid by FM08 which contains the motivation for that payment and also
10 explains that there will be a yearly - monthly payment for - for 12 months of R50 000,00.

Yes Chair. There is also then the appointment of family and friends which has happened in terms of Mr Marimuthu. Mr - Mr - Colonel Naidoo gave me names. I then tried to verify those names and confirm whether it is actually true or not and then in terms of - and - and in terms of the list that I provided to the - to the Chair family and friends of Mr Marimuthu from FM13 to FM23 was appointed within the South African Police Service.

Oh, sorry within Crime Intelligence as part of the 250
20 appointment process.

CHAIRPERSON: So - so all those - all the people involved in regard to that column fell under Crime Intelligence?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: You now referring then to the table 4 on pages 35 and 36 of your affidavit. Is that correct?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Just by way of - by way of summary is it correct that there are then 11 individuals that you were able to verify as having being appointed?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. I think I - there is one individual in there which - he was actually - let me say he or she was actually a - a policeman before the time. He was brought in under different circumstances but he was also part of that specific click of individuals.

10 **ADV VERUSCHKA SEPTEMBER:** And is it also correct that the construct of this table is no different to the construct of the table referenced before in relation to appointments in that it tables relationships, status, date of appointment in rank, rank level, date of promotion/appointment in rank, rank and level?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. It is precisely the same.

ADV VERUSCHKA SEPTEMBER: Is it also correct that the appointments listed in this table consists of civilians who were appointed into positions as well as promotions of existing members?

20 **MR KOBUS DEMEYER ROELOFSE:** That is correct Chair and it is especially the civilians that were promoted at - that is - that is more controversial than the others. These are individuals without any experience in policing nor Crime Intelligence or intelligence gathering.

ADV VERUSCHKA SEPTEMBER: To look at some of the listings. If you look at the first line item on page 35 marked FM13 - 1-3. Can you

please take us through that?

MR KOBUS DEMEYER ROELOFSE: Chair this person is currently still in the South - in - in Crime Intelligence according to as I stated earlier according to the records which I looked at just prior to finalising my affidavit. Whether that person is still active today I - I cannot say. The person was - this person was a civilian. Was appointed on 1 February 2011 in the rank of a Colonel which is - which is a Level 12.

ADV VERUSCHKA SEPTEMBER: And we are then to understand that from being a civilian this particular individual was appointed directly to
10 a Level 12 ...

MR KOBUS DEMEYER ROELOFSE: That ...

ADV VERUSCHKA SEPTEMBER: Which is a level of Colonel?

MR KOBUS DEMEYER ROELOFSE: That is - that is correct Chair.

ADV VERUSCHKA SEPTEMBER: If we then look to the next line item which is FM14. Can you please take us through that individual?

MR KOBUS DEMEYER ROELOFSE: Chair as I indicated here this individual resigned on the - on 4 July 2016. This individual was a civilian. Appointed on 1 January 2011 in the rank of Lieutenant Colonel on the level - on the Level 10.

20 **ADV VERUSCHKA SEPTEMBER:** Just by way of another example relative to the investigations you were able to establish. If we look at - on page 36 FM1-7.

MR KOBUS DEMEYER ROELOFSE: Yes Chair.

ADV VERUSCHKA SEPTEMBER: Can you please take us through that line item?

MR KOBUS DEMEYER ROELOFSE: Chair this person was retired on the 31st - 31 March 2013. First appointment into SAPS was the 23rd - 23 May 2003. He was a Constable or she was a Constable and appointed at a level - Level 5. On 1 February 2011 this person was promoted from a Constable to a Captain which is a Level 8.

ADV VERUSCHKA SEPTEMBER: Thank you. What was the intelligence that you received from Colonel Naidoo in relation to these individuals and their knowledge for purposes of the positions that they were appointed into?

10 **MR KOBUS DEMEYER ROELOFSE:** Chair according to Colonel - Colonel Naidoo there was no proper procedures followed in the appointment. The individuals did not have any knowledge of Crime Intelligence or intelligence gathering. They came from a civilian life and there is no value that they could add to Crime Intelligence at the time.

Had they been appointed - there is no problem in appointing them. They should have then just gone through the process of being appointed correctly and then as we call it come through the ranks for them to get to a situation where they are being appointed in those
20 senior levels or at those senior levels.

ADV VERUSCHKA SEPTEMBER: Are these appointments aligned at all to the 250 appointment process in 2011?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. That is part of that - that process.

ADV VERUSCHKA SEPTEMBER: And who would have approved these

appointments/promotions?

MR KOBUS DEMEYER ROELOFSE: Chair it would be General Lazarus but I since - well during the investigation it became very difficult who actually appointed them because that person has run away. So we sit with the situation these - I do not have the documentation - all of the documentation relating to the appointments but according to Naidoo - Colonel Naidoo it is General Lazarus that - that made these appointments.

ADV VERUSCHKA SEPTEMBER: What is a production file
10 Mr Roelofse?

MR KOBUS DEMEYER ROELOFSE: Chair when I - when we talk about a production file and I am still - am now using again the language used by Crime Intelligence. A production file is if you a member of Crime Intelligence you either an informer or an agent. You would - your - your core function is to - is to gather intelligence.

Based on that intelligence you would write a report. Now if the informant does not write a report then his handler or an agent which is his handler will write a report on his behalf. That report would then be placed in his production file. Based on that report an amount would
20 be - would be decided upon and if the amount becomes a - a large amount - I do not have the - the number with me - but it definitely - if it is more than R10 000,00 then there is a Committee that needs to sit and to decide whether this is value for money information and then based on that the payment would be made to the informer.

In this regard there were no production files when we asked

for them. There is no - there was absolutely no proof that they did any work for Crime Intelligence and I am talking now about the time when they still had access to those documents. In that period they could not find it so they could not give it to me.

So and - and afterwards it was provided to me in any event after - after General Hankel was - was transferred from - from Crime Intelligence. So in terms of that process in terms of the files - production files we did not receive any although we did ask for them at the time and General Hankel informed me that he could not find any
10 and I have not received them in any event up to - up to now.

ADV VERUSCHKA SEPTEMBER: Who was tasked with the investigation into the appointment of - as you have - as you have referred to - family and friends of Crime Intelligence members?

MR KOBUS DEMEYER ROELOFSE: Chair a - you will remember that I testified yesterday about General Mothiba that came to visit me in Cape Town. He was in charge of disciplinary actions that were supposed - disciplinary investigations that were supposed to take place. Assisting him a Brigadier Madonsela and a Captain Hiralel was appointed and I requested them and I cannot remember whether it was through
20 General Dramat or whether it was through direct contact with them to assist me with the investigation regarding Colonel Naidoo's allegations as to what is going on in KwaZulu-Natal specifically relating to Mr Marimuthu as I did not have time at the time.

I was busy in Gauteng as I stated earlier and they continued with that investigation and they did certain investigations and we on a

continued basis we exchanged information and affidavits regarding that.

ADV VERUSCHKA SEPTEMBER: So what was your role relative to theirs in relation to the appointments of - as you have termed family and friends investigation?

MR KOBUS DEMEYER ROELOFSE: Chair I was more concentrating on the appointments that were done up in - up in Gauteng relating to General Mdluli and General Lazarus. Although we shared the investigation regarding that but that was my focus area. They - their
10 focus when beyond just KwaZulu-Natal. Their focus went to the actual process itself and the investigation into that process.

So I was not involved in the complete process of the investigation of the two - 250 - 250 process. They were appointed to do that. My involvement related to General Lazarus and General Mdluli. That is how I know about this and as - as I stated earlier I requested Madonsela either through Dramat or direct contact to - to do the investigation regarding Mr Marimuthu and we traded information as well as affidavits in that regard.

ADV VERUSCHKA SEPTEMBER: As a result of the investigation into
20 the appointment of family and friends of Mr Marimuthu what other allegations or concerns or complaints did you establish?

MR KOBUS DEMEYER ROELOFSE: Chair one of the allegations that was - that was very concerning to me was an allegation of sexual misconduct against Mr Marimuthu. I have - to that effect I - I received a - an - a sworn affidavit explaining exactly what happened. This was -

this was brought under attention - attention of not only police management but also under the attention of the then Inspector-General of Intelligence Ms Faith Radebe.

It was at that point in time that it was decided - well it was decided it should be investigated but Ms Radebe has - has indicated that that event also shocked her and she indicated that it should be investigated thoroughly. So it was known at the time that this has happened and the request was that it was - that it should be investigated.

10 **ADV VERUSCHKA SEPTEMBER:** Did the investigation continue into these allegations?

MR KOBUS DEMEYER ROELOFSE: No Chair. It did not. Not as far as I know. I did not receive any other communication relating - relating to this investigation. This investigation was stopped.

ADV VERUSCHKA SEPTEMBER: But having said that in that the investigation was stopped are we to accept then that the allegations of sexual misconduct are no more than allegations because it was not ventilated in any legal process?

20 **MR KOBUS DEMEYER ROELOFSE:** That is correct Chair we have the affidavit which is under oath but that is as far as it was taken. I think at the time further affidavits were also taken to corroborate what had taken place of which I also do have access but it did not go further than that. So it has not been ventilated in Court there is no decision been made regarding this, not as far as I know.

ADV VERUSCHKA SEPTEMBER: And as such it remains to be

allegations according to your investigations?

MR KOBUS DEMEYER ROELOFSE: Pardon?

ADV VERUSCHKA SEPTEMBER: And as such it remains to be allegations according to your investigations?

MR KOBUS DEMEYER ROELOFSE: Yes Chair this remain an allegation according to my investigation.

ADV VERUSCHKA SEPTEMBER: We are on page 37 of your affidavit which documents additional allegations that you received of – or complaints of wrong doing against Mr Marimuthu can you please give
10 us an overview of such complaints?

MR KOBUS DEMEYER ROELOFSE: Chair in – as I stated earlier Brigadier Madonsella and I exchanged affidavits and information regarding his investigation that was in Natal, no in terms of those affidavits that is in my possession it indicates nepotism in relation to Mr Marimuthu, it indicates a leading role at Mr Marimuthu played in the appointed of family and friends to such an extent that he would call people in, he would make them sign the appointment documents that they are appointed. There's no illusion that he made the appointment with individuals involved he was responsible for that that cannot be,
20 he's not a member of Crime Intelligence, he is not in a position to do that. Then there is the blatant non-compliance with selection and recruitment procedures within SAPS, in other words these individuals were recruited into SAPS without the necessary skills to fulfil that function that they were appointed for and then the infiltration of Mr Marimuthu and other role players involved in fraud, corruption and

other crimes in the KZN Legislature and KZN province and then obviously, as I stated earlier the sexual exploitation by Mr Marimuthu of a CI employee. Copies of the affidavits are in my possession and will be made available to the Commission if necessary. I do not attach these affidavits due to the possible exposure of agents whose names are mentioned therein and not in the public interest.

ADV VERUSCHKA SEPTEMBER: Now what relevance do all of the affidavits which presents all of these – all of this evidence against Mr Marimuthu, how does that link to the Secret Services Account?

10 **MR KOBUS DEMEYER ROELOFSE:** Chair the finance that's responsible for this comes from the Secret Service's Account apart from salary payments – and there I'm not exactly sure because I can't remember if the agent's payments comes from the Secret Services Account and the being reimbursed by SAPS or visa versa but the money comes through the Secret Services Account for any other expenses relating to these individuals. In other words, vehicles, office furniture and that kind of thing.

ADV VERUSCHKA SEPTEMBER: The next aspect that you refer to relative to Mr Marimuthu concerns rental of properties.

20 **MR KOBUS DEMEYER ROELOFSE:** That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Can you please elaborate?

MR KOBUS DEMEYER ROELOFSE: Chair as I stated earlier this also comes from Colonel Naidoo relating to properties leased to the State by Mr Marimuthu as safe houses. According to Colonel Naidoo, Mr Marimuthu received inflated rentals up to R250 000 a month for these

premises. Unfortunately, I was not in a position to corroborate this allegation as I was not provided the documents to do so.

ADV VERUSCHKA SEPTEMBER: Was there any aspect of this that you were able to verify?

MR KOBUS DEMEYER ROELOFSE: Yes that is true Chair, I was able to verify the use of a Mr John Appalsami and his company Deaz Trading who was used as a conduit to lease properties on behalf of Crime Intelligence to be used as safe houses. What I can state in this regard is that Crime Intelligence do have a process that they go through when
10 they are contemplating leasing a property because that comes with a 12 year – a 12-month contract and all the legal things that is associated with that. So they have a process through which that goes, in this regard with the appointment of Deaz Trading it did not go through that process.

ADV VERUSCHKA SEPTEMBER: And is there any relationship between Deaz Trading, which for the record is Deaz Trading and the rental of Mr Marimuthu?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair he was instrumental in – as the leasing agent that signed the lease agreement
20 of properties belonging to Mr Marimuthu on behalf of Mr Marimuthu as a leasing agent with Crime Intelligence as the lessor in that transaction.

ADV VERUSCHKA SEPTEMBER: Who is John Appalsami, for the record spelt Appalsami?

MR KOBUS DEMEYER ROELOFSE: Chair Mr John Appalsami according to my information and according to our investigations is a

friend of General Lazarus, they go to the same church together and his wife as well as Mr Appalsami's wife at some stage – and I know I have not mentioned this in the affidavits as at, just prior to this were co-members or directors of either a company or a CC. So there were personal interactions between Mr Appalsami and Mr Lazarus on a – and I regard them as friends.

ADV VERUSCHKA SEPTEMBER: And have now addressed Deaz Trading you're taking us to the next investigation which you've titled as General Lazarus, Mr John Appalsami of Deaz Trading CC safe houses.

10 **MR KOBUS DEMEYER ROELOFSE:** That is correct Chair.

ADV VERUSCHKA SEPTEMBER: In this regard you refer to various properties which were rented as safe houses, can you please take the Chair through the evidence in this regard, not only insofar as where you obtained the information from but which parts of that information you verified, if you can start with the first property called Clear Water Estate?

MR KOBUS DEMEYER ROELOFSE: Chair this property was also leased through Deaz Trading.

ADV VERUSCHKA SEPTEMBER: When was this?

20 **MR KOBUS DEMEYER ROELOFSE:** The lease was – the monthly rental for that property was R20 000 and the lease – it was leased during November 2010, as far as I can remember that's when the contract was signed for that property. That specific property was for the exclusive use of General Mdluli,, he had a private residence in Boksburg as I stated earlier but he also used this place as a residence

and that is also – this is also the property which I stated where the Lexus vehicle were found six to eight – this is November so we – eight months, six months after his...[intervenes].

CHAIRPERSON: Let's – is that a different one from the premises where you got the Lexus or the same one?

MR KOBUS DEMEYER ROELOFSE: This is the premises yes Chair.

CHAIRPERSON: Okay.

MR KOBUS DEMEYER ROELOFSE: Now this information was provided to me by Colonel Naidoo and we were able to corroborate
10 what he said to this extent.

ADV VERUSCHKA SEPTEMBER: Thank you, the next property you refer to is called Gordon Villas.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair, this property belongs to General Mdluli it was also leased through the company called Deaz Trading and the contract that I had showed that the lease- that the end of the lease was supposed to be September 2011 and Colonel Naidoo said that he paid the monthly rental in cash of this property to General Mdluli. Now on the outset there is no – policemen and not precluded at the time policemen or state officials are
20 not precluded from doing business with the State but the caveat is, you need to declare such and inform your employer. No financial disclosure was done regarding this and that is why the – according to Colonel Naidoo that is why payments were made in cash.

