

COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

PARKTOWN, JOHANNESBURG

10

08 OCTOBER 2019

DAY 179

20

PROCEEDINGS RESUME ON 8 OCTOBER 2019

CHAIRPERSON: Good morning, good morning everybody. Before we start I just want to deal with something else and then we will continue.

ADV PIET LOUW: Pleases You.

CHAIRPERSON: You may be seated. Thank you. In the business day of Friday the 4th October 2009 an article appeared on the front page which was titled and I quote “Zuma to get preview of nuke-deal questions” In that article the Business Day said that the commission had sent former President Mr Jacob Zuma questions that he would be
10 asked when he next appears in the commission.

It referred to the fact that prior to his appearance before the commission last time former President – the former President had asked that he be furnished with the questions that he would be asked once he was in the witness desk – on the witness stand and that I as Chairperson had made a decision to refuse that he be furnished with questions in advance.

The article goes on to say that the commission had sent Mr Zuma’s lawyers eleven pages with 80 questions. When you read the whole article it certainly gives the impression that the commission has
20 changed its decision on the question of whether Mr Zuma should be furnished questions before he – before he appears before the commission.

Since then I think another newspaper has published the same article. The fact of the matter is the commission has not sent Mr Zuma’s lawyers any questions. The – there is a document which has

eleven pages and I saw that in the article there is a reference to eleven pages. There is a document with eleven pages that was sent by Mr Paul Pretorius to counsel for Mr Zuma. That document contains areas of interest in the various affidavits that had previously been given to Mr Zuma as the affidavits from which questions would arise.

That document was in accordance with the agreement that was reached on the 19th July 2019 which was the last day of Mr Zuma's appearance before the commission that week.

The terms of that agreement were announced publicly by
10 myself. Counsel for Mr Zuma and the head of the commission's legal team Mr Pretorius were asked after I had announced the terms to confirm whether those were the terms of the agreement.

They stood up here in public and confirmed that those were the terms of the agreement. Anyone who listened to the terms of the agreement as I announced them or anyone who wishes to listen to the recording of that day will know that there is nothing – there was nothing to say Mr Zuma would be sent questions.

That same day after the proceedings had been adjourned some of the TV stations began to say in their reporting that the commission
20 was now going to send Mr Zuma questions and some of them were raising questions as to why he had not been given questions when he had asked for them before the hearing.

Either the same day or the following day but I believe the same day the commission issued a media statement clarifying this that the terms of the agreement did not include that Mr Zuma would be

given questions in advance that he would be asked when he takes the witness stand.

I am aware that some – one or more of the TV stations did correct and said no we got it wrong. The arrangement is not that he is going to be given questions.

One would have thought that with that background it would have been clear that the commission still stood on the position that the former President would not be given questions in advance that he would be asked once he takes the witness stand.

10 I subsequent to me being aware of this article in the Business Day I asked Mr Paul Pretorius to please give me the document once again that he had sent to counsel for Mr Zuma. And before that he told me that there were no questions that he had sent.

He gave me the document again and I could not see any questions. All I could see was an indication of areas in various affidavits or incidents or events in which the legal team was saying they were interested so that he could deal with those issues in the affidavits contemplated in the agreement that I announced.

20 I thought it is important that I set the record straight because I do not know why on the basis of the document that we know it is said that we have sent questions to Mr Zuma when a mere reading of the document will show that really there are no questions.

I will cause that document to be released to the public either today or at the latest tomorrow so that the public can see for itself that there were no questions that were sent. That is the eleven page

document that I am talking about.

I do not know whether there might be an eleven page document elsewhere that has been manufactured by somebody else and has presented it to the media as coming from us, the commission but the eleven page document that we have does not have – does not give Mr Zuma questions. It indicates the areas on which questions will arise but not the actual questions.

We – we appeal to the media to please just check the affects and to be fair to everybody including the commission. I spoke some
10 time earlier this year about an article that had been published by the Sunday Independent in regard to Mr Nombembe who is Head of the Commission's investigation team where in the article it was alleged that – or somebody had alleged that he had done certain things because he wanted to be appointed as NDPP and I said then I cannot understand how any newspaper would publish that story when the editor must know and I would have expected the journalist concerned to have known that to be NDPP you need to have at least a legal degree and Mr Nombembe does not have a legal degree. He is an auditor. But that was published.

20 I think that the media must realise that when they do not check their facts properly or when they do some things that are difficult to understand to the ordinary reader that might give rise to all kinds of suspicions and we do not need any unnecessary suspicions to be associated with the media. The media plays a very important role and they need to be respected, their rights need to be respected.

Journalists do generally speaking a very good job. Society relies on them. We would like to be able to know that they do their job with the necessary professionalism.

So we just ask that we be treated fairly as the commission just like we say everybody should be treated fairly. But in order to make sure that the side of the story of the commission is known arrangements will be made for us – we will make arrangements to release the document that was sent to the lawyers for the former President the only eleven page document that I know about that will be
10 released.

Thank you very much. We can now proceed.

ADV PIET LOUW: Thank you Justice. Mr Zuma may I just remind you; you are still under oath?

CHAIRPERSON: Yes you are still under oath Mr Zuma. Good morning.

MR DUDUZANE ZUMA: Good morning Chair.

CHAIRPERSON: Yes. Okay alright.

MR DUDUZANE ZUMA: Thank you.

ADV PIET LOUW: Mr Zuma perhaps to commence the issues I wish to deal with – with exactly what the Deputy Chief Justice has been dealing
20 with now namely the press and things have been reported up to now concerning you as well. In the first place – the first point I wish to make is this. You were asked questions yesterday out of any discernible sequence not that there is anything wrong with it but you did not have the opportunity to actually explain your whole involvement in the meeting how it came about and what happened afterwards and

what happened during the course of the meeting in one narrative. You were asked questions perhaps important questions but in silos and you did not have the opportunity to explain what had actually happened as one narrative. Now those who are privy to the commission documents would have read your affidavit, the affidavit that you prepared when you applied to cross-examine Mr Jonas. And there the – the story is told in its – in its extremity. But just perhaps also because this commission is conducted in – in public scrutiny it is perhaps important for you I would think just at the beginning to give a very quick overview of how it came
10 about that this meeting was organised, what the purpose of the meeting was, what your role and function was and what happened afterwards?

MR DUDUZANE ZUMA: Okay thank you. I will try and be quick Chair. As I had said...

ADV PIET LOUW: Sorry can I just say.

MR DUDUZANE ZUMA: Okay.

ADV PIET LOUW: Your affidavit of course is at page 37 – sorry 735 which is in Volume LL1.

MR DUDUZANE ZUMA: B.

ADV PIET LOUW: Yes B. LL1B. Perhaps you can just keep that open
20 next to you as you give a very, very quick overview high level overview and I will ask you questions about that – about the – about the meetings, how it came about?

MR DUDUZANE ZUMA: Yes what page is that again Sir?

ADV PIET LOUW: I – my note says 735 let me just double check. I think – that is indeed correct. At page – the second bundle of LL1.

CHAIRPERSON: I think there may be confusion with the changes that were made in the numbering and the labelling. Maybe Mr Mokoena should just check that you have your files are labelled the same way as his in terms of the latest labelling.

ADV PIET LOUW: It is LLB

CHAIRPERSON: Oh.

ADV PIET LOUW: The requirement for the National Director of Public Prosecutions.

CHAIRPERSON: Okay, okay. LL1B.

10 **MR DUDUZANE ZUMA:** This is LL1B.

CHAIRPERSON: Ja there is a 1.

ADV PIET LOUW: I said 1 – 1 [indistinct].

CHAIRPERSON: Okay and what page did you say?

ADV PIET LOUW: Page 735.

MR DUDUZANE ZUMA: 735 okay. Okay.

CHAIRPERSON: That is the red numbers – page numbers.

ADV PIET LOUW: At the left of. Mr Zuma do you have it?

MR DUDUZANE ZUMA: I have got it Sir.

20 **ADV PIET LOUW:** Right keep that next to you I do not want you to read it out.but if you can just for purposes of commencing your re-examination this morning give a quick overview in a chronological fashion of what happened please.

MR DUDUZANE ZUMA: Okay. So I had said there were rumours making the rounds on a certain issue which has been termed as blackmailing between Uncle Fana and Mr Jonas. These were rumours

that were persisting for a few months and by the time I had spoken to Uncle Fana this was at a point where I was like okay we need to – we need to – to see what is going on here because on the one hand when I had spoken to Uncle Fana he was not too sure about the rumours and he just said, look let us leave it. I popped it up again he said the same thing and at the third I have asked him he said okay if you are very sure about this and serious about this you resolve it. So he gave me...

ADV PIET LOUW: You resolve it?

MR DUDUZANE ZUMA: Yes. Resolving meaning set up a meeting, get
10 the three of us to sit down and we will discuss this matter.

ADV PIET LOUW: And can – just for the record Mr Mokoena just reminded me. If you say Uncle Fana you mean Hlongwane?

MR DUDUZANE ZUMA: It is Mr Hlongwane yes sorry about that. Cool. Ja can I just –

ADV PIET LOUW: Go ahead.

MR DUDUZANE ZUMA: Thank you. So if I am not mistaken that would have been the period leading up to October 23rd meeting. I was given the number obviously by Uncle Fana because I did not have Mr Jonas' number. As I had said I never met him before. I did not see anything
20 untoward. It is normal course. If there is any issue, if there is any discussion to be had you speak to people. I did not see – they agreed to meet or not. So I got his number and contact was initiated. Initially it was via sms and then one or two phone calls but there was a busy period in between and I think it took quite a few weeks for us to sit around the table. So by the time we decided to meet up it was on the

23rd Mr Jonas was at Nedlac which is in Rosebank.

ADV PIET LOUW: 23rd October?

MR DUDUZANE ZUMA: Yes.

ADV PIET LOUW: Yes.

MR DUDUZANE ZUMA: So this is the day in question. So the Nedlac offices are in Rosebank. I am not too far from Rosebank. I live in Saxonwold as is known and...

ADV PIET LOUW: Saxonold is the suburb that...

CHAIRPERSON: As – yes.

10 **ADV PIET LOUW:** That is next to Rosebank.

MR DUDUZANE ZUMA: Next to Rosebank. It is adjacent to Rosebank. So I had received a message from Mr Jonas saying look I will be leaving out of town later this afternoon/evening. There is an opportunity to meet because Nedlac seemed like it is finishing off early today. And that is when he had sent the times and if I am not mistaken he moved it again a bit earlier. I actually arrived to the meeting slightly late because the time was moved a bit. As I got to the venue which was the Hyatt Regency in Rosebank.

20 **ADV PIET LOUW:** So – just to stop there for a moment. Whose idea was it to go to the Hyatt?

MR DUDUZANE ZUMA: It was Mr Jonas' idea.

ADV PIET LOUW: Alright and then?

MR DUDUZANE ZUMA: When I got to the Hyatt he was – he was there already sitting in the reception – reception area. The lobby should I say. And greeted him. Exchanged very short pleasantries and

obviously we were waiting for Uncle Fana to arrive. And in that inter-leading period that is when the phone call came in and said...

ADV PIET LOUW: Which phone call.

MR DUDUZANE ZUMA: The phone call that was a venue change phone call.

ADV PIET LOUW: Just explain that in a bit more detail please?

MR DUDUZANE ZUMA: Okay. So the phone call came in on my mobile device from Uncle Fana to say look I am not comfortable meeting in a public area. Mr Jonas also looked uncomfortable as was I because it is
10 a hotel lobby and people are sitting around there. Everyone has got their own profile or whatever it is. So the phone call came in. They had the discussion between the two of them and I said look whatever you guys decide we will go. So the venue – the decision for the venue was a very difficult one because we could not go to Uncle Fana's house because he stays in another suburb in that area.

ADV PIET LOUW: In Hyde Park?

MR DUDUZANE ZUMA: Yes. He was on his way to the meeting. He wanted the meeting changed to somewhere more private and that is when I had suggested down the road there is a place that I do work
20 from which happens to be the household. And the reason why I do work from there is because there are also some office facilities so I had been conducting my meetings outside of the office for a very long time. From the Gupta residence as it is called.

ADV PIET LOUW: Could I perhaps just interrupt you here. Why not your own home we heard it was about 600 meters away from the Gupta

residence?

MR DUDUZANE ZUMA: I do not conduct meetings from my personal home.

ADV PIET LOUW: Do you have facilities at home or did you have at that time?

MR DUDUZANE ZUMA: I have got an office but that is purely for own private matters.

ADV PIET LOUW: And if you could just expand a bit on the facilities at the Gupta residence. What – what were they like? Were there
10 facilities and why would that be a good place to go?

MR DUDUZANE ZUMA: Ja so when I say facilities it is just obviously printing capacity staff in between I mean there is – what is it – catering sort of.

ADV PIET LOUW: Catering?

MR DUDUZANE ZUMA: Catering yes.

ADV PIET LOUW: Yes.

MR DUDUZANE ZUMA: Food, water, coffee whatever it is – snacks and it just makes it easier as opposed to sitting in a coffee shop. It is a private area so that is what I mean by office facilities.

20 **ADV PIET LOUW:** And could I just ask you this. Do you any of the – did any of the – if I say do I I mean back in October 2015.

MR DUDUZANE ZUMA: Sure.

ADV PIET LOUW: Did any of the Gupta brothers work from home? Did they conduct any business from home – from that – that specific part of what I think has generally been called the compound?

MR DUDUZANE ZUMA: Yes. As I said the person that I worked very closely with was a Mr Tony Gupta that is the person that I was in business with and we conducted...

ADV PIET LOUW: He is now – he is...

MR DUDUZANE ZUMA: Rajesh.

ADV PIET LOUW: Say that again please?

MR DUDUZANE ZUMA: Mr Rajesh – Rajesh Gupta.

ADV PIET LOUW: Rajesh Gupta also knows as Tony.

MR DUDUZANE ZUMA: Also known as Tony.

10 **ADV PIET LOUW:** Yes.

MR DUDUZANE ZUMA: As I had said we – we spend a lot of time together. We conducted business on a daily basis wherever it was. Whether it was – we went – we would go to the office at times and as I said yesterday I limited my movements to the office and we conducted a lot of our business from the household. As for the other two brothers they spent a lot of time at the offices and obviously there is varying officers in Midrand and in Sandton.

ADV PIET LOUW: Alright. So it was a convenient venue to move the discussion to as – and if you can go one then.

20 **MR DUDUZANE ZUMA:** Yes.

ADV PIET LOUW: What happened?

MR DUDUZANE ZUMA: So after the phone call after there was mutual agreement between the three parties – I am obviously the one that came up with the venue that is when we decided to make a move.

ADV PIET LOUW: Did Mr Jonas know where you were going?

MR DUDUZANE ZUMA: Yes that is correct Sir.

ADV PIET LOUW: Did you mention the name of the owner of the property, the family?

MR DUDUZANE ZUMA: Yes I did.

ADV PIET LOUW: And was he happy with that?

MR DUDUZANE ZUMA: He was – like I said the whole time from when I had met him, during the meeting, post the meeting there was no apprehension from his side. There was no hostility. So the way I took it is he was fine to do so. And if he was not he would have said so I
10 am sure.

ADV PIET LOUW: And then what happened?

MR DUDUZANE ZUMA: From that point logistically he decided to come with me because he said you have your own vehicle. I said yes, jump in with you. I said no.

ADV PIET LOUW: Did he ask you about your vehicle?

MR DUDUZANE ZUMA: Yes.

ADV PIET LOUW: Did he ask you to – in fact go with you or did you offer him to come with you?

MR DUDUZANE ZUMA: I had said I have got my vehicle and if we can
20 go it just made logistics easier you do not have to follow. We do not have to follow each other and he said if you do have a vehicle I will jump in the car with you.

ADV PIET LOUW: Alright and then?

MR DUDUZANE ZUMA: So he had his security/entourage which he had to leave behind obviously.

ADV PIET LOUW: Did he give them any instructions?

MR DUDUZANE ZUMA: I am not sure what their discussion was but they did not come along no.

ADV PIET LOUW: And then what happened?

MR DUDUZANE ZUMA: And well obviously well the reason he done that obviously was because we were going somewhere private otherwise he would have followed us with his – with his team. And I appreciated that. So we jumped into my vehicle and we made our way to the residence.

10 **ADV PIET LOUW:** Did you stop anywhere?

MR DUDUZANE ZUMA: We stopped at - there is an Engen Garage which is just around the corner from the Hyatt because I was low on - on petrol. So that took a bit of time and from there we continued to - to the residence and that is when we had arrived almost simultaneously with Uncle Fana. Walked into the residence, went to the lounge. We sat in the lounge and that is when we started the discussions.

20 Obviously pleasantries were exchanged. These are two gentlemen that have known each other for a very long time as they have both confirmed. They shared a few war stories from their MK days and that is when I introduced the meeting and the reason we there for the meeting.

ADV PIET LOUW: So your role has been described differently. Sometimes as that of a mediator. Sometimes as that of a spectator. Sometimes as that ...

MR DUDUZANE ZUMA: Of a policeman.

ADV PIET LOUW: As merely as somebody who got people together ...

MR DUDUZANE ZUMA: True.

ADV PIET LOUW: And the question was asked and I think legitimately so. Why need you? Why were you there at all?

CHAIRPERSON: Well - well ...

ADV PIET LOUW: Why ...?

CHAIRPERSON: Before he answers. I must just say that he described his role in that meeting as almost a spectator or - or mediator.

MR DUDUZANE ZUMA: Mediator.

10 **ADV PIET LOUW**: Yes. No, no certainly.

CHAIRPERSON: *Ja*.

ADV PIET LOUW: Mr Chair I have no quarrel with that but ...

CHAIRPERSON: Yes.

ADV PIET LOUW: The question - the qualitative question that followed on that was well why were you needed at all.

CHAIRPERSON: No, no ...

ADV PIET LOUW: Why not leave just to the two of them to sort it out over the phone or by some other meeting?

CHAIRPERSON: Yes.

20 **ADV PIET LOUW**: And - and it is - it is (intervenes).

CHAIRPERSON: No. I do not have a problem with that. It is just that it - I gained the impression that - that it was as if it is other people who described his role as (intervenes).

ADV PIET LOUW: No, no. I - I thought I made the statement wide enough.

CHAIRPERSON: Yes.

ADV PIET LOUW: In fact if one reads his own statement.

CHAIRPERSON: Yes.

ADV PIET LOUW: He uses the term mediator there.

CHAIRPERSON: Yes. *Ja*.

ADV PIET LOUW: So I am asking now the - the witness really just too

...

CHAIRPERSON: No that is fine, *ja*.

ADV PIET LOUW: To clarify your function in that meeting please.

- 10 **MR DUDUZANE ZUMA:** Yes. So my - my function in the meeting was besides pulling the two parties together because that is - that is what resolving issues is about. Get the people around the table. That was my one function and the second one as per agreement that meeting could never have happened between the two of them without the person that is - had introduced this issue of the background rumours and that sort of thing.

- So if you are raising that you need to be part of that meeting. You need to own that - that rumourmongering idea and you need to present it yourself because when I am asked and I am alone in that
- 20 meeting it is - it is a very difficult thing to do because he is - Uncle Fana would be asked but who is saying this. He might mention my name.

He might not mention my name. So the idea was that I be in the meeting. I own the issue of the meeting and I - I present it and that is exactly what happened.

ADV PIET LOUW: So you had an active role in so far as that is concerned. If I correctly understand Mr Zuma tell me if I miscategorise what your function was. You were actually there to explain the fact of the rumour. Not the - not the truth of it of course

MR DUDUZANE ZUMA: Yes.

ADV PIET LOUW: But the fact of the rumours of blackmail. You were there to present evidence so to speak.

MR DUDUZANE ZUMA: *Ja.*

ADV PIET LOUW: Of the fact that there are rumours like that.
10 Otherwise there would simply be a denial?

MR DUDUZANE ZUMA: Correct. I was - if I may say I was - I was acting as a witness as well in that meeting because you know I was going to be tested which I was to say okay you are raising this. Where did you hear it? Why did you hear it? Who was saying it? Whatever, whatever that the questions would have been at that time and - and why are you pulling us together?

Why did you not just raise it with Uncle Fana? You raise it with me. All those - all those questions would have obviously been canvassed in - in that meeting ...

20 **ADV PIET LOUW:** *Ja.*

MR DUDUZANE ZUMA: And they were and I said look I am over here. I cannot just say something. I have had the discussion with Uncle Fana. I cannot not own this issue and that is exactly why I was there to say I am presenting it to you and I - I was at the risk of a denial and that is exactly what happened.

ADV PIET LOUW: So you denied ...

MR DUDUZANE ZUMA: *Ja* of course.

ADV PIET LOUW: Mr Jonas denied?

MR DUDUZANE ZUMA: Yes he did.

ADV PIET LOUW: He denied - he - he denied the fact of blackmail but not the fact of the rumour. Is that correct?

MR DUDUZANE ZUMA: He denied the fact of blackmail, yes.

ADV PIET LOUW: But not the fact that there was a rumour?

MR DUDUZANE ZUMA: Yes. No, no. I am not sure if he was aware of
10 it or not. I do not know but this is what I heard.

ADV PIET LOUW: Alright and then what happened?

MR DUDUZANE ZUMA: So the meeting continued. It took the shape it did.

ADV PIET LOUW: How long was the meeting?

MR DUDUZANE ZUMA: Say approximately 40/45 minutes. I mean I will need - I will need to - to check the time.

ADV PIET LOUW: *Ja*. Well it is an approximate.

MR DUDUZANE ZUMA: Well let us - let us call it ...

ADV PIET LOUW: Please give us an idea. Yes.

20 **MR DUDUZANE ZUMA:** Let us call it, *ja*. 45 minutes.

ADV PIET LOUW: And - and then how did it end?

MR DUDUZANE ZUMA: It ended in a stalemate obviously. There was this allegation that was put to him that he denied. There was a back and forth between the two of them that ended up the way it did but by the time the meeting was done. It was agreed that look this matter will

- will pick up on - on another occasion because there was obviously time constraints from - from Mr Jonas who was travelling to wherever he was travelling.

Then at that point I had walked Mr Jonas out to - to the arrival area - the parking lot and I had asked him where he was going to and he said look he is not sure. He is either going to go to the Gautrain in Rosebank or to - to the airport - to the airport and I said look here is a driver. He will take you wherever you need to go and that was - that was the end of that of - of that eventful day.

10 **ADV PIET LOUW**: Alright. So he then left. Now during the course of the meeting your statement stays - affidavit says that Mr Rajesh Gupta made an appearance and there was an interaction with him. What happened?

MR DUDUZANE ZUMA: So it was an interaction to the meeting which was purely to get my attention for confirmation for a meeting which was going to be over the next day or a few days. So he peered into the room, got my attention and I had walked out of the room whilst the conversation continued and then I popped back in and that was for a short period. It was not a long period.

20 **DV PIET LOUW**: You explained your relationship with the - the - Tony - Mr Tony Gupta - Rajesh - yesterday. Could I ask you at this point to give a quick overview of the three brothers whose names have been mentioned? Ajay, Atul and Rajesh. Just age wise and where were the other two brothers that day. Were they at home or were they elsewhere? What - what is your recollection?

MR DUDUZANE ZUMA: Okay. Mr Ajay obviously will be the eldest brother. Mr Atul is the middle brother. Age wise I am not too sure. Let me approximate it as well. Let us put Mr Ajay at late 50s and Mr Atul in his mid-50s.

CHAIRPERSON: Please raise your voice Mr Zuma.

MR DUDUZANE ZUMA: Sorry.

CHAIRPERSON: Hm.

MR DUDUZANE ZUMA: Mr Ajay in his late 50s. Mr Atul in his mid-50s and Mr Tony in his late 40s.

10 **ADV PIET LOUW:** Is it possible to say who the - who the - not - I do not think one should call it a patriarch but who is main outside face of the family at that time?

MR DUDUZANE ZUMA: By outside face you ...

ADV PIET LOUW: Yes. The - the person who makes representations ...

MR DUDUZANE ZUMA: Representations.

ADV PIET LOUW: And decisions and so forth.

MR DUDUZANE ZUMA: No that is - that is - in my view it would Mr Atul which is the middle brother because he was the Chairman of the group.

