

COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

PARKTOWN, JOHANNESBURG

10

16 OCTOBER 2019

DAY 181

FINAL

20

PROCEEDINGS COMMENCE ON 16 OCTOBER 2019

CHAIRPERSON: Good morning Ms Gcabashe, good morning everybody.

ADV GCABASHE: Good morning DCJ.

CHAIRPERSON: Yes are you ready? Are you ready?

ADV GCABASHE: Yes DCJ I am ready. DCJ this morning we have Ms Rockman who is a former DG in the office of the Premier and former MEC for Finance in the Free State Provincial Government. She is here DCJ as an implicated party but has all along indicated that she is quite
10 willing to assist this Commission. Her documentation DCJ is to be found in Exhibit HH13. There are four volumes to HH13. It is Volume A, B, C and then Volume D has a supplementary affidavit.

CHAIRPERSON: Yes I see that the one that has a supplementary affidavit is not marked D.

ADV GCABASHE: It is HH13, 13.1. I have been corrected by my colleagues.

CHAIRPERSON: Oh okay. Okay.

ADV GCABASHE: That is the supplementary affidavit that we received day before yesterday.

20 **CHAIRPERSON:** Is – has 13.1 been admitted already or not really?

ADV GCABASHE: Even 13 has not been admitted.

CHAIRPERSON: Ja.

ADV GCABASHE: Chairman.

CHAIRPERSON: Okay. Hm.

ADV GCABASHE: So ...(intervenes).

CHAIRPERSON: Yes.

ADV GCABASHE: We will be relying also on the usual reference bundles that we have been using for all the Estina witnesses.

CHAIRPERSON: Hm.

ADV GCABASHE: I do not know if you would like the witness to first make affirmation which she prefers to do and then you admit the Exhibits into the record of if you are prepared to do that now before she makes affirmation.

CHAIRPERSON: Okay well actually let us try and get her to – let her
10 do the affirmation first. Please administer the affirmation.

REGISTRAR: Please state your full names for the record?

MS ROCKMAN: Elizabeth Cornelia Rockman.

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

MS ROCKMAN: No.

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

MS ROCKMAN: I truly affirm.

20 **CHAIRPERSON:** Maybe before you proceed Ms Gcabashe shouldn't her legal representatives place themselves on record?

ADV GCABASHE: Mr Roeloffze has done that previously Chairman but I think that it is opposite.

CHAIRPERSON: Yes.

MS ROCKMAN: Apposite for him to do so now because I noticed on the

transcript.

CHAIRPERSON: Yes.

ADV GCABASHE: They did not get his name.

CHAIRPERSON: Yes.

ADV GCABASHE: Right.

CHAIRPERSON: Okay.

ADV GCABASHE: So I will give him the opportunity.

CHAIRPERSON: Yes.

ADV GCABASHE: To correct that.

10 **CHAIRPERSON:** Thank you.

ADV ROELOFFZE: May it please you DCJ. I am instructed to appear on behalf of Ms Rockman in this matter on the instruction of Boqwana Burns Attorneys.

CHAIRPERSON: Thank you very much. Thank you.

ADV ROELOFFZE: My instructing attorney is Mr Brett Murison from Boqwana Burns Attorneys.

CHAIRPERSON: Thank you.

ADV ROELOFFZE: Sorry DCJ. Apparently I must place my full names on record so I am Alexander Roeloffze who appears for Ms Rockman.

20 My surname if spelt R-o-e-l-o-f-f-z-e.

CHAIRPERSON: Okay thank you.

ADV ROELOFFZE: It is an unusual spelling.

CHAIRPERSON: Thank you. Thank you.

ADV ROELOFFZE: Thank you.

ADV GCABASHE: (African language) decision.

CHAIRPERSON: I do not know why Ms Gcabashe wants your full names.

ADV GCABASHE: Maybe it is because they gave me a supplementary affidavit the day before yesterday DCJ. Thank you. Thank you DCJ.

CHAIRPERSON: Well actually that reminds me. The transcribers I suppose are listening. I previously asked somebody to speak to them to say in the transcript there is no need for them to write the full names of a person as they appear in the ID all the time when they refer to the person.

10 You look at various transcripts they have got Advocate Paul Joseph Pretorius each time they refer to him. It is Advocate Paul Joseph Pretorius – I mean it is enough at the beginning as far as counsel is concerned if you have got his or her initials and the surname and for the rest in the transcript you just refer to Ms Gcabashe or Adv Gcabashe, Adv Pretorius.

 In the end I think that writing all those full names takes a lot of space and increases costs unnecessarily. So transcribers please do not do that.

 If it is a witness at the beginning when the witness takes the
20 oath or does the affirmation they give their full names. After that you do not have to write all their names each time there is a reference to them or each time they give an answer to a question.

 Okay, alright. Ms Gcabashe I think at least that is taken care of now.

ADV GCABASHE: Thank you Chairman.

CHAIRPERSON: So I do not know if the – they have been writing your full names as well. Yes.

ADV GCABASHE: Chairman so we go back to the record and the admission of Exhibit HH13 Volumes A, B and C to the record and then also Exhibit HH13 Volume – the Volume marked 13.1. We ask that those with particular documents be admitted to the record?

CHAIRPERSON: A has got Ms Rockman's main statement or affidavit, is that right?

ADV GCABASHE: That is correct Chairman.

10 **CHAIRPERSON:** And Annexures B and C contain just Annexures, is that right?

ADV GCABASHE: To Volume A that is correct Chairman.

CHAIRPERSON: To Volume – *ja*.

ADV GCABASHE: Yes.

CHAIRPERSON: To her main statement or affidavit. And then HH13.1 is her supplementary affidavit and Annexures to that affidavit?

ADV GCABASHE: That is correct Chairman.

CHAIRPERSON: Yes, okay.

20 **ADV GCABASHE:** Safe to say that Volume A also has the first few annexures.

CHAIRPERSON: Yes, yes.

ADV GCABASHE: So it is the statement.

CHAIRPERSON: No, no.

ADV GCABASHE: With Annexures.

CHAIRPERSON: Yes.

ADV GCABASHE: And then it continues.

CHAIRPERSON: *Ja.* The lever arch file containing Ms Rockman's main affidavit or statement and Annexures is admitted and will be marked as Exhibit HH13A. There are two other lever arch files they are marked – they are to be marked Exhibit HH13B and Exhibit HH13C respectively. Each of them contains Annexures to Ms Rockman's main statement or affidavit. And those two are admitted as well. And then that is – another lever arch file containing Ms Rockman's supplementary affidavit or statement with certain Annexures – it will be marked as

10 Exhibit HH13.1.

ADV GCABASHE: Thank you Chairman.

CHAIRPERSON: Yes.

ADV GCABASHE: Can I proceed?

CHAIRPERSON: *Ja.* Before you proceed I just want to say something about Ms Rockman's evidence – statement. Ms Rockman I have read your main statement. I have had a look at the supplementary statement. The impression I have is that most of the things that you deal with are unlikely to be controversial or are unlikely to be disputed by anybody. Of course there are some which may be disputed.

20 In order to use our time profitably I do not want us to spend a lot of time on oral evidence that is unlikely to be disputed by anybody. It may be important but it is there – it is in an affidavit. Whenever I need to look at it I can look at it. You understand?

MS ROCKMAN: Yes.

CHAIRPERSON: So Ms Gcabashe will approach your evidence and

lead you in a manner that I believe will take account of what I am saying.

MS ROCKMAN: That is fine.