ADV VERUSCHKA SEPTEMBER: The next property you refer to was called Morgan Ridge.

MR KOBUS DEMEYER ROELOFSE: Chair this is a – this is also a property that was leased from the Marx family and it is based on the same premise as I explained earlier regarding Mr Marx's son, there was this relationship between Mr Marx and his company and General Lazarus and according to Colonel Naidoo the monthly rental for that specific property was inflated by R2 000 per month which was divided between himself and General Lazarus.

ADV VERUSCHKA SEPTEMBER: And in respect of both Gordon Villas and Morgan Ridge what did your investigations corroborate
10 with...[intervenes].

MR KOBUS DEMEYER ROELOFSE: Chair that these leases did in fact take place, that payments were made and that the lease agreements were with Deaz Trading, we have the documentation relating to that although we don't have the classified documents that says that sets this out.

ADV VERUSCHKA SEPTEMBER: Were you able to establish whether Ms C L Dicks being the daughter of Mr Marx was aware of this situation?

MR KOBUS DEMEYER ROELOFSE: Chair I would not know we didn't
20 approach her because it is one of the investigations that we couldn't finalise.

ADV VERUSCHKA SEPTEMBER: Why?

MR KOBUS DEMEYER ROELOFSE: Due to the fact that we didn't have all the documentation as provided – that was supposed to be provided by Crime Intelligence.

ADV VERUSCHKA SEPTEMBER: The next premises you refer to is Office Accommodation, please elaborate?

MR KOBUS DEMEYER ROELOFSE: Chair in respect of – this ties closely with the appointment of family and friends specifically General Mdluli. These individuals were employed by the State as agents and they worked from this specific office accommodation to do their functions. So apart from the fact that, on my assertion that these members or these individuals were not only appointed improperly and illegally further financial implications for this State are that these
10 people had to be housed and for that office accommodation there was a rental for office accommodation.

ADV VERUSCHKA SEPTEMBER: Was there any concern in relation to the monthly rental that was payable in respect of this office accommodation?

MR KOBUS DEMEYER ROELOFSE: Chair, Colonel Naidoo in this regard also says that the monthly rental was inflated, I'm not in a position to verify whether such inflation did take place and I just want to clarify, in terms of the previous one when – regarding Morgan Ridge it is what Colonel Naidoo told me, I am not in a position to say whether
20 it was inflated or not or whether the R2 000 was paid or not. It is impossible to verify that apart from Colonel Naidoo.

ADV VERUSCHKA SEPTEMBER: Is it then to be understood that in relation to this investigation Deaz Trading was used as the entity through which certain properties were rented for purposes of safe houses?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Most of which were at monthly rentals that were inflated but some of that information in relation to that you were not able to verify due to documentation not being available?

MR KOBUS DEMEYER ROELOFSE: Yes Chair that is true and also due to the fact that some of these allegations is Colonel Naidoo's word against General Lazarus' word so I would not be able to know whether that transaction between General Lazarus or Colonel Naidoo did take place or not.

10 **ADV VERUSCHKA SEPTEMBER:** The next investigation starts on page 39 and it's titled General Lazarus authorised trips abroad for General Mdluli and family. Your evidence speaks specifically to two trips, can you...[intervenes].

CHAIRPERSON: Maybe that might be a convenient time to take the tea adjournment so that when we come back he can then start on that one.

ADV VERUSCHKA SEPTEMBER: As is pleases Chair.

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

20 **INQUIRY ADJOURNS**

INQUIRY RESUMES

CHAIRPERSON: Are you ready?

ADV VERUSCHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: Okay let us proceed.

ADV VERUSCHKA SEPTEMBER: Mr Roelofse we are on page 39 of

your affidavit at which you now deal with the next investigation titled General Lazarus Authorised trips abroad for General Mdluli and family. In particular you refer to two trips. Can we deal with the first trip which is referenced as Trip to China? Please switch on your microphone. Thank you.

MR KOBUS DEMEYER ROELOFSE: Yes Chair. This again was on the back of information provided to me by Colonel Naidoo and based on this information I was able to establish that General Mdluli and his – his then wife Ms V L Mdluli flew business class and departed from
10 Oliver Tambo International Airport to Hong Kong International Airport and returned from Hong Kong International Airport on the 14th November 2009. According to General – Colonel Naidoo General Mdluli informed him that the Mdluli were visiting their daughter Bonsiswe Mdluli in China. He was able to sub – I was able to establish that the daughter did in fact study in China and she was present in China at the time according to her travelling records during this trip – when this trip was undertaken.

ADV VERUSCHKA SEPTEMBER: Just for the record V L Mdluli is that Vusi – Ms Vusiwane Lily Mdluli?

20 **MR KOBUS DEMEYER ROELOFSE:** That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Thank you. Please proceed.

CHAIRPERSON: Is that General Mdluli's wife?

MR KOBUS DEMEYER ROELOFSE: His wife at the time yes Chair.

CHAIRPERSON: At the time ja.

MR KOBUS DEMEYER ROELOFSE: Yes.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: What was the ...

CHAIRPERSON: The heading there says authorised trips. Is that correct – authorised?

MR KOBUS DEMEYER ROELOFSE: In ...

CHAIRPERSON: The heading?

MR KOBUS DEMEYER ROELOFSE: Chair it depends on the definition – definition of authorised. The paperwork was done and the signatures were there.

10 **CHAIRPERSON**: Well if it is not authorised by the right person it is not authorised.

MR KOBUS DEMEYER ROELOFSE: If that is the distinction Chair then it was not authorised.

CHAIRPERSON: Yes because when you say authorised it gives the impression that it is proper.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Yes. So – so it is actually unauthorised.

MR KOBUS DEMEYER ROELOFSE: If you look at the facts it is unauthorised yes Chair.

20 **CHAIRPERSON**: Yes. Okay.

MR KOBUS DEMEYER ROELOFSE: We were able – I was able to establish that the trip amounted to R110 000.00 of which R60 000.00 was funded through the SSA account. It was based on General Mdluli's travelling costs and accommodation. A further R50 000.00 was allegedly donated by Atlantis Motors via the Beirut[?] account. The

motivation provided for the funds to be utilised from the SSA and this is now the – the motivation in respect of General Mdluli's air ticket and accommodation. In the case that General Mdluli would over – went to China in his official capacity. That is what the document seek – seeks to present to the author. I mean to the reader of the document. I was able to confirm that General Mdluli did not submit any leave forms – I am sorry. He supplied leave forms for that timeframe. In other words he was on leave. He...

CHAIRPERSON: Sorry did you say he did submit leave forms?

10 **MR KOBUS DEMEYER ROELOFSE:** He did submit leave forms.

CHAIRPERSON: So he could not have been on – at work.

MR KOBUS DEMEYER ROELOFSE: So he was on – he was on vacation leave yes. In that timeframe for this specific trip. General Mdluli also did not inform General Dramat who was his direct head at the time. His – of his intention to take – to undertake an official trip. The – this is confirmed by General Dramat in an affidavit which I took from him. There was also no application made via the office of the National Commissioner which is the norm. If you go – if you go overseas you have to make an application through the office of the
20 National Commissioner which then would forward it to the Minister of Police where approval will be then attached to that document. This specific document was approved by General Lazarus this specific trip in terms of the documentation that was presented to me.

CHAIRPERSON: And he would not be the right person to approve?

MR KOBUS DEMEYER ROELOFSE: He cannot be the right person to

approve that – that expense.

CHAIRPERSON: [Indistinct].

MR KOBUS DEMEYER ROELOFSE: Yes.

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: And as I stated earlier I was able to confirm that Bosiswe Mdluli who is the daughter she departed South Africa on the 29th August 2009 and she returned from China to South Africa on the 30th January 2010. That falls within the period that this trip took place.

10 **ADV VERUSCHKA SEPTEMBER:** And what is the relevance of the evidence that she was in Ms Bosiswe Mdluli was in China at the time?

MR KOBUS DEMEYER ROELOFSE: Chair the relevance of her – of her accompanying General Mdluli at the time as far as I am concerned gives credence to the information given by Colonel Naidoo that they went there to visit their child.

ADV VERUSCHKA SEPTEMBER: But you – sorry I did not mean to interrupt.

MR KOBUS DEMEYER ROELOFSE: I just want to come back to the R60 000.00 that was – or the R50 000.00 that was advanced through
20 the Beirut[?] account Atlantis Motors.

ADV VERUSCHKA SEPTEMBER: Well then before we address that R50 000.00 can I just get clarity from you because you mention that Ms Bosiswe Mdluli's travel arrangements were also arranged through a Westville Travel to which you gave evidence about yesterday. Is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. I could not find any indication of payment by the Secret Services Account in terms her air travel when she went over to China.

ADV VERUSCHKA SEPTEMBER: Okay. If you could then please elaborate.

CHAIRPERSON: Oh I think you wanted to deal with what – is it R60 000.00 or R50 000.00?

ADV VERUSCHKA SEPTEMBER: R50 000.00 yes.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. You will
10 remember that I testified earlier I do not know if I have dealt with it in detail but there was an account or a journal account or general ledger account depending on what you want to call it within the books of Atlantis Motors. Money was set aside into that account for transactions relating to benefits that is paid to certain individuals. The account is funded through payments through transactions with Atlantis Motors and Company X. The period concerned that I had – that I looked at was about three years and the value of the vehicles bought from Atlantis Motors was about R61 million.

CHAIRPERSON: 61?

20 **MR KOBUS DEMEYER ROELOFSE:** Million.

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: The total amount for vehicles bought from that company during that time ...

CHAIRPERSON: Over three years?

MR KOBUS DEMEYER ROELOFSE: Over three years yes Chair.

CHAIRPERSON: Do you remember which years or not really?

MR KOBUS DEMEYER ROELOFSE: It was 2009 to 2012.

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: Or end 2011.

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: Thereabouts.

CHAIRPERSON: And do you remember how many cars those were that were bought during that time to cost R61million?

MR KOBUS DEMEYER ROELOFSE: Chair it was quite a lot of cars.

10 **CHAIRPERSON:** It was quite a lot of cars?

MR KOBUS DEMEYER ROELOFSE: Ja, ja. I do not think the issue is the fact that the cars were not delivered or anything like that the cars were actually sold to SAPS.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: I mean to Crime Intelligence. The – however the amount of transactions that took place or the value of the transactions that took place allowed Atlantis Motors to set aside funds which was utilised then by members of Crime Intelligence for their own benefit and for the benefit of others.

20 **CHAIRPERSON:** Okay let me just understand. The official position is the official position that the setting aside of certain funds for that purpose and to be put in what you call the general ledger account that was – that is in order? There is nothing wrong with that on its own? Or there was something wrong with that?

MR KOBUS DEMEYER ROELOFSE: Chair there was extensive

evidence led because this specific is not the trip to China but the Beirut account. There was extensive evidence led in the trial which is still continuing against Mr Barnard and Mr – and General Lazarus. We are now awaiting judgment.

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: On this specific account.

CHAIRPERSON: Okay.

MR KOBUS DEMEYER ROELOFSE: There was – there is not – the issue of a – of a – of the Beirut account is also called within that trade
10 a provision account and how it was explained is that if you – when a vehicle is sold to a third party the company sells a vehicle to a customer a portion of the profit is placed into the provision account. If something happens to the vehicle they would use funds from the provisional account to deal with that specific vehicle. Whatever the case may be then funds if there – if it is – if it is necessary then they will use funds from that provision account. After the warranty or warranty or guarantee period is over that funds will then go back to the – into the books as – as a profit to the company. It was not necessary to create a Beirut account. The Beirut account was extra and it was
20 separate from the provision account. It only related to transactions between Company X and Nissan Motors or Atlantis Motors and based on that according to the testimony of Mr Jan Venter who was the dealer principal at the company a portion of the profit of the vehicle was placed into the Beirut account as part of a book entry. And that – and from that amount – that book entry they would then pay certain

individuals and benefits to members of Crime Intelligence.

CHAIRPERSON: So the – the – would the wrong part be the payment to individuals or is that something you are not sure about whether the whole thing of having that account is also illegal or the – or having that account might not have been wrong but it might – maybe it is the actual payments to individuals that may have been wrong?

MR KOBUS DEMEYER ROELOFSE: Chair it is the use of the money that was – that is where the – the illegal part is in terms of – in terms of that fund.

10 **CHAIRPERSON:** Yes.

MR KOBUS DEMEYER ROELOFSE: As I said Mr Venter testified it is his funds. He can do with it what he wants.

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: He placed it into a Beirut account as part of a – as a portion of the – the – the profit and he is entitled to use that money as he – but the money was used by – not by him he was instructed by Barnard and by La – mainly by Barnard.

CHAIRPERSON: Ja.

20 **MR KOBUS DEMEYER ROELOFSE:** On the use of the funds. In other words they would tell him or he would him he will be using the funds for this, that and the other.

CHAIRPERSON: Ja.

MR KOBUS DEMEYER ROELOFSE: Now this is where this money comes from.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: And this money was paid via EFT to New World Motors and according the affidavit from Colonel Naidoo he received an envelope from Colonel Barnard to the value of R50 000.00. He does not know – it was told to him it came from Jan Venter at Atlantis Motors but he does not – he cannot say that – he cannot – he cannot verify that. That is the transaction that I was able to verify although I do not have the last part between New World Motors and the money getting to General – Colonel Barnard. That is how this transaction took place Chair.

10 **CHAIRPERSON:** Okay.

ADV VERUSCHKA SEPTEMBER: Having addressed the scheme that was developed at Atlantis Motors is it to be understood that this scheme was then borne from the sale of vehicles from Atlantis Motors to Crime Intelligence?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair that is what – when I said that the total – the total amount of sales was to the – was an estimated R61 million over that period.

20 **ADV VERUSCHKA SEPTEMBER:** I would like to refer you then in that regard although we will address it a little bit later as well to page 42 at paragraph 138.

MR KOBUS DEMEYER ROELOFSE: Yes Chair. I do see it is R69 million I made a mistake it is not R61 million it is actually R69 million over a period of four years.

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: And I have the documentation – I

received the documentation the general ledger documentation from Company X showing the complete value of the transactions regarding that.

CHAIRPERSON: Yes okay.

ADV VERUSCHKA SEPTEMBER: And it was this separate account then which is called the Beirut account which was entered and accounted for as a journal entry into which the surplus monies were paid.

MR KOBUS DEMEYER ROELOFSE: Yes that is true – that is true
10 Chair.

ADV VERUSCHKA SEPTEMBER: And on whose instruction were monies paid out from or rather on whose instruction were monies from this account used?

MR KOBUS DEMEYER ROELOFSE: It was used in the instruction of Colonel Barnard and to a lesser extent General Lazarus. According to the evidence of Mr Jan Venter Colonel Barnard was the person that he knew and the person that he interacted with. Although he has spoken to – he has met General Lazarus. General Lazarus has been to his office and they have – and certain benefits did go to General Lazarus
20 which is part of that specific matter.