20 **ADV PIET LOUW:** And ...

MR DUDUZANE ZUMA: And sorry - and then on - on that day if I - because when we have meetings at the house there is generally nobody else. Nobody else meaning the brothers would also go - the other brothers - two brothers would be either travelling or at the office because they were quite strictly office bound. So for them not to be

there is not an anomaly here.

ADV PIET LOUW: Now Mr Ajay Gupta do you - do you have any idea where he was that day? Was he around or not?

MR DUDUZANE ZUMA: I am not sure where he would have been that day. I read his testimony but from my recollection at that time I did not see him in the household at any point.

ADV PIET LOUW: He states under oath that he was at the office.

MR DUDUZANE ZUMA: Then it is probably where he was sir.

ADV PIET LOUW: And Mr Atul Gupta?

10 **MR DUDUZANE ZUMA:** Once again he was not at the house at that particular point in time and I have read the - the documents in front of me and as the documents state he was in the country at that time. So he was travelling.

ADV PIET LOUW: Right. Now Mr Jonas had now left after the meeting with a vehicle that you organised - one of the Gupta vehicles that you organised a driver for him to take him either to the airport or the Gautrain whatever the case might be. Did you have anything further to do with him? Did you meet him again - see him again?

20 **MR DUDUZANE ZUMA:** So before he left the house after the meeting we had agreed that we would have a follow up in the following week - the Monday or Tuesday or so and that never happened. There was one or two SMS exchanges and then it just quietened down and that is the last bit of communication that we had had post the meeting.

ADV PIET LOUW: Did you see him again?

MR DUDUZANE ZUMA: Yes. I - I did see him again. Like I said I think

twice. Once was at the same Hyatt Hotel. He was standing outside waiting for whoever or whatever on his phone and I had seen him. Like hey Mr Jonas how are you sir and this was post obviously now the - the news stories had broken. He had put out a statement. He made these allegations and I went to greet him to check how he was doing.

He looked okay. Gave him a big handshake and a hug and kept moving and then the next time I had seen him after that was I may be mistaken. It was either the State of the Nation Address or opening of parliament. One of the two. I do not know.

10 **ADV PIET LOUW**: But you saw him in Cape Town?

MR DUDUZANE ZUMA: Yes. In Cape Town. It was after the event when everyone was walking out of the venue and we actually ended up bumping into each other. We were walking down the stairs together and that is when I greeted him and he greeted back and we continued on our paths sir.

ADV PIET LOUW: Alright. Now against that background I am going to ask you some pointed questions about issues that came during our learned colleague's examination of you yesterday. In the first place the - there are three points I think that have to do with - with the media ...

20 **MR DUDUZANE ZUMA**: Sorry. With the?

ADV PIET LOUW: With the media.

MR DUDUZANE ZUMA: Okay.

ADV PIET LOUW: The first - can I ask you now to go to the first file of these two. I think it is File A. Just call it File A - LL1 ...

ADV PHILLIP MOKOENA: A.

ADV PIET LOUW: LL ...

ADV PHILLIP MOKOENA: LL1A.

ADV PIET LOUW: LL1A at page 23. You were asked a number of questions about - about this. We - you will recall that this is a - a statement that came out by Oakbay and it is dated 13 March 2016. It is looks a media ...

MR DUDUZANE ZUMA: No.

ADV PIET LOUW: A media statement.

MR DUDUZANE ZUMA: No. This is (intervenes).

10 **CHAIRPERSON:** Okay. Well is that one about which he had - we had problems yesterday.

ADV PIET LOUW: LL1 - LL1A.

CHAIRPERSON: A.

ADV PIET LOUW: Page 23.

CHAIRPERSON: Is that not the page that - did not have a statement from my side.

MR DUDUZANE ZUMA: That is the one Chair.

ADV PIET LOUW: Oh yes. Oh yes. I - I do recall.

CHAIRPERSON: *Ja*, but it is ...

20 **ADV PIET LOUW:** I do recall.

CHAIRPERSON: It is fine. You can continue.

ADV PIET LOUW: Mr Chair have you seen the statement?

CHAIRPERSON: No. I have seen it, yes.

ADV PIET LOUW: Good.

CHAIRPERSON: I have seen it.

ADV PIET LOUW: I think the witness ...

CHAIRPERSON: Has got it.

ADV PIET LOUW: You gave him it yesterday.

CHAIRPERSON: Yes. No that is fine.

ADV PIET LOUW: Excellent. So now everybody has one.

CHAIRPERSON: Yes.

ADV PIET LOUW: The - just to get the record straight again on
13 March 2016 Oakbay - oh it would appear - it is Oakbay Investments
if you look at the foot of the page. Statement issued by Oakbay -
10 Oakbay Investments on 13 March 2016. You were asked whether at
that time you were a director of Oakbay. Can you recall?

MR DUDUZANE ZUMA: I will have to check. I cannot recall but ...

ADV PIET LOUW: Were you ...?

MR DUDUZANE ZUMA: Chances are I was sir.

ADV PIET LOUW: Were you asked about this statement?

MR DUDUZANE ZUMA: Asked by who sir?

ADV PIET LOUW: Anybody in the Gupta family?

MR DUDUZANE ZUMA: No, no.

ADV PIET LOUW: The person who made the statement?

20 **MR DUDUZANE ZUMA:** No. I was not asked.

ADV PIET LOUW: Now it would appear that this statement was in
response to an article on the same day that was published in the
Sunday Times. Just too perhaps give you a broad overview and ask
you whether you have any knowledge of these dates. These dates
come from the statement of Mr Jonas and they would seem to be quite

correct.

Namely that there was a Financial Times London report on 8 March 2016. Did you see that report? Do you know anything about it?

MR DUDUZANE ZUMA: I - I know about it. I did not - I did not follow up on it at that time, no.

ADV PIET LOUW: And then there was a News24 report on 10 March 2016. Did you see that?

MR DUDUZANE ZUMA: I ...

10 **ADV PIET LOUW:** Can you recall it?

MR DUDUZANE ZUMA: I think I did - I did - I did see that one.

ADV PIET LOUW: We are going to go to that in a moment and then there as the Sunday Times report of 13 March 2016 and then came the Oakbay statement.

MR DUDUZANE ZUMA: Yes. I - I did see that one.

ADV PIET LOUW: Now we have been able to find a - the - the statement that was public - the may - not statement. I apologise. The report that was made in the Sunday Times. An article that was written about this on 13 March 2016. Mr Chairman I wonder could I perhaps
20 ask to hand this to you. It - it provides a lot of context and ...

CHAIRPERSON: Ja. I think that is fine. Let us - let us probably it should not be a problem.

ADV PIET LOUW: And there is one for the witness as well.

CHAIRPERSON: We will have to ...

ADV PIET LOUW: I thought ...

CHAIRPERSON: We will have to make it - put in as a ...

ADV PIET LOUW: I put at the right top in pencil LL123A because it sits snuggling ...

CHAIRPERSON: Hm. Well maybe ...

ADV PIET LOUW: Behind the (intervenes).

CHAIRPERSON: Maybe let us just make is a separate exhibit on its own - as his exhibit.

ADV PIET LOUW: Fine.

CHAIRPERSON: *Ja*. So this was LL. Mr Mokoena will be hearing me.

10 He might be able to suggest. It should be LL ...

ADV PHILLIP MOKOENA: Exhibit Two.

CHAIRPERSON: LL2.

ADV PIET LOUW: *Ja*, but ...

ADV PHILLIP MOKOENA: LL ...

ADV PIET LOUW: We have got an LL2.

CHAIRPERSON: Oh we have got LL2.

ADV PIET LOUW: If I am not mistaken. We have got LL1 which consist of two bundles.

CHAIRPERSON: *Ja*.

20 **ADV PIET LOUW:** A and B.

CHAIRPERSON: Yes.

ADV PIET LOUW: And then LL2.

CHAIRPERSON: *Ja*.

ADV PIET LOUW: Which is the small bundle the C Bundle.

CHAIRPERSON: *Ja*. So it should be LL3.

ADV PIET LOUW: So this will be LL3.

ADV PHILLIP MOKOENA: LL8.

ADV PIET LOUW: Eight?

UNKNOWN PERSON: We have up to LL7.

ADV PIET LOUW: Oh. I see. So the numbers have gone on. So it must be LL8. LL8.

CHAIRPERSON: LL8. This is one article?

ADV PIET LOUW: It is one article.

CHAIRPERSON: It is one article. Okay. The - and it is the article
10 from the Sunday Times? Where is it from?

ADV PIET LOUW: You can see at the foot on the first page Times Live Sunday Times. The date is given 13 March 2016 and the article is headed "How Guptas Shopped for New Minister".

CHAIRPERSON: Okay. So this will be - this article - Sunday Times article of 13 March 2016 will be marked EXHIBIT LL8.

ADV PIET LOUW: Chair with - with your leave not 18 March but 13 March.

CHAIRPERSON: Oh. Is it 13 March?

ADV PIET LOUW: 1-3.

20 **CHAIRPERSON:** Oh. No I thought I said the 13th but let me (intervenes).

ADV PIET LOUW: I thought I heard 18. I apologise.

CHAIRPERSON: The 13th ja. No. I said - I think I said the 13th, ja.

ADV PIET LOUW: Oh, good.

CHAIRPERSON: Okay.

ADV PIET LOUW: Mr Zuma ...

CHAIRPERSON: Yes.

ADV PIET LOUW: Do you see that? I - I just want to take you to a few points in this document. Now before I do so could I just remind you questions that were put to you yesterday about the Oakbay statement of 13 March and the - the main issue was in the middle of the page it was pointed out to you that there was a statement to the following - in the following words:

“To be clear: there was no meeting at all.”

10 Do you see that?

MR DUDUZANE ZUMA: Yes. I see.

ADV PIET LOUW: You - you recall that?

MR DUDUZANE ZUMA: I recall that sir.

ADV PIET LOUW: And the question quite fairly was put to you. Well what about your meeting? There was a meeting. Was there not?

MR DUDUZANE ZUMA: Yes sir.

ADV PIET LOUW: Now the question of course is one of context. The meeting that was dealt with in - in this statement that was issued by Oakbay obviously dealt with the meeting that was reported about in the
20 Sunday Times article. That I am going to take you to now in a moment which on your version is a fiction. It never happened.

MR DUDUZANE ZUMA: With the inclusion of the brothers?

ADV PIET LOUW: Yes.

MR DUDUZANE ZUMA: Ja. That did not happen.

ADV PIET LOUW: Alright. So if I can quickly take you to the report or

the article that was published in the Sunday Times. It starts off with the news that:

“President Jacob Zuma’s son Duduzane was present when members of the Gupta family offered Deputy Minister Mr Jonas then Finance Minister Nhlanhla Nene’s job the Sunday Times can reveal. Jonas is said to have been offered the Finance Ministry twice. First by the Guptas at a Sandton Hotel on November, the 27th last year.”

10 Now that would have been 2014. Is that correct? Sorry I apologise. The article was written in 2016.

MR DUDUZANE ZUMA: 2015.

ADV PIET LOUW: So that was 2015.

MR DUDUZANE ZUMA: That is correct.

ADV PIET LOUW: Of course. Apologise.

20 “The - the London based Financial Times reported this week that the Guptas close friends - friends of Zuma met Jonas just before Nene was fired to tell him they wanted him to be the next political head of the National Treasury. The Guptas said through an attorney yesterday there have been an extraordinary number of allegations around the Gupta family in recent weeks. Several of which have involved the finance - Finance Ministry. As we have said countless times our primary focus is on

business not politics. To be absolutely clear there was no meeting at all. Let alone any inferences or cash offers ...”

You see that?

MR DUDUZANE ZUMA: Yes. I see that.

ADV PIET LOUW: It then goes on.

“...but the Sunday Times has established that the meeting took place at about 03:00 pm at a Sandton Hotel the last Friday of November.”

10 Right and it goes on across the page.

“Accordingly - sorry. According to highly placed sources at the Treasury the meeting was arranged by a fixer described as a controversial business person and political figure in Gauteng. This was two weeks before Zuma axed Nene. Jonas turned the Guptas down.”

Right. It goes on and it says:

“Numerous attempts to get comment from Jonas were unsuccessful yesterday.”

20 Then it deals with what a Presidency spokesperson Bongani Majola said. It is reported that he said:

“Only the President has the authority to appoint Ministers and Deputy Ministers.”

And then there is a quotation.

“It is therefore totally unacceptable that anyone

would seek to abrogate that responsibility to themselves. Such alleged actions have - know that the knowledge sanction will support of the President.”

It goes on.

“Treasury spokeswoman, Phumza Macanda, declined to comment.”

It goes on then further and this is where it becomes important.

10 “Severally - several highly placed sources in the Treasury and the ANC Alliance confirmed to the Sunday Times that Jonas met with Ajay and Atul Gupta and the President’s son Duduzane is a business ...”

There is a verb missing I think.

“...is a business partner of the Gupta brothers in a number of registered companies. This - ”

“He” must be a reference to you.

20 “He responded to a written question - sorry. He responded to written questions in an email. There was no such meeting at all. As such your questions are irrelevant.”

Now assuming for the moment that reference of “he” is to you. Do you have any recollection of having sent an email at that point or not?

MR DUDUZANE ZUMA: Well most definitely not.

ADV PIET LOUW: So that “he” cannot be a reference to you. It must be somebody else?

MR DUDUZANE ZUMA: That is somebody else, yes.

ADV PIET LOUW: And then it goes on.

“Of course they do this to prove those things - sorry - those they call that “whether you like it or not we are in charge””.

And there is a - it seems to me a - something missing in the
10 text but it goes on.

“In the meeting Jonas was told that the job was his if he wanted it but could come with conditions - but would come with conditions. He would have to push for the approval of the nuclear procurement program and clear certain men from the top echelons of the Treasury.”

And it goes on.

“He was given a list of people to get rid of including
Director-Generals, General Lungisa,
20 Ismail Momoniat, Andrew Donaldson and
Kenneth Brown. The four who have been with the
Treasury for more than 22 years are among the
fiercest critics of the nuclear procurement program
which they believe would bankrupt South Africa.”

And then it goes on in a similar vein. Across the page.

“It cannot be that we have a state that is run by a family or a grouping of people apart from its selected representatives.”

I think that is actually a quotation mark that is written out.

“...and then firing them sources said would have allowed the family to capture the Treasury as full vacancies would have been filled by bureaucrats approved by the Guptas.”

Then it goes on about the nuclear program Shiva Uranium
10 and so forth and at the foot of that:

“Jonas is believed to have called ANC General Gwede Mantashe and many report the Gupta meeting. After the meeting Jonas according to the source also called Duduzane to tell him to stop what he is doing.”

Was there ever such a phone call ...

MR DUDUZANE ZUMA: No. There was not.

ADV PIET LOUW: Or any other communication of any sort?

MR DUDUZANE ZUMA: Nope. There was not.

20 **ADV PIET LOUW**: It goes across the page.

“It is quite clear that the Guptas influence cannot be understated. That is what we need to stop. Mantashe denied receiving a call from Jonas and referred the Sunday Times to the Deputy Minister and then in an enigmatic - in an enigmatic way he

said phone Mcebisi and ask him because he is alive. He is not an ancestor. He is capable of speaking for himself.”

And then importantly the next paragraph reads as follows. Please listen carefully.

“Nene told ...”

CHAIRPERSON: Well - I am - I am sorry. What would have come across as Mcebisi was Msebenzi.

ADV PIET LOUW: Mcebisi. I apologise Chair.

10 **CHAIRPERSON:** Ja. Mcebisi is Mr Jonas’ name.

ADV PIET LOUW: No, no. Certainly, yes.

CHAIRPERSON: Msebenzi might be somebody else.

ADV PIET LOUW: I am - I am going to receive lessons afterwards about clicks. Then the next paragraphs is of importance Mr Zuma.

“Nene told the Sunday Times that he knew nothing about the meeting and did not recall any conversation with Jonas about the meeting with the Gupta family.”

See that?

20 **MR DUDUZANE ZUMA:** Yes. I see that.

ADV PIET LOUW: That of course from other sources appears to be contradicted at this point.

MR DUDUZANE ZUMA: Yes sir.

ADV PIET LOUW: It then goes on.

“After Jonas turned down the offers to replace Nene

David Van Rooyen was appointed Finance Minister.

The markets reacted with shock.”

And it then goes into the whole Nenegate thing and the replacement with Mr Gordhan and it really then goes on about other political fallout issues from - from this report. Now was this - I take it - this was the report to which the Oakbay statement responded?

MR DUDUZANE ZUMA: I am not - I am not sure but it - it seems like that.

ADV PIET LOUW: The times ...

10 **MR DUDUZANE ZUMA:** (Intervenes).

ADV PIET LOUW: Workout in that sequence.

MR DUDUZANE ZUMA: Yes.

ADV PIET LOUW: Alright. Then importantly still on this topic of - of statements and so forth. If I could ask you just about something that you testified about the Public Protector yesterday and you expressed some concern with the way that the Public Protector dealt with the investigation and your role and function in that whole investigation.

Perhaps you can just explain to the Chair what had happened and what was it that made you concern - raised your concerns
20 concerning the - the Public Protector’s investigation.

MR DUDUZANE ZUMA: Okay. I think the reason we all sitting here today at the State Capture Commission is based on the findings of the Public Protector Report. The various role players that have had to come and testify. I mean that is not what I am getting into but some of us have been integral to those investigations. We have sat here

alleged of all sorts of wrongdoing, corruption, bribery.

You know it has been going on almost on a daily basis from about three years ago. So what I would have expected was a - a fair opportunity to represent or reflect on my side of the story like I am doing here yesterday and today. I did not get that opportunity. Was communication sent to me? Yes. It was.

ADV PIET LOUW: Sorry. Can I just ask you? Perhaps just point at questions. Were you invited to the Public Protector?

MR DUDUZANE ZUMA: This was towards the tail end. From a time
10 frame perspective towards the tail end. Time wise I - I - but before the tail end meaning before the report was finalised. I was travelling at the time. I had received a phone call. I forget the - the lady's name that called and she said she is from the Public Protector's Office and she was checking if I had received communication and I said I will check my - my emails and she telephonically said no check it.

We are inviting you just to come and sit and have a discussion and interview and just to get to your side of the story and the - and the version of events and I said cool. I will check that. Checked the email and indeed there was an email. Following up and
20 this was a very short period after the phone call and the email. I received a summons or ...

ADV PIET LOUW: Subpoena.

MR DUDUZANE ZUMA: A subpoena of some sort to appear urgently and the discussion that I had had with the - the representative from the Public Protector's Offices - I am not in the country currently. I am

conducting business. I am not living in South Africa any longer at that time. So I will need time and when I get back I will look you up and I will come and - and present myself.

So that was the - the version - the sequence of events and before I could even make those decisions there was a - a finalised report that had come out. Now the reason I had raised it yesterday is obviously I am sitting here today. I have been mentioned in all sorts of lights. I - I did not have an opportunity to - to give my - my version of events and the basis of that report is what this whole State Capture
10 Commission is about.

I am sitting here having to answer all sorts of allegations that could have been answered at that point.

ADV PIET LOUW: Did you – the Public Protector make available, to you the versions of other persons such as Mr Jonas perhaps?

MR DUDUZANE ZUMA: No I...[intervenes].

ADV PIET LOUW: For you to respond to it?

MR DUDUZANE ZUMA: I did not receive any notices, I didn't receive any transcripts that was – everything I've seen has been post the finalising of the report.

20 **ADV PIET LOUW:** Good now if I could perhaps then ask you one or two rather small questions about questions that were put to you yesterday to conclude? The first one concerns an invitation by the Chair to you to speculate about what the reasons would have been why Mr Jonas raised the human cry after the meeting with Messrs. Nene and Gordhan. I'm not going to ask you about the contents of those

discussions that's before the Commission and we'll deal with that in due course but I'm going to ask you is this, not to speculate. What actually happened to you as a consequence of Mr Jonas' statements, taking into account the fact that he did not lay a charge against you for reasons that he gave to the Commission earlier, what happened to you, what were the consequences of his statements?

MR DUDUZANE ZUMA: There have been quite a few consequences I'll get into them but before I get to that and answer your question, I'd just like to make a point if I may?

10 **ADV PIET LOUW:** Of course.

MR DUDUZANE ZUMA: I mean I'm not sure if I'll have an opportunity to speak ever again so once I leave this chair I just want to satisfy that.

CHAIRPERSON: Yes you can make your point.

MR DUDUZANE ZUMA: Thank you, I think there are three levels to this whole scenario that need to be satisfied, the first one being it's the deal in being political, legal and perception. Now on the perception front that is purely on the Court of public opinion which is driven by a narrative that stems from media reports and allegations from wherever they come from. Now I'm look at as a criminal, I'm looked at as this
20 face of corruption, this guy that's plundered trillions out of this country which is not the case by the way. So I would just like to say to the public out there, I'm not corrupt, I'm not taking any money from anybody, I never have and I never will. How they take it, that's for me to decide. So I just want to make that clear so if you see me walking around you know, just know that it's not me. Secondly there's the legal

perspective which is obviously one of the reasons I'm sitting here today. There have been a lot of legal repercussions stemming out of all sorts of investigations or lack of investigations. I've had to walk in and out of court rooms, I've had to face charges that...[intervenes].

ADV PIET LOUW: Can I just ask you there, just be a bit more specific, you were arrested, is that correct?

MR DUDUZANE ZUMA: Yes that's correct.

ADV PIET LOUW: And what were you arrested for?

MR DUDUZANE ZUMA: This was at the Specialised Commercial
10 Crimes Court and that was a charge of corruption.

ADV PIET LOUW: And what did that stem from, what was the complaint?

MR DUDUZANE ZUMA: No the complaint is the specific matter we're dealing with right now.

ADV PIET LOUW: The Jonas matter?

MR DUDUZANE ZUMA: The Jonas matter yes.

ADV PIET LOUW: The Jonas meeting?

MR DUDUZANE ZUMA: Yes.

ADV PIET LOUW: And I think, if I may just perhaps assist you, the
20 charges would have been framed under the prevention and combating of corrupt activities of 2004?

MR DUDUZANE ZUMA: Yes that's correct.

ADV PIET LOUW: Also known as PRECA?

MR DUDUZANE ZUMA: Yes that is correct.

ADV PIET LOUW: As well as perhaps POCA, the Prevention of

Organised Crime Act of 1998. Now how did the arrest take place, where were you arrested and what happened?

MR DUDUZANE ZUMA: Obviously there was a lot of speculation in the media and by the time I'd – you know I was labelled the fugitive so I was living out of the country I was in self – so-called self exile which I was not the reasons why I was not living here which I'll get into. When I landed at OR Tambo I was escorted to...[intervenes].

ADV PIET LOUW: So you were just coming back to South Africa for some other purpose?

10 **MR DUDUZANE ZUMA:** Ja I was coming for my little brother's funeral last year, that's the reason I was coming back. So on my arrival there was obviously some sort of notice that I had to face the consequences of my actions and that when I asked the gentleman at the immigration he told me it was a notice that was originating from the Rosebank Police Station. So that complaint was put forward by the Democratic Alliance, that was at the airport, fortunately my legal team managed to arrive on time and resolve that issue and we dealt with the matter on the Monday because I arrived, I think, on the Thursday evening.

20 **ADV PIET LOUW:** Was there any press present when you were arrested?

MR DUDUZANE ZUMA: No not at the airport no. On the Monday, that's when we went through the whole rigmarole of going to the police station and then the court room and, you know, that's public knowledge. So that is the way that the arrest happened and at all material times I had my legal representative with me and we just wanted to see the

documentation which was not forthcoming by the Law Enforcement Officers, we wanted to see the charge sheets, we wanted to see the warrants, if there were any and we were not furnished with those. So it was a very peculiar situation but you know, it turned out the way it turned out.

ADV PIET LOUW: But it was based on Mr Jonas' reports about what happened at the meeting?

MR DUDUZANE ZUMA: Yes that's eventually what that...[intervenes].

ADV PIET LOUW: Only on that?

10 **MR DUDUZANE ZUMA:** Eventually that's what we found out...[intervenes].

ADV PIET LOUW: And Mr Jonas refused to make a statement?