CHAIRPERSON: A lot of things that are common cause like somebody wrote a letter to somebody, a bill was passed, resolution was made. Insofar as those are non-controversial I do not want us to spend too much time on them.

MS ROCKMAN: That is fine.

CHAIRPERSON: The areas which I would like oral evidence to focus
10 on are areas which show that there may have been corruption. There may have been non-compliance with procedures. There may have been undue influence. There may have been some of the issues that are covered in the terms of reference in circumstances where that might be in dispute.

Now some witnesses have already given evidence in the Commission in relation to the – Estina and Ms Gcabashe is aware of some of the areas where somebody might have given evidence that is not in – that is not consistent with what you are saying.

So it may be that we are not going to take too long in terms of
20 oral evidence. That is not necessarily because your evidence is not important it might just be because a lot of it is unlikely to be disputed or controversial. You understand that?

MS ROCKMAN: Yes.

CHAIRPERSON: Okay.

MS ROCKMAN: That is fine.

CHAIRPERSON: Alright. And obviously your counsel also hears what I am saying. I can always go and read what you have written here. Okay. But there are areas where I am interested. One of them is the issue of transfer payments and implementing agents but there are other areas that Ms Gcabashe will explore. But I do not expect us to be too long in terms of your oral evidence. Okay. Thank you. Ms Gcabashe.

ADV GCABASHE: Thank you Chairman. Ms Rockman you have familiarised yourself with the files that are on the witness table?

10 **MS ROCKMAN:** Yes.

ADV GCABASHE: Can you please look at Volume A which has your main statement. And if you turn to page 4 thereof can you confirm the name that is recorded there and that that is your affidavit?

MS ROCKMAN: Yes it is.

ADV GCABASHE: And in everything you say you will always be addressing the Chairman so I may ask the questions but the responses go to the Chairman.

MS ROCKMAN: Yes.

20 **ADV GCABASHE:** If you then go to page 112 of the same file. Could you confirm whether that is your signature, confirm the date of signature and the place of signature of what you are saying is your affidavit?

MS ROCKMAN: Yes it is my signature. It was signed on the 13th of August 2019.

ADV GCABASHE: And the place of signature?

MS ROCKMAN: Bloemfontein.

ADV GCABASHE: Thank you. Let us do the same exercise with the supplementary affidavit which is in File HH13.1. If you then go to paginated page 1.

MS ROCKMAN: Yes.

ADV GCABASHE: Again could you confirm that that is your name and that it is your affidavit?

MS ROCKMAN: That is correct.

ADV GCABASHE: If you turn to page 44 and 45. On page 44 there is
10 a signature. On page 45 the rest of the details appear. Whose signature is reflected on page 44?

MS ROCKMAN: That is my signature and I signed it on the 13th of October in Bloemfontein.

ADV GCABASHE: Excellent thank you very much. Can we go to just broad introductory questions? I am going to try and be brief as indicated by the Chairman. But the questions I will be asking are actually important. Your current occupation, what do you do right now?

MS ROCKMAN: I did not return to the Legislature after the elections earlier this year. I am primarily keeping myself busy in the NPO sector
20 and it felt like I have been working for the Commission preparing the affidavit for the past few months.

ADV GCABASHE: In the NPO sector you said?

MS ROCKMAN: Yes.

ADV GCABASHE: What is NPO

MS ROCKMAN: Non Profit. Non Profit Organisations.

ADV GCABASHE: Oh okay as NGO.

MS ROCKMAN: Ja.

ADV GCABASHE: I know it as a different acronym but thank you. That is fine. When I get to your positions as DG and MEC I will talk a little bit about your qualifications for those particular jobs in context. But for current purposes can I just indicate that you are aware that we are dealing with the Vrede Dairy Project investigation.

MS ROCKMAN: That is correct.

ADV GCABASHE: With regard to this particular project the questions
10 that we will be asking will relate to these themes. The first theme is whether provision was made by the Department of Agriculture and Rural Development for the payment of R114 million per annum over the three year period of the Estina Agreement.

That is a critical issue because you were both during that three year period in the Premier's office and then you were MEC Finance. You are with me on that then?

MS ROCKMAN: Yes.

ADV GCABASHE: I will also then be putting to you matters raised by Mr Jankielsohn in his evidence. Roy Jankielsohn and by Mr Moremi –
20 Moses Moremi whose testimonies have implicated you to a certain extent.

I know that you have received Rule 3.3 Notices in this regard. Is that correct?

MS ROCKMAN: Yes that is correct.

ADV GCABASHE: In addition the Commission is interested in the

oversight role that the Provincial Treasury played in relation to the transparent effective and efficient use of funds that were allocated to this dairy project as well as the assets that were acquired on behalf of the so called beneficiaries.

Included in this discussion will be information regarding the accounting treatment of transfer payments which the Chairman has indicated he is interested in and of course of the whole issue surrounding implementing agents.

There appears to have been regular non-compliance by the
10 Department of Agriculture and Rural Development with the SCM procedures. That is the Supply Chain Management Procedures. Again that is an area that I would think falls under your remit. I now address you as the former MEC of Treasury. Would that be correct?

MS ROCKMAN: Yes.

ADV GCABASHE: The other area that we will then deal with very briefly to an extent regards the broader issues that arise under term of reference 1.4 – I beg your pardon. 1.1, 1.4, 1.6 and 1.9 and I am just going to paraphrase what those essentially speak to.

These issues really will try and elicit from you your knowledge
20 or observations if any with regard to undue benefits that accrued to the Gupta family or Gupta entities if I might call them that. Gupta related entities or any other family or entity including the facilitation of the unlawful award of tenders. The nature and extent and irregularities. Undue enrichment, corruption and undue influence if any in the awarding of contracts and whether any public official or functionary

influenced the awarding of tenders to benefit themselves, their families or entities in which they held a personal interest.

So that is an area that the Commission has been tasked with in terms of our terms of reference. Can I just go through your background very briefly? How long were you employed in the Free State Provincial Government just in terms of years?

MS ROCKMAN: I joined Provincial Government after the 2009 general elections. Initially as the Head of Monitoring and Evaluation in the office of the Premier. Then I was the acting HOD of the Department of
10 Economic Development Tourism Environmental Affairs for a brief period in 2010 until I was appointed as Director General around September 2010 up to March 2013 when I became a member of the Legislature.

ADV GCABASHE: Director General in the Premier's office?

MS ROCKMAN: Yes.

ADV GCABASHE: And then in 2013 – March 2013 you were appointed MEC for ...(intervenes).

MS ROCKMAN: Yes I became a Member of the Legislature and then subsequently MEC Finance.

ADV GCABASHE: Excellent. Your appointment as DG in the Premier's
20 office were you head hunted for that particular position? Did you apply for it?

MS ROCKMAN: No I applied.

ADV GCABASHE: You applied for it?

MS ROCKMAN: Yes

ADV GCABASHE: And what do you believe qualified you for that

position?

MS ROCKMAN: By then I was the secretary to the Legislature for 15 years between 1994 to 2009. I hold BA Languages degree and an Honours in English from the University of the Free State. I think I was an experience administrator. Though more in the Legislative sector than in the Executive branch of government. So I think in terms of both skills and experience I had a good background understanding of the environment and specifically the political interface and administrative interface.

10 It is a particularly challenging environment to be in for any Director General or Head of Department.

ADV GCABASHE: In fact that is an area of interest for this Commission because one of the recommendations the Chairman has to make is – concerns how well that interface works because at the end of the day we have three branches of government. And it is whether there is influence that permeates from one to the other that creates this undue influence, corruption etcetera.