ADV VERUSCHKA SEPTEMBER: And so the use of this – of these monies were paid to third parties?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Some of whom or some of whom were outside the Crime Intelligence Department?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And if I could then take you back to page 39 of your affidavit where you refer to the R50 000.00 which was donated by Atlantis Motors via Beirut account. Is this then one of the third parties to whom this money was paid?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair according to – according to the investigation that I have done.

ADV VERUSCHKA SEPTEMBER: How was the R60 000.00 referred to or rather your evidence is that the total cost was R110 000.00 of which
10 R60 000.00 was paid with the use of SSA funds. R50 000.00 was transferred or as you have recorded it donated by Atlantis Motors via the Beirut account?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: How was the R60 000.00 obtained from the Secret Services Account, do you know this information?

MR KOBUS DEMEYER ROELOFSE: Yes I do. I think I did testify about it earlier. It was – it was a claim first in advance I am not sure whether I have explained how you would receive cash from Crime Intelligence when you do an actual transaction.

20 **ADV VERUSCHKA SEPTEMBER:** No you have not. Please do.

MR KOBUS DEMEYER ROELOFSE: Because of the amounts involved the individuals from Crime Intelligence, the police officers they would not have that kind of cash. So there is a system in place but not only through the Crime – not only through the SSA account but also through the Open account that you can draw in advance before you leave for a

trip for instance. What happened is that Colonel Naidoo drew an advance in respect of the air ticket which he is now supposed to paying. He then would take that advance, the cash he would go to the company involved, buy the air ticket and if there is any money that is supposed to go back to the Secret Service Account he would then pay that back together with the invoice that will cancel out the advance payment. So that is – that is how this would work. In respect of this this is exactly what happened here. Colonel Naidoo went, took an advance, went the company, booked a ticket and then = and then later
10 on he – he put an application for the – for the expenditure. I think in this instance no monies was paid back to the SSA. In other words the – the additional amount that was not used was given to General Mdluli.

CHAIRPERSON: So – so you did say that General Mdluli had put in a leave application or he obtained leave? Or did I misunderstand that part?

MR KOBUS DEMEYER ROELOFSE: That is ...

CHAIRPERSON: Or he did not?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. The leave was signed by General Dramat.

20 **CHAIRPERSON:** Yes. Now at an official level would not the fact that he took this money in circumstances where the paperwork indicated he was not on official duty would it not raise questions as to why he took that money if he was on leave?

MR KOBUS DEMEYER ROELOFSE: Chair and I – yes it would and I think this is where the – this is where smoke and mirrors starts to play

a part. The money was not – was not – there was not an advance on his name. It was in the name of Colonel Naidoo. So there is nothing tying him to the expenditure.

CHAIRPERSON: Oh.

MR KOBUS DEMEYER ROELOFSE: It was tied to Colonel Naidoo and he had to deal with that expenditure and – and that is why he would not – that would not raise the flag in respect of General Mdluli when an internal audit had to be done.

CHAIRPERSON: Oh and as you understand the position Colonel
10 Naidoo knew the whole scheme?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair according to him.

CHAIRPERSON: According to him.

MR KOBUS DEMEYER ROELOFSE: And in terms of the corroboration that I could – was for me possible to find...

CHAIRPERSON: You could find?

MR KOBUS DEMEYER ROELOFSE: It would then indicate that Colonel Naidoo at least in some of those respects.

CHAIRPERSON: Yes.

20 **MR KOBUS DEMEYER ROELOFSE:** In terms of the corroboration is actually telling the truth.

CHAIRPERSON: Did you understand from Colonel Naidoo why he would allow a situation where the paperwork would point to him having taken the money when actually it was taken by Mdluli why he would allow that to happen?

MR KOBUS DEMEYER ROELOFSE: Chair once again it points – it goes back to the scenario where people are being used.

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: Colonel Naidoo received a – he was – he was appointed as a Lieutenant Colonel with the assistance of General Lazarus which was an irregular appointment. He also understands that. There is under those circumstances he is not going to – he is not going to question.

CHAIRPERSON: Hm

10 **MR KOBUS DEMEYER ROELOFSE:** And instruction like that.

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: And that is exactly the reason when I spoke about the operational team or operational unit within the SSA. That is what those individuals were used for.

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: So they were part and parcel and this – this plan.

CHAIRPERSON: Hm.

20 **MR KOBUS DEMEYER ROELOFSE:** And they were all in a situation where they could not actually say anything about one another.

CHAIRPERSON: Hm. Okay.

ADV VERUSCHKA SEPTEMBER: On page 40 you deal with the next trip that Richard – General Richard Mdluli and his family benefitted from. Can you please give us details in relation to it?

MR KOBUS DEMEYER ROELOFSE: Chair the second trip that I am –

that I am referring to is also on the back of the information given to me by Colonel Naidoo. In that – in that I was able to establish that there was indeed a trip to Singapore between 21 November 2009 and 28 November 2009. That is six days after returning from China. I am now referring to General Mdluli. In this instance General Mdluli's current wife which is Ms Lyons she accompanied him to Singapore. At the time she was not a member of SAPS. She was a clerk at the Department of Home Affairs. The travel cost in respect of Ms Lyons was funded through the Secret Services Account and he ticket was upgraded from

10 economy class to business class and the total cost for that air ticket was R46 809.00. In respect of both of these – these trips which I have now just discussed we have investigated this quite extensively. It is part of a charge sheet that is – that is still not before court – a case that is not – still not before court because of the fact that we cannot utilise the classified documents in my possession. For this to continue further or to go further it needs to be declassified. I cannot only rely on documentation from service providers because what is important here is the reasons given for the actual expenditure which as far as I am concerned is fraudulent in nature. It is a misrepresentation.

20 **ADV VERUSCHKA SEPTEMBER:** How was the Secret Services Funds then unlawfully or illegally spent in relation to this trip following the investigation that you conducted?

MR KOBUS DEMEYER ROELOFSE: Chair in respect of the investigation and the information given to me by Colonel Naidoo there was at least nine people on this specific trip. It was Colonel Barnard

and his wife, Colonel Barnard's wife's air ticket was paid for him – was paid by him. It was not paid through the Secret Service Account. The...

ADV VERUSCHKA SEPTEMBER: So Colonel Barnard paid for his wife's ticket?

MR KOBUS DEMEYER ROELOFSE: He paid for his wife's ticket. The same applies to General Lazarus he paid for his wife's ticket. In this regard...

CHAIRPERSON: I am sorry have you moved to another trip?

10 **ADV VERUSCHKA SEPTEMBER:** No Chair. It is ...

CHAIRPERSON: Are you still on the same trip?

ADV VERUSCHKA SEPTEMBER: Yes Chair.

MR KOBUS DEMEYER ROELOFSE: Yes. I am just explaining the – Chair I am just explaining the people that went with.

CHAIRPERSON: Oh.

MR KOBUS DEMEYER ROELOFSE: And the reasons why. In respect of a – two other individuals Colonel Venter, Colonel Naidoo who himself went on the trip. There was no reason for them to go on the trip. They could not add any value and that is according to Colonel Naidoo
20 himself. The question regarding Ms Lyons according to Colonel Naidoo she was the girlfriend of General Mdluli at the time. They were not married yet and that is the reason why she accompanied them on the trip. There was no other reason for her to accompany them. She did not add value to the trip. So in that regard the motivation for their participants – participation was misrepresentation to the employer.

This – this specific trip was approved through the correct channels, went through to the commissioner's office, was recommended and was approved by the Minister. So the actual trip, official trip there was nothing wrong with it; it was about the people that accompanied them and the reasons given as to why they should accompany them.

CHAIRPERSON: So the – in terms of the official – so in terms of paperwork all the people who were on the trip were reflected on the – on paperwork but the reason given to – the reasons given to justify their being part of the trip were false, is that what you are saying?

10 **MR KOBUS DEMEYER ROELOFSE:** Chair not...

CHAIRPERSON: Or were not justifiable?

MR KOBUS DEMEYER ROELOFSE: Chair not all of them. It was separate transactions when it came to General Barnard and General Lazarus in terms of their spouses. So that had nothing to do with the – with the expenditure in terms of the SSA.

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: I am talking about the expenditure relating to Ms Lyons, Venter and Colonel Naidoo.

20 **CHAIRPERSON:** Okay. But that trip to – to Singapore – that one you said it was official, is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Hm?

MR KOBUS DEMEYER ROELOFSE: That is correct.

CHAIRPERSON: It was official – it was just the particular individuals.

MR KOBUS DEMEYER ROELOFSE: Yes and the reason given.

CHAIRPERSON: The reasons given.

MR KOBUS DEMEYER ROELOFSE: For them to – to go with.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: We now turn to the tenth investigation that you have highlighted to the commission which is reflected from page 40 of your affidavit. It is titled General Mdluli promotions and appointments of family and friends to Crime Intelligence. How did you learn about...

CHAIRPERSON: Maybe – I am sorry let us – let me just go back. You
10 said that the cases that is in regard to the trip that we have just finished discussing was that the investigation and the case has not moved to finality because certain documents that are important for the case have not been declassified, is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. This is part of the - of the comprehensive - these two allegations are part of a comprehensive chart sheet that was drawn up. Unfortunately we cannot rely on some of the documentation which is mentioned in the charge sheet because of the fact that the documents are still classified. So we cannot go to court with - we cannot - defence cannot discover
20 the documents.

CHAIRPERSON: Now these are 2009 trips that makes them 10 years old?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Now when - when - how long ago were the cases supposed to have been had if there had been no problem about lack of

declassification? If you are able to remember.

MR KOBUS DEMEYER ROELOFSE: Chair to come back to the specific case which I - which falls under the - the looting of the SSA account.

CHAIRPERSON: Huh-uh.

MR KOBUS DEMEYER ROELOFSE: The specific docket was opened in - in 2011 ...

CHAIRPERSON: Huh-uh.

MR KOBUS DEMEYER ROELOFSE: But it did not contain all the allegations because at the time I did not - have not spoken to - to
10 Colonel Naidoo. Later on when we spoke to him further allegations were made ...

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: And based on that some of those allegations were - we were able to - to finalise the investigations into those allegations.

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: They were added to that specific matter. The case - the SSA looting of the - looting of the SSA Fund and it was supposed to in terms of the judgment by the SCA to be placed
20 back on the roll. It was placed back on the roll. It had to be withdrawn again because we were not able to supply the defence with the documentation because the documentation was not declassified as - as was requested from SAPS.

CHAIRPERSON: What was the issue that had gone to the SCA - but it was not about forcing the relevant authorities to declassify the

documents?

MR KOBUS DEMEYER ROELOFSE: No. That was not - that was not about that no. That only came about later and I think it is - it is a matter between the IPID and the South African Police Service in cases that they have uncovered. They are sitting with exactly the same - the same problem.

SAPS do not want to declassify the documentation that is needed for the criminal investigation and I think on the back of the experiences that I had they decided to follow the route through the
10 court system.

CHAIRPERSON: So - so I - so there is pending litigation to - to compel whoever is supposed to be compelled to declassify the documents so that that - that is underway or what?

MR KOBUS DEMEYER ROELOFSE: Chair that is in terms of the - that is in terms of the investigations that - that IPID are conducting ...

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: Which does not - although this matter falls within the purview at this point in time with - with - at the IPID and the ID. This - the application that went to court related to
20 another investigation within - within IPID ...

CHAIRPERSON: Hm.

ADV VERUSCHKA SEPTEMBER:

MR KOBUS DEMEYER ROELOFSE: But I presume it will have an effect on this investigation as well when - when that litigation is finished.

CHAIRPERSON: Hm. Well I - I would not know at what stage your

institution would handover matters or would - to the NPA or would invoke the assistance of the NPA but it just seems to me that - that there would not be a situation where a matter is dragging on for 10 years because somebody is no declassifying documents that are important for the matter.

It seems to me that if there are no other ways of dealing with the matter. Courts should be approached because then they can deal with the question whether there are proper grounds to refuse to declassify.

10 **MR KOBUS DEMEYER ROELOFSE**: Chair, I - I agree but unfortunately I am - I am still within the SAPS.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: So the SAPS - I do not think the SAPS is going to take the SAPS to court.

CHAIRPERSON: No, no. I understand that. That is why I am - I am bringing in the issue of the NPA. That is why I am saying I do not know at what stage you would handover matters to the NPA or if you are faced with a situation like that and you feel that maybe the NPA as the prosecuting authority should see whether they would not go to court
20 whether they - they would not be the people to - to ask to go to court because otherwise you could easily have somebody who is actually who - who fraudulently classified documents that should not have been classified and is - may have classified them for illegal purposes and - and then there is no accountability.

They are not charged because those documents are critical

and they just say no we are not declassifying them and they might have absolutely no - no legitimate reason to refuse to declassify them and it is untenable if a matter that should have gone to court maybe five years ago might still just be lingering because there is this issue you know. You - you understand where I am coming from?

MR KOBUS DEMEYER ROELOFSE: (No audible reply).

CHAIRPERSON: Being in the SAPS you - you might understand certain things that I might not understand but where - where I am is intolerable.

10 **MR KOBUS DEMEYER ROELOFSE:** Chair if I may I agree fully with what you said.

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: You will see later on in the affidavit I deal with how we tried to get the documentation declassified and the efforts that we put in.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: Together from SAPS side as well as the NPA's side.

CHAIRPERSON: Yes.

20 **MR KOBUS DEMEYER ROELOFSE:** Short of going to court to force the SAPS to - to make a decision on this matter.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: So - and you will - I am - in all honesty I have sometimes felt like the village idiot running from brick or running into this brick wall and into the next brick wall ...

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: Because there was only once that I am aware of that there was a - a definite no we will not declassify from the SAPS' side.

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: All the others were yes give us the documentation. We will look at it and then you find yourself six months ...

CHAIRPERSON: Hm.

10 **MR KOBUS DEMEYER ROELOFSE:** Six months to a year down the line and then ...

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: No I do not know what you are talking about and ...

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: And then - then there is a change of command.

CHAIRPERSON: Hm.

20 **MR KOBUS DEMEYER ROELOFSE:** So that is the kind of scenario that has taken place over the years which I deem as - it was done deliberately and ...

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: With the view of - of not declassifying the documents but that ...

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: That will - it comes out later in - in my testimony.

CHAIRPERSON: Hm, hm. Okay. I think you - the legal team must apply their minds to this kind of issue because if a matter relates to something that is relevant for our investigation we - we have an interest in seeing those documents for purposes of any issues of corruption that we may be looking at. So the legal team must apply their minds to - to that.

ADV VERUSCHKA SEPTEMBER: Pleases.

10 **CHAIRPERSON:** Okay.

ADV VERUSCHKA SEPTEMBER: As it pleases Chair. Will do. If we could proceed then. On page 40 Mr Roelofse you deal with the 10th investigation which is General Mdluli appointments and - promotions and appointments of family and friends to Crime Intelligence. How did you learn of this information and to what extent did you verify it?

MR KOBUS DEMEYER ROELOFSE: Chairperson I learnt of this also through Colonel Naidoo. Colonel Naidoo in his - what he has informed me is that he received a list of names which included family and friends of General Mdluli. He was then told that he will be handling those
20 agents and - and based on that on the back of his information I was able to establish that as from FM24 to FM29 fit that category of family and friends.

ADV VERUSCHKA SEPTEMBER: And once again ...

CHAIRPERSON: Did you say ...? Sorry.

ADV VERUSCHKA SEPTEMBER: Sorry.