MR DUDUZANE ZUMA: Yes that's also what we found out via his testimony here.

ADV PIET LOUW: And then what happened with these charges?

MR DUDUZANE ZUMA: They persisted for – so when we appeared in the...[intervenes].

ADV PIET LOUW: Sorry I think you were arrested in July last year?

20 **MR DUDUZANE ZUMA:** Yes it was around that time, so after we appeared at the Specialised Commercial Crimes Court they postponed it for, I think it was a period of six months or so for further investigations and by the time we'd gone back to appear that's when the charges were provisionally withdrawn and that was on the basis that they are waiting for the outcome of the Commission.

ADV PIET LOUW: Do you feel aggrieved by the arrest?

MR DUDUZANE ZUMA: Ja of course I do.

ADV PIET LOUW: Are you going to take any legal steps about it?

MR DUDUZANE ZUMA: Most definitely, most definitely.

ADV PIET LOUW: Have you – do you know – I suppose you do know that your lawyers have addressed a letter of demand to the police?

MR DUDUZANE ZUMA: Yes that's exactly...[intervenes].

ADV PIET LOUW: For wrongful arrest.

MR DUDUZANE ZUMA: Correct Sir.

ADV PIET LOUW: Alright.

10 **MR DUDUZANE ZUMA:** If I may make a point the reason for that is as you found out on the charge sheet there has not been a complainant so you know, my limited knowledge of how things work is, if there is no complainant, there's no charges. So you know, someone has to explain exactly what's going on...[intervenes].

ADV PIET LOUW: Look I think there were complainants but they were not Mr Jonas?

MR DUDUZANE ZUMA: No.

ADV PIET LOUW: And Mr Jonas would not provide a statement?

MR DUDUZANE ZUMA: That's the point I'm trying to make.

20 **ADV PIET LOUW:** Alright then...[intervenes].

MR DUDUZANE ZUMA: Sorry if I may continue, I wasn't done...[intervenes].

ADV PIET LOUW: Ja you were still at the third point or second point you're going to the third point.

MR DUDUZANE ZUMA: Yes the second point was a legal which we've

covered a bit of and I'll leave that so I won't belabour that point and then the first is obviously the political and I think we'd all be fooling ourselves to think that there hasn't been a political play in the background, you know, speculation is one thing but I think if you look back in hindsight the history speaks for itself. If you look at how a lot of issues have come to the fore the people that have brought the issues to the fore, what has happened to people on either side of the political wranglings, I think that is an obvious case, and I've said it before and I'm saying it again, I believe I'm unfortunately caught in a political storm.

ADV PIET LOUW: Alright the second last point I wish to deal with is, a point that our learned colleague made yesterday, over and over again which was that there is a discrepancy between the version that you told the Chair about the meeting, namely that Mr Rajesh Gupta came in and what Mr Hlongwane said in his interview with the Public Protector saying that it was not one of the three Gupta brothers it might have been another one, he doesn't know but it perhaps not Mr Rajesh, do you recall that?

MR DUDUZANE ZUMA: Yes I recall that.

20 **ADV PIET LOUW:** And it was put to you on the basis, I would think that this discrepancy is destructive of your version.

MR DUDUZANE ZUMA: Yes.

ADV PIET LOUW: And the truth of your version. Now could I ask you not to speculate about what Mr Hlongwane might have thought on this point but perhaps just to turn to page – in the second bundle of LL1A –

sorry this is now at B – LL1B, page 742.

CHAIRPERSON: Please just repeat the page number?

ADV PIET LOUW: 742.

CHAIRPERSON: 742.

MR DUDUZANE ZUMA: That would be Mr Rajesh's statement?

ADV PIET LOUW: Yes you perhaps have seen this before but he makes the point that he was there at the property that indeed he did peek in to the meeting, take you out and had a quick discussion with you about administrative things and then left.

10 **MR DUDUZANE ZUMA:** Yes.

ADV PIET LOUW: And this in on oath, is that correct?

MR DUDUZANE ZUMA: Yes sir.

ADV PIET LOUW: Good Mr Zuma I think in conclusion, may I ask you whether there's anything that you would want to add to your evidence, you have refreshed your memory about the statement that you made that you made to the Chair, you made the point yesterday that your statement is perhaps not as comprehensive as otherwise it could have been, it didn't deal with all of the phone calls and SMS's and WhatsApp's perhaps leading up to the meeting with Mr Jonas and
20 perhaps afterwards. You've seen what Mr Jonas said about that, you agree that there were communications between you, is there anything else perhaps, detail that you would want to focus on in conclusion, you will not have the chance again?

MR DUDUZANE ZUMA: I think a lot of the points we've covered and as Mr Mokoena said and there's a lot of common cause issues that are

[indistinct] because we agree on the versions. At this point I think I've said – I've said what I can say, my statement obviously is not as comprehensive as it should be but I think that's the points that I wanted to cover. A lot of what has been said I don't know the detail of I have not checked people's cell phone records, SMS's, phone calls and whatever else may have been left out of my affidavit.

ADV PIET LOUW: Mr Zuma if there are any further queries by the Commission would you assist?

MR DUDUZANE ZUMA: I'm here to comply, I've complied the whole
10 way through, even though it's been made to look like I've been evasive and running away I've been here three times before, this is my fourth time so I have no issues with complying with the Commission. I hope I don't have to see Mr Zondo ever again but if I have to, I've complied and I will comply.

ADV PIET LOUW: Chair those are the questions, thank you.

CHAIRPERSON: No thank you very much. I suspect that Mr Mokoena wishes to say something but I think we must take the tea adjournment now. I will also have maybe a few questions to put to you Mr Zuma. I can mention that I did share with your counsel, the legal team that
20 there are other statements in which you have been mentioned in regard to meetings other than the ones that you have been asked about and – but the arrangement is that – my impression, or my understanding is that those would have been sent to you before but your legal team was not sure whether they were sent or whether they received them. So the arrangement is that the Commission's legal team will look at whether

they were sent and be in touch with your legal team and if there is a need for you to deal with them in one way or another there will be discussions around that, that may or may not entail a request that you come back but both legal teams will look at all issues and you will hear from your legal team about those. So I thought I would just mention that for now.

MR DUDUZANE ZUMA: Thank you very much.

CHAIRPERSON: Yes but I realise that you don't want to see me again.

We are going to take the tea adjournment it's twenty-six minutes past
10 eleven, we'll resume at twenty to twelve, we adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes Mr Mokoena.

ADV PHILLIP MOKOENA SC: Mr Chair you would recall that yesterday I stayed away posing any questions relating to the Public Protector because I thought that that proceedings had their own life and sway and they were dealt with decisively. But I see that they also emerged in re-examination and I thought that maybe there must be two or three
20 clarity questions from our side to Mr Zuma simply you know to place the matter in its proper context. And if I am permitted I will limit myself to only those three or four questions of the PP because I think it is quite important.

CHAIRPERSON: Okay no that is alright. And I think you must maybe use this opportunity to tell me what happened to the discussions that you were supposed to have with Mr Zuma's legal team about the issue

that he raised yesterday. I think he was saying there was some omission.

ADV PHILLIP MOKOENA SC: Yes.

CHAIRPERSON: And I said the legal teams will talk and then I would be updated – I would be – I would get a report back this morning about whether it is something that I need to know or what the position is.

ADV PHILLIP MOKOENA SC: It would appear that it was never persisted with because Mr Louw did not persist with it today Chair and I take it that it was since resolved either between Mr Zuma and his legal
10 team because no one have raised it for today. So it might be that it is no – it is no longer an issue.

REGISTRAR: Yes.

ADV PHILLIP MOKOENA SC: But ought you know to receive your attention

CHAIRPERSON: Okay.

ADV PHILLIP MOKOENA SC: Yes.

CHAIRPERSON: Well if there is no – no issue and whatever he might have been – had in mind is sorted then that would be fine.

ADV PHILLIP MOKOENA SC: Yes.

20 **CHAIRPERSON:** But I think Mr Louw will or wishes to say something. Maybe let us clear that and that before you continue.

ADV PHILLIP MOKOENA SC: Yes.

ADV PIET LOUW: Thank you Mr Chair the – there are two points that our learned colleague made. He wants to ask a few questions about the Public Protector we have no quarrel with that of course. The

reason why we dealt with the Public Protector is because of reports that have apparently been published overnight in some of the press about what Mr Zuma said yesterday in these – in these proceedings. So it was really to give him an opportunity to deal with that and just to perhaps clarify issues from his perspective.

CHAIRPERSON: Yes, yes.

ADV PIET LOUW: It was not – it was not to deal with a new front and opening a new front.

CHAIRPERSON: Ja.

10 **ADV PIET LOUW:** The second point is the issue of it was dealt – it was termed I think yesterday an omission or an oversight or a gap or something like that.

CHAIRPERSON: Yes. Yes.

ADV PIET LOUW: Mr Chair with – with respect after some reflection.

CHAIRPERSON: Hm.

ADV PIET LOUW: We decided not to ask questions about it. It really concerns Ms Mentoer.

CHAIRPERSON: Yes.

ADV PIET LOUW: And what she testified about...

20 **CHAIRPERSON:** Yes.

ADV PIET LOUW: And what had happened but we can deal with all of those.

CHAIRPERSON: Yes.

ADV PIET LOUW: Aspects.

CHAIRPERSON: Yes.

ADV PIET LOUW: At the end of the day should you invite us to present argument.

CHAIRPERSON: Yes.

ADV PIET LOUW: Which we take – take it that you will.

CHAIRPERSON: Yes.

ADV PIET LOUW: Taking into account Mr Chair that.

CHAIRPERSON: Yes.

ADV PIET LOUW: Insofar as this part of item 1.1.

CHAIRPERSON: Yes.

10 **ADV PIET LOUW**: Of the schedule to the proclamation is concerned.

CHAIRPERSON: Yes.

ADV PIET LOUW: You have to make a factual finding.

CHAIRPERSON: Yes.

ADV PIET LOUW: And we would like of course in due course to present an argument to you.

CHAIRPERSON: Yes.

ADV PIET LOUW: On that factual finding.

CHAIRPERSON: Yes.

ADV PIET LOUW: Submissions yes.

20 **CHAIRPERSON**: Yes.

ADV PIET LOUW: So – so we have no quarrel with questions about the Public Protector.

CHAIRPERSON: Ja.

ADV PIET LOUW: I told you why we went there this morning and then insofar as the other aspect is concerned once again.

CHAIRPERSON: Ja.

ADV PIET LOUW: It is not really a matter for Mr Zuma to deal with.

CHAIRPERSON: Yes.

ADV PIET LOUW: It is more a matter of argument.

CHAIRPERSON: Yes. Okay.

ADV PIET LOUW: Thank you.

CHAIRPERSON: No that is fine. Thank you.

ADV PIET LOUW: Ja.

ADV PHILLIP MOKOENA SC: Mr Zuma I am sure that the Public
10 Protector's you know reports which are not here well speak for
themselves. We did not bring them along and I am simply asking these
questions in order to clarify certain aspects you know arising from your
re-examination. Do I understand you correctly that you did as a matter
of fact receive an invitation from the Public Protector?

MR DUDUZANE ZUMA: At some...

ADV PHILLIP MOKOENA SC: To participate in the proceedings.

MR DUDUZANE ZUMA: At some point yes I did.

ADV PHILLIP MOKOENA SC: Yes. And you then went overseas, am I
correct?

20 **MR DUDUZANE ZUMA:** Yes I was out of the country.

ADV PHILLIP MOKOENA SC: Yes. You received then a subpoena?

MR DUDUZANE ZUMA: After...

ADV PHILLIP MOKOENA SC: Which - yes.

MR DUDUZANE ZUMA: After a phone call yes I received the subpoena.

ADV PHILLIP MOKOENA SC: Yes. And you were not able to honour

the subpoena because you were overseas?

MR DUDUZANE ZUMA: Yes and I communicated it quite clearly that I am travelling when I get back I will come and present myself.

ADV PHILLIP MOKOENA SC: Yes. So you were not ignored. At least there was the invitation and there was subpoena?

MR DUDUZANE ZUMA: That is correct Sir.

ADV PHILLIP MOKOENA SC: Yes. Thanks Chair.

CHAIRPERSON: Okay no thank you. Mr Zuma I have just a few questions to clarify certain things.

10 **MR DUDUZANE ZUMA**: Yes. Before you ask Chair can I just clarify one thing?

CHAIRPERSON: Yes.

MR DUDUZANE ZUMA: Just from the line of questioning about [indistinct].

CHAIRPERSON: Yes.

MR DUDUZANE ZUMA: I just want to make it clear the procedural part of how the Public Protector dealt with it it is – it is up for debate. All I am saying is my version is not on the final report and I take your point, look for another avenue. You said that I should have maybe taken an
20 approach like Mr Ajay Gupta did to force himself to go and present himself. Once again I humbly disagree with that because if people are looking for aversions and aversions of events you know that is something that we need to present. They need to give us that opportunity. We cannot be fighting for that opportunity especially when it is something that affects us via allegations. So I am just merely

putting across that I am sitting here today and that is what I said yesterday why is my version not on – of events not on the Public Protector's Report? That is all I am saying.

CHAIRPERSON: No that is fine.

MR DUDUZANE ZUMA: Thank you.

CHAIRPERSON: But also I must just say when I refer to what Mr Ajay Gupta did I was not necessarily saying that is what you were obliged to do or necessarily should have done. I was simply saying here is another way in which somebody else who wanted to put his side of the story that he did maybe and I think I put that maybe that is what you should have considered as well. So I put it no higher than that.

MR DUDUZANE ZUMA: Good.

CHAIRPERSON: Ja.

MR DUDUZANE ZUMA: Thank you Chair.

CHAIRPERSON: Okay. Alright. You referred to drinks or drinking facilities when your counsel asked you I think about your – about the choice to go to the Gupta residence for this meeting among the three of you that is yourself, Mr Hlongwane and Mr Jonas. But I did not hear the exact full story of what you say about drinks. Were you saying that

20 **ADV PIET LOUW**: Not speaking into microphone.

CHAIRPERSON: Sorry yes.

ADV PIET LOUW: In facilities. It was not a shebeen. It was catering facilities.

CHAIRPERSON: Oh catering facilities. Well I did say I did not hear the whole story and maybe that is why it is important to clarify. Just

repeat exactly what you were saying about whether it is catering or drinks or whatever.

MR DUDUZANE ZUMA: I will do so Chair.

CHAIRPERSON: Hm.

MR DUDUZANE ZUMA: Thank you. What I was referring to was immediate facilities for any catering requirements for guests or people that we meeting with. That would be tea, coffee, snacks, biscuits, nuts, whatever – whatever people have so that is what I was referring to.

CHAIRPERSON: Yes.

10 **MR DUDUZANE ZUMA**: Hot drinks as in...

CHAIRPERSON: Ja.

MR DUDUZANE ZUMA: Temperature not – not alcohol.

CHAIRPERSON: No. Now my difficulty with that is that I would think that in your own house at Saxonwold you would receive friends and if you would receive friends you would offer them drinks so why would – why would the fact that there are catering – there are certain catering facilities at the Gupta residence really be an important factor in the choice of the venue when you were talking about – one of the – the fact that one of these people is your friend, Mr Hlongwane was your friend
20 and the other person was your friend's friend. So one would think that it is normal to have friends. It is not a large group it is just two people then yourself then it is three people and I would have thought that if you have two or three friends in your own home you can make sure you can afford them drinks like that. So – or is the position that you did not – you did not entertain friends in your home? Make me understand.

MR DUDUZANE ZUMA: Yes, Yes I will do.

CHAIRPERSON: Yes.

MR DUDUZANE ZUMA: Chair when I said the catering parts and the drinks and sort of thing I think I did not say it in isolation I mentioned office facilities as well and staff. So it is whole...

CHAIRPERSON: You know at the Gupta residence?

MR DUDUZANE ZUMA: Yes.

CHAIRPERSON: Ja.

MR DUDUZANE ZUMA: Which is – yes – which is something that I may
10 or may not have at my place which might inform my decisions not to have meetings there.

CHAIRPERSON: Yes./

MR DUDUZANE ZUMA: I was asked if I have an office there, yes I have my own personal office.

CHAIRPERSON: Yes.

MR DUDUZANE ZUMA: But do I have facilities that would be office type, printers, staff, runners, whatever it is, no I do not. So to answer your question of course I have entertained very few friends not many. I do not have a huge staff compliment. I do not have typical office type
20 equipment in my home and that is what would have made me not have any meetings of that sort. Now to answer your question. On Uncle Fana being a friend Mr Jonas being the friend's friend I think I have stated quite clearly that I do not conduct business meetings from or meetings of that nature from my residence.

CHAIRPERSON: Well this was not as I understand it and you must tell

me if my understanding of your evidence is not correct. My understanding of your evidence suggest that this was not a business meeting. This was an – a meeting where you sought to afford two friends – friends to themselves not both to you – two friends who had an issue to discuss, a private issue.

MR DUDUZANE ZUMA: Yes.

CHAIRPERSON: Private issue to discuss an opportunity to discuss and it just seems to me that the – there should be no reason why you cannot have two friends in your home who want to discuss a private
10 matter.

MR DUDUZANE ZUMA: Yes. The two friends. They were friendly to each other. I only had one friend so the other technically is not – and was not my friend.

CHAIRPERSON: Yes but...

MR DUDUZANE ZUMA: So he remains – he remains a let us call it a stranger well especially at that point.

CHAIRPERSON: Yes.

MR DUDUZANE ZUMA: So from – from a welcoming perspective from having someone in my home that I do not know is something that I do
20 not generally do and I did not do on that day.

CHAIRPERSON: Hm. Ja well I would have thought that at least for purposes of that kind of meeting your friend's friend would be welcome to your home for purposes of this discussion which you had taken trouble to say I want to help them resolve this.

MR DUDUZANE ZUMA: Yes.

CHAIRPERSON: You understand where I am coming from.

MR DUDUZANE ZUMA: I understand that. I understand where you coming from Chair.

CHAIRPERSON: Yes. Yes. And my – and you must tell me was there a need for any office facilities for this meeting?

MR DUDUZANE ZUMA: No though I mentioned the offices...

CHAIRPERSON: Just because you were asked.

MR DUDUZANE ZUMA: No, no because that is what my daily business.

CHAIRPERSON: Yes.

10 **MR DUDUZANE ZUMA:** My daily movements were like so

CHAIRPERSON: Yes.

MR DUDUZANE ZUMA: The point I was trying to make with the office facilities because I was asked.

CHAIRPERSON: Yes.

MR DUDUZANE ZUMA: A direct question, why did I not go to my office to have the meeting.

CHAIRPERSON: Yes, yes. Oh okay.

MR DUDUZANE ZUMA: What put me – what put me at a residence at that point and I had mentioned.

20 **CHAIRPERSON:** Ja.

MR DUDUZANE ZUMA: Those facilities so to highlight why I could have meetings of that nature work related.

CHAIRPERSON: Yes.

MR DUDUZANE ZUMA: In that space.

CHAIRPERSON: Yes. No, no that is fine. I wanted to also mention

because you asked yesterday about the commission whether it was investigating or had investigated certain allegations against you.

1. The commission investigates allegations that fall within the terms of reference of the commission but you know there will be all kinds of allegations even in a statement of one witness. And some will be important for purposes of the commission some might not really be so important for purposes of the commission but might be important to the persons affected. So the commission might not investigate everything that it is in
10 somebody's statement but seek to really investigate those that appear to be material for its own purposes. So it does that.

But I want to take this opportunity to mention to you for what it is worth that Mr Ajay Gupta and Mr Atul Gupta as you know are not participating in any way in these proceedings. But in regard to Mr Jonas' evidence Mr Ajay Gupta and Mr Rajesh Gupta I cannot remember about Mr Atul Gupta they filed affidavits in their application for Leave to Cross-examine Mr Jonas and in those affidavits they said what they said and in regard to Mr Ajay Gupta he said on that day he was in his Sandton offices. He was not at the Gupta residence. Months back – oh and she
20 – and he said in his affidavit he mentioned the name of a certain lady and he said that lady who works for his company would corroborate his alibi and he said and other employees but he gave the name of a particular lady. Many months back I said the investigators must approach that lady and try and get her statement from her. And – so that if necessary she could come and give evidence to say what she

may know about where Mr Ajay Gupta was on the day. Recently I was told that there were difficulties in – in getting hold of that lady. So the commission is interested even if the Gupta's may not be participating if they have placed information before the commission that maybe helpful for the commission to get to the bottom of what happened the commission will investigate that. I can say that in due course irrespective of whether that lady is found or not in due course probably there will be one or two witnesses who will come to the commission and – and talk about Mr Ajay's alibi as well as Mr Atul – Mr Ajay Gupta's

10 alibi, Mr Atul Gupta's position as well because my understanding is that it was said that he was out of the country at the time. That is Mr Atul Gupta. I have given instructions that the investigators must check that. And if the information that comes out shows that he was out of the country that will be put out here in the public. If Mr Ajay Gupta the investigations shows that Mr Ajay Gupta was not at the residence at the relevant time that also will be put up here publicly. So I just want you to – to know that we – we – even with them not participating if they have put information before the commission that might be important for us to establish who was where when what was happening we will look

20 into that. And – and the public will know. So – but as I say there may be some allegations that a particular person who is affected might think is important to follow up but the commission might think for its purposes it should not spend more resources on that. But any affected person should feel free to approach the commission and say there is this allegation that was made about me I would like it to be looked into.

Then the commission might be able to say look we do not think we want to spend more resources on this but if you have anything that you want = that you are able to find bring it. You know. So – so – so I mention that just so that

1. You know. But also I just want the public to know that we are looking at everything. We are looking at everything. We do not have a version that we want to be proved. We just want the truth and wherever we might get the evidence.

MR DUDUZANE ZUMA: Thank you Chair.

- 10 **CHAIRPERSON:** Okay. Yes. Okay the last question that I wanted to ask relates to the rumour that gave rise to the meeting. Is the position that you also did not know any facts in relation to this rumour – all you knew is there was a rumour?

MR DUDUZANE ZUMA: That is the position Chair.

CHAIRPERSON: That is the position. And once – so in other words there was not much information that you were going to be able to give to the two men at the meeting other than this is what is being said in terms of the rumour but I have no further information.

MR DUDUZANE ZUMA: That is correct Chair.

- 20 **CHAIRPERSON:** Is that correct?

MR DUDUZANE ZUMA: Yes.

CHAIRPERSON: And once – once Mr Jonas denied having blackmailed Mr Hlongwane was that basically the end of that discussion because nobody had further information?

MR DUDUZANE ZUMA: There was no further information but it was

still interrogated.

CHAIRPERSON: Yes.

MR DUDUZANE ZUMA: Yes.

CHAIRPERSON: Yes, yes. And on your understanding did Mr Hlongwane believe that Mr Jonas was responsible for – for this rumour or had done what the rumours suggested he had done or was his position that he did not know but want to find out?

MR DUDUZANE ZUMA: At that point from what I had known he did not know and wanted to find out.

10 **CHAIRPERSON:** Yes. Okay.

MR DUDUZANE ZUMA: Yes.

CHAIRPERSON: Okay. And did he accept Mr Jonas' denial as you understood the position at the meeting? Or did he not accept it.

MR DUDUZANE ZUMA: Like I said the meeting ended off after the denial it took its turn and by the time the meeting was done there was a conversation to reconvene earlier in the week.

CHAIRPERSON: Yes.

MR DUDUZANE ZUMA: To pick up discussions that was the end of it. So whether it was not.

20 **CHAIRPERSON:** Yes.

MR DUDUZANE ZUMA: I cannot comment on that Sir.

CHAIRPERSON: Okay alright. Now your arrest that you talked about when your counsel was leading you – was re-examining you. Was it solely related to the meeting that took place at the Gupta residence attended by Mr Jonas and yourself and Mr Hlongwane but on his

version plus somebody from the Gupta family? Did it solely relate to that or did it relate to other things as well?

MR DUDUZANE ZUMA: Chair no it solely related to that specific meeting and as my counsel pointed out that it had to do with the poker and the pucker issues. So around the so called bribe.

CHAIRPERSON: Yes.

MR DUDUZANE ZUMA: Yes.