 So I will be asking you one or two questions around that. We will get to that in just a minute. The – we have been told that the Free
20 State Government would regularly hold meetings Lekgotla, did you attend those?

MS ROCKMAN: Yes I did.

ADV GCABASHE: Is that one of the areas where this interface between politics and administration would come to the fore?

MS ROCKMAN: Yes it would.

ADV GCABASHE: We will get to it in a minute under a different question.

MS ROCKMAN: Okay.

ADV GCABASHE: I just want you to flag that. I am also interested in whether you met Mr Thabethe before Mr Thabethe being the former HOD of the Department of Agriculture and Rural Development? Did you meet him before you became DG or only when you became DG in the Premier's office?

MS ROCKMAN: No I met him before. When he was appointed HOD
10 Rural Development I think that was in 2011 I think by then I was still Head of Monitoring and Evaluation. So I had met him in that capacity.

ADV GCABASHE: What I am interested in in that score and I suppose it does not just apply to Mr Thabethe but to all HOD's. Sitting in the Premier's office as DG in the Premier's office what was the relationship you were expected to have with HOD's? And really I would really – I am trying just to explore whether there was anything untoward. Is there anything the Commission needs to note within the context of making recommendations on how better to manage those relationships?

MS ROCKMAN: No I do not think so. We have what we call and I think
20 it applies to all provinces. There is the forum of Heads of Departments forward – at national level it is called FORD. Where in the province it is where the DG and all Heads of Departments meet on a regular basis basically almost every second week for coordination purposes whether it relates to matters of – with the public service, whether it relates to programs of provincial government, preparation for Lekgotla,

implementing Exco resolutions, preparing for Exco meetings and so forth.

So it is an important forum. It needs to be active and constructive. Many departments would also for example Treasury would present their technical reports, quarterly income and expenditure reports, trends in irregular expenditure, preparations for audit. All of those technical work goes through FORD and ideally from FORD it will feed into the Executive Council.

ADV GCABASHE: So by the time that Mr Thabethe signed the
10 agreement with Estina on the 5th of June 2012 you had met him a number of times?

MS ROCKMAN: Yes.

ADV GCABASHE: Did he tell you about the deviation that he was either about to embark on in relation to the appointment of an implementing agent for the Vrede Dairy Project or did you hear of it by the way?

MS ROCKMAN: No when the matter came to Exco in June 2012 the memorandum did not indicate that the contract had already been signed. That we only realised after that meeting when there was a
20 request for the Treasury Committee to convene and find additional funding to – for – to allocate to this Vrede Dairy Project. It was only then that we realised but the contract was signed before the Exco meeting. Not that it had a material impact because the Executive Council itself had no authority to enter into contracts. But it was about the political support for the project. But it was not disclosed that the

contract had already been signed.

ADV GCABASHE: But you are saying that in terms of your own rules and conventions, excuse me, there was nothing irregular about Mr Thabethe signing the contract prior to getting approval from Exco for the implementation of the project?

MS ROCKMAN: Mr Thabethe or at least the Department of Agriculture and Rural Development had been presenting on Mohama Mobung's strategies since early 2011 I think. So it was not a completely new project. We were not surprised oh suddenly here is a project. There
10 was a build-up on how Mohama Mobung was introduced as a strategy through the course of 2011.

I think we do make reference to quite a number of presentations.

ADV GCABASHE: I am going to take you to those.

MS ROCKMAN: Okay.

ADV GCABASHE: Presently if you do not mind. I really am just trying to set the basic groundwork for your relationship – for understanding your relationship not just with Mr Thabethe as HOD but also with other HOD's. Because the impression one gets is that quite a lot of power
20 was centralised in the Premier's office. Is that an incorrect impression?

MS ROCKMAN: There was more of a perception but the Premier's office as a co-ordinating structure for the province at the – I was trying to put together a list of the number of forums that operated or was co-ordinated through the office of the Premier.

You would have your ICT Forum. You would have your security managers. You would have HR. You would have communications. Not every department can have 20, 30 communication people but if you bring all of them for example together you have a stronger, more efficient structure.

So there was a lot of emphasis in 2009 that term of government that came in. It was a lot of emphasis on the introduction of the outcome based approach to government. The 12 priority areas and breaking down the silos that government worked in – where the left
10 hand did not know what the right hand was doing. So I think a lot of stronger emphasis came on co-ordination and a lot of it was perceived as more control than what it might necessarily have been.

ADV GCABASHE: Well you see I ask the question also in the context of Mr Thabethe's evidence. We know about the letter that you had written centralising the advice that departments – I beg your pardon it is really contracts that we would be signed by departments centralising that in – with the State Law Advisors who sat in the Premier's Office.

You call that letter that said all contracts should come through the State Law Advisors in the Premier's Office?

20 **MS ROCKMAN:** I think it was more that no department should enter into contracts committing Government without at least clearing it with the State Law Advisors. There was a lot of contracts that we had discovered that departments were entering into that was necessarily in the interest of Government in various departments.

We also had the problem that come audit the Auditor-General

would obtain from the State Law Advisors the database of cases which will indicate your liability. When you compared that database to what departments were disclosing it was different stories. So we try to say let everyone feed into one database.

We tried to strengthen some of the departments who did not have adequate legal capacity. Not all departments had properly fully fledged legal capacity internally. As was the case with municipalities.

ADV GCABASHE: Chairman, just for purposes of the record those letters are contained in Reference File B for Barry from pages 5-5-1
10 through to 5-5-3 ...(intervenes).

CHAIRPERSON: Thank you.

ADV GCABASHE: And there is one more at 5-4-9 that deals with this particular issue ...(intervenes).

CHAIRPERSON: Thank you.

ADV GCABASHE: But I think that Ms Rockman has given us a general explanation that includes what happened in respect of these particular letters. We – what of interest Ms Rockman in relation to this which we will again explore a little later is that when Mr Thabethe signed that agreement on the 5th of June he had not processed it through the State
20 Law Advisors Office in the Premier's Office. That is correct?

MS ROCKMAN: That is correct.

ADV GCABASHE: And you are saying it was a directive but one that could be ignored? I do not know.

MS ROCKMAN: Well it was ignored. Whether it could have been ignored or should have been ignored is a different matter.

ADV GCABASHE: But would – under the normal course would disciplinary steps be taken against an official who failed to comply with a directive from the Premier's Office?

MS ROCKMAN: Not easily. Not at an HOD level because he would not have signed the contract without at least his MEC. The responsible MEC knowing the – that he had entered into the contract. If the MEC did not know that he had entered into the contract certainly the MEC would have taken action.

ADV GCABASHE: Or ought to have taken action?

10 **MS ROCKMAN:** Ought to have, yes.

ADV GCABASHE: We again will come back to that in a bit more detail because of course the State Law Advisors when they eventually did see this particular contract found that it was invalid and a new contract was drafted and signed on the 5th and 7th of July and that really became the operative contract?

MS ROCKMAN: Yes.

ADV GCABASHE: But again coming back to what we really are talking about it is that relationship between the Premier's Office and the powers that reside whether real or perceived in the Premier's Office
20 and from your particular perspective as the DG. If there is anything in that that South Africans need to be wary of or need to be careful about is really what I am exploring for purposes of recommendations that the Chairman might wish to make.

CHAIRPERSON: Hm. Going back to the – whether the directive was required to be complied with or could be not. I would have thought that

it being a directive it was required to be complied with as opposed to if it was just a guideline.