CHAIRPERSON: FM24 to FM29?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: And once again this table is no different to the previous tables you have referred to which concerns appointments of - and the promotions of family and friends?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: By way of example can I ask you to address line item 2 please on table 5 page 40.

10 **MR KOBUS DEMEYER ROELOFSE:** It is a member that is still active. The appointment rank in SAPS - in other words this person was in - was in SAPS prior to the - his or her appointment. The rank was a Constable. Her level was five and on 1 June 2010 this person was appointed as a Lieutenant-Colonel at a level of 10.

ADV VERUSCHKA SEPTEMBER: And that is then a difference of five ranks?

MR KOBUS DEMEYER ROELOFSE: That is - five levels yes.

ADV VERUSCHKA SEPTEMBER: Five levels, sorry.

MR KOBUS DEMEYER ROELOFSE: Yes.

20 **ADV VERUSCHKA SEPTEMBER:** If I can ask you to turn to page 41 and please address line item which starts with FM29?

MR KOBUS DEMEYER ROELOFSE: Chair this is a - as I said this is the same as the others. This person is still in SAPS. According to my verification to just prior to finalising my affidavit. This person was a civilian. Appointed on 1 June 2010 and appointed on a Level 8 which is

a Warrant Officer at the time - which is a Warrant Officer.

ADV VERUSCHKA SEPTEMBER: And therefore your investigations revealed that it was a direct appointment to a Level 8?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: The last investigation that you placed before this Commission relates to Atlantis Motors which you have already given evidence in relation to?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. If I just may in terms of paragraph 1 the table in 132 I have testified earlier
10 regarding Colonel Naidoo and the production files. This is exactly the same as to what happened here. In this specific instance he was the handler. He had no production files.

ADV VERUSCHKA SEPTEMBER: And likewise just to complete that section this process was relating to the 250 appointment process in 2010?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And so at page 41 where you deal with the investigation which you have titled “Atlantis Motors” and to which you have already evidence let us deal with that parts which you
20 have not addressed as yet. You have already given evidence that a Mr Jan Venter was the principal dealer of Atlantis - of Atlantis Motors in Centurion?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: What information did Mr Venter provide to you regarding the business relationship between Atlantis

Motors and Company X?

MR KOBUS DEMEYER ROELOFSE: Mr Venter provided me with the - with documentation which seeks to substantiate what he is - what he alleges in terms of where and to whom payment took place. He provided me with a copy of the general ledger account reflecting Beirut (?) and based on that transactions or based on that account we were able to identify that - as the transactions were only available although this account existed before 8 April 2008.

He only had records as from 1 April 2008 and on that day an
10 amount of R175 040,00 - R175 045,15 reflected on the Beirut account as available and then in the period - in the period 8 April 2008 to 19 October 2012 an additional amount of R1 527 601,61 amount was allocated to the Beirut account for the use of members of CI and - and for the use in terms of their benefit and third parties.

ADV VERUSCHKA SEPTEMBER: Okay. Did Mr Venter provide you with any information in regarding how this Beirut account was created?

MR KOBUS DEMEYER ROELOFSE: Chair he did. I would like to explain the name Beirut but unfortunately that will - that will put Company X at risk.

20 **CHAIRPERSON:** Hm.

MR KOBUS DEMEYER ROELOFSE: So I am not going to explain the - the name - the Beirut account ...

CHAIRPERSON: Huh-uh.

MR KOBUS DEMEYER ROELOFSE: But the account itself the name is directly related to Company X.

CHAIRPERSON: Hm.

ADV VERUSCHKA SEPTEMBER: If I can take you back to paragraph 134 you explain some more details as to how the account was created. Is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Please elaborate.

MR KOBUS DEMEYER ROELOFSE: It was - according to Mr Venter it was created in 1994 and he became aware of Company X and the role that Company X plays within the Crime Intelligence environment. He
10 became friends with Colonel Barnard and then in 2006 - according to Mr Venter in 2006/2007 he approached him with an idea to create an alternative account which could be operated outside the ambit of the SSA account and which he agreed to at the time.

He thought at the time that he - he could play a role in the combatting of - of crime. He subsequently realised that it was - it was not being used as envisaged but to the benefit of certain police officials. At that point in time he was not in a position to get out of it because his company was benefitting from - from the transactions - from the turnover in terms of the sales of cars.

20 So he had to keep the business and he testified as much in - in the hearing or in the trial. He ...

ADV VERUSCHKA SEPTEMBER: And when you explained - sorry I did not mean to interrupt you yet.

MR KOBUS DEMEYER ROELOFSE: No that is fine.

ADV VERUSCHKA SEPTEMBER: When you gave evidence earlier you

explained about the scheme of operation on - of the - the Beirut account?

MR KOBUS DEMEYER ROELOFSE: That is correct.

ADV VERUSCHKA SEPTEMBER: And it was also your evidence that certain third parties had benefitted from that account?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: One of which related to the benefit of R50 000,00 on the trip to China by General Mdluli and family?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

10 **ADV VERUSCHKA SEPTEMBER:** At paragraph 140 on page 42 you talk to other third parties that you established benefitted ...

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: From the Beirut account?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Can you please provide the Chair with details of your investigation?

MR KOBUS DEMEYER ROELOFSE: Chair before I - before I do so I just wish to - to mention that the investigation into Atlantis Motors did not originate from Colonel Naidoo. It originated from the search and
20 seizure that we had and I did look at the date. It was 15 April 2011 when we did the search and seizure at the house of - of General Mdluli in - in Cape Town. It emanated from that.

Based on that we were able through Mr Jan Venter to establish various transactions that took place. Colonel Naidoo's role in this investigation regarding Atlantis Motors he contributed to the fact

that there were certain transactions that he knew of and that he was part and parcel of - in which he played a role.

So he highlighted certain events for us but in the main this investigation was done without - was done even before I got to know him. In respect of the Beirut account if I can come back to that. This is not an extensive list. I am just highlighting a few of those - of those transactions. The Beirut account included a total amount that was paid to New World Motors via an electronic transfer of 460 000 - R460 000,00.

10 This - as far as I am concerned this confirms Colonel Naidoo's assertion that General Lazarus had to create cash in order to cover *inter alia* the shortfalls ...

CHAIRPERSON: I am sorry Mr Roelofse. Where are you reading from?

MR KOBUS DEMEYER ROELOFSE: 140.1 Chair.

CHAIRPERSON: Oh, okay. Thank you. Oh, *ja*. Okay. Thank you.

MR KOBUS DEMEYER ROELOFSE: It confirms the assertion by Colonel Naidoo that General Lazarus had to create cash in order to cover *inter alia* the shortfalls in the SSA account. Colonel Naidoo was not aware that these transactions took place in this manner. That was -
20 we found that out separately.

ADV VERUSCHKA SEPTEMBER: And how did you establish this detail?

MR KOBUS DEMEYER ROELOFSE: This detail was established through bank accounts that we have subpoenaed and the - and the audit of those accounts where we are able to establish these transfers

that took place. The second instance that we - that we were able to uncover was an amount of R143 621,78.

It was paid to - it was paid from the Atlantis Motors business account to WesBank Vehicle Finance Account in the settlement agreement of a vehicle registered in the name of Ms Ranjeni Munusamy and as far as I know she is a journalist. This amount reflected as received - reflected as received on the same date in the WesBank - WesBank Vehicle Finance Account held in the name of Ranjeni Munusamy.

10 This amount was debited - debited against Atlantis Motors Beirut account on 30 July 2008. In other words what had happened here according to Mr Venter is he was requested to pay over an amount of money into this WesBank Vehicle Finance Access Account or account and at a later stage he then debited the Beirut account against his - against the company account to settle the amount which has been paid.

So effectively what it means is that the amount was covered by the Beirut account which is funded through the sale of vehicles to the SSA - to Crime Intelligence.

ADV VERUSCHKA SEPTEMBER: Before you proceed Chair we have
20 received a letter of sorts which corrected the name of Ranjeni Munusamy to Navarenjani Munusamy which is spelt N-A-V-A-R-A-N-J-E-N-I. Surname M-U-N-U-S-A-M-Y. Mr Roelofse ...

CHAIRPERSON: What is the upshot of that?

ADV VERUSCHKA SEPTEMBER: Excuse me.

CHAIRPERSON: What is the upshot of that? Is it that the name as

appears here is a wrong name for the account?

ADV VERUSCHKA SEPTEMBER: It - it appears to be ...

CHAIRPERSON: Does Mr Roelofse know about the letter?

ADV VERUSCHKA SEPTEMBER: I have informed him of the letter.

MR KOBUS DEMEYER ROELOFSE: Chair - *ja*. I was informed of the letter but I did not know about the name - the difference in name.

CHAIRPERSON: The - the difference in the names you did not know about that?

MR KOBUS DEMEYER ROELOFSE: Yes.

10 **CHAIRPERSON:** So - so maybe you will check later and talk and check with him.

ADV VERUSCHKA SEPTEMBER: Will do Chair.

CHAIRPERSON: So at this stage we - we are not sure exactly who the person is.

ADV VERUSCHKA SEPTEMBER: And that was a query that I wanted to raise with this witness.

CHAIRPERSON: Until - until Mr Roelofse has had a look at the letter and maybe done whatever investigation to check whether the original information is correct or the new information is correct.

20 **ADV VERUSCHKA SEPTEMBER:** We will check that and revert on this part ...

CHAIRPERSON: *Ja*.

ADV VERUSCHKA SEPTEMBER: Of the evidence later.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: Is it correct that there were certain

discounts that were given to General Lazarus and other CI members on purchasing of vehicles?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And how was the difference then funded between the purchase price and the discounted price?

MR KOBUS DEMEYER ROELOFSE: Are we referring to vehicles that they - that they bought? I am - I just want to ...

ADV VERUSCHKA SEPTEMBER: At paragraph 139.

MR KOBUS DEMEYER ROELOFSE: Correct. This is - Chair this is
10 correct. When a - and I will use General Lazarus as an example and I
will call it still an allegation although this case is before court and we
are awaiting judgment. Judgment must be given. So I cannot say
whether it is - what the judgment is going to be.

The allegation is that General Lazarus received a - a discount
on - and I will just use one example - on a private vehicle which he
bought. The discount amounted to approximately R160 000,00 and the
difference or to cover the discount because the actual value of the
vehicle was R400-and - I think it was 450 000.

To cover the difference - to make up the full amount the
20 purchase amount an amount was taken from the Beirut account to cover
the difference in terms of the - the discount that was given to - to
General Lazarus. So that is money that Mr Venter used from his Beirut
account to benefit General Lazarus.

CHAIRPERSON: That date 21 November 2019 must be wrong - at
1-4 1. When judgment was reserved. You might still be going there. I

just do not want to forget it.

MR KOBUS DEMEYER ROELOFSE: Sorry Chair.

CHAIRPERSON: I am saying I do not want to forget mention the - the paragraph you might still be going to it. Paragraph 1-4-1, you say judgment was reserved on 21 November 2019. I am saying that must be - the year must be wrong.

MR KOBUS DEMEYER ROELOFSE: Chair actually what I - what I meaning or what I meant to say is that judgment is reserved for that date. So there will be judgment will take place ...

10 **CHAIRPERSON:** Oh. It - it will be handed down on that date?

MR KOBUS DEMEYER ROELOFSE: Yes.

CHAIRPERSON: Oh.

MR KOBUS DEMEYER ROELOFSE: Sorry. That is my - my Russian/English sir.

CHAIRPERSON: Oh, okay. No, no, no. Actually no, no. Your - you are right. You did say four. So, *ja*. No, no. You - I think you - you are right. Okay.

20 **ADV VERUSCHKA SEPTEMBER:** And to amplify on that judgment which is due to be handed on 21 November to which investigation does that relate?

MR KOBUS DEMEYER ROELOFSE: That relates to a separate investigation that was initially - Chair maybe it - it needs a little bit elucidation from my part in terms of this investigation. When Colonel Barnard - I mean Colonel Naidoo came to me and we started this investigation because of the various legs that was involved in

terms of his information.

We - I - I took the case to the SSCU as part of the Anti-Corruption Task Team. I was then informed that prosecutors S - at the SSCU is not going to or they got a reluctance of getting involved. I was then - I was then referred - not referred. Advocate Gerrie Nel was then brought on board by the NPA and he - and he said he will - he will do the prosecution provided that he is not prosecuting General Mdluli because of a prior incident that happened in the past.

I was not privy to all of what happened in - prior to that. I
10 knew some of it but not all of it and then General - Advocate Nel said that he would take part of that transactions which falls - which falls within the abuse of the Beirut account within Atlantis Motors. He will take that and he will take that to court.

So we had to split that specific leg from the - let us call it - the main investigation. So that they can at least get that on the court roll. The other advantage was - is that Advocate Nel reported to Advocate Mzinyathi the DPP of North Gauteng and not Advocate Mrwebi who was Head of the SSU at the time.

So that - that in itself allowed for this matter to go forward
20 and that is why it was done sort of piecemeal and that is why this one went - went to court and not the other matters.

ADV VERUSCHKA SEPTEMBER: And then lastly the Beirut account did it operate within or outside the purview of the Auditor-General?

MR KOBUS DEMEYER ROELOFSE: Chair this - this operated outside the - the purview of the Auditor-General and I actually forgot to inform

the Chair that the same applies to Westville Travel and One Stop Travel and Tours. These accounts are held within the account of the service provider. It is not audited by the Auditor-General.

They would not know about this account and it was not disclosed to them and the - my assertion - I am of the opinion that the reason why it was done that way is exactly to avoid auditing by the - by the AG's Office and it allows then the abuse of those funds.

CHAIRPERSON: The - the exclusion of the account from the oversight of the Auditor-General is that by law?

10 **MR KOBUS DEMEYER ROELOFSE:** Chair you cannot exclude the Auditor-General when it comes to the funds of the State.

CHAIRPERSON: No. No the reason why I am asking ...

MR KOBUS DEMEYER ROELOFSE: Okay.

CHAIRPERSON: Is because you know this is Crime Intelligence. I understand that when it comes to intelligence even in Parliament the relevant portfolio committee does not allow the public to attend. There are all kinds of secret things about letter relating to intelligence. So that - that is why I am asking whether - because it is Crime Intelligence whether there - there might be an official position to say there is
20 another way of - of making sure that things are - money is are not abused or there is just - there are just no mechanisms but you are saying it should have been disclosed?

MR KOBUS DEMEYER ROELOFSE: Chair it is a difficult question to answer because it could not have been disclosed, because the moment you disclose it you're saying to the Auditor General that I am

committing a crime. So it cannot be disclosed by the people involved.

CHAIRPERSON: No but from the beginning, aren't you saying that somebody decided, or some people decided not to be subjected to the oversight of the – or disclose it to the Auditor General but it should be subject to the oversight of the Auditor General?

MR KOBUS DEMEYER ROELOFSE: If it is allowed for it should be subjected to the oversight of the Auditor General Chair. What I've testified regarding that is what was said to Mr Jan Venter as the reason for the setting up of this account, the additional account, that it will
10 assist them in advancing the work of Crime Intelligence. In other words he thought at the time he is going to be of assistance in fighting crime.

CHAIRPERSON: *Ja, ja*, then to realise later that ...[intervenes]

MR KOBUS DEMEYER ROELOFSE: It wasn't for – well it might have started up that way but it did not end that way and that is where the difficulty and the danger lies with this kind of arrangements because there's no oversight on it.