CHAIRPERSON: Yes. Did the police ever ask you whether you knew about – knew in advance about any of that somebody from the Gupta
10 family may have made or was the position that they asked you about it and you said there was no such of at that meeting and that was the end?

MR DUDUZANE ZUMA: At what point would have that been?

CHAIRPERSON: Either at the time of arrest or subsequently before the charges were withdrawn. In other words did they – was the position that they – they asked you to confirm that there was an offer made to Mr Jonas such as the one that he gave evidence about and you said there was no such offer and that was the end of their enquiry to you. Or was there more discussion to try and see whether you knew anything
20 in advance about any offer that was made?

MR DUDUZANE ZUMA: Like I had said the whole period leading up to – to today there had not been much communication that has been passed [indistinct].

CHAIRPERSON: Yes.

MR DUDUZANE ZUMA: We made numerous requests and still continue

to make numerous requests to...

CHAIRPERSON: Yes.

MR DUDUZANE ZUMA: The law enforcement agencies.

CHAIRPERSON: Yes.

MR DUDUZANE ZUMA: To the NPA guys. What is the story? What is the situation?

CHAIRPERSON: Yes.

MR DUDUZANE ZUMA: If there is anything please let us know.

CHAIRPERSON: Yes.

10 **MR DUDUZANE ZUMA**: We will comply. We will give you whatever information you need. If there is anything you investigating because there is a lot of stuff being thrown around and in the public domain.

CHAIRPERSON: Yes.

MR DUDUZANE ZUMA: We are here. We understand that is what is being said is there anything you need from us. So even up until that point there was no questioning there was no interaction of any sort. As a matter of fact we were asking them prior to the arrest.

CHAIRPERSON: Hm.

20 **MR DUDUZANE ZUMA**: What is the issue can we assist? During the arrest what is the charge? We were not given that information.

CHAIRPERSON: Hm.

MR DUDUZANE ZUMA: Only after the arrest we managed to get sight of – because obviously they needed to present charge sheets and warrants and that sort of thing and that is why now I have decided to take the steps that I have decided to take because I really want to

understand what the issues are. Because I have not had that opportunity to have that conversation. I did not have the opportunity to be questioned. It was just an event that just took me in the direction they wanted to take me and it ended up the way it did.

CHAIRPERSON: Hm. Well I am asking this question because in his statement and in his evidence if I recall correctly Mr Jonas was very clear that at the meeting you and Mr Hlongwane you might not agree but he was clear that you and Mr Hlongwane were very quiet. He said the – you know you really did not take any active role in this discussion
10 that he was having with the member of the Gupta family that he talked about. So – so I thought that maybe there may be something that in terms of questioning that may have come up. But it is fine. Before the commission we have heard persons who have been arrested and charged in circumstances where they have complained that they were being charged in circumstances where there was really no case against them and charges were later withdrawn. And I have said that I want to see what information the police had and what information the prosecutors had on the basis for which they charged those people. Because it does not matter who you are. If the police have got proper
20 evidence and proper grounds to arrest you and the prosecutors have got proper grounds and proper evidence to charge you they should charge you. But equally It does not matter who you are if they do not have evidence and proper grounds to arrest or to charge they should not charge. So it is important that the police use their powers properly. Now I do not know whether in your case or in the case of the others

that I have talked about who have come before the commission whether it was abuse or not abuse. But it is important to simply say I want to see all of that. So in what I want to see it will include yours in the light of Mr Jonas' evidence that you were very quiet at that meeting. You and Mr Hlongwane. It may well be that there were proper grounds and it may well be that even if there were no proper grounds it was just honest you know exercise of power I do not know. But I just want to mention that I will want to see everything. I think that is the end of my clarificatory questions that I had. I see your counsel wants to say
10 something.

ADV PIET LOUW: Mr Chair yes.

CHAIRPERSON: Yes.

ADV PIET LOUW: I just something from our side not from the witness.

CHAIRPERSON: Hm.

ADV PIET LOUW: Mr Joubert who sits next to me – apologise – was the counsel who represented Mr Zuma at the time of his arrest and merely to – from the bar just to inform you that Mr Zuma was never asked for a statement, he did not ever make a warning statement. There was no attempt to illicit further information or evidence from Mr
20 Zuma. He was merely arrested under the Act that I read out earlier The Prevention on – And Combatting of Corrupt Activities Act of 2004 and the Prevention Of Organisation Crime Act of 1998. They go by the acronyms of PRECA and POCA. The charge insofar – no charge was ever put but the reason for the arrest is that Mr Zuma was apparently present when a bribe was offered to Mr Jonas and he did not make a

report about that. It is a report [indistinct].

CHAIRPERSON: Oh okay.

ADV PIET LOUW: So that is – it is

CHAIRPERSON: The basis.

ADV PIET LOUW: It is this inaction.

CHAIRPERSON: Okay.

ADV PIET LOUW: That I understand.

CHAIRPERSON: Okay.

ADV PIET LOUW: Was what the police were after. The supreme irony
10 of course being that Mr Jonas himself did not make such a report and
until today has refused to cooperate with the police on that point. That
merely insofar as that issue is concerned.

CHAIRPERSON: Hm.

ADV PIET LOUW: With your leave may I ask the witness one final
question? It is – it is something that concerns you Mr Chairman.

CHAIRPERSON: Yes.

ADV PIET LOUW: And it would have concerned me as well.

CHAIRPERSON: Yes.

ADV PIET LOUW: And perhaps I can just ask the witness a question.

20 **CHAIRPERSON**: Okay just one.

ADV PIET LOUW: Just one.

CHAIRPERSON: Ja.

ADV PIET LOUW: Mr Zuma the Gupta residence. Can I ask you this?
Is it the same as any other ordinary residence? Would you be able to
go five houses down the line in the same street in Saxonwold and walk

in and have a meeting? Or is there anything special? Is the house, the residence, the area where you – where you met with Mr Hlongwane and Mr Jonas different from ordinary houses or is it just another sitting room, lounge area that of which there are probably millions in Johannesburg?

MR DUDUZANE ZUMA: If there are probably millions in Johannesburg that should make it the million and first one so it is just like any other residence.

ADV PIET LOUW: Were there any ...

10 **MR DUDUZANE ZUMA**: Normal lounge –

CHAIRPERSON: Is that a second question now. I granted you permission for one.

MR DUDUZANE ZUMA: Just to clarify Chair. It is like any other – any other residence there is no ...

CHAIRPERSON: Yes nothing special.

MR DUDUZANE ZUMA: Nothing special because this – just...

CHAIRPERSON: Okay alright.

MR DUDUZANE ZUMA: Ja there is a lounge a normal lounge.

ADV PIET LOUW: Thank you Mr Chair.

20 **CHAIRPERSON**: Okay. Okay. Thank you very much. I am hoping you are not asking for one more.

ADV PHILLIP MOKOENA SC: No questions. No questions at all Chair.

CHAIRPERSON: Okay. Thank you very much Mr Zuma for coming to give evidence and share with the commission what you know. As I said earlier and there may – there will be further discussion between the

commission's legal team and your legal team and in terms of that there may be a need for you to come back. It just depends on the outcome of the discussions that will take place. But thank you very much for coming to give evidence.

CHAIRPERSON: Chair thank you very much for having me. It is an honour, a privilege and a pleasure to be here. I appreciate your fairness and thank you for giving me an opportunity to put my side of the story across. Thank you.

CHAIRPERSON: No thank you very much and you are now excused.

10 Thank you.

ADV PHILLIP MOKOENA SC: Mr Chair.

CHAIRPERSON: Yes.

ADV PHILLIP MOKOENA SC: My colleagues are here ready and eager to proceed with the next business.

CHAIRPERSON: With the other witness the next witness.

ADV PHILLIP MOKOENA SC: But we – if we may afford them maybe ten or fifteen minutes adjournment for them to be able to ...

CHAIRPERSON: Yes.

ADV PHILLIP MOKOENA SC: Properly you know place themselves.

20 **CHAIRPERSON:** Okay we are at thirteen minutes past twelve. If we start at twenty five past twelve will that do? They say it should be fine.

ADV PHILLIP MOKOENA SC: That is fine. Should be fine Chair.

CHAIRPERSON: We will adjourn then and resume at twenty five past twelve. We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Good afternoon Ms Gcabashe.

ADV LEAH GCABASHE SC: Good afternoon Chairman.

CHAIRPERSON: Are you ready?

ADV LEAH GCABASHE SC: Yes. I am Chairman.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE SC: Chair ...

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: Chairman this witness - the evidence of
10 this witness is largely of a - a technically nature.

CHAIRPERSON: Huh-uh.

ADV LEAH GCABASHE SC: She will be explaining how conditional grants that were administered from her office were intended to - to be used in particular in - within the context of the Vrede Dairy Farm Project. Her affidavit Chairman is contained in EXHIBIT HH14. Might this exhibit be admitted into the record of evidence Chairman?

CHAIRPERSON: The file containing the affidavit of Ms Elder Mtshiza is to be marked EXHIBIT HH14.

ADV LEAH GCABASHE SC: Thank you Chairman. In addition
20 Chairman there are one or two other documents we would like to ask the Chairman to admit into the record of evidence. The first is the EXHIBIT Reference Bundle E. So we have reference bundles Chairman from A to F. At the last hearing or the last but one hearing we were not sure whether reference Bundle E had in fact been admitted into evidence.

We will not be using it today but it is really just the technical procedure of ensuring that you have formally admitted EXHIBIT HH Reference Bundle E into evidence Chairman.

CHAIRPERSON: The file containing at page 1-4-88 a memorandum addressed to the Acting SEM Asset and Liability Management from the Senior Manager Public Finance dated 19 June 2012 will be marked EXHIBIT HH Reference Bundle E.

ADV LEAH GCABASHE SC: Thank you Chairman.

CHAIRPERSON: Okay.

10 **ADV LEAH GCABASHE SC:** Then there is a legislation bundle Chairman. So it is EXHIBIT HH Legislation Bundle C. That too we ask you to admit into - to evidence Chairman.

CHAIRPERSON: Huh-uh. Yes.

ADV LEAH GCABASHE SC: Hm.

CHAIRPERSON: It is not here?

ADV LEAH GCABASHE SC: After that there will be one more Chairman.

CHAIRPERSON: So just for everyone's information we are now back in Estina?

20 **ADV LEAH GCABASHE SC:** We are back in Estina Chair.

CHAIRPERSON: Yes. You say this has not been admitted before?

ADV LEAH GCABASHE SC: It has not Chairman.

CHAIRPERSON: Yes. The - well should there not - should there not be something that is written on the spine that indicates that it is a legislation bundle relating to Estina because I think we have got other

legislation bundles in other ...

ADV LEAH GCABASHE SC: We - we can do that Chair.

CHAIRPERSON: Oh. You - you think just ...

ADV LEAH GCABASHE SC: We thought the ...

CHAIRPERSON: HH is enough?

ADV LEAH GCABASHE SC: HH description ...

CHAIRPERSON: Hm.

ADV LEAH GCABASHE SC: Would suffice ...

CHAIRPERSON: Yes.

10 **ADV LEAH GCABASHE SC:** Because we have a legislation bundle A ...

CHAIRPERSON: *Ja.*

ADV LEAH GCABASHE SC: And B. We ...

CHAIRPERSON: Okay.

ADV LEAH GCABASHE SC: We simply add it to it and created a C.

CHAIRPERSON: Okay. The file - lever arch file containing the Appropriation Bill for the Free State Province will be marked EXHIBIT HH Legislation Bundle C.

ADV LEAH GCABASHE SC: Thank you Chairman.

CHAIRPERSON: Okay.

20 **ADV LEAH GCABASHE SC:** The last one Chairman relates to court records. You had requested that we try and give you just as a reference bundle ...

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: Court records that have preceded ...

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: The establishment of this Commission.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: There are two that we have added to the court record bundle Chairman.

CHAIRPERSON: Huh-uh.

ADV LEAH GCABASHE SC: So it will be EXHIBIT HH Court Records C and D that we ask to be admitted into the record of evidence.

CHAIRPERSON: The lever arch file containing court records in regard to Case Number 168/2018 in the Free State High Court between or
10 involving the National Director of Public Prosecutions as Applicant will be marked EXHIBIT HH Court Records - I thought you said A and B. This is C and D. It is meant to be C and D.

ADV LEAH GCABASHE SC: It is - it is meant to be C Chairman and D Chairman.

CHAIRPERSON: Okay. It will be marked EXHIBIT HH Court Records C and the lever arch file containing court papers in the matter of the Bank of Baroda case number 168/2018 in the High Court - in the Free State High Court that is the matter of - between the Bank of Baroda as Applicant and the National Director of Public Prosecutions as First
20 Respondent and Others will be marked EXHIBIT HH Court Records D.

ADV LEAH GCABASHE SC: Thank you Chair. We are indebted to you for admitting these at this point in time.

CHAIRPERSON: *Ja.*

ADV LEAH GCABASHE SC: Chairman I think the witness is ready to be sworn in.

CHAIRPERSON: Okay.

REGISTRAR: Please state your full names for the record.

MS ELDER MTSHIZA: Elder Mtshiza.

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

MS ELDER MTSHIZA: No.

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

MS ELDER MTSHIZA: Yes.

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

MS ELDER MTSHIZA: So help me God.

MS ELDER MTSHIZA: (duly sworn, states)

ADV LEAH GCABASHE SC: Thank you Chairman. Ms Mtshiza I would
like you just to raise your voice a little. Maybe pull the mic a little
closer as well so that you are audible. Thank you. You will find to your
left a number of files and documents and the - the little one on your
table which is marked EXHIBIT HH14 are relevant for today's
proceedings.

20 In fact if I can qualify that statement. So HH14 which has
your statement is relevant for today's proceedings and I believe we will
only need Reference Bundles B - small b and F. They may already
have put them on your table for you ma'am. Have a look at the two
files that are on your table. We need Reference Bundle b and F for
today's purposes with - if all goes well we should not have to refer to

any of the others. Thank you very much.

If you then go to your affidavit which are contained in EXHIBIT HH14 and turn to page 1 thereof. I know we have discussed the small amendment you would like to make to what is written in the tramlines at the top. Could you please do that?

MS ELDER MTSHIZA: Yes Chair. I would like to remove the sworn on the affidavit and it remains just affidavit.

CHAIRPERSON: Please just raise your voice again. I did not hear.

MS ELDER MTSHIZA: I am saying the - it is written sworn affidavit. I
10 would like to remove the sworn.

CHAIRPERSON: Yes.

MS ELDER MTSHIZA: Yes.

CHAIRPERSON: Yes. No that is fine, but let me see. Oh. *Ja* that is -
that is - *ja*.

ADV LEAH GCABASHE SC: Thank you Chairman.

CHAIRPERSON: Is that - is that all?

ADV LEAH GCABASHE SC: That was it Chairman.

CHAIRPERSON: Oh, okay.

ADV LEAH GCABASHE SC: Yes. Certainly. It was because we know
20 the position you always take on this and it is slipped through ...

CHAIRPERSON: *Ja*. No that is fine.

ADV LEAH GCABASHE SC: This time but we thought if we correct it at
the outset ...

CHAIRPERSON: Okay. No that is fine.

ADV LEAH GCABASHE SC: You would be a satisfied customer ...

CHAIRPERSON: *Ja.*

ADV LEAH GCABASHE SC: And know that we do pay attention.

CHAIRPERSON: I guess that - I guess that it can only mean it is double sworn.

ADV LEAH GCABASHE SC: This is what you have said to us Chairman and really apologies. It slipped through this time again.

CHAIRPERSON: *Ja.* Okay, alright.

ADV LEAH GCABASHE SC: Ms Mtshiza if you then look at paginated page 1 and confirm whose name is on - reflected just below the “I, the undersigned”?
10

MS ELDER MTSHIZA: It is Elder Mtshiza. That is my name Chair.

ADV LEAH GCABASHE SC: Thank you and then if you go to - turn to page 2. Could you confirm the signature - whose signature that is above the word “deponent”?

MS ELDER MTSHIZA: That is my signature.

ADV LEAH GCABASHE SC: And can you confirm to the Chairman where and when you deposed to this affidavit?

MS ELDER MTSHIZA: It was in Pretoria on 1 October 2019.

ADV LEAH GCABASHE SC: You confirm this is your affidavit?

20 **MS ELDER MTSHIZA:** Yes ma’am.

ADV LEAH GCABASHE SC: Can you very briefly - I know you have set this out in paragraphs 3 and four - tell the Chairman what this particular - the content of this affidavit represents?

MS ELDER MTSHIZA: Yes.

CHAIRPERSON: Maybe before that Ms Gcabashe. I - I just want to

say I did read the affidavit. I think that most of the things that she deals with are unlikely to be controversial in terms of framework and policies. There may be somewhere in terms of what actually happened that maybe - maybe - might be disputed.

I am not sure but you - you are much closer to the affidavit but I just mention this to say I - I do not mind if you move fast in regard to those areas which are unlikely to be disputed by anybody. *Ja*.

ADV LEAH GCABASHE SC: As you please Chairman.

CHAIRPERSON: Okay.

10 **ADV LEAH GCABASHE SC:** We will do that.

CHAIRPERSON: Okay.

ADV LEAH GCABASHE SC: Chairman, we - there are two affidavits. So we will just complete what is in the first affidavit ...

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: And I think your comments really ...

CHAIRPERSON: *Ja*.

ADV LEAH GCABASHE SC: Are ...

CHAIRPERSON: (Intervenues).

20 **ADV LEAH GCABASHE SC:** Are most appropriate with the slightly longer one ...

CHAIRPERSON: Yes, yes.

ADV LEAH GCABASHE SC: But we will indeed try and ...

CHAIRPERSON: *Ja, ja*.

ADV LEAH GCABASHE SC: Expedite that as well.

CHAIRPERSON: *Ja*.

ADV LEAH GCABASHE SC: Ma'am if you could just very tell the - very briefly tell the Chairman what the first 2019 affidavit - what the purpose of this is.

MS ELDER MTSHIZA: Yes Chair. The purpose of this affidavit is that I had previously provided a -a sworn affidavit to the South African Police Service.

CHAIRPERSON: So the sworn affidavit comes back.

MS ELDER MTSHIZA: Provided an affidavit ...

CHAIRPERSON: No. That is fine.

10 **MS ELDER MTSHIZA:** To the South African Police Service and this was in 2017 and this is really to state that I still stand by the contents of the 2017 affidavit which was issued. Thank you.

ADV LEAH GCABASHE SC: Thank you ma'am. So if we then go to page 3 will you confirm again that this affidavit is your affidavit? So on page 3 there is your name.

MS ELDER MTSHIZA: Yes. It is my affidavit.

ADV LEAH GCABASHE SC: And then ...

MS ELDER MTSHIZA: Elder Mtshiza.

20 **ADV LEAH GCABASHE SC:** If we then go across to page 8 - paginated page 8 you confirm that you are the deponent?

MS ELDER MTSHIZA: Yes.

ADV LEAH GCABASHE SC: And can you then confirm the place and date of this particular affidavit?

MS ELDER MTSHIZA: It was signed in Pretoria on 3 November 2017.

ADV LEAH GCABASHE SC: Excellent. Thank you very much. We will

go straight into the 2017 affidavit because that is where the heart of - of the matter lies. Please just explain to the Chairman where you are currently employed?

MS ELDER MTSHIZA: I am currently employed in the now Department of Agriculture Land Reform and Rural Development. At the time it was the Department of Agriculture Forest and Fisheries.

ADV LEAH GCABASHE SC: And what position do you occupy in the National Department?

MS ELDER MTSHIZA: In the National Department I am the Program
10 Management Co-Ordinator at the level of a Chief Director responsible for the conditional grants - CASP - which is the Comprehensive Agricultural Support Program and Ilima/Letsema Conditional Grants.

ADV LEAH GCABASHE SC: How long have you been employed at the department at which you work?

MS ELDER MTSHIZA: I have been with the department since 2010 and since then until today I have been responsible for this portfolio.

ADV LEAH GCABASHE SC: Could you very briefly just explain to the Chairman what those - I will use the acronym - CASP Conditional Grants are? What is the essence of that?

20 **MS ELDER MTSHIZA:** Yes. The CASP Conditional Grant is a grant which is governed by the Division of Revenue Act. At the time of the funding to the Vrede Dairy it was a Schedule 4 Conditional Grant which meant it was meant to supplement equitable share in supporting farmers both smallholder and subsistence in particular and it is mainly for support to Black producers.

Just to enable them to increase their production to allow them with acquisition of infrastructure. To support them with training, capacity building, support them with market access as well as business development. The Ilima/Letsema Conditional Grant is a Schedule 5 which was a special purpose conditional grant aimed at increasing food production.

Mainly for your household food security. So we would support your household food gardens. We would do food massification in communal areas but also provide inputs to smallholder farmers who have received infrastructures like your poultry houses or piggery structures from CASP. Then you give them the first inputs as start-up inputs for enabling or starting up production on their farms.

Also with Ilima/Letsema you could also invest in unlocking infrastructure like your irrigation schemes. So those are mainly grants that are aimed at giving your Black producers some support that will enable them opportunity to be able to access your loans because at this point in time they do not necessarily have adequate resources or enough capital to actually access loans directly.

ADV LEAH GCABASHE SC: I see you have mentioned Black producers a number of times. Is that one of the - the essential criteria ...

MS ELDER MTSHIZA: The ...

ADV LEAH GCABASHE SC: For the ...

MS ELDER MTSHIZA: The programs ...

ADV LEAH GCABASHE SC: Grant?

MS ELDER MTSHIZA: Are mainly meant for Black producers Chair.

ADV LEAH GCABASHE SC: Yes and you have also mentioned that these grants are from DORA, but can you explain the relationship between your administration of the grant and National Treasury?

MS ELDER MTSHIZA: Yes. National Treasury Chair is the - the body that governs the Division of Revenue Act and that has also appropriated funds which we then distribute to provinces that has been appropriated for Division of Revenue Act. So as a - as is given within the Division of Revenue Act both National Treasury have powers to release as well as to withhold where there are concerns.

10 The same way as the transferring of (indistinct) which in this case was a delegated function or is a delegated function to myself has the powers to release or to withhold the - the funds that has been disbursed if there is any non-compliance or any violation to legislation or non-compliance to the framework that has been issued.

ADV LEAH GCABASHE SC: Now the grant is - is applied for and given to the provincial departments. Am I correct?

MS ELDER MTSHIZA: Yes ma'am.

ADV LEAH GCABASHE SC: You do not give the grant to implementing agents?

20 **MS ELDER MTSHIZA:** No. The allocations are made directly to the Provincial Departments of Agriculture and the process for which the farmers are able to access these grants is through the application to the provinces. So the application would also start at local level. There are committees that would receive those applications for farmers that need support and if they are in line with what has been prioritised

commodities of that - at that time and they are ready for implementation.

You would then - the local would present their cases to district and sometimes it is really on the basis of limited resources. So the district will then select the ones that they will want to present to the provincial committee and at the provincial committee they would have to be signed off by the accounting authority and consolidated into one application of the province against the budget that has been allocated to that province but it is not just a given.

10 So the province must then come and according to the Division of Revenue Act that application needs to be received by the National Department on 30 September. So the National Department will receive all applications from provinces and we will schedule a meeting of the National Assessment Panel. After the panel because a panel comprises of a number of expertise within the department who need to look into the plans of the - of the provinces within each project.

 So we will schedule that panel meeting with is the NAP meeting and the provinces will then be invited to come and present each one's case in that. So when we receive we receive a plan of a
20 province with all the projects that they want to achieve and what impact those would - would achieve and the panel will deliberate after the province has presented and a decision will be made to say we can recommend to the Director-General that a business plan for this province should be approved or not.

ADV LEAH GCABASHE SC: Tell - tell ...

MS ELDER MTSHIZA: Hm.

ADV LEAH GCABASHE SC: Please tell the Chairman what exactly a conditional grant is. I am - I am looking at the oversight role you have. Why conditional and as you explained that please explain the oversight role that you play because it is a conditional grant?

MS ELDER MTSHIZA: Yes. The conditional grant Chair is that you cannot use this money for anything else but for what it was approved for. So in this instance with CASP we would approve it for establishment of an infrastructure on the farmer's farm. We would
10 approve it for providing that farmer with training capacity in terms of coaching/mentorship.