MS ROCKMAN: I think that is appropriate.

CHAIRPERSON: Yes. Okay.

ADV GCABASHE: Thank you Chairman. Then the next question again in relation to your functions in the – as DG in the Premier's Office is the following; did you negotiate contracts on behalf of the Premier's Office?

MS ROCKMAN: No.

- 10 **ADV GCABASHE**: If I can just fast forward for one second. As MEC Finance were you expected to negotiate contracts on behalf of the Premier's Office or the Free State Government?

MS ROCKMAN: No.

ADV GCABASHE: I ask this because I am trying to understand who would have had the competence to deal with that Estina contract and then thereafter with the FDC contracts but maybe for current purposes I should ask this question. Once Exco has taken a resolution do HOD's take instruction on how to implement that resolution or do HOD's simply ask for guidance in the implementation of that resolution?

- 20 **MS ROCKMAN**: I would think that the HOD is responsible to implement an Exco resolution within the confines of applicable laws. Exco cannot say go buy 10 houses and an HOD sets off and randomly picks 10 houses and buys them. The procedures must still be followed. So whatever Exco decides must be done within the prescripts if it is the PFMA it is the PFMA.

If it is preferential procurement framework all the applicable legislation must be followed. There was a thing that we used to say an Exco decision does not constitute a procurement process.

ADV GCABASHE: Hm.

MS ROCKMAN: That was the bottom line. Regardless of what Exco had decided you still had to follow whatever process if you want to enter into whether it is a contract procurement does not matter what.

ADV GCABASHE: Staying with Exco did the subcommittees of Exco that existed have decision making powers and – that is the first
10 question. Maybe I should let you answer that.

MS ROCKMAN: They would make recommendations. That would be the clusters that you are referring to. They would make recommendations to Exco.

ADV GCABASHE: Did the Premier preside over any of those subcommittees of Exco?

MS ROCKMAN: Not of the clusters. He was chairing the Treasury Committee but the Treasury Committee is not part of the clusters. Treasury Committee is Treasury Committee. It is a separate structure with terms of reference. It was chaired by the Premier and the Deputy
20 Chair was the relevant MEC Finance and then a few other MEC's, HOD Treasury and so forth.

ADV GCABASHE: I find that quite interesting. So maybe you should just elaborate very briefly for us but then my picture really is a national picture. I cannot see the President sitting in and chairing a Treasury Committee. That is what the Minister is supposed to do and that is

what the PFMA expects of the Minister.

So if we transpose that illustration to the Provincial level I find it curious that the Premier would be chairing the Treasury Committee. Maybe you just want to explain to us why that would have fitted with the provisions of the PFMA and any other legislative prescripts that are relevant.

MS ROCKMAN: That is how the memorandum was brought to Exco to say we – that was when I was DG – my predecessor. I presume that in the consultation with National Treasury remember at that stage Section
10 100(A) had been implemented. So this was the Treasury Committee set up around somewhere in 2011.

I think July/August 2011. That is the – previously the terms of reference was not formalised. It was then formalised like that but in practice the practical budget preparations and so forth was centred around Treasury Committee members but it was extended to be more consultative.

We included for example some of the District Mayors, the Metro Mayor, other MEC's, other HOD's. It became a broader task team than the few people that were in the terms of reference as the -
20 the task team but the Premier – the former Premier practically seldom if ever actually chaired a Treasury Committee Meeting.

ADV GCABASHE: So it was just that in terms of form he could attend?

MS ROCKMAN: Yes.

ADV GCABASHE: But most of the time he in fact did not attend those meetings?

MS ROCKMAN: Yes.

ADV GCABASHE: I am really trying to understand where the power lay in influencing decisions and this is why I ask you the question but I am satisfied that you are saying that in reality this particular premier hardly attended those particular meetings.

MS ROCKMAN: Yes.

ADV GCABASHE: I notice also that as DG in the Premier's Office and as MEC of Finance you held meetings with Mr Tony Gupta on a number of occasions between November 2012 and 2014. Is my information
10 correct?

MS ROCKMAN: I think it starts – the engagement with the Gupta family and associates predates that by far. It starts in July 2010 when the New Age made a presentation to the Executive Council to get support for advertisements. So between 2010 to almost 2013 my engagements was mostly with Mr Ashok Narayan and Mr Nazeem Howa.

In – I think – August 2011 I was on the way to an Exco meeting in Bethlehem. It started the afternoon. I was informed that I was to meet people from the New Age.

ADV GCABASHE: Who informed you that you were to meet them?

20 **MS ROCKMAN:** I was called by the Premier.

ADV GCABASHE: Yes. Continue.

MS ROCKMAN: To say they were at the meeting. They wanted to meet before the Exco started.

ADV GCABASHE: Yes.

MS ROCKMAN: So I do not know who organised the logistics of the

meeting. We were then – the purpose of that meeting turned out to be – they presented a proposal where we should enter into a subscription agreement to ...(intervenes).

ADV GCABASHE: For the New Age?

MS ROCKMAN: For the New Age. One of the Gupta brothers was present but unfortunately ...(intervenes).

CHAIRPERSON: I am sorry.

MS ROCKMAN: I cannot remember ...(intervenes).

CHAIRPERSON: I am sorry. Just repeat that sentence. One of them
10 was what?

MS ROCKMAN: One of them was present at that meeting in ...(intervenes).

ADV GCABASHE: One of the Gupta brothers.

CHAIRPERSON: One of the Gupta brothers?

MS ROCKMAN: Yes.

CHAIRPERSON: Oh.

MS ROCKMAN: Yes.

CHAIRPERSON: But you cannot remember which one?

MS ROCKMAN: Cannot remember which one.

20 **CHAIRPERSON:** Okay.

MS ROCKMAN: That was August 2011. Then in May 2012 there was the first business breakfast.

CHAIRPERSON: Maybe before you move away from the August 2011. You say this was a Provincial Exco Committee?

MS ROCKMAN: Yes.

CHAIRPERSON: Which was to be held in Bethlehem?

MS ROCKMAN: Yes.

CHAIRPERSON: You say you do not know who had arranged – had made arrangements for the logistics of the Exco ...(intervenes).

MS ROCKMAN: Yes.

CHAIRPERSON: Meeting?

MS ROCKMAN: No. For them to be present in Bethlehem.

CHAIRPERSON: Oh. What you do not know is who had arranged or approved that they should be present?

10 **MS ROCKMAN:** Yes.

CHAIRPERSON: But it was the Premier who called you and said you should meet with should meet with them before ...(intervenes).

MS ROCKMAN: Yes.

CHAIRPERSON: The meeting?

MS ROCKMAN: Yes.

CHAIRPERSON: Okay. Alright.

MS ROCKMAN: It ...(intervenes).

CHAIRPERSON: Thank you.

20 **MS ROCKMAN:** Because the engagement was between Exco and Dihlabeng Local Municipalities. So it was not part of our Exco meeting. It was also not strange for private people to show up at venues where we had Exco meetings.

CHAIRPERSON: Yes.

MS ROCKMAN: Hm.

CHAIRPERSON: Hm.

MS ROCKMAN: It was nothing out of the ordinary.

CHAIRPERSON: Hm.

MS ROCKMAN: Hm.

ADV GCABASHE: Can I ask you this question as you pause? So this was a pitch by New Age to the Provincial Government not to various departments – individual departments within the Provincial Government?