CHAIRPERSON: Mmm, okay.

ADV VERUSCHKA SEPTEMBER: In summary then of the investigations can I – of the 11 investigations that you have presented
20 here to the Commission can I ask you to turn to Bundle KK2.3, diagram 5. So at diagram 5 of KK2.3 is it correct that this is a reflection of the status of investigations as at yesterday, which is the 17th of September 2019.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And can I then ask you to address

the status in respect of each of these investigations please?

MR KOBUS DEMEYER ROELOFSE: Chair let me start with the ones that's not – or let me start at the top of this diagram. When I am referring here to Mdluli convicted that is in respect of the Vosloorus case.

CHAIRPERSON: That is in respect of?

MR KOBUS DEMEYER ROELOFSE: The Vosloorus case which started off this investigation.

CHAIRPERSON: Oh, okay.

10 **MR KOBUS DEMEYER ROELOFSE:** Then I have if you go from clockwise then I have flight reservations, One Stop Travel & Tours, Westville Travel, that investigation was never finalised because we did not receive all the documentation. The procurement of vehicles, Joe Marks and New World Motors was never finalised for the same reason. Lazarus' promotion and appointments never finalised for the same reason, Lazarus abuse of safe house was – it was finalised to a certain extent but I cannot continue with it because the documentation is not available in the sense that it has been classified.

ADV VERUSCHKA SEPTEMBER: Are we to understand that it has
20 been partially finalised?

MR KOBUS DEMEYER ROELOFSE: It has been partially finalised yes.

ADV VERUSCHKA SEPTEMBER: Thank you.

MR KOBUS DEMEYER ROELOFSE: Then I have ...[intervenes]

CHAIRPERSON: I'm sorry what does it mean it is partially finalised?

MR KOBUS DEMEYER ROELOFSE: Chair maybe you should ask the

evidence leader, but I agreed with the answers so .I..

CHAIRPERSON: But an investigation is either finalised or not finalised.

MR KOBUS DEMEYER ROELOFSE: Chair unfortunately it does not always work like that because as far ...[intervenes]

CHAIRPERSON: Unless you're dealing with different individuals ...[intervenes]

MR KOBUS DEMEYER ROELOFSE: Different individuals that is correct yes and you sit with from my point of view as investigator the
10 investigation is only finalised not even after – even if the court case starts because there's always something that you have to follow up on so an investigation is – you can get the bulk of the investigation finalised but there always pop up something that you need to follow up on.

CHAIRPERSON: Mmm.

MR KOBUS DEMEYER ROELOFSE: So I would place it in that category, it has been finalised but I do not – there is certain things that is still outstanding, but the majority work has been done.

CHAIRPERSON: Mmm.

20 **MR KOBUS DEMEYER ROELOFSE:** Then Lazarus and the purchasing of vehicles was never finalised.

ADV VERUSCHKA SEPTEMBER: For what reason?

MR KOBUS DEMEYER ROELOFSE: It is for the same reason we did not receive all the documentation relating to the purchases, as well as the non-declassification of those documents. Lazarus upgrade to

private premises, that is – the same applies there. Lazarus Marimuto that investigation was stopped, was never finalised. Lazarus safe houses the same applies there, it was never finalised, we weren't able to do it, apart from one instance where it deals with the house in Gordons Bay which belong to General Mdluli.

ADV VERUSCHKA SEPTEMBER: And what is the status of that investigation?

MR KOBUS DEMEYER ROELOFSE: That forms part of the case that needs to be re-enrolled and then in terms of what needs to be re-
10 enrolled is the Lazarus trips abroad for Mdluli, Mdluli promotions and appointments, Atlantis Motors, and those cases are pending. It was in terms of the SCA judgment it was re-enrolled. Unfortunately during that timeframe SAPS was required to declassify documents purposes of the trial, they did not and the magistrate decided to remove the case from the roll, and unfortunately we cannot place it back on the roll until the outstanding matters has been dealt with.

CHAIRPERSON: It was removed from the roll because there were some matters that still needed to be attended to before it could proceed?

20 **MR KOBUS DEMEYER ROELOFSE:** Ja, the matter that – the matters that needed to be attended to is the declassification of the documentation, so it had to be handed over to the defence which we could not.

CHAIRPERSON: Yes, yes. Well this issue of declassification needs to be sorted out without delay because it's holding up too many matters.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. We cannot use classification as a measure to – not to be investigated, firstly and secondly not to be prosecuted.

CHAIRPERSON: Mmm.

ADV VERUSCHKA SEPTEMBER: And what is the status of the last investigation which is named Atlantis Motors?

MR KOBUS DEMEYER ROELOFSE: The investigation is finalised – sorry there would be two, I see there are two bubbles that goes from I didn't – I missed that now, the Mdluli, the role of Mdluli and in respect
10 of the investigation that is finalised that leg needs to be enrolled and it is part of that charge sheet. The Lazarus/Barnard which is pending is the one that's being dealt with and it is a limited, it is only limited to a portion of the Atlantis Motors transactions.

ADV VERUSCHKA SEPTEMBER: Is it therefore to be understood that the finalisation of these matters or these investigations and matters depends on documents required to be declassified?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair, I am not a prosecutor but that is what I am also advised by the prosecutors in the matter, and I think it is clear to me as well that there is certain things
20 that you do need to place before a court of law in order to prove your case.

ADV VERUSCHKA SEPTEMBER: For the benefit of your evidence going forward then in relation to the classification or rather the declassification of documents and the documents that are required for purposes of your investigation can we just clarify certain matters for

the record as you actually explained to us. It is understood that there are certain documents, as you have mentioned now, which are classified and which are relevant for purposes of finalising investigations, is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Now these documents which are classified who holds these documents?

MR KOBUS DEMEYER ROELOFSE: Chair if I may explain it in the following way, during the period that General Hankel was available and
10 assisted me I received quite a number of documents from him, as part of the investigation. In that process and as more information came out I asked for – I would require from him further documentation to either prove or disprove the allegation that has been made. So he then provided me with those documents on a continuous basis, up until the point that he was transferred.

ADV VERUSCHKA SEPTEMBER: And when was he transferred, if I could direct your attention to paragraph 144 on page 43, as the date you have informed us it to be.

MR KOBUS DEMEYER ROELOFSE: Chair he was transferred on or
20 about the 22nd of November 2011, out of Crime Intelligence together with Major General Mtshatsi was the acting head of Crime Intelligence at the time. He – in other words I had documents, classified documents in my possession which was provided to me by General Hankel. Then I also requested more documentation, I received some of them, but most of them I did not receive, and I did not receive any other documents,

classified documents or otherwise from Crime Intelligence since that period apart from an affidavit that I took from someone but it did not include any documentation, it included the Secret Service account but there was no documentation involved in respect of the affidavit that I have taken from him.

So I – there are two sets of documents that is relevant here, the ones that I do have, that needs to be declassified, and the ones that is still in possession of Crime Intelligence that needs to be classified and then handed over in a declassified fashion for me to use
10 in a court of law.

ADV VERUSCHKA SEPTEMBER: And so is it then to be understood that the – and I hope I am understanding you correctly, the documents that you have received through General Hankel and documents that you have requested from Crime Intelligence in a declassified form some or all of those documents are relevant for purposes of finalising your investigations?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair, but there is also I mean I have identified more documentation as we went along with the continued investigation but yes that is what the situation is.

20 **ADV VERUSCHKA SEPTEMBER:** And just for the sake of clarity have you received any cooperation since General Hankel left the position he held in CI?

MR KOBUS DEMEYER ROELOFSE: Chair I did not – to me it culminated in no cooperation at all from Crime Intelligence, nor from SAPS management in respect of my request to declassify

documentation, and as you will see later on in the testimony you will see the efforts that we have done or made to get documentation declassified and the barriers that were put up every time that you asked for documentation to be declassified, or asked for documents to be provided in a declassified fashion, unclassified fashion.

CHAIRPERSON: And is the position that all the documents that have not been declassified which are responsible for certain of these investigations not being finalised or trials not proceeding are they all held by Crime Intelligence?

10 **MR KOBUS DEMEYER ROELOFSE:** Chair in terms of the ...[intervenes]

CHAIRPERSON: Or most?

MR KOBUS DEMEYER ROELOFSE: No the majority of the documentation relating to the investigations where I said it is finalised pending the declassification of the documents, most of those classified documents are in my possession so I need to have to declassify it.

CHAIRPERSON: Okay.

MR KOBUS DEMEYER ROELOFSE: In respect of the ones that is not finalised it is documentation still in the possession of Crime
20 Intelligence, they have not provided to me, which were requested on previous occasions but it wasn't provided.

CHAIRPERSON: Yes. And did you say that the reason why you don't have the documents is that in regard to some people that you have dealt with in regard to the issue of declassification they have told you that the documents will not be declassified, but in regard to others that

you have dealt with they never gave you an outright no, you would send something and then six months later nothing has happened, is that the position?

MR KOBUS DEMEYER ROELOFSE: Chair if I may answer it this way, my – the documents that I requested a declassification on from the onset related to the matters that I referred to as finalised. I requested the other documents relating to other investigations, it wasn't given to me, so at that point in time I already knew I am not going to get the documents, because Crime Intelligence said they are not going to give
10 me the documents.

So my focus was on the documentation that I had in my possession to get it declassified and if you look at the correspondence that I sent to SAPS and Crime Intelligence it deals with those documents that held or that dealt with the matters that has been finalised and is supposed to go to court.

CHAIRPERSON: So the matters that have not been finalised because documents have not been declassified is the position that in regard to those matters which have not been finalised which are reflected upon diagram 5 is the position that there is a stalemate, there is nothing
20 happening in terms of a process that may lead to the documents being declassified?

MR KOBUS DEMEYER ROELOFSE: That is the position Chair and the same position applies to the documents in my possession that needs to be declassified, the same position as the two there.

CHAIRPERSON: Yes, now is it the Head of Crime Intelligence who

does the, who makes the decisions whether to classify or declassify?

MR KOBUS DEMEYER ROELOFSE: Chair in terms of the missed document and the procedures that the South African Police Services follow it is the author of the document which in this instance I cannot ask, the author of the document are implicated persons in the criminality, or the alleged criminality, and the other person is the National Commissioner.

CHAIRPERSON: Mmm.

MR KOBUS DEMEYER ROELOFSE: I have seen in some of the
10 documents, the confidential documents which was sent to not only the Mugollo Commission as well as this Commission that Brigadier Van Graan was delegated on behalf of the National Commissioner to declassify those documents, so I would assume that the National Commissioner has that delegation power to delegate someone to do it.

CHAIRPERSON: Mmm.

MR KOBUS DEMEYER ROELOFSE: It has not happened in this instance, not in any of the documents, only the documents that was required by the two commissions which does not necessarily take the criminal matter any further, it points to the non-cooperation or the
20 inability of both the SAPS and end player not to investigate and to prosecute, it relates more to that than anything else, not to the content of the documents used, needed for the criminal matter.

CHAIRPERSON: But where you needed document eight to be declassified and they refused but for argument sake the Commission approaches them and they declassify it, isn't the position that it can be

used for the purpose of the Commission and you can use it for purposes of the criminal matter as well once it has been declassified, in other words there is no saying it has only declassified for the Commission, it can't be used in the criminal file, if ...[indistinct] classified it it is still classified.

MR KOBUS DEMEYER ROELOFSE: Chair as I understood it once it is declassified it is declassified, there is no provision in this document of a document being provisionally declassified, I have not seen that, I have not ready it anywhere.

10 **CHAIRPERSON:** Yes, yes.

MR KOBUS DEMEYER ROELOFSE: So I would assume that if it is declassified then it is open for use in any – at any forum.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: But – yes.

CHAIRPERSON: But in regard to your matters has the National Commissioner of Police been approached and has he refused?

MR KOBUS DEMEYER ROELOFSE: Chair there is not a short answer to that, I deal with it in my evidence later on, but the sum total of my evidence comes down to the fact that all the National Commissioners, 20 even the acting National Commissioners were approached and none of them has declassified the documentation needed for the prosecution.

CHAIRPERSON: Mmm, mmm. Okay, now that's fine. I think it will be important that the Commission be furnished with information that says what documents they are, at least insofar as they are relevant to the work of the Commission and if they are relevant for the work of the

Commission and they have not been declassified and the Commission needs them the Commission will approach the relevant authorities to get them, and if they get classified, declassified and you need them I know of no reason why you can't have them. If there is a reason we will deal with – we will look at it at that stage if somebody says there is a problem, because I think when it is given, when it is given to us my understanding is as long as it is declassified anybody can have a look at it?

MR KOBUS DEMEYER ROELOFSE: That is how I understand it also

10 Chair.

CHAIRPERSON: *Ja, ja*, okay I think then that information would be useful to the legal team. They will indicate to you in terms of your statement what the documents that are relevant to the work of the Commission, okay.

ADV VERUSCHKA SEPTEMBER: At page 43 of your affidavit you now turn to the events from March 2012 and in specific you deal with disciplinary and criminal proceedings which were referred to the Inspector General of Intelligence. What happened on the 29th of February 2012 Mr Roelofse?

20 **MR KOBUS DEMEYER ROELOFSE:** Chair on that date and these events if I may deals now more with the actions that we undertook to get the documents declassified and the roadblocks that we experienced, and I have a date there the events from March 2012.

On the 29th of February 2012 Lieutenant General Julius Malefe instructed halting of all disciplinary matters relating to General Lazarus

and General Mdluli. He also instructed that all the documents relating to the disciplinary matters be handed to the IGI.

ADV VERUSCHKA SEPTEMBER: IGI being being the ...[intervenes]

MR KOBUS DEMEYER ROELOFSE: The Inspector General of Intelligence.

ADV VERUSCHKA SEPTEMBER: Thank you.

MR KOBUS DEMEYER ROELOFSE: Maybe I should just put that into context, General – this was on back of a decision that was made by the then Acting National Commissioner ...[intervenes]

10 **CHAIRPERSON:** The then acting?

MR KOBUS DEMEYER ROELOFSE: The then acting National Commissioner who was General Nkunazi.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: He, on our request, and when I'm talking about our request I am talking about the DPI's request, we asked him, I asked him through General Jamat to refer the question whether the investigation should be dealt with in IGI or investigation should be dealt with by the IGI or the South African Police Service to refer it to the IGI so that she can make a decision as to where this the
20 mandate for this investigation lies.

And this follows from the decision that Advocate Magobi made that there is no case to answer and that it falls within the mandate of the IGI. That is why this request was made, so based on that request General Molefe then asked that the documents relating to the various disciplinary actions as well as then through General Jamat I was

requested to provide the IGI with the dockets relating to the looting of the SSA fund.

It – this was then referred to – the documents were, the actual documents, because I had to give the actual docket to the IGI, it was referred to the IGI and after the referral was done and we received an answer from the IGI which basically said that they don't have the mandate to do the criminal investigation, it does not fall within their mandate, it – the documents were returned to us for further investigation as well as to appropriate disciplinary action against the
10 members involved, and according to my knowledge no departmental investigations took place, apart from General Lazarus who was subsequently dismissed after a departmental hearing.