We would approve that grant to that farmer if you are going to assist that farmer with market infrastructure or also post-harvest infra - services. So the - you cannot use it for any other purpose that it was not intended for.

ADV LEAH GCABASHE SC: Could you just clarify one point? Do you simply throw money at the province and wash your hands of it and just check on how they are using it or in - in what - in the services you provide do you actually physically also assist with let us say
20 infrastructure or with marketing some of the other matters that you have raised?

I - I just want to understand whether it is just the matter of giving money or do you also do other things with the provinces - provinces?

MS ELDER MTSHIZA: We - as I had indicated the responsibility to

implement is that of the province. So we would confirm first that a province has the capacity that they need and if they do not then you will avail the resources or expertise that they may need for such a project to be executed.

We will also do oversight visits ourselves just to monitor whether the plan has - is being implemented as was approved by - by national.

ADV LEAH GCABASHE SC: Thank you. I am really just going through these essential features fairly briefly. You also have standard
10 operating procedures. You set that out in your affidavit.

MS ELDER MTSHIZA: Hm.

ADV LEAH GCABASHE SC: That applies across the board. We will deal with those in a little more detail slightly further on.

MS ELDER MTSHIZA: Yes.

ADV LEAH GCABASHE SC: I think what is important is to - to assist the Chairman understand whether the Department of Agriculture and Rural Development Free State made a presentation to the National Assessment Panel and what then happen - happened in relation to that. This would have been in 2012.

20 **MS ELDER MTSHIZA:** Yes Chair. We received the business plan of the province as is expected and one of the projects which were presented to the NAP included the Vrede Dairy.

ADV LEAH GCABASHE SC: In fact can I make a correction? It would have been in - in 2013.

MS ELDER MTSHIZA: Yes.

ADV LEAH GCABASHE SC: I am at your paragraph 8.

MS ELDER MTSHIZA: This was during the 30th to 31 January - NAP Meeting of the 30th to 31 January where the first date means that representation of their plan and the Vrede Dairy Project in particular to the National Assessment Panel.

ADV LEAH GCABASHE SC: Who is the Chairman of that particular panel?

MS ELDER MTSHIZA: I am the Chairman of the panel.

ADV LEAH GCABASHE SC: And can you give Chairman a - a sense of
10 the expertise that resides in that panel?

MS ELDER MTSHIZA: Yes Chair. In the panel we have water use and irrigation experts. We have the agricultural economist. We have animal specialists, crop production specialists. We do fund extension support. So we have colleagues from extension services just to make sure that the plans are in line with the extension plan framework.

We have training experts from the department to look at the - whether the skills audits were done for the farmers that needs to be trained as has been requested and look deeper into the training plans of those provinces. We also have market colleagues who are
20 specialists in market assess and agro processing who are sitting in the panel.

So each member of the panel within each province will go into their critical niche and evaluate of the nine provinces and make comments in terms of the - their inputs that the province needs to look at or satisfy themselves that the province had met the technical

standards that is required for that project to be executed. Such that when we make the recommendation that the plan should be approved.

Minor issues which we can still follow through and do. We have a holistic agreement in terms of their focus. It is in line with the policy imperatives and the - already progress in terms of the technical standards that are met. We would approve with certain conditions that will need to be met to enable the province to start with the execution of - of those plans.

ADV LEAH GCABASHE SC: Excellent. Can we then assume that
10 because the Provincial Department Free State was given a CASP allocation that they met your standards on application for that grant?

MS ELDER MTSHIZA: Yes. The - in particular on the Vrede Dairy Chair it was one of the big projects of the Free State and the conceptualisation which was captured in their business plan was quite exciting and we were quite happy with what was contained in their presentation that was made to - to the NAP.

ADV LEAH GCABASHE SC: And as you say in your paragraph they also indicated that they already had an invested part of their equitable share ...

20 **MS ELDER MTSHIZA:** Yes.

ADV LEAH GCABASHE SC: In the project?

MS ELDER MTSHIZA: The standard operating procedure encourages provinces to look for private investment. To that effect is that we are quite aware that our resources are limited and to extend our rent it is better to bring in private partners to co invest with Government but

mainly for the funding and secondly for the skill which should also then be distributed to our beneficiaries but also some of our beneficiaries are not necessarily at that point ready to participate along the value chain in the secondary value chain.

So that on it is - on it is own allows them to participate along the value chain. So it was quite exciting that there is already a partner and also there was a - a high level executive approval from the province which meant there would definitely be some guarantee in terms of equitable share together with our conditional grants enabling
10 the development of that project.

ADV LEAH GCABASHE SC: Chair I notice that it is - it is 1 o' clock. Maybe we could take the lunch break now. If you prefer us to push for another 10 minutes we can do that as well.

CHAIRPERSON: Are you left with 10 minutes to finish her ...

ADV LEAH GCABASHE SC: No, no.

CHAIRPERSON: Or not really? Just to finish the statement and then the annexures?

ADV LEAH GCABASHE SC: The next section goes into the actual - the issues that arose (intervenes).

20 **CHAIRPERSON:** Yes, yes. Okay.

ADV LEAH GCABASHE SC: That is the next portion.

CHAIRPERSON: Then maybe we should take the adjournment now and then resume at two. We will try as far as we can to finish both today?

ADV LEAH GCABASHE SC: Definitely Chairman.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: Yes.

CHAIRPERSON: Ja, ja.

ADV LEAH GCABASHE SC: We are halfway through this statement
Chair.

CHAIRPERSON: Yes, yes.

ADV LEAH GCABASHE SC: Yes.

CHAIRPERSON: Okay. No. That is fine. We will take the lunch
adjournment and we will resume at 2 o' clock. We adjourn.

REGISTRAR: All rise.

10 **INQUIRY ADJOURNS**

INQUIRY RESUMES

CHAIRPERSON: Okay, let's us continue.

ADV LEAH GCABASHE SC: Thank you DCJ. Ma'am Mshiza are you
ready?

MS ELDER MSHIZA: Yes I am.

20 **ADV LEAH GCABASHE SC:** We are now dealing with paragraph 9 to
paragraph 15 of your 2017 affidavit and this is the area that really
deals with what went wrong. Now you have told us at paragraph 9 that
certain concerns were raised by your panel, by the NAP, please take
the Chairman through those concerns.

CHAIRPERSON: Please articulate your response if you're not – that's
not capture in the record okay. I think she asked you a question and
you nodded, you need to say what your response is.

MS ELDER MSHIZA: Thank you Chair.

CHAIRPERSON: Ja.

ADV LEAH GCABASHE SC: Can I repeat the question Chair?

CHAIRPERSON: Repeat the question ja.

ADV LEAH GCABASHE SC: Ma'am in paragraph 9 you explained that certain concerns were raised by the panel that you Chair, is that correct?

MS ELDER MSHIZA: That's correct Chair.

ADV LEAH GCABASHE SC: Could you please take the Chairman through those concerns?

MS ELDER MSHIZA: Chair as I explained when the plan is presented
10 by the Province and project of this magnitude is presented, and as I indicated the panel was quite excited about it. We had already received a presentation that said the work has already started in terms of construction so the panel just wanted to check all the technical issues to see, was the disability concluded, was it positive, is water rights in place and is there enough water, has the quality been confirmed and these responses were responded to positively.

ADV LEAH GCABASHE SC: That is when you asked them during the process?

MS ELDER MSHIZA: During the map process.

20 **ADV LEAH GCABASHE SC:** Yes.

MS ELDER MSHIZA: We were also quite excited that the project is going to benefit a hundred beneficiaries and – because the Province had already indicated that some will be milking. We also wanted to understand the content around the logistical arrangement of collecting the milk and bringing it to the facility. So we understood that there will

be production that happens off site in those farmer's lands as well as what is happening within the facility because all that documentation was not with us, we then concluded by saying that we need to be provided with a list of beneficiaries and we must also be – the Province must keep records, like your feasibility study, your business plan ready for as and when it's needed...[intervenes].

ADV LEAH GCABASHE SC: Can I just probe that one aspect, so when they came to see you and make application for the CASP Grant they did not have the list of beneficiaries.

10 **MS ELDER MSHIZA:** Yes.

ADV LEAH GCABASHE SC: They did not have a feasibility study that they shared with you, they did not have a business plan that they shared with you.

MS ELDER MSHIZA: Yes.

ADV LEAH GCABASHE SC: And they did not have – they couldn't give you any indication that the EIA's had been concluded – those applications had been concluded.

MS ELDER MSHIZA: Chair the documentation was not part of the presentation but all these questions which were asked by the panel,
20 were responded to positively. I remember with the water, they had said their application was already done with the Department of Water Affairs. So we were comfortable to let it go because in terms of the technical steps that needed to be done, the Province had actually indicated that they had already started or concluded some of these processes which included completion of the feasibility study which is

positive, the application of water rights which has already been lodged, the EIA which was concluded and so on.

ADV LEAH GCABASHE SC: Yes, thank you. On the strength of what they said to you, you were then prepared to give them a grant of R53million?

MS ELDER MSHIZA: Yes, we then – the Province came requesting for R53million from CASP and R22million from [indistinct] and we felt if you approve R75millionn all at once it's actually too heavy of the intention of the grant so we only approved the R53million that we said we will be
10 able to recommend for approval to the Director General...[intervenes].

CHAIRPERSON: R53Million?

MS ELDER MSHIZA: R53million and we then declined the R22million because it was actually going to affect negatively the drive of Feza Gala programme because that money was earmark for [indistinct] which is Food Massification as I had indicated.

CHAIRPERSON: This presentation that the Province came to make to this panel, as I understand your affidavit that's a presentation aimed at complying with the requirements...[intervenes].

MS ELDER MSHIZA: Of the Division of Revenue Act yes.

20 **CHAIRPERSON:** Yes and your panel would be the one that would approve or would give comment...[intervenes].

MS ELDER MSHIZA: That would satisfy itself that we can recommend for approval.

CHAIRPERSON: Yes and the actual decision to approve would be made by whom?

MS ELDER MSHIZA: The actual decision for approval would be made by the Director General. So when the panel concludes I will then develop a submission and pull all the documentation with the final national business plan which I would have compiled.

CHAIRPERSON: Yes.

MS ELDER MSHIZA: And present to the Director General for approval.

CHAIRPERSON: Yes but now you say that, as I understand the position, the team from the Province that made this presentation did not bring along certain documentation?

10 **MS ELDER MSHIZA:** Yes Chair.

CHAIRPERSON: Was that normal?

MS ELDER MSHIZA: Yes.

CHAIRPERSON: Was it normal that people can come for that presentation and leave out what may be important documents because I would imagine that the business plan would be an important document and water rights documents would be important documents?

MS ELDER MSHIZA: Yes Chair like I said CASP was a schedule 4 conditional grant at the time which means it was meant to supplement equitable share so the Province's plan which is a plan to develop
20 farmers would then be the one that is presented to the panel for approval which would then signal key projects which then would be driven and for what purpose would your money now be used for and in this instance because this was a mega request on one project, although it benefited a hundred beneficiaries at the time their technical experts which are the members of the panel would then want to delve deeper

into understanding how far has the province gone in developing the plan towards it's implementation. Hence we requested that all that documentation be kept safe for as and when it is required. What would then follow Chair would be a monitoring visit by the different expertise who would then engage with the documentation with the Province and where there's a need for strengthening or picking up issues we will then do that.

CHAIRPERSON: Well my expectation, and I thought that's what emerges from your affidavit but you must tell me if my expectation
10 doesn't accord with the procedures and practices of the – or the prescripts of the Department. My expectation would be that your committee would not be prepared to approve the grant of so much money without having those important documents being shown to them looking at them and taking a view about them, am I mistaken?

MS ELDER MSHIZA: Chair one would have expected that we probably go deeper into requesting the actual documentation but if you go into what the standard operating procedure at that time was saying, it – as I indicated the implementation was with the Province so ours was to make sure and satisfy ourselves that they had gone through proper and
20 I think it was more initial trust that you know that the accounting officer which is the head of the department is also obliged to abide by the prescripts of the regulations that governed that and at a point where their response to the questions of they're not favourable responded to or you feel that there are gaps then you hold their approval process and then go and make a follow through because the same technical

within the National Department are expected to be present at a Provincial Department but some of the improvements that we have made to the programme in particular, just to try and close these gaps because we realised that – just to give you an indication Chair, in one sitting the panel would be receiving presentations from all nine provinces with about 1 500 projects that would be executed for the next financial year.

So you then check with each and every province, bringing in, in terms of the work that they have done and on that basis a project gets approved and then there's follow through, oversight to confirm that what has been said is actually what has happened and is the project executed as is. So it was more really an issue of capacity but also to understand that we are concurrent implementers here. So you do your job, I do my job and I come and say, have you done all that you need to have done and you will say, yes I've done all what I've need to have done. So as colleagues we will then agree that you have done what you need to do and I have checked and confirmed with you that you have done what you need to do and I would record it as such and on the basis of what the record then we take it further to say, we can recommend that this is approved because it is stated that – so you would always say it is stated that this and this and this and then you will schedule visits and then go and verify all that information.

So there will be different teams now that goes to all nine provinces and make sure that the projects are visited and confirm that they meet the standards as has been – unless there's a problem with

one particular province or they extend the quality of the presentation, it's such that the province – because they will bring in a strong delegation of their expertise to engage with the technical expertise at [indistinct]. So to an extent that the province had failed to convince the panel that they are ready, then we would not recommend for approval and we would schedule a follow up meeting within that province and before that meeting we would send teams because we'll now be sitting with a list of projects that were earmarked for support and our technical teams will just go about, so that by the time that we
10 sit with the province we now have detail, having been on site to understand what the issues are.

CHAIRPERSON: Okay but the long and short of what you are telling me in regard to my question seems to be that it was in order and there was nothing un-procedural or irregular if the – your panel...[intervenes].

MS ELDER MSHIZA: Had approved that without documentation.

CHAIRPERSON: Approved the kind of request that it approved in this case without seeing the business plan, without seeing water licenses and without seeing, maybe other documents, is that what you are
20 saying?

MS ELDER MSHIZA: That's what I'm saying Chair.

CHAIRPERSON: Yes and was there a document, whether it's regulations, policy or whatever that set out what this panel must satisfy itself about and what it should have before it before approving at that time?

MS ELDER MSHIZA: At that time we had only the terms of reference for the panel and the guiding documents would then be the grant frameworks as well the Division of Revenue Act.

CHAIRPERSON: Okay, thank you.

ADV LEAH GCABASHE SC: In fact Chair, just to assist on this particular point a couple of issues maybe that need clarification. One, you're saying there would always be follow up engagement or visit after that approval/recommendation phase?

MS ELDER MSHIZA: Yes.

10 **ADV LEAH GCABASHE SC:** That's the first thing you're saying. The second thing I understand you to be saying is that you have improved on the systems that were in place in 2013?

MS ELDER MSHIZA: Yes Chair, similarly as I had indicated the CASP was a schedule 4 conditional grant and with a schedule 4 if you go to the Division of Revenue Act, a province need not really submit a business plan, that's now if you go into what a schedule 4 is all about. You can come and say we have agricultural projects to support and you need not submit a business plan. Whereas a schedule 5 conditional grant requires that you must submit a business plan. We then moved-
20 because some of the learnings of the past enables you to improve, we approached National Treasury and we have since changed their schedule for conditional grant CASP. So CASP is now a schedule 5 conditional grant so it is now mandatory for such documentation to be presented.

CHAIRPERSON: Okay.

MS ELDER MSHIZA: To the National Department.

CHAIRPERSON: Okay no that's fine.

ADV LEAH GCABASHE SC: Thank you Chair, can I also just point you to the CASP funding agreement of 2013/2014 and this you will find in reference bundle F for Freddie, if you go to page 2066 towards the back, there are stickers at the top so there is one that is written 125 it's right towards the end and that's where you'll find page 2066, so it's reference bundle F for Freddie page 2066, have you found it ma'am?

MS ELDER MSHIZA: I have reference bundle F.

10 **ADV LEAH GCABASHE SC:** On the top right-hand corner you have the page numbers, I can see you are very far from where I want you to be, go right to the back, keep going, you should find 2066 closer to where you are now.

MS ELDER MSHIZA: Yes I have found it.

ADV LEAH GCABASHE SC: And that is the CASP funding agreement.

MS ELDER MSHIZA: Yes Chair.

ADV LEAH GCABASHE SC: If you look over the page to page 2067 you have the signatures of three officials from the Free State Department of Agriculture and Rural Development.

20 **MS ELDER MSHIZA:** That's correct Chair.

ADV LEAH GCABASHE SC: The first one is that of Dr Masiteng.

MS ELDER MSHIZA: Yes Chair.

ADV LEAH GCABASHE SC: The second one is that of Ms Dlamini the CFO.

MS ELDER MSHIZA: Yes.

ADV LEAH GCABASHE SC: And the third one is that of the HOD Mr Thabethe.

MS ELDER MSHIZA: That's correct Chair.

ADV LEAH GCABASHE SC: And this document was signed on the 12th of June 2013.

MS ELDER MSHIZA: Yes Chair.

ADV LEAH GCABASHE SC: Can you briefly take the Chairman through what it is that they were agreeing it to and whom they were agreeing these particular terms with?

10 **MS ELDER MSHIZA:** Chair after the business plan has been recommended for approval and the Director General has approved their business plan, we then get into another agreement with the province. So these are now the conditions that the province will commit to abide to in executing the project in that financial year. So it would state the total grant funding to the province and the province will then say we agree to all these 11 conditions which are set now in the agreement as the rule or the non-negotiable and the head of the department, the Chief Financial Officer as well as the CASP coordinator in the province, in that instance it was Dr Masiteng would then have to sign the
20 agreement and then submit back to us. Upon receipt of these agreements we will take all the agreements to National Treasury and only after the agreement is signed can we release the funds.

ADV LEAH GCABASHE SC: So at the time that this agreement was signed National Treasury had not communicated its reservations around the Vrede Dairy Project?

MS ELDER MSHIZA: That's correct Chair.

ADV LEAH GCABASHE SC: When did you get the first inclination or indication that all was not well with the Vrede Dairy Farm Project?

MS ELDER MSHIZA: Chair it was in July when we received a letter from National Treasury, their concern was that they had picked up that the Vrede Dairy is a public/private partnership and that the province did not follow due process for a public/private partnership and as such they are in violation of Regulation 13.61 and any continued expenditure on this project will equal to unlawful expenditure. As a result they are
10 requesting that we should withhold their conditional grant. The Division of Revenue does allow in terms of withholding of conditional grants that, that process can be initiated by National Treasury or by the transferring officer and there are conditions through which you can do that and one of them is if there is any violation to any Treasury Regulations or – yes thank you Chair.

ADV LEAH GCABASHE SC: Can I point you to the same reference bundle but this time to page 2063, exactly where you were but this time it's a couple of pages before the last one you looked at, 2063.

MS ELDER MSHIZA: Yes Chair.

20 **ADV LEAH GCABASHE SC:** Is this the letter you refer to dated – it's not very clear but it's June 2013, certainly.

MS ELDER MSHIZA: Yes it was, it's the same letter Chair which was received by our department and it was dated 26 June but the office of the Director General received it on the 3rd of July 2013.

ADV LEAH GCABASHE SC: As evidence by the stamp on the top

right-hand corner?

MS ELDER MSHIZA: The stamp on the top yes Chair.

ADV LEAH GCABASHE SC: Can you just give the Chairman the gist of what National Treasury's reservations were as communicated to your department?

MS ELDER MSHIZA: In the letter Chair, it's actually paragraph two, the nature of the arrangement was that a PPP as I had explained has been entered into by the department but the department had failed to follow due process which means that it should have registered the PPP
10 with Treasury and also informed relevant Treasury that the expertise exists within their private partner which they are entering into.

ADV LEAH GCABASHE SC: You then decided to go on a site visit?

MS ELDER MSHIZA: Yes Chair.

ADV LEAH GCABASHE SC: Please tell the Chairman about that?

MS ELDER MSHIZA: When we received the instruction from National Treasury the first thing you do really is to abide by their requests. So according to the Division of Revenue Act we then issue an intention to withhold the funds but because, as I had indicated we were sold onto the project and we really wanted to see this anchor within the Free
20 State particularly in the identified sites we then sent the letter of intention to withhold the province to say they should state this is what the National Treasury's concerns are and they should tell us why we shouldn't withhold the funds. We then received the response from the province which then outlined all the approval by the Executive Authorities and all that but it was not addressing the fact that there was

a dispute whether this is a PPP from the Provincial letter that we received. So we initiated a letter back to the province requesting that, to resolve this dispute – because technically we are all in agreement that this plan should be executed. We now need to meet as four parties to resolve these – and see how best do we correct that wrong but before that meeting we then decided, actually we approved on the basis of the information that was presented to us so let's then go on site visit and go and confirm our technical facts, so that by the time we meet we know we are together with the province in enforcing that the
10 project is continuing.

ADV LEAH GCABASHE SC: Did you go to Bloemfontein or did you go to Vrede?

MS ELDER MSHIZA: We went to Vrede and we met with the HOD, Dr Masiteng and their CFO and the District Manager at Vrede.

ADV LEAH GCABASHE SC: They were there to receive you, you say in your paragraph 11?

MS ELDER MSHIZA: Yes, they were there to receive us and they took us through the site inspections and their technical team was now engaging and it could only engage with them because the implementing
20 part now was not there.

ADV LEAH GCABASHE SC: Can I ask this question, because you had such a high powered delegation from your office and from the Department of Agriculture and Rural Development, was the engagement with the HOD and the coordinator, and the CFO or was it with the people who worked on the farm?

MS ELDER MSHIZA: It was with the HOD, the coordinator and the CFO plus their Project Manager who was on site at that time and the District Manager also, I think, she was also part of the meeting. So it was not with the people on the farm because the ones who were on the farm were really the ones who were working, busy with construction.

ADV LEAH GCABASHE SC: At paragraph 12 you then deal with what you established when you got...[intervenes].

CHAIRPERSON: I'm sorry Ms Gcabashe I think you – I missed your announcement to go back to the statement, to the affidavit?

10 **ADV LEAH GCABASHE SC:** Yes I beg your pardon, in the rush Chairman to keep to the time I promised you.

CHAIRPERSON: No that's fine.

ADV LEAH GCABASHE SC: I'm being a little untidy, my apologies Chair.

CHAIRPERSON: That's fine.

ADV LEAH GCABASHE SC: We are going back to the statement to page six of the statement and its paragraph 12 of HH14 Chairman.

CHAIRPERSON: Ja okay.

20 **ADV LEAH GCABASHE SC:** And can you just give the Chairman a sense of how you felt when you – as you were leaving this project, as you were leaving Vrede, you set that out in paragraph 12.

MS ELDER MSHIZA: Chair we found that there was work going on and a lot of work was already done as stipulated here, we were also taken to the site where there were cattle kept...[intervenes].

ADV LEAH GCABASHE SC: Can you explain that so the 351 Friesland

cows were held or kept at a different site is this what you're saying?

MS ELDER MSHIZA: Yes, they were in Vrede but they were not at the construction site because there was construction. So they were kept in the veld where they were grazing and there was a vet looking after them and some headmen when we got there.

ADV LEAH GCABASHE SC: Did you speak to this vet, do you know where – was he from the department?

MS ELDER MSHIZA: We spoke to the vet he was not from the department Chair he was also coming from India yes.

10 **ADV LEAH GCABASHE SC:** A vet from India?

MS ELDER MSHIZA: Yes Chair.

ADV LEAH GCABASHE SC: Yes continue.

CHAIRPERSON: I'm sorry did you speak through an interpreter or was he quite conversant in English?

MS ELDER MSHIZA: He could speak English Chair but it was not very perfect English but we could...[intervenes].

CHAIRPERSON: You could understand?

MS ELDER MSHIZA: We could understand each other.

CHAIRPERSON: Okay.

20 **ADV LEAH GCABASHE SC:** Did they give an indication on how long they had kept those particular cattle there and when those cattle would be moved back to the farm proper?

MS ELDER MSHIZA: I don't remember that part of the discussion Chair.

ADV LEAH GCABASHE SC: Did they give any indication as to why

they had purchased these cattle before the farm itself was ready because you call it a construction site?