MS ROCKMAN: Yes. The idea was that Office of the Premier would enter into the subscription agreement on behalf of all departments.

10 Yes.

ADV GCABASHE: Was that something the Premier did quite often enter into particular contracts on behalf of every single department?

MS ROCKMAN: Yes. At that time I think we were moving towards transversal contracts. We for example used the media bulk buyer that would buy advertise – advert – advertising space in newspapers. The coordination was just easier. Instead of having 11 departments advertising posts in the same week in 11 – you know different newspapers.

It was very haphazard. So it seemed to be easier. So yes.

20 It was something that we were moving towards.

ADV GCABASHE: So you were continuing to tell us this was really your first exposure to the Gupta family/Gupta entities. You are going to continue and ...(intervenes),

MS ROCKMAN: With one of the ...(intervenes).

ADV GCABASHE: Bring us through to ...(intervenes).

MS ROCKMAN: With one of the family itself.

ADV GCABASHE: Yes.

MS ROCKMAN: I mean the others Mr Narayan and so forth I had met before. It was ...(intervenes).

ADV GCABASHE: We will speak about Mr Narayan. His name has been mentioned in this Commission. We will come back to him in a minute. Any other engagements with the Gupta family *per se* or Gupta related or associated entities that you can recall?

MS ROCKMAN: During May 2012 it was the first business breakfast.
10 Those that were broadcast with – sponsored by I think it was Eskom at the time, SABC and so forth. The President addressed – the President attended – President Zuma.

ADV GCABASHE: Was this in Bloemfontein?

MS ROCKMAN: Yes. It was in Bloemfontein.

ADV GCABASHE: Yes. Continue.

MS ROCKMAN: It was on the 17th of May 2012. I think again more than one of the Gupta brothers was in attendance as well.

ADV GCABASHE: Again this was a function that was linked to the New Age?

20 **MS ROCKMAN:** Yes. It was those New Age business breakfasts.

ADV GCABASHE: Business breakfasts ...(intervenes).

MS ROCKMAN: Yes.

ADV GCABASHE: That we have come to hear about?

MS ROCKMAN: Yes.

ADV GCABASHE: Continue. That is May 2012.

MS ROCKMAN: Yes and then December 2012 as you would remember it was the ANC National Conference. So as I left the registration area I met them coming in. Them again – some of the brothers. They also came to register.

ADV GCABASHE: Yes.

MS ROCKMAN: So it is not like – they were in the environment. It was not like they were not known and not – no one ever engaged with them. They were there.

ADV GCABASHE: In relation to any visits you might have made to
10 Saxonwold to the residence of the Gupta family.

MS ROCKMAN: Some ...(intervenes).

ADV GCABASHE: What can you share with the Chairman in relation to that?

MS ROCKMAN: Some of the first meetings I only met with Mr Rajesh Gupta ...(intervenes).

ADV GCABASHE: And that is Mr Tony – his also known as Tony Gupta?

MS ROCKMAN: Yes.

ADV GCABASHE: Thank you. Yes.

20 **MS ROCKMAN:** I never had other – one on one meetings with the other brothers. There was a meeting around April 2013. It was after I had left as DG when I was appointed as MEC Finance. With my appointment we were already in the budget process. My predecessor had delivered the budget speech.

So we proceeded to deal with the budget by debates. So that

was a really busy period. We were owing – there was always outstanding debt of New Age that the Office of Premier was coordinating. So the purpose of that meeting was to say okay what are the arrangements now that you are now no longer there.

So it was just confirmation that whoever will be acting as the DG will continue doing whatever the Premier's Office had been doing in any event and then obviously it was the outstanding payment to Vrede Dairy for the 2012/2013 financial year.

ADV GCABASHE: They raised that with you?

10 **MS ROCKMAN:** Yes.

ADV GCABASHE: Who in particular – Mr Tony “Rajesh” Gupta raised that ...(intervenes).

MS ROCKMAN: Yes.

ADV GCABASHE: With you?

MS ROCKMAN: Yes.

ADV GCABASHE: Yes. Continue.

MS ROCKMAN: Then there after – well obviously ...(intervenes).

ADV GCABASHE: Oh, oh. Sorry. Can we just - just I thought you were going ...(intervenes).

20 **MS ROCKMAN:** Ja.

ADV GCABASHE: To give us a little more information on the issues he was raising that payment. What was the broad tenure of that discussion and you say that would have been in April 2013?

MS ROCKMAN: Yes.

ADV GCABASHE: Can you recall the broad tenure ...(intervenes).

MS ROCKMAN: That we owed ...(intervenes).

ADV GCABASHE: Around the issues that were raised?

MS ROCKMAN: We had owed them money. There was – I think the first year it was the 84 of which only 30 million had been paid. So it was the balance of the first year's payment and then it was obviously the financial implication for the 2013/2014 financial year.

ADV GCABASHE: Could you clarify whether in those discussions you were able to say to Mr Tony Gupta we have paid you 30 million. This is our money that you are dispensing on a project that has been selected
10 by us. So the concept of owing money is a difficult concept to grapple with.

Unless they – he understood it differently or I have totally misunderstood the relationship between Estina as an implementing agent and the Free State Government/the Department of Agriculture and Rural Development.

MS ROCKMAN: I ...(intervenes).

CHAIRPERSON: Ms Gcabashe. I am sorry.

ADV GCABASHE: Chair.

CHAIRPERSON: Please do not forget the question that you have just
20 put. For me I thought before getting to that point. I thought she was still going to – she would first tell me about that meeting in Bethlehem when they wanted to – that is the Gupta family wanted the Provincial Government to subscribe to the New Age.

So can I take you back there? Tell me how that happened because that probably was the start of what followed in terms of the

New Age and so on and so on. Maybe it was not but I would like to hear about that meeting.

MS ROCKMAN: By August 2011 the New Age had already existed. We were already advertising in the New Age. So the support ...(intervenes).

CHAIRPERSON: But you had not subscribed yet?

MS ROCKMAN: But we had not concluded a subscription ...(intervenes).

CHAIRPERSON: You were just advertising ...(intervenes).

10 **MS ROCKMAN**: Yes.

CHAIRPERSON: On an *ad hoc* basis?

MS ROCKMAN: Yes.

CHAIRPERSON: Okay.

MS ROCKMAN: Yes.

CHAIRPERSON: And as far as you know had there been any formal request from the New Age or the Gupta family that you should advertise maybe a lot in their newspaper or was the position that each department was aware that there was a new newspaper around and they would advertise if they so choose but it was not co-ordinated?

20 **MS ROCKMAN**: The July 2010 presentation to Exco – Exco had already agreed in principle to support the New Age.

CHAIRPERSON: That is July 2011?

MS ROCKMAN: 10 - 2010.

CHAIRPERSON: 2010?

MS ROCKMAN: Yes.

CHAIRPERSON: Oh, okay.

MS ROCKMAN: Yes.

CHAIRPERSON: Oh. So - so there had been a presentation
...(intervenes).

MS ROCKMAN: Yes.

CHAIRPERSON: But that is not the Bethlehem meeting. Is that right?

MS ROCKMAN: No.

CHAIRPERSON: Oh, please. I may have missed something.

MS ROCKMAN: Okay.

10 **CHAIRPERSON:** Tell me about that presentation.

MS ROCKMAN: The July 2010 presentation the New Age came to
present to the Executive Council ...(intervenes).

CHAIRPERSON: Hm.