I have been informed that there was a disciplinary hearing that dealt with Colonel Barnard, I do not know what the outcome was of that disciplinary hearing, I do not know whether it was finalised and I do not know if it was finalised what the sanction was, Colonel Barnard is still in the employ of SAPS, and General Lazarus ...[intervenes]

CHAIRPERSON: So does it look like the outcome was kept secret except maybe for people that were closely involved?

20 **MR KOBUS DEMEYER ROELOFSE:** Chair I would presume so, I do not know what the outcome was, nobody – I have asked but nobody is in a position to tell me or nobody wants to say anything. I don't know.

ADV VERUSCHKA SEPTEMBER: Mr Roelofse you gave evidence earlier that it was Brigadier Madonsella and Captain Hiralal who were involved in the investigations relating to the appointments of the 250

recruitment process in 2010.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And that it was through that process that it was – there were certain family and friends who were appointed, who were so related to General Mdluli, General Lazarus and Mr Marimuto.

MR KOBUS DEMEYER ROELOFSE: That is also correct Chair.

ADV VERUSCHKA SEPTEMBER: Did – what information did you receive from Brigadier Madonsella or Captain Hiralal in relation to the
10 outcomes of the investigations?

MR KOBUS DEMEYER ROELOFSE: Chair as I explained earlier we exchanged affidavits and information on a regular basis. I have – I have already dealt with the allegations that was investigated by Madonsella at an earlier stage in my testimony. As part of their investigations into the 250 appointment process I was also in possession of copies of fourteen documents, fourteen criminal case dockets. Now these criminal case dockets came into my possession after it was sent back from the IGI to my office, I then saw the criminal case dockets, I made copies of those 14 criminal case dockets, and I
20 sent the originals back to SAPS.

ADV VERUSCHKA SEPTEMBER: What did these criminal case dockets concern?

MR KOBUS DEMEYER ROELOFSE: Chair those case dockets was opened by Captain Hiralal in respect of the non-disclosure of criminal convictions and civil judgments by the applicants for employment. The

National Commissioner is empowered to condone a disclosure of criminal convictions or civil judgments to favour the employment of the applicant. I am not aware of any prior condonation by the National Commissioner regarding these appointments. I have subsequently been informed that a condonation has taken place. But unfortunately that condonation cannot include the misrepresentation made as in – as – as referred to by Captain Hiralal in the case dockets that he has opened. And I have – I had a chance to look on the criminal CAS the criminal administration system which is the police's CAS system in
 10 respect of these 14 dockets. It did not fall within my [indistinct] in terms of the investigation but I was interested in terms of what the outcome was. And according to the SAPS criminal administration system two of those dockets were closed as undetected, one was withdrawn and eleven were closed as false. And as far ...

ADV VERUSCHKA SEPTEMBER: Would – sorry what does the – what does undetected, withdrawn and false mean?

MR KOBUS DEMEYER ROELOFSE: It is used in different – in different – in essence it remains – it is the same thing in the sense that there is no investigation that is going to continue on the back of closing
 20 of a docket with these headings. Withdrawn – a docket that is withdrawn would mean that a docket was with the NPA and the decision was made whether to prosecute or not. In terms of a docket that has been closed as false it would be a police officer that would close that docket as false in other words there is no substantiation for the – for the allegation that was made. And the same applied to undetected. In

this instance there might have been a substantiation for the allegation but they cannot find anything or they cannot find the person that was implicated in this matter. I have subsequently – I have given this – I have given this information to the commission and I was informed after enquiry I think on Monday therefore there is no – there is no mention of this that the South African Police Services did in fact give copies to the commission which then changes some of the information that I have on my – in my affidavit here. As I was not privy to the – to the dockets before it came to the commission. I did not – I did not receive them.

10 And I will have to go through them to see whether paragraph 146.3 is still relevant. Although the ones that I did see there is certain questions that I have as to why that matter was withdrawn in the first place. Because more than just the one docket as – as indicated in the CAS administration system has been with the NPA for a decision and not only the one. So I will have to go back and have a look at exactly what had happened there.

CHAIRPERSON: Can I take you back to the matters that were referred to the IGI and they subsequently came back to you. As I understood you; you said is it Colonel Barnard? You understood that he was
20 subjected to a disciplinary hearing but you do not know the outcome?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. I do not know the outcome. If – Ja I do not know whether a disciplinary was – had taken place.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: I was told one was taken – I was

told that one took place.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: So I do not – I cannot confirm that one has taken place.

CHAIRPERSON: You cannot say for sure, yes.

MR KOBUS DEMEYER ROELOFSE: But I do not know about the outcome either yes.

CHAIRPERSON: Yes. But with – is it with regard to General Mdluli that you were saying there was no disciplinary hearing that happened?

10 **MR KOBUS DEMEYER ROELOFSE:** No disciplinary hearing had happened in – with regards to General Mdluli Chair.

CHAIRPERSON: So that one you know?

MR KOBUS DEMEYER ROELOFSE: Yes that one I know because...

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: I was never asked for the documentation by the SAPS.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: To prove or disprove his involvements in certain of these incidents.

20 **CHAIRPERSON:** Yes.

MR KOBUS DEMEYER ROELOFSE: So they could not have done it without the documentation that I have.

CHAIRPERSON: Yes, yes. But in regard to him who would have been the person to make the decision that he must face a disciplinary inquiry or hearing?

MR KOBUS DEMEYER ROELOFSE: Chair at the time it would have been the Acting National Commissioner.

CHAIRPERSON: Yes. And at that time was it General Mkwanazi?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Yes. Okay. And in regard to Barnard is it the same person – the Acting National Commissioner who would have had the decision – the part to make the decision as well?

MR KOBUS DEMEYER ROELOFSE: Chair with regards to him it would have been the Divisional Commissioner it would have been sufficient at
10 Crime Intelligence itself ja.

CHAIRPERSON: Oh okay. Thank you.

ADV VERUSCHKA SEPTEMBER: Chair I have been informed that we have exceeded the time on one o'clock.

CHAIRPERSON: Yes.

ADV VERUSCHKA SEPTEMBER: But guided by you Chair.

CHAIRPERSON: Ms Roelofse I mentioned to Ms September this morning that I have some matter that I need to attend to and would like us to adjourn earlier than normal. Normally I adjourn at four. I understand that tomorrow is still another day that is scheduled for your
20 evidence. Is that correct Ms September?

MR KOBUS DEMEYER ROELOFSE: Yes Chair.

CHAIRPERSON: Yes. I was thinking that if it is fine with you then maybe we could and also with Ms September we could take the lunch break at two and continue and cover some ground and then take the – adjourn for the day at two o'clock and then continue tomorrow. But it

may well be that there is more than enough time tomorrow I am not sure you would have a better idea. What is your sense?

ADV VERUSCHKA SEPTEMBER: My sense is that we could.

CHAIRPERSON: We might need – or maybe we should...

ADV VERUSCHKA SEPTEMBER: We may – we may finish tomorrow.

CHAIRPERSON: Or we may even need to start early to make up for ...

ADV VERUSCHKA SEPTEMBER: Yes I would appreciate that Chair.

CHAIRPERSON: For the time. Mr Roelofse how does that sound to you, is that fine with you?

10 **MR KOBUS DEMEYER ROELOFSE:** Chairperson I am a civil servant. If the boss say I can go home early I go home early.

CHAIRPERSON: But is it fine if we...

MR KOBUS DEMEYER ROELOFSE: It is fine with me Chair.

CHAIRPERSON: If we continue until two o'clock?

MR KOBUS DEMEYER ROELOFSE: That is fine.

CHAIRPERSON: Is it fine with you?

ADV VERUSCHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: You not starving too much?

ADV VERUSCHKA SEPTEMBER: Sorry?

20 **CHAIRPERSON:** You not starving too much?

ADV VERUSCHKA SEPTEMBER: Not at all.

CHAIRPERSON: Okay alright.

ADV VERUSCHKA SEPTEMBER: If we can start early tomorrow I would appreciate it.

CHAIRPERSON: Yes ja, ja. Okay alright then let us – let us continue

if that is fine then until two o'clock.

ADV VERUSCHKA SEPTEMBER: As it pleases Chair.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: Mr Roelofse you mentioned that the National Commissioner is empowered to condone a disclosure of criminal conviction or civil judgment.

MR KOBUS DEMEYER ROELOFSE: That is correct.

CHAIRPERSON: Or a nondisclosure?

ADV VERUSCHKA SEPTEMBER: Nondisclosure of criminal conviction
10 or civil judgment.

MR KOBUS DEMEYER ROELOFSE: No I think it is the disclosure of criminal conviction in the application.

ADV VERUSCHKA SEPTEMBER: Okay. And so to just then unpack that to make sure we understand?

CHAIRPERSON: I am sorry. I just want to make sure I follow. Is it a condonation of ...

MR KOBUS DEMEYER ROELOFSE: The disclosure of...

CHAIRPERSON: An earlier nondisclosure.

MR KOBUS DEMEYER ROELOFSE: Yes Chair.

20 **CHAIRPERSON:** So in other words a disclosure is happening later than it should have happened?

MR KOBUS DEMEYER ROELOFSE: Chair it is a disclosure of a criminal conviction in the application for a current job within the South African Police Services. In other words the person would disclose his previous conviction in that application to get – to be appointed within a

specific post within the South African Services.

CHAIRPERSON: Oh so – so it is – it is – it is not a situation where somebody was supposed to have disclosed at an earlier stage that they have a criminal conviction for example and only disclose it later. It is a simply that you – when you are applying for a job you disclose that you have a criminal conviction and then you ask the commissioner to condone ...

MR KOBUS DEMEYER ROELOFSE: And then you get appointed Chair.

CHAIRPERSON: Condone I guess not the disclosure but condone the
10 fact that you have a criminal conviction.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Ja okay.

MR KOBUS DEMEYER ROELOFSE: And what then happened in this instance there was no disclosure. In other words they were appointed without the – without the...

CHAIRPERSON: A disclosure of...

MR KOBUS DEMEYER ROELOFSE: Employer.

CHAIRPERSON: Ja.

MR KOBUS DEMEYER ROELOFSE: Knowing about the criminal
20 conviction and that is the case docket that was opened because the security – the vetting was done on the 250 posts this – these were the anomalies that was identified people having a criminal conviction but not disclosing on their application form.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: So then there has to a disclosure in

order for there to be something to condone?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. And then based on that the National Commissioner can apply his or her mind whether this person is still a fit and proper person to be appointed within the South African Police Services.

ADV VERUSCHKA SEPTEMBER: But if there is no disclosure such nondisclosure cannot be condoned?

MR KOBUS DEMEYER ROELOFSE: Well it means that the nondisclosure is now – is now condoned Ipso Facto it is now condoned
10 after the fact. It does not erase the misrepresentation that was made on the application itself of the nondisclosure and that is where the problem lies.

CHAIRPERSON: Probably the condonation might be the term that they use but effectively from what I hear it seems that it is a waiver maybe. So normally you would not be employed if you have a criminal conviction

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: And – but if the National Commissioner says I have considered everything it is fine then you can be employed?

20 **MR KOBUS DEMEYER ROELOFSE:** That is correct Chair.

CHAIRPERSON: Ja.

MR KOBUS DEMEYER ROELOFSE: But without the – that information the National Commissioner cannot apply his/her mind.

CHAIRPERSON: Because he or she would not know.

MR KOBUS DEMEYER ROELOFSE: Did not know and it was not

disclosed.

CHAIRPERSON: Ja.

ADV VERUSCHKA SEPTEMBER: In relation to the fourteen criminal dockets you have highlighted two matters in paragraph 146.4.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Can you please take the Chair through these two that you have highlighted?

MR KOBUS DEMEYER ROELOFSE: Chair the two that I highlighted deals with Mr Nkosama Ximba as well as Ms – I do not want to be
10 disrespectful but I am going to butcher this – the first name.

ADV VERUSCHKA SEPTEMBER: Nonhlanhla.

MR KOBUS DEMEYER ROELOFSE: Nonhlanhla Portia Mhlatlozi [?].
These two individuals are related. Mr Ximba was promoted – resigned from SAPS he was appointed on the 6th April – sorry he resigned from SAPS on the 26th April 2018. He was promoted from Constable Level 4 to Colonel Level 12 in the 250 posts – 250 appointment process. He did not disclose his criminal conviction or the civil judgment that he had in his application. His – as I said his sister Ms Mhlatlozi [?] she was – she also had a criminal conviction and she did not disclose same.
20 However I want to refer back to 140 – paragraph 146.3. This is now subject to me having a look at the actual – because I have not been able to – have not had time to have a look at the actual dockets. It was sent to SAPS. I sent to the commission to see whether these two case dockets was actually referred to the NPA for the decision.

ADV VERUSCHKA SEPTEMBER: But where is the underlying

documents relevant to these two – or rather where are the dockets?
These are criminal dockets, is that correct?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. I am – I based my affidavit on the copies of the documentation of the dockets that I had in my possession.

ADV VERUSCHKA SEPTEMBER: And you received those dockets – when did you receive those documents?

MR KOBUS DEMEYER ROELOFSE: I received – I made copies of those dockets at the time when it was returned from the IGI to my office
10 for the IGI to make a decision whether this – whether the mandate for the investigation lies with the SAPS or with the IGI, the Criminal Investigation.

ADV VERUSCHKA SEPTEMBER: And so the...

MR KOBUS DEMEYER ROELOFSE: So I had copies of that – those dockets in my possession for that timeframe.

ADV VERUSCHKA SEPTEMBER: And so the current status of the investigation in relation to Colonel Nkosana Ximba and Ms Nonhlanhla Portia Mhlatlozi [?] is unclear to you as at today?

MR KOBUS DEMEYER ROELOFSE: Exactly Chair. As I said I
20 provided the commission with the relevant case numbers. They requested it from SAPS and I was advised that it was given to the commission so I just want to have a look at it to make sure that the information that I have now is the same as the information that I had at the time when I copied these dockets.

ADV VERUSCHKA SEPTEMBER: In this regard what is the current

status of these investigations?

MR KOBUS DEMEYER ROELOFSE: Well Chair from the little bit that I see I only saw the front part of the docket.

ADV VERUSCHKA SEPTEMBER: Yes.

MR KOBUS DEMEYER ROELOFSE: It would seem that as I said I will have to go through each one now to see what the outcome was but it would seem from what I – from my first glance that more dockets went to the NPA for a decision than – that was in – that has been indicated in the SAPS Criminal Administration System.

10 **ADV VERUSCHKA SEPTEMBER:** Okay.

MR KOBUS DEMEYER ROELOFSE: So the question regarding the matter being withdrawn is important because if it was before the NPA a decision might have been taken regarding the fact that there is not sufficient evidence to continue which then deals with the application itself. In terms of that misrepresentation. So I will have to have a look at that.

ADV VERUSCHKA SEPTEMBER: Thank you. We are on page 45 now of your affidavit where you now focus two specific investigations. The road map however to the rest of your affidavit really talks to the
20 interference that you have encountered in your investigations, is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And is it to be understood that this interference was not only through individuals representing institutions but also through people that you were investigating at the time?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Is it also to be understood that the interference was specific to certain matters or into the bigger matter of your investigation into the abuse of Secret Services Account?

MR KOBUS DEMEYER ROELOFSE: Chair it was – it related to the bigger matter of the Secret Service – investigation to the Secret Services Account and I – and I am of the opinion that the reason why that had happened is the fact that if it was only – only affected General Mdluli and General Lazarus I do not think we would have had the
10 pushback that we had in terms of this investigation. Because it goes beyond those two individuals.