MS ELDER MSHIZA: Yes, there were timelines with regard to when they anticipated the construction of the building to happen and they felt to have a parallel process through which you are now getting the vet familiar with the livestock and showing that they are properly nourished as they had indicated they were anticipating certain level of productivity from these cattle and I think it was merely – because I don't think there was any key reason Chair, 2013, I might not remember
10 all the facts but we were not necessarily finding it odd but yes.

ADV LEAH GCABASHE SC: Continue because you then go on to speak about water rights not being in place etcetera. Just take the Chairman through that?

MS ELDER MTSHIZA: Yes. Chair remember when we approved there were a number of questions which the panel had asked in terms of readiness to implement and one of them was a feasibility study. On site we were hoping – our letter said we will get there and you will present and provide documentation that was requested by the National Assessment Panel. So the feasibility report was also not issued on site
20 to us. The business plan presentation was also not made but the project manager without a business plan he knew what needed to happen. And that was also a concern by the Agricultural – the Chief Agricultural Economist that we were with. We also were concerned that during the presentation the province had indicated that an application for water rights was done. But on site they could not also provide us

with evidence of their application for water rights but they had...

ADV LEAH GCABASHE SC: Can I just – Can I just interrupt you there to tidy up one piece?

MS ELDER MTSHIZA: Hm.

ADV LEAH GCABASHE SC: And that again takes us to page 2069 of Exhibit HH Reference bundle F. 2069 Reference bundle F and am I correct in saying that this is the letter that indicates that even as at the 24th February 2014 the application for water rights had not been concluded?

10 **MS ELDER MTSHIZA:** According to this letter yes Chair.

ADV LEAH GCABASHE SC: It is just the material fact that we have been debating during the hearings. Thank you continue you were then going to just complete your summary of the items that were red flags.

MS ELDER MTSHIZA: Yes.

ADV LEAH GCABASHE SC: For you.

MS ELDER MTSHIZA: And there was also an indication Chair about the beneficiaries. So when we were on site one of the things we mentioned was that we would have liked to interface with them so that we also get from them what they understand about what the project is
20 all about. But in the absence of them being part of the meeting can we be availed that list of beneficiaries and it was also not made available to us on site.

ADV LEAH GCABASHE SC: Can I again just ask you to – to go to the same Reference bundle F page 2041. This is a letter written to the then Minister of Agriculture, Forestry and Fisheries Me Tina Joemat-

pettersson and it is written by the MEC in the Free State for Agriculture Me Thabethe. And where ...

CHAIRPERSON: I am sorry did you say 2041?

ADV LEAH GCABASHE SC: 2041 Chairman. I have just – this is the particular paragraph I will be referring to Chairman but if you want the beginning of the letter I can give you that page number?

CHAIRPERSON: Oh okay I think...

ADV LEAH GCABASHE SC: Yes.

CHAIRPERSON: That is what might be confusing me because on the
10 page it does not look like it is a letter.

ADV LEAH GCABASHE SC: Yes. The letter starts on 2036 Chairman.

CHAIRPERSON: Oh okay now I see.

ADV LEAH GCABASHE SC: Yes and it is dated the 26th August 2013.

CHAIRPERSON: Ja okay.

ADV LEAH GCABASHE SC: But the salient portion I want to refer the witness to is at page 2041.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: And that paragraph 2 the very last sentence of the paragraph that is titled Phases for Project Deployment
20 reads as follows:

“It is pertinent to note that the department has already identified and signed contracts with 80 beneficiaries for this project and any delay in releasing funds will have a direct impact on the beneficiaries.”

Now when you went on this site visit and in the negotiations around what you required from the department in the Free State were you ever shown these signed contracts with 80 beneficiaries.

MS ELDER MTSHIZA: No Chair.

ADV LEAH GCABASHE SC: In fact to our knowledge on the evidence that has been led to date 80 beneficiaries certainly – there are no such contracts that have been brought here or that we have been able to find and I thought you might have better information than the commission.

MS ELDER MTSHIZA: No Chair we – as I indicated we did not get the
10 beneficiaries nor were we presented with a list which we requested at the meeting. When we left the meeting we had agreed with the HOD that he – because he indicated that there is a list of beneficiaries but he did not talk to contracts. So maybe they did enter into them later I am not sure. So there were – to conclude our visit we made a list of the things that needed to come to us because we could not make any engagement technically and that was supposed to be a technical visit on site. We then requested that the feasibility report be submitted to us, the list of beneficiaries be sent to us, the business plan also be sent to us, the EIA be sent to us.

20 **ADV LEAH GCABASHE SC:** Yes. Then at your paragraph 13 you – you speak to the back to office report that you have annexed to this affidavit. That report Chairman is on paginated page 26 of HH14. HH14 which is the affidavit of the witness.

CHAIRPERSON: Just one second. I am sorry about that.

ADV LEAH GCABASHE SC: Of course Chairman not a problem.

CHAIRPERSON: Thank you.

ADV LEAH GCABASHE SC: So we are at page paginated 7 one hand is 0 a couple of fingers are holding page 7 which is where paragraph 13 appears Chairman and then the other part – other hand has gone to page 26 which speaks to the issues raised in paragraph 13. So we looking at paragraph 13 on paginated page 7. We are also looking at the specific report that is referred to in paragraph 13 which is found on paginated page 26.

CHAIRPERSON: Okay.

10 **ADV LEAH GCABASHE SC:** Ma'am can you just take the Chairman through without reading the full back to office report. I think if you take the Chairman through those essential recommendations that you made which you have enumerated at paragraph 13?

MS ELDER MTSHIZA: Chair when we came back we were then – the province met their deadlines of submitting to the [indistinct] that we had requested but we only received the feasibility report and agreement between the province and Estina. We did not receive the business plan. The Agricultural Economists and our dairy expert then engaged on that documentation because we really had to make decisions and
20 make decisions very quickly. And their concerns where that – that was really not a feasibility – a proper feasibility study for the Vrede Dairy because it did not give them much content around Vrede which they wanted and they had highlighted a number of concerns with the assumptions which were made. The profitability of the entity as had been projected in the feasibility report. And just to go through to our

recommendations. They then recommended that the basis through which the approval was made was false because of the documentation that came through even the application form for water rights did not accompany so he made an assumption being site when the HOD told us that he is meeting with the Department of Water the next day from our meeting that that would only be the time that they are going to be making the application. So we recommended that the – because the basis through which we made the approval was false the province must now conduct a proper feasibility study for the project and also that

10 feasibility study will then inform a proper business plan that they must conclude on the applications for water rights and because there was some indication of livestock that might and we would not know whether in the business execution there would be some change in breed given that you have an international entity that which is Paras at the time that is going to bring some of its intellect into how milk should be produced because as was indicated by these experts the quantities which were projected in that plan were too ambitious and not even achieved by the high performing dairy producers in the country. That the province must conduct also biological impact study and also for these reasons

20 therefore we cannot confidently continue with funding the project because we believe technically all technical processes were not properly followed and the funds must therefore be withheld. So to that end we completed this report to inform the Director General and we issued the last final letter that the funds should be withheld and the balance of the funding can be released back to the National Revenue

Fund or support projects within the province which we knew existed and still needed funding and some of which were owing the Agriculture Credit Board. But for us to conclude whether the funds must then be redirected we needed now detail of the projects that we identified against the balance of the fund and we sent teams out to confirm that the work that is proposed by the province for the other projects is what should happen and upon approval by the panel we then redirected the funds from Vrede Dairy to these other projects. So...

ADV LEAH GCABASHE SC: Can I just – can I just clarify one point. I
10 know you have gone past this point.

MS ELDER MTSHIZA: Hm.

ADV LEAH GCABASHE SC: But if you look at paginated page 30 in HH14 Chairman you will find there a list of eight factors arising from the flaws in the feasibility study. Is that correct Ma'am?

MS ELDER MTSHIZA: That is correct Chair.

ADV LEAH GCABASHE SC: And it is on the basis of...

CHAIRPERSON: Did you say – did you say paragraph [indistinct].

ADV LEAH GCABASHE SC: Paginated page 30, 30 Chairman.

CHAIRPERSON: Oh 30.

20 **ADV LEAH GCABASHE SC:** Yes Chairman. I think these are important just for purposes of giving perspective.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: Of the flaws that were in that feasibility study,

CHAIRPERSON: Yes.

MS ELDER MTSHIZA: Okay. One what was reached Chair is that large parts of the feasibility study covers standard theoretical information with no details.

ADV LEAH GCABASHE SC: Your microphone.

MS ELDER MTSHIZA: Sorry. With no details on the project itself. For an example the document covers alternative approaches of doing things, what to look for, when planning without a final statement on how things will be done in this project and in particular and where will they source what and at what cost? For an example you would have
10 expected them to have factored in the costs for feeds. The costs for water and at what cost will – and will where will that be sourced so that it informs your business plan and your business plan' projected profit can then be confirmed to be true. The study does not make any comments on the total water needed and ability to provide it. This is an aspect that needs to be verified by specialists such as engineers specialising in this field for both the fresh water and surface water. No documentation of the water rights has been provided. The document does not make any comment on the involvement of small holder farmers. Their location, who they are, their current productivity and
20 infrastructural requirements. Nothing is mentioned on how their production will be managed to meet specific requirements pricing, collecting etcetera. And this was because we understood that there would also be the recipients of cattle from and produce it on their farms as well the milk. The conception rate at 60% is low and it is not in line with the high mild production assumption in the business plan. The

number of cows needed for mating at a 60% concentration rate will be in the order of 830. This will result in a very high percentage of dry cows. The normal acceptable rate for dry cows in the herd is in the order of about 20%. The general economic assumption which was on page 56 of the 63 document that was submitted needed further clarity. The amounts for some cases could well be challenged while others could be part of a double counting in the broader perspective. The assumption of 45 litres milk per cow per day is too good to be true. Some of the leading milk producers in the country will a long build-up
10 of quality dairy herds recorded in the order of 30 litres milk per cow per day. The implication could well be that the estimated profits for the business be reduced to 60% of what is recorded currently in the plan. There is no mention of the biological impact of the project and no documentation to this effect has been provided. The market approach is not clarified. Probably this would have been covered in full in the business plan but the business plan is not available. So this was the documentations Chair which I received from the Agricultural Economists and the dairy specialists in the department.

ADV LEAH GCABASHE SC: You have then told the Chairman that you
20 – the department decided to – having engaged with the provincial Department of Agricultural and Rural Development your department decided to withhold the R53 million that you had allocated. Can I ask you to go to Exhibit HH Reference bundle B for Barry. And if you go to page 610 there you will find a letter that confirms what you are saying about the withdrawal of those funds and I would like you to turn to page

611 which is the second page of that letter. So it starts on 610.

MS ELDER MTSHIZA: This is Reference bundle B?

ADV LEAH GCABASHE SC: B yes Ma'am.

MS ELDER MTSHIZA: Apologies I took F

ADV LEAH GCABASHE SC: So the letter starts on page 610.

MS ELDER MTSHIZA: This is page 600 and?

ADV LEAH GCABASHE SC: 10.

MS ELDER MTSHIZA: 10.

ADV LEAH GCABASHE SC: But I really want to refer you to the
10 second page which is 611.

MS ELDER MTSHIZA: Yes Chair.

ADV LEAH GCABASHE SC: The last two paragraphs of this letter.
Could you just read that into the record briefly because it confirms what
you are saying?

MS ELDER MTSHIZA:

“The Province has failed to meet the 1st November
deadline. Also National Treasury has commissioned
a forensic audit”

Is that the one Chair?

20 **ADV LEAH GCABASHE SC:** Yes please continue.

MS ELDER MTSHIZA: Okay.

“Also National Treasury has commissioned a forensic
audit of the project which was expected to end on
31st October 2013. However the results of the
forensic audit have not been communicated to us.”

ADV LEAH GCABASHE SC: Continue into the...

MS ELDER MTSHIZA:

“In these circumstances no funds will be communicated to ...”

ADV LEAH GCABASHE SC: Will be committed.

MS ELDER MTSHIZA:

10 “Will be committed to the project at this stage from the CUSP and [indistinct] conditional grants. The NAP meeting that was planned to recommend projects for ministerial support for the 2014/15 has been rescheduled from December 2013 to February 2014 to allow a turn by turn meeting between the Department of Agriculture Forestry and Fisheries, National Treasury, Provincial Department of Agriculture and Provincial Treasuries which I hope you will prioritise.”

ADV LEAH GCABASHE SC: Now this is a letter that came from the DG in your department and it was directed to the CEO of the Provincial Treasury in the Free State Province Provincial Treasury.

20 **MS ELDER MTSHIZA:** That is correct Chair.

ADV LEAH GCABASHE SC: And the date of this letter is the 3rd December 2013.

MS ELDER MTSHIZA: That is correct Chair.

ADV LEAH GCABASHE SC: So the apron strings were cut on this date? The money was withdrawn?

MS ELDER MTSHIZA: The money was withdrawn but it was withdrawn already in August Chair after the visit. Here the Director General was responding to the requests or the question that was asked by the Provincial Treasury whether – to confirm whether we are still in support of the project or not. So the Director General was now just putting the record straight to say not – we are not.

ADV LEAH GCABASHE SC: So the clear message to them was you did not comply with the conditions that were set, is that correct? We asked you to correct certain matters you did not do so by the deadline that we
10 had given you and for this reason we are now going to confirm that we are not giving this money for this financial year.

MS ELDER MTSHIZA: That is correct Chair.

ADV LEAH GCABASHE SC: Were there any other engagements after this letter was written and after the money was withdrawn?

MS ELDER MTSHIZA: Yes Chair. When we wrote the back to office report we made the report also available to the province and requested a meeting to try and find ways of supporting the province in meeting the expectation as stated in the letter. So the offer to provide additional technical support by the province was also not accepted or responded
20 to.

ADV LEAH GCABASHE SC: Are there any other matters you would like to explain to the Chairman as you conclude your evidence? I say this possibly because the Chairman might be interested in – in the kinds of partnerships that you would sometimes fund but which partnerships were not PPP's. The example you gave us during our consultation

might give him a sense of where to place this particular “partnership” that Estina entered into with the Department of Agriculture and Rural Development please.

MS ELDER MTSHIZA: Yes Chair. We have had communities with arable land which is big enough to be commercialised but they will not necessarily have the skill nor the capital to put or to tap into that opportunity. So they will identify a private partner and get into an agreement with a private partner to develop their land as a commercial entity. And what they – because they do not necessarily have the skill, you do not have the capital but they have land the technical partner will then develop a full comprehensive business plan and together with the community approach the department. In this instance it would be the Provincial Department and the Provincial Department would love the proposed project and it is in line with our objectives and imperatives and that support will then happen on that. But we will agree to support that type of a project by putting up their required infrastructure. One of such projects which was a partnership between the community and the private entity which was not necessarily a PPP was the support to [indistinct] macadamia in the Eastern Cape. So the evidence leader was asking if we have had other partnerships that we have supported beyond this and we gave that type of an example. In this instance the partnership was not initiate by the department. The partners came to the department to say we have this opportunity could you help and the assets that you establish and the land is part of the contribution of the community. And then...

ADV LEAH GCABASHE SC: So you are saying the farmers themselves along with their investor partners would approach the department?

MS ELDER MTSHIZA: That is correct.

ADV LEAH GCABASHE SC: And say we have got [indistinct],

MS ELDER MTSHIZA: Yes.

ADV LEAH GCABASHE SC: We have got equity here. We have brought the land or whatever it might be.

MS ELDER MTSHIZA: That is correct.

ADV LEAH GCABASHE SC: Here are people we are working with but
10 we need your support.

MS ELDER MTSHIZA: Yes.

ADV LEAH GCABASHE SC: To scale this operation of ours.

MS ELDER MTSHIZA: That is correct. And in this instance you will see what is the rand value that the partner is bringing on the table plus their skill and they would also do a lot of lobbying for additional funding from other sources just including the banks just to support and we would join in too – ensure that we turn that land into a commercial asset of that community.

ADV LEAH GCABASHE SC: But that of course was a very different
20 model to what happened with the Estina model where an implementing agent was appointed by the Department and the rest followed.

MS ELDER MTSHIZA: That is correct Chair. And probably as we would be guided by National Treasury that is why they then informed us that that is a model that is fully in line with what they have prescribed as a PPP.

ADV LEAH GCABASHE SC: Excellent. Anything else you would like to share with the Chairman?

MS ELDER MTSHIZA: That is it Chair. Thank you.

ADV LEAH GCABASHE SC: Chairman I have no further questions.

CHAIRPERSON: Okay. Thank you very much for coming to share what you know with the commission. We appreciate it. Should there – should a need arise we will ask you to come back but thank you very much and for now you are excused.

MS ELDER MTSHIZA: Thank you Chair.

10 **CHAIRPERSON:** Thank you.

ADV LEAH GCABASHE SC: Chairman we now have Ms – Advocate Molefe presenting the evidence of Mr Theron. We have an interpreter to assist Mr Theron. If we may have a five minute adjournment Chairman so that the interpreter could be sworn in and so the witness can take his seat in the witness stand. It is a short witness Chairman we will not be very long.

CHAIRPERSON: Yes okay.

ADV LEAH GCABASHE SC: Thank you.

20 **CHAIRPERSON:** We will – it is about three minutes to three. We will take – we will resume at ten past. I will add another seven minutes. We will resume at ten past so we will – I will swear in the wit – the interpreter and then at ten past we resume.

ADV LEAH GCABASHE SC: As the court – as the Chairman pleases.

CHAIRPERSON: We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Are you ready?

ADV REFILOE MOLEFE: Yes Chair we are ready to proceed.

CHAIRPERSON: Yes. Okay. Proceed please.

ADV REFILOE MOLEFE: Thank you Chair. As mentioned by Advocate Gcabashe we will be continuing with the evidence related to the Vrede Dairy Project and the next witness whom we are calling is Mr Johannes Cornelis Hermanus Theron. Chair a bundle marked HH15
10 is placed before you and we beg leave to have that bundle admitted into the evidence as such.

CHAIRPERSON: The file containing the affidavit of Mr Johannes Cornelis Hermanus Theron will be marked EXHIBIT HH15.

ADV REFILOE MOLEFE: Thank you Chair.

CHAIRPERSON: Hm.

ADV REFILOE MOLEFE: Might I request that the witness be sworn in?

CHAIRPERSON: Yes. Well the - the oath will - I guess will be in English. Let us confirm. Mr Theron I understand that you are Afrikaans speaking but that you are happy to give evidence in English. Is that
20 right?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct - correct Your Honour.

CHAIRPERSON: Thank you very much. So an oath will be administered to you in English now. Okay.

REGISTRAR: Please state your full names for the record.

MR JOHANNES CORNELIS HERMANUS THERON:

Johannes Cornelis Hermanus Theron.

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

MR JOHANNES CORNELIS HERMANUS THERON: No your honour.

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

MR JOHANNES CORNELIS HERMANUS THERON: Yes.

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

MR JOHANNES CORNELIS HERMANUS THERON: So help me God.

MR JOHANNES CORNELIS HERMANUS THERON: (duly sworn,
states)

CHAIRPERSON: Thank you.

ADV REFILOE MOLEFE: Thank you Chair.

CHAIRPERSON: Yes.

ADV REFILOE MOLEFE: Please refer to the bundle that is before you.
It is marked HH15. Do you see it?

MR JOHANNES CORNELIS HERMANUS THERON: Yes. I have got it.

20 **ADV REFILOE MOLEFE:** And if you open that bundle starting at page 1
of that document all the way through to page 5 of that document. Are
you able to identify that document?

MR JOHANNES CORNELIS HERMANUS THERON: Yes. I identify it.

ADV REFILOE MOLEFE: Is that your statement to the Commission?

MR JOHANNES CORNELIS HERMANUS THERON: That is my

statement.

ADV REFILOE MOLEFE: Yes and if you turn to page 5 of that document there - are you there?

MR JOHANNES CORNELIS HERMANUS THERON: Yes.

ADV REFILOE MOLEFE: There appears a date at the bottom of that statement. 26 September 2019. Is that the date on which you deposed to this affidavit?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: And there appears also a signature above the
10 word "deponent". Is that your signature?

MR JOHANNES CORNELIS HERMANUS THERON: That is my signature.

ADV REFILOE MOLEFE: When you drafted this statement Mr Theron did you understand its contents?

MR JOHANNES CORNELIS HERMANUS THERON: I complete understand it. Thank you.

ADV REFILOE MOLEFE: And as I understand ...

CHAIRPERSON: You said when he drafted it. Was that intentional?

ADV REFILOE MOLEFE: Pardon me Chair.

20 **CHAIRPERSON:** Hm.

ADV REFILOE MOLEFE: I am highly indebted.

CHAIRPERSON: Hm.

ADV REFILOE MOLEFE: Mr Theron when the statement was drafted was it read to you?

MR JOHANNES CORNELIS HERMANUS THERON: Yes. It was read to

me.

ADV REFILOE MOLEFE: And the contents contained in this affidavit as we have understood you gave evidence in Afrikaans?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: The statement is in English.

MR JOHANNES CORNELIS HERMANUS THERON: *Ja.*

ADV REFILOE MOLEFE: Did you read the statement?

MR JOHANNES CORNELIS HERMANUS THERON: I have read it.

10 **ADV REFILOE MOLEFE:** Did you understand the contents of the statement?

MR JOHANNES CORNELIS HERMANUS THERON: I understand it completely.

ADV REFILOE MOLEFE: As - if we go through this statement are there any corrections you wish to make to the statement?

MR JOHANNES CORNELIS HERMANUS THERON: Yes Chair. On page 1 there is a minor spelling mistake in my name. Just for the record I want to correct it. It is not Cornelius but Cornelis without the U. Please take out the U.

ADV REFILOE MOLEFE: So would ...?

20 **CHAIRPERSON:** Oh, yes.

ADV REFILOE MOLEFE: Would the correct spelling be C-O-R-N-E-L-I-S?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: Thank you. Are there any other further corrections you wish to make?

MR JOHANNES CORNELIS HERMANUS THERON: Yes Chair. I refer to paragraphs 4, six, eight, nine, 17 and 18. My employer's name was spelt incorrectly. It is Neuman but the correct spelling is N-E-U-M-A-N. Please correct it like that.

ADV REFILOE MOLEFE: Thank you Mr Theron. Do you now ...?

MR JOHANNES CORNELIS HERMANUS THERON: That is all - that is all thank you.

ADV REFILOE MOLEFE: Thank you.

CHAIRPERSON: Okay.

10 **ADV REFILOE MOLEFE:** Do you now confirm the correctness of your statement?

MR JOHANNES CORNELIS HERMANUS THERON: Pardon.

ADV REFILOE MOLEFE: Do you confirm the correctness of your statement?

MR JOHANNES CORNELIS HERMANUS THERON: I do.

CHAIRPERSON: Subject to those corrections?

MR JOHANNES CORNELIS HERMANUS THERON: Yes.

CHAIRPERSON: Hm.

20 **ADV REFILOE MOLEFE:** Thank you. Mr Theron please tell the Chair what you currently do for a living?

MR JOHANNES CORNELIS HERMANUS THERON: Chair I am - I am a retired dairy farmer and for the last four years I am an estate agent in the town of Memel.

ADV REFILOE MOLEFE: And where do you stay?

MR JOHANNES CORNELIS HERMANUS THERON: I stay in Memel.

ADV REFILOE MOLEFE: Do you have any experience relative to the dairy farming industry?

MR JOHANNES CORNELIS HERMANUS THERON: Chair I was a dairy farmer myself for 34 years and for six years I was a dairy manager for the Neuman Farming Enterprises.

ADV REFILOE MOLEFE: And who is Mr Neuman?

MR JOHANNES CORNELIS HERMANUS THERON: It was my employer.

ADV REFILOE MOLEFE: And where was Mr Neuman's farm located?

MR JOHANNES CORNELIS HERMANUS THERON: Halfway between
10 Memel and Vrede.

ADV REFILOE MOLEFE: And did Mr Neuman win this farm or was he leasing it?

MR JOHANNES CORNELIS HERMANUS THERON: Well he - he owns about 30 000 hectares in that area. So that is - that was his own farm.