MS ROCKMAN: To say we are the New Age. This is our approach. We
are the new kid on the block. We want support from Government and
Exco agreed in principle. Yes. We are going to support this new daily
newspaper. You should remember that in the Free State there is no
other English daily newspaper.

CHAIRPERSON: Oh. Is that so?

20 **MS ROCKMAN:** Yes.

CHAIRPERSON: Yes. So this was ...(intervenes).

MS ROCKMAN: This was something new, yes.

CHAIRPERSON: So the New Age was going to be the only daily
...(intervenes).

MS ROCKMAN: English daily newspaper.

CHAIRPERSON: English newspaper?

MS ROCKMAN: Yes.

CHAIRPERSON: Other newspapers were weekly ...(intervenes).

MS ROCKMAN: Yes.

CHAIRPERSON: Or and so on ...(intervenes).

MS ROCKMAN: Yes.

CHAIRPERSON: And would those have been national newspapers or would those – were they provincial ones that were weekly?

MS ROCKMAN: There is a lot of provincial community newspapers
10 ...(intervenes).

CHAIRPERSON: Yes.

MS ROCKMAN: That advert – *ag* – that publish on a weekly basis
...(intervenes).

CHAIRPERSON: Yes.

MS ROCKMAN: And then you have the Volksblad which is part of the
Media24 Group ...(intervenes).

CHAIRPERSON: *Ja*.

MS ROCKMAN: But that is an Afrikaans ...(intervenes).

CHAIRPERSON: Yes.

20 **MS ROCKMAN:** Medium newspaper. So ...(intervenes).

CHAIRPERSON: Yes.

MS ROCKMAN: Or – I think the mid-1980's the Free State has not had
an English daily newspaper.

CHAIRPERSON: Okay.

MS ROCKMAN: So there was a particular niche market that the New

Age would operate in.

CHAIRPERSON: Yes. So at the 2010 presentation the Provincial Executive Council said – agreed in principle to support them?

MS ROCKMAN: Yes.

CHAIRPERSON: Without specifying details and without formalising any relationship?

MS ROCKMAN: Yes. As and ...(intervenes).

CHAIRPERSON: At that stage?

MS ROCKMAN: As and when for example we would place recruitment
10 advertisements.

CHAIRPERSON: Yes. Okay, alright.

MS ROCKMAN: We would ...(intervenes).

CHAIRPERSON: Yes.

MS ROCKMAN: Definitely also advertise in the New Age.

CHAIRPERSON: Yes. At that stage was there any discussion of how much they desired the Provincial Government to spend on the – on advertisements with them?

MS ROCKMAN: No.

CHAIRPERSON: There was no discussion ...(intervenes).

20 **MS ROCKMAN:** No.

CHAIRPERSON: About that?

MS ROCKMAN: It was difficult to predict for example when you – how many posts you could advertise.

CHAIRPERSON: Yes.

MS ROCKMAN: What posts became vacant when ...(intervenes).

CHAIRPERSON: Yes.

MS ROCKMAN: It is very difficult to quantify.

CHAIRPERSON: Yes.

MS ROCKMAN: So it was not formalised into a quantum.

CHAIRPERSON: Yes.

MS ROCKMAN: Yes.

CHAIRPERSON: And then after that various departments advertised in – in the New Age?

MS ROCKMAN: Yes. Coordinated through Office of the Premier.

10 **CHAIRPERSON:** Of the Premier?

MS ROCKMAN: Everyone would submit their posts ...(intervenes).

CHAIRPERSON: Yes.

MS ROCKMAN: For example.

CHAIRPERSON: Okay.

MS ROCKMAN: We would consolidate and send it through to the media bulk buyers. They would place the advertisements.

CHAIRPERSON: Yes and in terms of payment how did it work? Did you get invoiced after advertisement?

20 **MS ROCKMAN:** Yes. The normal standard procedure there had to be an order ...(intervenes).

CHAIRPERSON: Ja.

MS ROCKMAN: Number.

CHAIRPERSON: Ja.

MS ROCKMAN: The invoices would come.

CHAIRPERSON: Ja.

MS ROCKMAN: I think we worked on – a lot on interdepartmental claims.

CHAIRPERSON: *Ja.*

MS ROCKMAN: Where Premier's Office would pay and then we would claim back from ...(intervenes).

CHAIRPERSON: Yes.

MS ROCKMAN: Relevant departments.

CHAIRPERSON: And then the next meeting was the 2011 August one in ...(intervenes).

10 **MS ROCKMAN:** Yes.

CHAIRPERSON: Bethlehem.

MS ROCKMAN: Yes. The subscription agreement proposal was August 2011 in Bethlehem.

CHAIRPERSON: Yes. Just tell me more about the content of the discussion in relation to the Gupta family or the New Age delegation and the – and Exco at that meeting.

MS ROCKMAN: I was introduced – the Premier was not part of that discussion. He had actually walked away.

20 **CHAIRPERSON:** Oh, yes. Actually the Premier had said you must meet them before ...(intervenes).

MS ROCKMAN: Yes.

CHAIRPERSON: The actual meeting. Did you meet them ...(intervenes).

MS ROCKMAN: Yes.

CHAIRPERSON: Before the actual meeting?

MS ROCKMAN: Yes. Before.

CHAIRPERSON: And what was discussed at that ...(intervenes).

MS ROCKMAN: The ...(intervenes).

CHAIRPERSON: Meeting.

MS ROCKMAN: They had a draft proposal.

CHAIRPERSON: Hm.

MS ROCKMAN: It was almost in the format of an agreement. It was on their letterhead only. It did not have Provincial Government. So it did not look like a contract that Provincial Government would enter into.

10 **CHAIRPERSON**: Hm.

MS ROCKMAN: It was for a specific number of copies ...(intervenes).

CHAIRPERSON: Hm.

MS ROCKMAN: Of newspapers per day at whatever cover price.

CHAIRPERSON: Hm.

MS ROCKMAN: Whatever they required from us ...(intervenes).

CHAIRPERSON: Hm.

MS ROCKMAN: For a certain period of time.

CHAIRPERSON: Hm.

20 **MS ROCKMAN**: What I remember is it seemed that this was something that had been discussed prior or long before because the initial agreement was dated February – it was somewhere around February.

CHAIRPERSON: 2011?

MS ROCKMAN: Ja.

CHAIRPERSON: Hm.

MS ROCKMAN: But it was clear that – look this is not going to happen

because we did not make any budget provision. So for this thing to be brought in it would be from the next financial year ...(intervenes).

CHAIRPERSON: Yes.

MS ROCKMAN: To get ourselves in order.

CHAIRPERSON: Hm, hm.

MS ROCKMAN: So there was process of engagement ...(intervenes).

CHAIRPERSON: Hm.

MS ROCKMAN: To formalise the agreement itself.

CHAIRPERSON: Hm.

10 **MS ROCKMAN**: We also utilised the State Law Advisors. They formalised the agreement ultimately.

CHAIRPERSON: Hm. So the discussion between yourself and them before going to the meeting – the Exco meeting ...(intervenes).

MS ROCKMAN: Ja.

CHAIRPERSON: Was they wanted the Provincial Government to sign a subscription agreement with them?

MS ROCKMAN: Yes.

CHAIRPERSON: And that would indicate how many newspapers per day and so on and so on ...(intervenes).

20 **MS ROCKMAN**: Yes.

CHAIRPERSON: Would be bought by the Provincial Government?

MS ROCKMAN: Yes. As well as how do we – how would we control the distribution, the distribution points?

CHAIRPERSON: Yes.