ADV VERUSCHKA SEPTEMBER: If we can then look to the first investigation and that is at paragraph M which is titled The Specialised Commercial Crimes Unit, Criminal Proceedings, General Mdluli and Colonel Barnard. Please remind the Chair to which investigation this refers?

MR KOBUS DEMEYER ROELOFSE: I will do so. Chair just before I answer that question I just want to inform the Chair that the allegations that I refer to in the previous part what I testified now is in domain – is
20 in the domain of the South African Police Service. I have written many memorandums. I informed the senior management regarding these allegations. It is not a question that this is new. These allegations are known to them. So it – that is why this is – to me it is a very important issue. It is the fact that this has been known it not something new within the circles of the South African Police Force.

CHAIRPERSON: Yes, yes.

MR KOBUS DEMEYER ROELOFSE: And I think this is just – this is the precursor for the evidence that I am going to – to give now regarding what we did and what we tried to do to get the documentation or the investigations finalised.

CHAIRPERSON: Yes no that is fine. No I think the legal team will need to get all the information from you in terms of where exactly you have not been given cooperation on matters that are you know you should be getting cooperation and as long as they are definitely
10 relevant for us the commission will seek to get those documents and if somebody believes that there are proper legal grounds why the commission should not get them then they will have to tell us those grounds. Ja. Okay.

ADV VERUSCHKA SEPTEMBER: The context of your evidence now is specific to this investigation.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And you are about to just clarify what this investigation concerned?

MR KOBUS DEMEYER ROELOFSE: Chair if I may?

20 **CHAIRPERSON:** Before you do that may I just check whether this falls under the – that judgment of Judge Murphy that is in the – in the bundle.

ADV VERUSCHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: That went up to the Supreme Court of Appeal.

ADV VERUSCHKA SEPTEMBER: Yes Chair.

MR KOBUS DEMEYER ROELOFSE: Yes Chair it falls under that ja.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: Yes. In fact thanks to you Judge if we could then talk to what happened on the 17 November 2011.

MR KOBUS DEMEYER ROELOFSE: Chair...

CHAIRPERSON: Well I am sorry. Those matters where there are judgments there would be certain findings that have already been made which stand – I think the way you deal with them need not be as if it is a new matter that has not gone through the courts. There may be
10 certain perspectives that are important for the commission that may not have been important for the courts. But I think it is important just to know where there are findings that have made and there is no controversy about those findings so that we do not spend too much time on matters where findings have been made and there is no controversy about them.

ADV VERUSCHKA SEPTEMBER: As it pleases Chair. My understanding of this part of the evidence is specific to the interference that Mr Roelofse encountered.

CHAIRPERSON: Oh okay.

20 **ADV VERUSCHKA SEPTEMBER:** When investigating this matter.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: But now...

CHAIRPERSON: So the focus is more on the interference?

ADV VERUSCHKA SEPTEMBER: On the interference.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: And specifically that that interference was borne out of the office of the NPA.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: As compared to interferences he encountered elsewhere.

CHAIRPERSON: Okay that is fine. That is fine.

ADV VERUSCHKA SEPTEMBER: And so thank – through your direction Chair is it correct that on the 17th November 2011 General Mdluli made representations to Advocate Lawrence Mrwebe who was
10 the Head of the Specialised Commercial Crime Unit at the time?

MR KOBUS DEMEYER ROELOFSE: Chair that is correct. He made representations to Advocate Mrwebe.

ADV VERUSCHKA SEPTEMBER: And did you have sight of...

CHAIRPERSON: I am sorry I think in order so that everybody understands and those who will read the transcript understand. I think just connect the issue. What was – what charges were pending or – before the Mr Mrwebe – Advocate Mrwebe in respect of which Mr Mdluli was – Jerome Mdluli was making representations. Let us hear that first then we can understand what the representations were about.

20 **MR KOBUS DEMEYER ROELOFSE:** Chair if I may break it into three categories? The first category relates to the Vosloorus case which is the murder case. It stands separate. The second category is the - what I would call the looting of the SSA fund.

CHAIRPERSON: The?

MR KOBUS DEMEYER ROELOFSE: The looting of the Secret Services

Account.

CHAIRPERSON: Oh yes, ja.

MR KOBUS DEMEYER ROELOFSE: But that one is – is split into two. Initially when we started the investigation into this – into the account it related to the vehicle – the vehicle that General Mdluli – his private vehicle that was sold and traded in.

CHAIRPERSON: Traded in.

MR KOBUS DEMEYER ROELOFSE: Traded in.

CHAIRPERSON: Yes okay.

10 **MR KOBUS DEMEYER ROELOFSE**: So the – the investigation or the criminal matter was focused in terms of that specific transaction.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: And that is what went to court so the representations that we talking about here would have been relating to that transaction only and the – and the trade in of the vehicle.

CHAIRPERSON: Oh okay.

MR KOBUS DEMEYER ROELOFSE: Because we did not have at that time the complete picture.

CHAIRPERSON: The other matters.

20 **MR KOBUS DEMEYER ROELOFSE**: Because we have not spoken to Naidoo at that point in time.

CHAIRPERSON: Okay alright. Okay. And – and in regard to that transaction was it a charge of fraud or what?

MR KOBUS DEMEYER ROELOFSE: The charges were as far as I can remember fraud and corruption Chair.

CHAIRPERSON: Yes. Okay. You may continue then.

ADV VERUSCHKA SEPTEMBER: Thank you Chair. So it is on the 17th November 2011 that the representations were made to Advocate Lawrence Mrwebe?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Is that right? And it is common cause that Advocate Mrwebe recommended or rather directed that the charges be withdrawn which was the subject of court decisions that was subsequently taken?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

10 **CHAIRPERSON:** Well I do not know if common cause is accurate or do you not want to say it was a finding made by the courts? Because I think Mr Mrwebe was saying something else if I recall correctly.

ADV VERUSCHKA SEPTEMBER: It was – thank you Chair. Then to correct for the record it was a finding that the decision to withdraw was in fact overturned by the courts.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: If we look to Advocate Mrwebe's memorandum which substantiates the decision that he took to withdraw the charges can I ask you to turn to page 140 please. Is this the
20 memorandum that was drafted by Advocate Mrwebe?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: It does inform that the date of this memorandum is dated 4 December 2011?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Is it also correct that there was an

issue around this date which was interrogated in the Mokgoro Commission?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. The 4th December is on a Sunday and as far as I can remember the testimony of Advocate Mrwebe it should have been on the 5th which is the Monday.

CHAIRPERSON: Oh. Oh.

ADV VERUSCHKA SEPTEMBER: But there was also an interrogation during the Mokgoro Commission.

10 **MR KOBUS DEMEYER ROELOFSE:** That is correct Chair.

ADV VERUSCHKA SEPTEMBER: On whether or not the consultation he did was done so timeously?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: If I could ask you to turn to page or rather just for the record that the – this memorandum subject title is Consultative Note in terms of the Section 24.3 of the National Prosecuting Authority Act 32 or 1998 NPA Act on the representations of Lieutenant General Mdluli case number 111//137/2011. If I ask you to turn to page 141. Second paragraph third line. Can you please read
20 that – the rest of that paragraph into the record?

MR KOBUS DEMEYER ROELOFSE: It starts with the representations?

ADV VERUSCHKA SEPTEMBER: Correct.

MR KOBUS DEMEYER ROELOFSE:

“The representations are for the withdrawal of the criminal case against their client based on the

grounds that the institution of an investigation and prosecution against him is an abuse of the Criminal Justice System. Constitutes a gross abuse of power and authority and that their client will not receive a fair trial. The purpose of this document therefore is to deal with and record a decision on the matter. It is the further aim that the document shall serve as a consultative document with the Director of Public Prosecutions North Gauteng as required by Section 24.3 of the NPA Act.”

10

ADV VERUSCHKA SEPTEMBER: At paragraph 3 it is documented that a certain Lieutenant Colonel Peter Janse Viljoen was the investigator in this matter.

MR KOBUS DEMEYER ROELOFSE: Chair he was one of the members – he was the member that – that came with me to Gauteng. He was the one that drafted the affidavit in respect of what Mr Mrwebe – Advocate Mrwebe are referring to yes.

ADV VERUSCHKA SEPTEMBER: So this is certainly a matter that you were involved in as well?

20 **MR KOBUS DEMEYER ROELOFSE:** Yes, yes Chair that is – that is our matter if I can – if I can put it like that.

ADV VERUSCHKA SEPTEMBER: After dealing then with the background to the matter to which you have already given some of that evidence and after addressing the basis for the request for the withdrawal of the charges which you have just summarised Advocate

Mrwebe deals with the prosecutor's report and docket before turning to an analysis and his conclusion at page 145 of this document. Can I ask you to read paragraph 13 and 14 please into the record?

MR KOBUS DEMEYER ROELOFSE: Chair paragraph 13:

10 “The representations in the first part suggest that the investigation and prosecution of Mdluli in the matter is for - is for an ulterior purpose. In this regard and without expressing any opinion where this has to be true or not I think our law is very clear in this regard as the courts have stated that in the - that the motive behind the prosecution is irrelevant and such an improper or ulterior - ulterior motive does not affect the prosecution against person. Such prosecution will be wrongful if in addition there are - there are no reasonable and - and probable grounds for such prosecution - if in addition there are no reasonable grounds - no reasonable and proper grounds for such in the prosecution. I refer in this regard to the case of the

20 **NDPP vs Zuma** (SCA) 573/08 - (paragraphs 37 to 38). The second part/basis of the representations which relates to fairness of the trial is one - is the one that seems to suggest that there were no reason and - and probable grounds for such prosecution against Mdluli. In my view this is the

part that merits close attention. Clearly from the affidavit from L Viljoen which was used as the basis for the warrant of arrest as well as in the docket there is no evidence against Mdluli. The only thing one finds is the opinion expressed by Viljoen in his affidavit that the inference is irresistible that Barnard and Mdluli conspired to use this money to cover Mdluli's debt. This in itself amounts - this - this in itself amounts to fraud and theft."

10 **ADV VERUSCHKA SEPTEMBER:** And of importance is paragraph 17 which I ask you to read as you have actually referred to in your affidavit as well.

MR KOBUS DEMEYER ROELOFSE: Chair it states the following:

20 "However because of the view I hold of the matter I do not propose to traverse the merits of the case and the other questions - and other questions further. Whether there was evidence in the matter or not is in my view not important for my decision in the matter. The proposition which I allude - allude to below should alone and without any further ado be dispositive of the matter."

ADV VERUSCHKA SEPTEMBER: And then lastly at paragraph 18. It is with your leave it reads:

"Mdluli and Barnard are members of the Crime Intelligence Division of the South African Police

Service which is part of the intelligence structures of the country and as their conduct and activities are subject to the laws, regulations, policies and procedures governing the intelligence community.”

At paragraph 20 the final decision in this regard is recorded to be that:

“It will be noted that the offences for Mdluli as charged fall squarely within the mandate of the Inspector-General as quoted.”

10 And paragraph 21 talks about:

“The practical and policy considerations for the Inspector-General to be the one to deal with the matter.”

If I can ask you lastly or rather on this point what was your concern in relation to the office of the Inspector-General or rather what was your concern in relation to the involvement of the Inspector-General in this matter?

MR KOBUS DEMEYER ROELOFSE: Chair I had no concern about the involvement of the Inspector-General in this matter. In fact the
20 Inspector-General after this information came to light we - I was interviewed extensively by the Inspector-General but this was after Naidoo - Colonel Naidoo’s information came to light but prior to that I did not have a - a view on the Inspector-General itself or whether it is their mandate or not.

For me it was a question is this going to be investigated and

are - the people are going to be held accountable. So when Mr Mdluli -
Mr - Advocate Mrwebi stated that it falls under the - the auspices of the
Inspector-General I did not agree with that because I thought it was
wrong. It - it does not state within the IGI Act or the Oversight Act that
the mandate to investigate a criminal matter lies with the IGI.

So - but I - I did not have a problem that the matter be
referred to the IGI for a decision and hence that we requested that the
IGI be involved and that - and that she make - makes a decision on - on
the assumption that or on the - based on the reason that
10 Advocate Mrwebi advised and that is why the documentation or the
dockets was referred to the IGI for - for exactly that.

ADV VERUSCHKA SEPTEMBER: If I can ask you at page 1-4-8
paragraph 22. Notwithstanding your understanding of the involvement
of the IGI Advocate Mrwebi did not share your view in that at paragraph
22 six lines down beginning with any investigation can I ask you to read
that part into the record please?

MR KOBUS DEMEYER ROELOFSE: “Any investigation of the
crime as in the present case would be futile without
the involvement of the Inspector-General as the
20 transactions which Mdluli is charged with can only
be explained in terms of the internal applicable
procedures, policies, processes and systems which
the ordinary investigator has no access to. One
may ask why the police failed to execute search
warrants.”

ADV VERUSCHKA SEPTEMBER: And then at paragraph 1-4-9 - paragraph - page 1-4-9 paragraph 26.

MR KOBUS DEMEYER ROELOFSE: “I am afraid that on the face of it, it appears that the manner the investigators went about dealing with this matter assisted by the members of the National Prosecuting Authority may possibly be in breach of the Security Legislation. However as it appears that everybody concerned in this matter must have committed a *bona fide* error of law in this regard. It is not too late to remedy the situation by referring the matter to the Inspector-General in terms of Section 7 of the Act.”

10

ADV VERUSCHKA SEPTEMBER: And accordingly the - it was his instruction that the charges be withdrawn against both Lieutenant-General Mdluli and Colonel Barnard immediately?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Did you have sight of General Mdluli's representations?

20 **MR KOBUS DEMEYER ROELOFSE:** Chair I did have sight of those representations.

ADV VERUSCHKA SEPTEMBER: And we are back at page 45 of your affidavit.

MR KOBUS DEMEYER ROELOFSE: I just need to clarify I did not have - I did not have sight of the representations at the time. I only had

sight of it afterwards.

ADV VERUSCHKA SEPTEMBER: And were there any ...

CHAIRPERSON: You only - I am sorry. You only had sight of ...?

MR KOBUS DEMEYER ROELOFSE: Of the representations afterwards.

CHAIRPERSON: Oh later.

MR KOBUS DEMEYER ROELOFSE: After a decision was taken already
Chair.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: That is the only time I - I had sight
10 of those ...

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: Representations.

ADV VERUSCHKA SEPTEMBER: And ...

CHAIRPERSON: Is the - I am sorry.

ADV VERUSCHKA SEPTEMBER: Sorry.

CHAIRPERSON: Is the - is the normal procedure not that before the
NPA would make a decision such as that they would favour you with
representations and ask for your comment or does that sometimes
happen but sometimes does not happen?

20 **MR KOBUS DEMEYER ROELOFSE:** Chair it - it happens sometimes
but I mean there is still a decision that - that has to be made by the
NPA. I can - I can merely comment on it but what I do expect and that
is - that is - that normally - that is what normally happens. Is that in a
matter like this which is a - a high profile matter that at least the
prosecutor as well as the investigating officer in the matter needs to be

contacted and needs to be - what is the word I am looking for. Not talk to. It needs to be interviewed.

CHAIRPERSON: Transferred?

MR KOBUS DEMEYER ROELOFSE: Ja. It needs to be consulted ...