ADV REFILOE MOLEFE: And how large was this farm

MR JOHANNES CORNELIS HERMANUS THERON: 30 000 hectares.

ADV REFILOE MOLEFE: What expertise if any Mr Theron would be required in managing a dairy farm?

MR JOHANNES CORNELIS HERMANUS THERON: Well good
20 discipline, good knowledge for feeding the cows, seeing to their health and very important is to manage the labour.

ADV REFILOE MOLEFE: Can you repeat that again please? To manage ...

MR JOHANNES CORNELIS HERMANUS THERON: (Intervenes) to manage the labour.

ADV REFILOE MOLEFE: And what factors would you consider to be key in a dairy farm?

MR JOHANNES CORNELIS HERMANUS THERON: Well I think the biggest factor is the bottom line is whether you are making as profit or not.

ADV REFILOE MOLEFE: And would things such as water, irrigation be quite key in a dairy farm?

MR JOHANNES CORNELIS HERMANUS THERON: Yes. Water is life. Water means production of feed which is a key element in producing
10 milk. Yes. You cannot go without water.

ADV REFILOE MOLEFE: Okay. Can we then turn to page 2 of your statement starting at paragraph 6 thereof? You narrate events that took place in or around the middle of the year 2012. Is that correct?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: Can you please tell the Chair what happened during this time?

MR JOHANNES CORNELIS HERMANUS THERON: Chair I was
approached by my employer that we will have a visit from a delegation from the new project Vrede Dairy Project and they wanted to see how
20 we are doing things because we were a - a model dairy farm in the Vrede area and they wanted to see how we are doing things ...

ADV REFILOE MOLEFE: Yes.

MR JOHANNES CORNELIS HERMANUS THERON: And that day there arrived about 20 people on the farm. Four of which was from the municipality and plus/minus 16 was from an Estina dairy company from

India.

ADV REFILOE MOLEFE: Can I just go back to what you said? You said that you were informed by your employer?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: Is this Mr Neuman?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: And did he tell you who contacted him?

MR JOHANNES CORNELIS HERMANUS THERON: No.

ADV REFILOE MOLEFE: He did not tell you?

10 **MR JOHANNES CORNELIS HERMANUS THERON:** No.

ADV REFILOE MOLEFE: Okay. Then you have just told the Chair that on that day there was a delegation of people who went to the farm. Which farm would this be?

MR JOHANNES CORNELIS HERMANUS THERON: It was the farm of my - my employer Mr Neuman and he ordered me to show the people around of how we are - were doing things.

ADV REFILOE MOLEFE: And why were you requested to show people how you were doing things?

20 **MR JOHANNES CORNELIS HERMANUS THERON:** Because I was acknowledged as a great expert - expert on dairy farming due to my long ...

CHAIRPERSON: Experience.

MR JOHANNES CORNELIS HERMANUS THERON: Long time doing dairy ...

CHAIRPERSON: Hm.

MR JOHANNES CORNELIS HERMANUS THERON: And he - they - they expect me to know everything and to show - show the people how we are doing things?

ADV REFILOE MOLEFE: Mr Theron can I ask you to just move your mic a bit forward. Apparently there is technical issues because you are too close. That is better. Thank you very much. So these people who came to the farm who were you told these people were?

MR JOHANNES CORNELIS HERMANUS THERON: Well I was told that it was a delegation from the Estina Dairy Company from India and also
10 from the Vrede Municipality.

ADV REFILOE MOLEFE: Yes and what did you do in relation to this request of showing them how things are done? As you have put it at Mr Neuman's dairy farm.

MR JOHANNES CORNELIS HERMANUS THERON: *Ja.* Well they arrived in their cars. Mostly Mercedes Benz's and I showed them around on the farm. From rearing the calves, the milking process itself and where the cows were in the camps. Feeding - where they were fed.

ADV REFILOE MOLEFE: You earlier mentioned that there were four persons from the municipality. Did I get that correctly?

20 **MR JOHANNES CORNELIS HERMANUS THERON:** That is correct your honour.

ADV REFILOE MOLEFE: And who were these persons?

MR JOHANNES CORNELIS HERMANUS THERON: The one was the Mayor Mr John Motaung and the other three I cannot remember but they were related to the Municipality.

ADV REFILOE MOLEFE: Can I confirm the spelling of Motaung as you have it at paragraph 7 of your statement? Is that M-O-T-A-U-N-G?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: And what role did Mr Motaung play in this meeting?

MR JOHANNES CORNELIS HERMANUS THERON: Well he did not show much interest but just strolling around with us. I was a bit disappointing about his understanding of the dairy business.

ADV REFILOE MOLEFE: And who was leading this delegation that
10 visited the farm?

MR JOHANNES CORNELIS HERMANUS THERON: Well as I - it is a long time ago but I - as I remember it was the vet and I have forgotten his name. The vet from India as well as Mr Prasad.

ADV REFILOE MOLEFE: When you say the vet from India is the Chair to understand that the vet was of Indian decent?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct
Chair.

ADV REFILOE MOLEFE: From India?

MR JOHANNES CORNELIS HERMANUS THERON: *Ja.*

20 **ADV REFILOE MOLEFE:** And you say as far as you recall Mr Prasad was also present?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: And the other people in the delegation you have told the Chair about 20 people having visited the farm. Is that correct?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: Of the 20 you say about four were officials including Mr John Motaung. Is that correct?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: That leaves on my count about 16 people being present. Is that correct?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: And from that 16 you say that someone who was the vet was present?

10 **MR JOHANNES CORNELIS HERMANUS THERON:** That is correct.

ADV REFILOE MOLEFE: And you do not recall his or her name?

MR JOHANNES CORNELIS HERMANUS THERON: No.

ADV REFILOE MOLEFE: Was the person male or female?

MR JOHANNES CORNELIS HERMANUS THERON: Pardon.

ADV REFILOE MOLEFE: Was the vet male or female?

MR JOHANNES CORNELIS HERMANUS THERON: Male?

ADV REFILOE MOLEFE: And in addition to the vet you say possibly Mr Prasad?

MR JOHANNES CORNELIS HERMANUS THERON: *Ja.*

20 **ADV REFILOE MOLEFE:** And who were the remaining people of the delegation?

MR JOHANNES CORNELIS HERMANUS THERON: Well it was Indians and I - I cannot remember their names. It is impossible to just - 16 people and remember their names. I - I am not that good.

ADV REFILOE MOLEFE: If we turn to paragraph 7 of your statement

which is on page 2 of that bundle you make a comment about your observations relative to the Indian delegation. Is that correct?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: Can you please tell your - the Chair about your observations in this respect?

MR JOHANNES CORNELIS HERMANUS THERON: Can you repeat your question Chair?

ADV REFILOE MOLEFE: I will do so. At - are you at paragraph 7 ...

MR JOHANNES CORNELIS HERMANUS THERON: *Ja.*

10 **ADV REFILOE MOLEFE:** Of your statement? You are - you make a comment about your observation relative to the Indian delegation. Is that correct?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: And can you please tell the Chair what you observed in respect of the Indian delegation?

MR JOHANNES CORNELIS HERMANUS THERON: Well during our visit to the farm you could - I mentioned that some of these people stick together and the other going on their own way. That is why I understand it that they were - some were from India and the other not.

20 **ADV REFILOE MOLEFE:** So when you say some were from India and the others were not how were you able to draw this distinction that you have just made between those you say were from India and those you say were not from India?

MR JOHANNES CORNELIS HERMANUS THERON: Well I - I have judged them on the questions - the type of questions they asked me. I

have seen that the - the people from India was well experienced in dairy farming and the other not.

ADV REFILOE MOLEFE: What in your opinion was the vet's experience relative to dairy farming?

MR JOHANNES CORNELIS HERMANUS THERON: Well I could he knows something about the dairy but he was not an expert and that he was not used to the situation in South Africa and especially in the Free State. Everything was new for him. The diseases etcetera and the feeding circumstances.

10 **ADV REFILOE MOLEFE:** I am sorry. Can you please repeat that again?

MR JOHANNES CORNELIS HERMANUS THERON: Well it was clear to me that the vet was not used to the circumstances in the Free State comparing to that in India because in India you have a tropical climate which is much different from the dry nearly arid climate in the Free State. So should different - be - be different.

ADV REFILOE MOLEFE: Okay. So when you were showing this delegation how you were operating at Mr Neuman's farm the Chair is to understand that you were doing a walkabout. Is this correct?

20 **MR JOHANNES CORNELIS HERMANUS THERON:** That is correct.

ADV REFILOE MOLEFE: And how long did this last?

MR JOHANNES CORNELIS HERMANUS THERON: It lasted for about two hours.

ADV REFILOE MOLEFE: Now if a person does not have experience in managing a dairy farm would the walkabout be sufficient in equipping

them to manage a dairy farm?

MR JOHANNES CORNELIS HERMANUS THERON: No Chair. That is totally impossible. Just to mention one example. To AI - to - to do an AI Course on - on an animal will take you about a week and to ...

ADV REFILOE MOLEFE: And what is ...

MR JOHANNES CORNELIS HERMANUS THERON: And to ...

ADV REFILOE MOLEFE: And can I just interrupt what is an AI Course?

MR JOHANNES CORNELIS HERMANUS THERON: Artificial insemination.

10 **ADV REFILOE MOLEFE:** Yes. Please continue.

MR JOHANNES CORNELIS HERMANUS THERON: And to learn about feeding the right stuff to cows is about a three year university degree. So in two hours you cannot become a professional and just walking through a farm but it will give you an idea.

ADV REFILOE MOLEFE: What then happened after you gave them the walk - after the walkabout at Mr Neuman's dairy far?

MR JOHANNES CORNELIS HERMANUS THERON: Well the - the delegation left but about a month later I was contacted by Mr Ashok Narayan ...

20 **ADV REFILOE MOLEFE:** Yes.

MR JOHANNES CORNELIS HERMANUS THERON: And he asked me to come to Johannesburg. They want to speak further to him - to give him further advice and consulting them in erecting dairy project at Vrede.

ADV REFILOE MOLEFE: Can I refer you to paragraph 10 of your statement and that appears from page 3 of that bundle? You have just

told the Chair that it was about a month later. Is this a month later from the visit at the farm?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: And you say you were contacted by Mr Ashok and is the spelling there N-A-R-A-Y-A-N at chapter - pardon me. At paragraph 10 of your statement the spelling of Mr Ashok's surname?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: You said he contacted you. How did he contact you?

10 **MR JOHANNES CORNELIS HERMANUS THERON:** By phone.

ADV REFILOE MOLEFE: Yes and what did he say?

MR JOHANNES CORNELIS HERMANUS THERON: He told me that they want to continue with the project but they need some expert advice in planning the whole project.

ADV REFILOE MOLEFE: When he said they do you recall who he was referring to?

MR JOHANNES CORNELIS HERMANUS THERON: Well I was under the impression that he spoke for the Estina Group.

20 **ADV REFILOE MOLEFE:** Yes and did he tell you where this meeting would take place?

MR JOHANNES CORNELIS HERMANUS THERON: Yes. He gave me an address in Saxonwold where I should meet him at 9 o' clock that morning.

ADV REFILOE MOLEFE: And did he tell you who would be attending the meeting?

MR JOHANNES CORNELIS HERMANUS THERON: Yes. He told me that my employer Mr Neuman would also be attending.

ADV REFILOE MOLEFE: Yes. Now if you turn again to paragraph 10 of your statement. You speak about urgency. Is that correct?

MR JOHANNES CORNELIS HERMANUS THERON: *Ja.* That is correct.

ADV REFILOE MOLEFE: Can you explain to the Chair what this urgency you speak of was about?

MR JOHANNES CORNELIS HERMANUS THERON: Chair as I - I understood it - understood it, it was about the largeness of the project.
10 I mean R1 billion to be spent on a dairy project is enormous and I think they themselves become afraid of the enormity of the project and they - they - that is why it was so urgent.

ADV REFILOE MOLEFE: Is that what was said to you?

MR JOHANNES CORNELIS HERMANUS THERON: No that was my - what I ...

ADV REFILOE MOLEFE: Your ...

CHAIRPERSON: Assessment?

MR JOHANNES CORNELIS HERMANUS THERON: *Afleiding.*

CHAIRPERSON: That was your assessment?

20 **MR JOHANNES CORNELIS HERMANUS THERON:** *Ja.* That is right.

CHAIRPERSON: Okay.

ADV REFILOE MOLEFE: Yes. So Mr Narayan calls you and he asks you to meet him in Johannesburg and he says that this meeting will take place - place in Saxonwold. Is that correct?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: Did he say where in Saxonwold?

MR JOHANNES CORNELIS HERMANUS THERON: Yes. They gave me a street address. I cannot remember the address anymore.

ADV REFILOE MOLEFE: Yes. So after this conversation over the phone with Mr Narayan what then happened?

MR JOHANNES CORNELIS HERMANUS THERON: Well me - I - I reported it to my employer that they invited me to go there and he said to me that he wanted to go with me ...

ADV REFILOE MOLEFE: Yes and ...

10 **MR JOHANNES CORNELIS HERMANUS THERON:** And we discussed the project between us and we thought ah. Here as a - as the boere says. When it rains pap you must skep. That is the ...

CHAIRPERSON: Just repeat that. Please just repeat that.

MR JOHANNES CORNELIS HERMANUS THERON: As the boere said - it is a saying. When it rains pap you must skep.

CHAIRPERSON: Okay.

MR JOHANNES CORNELIS HERMANUS THERON: We realised the enormity of this project and thought ah now we can sell our cows at a - at a huge price.

20 **CHAIRPERSON:** It was an opportunity?

MR JOHANNES CORNELIS HERMANUS THERON: Ja.

CHAIRPERSON: Okay.

ADV REFILOE MOLEFE: Yes. So you have this discussion with Mr Neuman. You are in agreement that there is an opportunity for you to sell your cattle?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: And did you accept Mr Narayan's meeting invite?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: And did you go to Saxonwold at the address provided to you by Mr Narayan?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: And how soon after the telephone call with Mr Narayan did you go to Saxonwold?

10 **MR JOHANNES CORNELIS HERMANUS THERON:** Well that was about a week.

ADV REFILOE MOLEFE: Yes. Can you recall whether the property at which this meeting was to take place was an office or a residential property?

MR JOHANNES CORNELIS HERMANUS THERON: No. I was not aware whether it was either of them but when I arrived there I saw that it was the residential property.

ADV REFILOE MOLEFE: Yes and what happened when you arrived at the property?

20 **MR JOHANNES CORNELIS HERMANUS THERON:** Well I never in my life have seen such security - security at the gate as well in the parking area. When I stopped, there was three guards escorting me to the house.

ADV REFILOE MOLEFE: Yes and were they expecting you?

MR JOHANNES CORNELIS HERMANUS THERON: Yes. They took me

straight to Mr Ashok Narayan.

ADV REFILOE MOLEFE: Is - so you drive to the property. You are met by about three security personnel at the gate and they take you to Mr Narayan inside the premises?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct Chair.

CHAIRPERSON: Did you ...?

ADV REFILOE MOLEFE: Did you see ...?

CHAIRPERSON: I am sorry. Did you drive together with your employer
10 or separately?

MR JOHANNES CORNELIS HERMANUS THERON: No. We - we went separately Chair.

CHAIRPERSON: Oh. So you arrived on your own?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

CHAIRPERSON: Okay.

ADV REFILOE MOLEFE: Thank you Chair and you were then taken to Mr Narayan?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: Did you meet anyone else other than
20 Mr Narayan?

MR JOHANNES CORNELIS HERMANUS THERON: No.

ADV REFILOE MOLEFE: Did you know whose property the meeting at which you had gone belonged?

MR JOHANNES CORNELIS HERMANUS THERON: Well we were not informed but I - at that stage I thought it would a property of Estina ...

ADV REFILOE MOLEFE: Yes.

MR JOHANNES CORNELIS HERMANUS THERON: Because that is the only name whichever was mentioned to me.

ADV REFILOE MOLEFE: Yes. So you then ...

CHAIRPERSON: Did you say you were not informed?

MR JOHANNES CORNELIS HERMANUS THERON: *Ja.* Of which property it was. No, I was not ...

CHAIRPERSON: Whose property it was?

MR JOHANNES CORNELIS HERMANUS THERON: No Chair.

10 **CHAIRPERSON:** You were not informed?

MR JOHANNES CORNELIS HERMANUS THERON: No.

CHAIRPERSON: Okay, but you thought it must be ...

MR JOHANNES CORNELIS HERMANUS THERON: Estina's.

CHAIRPERSON: Estina's?

MR JOHANNES CORNELIS HERMANUS THERON: *Ja.*

CHAIRPERSON: Okay.

ADV REFILOE MOLEFE: Thank you Chair. So you are then met by Mr Narayan. Has Mr Neuman arrived at this point?

20 **MR JOHANNES CORNELIS HERMANUS THERON:** Well he arrived about an hour later.

ADV REFILOE MOLEFE: Okay. So what then happens after you are met by Mr Narayan?

MR JOHANNES CORNELIS HERMANUS THERON: Well we tried to identify the - the purpose of the meeting and/or the agenda and we - because we cannot give advice if we do not how - know how the things

sticking into each other and then Mr Ashok Narayan told us that he was sort of mediator between Estina, the Vrede Municipality and the Department of Agriculture of the Free State and that he pertinently told us that Mr Ace Magashule was involved and that was a key project for him to be pushed through ...

ADV REFILOE MOLEFE: Now you ...

MR JOHANNES CORNELIS HERMANUS THERON: And it should succeed.

ADV REFILOE MOLEFE: Yes. Is that what he said?

10 **MR JOHANNES CORNELIS HERMANUS THERON:** Yes.

ADV REFILOE MOLEFE: Now just at the outset of this meeting what was your understanding of Mr Narayan's role in respect of Estina?

MR JOHANNES CORNELIS HERMANUS THERON: Well he was very serious about the whole project and I - I could see that he was nervous Chair. That he should succeed.

ADV REFILOE MOLEFE: Yes.

CHAIRPERSON: I think the question is whether you were able to tell what his role was in Estina. Whether he was a manager of Estina, a director or what it was.

20 **MR JOHANNES CORNELIS HERMANUS THERON:** No. He was just a - just a representative your honour.

CHAIRPERSON: Just a representative?

MR JOHANNES CORNELIS HERMANUS THERON: Yes.

CHAIRPERSON: Okay.

MR JOHANNES CORNELIS HERMANUS THERON: But a mediator

between the three major role players in this project.

CHAIRPERSON: Okay, alright. So you - you did not understand him to be part of Estina but you understood him to be from outside Estina but appointed as a representative of Estina?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct Chair.

CHAIRPERSON: Okay.

ADV REFILOE MOLEFE: You also made mention of your understanding of Mr Narayan's role and I use the word "mediator" in quoting you. Now
10 in relation to Mr Ace Magashule what was your understanding of Mr Narayan's relationship with Mr Magashule?

MR JOHANNES CORNELIS HERMANUS THERON: Well Chair I came under the impression that Mr Narayan was very nervous every time we talk about Mr Ace Magashule and he was not able to put all the cards on the table. He kept them close to his breast. So - and that - that makes us a bit suspicious about the whole project.

ADV REFILOE MOLEFE: So what was the purpose of this meeting?

MR JOHANNES CORNELIS HERMANUS THERON: The purpose was from me and my employer's side to advice and consult - be consultants
20 for the project. To get off the ground and to be implemented successfully.

ADV REFILOE MOLEFE: And in advising and consulting were you told who you would be engaging with in your role as advisors and consultants - to use your words?

MR JOHANNES CORNELIS HERMANUS THERON: Yes. He - Mr Ashok

referred me at the end of this meeting to the vet. That vet from India which name I cannot recall now and a student - a young student which came with him.

ADV REFILOE MOLEFE: And who were these people introduced as?

MR JOHANNES CORNELIS HERMANUS THERON: Pardon.

ADV REFILOE MOLEFE: Who – you speak of the vet, correct?

MR JOHANNES CORNELIS HERMANUS THERON: *Ja.*

ADV REFILOE MOLEFE: You also speak of a young student.

MR JOHANNES CORNELIS HERMANUS THERON: That's correct.

10 **ADV REFILOE MOLEFE:** The vet that you refer to is it the same vet you met in Free State during the walkabout?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct
Chair.

ADV REFILOE MOLEFE: And you also speak of a young student, is that correct.

MR JOHANNES CORNELIS HERMANUS THERON: That's correct.

ADV REFILOE MOLEFE: Who was this young student introduced as?

MR JOHANNES CORNELIS HERMANUS THERON: As I understood it at the time they wanted to appoint him as manager of the whole project.

20 **ADV REFILOE MOLEFE:** And did they tell you what his experience is in farming?

MR JOHANNES CORNELIS HERMANUS THERON: Yes, they didn't tell me but I could see at that stage he had no experience of dairy of that – so big a dairy, he wasn't experienced, he did not have enough experience to manage such a big project.

ADV REFILOE MOLEFE: And was there any discussion around what the nature of his experience is?

MR JOHANNES CORNELIS HERMANUS THERON: Not specifically but in our discussions it came out that he knows nothing.

CHAIRPERSON: So when you say you could tell that he did not have experience that is based on the discussion you had with him?

MR JOHANNES CORNELIS HERMANUS THERON: And the vet yes Chair.

CHAIRPERSON: And the vet, *ja*, okay.

10 **ADV REFILOE MOLEFE:** So you meet at the property you have described as being located in Saxonwold, you meet with Mr Narayan and you say that Mr Newman joins an hour later, is that correct?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct yes.

ADV REFILOE MOLEFE: And how long was your meeting with Mr Narayan before you started speaking to the vet and the young gentleman you speak of?

MR JOHANNES CORNELIS HERMANUS THERON: Well our conversation with Mr Ashok Narayan was about three hours, from nine to twelve.

20 **ADV REFILOE MOLEFE:** Yes, and did you and Mr Narayan come to any agreement?

MR JOHANNES CORNELIS HERMANUS THERON: Yes, as I told you before we tried to sell our, we saw the opportunity to sell our cattle at a good price, and he told us no they are not interested.

ADV REFILOE MOLEFE: And you earlier said that he had sought

advice and consulting assistance from you relative to dairy farming, was that correct?

MR JOHANNES CORNELIS HERMANUS THERON: That's correct.

ADV REFILOE MOLEFE: So after meeting with Mr Narayan was it Mr Narayan who then introduced you to the vet and the young man at the same meeting?

MR JOHANNES CORNELIS HERMANUS THERON: No that was a different meeting.

ADV REFILOE MOLEFE: But was it at the same property?

10 **MR JOHANNES CORNELIS HERMANUS THERON:** At the same property.

ADV REFILOE MOLEFE: On the same day?

MR JOHANNES CORNELIS HERMANUS THERON: On the same day, the meeting with Mr Narayan was in the dining room, the meeting with the vet was on the stoep.

ADV REFILOE MOLEFE: Yes, and what did you discuss between yourself and the vet as well as the young gentleman who you say you were told would be managing the dairy farm.

20 **MR JOHANNES CORNELIS HERMANUS THERON:** Ja, they told us they want to milk a thousand cows, so they asked me what infrastructure they should need to milk a thousand cows, what the feed, how much feed they need, how the follow-flow should look and how – what diseases are in the area, which they should be aware of.

ADV REFILOE MOLEFE: When you say that they said they wanted to milk a thousand cows what was the frequency, would this be a thousand

cows daily or how frequent did they intend to milk these cows?

MR JOHANNES CORNELIS HERMANUS THERON: Well twice a day a thousand.

ADV REFILOE MOLEFE: So that would be ...[intervenes]

MR JOHANNES CORNELIS HERMANUS THERON: A thousand cows milked twice a day.

ADV REFILOE MOLEFE: Milked twice a day.

CHAIRPERSON: And is that normal – is that frequency in milking cows quite – every month?

10 **MR JOHANNES CORNELIS HERMANUS THERON:** Ja, sometimes you can go to three times milking but then it's – that is very hard work.

CHAIRPERSON: Yes. It is very hard work, so but it depends as long as the cows have got the milk then you can milk them two or three times a day.

MR JOHANNES CORNELIS HERMANUS THERON: Ja, Chair a cow is producing milk continuously, every minute she is producing milk, but if you add another milking there is more space in the udder and then she can produce more milk, there's space to produce more milk, but when the udder is full she produces less.