MS ROCKMAN: How do you manage and monitor ...(intervenes).

CHAIRPERSON: Hm.

MS ROCKMAN: That process throughout the various ...(intervenes).

CHAIRPERSON: Hm.

MS ROCKMAN: Respective Government buildings.

CHAIRPERSON: Hm. Do you have any recollection as to whether in that agreement there was a number of newspaper copies that they had already put in to say Provincial Government must agree to?

MS ROCKMAN: I think it was about 4 000.

CHAIRPERSON: About?

10 **MS ROCKMAN:** If I remember correctly.

CHAIRPERSON: Yes.

MS ROCKMAN: It was 4 000 ...(intervenes).

CHAIRPERSON: About 4 000 ...(intervenes).

MS ROCKMAN: Per day.

CHAIRPERSON: A – per day?

MS ROCKMAN: Ja.

CHAIRPERSON: Yes. You might have no recollection of how much that would have cost at that time that can be checked?

MS ROCKMAN: Ja.

20 **CHAIRPERSON:** Yes.

MS ROCKMAN: I can ...(intervenes).

CHAIRPERSON: So what was the outcome of your discussion with them before going to the Exco meeting?

MS ROCKMAN: It would have to be further pursued.

CHAIRPERSON: Yes.

MS ROCKMAN: Because for that quantum we would want something in return and our demand was always, find a way to accommodate young people in skills development.

CHAIRPERSON: Yes.

MS ROCKMAN: So we wanted the – to offer certain – a number of students training or support through bursaries and so forth. We would also have to follow some kind of procurement process as well. Clearly you would not advertise a tender because who else is going to tender, you want specific newspapers. So the procurement process in itself, 10 would have been a deviation but that still had to be drafted it's not like it was ready and available. It also became clear it was – this was a standard pitch made to many provinces, it was not only the Free State, other provinces were also considering various types of subscription agreements, they obviously varied according to the size and whatever requirements and demands.

CHAIRPERSON: So in terms of the outcome of the meeting you had with them, was there still going to be a need for them to make a presentation to the Exco meeting?

MS ROCKMAN: No.

20 **CHAIRPERSON:** There was going to be no need?

MS ROCKMAN: No they were not invited to attend the Exco meeting itself it was only to have this discussion on the proposed subscription agreement.

CHAIRPERSON: So they had come to have a meeting, actually with you?

MS ROCKMAN: Yes.

CHAIRPERSON: Not with Exco?

MS ROCKMAN: Yes.

CHAIRPERSON: Okay, okay so no final agreement was reached all that was reached was that the matter would need to be pursued?

MS ROCKMAN: I think we agreed in principle.

CHAIRPERSON: Ja agreed in principle but the details would have to follow later?

CHAIRPERSON: Okay, alright thank you Ms Gcabashe.

10 **ADV GCABASHE:** Thank you Chairman, just one or two issues arising from your discussion with the Chairman, you indicated that the initial agreement that they showed you when you met them was dated February 2011?

MS ROCKMAN: Yes.

ADV GCABASHE: Yes but you don't know who might have had discussions with them, that – which discussions would have informed that draft?

MS ROCKMAN: No.

ADV GCABASHE: You never did find out?

20 **MS ROCKMAN:** No.

ADV GCABASHE: The second question relates to the comment you've just made about the procurement for that subscription. You said that that process would have been a deviation?

MS ROCKMAN: Yes.

ADV GCABASHE: Explain that, why would it have been a deviation?

MS ROCKMAN: Because it would be impractical to get three quotations because you want a subscription agreement with a specific newspaper, we were not entering in – it was not a public call for anyone who wants to come to us, we have money to throw at newspaper subscriptions, it wasn't that, it was a specific proposal based on a very specific niche market that's where the English Daily newspaper comes in. Free State would have a specific page all of those things would come – would still play – it would be in play so you wouldn't get quotations for this specific subscription agreement. There were
10 sufficient grounds for us to deviate.

ADV GCABASHE: I'd like to just debate that with you for a minute. Would it not have been in the Free State Government's interest to approach any other English Daily's that do not have newspapers in the Free State and say to them, we've had a bid – I don't know how this is done, I've never had to do this personally but essentially just to indicate that you've got a proposal and you'd like to get value for money – as much value for money as you can by looking at other competitors if they have an interest in the same product or service. I don't know if you're understanding the question, was there no reason to
20 look for anybody else and try and make sure that you were getting value for money in relation to the product that New Age was selling to you?

MS ROCKMAN: There was no one else available, the last English Daily newspaper in the Free State closed down in the mid 80's, it was called The Friend, I think, I speak under correction it might have been

part of what, by then was Independent Media Group or – don't know who owned it but there was no one else in this phase. It's not easy or cheap to open a newspaper, I think the fact that our community newspapers have not been able to make the transition, in terms of schedule to go from a weekly to a daily newspaper, it's indicative it's a very challenging industry. It's very cash intensive it needs a lot of capital outlay which is just simply beyond the capacity of what the average community newspaper would have.

ADV GCABASHE: So in effect you really did not really do the
10 research, you didn't go beyond the pitch that was made to you?

MS ROCKMAN: I think we had done the research in respect of the rest of our media strategy, so we already knew. There was no one else who was going to offer to open a newspaper in the Free State – a Daily newspaper an English Daily newspaper in the Free State. They were also not going to be Free State based but at least we would have a dedicated page of Free State news which would be significantly different than what any other English newspaper would be offering.

ADV GCABASHE: The essence of your answer is, you applied your mind to the possibilities and the probabilities and the practicalities.
20 You looked at your SEM procedures and took a decision on the basis of what you had before you?

MS ROCKMAN: Yes.

CHAIRPERSON: Well let's look at that again and maybe what I'm going to ask you has something to do with something that I've asked some of the witnesses when we deal – we talk about deviations from

procurement. What is it that the Provincial Government needed to buy an English newspaper for, why did you need to buy newspapers as a Provincial Government?

MS ROCKMAN: I think the media environment, specifically needed for us to have an appropriate approach to provincial communications strategy. It wasn't only based on newspapers. It had your electronic media, it had community radio stations, it was a much broader strategy. So getting access to an English Daily newspaper, strengthened our ability to communicate with communities beyond what was available in
 10 the space at the time. Your community newspapers which was English based, the volume they produced is obviously limited, their distribution area is also more limited. Your Afrikaans Daily newspaper would be limited in the audience that you reach. So there was a number of factors that informed this specific decision. It was also not only on newspaper subscription, it was the New Age but we also had other agreements for other proposals like a special publication, for example with Mail & Guardian that was pursued. There were other agreements with E-TV, with SABC, so it was – there was really a lot of elements to the overall communication strategy, it wasn't that New Age was singled
 20 out above all other but it addressed a specific demand that we identified within the environment.

CHAIRPERSON: Well I would think – I would have thought that when the New Age made an approach to the Provincial Government the Provincial Government would have take the attitude that, you know, these are business people, they want to do business with us, their

business and – but we have to ask ourselves the question, why do we need it and who can give us the best value for the best price. Now if you say here – you said they wanted you to subscribe to 4 000 – to buying 4 000 copies per day, is that the number that you ultimately agreed upon as far as you recall?

MS ROCKMAN: No I can't recall *ja*.

CHAIRPERSON: But was it in thousands?

MS ROCKMAN: Yes.

CHAIRPERSON: It was in thousands?

10 **MS ROCKMAN:** Yes it was.