CHAIRPERSON: Oh, consulted. Ja.

MR KOBUS DEMEYER ROELOFSE: With respect to a decision that is going to be made in this regard ...

CHAIRPERSON: Hm.

ADV VERUSCHKA SEPTEMBER:

10 **MR KOBUS DEMEYER ROELOFSE:** Because the - the prosecutor already made its decision that there are enough grounds to prosecute ...

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: And it is a *prima facie* case and he has drawn up a - a charge sheet to effect that and then you get a finding like this and it has not been discussed with you because basically what Advocate Mrwebi is saying is that both my - both Advocate Smith who was the prosecutor and myself committed a - a crime.

20 We did something illegal and so I would have expected him to discuss that with us. It never happened.

ADV VERUSCHKA SEPTEMBER: Your consideration of the representations at a later stage did it highlight any - did you - do you have any observations when comparing or reconciling the memorandum of Advocate Mrwebi and General Mdluli?

MR KOBUS DEMEYER ROELOFSE: Chair there - I made two observations. The one is that General - General Mdluli in his representation never referred to the IGI as having oversight and the mandate to investigate the matter and secondly the - their representation dealt with the fact that he is being let us call it targeted and he is being victimised in terms of this specific investigation.

That he is the target of a - a plot and it did not - it does not deal with the IGI. So when Mr Mrwebi states that that was part of the representations it was not part of the representations that I saw and
10 which he based his decision on. So I do not know where he actually get that from. I cannot - I cannot comment.

What I do know is that the question of the IGI was raised in the representations made to SAPS with regards to disciplinary proceedings. So it might be that Advocate Mrwebi had sight of both. I do not know.

ADV VERUSCHKA SEPTEMBER: What did you as the investigator do then once you received the decision of Advocate Mrwebi?

MR KOBUS DEMEYER ROELOFSE: Chair I actually did not even - I was informed on the - I think the day before that the matter had to go
20 back to the court for further - had to appear - General - General Mdluli had to appear in court. He and Colonel Barnard. I think it was the day before they appeared.

I was informed that the matter is going to be withdrawn. I was not given a reason because I think at the time the prosecutor also did not have a reason but what did transpire and this I learnt

afterwards. Is that Advocate Mrwebi has already informed the legal representative of General Mdluli that the matter will be withdrawn.

That was prior to him having a consultation with the DPP - Advocate Mzinyathi because that is what Act says. He must have - he must do - it is a consultative process with him. So he informed him already prior to that. So at the - they had a decision as I was informed the decision was made to withdraw the matter and to place it later back on the roll because they - the defence already had a letter stating that the matter will be withdrawn.

10 So we - the NPA did not have choice but to withdraw the matter on that day.

ADV VERUSCHKA SEPTEMBER: And as the investigator what did you do when you received the decision of Advocate Mrwebi? Did you interrogate any authority in relation to the Office of the Inspector-General?

MR KOBUS DEMEYER ROELOFSE: Chair as I - I think I have already testified to this. I - I requested General Dramat to approach the National Commissioner or the Acting National Commissioner at the time so that the matter can be referred to the IGI for a decision whether it
20 falls within their mandate or not.

I strongly believe that it did not fall within their mandate but I was not going to give this - I was - I was going to - I was still going to refer it because if it is an issue then we need to deal with it and need to decide who is - who is actually involved in the investigation or who actually has the mandate.

ADV VERUSCHKA SEPTEMBER: And on page 46 paragraph 153. Is it correct that you received a response from the IGI or rather the IGI responded to General Mkhwanazi's letter on 19 March 2012?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. The IGI did respond to that letter. The IGI advised that the reasoning followed by the - and - and in this regard Advocate Mrwebi was fundamentally wrong and that the SAPS must refer the matter - the matter back to the NPA. A copy of the letter is attached to this affidavit as Annexure KDR09.

10 **ADV VERUSCHKA SEPTEMBER:** Can I ask you to turn to page 1-5-7 please? Is this the letter that you refer to?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: For the record can I ask you to read paragraphs 2.1, 2.2 and 2.3 into the record please?

MR KOBUS DEMEYER ROELOFSE: Chair it starts at 2.1:

20 "The Inspector-General of Intelligence ("IGI") derives a mandate from the Constitution of the Republic of South Africa 1996 and the Intelligence Services Oversight Act of 1994 Act 40 of 1994 which provides for the monitoring of the - of the intelligence and counter intelligence activities of the intelligence services. Any investigation conducting by the Inspector-General is for the purpose of intelligence oversight which must - which must result in a report containing findings

and recommendations. The mandate of the IGI does not extend to criminal investigations which are court driven and neither can the IGI - and neither can the IGI assist the police in conducting criminal investigations. The mandate of a criminal investigation lay solely with the police. As such we are of the opinion the reasons advanced by the NPA in support of the withdrawal of the criminal charges are inaccurate and legally flawed. We therefore
10 recommend that this matter be referred to the NPA for the institution of criminal charges.”

Signed by Ambassador Advocate F D Radebe.

ADV VERUSCHKA SEPTEMBER: And thus it was as at 19 March 2012 and from that date going forward that there ought to have been no misunderstanding or query in relation to what the mandate is of the Inspector-General of Intelligence’s Office?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And further through the clarity of the office of the IGI it also ought to have been - it was clarified that it fell
20 within the mandate of the police to investigate criminal matters?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: It is correct that this letter refers - is a response to the letter received from Lieutenant-General Mkhwanazi. Is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And that letter is to be found at page 1-5-4. Is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: In particular on page 1-5-5 in the second paragraph mention is made of the importance of this clarity as to who holds what mandate. Can I ask you to read the second paragraph into the record please?

MR KOBUS DEMEYER ROELOFSE: The one that starts with:

“It must be mentioned ...”

10 **ADV VERUSCHKA SEPTEMBER:** Correct.

MR KOBUS DEMEYER ROELOFSE: “It must be mentioned that an investigation in respect of Major-General Lazarus which may rise - which may rise from same - from the same concerns as in the Mdluli matter has also been finalised and it is proposed that we are - that we also engage on that matter in the same fashion as in - as is proposed in respect of the Mdluli matter.”

20 **ADV VERUSCHKA SEPTEMBER:** And then the last sentence of the next paragraph. It - which begins ...

MR KOBUS DEMEYER ROELOFSE: “It is however important that you express yourself clearly on the contents of the arguments contained in the letter of the Special Director of Public Prosecutions as it not only relates to the matters at hand but also how similar

situations need to be dealt with in future.”

ADV VERUSCHKA SEPTEMBER: And in your consideration of the letter that was received from the Office of the IGI did this - did the contents of this letter give the clarity so requested?

MR KOBUS DEMEYER ROELOFSE: Yes Chair. There is no confusion as to what their mandates are.

ADV VERUSCHKA SEPTEMBER: If we could go back to page 46. Once this clarity was received by letter of the IGI what steps did you take on 23 March 2012?

10 **MR KOBUS DEMEYER ROELOFSE:** Chair I asked that the matter be referred back through the Office of General Dramat to the Office of the Acting National - Acting National Director of Public Prosecutions the NDPP which was in Advocate Nomgcobo Jiba at the time.

ADV VERUSCHKA SEPTEMBER: Nomgcobo Jiba.

MR KOBUS DEMEYER ROELOFSE: Nomgcobo Jiba. I am truly sorry and the SSU for a decision following the opinion of the IGI. A copy of this letter is attached as Annexure KDR10 without the annexure - without the annexure referred to therein.

20 **ADV VERUSCHKA SEPTEMBER:** And without referring to it Chair. It does appear at - at page 160. Unless you wish us to refer to the letter itself.

CHAIRPERSON: What is that?

ADV VERUSCHKA SEPTEMBER: The letter that was requested by Mr - by General - by Colonel Roelofse to be sent to the NDPP's Office - Advocate Nomgcobo Jiba.

CHAIRPERSON: What page is it?

ADV VERUSCHKA SEPTEMBER: It is on page 1-6-0.

CHAIRPERSON: 1-6-0?

ADV VERUSCHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: This letter is dated 23 March 2012.

Is that correct?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: At paragraph 2 of this letter it
10 informs to attach the response from the Inspector-General of
Intelligence's Office?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Is that the document that you had
referred to earlier which is dated 19 March 2012 and which you read
into the record?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: So then at least insofar as the date
of the letter is concerned on receipt of this letter
Advocate Nomgcobo Jiba would have been aware of the clarity on
20 mandate?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. That is why
I specifically asked General Dramat to write to the - the Acting NDPP
due to the fact that she has to review a decision made by
Advocate Mrwebi and that is why it was addressed to her.

ADV VERUSCHKA SEPTEMBER: Who responded to this letter?

MR KOBUS DEMEYER ROELOFSE: Chair Advocate Mrwebi responded to this letter. I do not know - there is a copy. He was also an addressee on - on the letter itself but he responded and not - not Advocate Jiba.

ADV VERUSCHKA SEPTEMBER: And if I can then take you to page 1-6-2 is this the letter that you refer to?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And this is the letter that was sent by Advocate L S Mrwebi dated 30 March 2012 to
10 Lieutenant-General Dramat and copied to Advocate G Breytenbach, Advocate S Mzinyathi.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: The subject title being Silverton CAS 155/07/2011, investigations against Lieutenant-General R N Mdluli?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: It is correct though that although it is specific to General Mdluli there was another accused in this matter?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And what is the essence of this
20 letter?

MR KOBUS DEMEYER ROELOFSE: Chair if I may I will start with paragraph 2 and I will read into the record:

“I wish to advise that the Office of the Inspector-General of Intelligence has no oversight functions and powers of review with regard to prosecutorial

decisions. I also wish to remind that the NPA is an independent institution and prosecutorial decisions are its sole prerogative.”

Paragraph 3:

10 “The view of the IGI following your solicitation - solicitation of an opinion on the NPA decision on the matter based on a document which the police or anybody were not even legally entitled to possess is for your consumption and does not affect the decision taken on the matter. The NPA took a principle decision - principle and considered decision on the matter with fear or favour or prejudice as it - as it is required to do so in terms of the law. That decision stands and this matter is closed.”

ADV VERUSCHKA SEPTEMBER: Is this letter addressed to Advocate Jiba?

20 **MR KOBUS DEMEYER ROELOFSE:** No Chair. It is not addressed to Advocate Jiba. It is only addressed to the addressees that you have mentioned earlier. It is Lieutenant-General Dramat, Advocate Breytenbach and Advocate Mzinyathi.

ADV VERUSCHKA SEPTEMBER: So do you know whether or not this letter ever came to the attention of Advocate Jiba?

MR KOBUS DEMEYER ROELOFSE: I do not know Chair.

ADV VERUSCHKA SEPTEMBER: If I could ask you to go back to then

page 47 of your affidavit?

MR KOBUS DEMEYER ROELOFSE: Sorry. To page?

ADV VERUSCHKA SEPTEMBER: 47. Did you receive any internal memorandums that were prepared in relation to the decision of Advocate Mrwebi?

MR KOBUS DEMEYER ROELOFSE: Yes Chair I did. I received an internal memorandum dated 13 April 2013 - 2012 that was prepared by Advocate Breytenbach and Advocate Jan Ferreira Deputy Director SSU Pretoria both from the SSU in Pretoria. The memorandum is addressed
10 to Advocate Jiba, Advocate Mrwebi and others.

It requests Advocate Jiba to review the decision of Advocate Mrwebi and to - to allow them to reenrol the matter. A copy of this internal memorandum is attached to this affidavit as Annexure KDR12.

ADV VERUSCHKA SEPTEMBER: And then can I ask you to turn to page 1-6-5 please? Do you recognise the document at page 1-6-5?

MR KOBUS DEMEYER ROELOFSE: I do Chair. This is the memorandum that was prepared by Advocates Breytenbach and Ferreira.

20 **ADV VERUSCHKA SEPTEMBER:** And what are the key observations that you have in relation to this document before there are certain aspects to be highlighted?

MR KOBUS DEMEYER ROELOFSE: Chair the key observation or observations would - would be that they do not concur with Advocate Mrwebi that there is no *prima facie* case and secondly that

the matter must be placed back on the roll for prosecution.

ADV VERUSCHKA SEPTEMBER: If I can ...

CHAIRPERSON: Is that the memo at 1-6-5?

ADV VERUSCHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: From G Breytenbach and Ferreira?

ADV VERUSCHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: For the record this - this memorandum is dated 13 April 2012?

10 **MR KOBUS DEMEYER ROELOFSE:** That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Can I ask you to turn to page 1-6-8 please? Is it correct that this memorandum records that?

“We would argue that there is no empowering provision in the NPA Act that gave the SDPP the power to take the decision to withdraw the prosecution.”

If one then continues or rather the memorandum continues to address the withdrawal of the case against Mdluli and Barnard and in so doing at page 1-7-0 paragraph 14 it records in the first line that:

20 “We hold the view that the instruction to withdraw the case against the two accused was bad in law and in fact illegal.”

Three lines from the bottom the sentence begins that:

“In any event the agreement at the time was a provisional withdrawal with a distinct intention of

re-enrolling the matter once the concerns of the SDPP had been addressed. It has now transpired that the SDP views the matter as closed.”

Having considered the merits of the matter comprehensively is it correct that at page 187 paragraph 42 this memorandum concludes to call for the decision of the acting NDPP to consider the withdrawal decision of Advocate Mugwebe.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair, to reconsider this issue.

- 10 **ADV VERUSCHKA SEPTEMBER:** Reconsider and the acting NDPP at the time was who?

MR KOBUS DEMEYER ROELOFSE: Advocate Jiba.

CHAIRPERSON: Ms September to the extent that you are dealing with the contents of a document such as this it is not going to be controversial what the document says so you don't really have to get him to confirm what he says because what he says it says we can see, you can just tell me what the conclusion is and unless you want him to comment on something that is there but not just to confirm what he says.

- 20 **ADV VERUSCHKA SEPTEMBER:** As it pleases Chair.

CHAIRPERSON: We are at one minute to two, do you still have a question?

ADV VERUSCHKA SEPTEMBER: I'm happy to stop at this stage.

CHAIRPERSON: If you want to finish it is fine, if it is one or two questions.

ADV VERUSCHKA SEPTEMBER: There is still a bit, there is still a bit of correspondence at least to work through on this aspect.

CHAIRPERSON: Ja, then maybe we should stop here and then we will continue tomorrow.

ADV VERUSCHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: Are we at page 46 of his affidavit now?

ADV VERUSCHKA SEPTEMBER: We are on page 47 Chair, and we have just completed paragraph 158.

CHAIRPERSON: Okay and his affidavit goes to page 72 so we're left
10 with about what, is it 32 pages or 22 pages? How is your arithmetic?

ADV VERUSCHKA SEPTEMBER: Sorry?

CHAIRPERSON: How is your arithmetic, are we left with 22 or 32 pages?

ADV VERUSCHKA SEPTEMBER: Not great at this time of the day Chair.

CHAIRPERSON: Okay, Mr Roelofse we will stop at this stage, and we will continue tomorrow, maybe we should say half past nine tomorrow rather than nine o'clock, so let us start at nine thirty tomorrow.

ADV VERUSCHKA SEPTEMBER: Nine thirty it is.

20 **CHAIRPERSON:** Yes, we adjourn for the day. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS TO 19 SEPTEMBER 2019