20 **CHAIRPERSON:** Okay.

ADV REFILOE MOLEFE: Thank you. So they told you about their intentions and what do you and Mr Newman say?

MR JOHANNES CORNELIS HERMANUS THERON: Well we realised that is quite a big operation because a normal dairy in the Vrede area is about 80 cows big. So that – this was an enormous dairy to be

erected.

ADV REFILOE MOLEFE: And was there any advice that you shared with them at this meeting?

MR JOHANNES CORNELIS HERMANUS THERON: *Ja*, I told them the biggest problem was to produce enough feed for the cows and to buy in as little as possible because a dairy cow needs very refined food, either pastures or lucern or alfalfa which should be bought in, and the Vrede area the only thing growing there is mealies and grass, so I questioned their decision to establish the dairy in the Vrede area,
10 because most of the Free State farmers or a lot of them have already moved down to the Coast, the Southern Cape or Natal where to produce milk is much cheaper, so there was a question raised by my why in Vrede. That was according to me I think it was a stupid decision to produce milk in the most difficult area in the country, for such a big project.

ADV REFILOE MOLEFE: Yes, so after having this conversation with them what was your impression about the vet and the young gentleman's understanding of the importance of climates in dairy farming?

20 **MR JOHANNES CORNELIS HERMANUS THERON:** Well they were quite surprised when I told them about the climate, they didn't expect it, because they were used to India's plenty of rain there, and not the harsh winters we have here in the Free State, so I thought there awaited a surprise for them, and I think they realised that.

ADV REFILOE MOLEFE: And did they share with you how they

became involved in the project?

MR JOHANNES CORNELIS HERMANUS THERON: Sorry I don't understand your question?

ADV REFILOE MOLEFE: Did they tell you how they became involved in the dairy project?

MR JOHANNES CORNELIS HERMANUS THERON: Well as I understood it they were involved in Estina's projects in India.

ADV REFILOE MOLEFE: Okay, and how did the meeting conclude how did it end?

10 **MR JOHANNES CORNELIS HERMANUS THERON:** Well after I told them about the diseases in the area we covered about everything in the management of the dairy and they were satisfied and we concluded it.

ADV REFILOE MOLEFE: Now having spoken to them over a couple of hours as you have said what was your impression on their capabilities or expertise in running and managing a dairy farm in the Vrede area?

MR JOHANNES CORNELIS HERMANUS THERON: Well I realised they were in for a big surprise.

ADV REFILOE MOLEFE: Okay.

20 **MR JOHANNES CORNELIS HERMANUS THERON:** And I was proved right because a lot of their animals died after they bought in, about six months after they bought in quite expensive animals and good animals they start dying due to diseases they did not understand.

ADV REFILOE MOLEFE: Yes, so still at this meeting in Saxonwold you've had a discussion with Narayan, you have also had a discussion with the vet as well as a young Indian man. Did you meet anyone else

at the property?

MR JOHANNES CORNELIS HERMANUS THERON: No that was the only people.

ADV REFILOE MOLEFE: Did you then leave after your meeting?

MR JOHANNES CORNELIS HERMANUS THERON: Yes but as agreed with Mr Ashok he paid me for consulting fees as well as for my travelling fees.

ADV REFILOE MOLEFE: And when did you agree with Mr Narayan on these fees?

10 **MR JOHANNES CORNELIS HERMANUS THERON:** When he first phoned me to tell me that they need me for consulting I told him, then we agreed around the amount.

ADV REFILOE MOLEFE: Yes.

CHAIRPERSON: So when he invited you to come to this meeting Mr Narayan told you that the purpose was for him to consult you on matters relating to this project, he told you?

MR JOHANNES CORNELIS HERMANUS THERON: Yes that is correct Chair.

20 **CHAIRPERSON:** Yes, and what – why did he say, did he say why he needed your employer to be there as well?

MR JOHANNES CORNELIS HERMANUS THERON: No he didn't tell me that.

CHAIRPERSON: He didn't say but he said your employer would come along as well?

MR JOHANNES CORNELIS HERMANUS THERON: Ja, that's correct.

CHAIRPERSON: But in the discussion that you had with your employer after this the two of you realised that there could be an opportunity to sell your cattle to them?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

CHAIRPERSON: Yes, now the discussions that happened between you and Mr Narayan at this residence did it involve your employer throughout after he had arrived or was there some discussion before he arrived and he just joined in on the way?

MR JOHANNES CORNELIS HERMANUS THERON: No he joined in
10 from the beginning of the meeting.

CHAIRPERSON: So you did not start the meeting, that is you and Mr Narayan immediately after you had arrived, because you said your employer came about an hour later?

MR JOHANNES CORNELIS HERMANUS THERON: That's correct.

CHAIRPERSON: So you did not start discussing you waited for him?

MR JOHANNES CORNELIS HERMANUS THERON: No.

CHAIRPERSON: You did not wait?

MR JOHANNES CORNELIS HERMANUS THERON: No Chair.

CHAIRPERSON: You did not start?

20 **MR JOHANNES CORNELIS HERMANUS THERON:** Well we started having tea ...[intervenues]

CHAIRPERSON: You talked but the real stuff, not the real business?

MR JOHANNES CORNELIS HERMANUS THERON: That's right, the serious meeting starts when my employer arrived.

CHAIRPERSON: Yes. Okay but basically the meeting was used for Mr

Narayan to get advice on various aspects of the project and running a dairy in Vrede?

MR JOHANNES CORNELIS HERMANUS THERON: Ja, that is correct.

CHAIRPERSON: Yes, okay, alright.

ADV REFILOE MOLEFE: Thank you Chair. Mr Theron you earlier made mention to an amount of one billion rand is that correct?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: Where do you get this amount from?

MR JOHANNES CORNELIS HERMANUS THERON: At that meeting
10 where me and my employer was, attended, Mr Ashok Narayan told us because we asked him where will the money come from for this project, but what was the sense in discussing it if there is no money available and he confirmed to us that Estina will put down 300million and 700million will come from the Government for the project.

ADV REFILOE MOLEFE: Yes, and at paragraph 14 of your statement on page 3 you give your opinion on or share your views on this amount of R1billion, can you please tell the Chair about your views in respect?

MR JOHANNES CORNELIS HERMANUS THERON: Ja Chair one
20 billion rand is a lot of money and at that time around 2012 a lot of dairy farmers went out of production because it was no more profitable and to put down a dairy and starting off a dairy was to an amount of R30million about more or less, so we could not understand why, what the motive of Estina was and the whole Group, was it to produce milk, to get milk, or was it to put emerging farmers on the ground.

If it was to produce milk this was the wrong option, and too

expensive, they rather could fund existing dairy farmers, commercial farmers to get the milk if that was their motive. So I don't think they were quite sure of their own motives.

ADV REFILOE MOLEFE: Then paragraph 17 and 18 of your statement as it appears at page 4 of the bundle you set out what appears to be you and Mr Newman's interest in the project. You have earlier – is that correct – you have earlier told the Chair that you saw an opportunity to sell cattle to Estina, is that correct?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

10 **ADV REFILOE MOLEFE:** And at what cost were you anticipating to sell cattle to Estina?

MR JOHANNES CORNELIS HERMANUS THERON: Well at that time the going price of dairy cattle was about R8 000 depending on the quality but we thought we could go up – maybe we could get R12 000 a cow.

ADV REFILOE MOLEFE: That you would sell it for R12 000 a cow?

MR JOHANNES CORNELIS HERMANUS THERON: Ja, because at that stage we thought that was a good price.

ADV REFILOE MOLEFE: I understood you to say that the cows that
20 you intended to sell were selling at approximately R8 000 at that time, is that correct?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct but we aimed for a bit more.

CHAIRPERSON: It was raining?

ADV REFILOE MOLEFE: Oh I see.

MR JOHANNES CORNELIS HERMANUS THERON: *Ja.*

CHAIRPERSON: It was raining.

ADV REFILOE MOLEFE: Thank you Chair. And paragraph 18 of your statement still on the same page you then speak to the supplier of plant and – dairy plant, pardon me, and equipment, is that correct?

MR JOHANNES CORNELIS HERMANUS THERON: That's correct.

ADV REFILOE MOLEFE: Can you please tell the Chair what it is you set out in that respect?

MR JOHANNES CORNELIS HERMANUS THERON: Chair we see
10 another possibility of making a few rands, and knowing what expensive machinery they needed at the project we told the ...[indistinct] or the agents of the people who is putting in the machines, the suppliers of the machines and the storage tanks that there is an opportunity they can get business and they were so thankful they told us they will give us one percent of the pressure cost for putting in the machinery, and that was about R6million and me and Mr Newman received each R30 000, that was R60 000.

CHAIRPERSON: So when you couldn't use the opportunity successfully with the cows you used it with the equipment?

20 **MR JOHANNES CORNELIS HERMANUS THERON:** That's correct
Chair.

CHAIRPERSON: (laughing) okay.

ADV REFILOE MOLEFE: And can you recall what type of equipment or machine you had recommended to be sold by Alfa Laval to Estina?

MR JOHANNES CORNELIS HERMANUS THERON: Well Chair our

recommendation was to put in a 30 point rotary milking machine to milk that amount of cows and the storage a thousand cows should give you about 30 000 litres of milk per day so you need storage capacity of about 60 000 litres and that was what we recommended.

ADV REFILOE MOLEFE: And how much did this machine cost?

MR JOHANNES CORNELIS HERMANUS THERON: The machine cost about – well all the equipment cost about R6million.

ADV REFILOE MOLEFE: And would that be the fair market value?

MR JOHANNES CORNELIS HERMANUS THERON: Yes, that would be
10 the fair market value.

ADV REFILOE MOLEFE: You also told the Chair that yourself and Mr Newman each received R30 000?

MR JOHANNES CORNELIS HERMANUS THERON: That's correct.

ADV REFILOE MOLEFE: And you received this R30 000 from who?

MR JOHANNES CORNELIS HERMANUS THERON: From the supplier of the equipment.

ADV REFILOE MOLEFE: And is one to understand this to be in relation to recommending them to Estina?

MR JOHANNES CORNELIS HERMANUS THERON: Ja, that's correct.

20 **ADV REFILOE MOLEFE:** As a spotter's fee?

MR JOHANNES CORNELIS HERMANUS THERON: Ja, that's correct.

ADV REFILOE MOLEFE: Right, then at paragraph 19 of your statement, still on page 4 of your bundle you set out what happened some few months later, is that correct?

MR JOHANNES CORNELIS HERMANUS THERON: Ja that is correct.

ADV REFILOE MOLEFE: Please tell the Chair what happened.

MR JOHANNES CORNELIS HERMANUS THERON: Can you repeat your question please?

ADV REFILOE MOLEFE: Please tell the Chair what happened as you have set it out at paragraph 19 of your statement.

MR JOHANNES CORNELIS HERMANUS THERON: Oh, paragraph 19. Chair again I see an opportunity in my career to be part of this big project and maybe become manager, I have identified an opportunity, so I went to Mr Prasad, he was the office manager in Vrede and told
10 him that I was willing to help them in managing the project. At that stage it was the stage when the cattle started dying on the farm and I felt that my services would be appreciated there, and that they did not manage. So I was honest in offering my services to them, but they were very sensitive at that stage of the cattle dying, so they chased me away.

ADV REFILOE MOLEFE: Did – before speaking to Mr Prasad, and after your meeting at Saxonwold did you speak to anyone in respect of the dairy project? Did you – let me rephrase my question, pardon me Mr Theron, after your meeting at Saxonwold did you hear form Mr
20 Narayan again?

MR JOHANNES CORNELIS HERMANUS THERON: No, from Mr Narayan?

ADV REFILOE MOLEFE: Yes.

MR JOHANNES CORNELIS HERMANUS THERON: Well I phoned him about managing, helping them managing the project and he was very

sensitive and he referred me to Mr Prasad.

ADV REFILOE MOLEFE: When you say he was very sensitive what do you mean?

MR JOHANNES CORNELIS HERMANUS THERON: Well I get the impression that he was not in control and he referred it to Mr Prasad.

ADV REFILOE MOLEFE: And is that the reason you went to see Mr Prasad?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: And you say Mr Prasad – you again used
10 the word sensitive?

MR JOHANNES CORNELIS HERMANUS THERON: Ja.

ADV REFILOE MOLEFE: What did Mr Prasad say to you?

MR JOHANNES CORNELIS HERMANUS THERON: No he just closed the door in my face. He was very harsh to me.

ADV REFILOE MOLEFE: Yes and you have just told the Chair that that this was during the time when the cattle started dying?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: Then at paragraph 20 of your statement, in fact before moving onto paragraph 20 did you do anything else in
20 relation to the Vrede Dairy Project?

MR JOHANNES CORNELIS HERMANUS THERON: No, I did not do anything else?

ADV REFILOE MOLEFE: Then if we move to paragraph 20 of your statement, that is on page 5, you speak about Mr John Motaung is that correct?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: What is it that you are telling the Chair about Mr John Motaung?

MR JOHANNES CORNELIS HERMANUS THERON: Chair in Vrede it was general knowledge, or as they say down the grapevine you get the information, down the grapevine that Mr Motaung received a brand new black 450 Mercedes ML for his part, his role-playing to arrange the Krynaauwslust Farm on a 99 year lease for Estina but I have never seen the car, and nobody told me it firsthand, that was common
10 knowledge in the discussions there in town.

ADV REFILOE MOLEFE: So you do not have personal knowledge of that?

MR JOHANNES CORNELIS HERMANUS THERON: No, no.

ADV REFILOE MOLEFE: Then the last ...[intervenes]

CHAIRPERSON: Sorry, it was a rumour?

MR JOHANNES CORNELIS HERMANUS THERON: Pardon?

CHAIRPERSON: Was it a rumour?

MR JOHANNES CORNELIS HERMANUS THERON: Ja.

CHAIRPERSON: Mmm.

20 **ADV REFILOE MOLEFE:** Thank you Chair. Then the last issue that you have dealt with in your statement relates to the termination of the lease of Mr Newman's farm and that you deal with at paragraph 8 of your statement, so you might just have to turn a few pages back, that is page 2. Is that correct?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct.

ADV REFILOE MOLEFE: What knowledge do you have about the termination of the lease?

MR JOHANNES CORNELIS HERMANUS THERON: Well my knowledge is that the project people become desperate to get the land the farm Krynaauwslust to initiate the dairy project.

ADV REFILOE MOLEFE: Which people?

MR JOHANNES CORNELIS HERMANUS THERON: Well it was Estina, all the role-players, and they put a lot of pressure on Mr Motaung as Mayor of Vrede to get rid of the Newmans from the – to get them out of
10 the contract, the lease contract.

ADV REFILOE MOLEFE: And ...[intervenes]

CHAIRPERSON: Is that something you have personal knowledge of or is that ...[intervenes]

MR JOHANNES CORNELIS HERMANUS THERON: Yes, yes, I personally attended the meetings between Mr Newman and Mr Motaung.

CHAIRPERSON: Okay.

MR JOHANNES CORNELIS HERMANUS THERON: In Mr Newman's house, in his office.

CHAIRPERSON: Yes.

20 **MR JOHANNES CORNELIS HERMANUS THERON:** I attended it personally.

CHAIRPERSON: And was it Mr Motaung who was telling Mr Newman about the pressure.

MR JOHANNES CORNELIS HERMANUS THERON: Well actually he begged him to be kind and for the sake of the project to get rid of the

contract.

CHAIRPERSON: Yes.

MR JOHANNES CORNELIS HERMANUS THERON: Yes Chair.

CHAIRPERSON: Okay.

ADV REFILOE MOLEFE: Can you recall whether there was just one meeting or more than one meeting?

MR JOHANNES CORNELIS HERMANUS THERON: There was about three meetings.

10 **ADV REFILOE MOLEFE:** And what was discussed at the three meetings.

MR JOHANNES CORNELIS HERMANUS THERON: At the three meetings it was all basically the same, to get rid of the lease contract.

ADV REFILOE MOLEFE: Yes, and what knowledge do you have about the subsequent termination of the lease?

MR JOHANNES CORNELIS HERMANUS THERON: Well actually I do not understand your question.

ADV REFILOE MOLEFE: After those meetings do you know what then eventually happened?

20 **MR JOHANNES CORNELIS HERMANUS THERON:** Well my employer was sympathetic against the project and he said well he will let go his contract and cancelled the contract.

ADV REFILOE MOLEFE: Yes.

CHAIRPERSON: Did he say anything about how he would be compensated by the municipality or anybody for losing out on the balance of the period of the lease?

MR JOHANNES CORNELIS HERMANUS THERON: No he did not insist on any compensation.

CHAIRPERSON: He did not insist on any?

MR JOHANNES CORNELIS HERMANUS THERON: No, no.

CHAIRPERSON: Oh, okay.

MR JOHANNES CORNELIS HERMANUS THERON: That was just a gesture of goodwill.

CHAIRPERSON: Okay, okay.

ADV REFILOE MOLEFE: Thank you Mr Theron, is there anything else
10 you wish to bring to the Chair's attention about this project?

MR JOHANNES CORNELIS HERMANUS THERON: No I think this was like tapping blood out of a stone, there is nothing else I can mention.

ADV REFILOE MOLEFE: Thank you Mr Theron. Chair we have no further questions for Mr Theron.

CHAIRPERSON: Thank you. You said you took – you said this was a stupid project to be done in Vrede, just elaborate on that, tell me why you say that?

MR JOHANNES CORNELIS HERMANUS THERON: Well Chair lots of
20 farmers stopped their dairy operations in the Free State, from Heilbron right through Vrede, Harrismith, Bethlehem, Ficksburg because it was not paying anymore. It was too expensive to produce food for the cattle here, and the milk price as too low. The ratio from milk price and food price was not right, so they are moving down to the coastal areas, Natal and Southern Cape, Tsitsikamma and there they survive and making huge successes, so that was making me raising my eyebrows.

CHAIRPERSON: So is the reason why you say it was not wise to have this project in Vrede simply that the – it was difficult to produce milk profitably because the price was not ...[intervenes]

MR JOHANNES CORNELIS HERMANUS THERON: The price ratio.

CHAIRPERSON: The price ratio was not ...[intervenes]

MR JOHANNES CORNELIS HERMANUS THERON: In balance.

CHAIRPERSON: Ja, there was no balance. Mr Thabethe who was the Head of Department of the Department of Agriculture in the Free State Government at the time, I don't know if you ever met him, you know of
10 him?

MR JOHANNES CORNELIS HERMANUS THERON: No, no.

CHAIRPERSON: Ja, he says he testified here and said the only reason why other farmers had moved out of Vrede or had stopped producing milk in that place, in that area, was that there was a problem with the transport, transporting milk, the costs, and he mentioned the price as well, maybe that's the balance you are talking about that there was no balance between the cost and what you get.

MR JOHANNES CORNELIS HERMANUS THERON: That is right.

CHAIRPERSON: Yes, but he said they thought they thought they would
20 address that problem by the intervention of government because you see he was saying in effect if you are a farmer you are producing milk and there is this challenge of the transport cost and the price and you are on your own that might be difficult, but if you are going to – if Government is going to come in and assist in one way or another you might be able to continue, what do you say to that?

MR JOHANNES CORNELIS HERMANUS THERON: No Chair, the idea of processing your own product to add value to your own product that is a very good idea. If that succeed then the project could be successful. The cost of transportation, the argument of transportation is not for me a good argument, but ...[intervenes]

CHAIRPERSON: Just repeat that?

MR JOHANNES CORNELIS HERMANUS THERON: The argument from Mr Thabethe that the transportation cost is the main problem is not correct because these days people transport milk from Cape Town up to
10 Johannesburg, from Port Elizabeth to Johannesburg, that is not really a problem, but where Government could have played a role was in creating a market for that value added products, that would solve the problem.

CHAIRPERSON: How would they create the market as far as you understand ...[intervenes]

MR JOHANNES CORNELIS HERMANUS THERON: Well as I see it with Government contracts ...[intervenes]

CHAIRPERSON: Would hospitals buy this milk or something like that?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct,
20 Government institutions could buy the milk.

CHAIRPERSON: That would have solved the problem.

MR JOHANNES CORNELIS HERMANUS THERON: Schools, School Feeding Schemes.

CHAIRPERSON: Yes.

MR JOHANNES CORNELIS HERMANUS THERON: Could be a

solution.

CHAIRPERSON: Yes.

MR JOHANNES CORNELIS HERMANUS THERON: *Ja.*

CHAIRPERSON: So that could have dealt with the problem of the imbalance.

MR JOHANNES CORNELIS HERMANUS THERON: Ja, because our people needs protein, especially our children and Government could take initiative there and produce people with good food.

CHAIRPERSON: Okay, now you say in your statement you have been
10 involved in dairy farming for at least 40 years, is that right?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct
Chair.

CHAIRPERSON: Yes, these 40 years all within the Free State or in different parts of the country?

MR JOHANNES CORNELIS HERMANUS THERON: No half of it were in Natal, Northern Natal, and the other half was in the Free State.

CHAIRPERSON: In the Free State.

MR JOHANNES CORNELIS HERMANUS THERON: Yes.

CHAIRPERSON: So you are quite knowledgeable.

20 **MR JOHANNES CORNELIS HERMANUS THERON:** That is correct.

CHAIRPERSON: Yes, but I see also that you do have a BCom degree, is that right?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct sir.

CHAIRPERSON: Which you got from the University of the Free State in 1976?

MR JOHANNES CORNELIS HERMANUS THERON: That is correct
Chair.

CHAIRPERSON: Yes, it involved, did it have anything to do with
farming?

MR JOHANNES CORNELIS HERMANUS THERON: Yes. I have done
agricultural economics as one of my subjects.

CHAIRPERSON: Yes.

MR JOHANNES CORNELIS HERMANUS THERON: *Ja.*

CHAIRPERSON: Okay, okay. No thank you very much. Ms Molefe is
10 there anything?

ADV REFILOE MOLEFE: No Chair, there is nothing, thank you.

CHAIRPERSON: Nothing. Thank you very much Mr Theron for coming
forward to give evidence.

MR JOHANNES CORNELIS HERMANUS THERON: Thank you Chair.

CHAIRPERSON: We appreciate it very much, you are excused.

MR JOHANNES CORNELIS HERMANUS THERON: Thank you Chair.

CHAIRPERSON: Thank you.

ADV LEAH GCABASHE SC: Thank you Chairman. Chairman this is
just a request that you confirm the dates on which Ms Rockman will be
20 appearing before the Commission.

CHAIRPERSON: Yes and we said 16 and 17?

ADV LEAH GCABASHE SC: That is correct Chairman.

CHAIRPERSON: Yes, I previously said that Ms Rockman would give
evidence on the 14th and 15th of October and I said that was
provisional. The final dates are now 16 and 17 October. Closer to the

date I will indicate whether we will start at normal time or at another time and Ms Rockman and her lawyers can be informed at that time, next week.

ADV LEAH GCABASHE SC: Thank you Chairman.

CHAIRPERSON: Okay and then Mr Thabethe?

ADV LEAH GCABASHE SC: All indications Chairman are that the 28th of October is the preferred date.

CHAIRPERSON: Yes.

ADV LEAH GCABASHE SC: Ms Buthelezi has been trying to sort that
10 out for us while we have been here and that is what she has texted
back to us.

CHAIRPERSON: Oh, so should we confirm it now or there is just some discussion?

ADV LEAH GCABASHE SC: I think we should wait Chairman.

CHAIRPERSON: And then maybe tomorrow.

ADV LEAH GCABASHE SC: And possibly ...[intervenes]

CHAIRPERSON: Or as soon as possible.

ADV LEAH GCABASHE SC: Yes sir.

CHAIRPERSON: Yes, okay, alright, that concludes what we need to
20 deal with today?

ADV LEACH GCABASHE SC: It does Chairman.

CHAIRPERSON: Yes, and then I can discuss with you in chambers something relating to Denel.

ADV LEACH GCABASHE SC: Certainly Chair.

CHAIRPERSON: Otherwise we will adjourn, tomorrow we will start at

normal time. We adjourn.

INQUIRY ADJOURNS TO 9 OCTOBER 2019