CHAIRPERSON: I think somebody would need to check what that cost at that time – at whatever price at that time but let's stay with 4 000 for argument sake, that's quite a lot of newspapers per day, that means over five days that's 20 000, that's quite a lot. Now my understanding of what you were saying earlier on about advertisements is that there wouldn't be, for Provincial Government, there would be too many advertisements, did I understand you correctly? In other words there would be some advertisements, sometimes there would be no advertisements sometimes and certainly at some stage it was not
20 coordinated as I understand, later on it may have been coordinated, is that right?

MS ROCKMAN: Yes.

CHAIRPERSON: Yes.

MS ROCKMAN: The advertisements was as and when required.

CHAIRPERSON: Yes, so if you bought the – these newspaper copies,

what was going to happen with them, were you going to distribute them among the staff in various departments?

MS ROCKMAN: Yes there was a number of distribution points, Provincial Government buildings, primarily as well as Mongu Metro, I can't remember the details of all the distribution points but it was quite structured to say, this many goes to building A, building B, building C. We had people in the different buildings that would monitor proper distribution and obviously it would be free of charge for officials, general public, whoever walks in would take a copy.

10 **CHAIRPERSON:** Now the arrangement, you mentioned about a page in terms of the agreement with them that the Provincial Government ultimately had with them. Was there a page that was dedicated for use by the Provincial Government?

MS ROCKMAN: Yes it was dedicated to Free State News it would not necessarily be only Provincial Government news, I mean if Provincial Government doesn't have any news for a specific day they would fill the page with Free State news, whether it was sport, private sector, doesn't matter what but it wasn't unique to the Free State, most provinces had dedicated pages.

20 **CHAIRPERSON:** With the New Age?

MS ROCKMAN: Yes.

CHAIRPERSON: Yes, but I'm trying to understand what it was used for. Let's talk about the Free State. What was the – why did the Provincial Government need a dedicated page for themselves?

MS ROCKMAN: Information about your government programmes,

whether it was a specific project, operation Hlasela, whether it was human settlements whether it was transport month, public service month, audit outcomes, any news that's generated by Provincial Government to strengthen government's ability to communicate in a better way or to get more access to information. If there was a slow period it would be other municipalities could contribute, universities, whatever, whatever was in the news or what is newsworthy for the Free State would be on our page.

CHAIRPERSON: So that insofar as it needed to be – insofar as it was
 10 information that needed to be known by government employees that would have been easy for the government to do without a newspaper isn't it, in terms of circulars and so on, is that not so? Whenever there's anything that government needs to convey to its employees I would imagine they would issue circulars and so on?

MS ROCKMAN: Yes it would not be your internal government type communication that would be sent to officials and obviously any newspaper relies on the fact that the person who buys or the person who takes the copy, he takes it home, there's three, four, five other people who have access to it, who also read, it's the same principle.

20 **CHAIRPERSON:** So other than that page, where the Provincial Government may communicate certain things what other need was there for this subscription by the Provincial Government as you saw it?

MS ROCKMAN: It was general support.

CHAIRPERSON: Support to the Gupta family, the New Age?

MS ROCKMAN: To the New Age.

CHAIRPERSON: To the New Age, okay. I don't know if you want to take that further?

ADV GCABASHE: Not at this point Chairman simply because it's quarter past eleven and tea time gives us the opportunity to reflect on some of these questions.

CHAIRPERSON: Okay, alright let's take the tea adjournment and we'll resume at 11:30, we adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

10 **INQUIRY RESUMES**

CHAIRPERSON: Yes Ms Gcabashe do you have any follow up questions on that issue?

ADV GCABASHE: Chairman I just want to talk a little bit about that subscription agreement.

CHAIRPERSON: Yes.

ADV GCABASHE: Not necessarily follow up to the questions you were asking.

CHAIRPERSON: Yes.

ADV GCABASHE: But it is in relation to the same agreement –

20 Subscription Agreement.

CHAIRPERSON: Hm.

ADV GCABASHE: When was that Subscription Agreement eventually signed between the Department of – the Premier's office and New Age, do you recall?

MS ROCKMAN: Chairperson it would have been somewhere after that

meeting but before the start of the next financial year. Before April 2012. I cannot remember the exact date. I am sure we can establish it.

ADV GCABASHE: So it would have been before April 2012 in any event?

MS ROCKMAN: Yes.

ADV GCABASHE: The budgeting process for that line item would have been put into which financial year?

MS ROCKMAN: It would – if it starts from April 2012/2013 it would be
10 from that financial year starting 1 April 2012.

ADV GCABASHE: So it would be in the 2012/2013 financial year?

MS ROCKMAN: Yes.

ADV GCABASHE: Do you recall the term of that contract – how many years did you subscribe?

MS ROCKMAN: Chair that would be the standard term of contract three years.

ADV GCABASHE: Three?

MS ROCKMAN: Yes.

ADV GCABASHE: So it was a three year – three year term. Then the
20 last question on that is were you aware of any other provincial governments or State Entities or National Government Departments that had signed similar Subscription Agreements with the New Age?

MS ROCKMAN: Chairperson at the time we were informed I think that the same type of proposal was made I think to KwaZulu-Natal and Mpumalanga. Whether they had signed I am not aware and I do not

know about national departments or SOE's.

ADV GCABASHE: But as far as you were aware you were not the first to sign up for this particular service?

MS ROCKMAN: We were not the only ones which received the proposal. I would not want to go as far as saying that we were not the first to sign up.

ADV GCABASHE: Can you just describe to me that page you say that the Free State government would have in the New Age Newspaper and really all I want to understand is whether the batch that would come to
10 the Free State would have a Free State page in it. The batch that would go to KZN would have a similar page but it would be KZN page or would you find various provincial pages if I might call them that in the batch that arrived at the Free State?

MS ROCKMAN: Chair I would speculate but I – if I remember correctly it was – each newspaper had a page per province. You would not print a Free State version – a separate KwaZulu-Natal version, a separate Mpumalanga it would – it would drive up costs enormously. So if I can remember correctly it was – there was one edition with pages per province.

20 **ADV GCABASHE:** I see your counsel is nodding his head. He seems to know a lot about this.

MS ROCKMAN: I would not know.

ADV GCABASHE: Let us ...(intervenes).

MS ROCKMAN: I can safely say this is not something we had consulted on.

ADV GCABASHE: No I know because it is – that is fine.

CHAIRPERSON: But I –...(intervenes).

ADV GCABASHE: But let us go into ...(intervenes).

CHAIRPERSON: Are you saying there would be one page in each issue of the New Age on a particular day on every day?

MS ROCKMAN: Yes Chair.

CHAIRPERSON: And that one page would be used by all provinces who – which had – which may have had a Subscription Agreement with the New Age? In other words if KZN had something it would go to the
10 same page. If the Free State had something it would be the same page that would be used. Is that what you are saying as you understand – you understood the position?

MS ROCKMAN: Chair I – our news would go to the Free State page. KwaZulu-Natal's news would go to KZN page but all in one newspaper. But New Age also had team of journalists – full time journalists in the province. They had offices in the Free State. So those journalists – the stories they did was also on that page.

CHAIRPERSON: Yes. I thought what you were saying earlier on was it would have driven the cost too high if the New Age were to have a page
20 for each province with which they had a Subscription Agreement. Did I misunderstand you?

MS ROCKMAN: Yes. The newspaper – say it has 16 pages.

CHAIRPERSON: Ja.

MS ROCKMAN: And there are 9 provinces.

CHAIRPERSON: Ja.

MS ROCKMAN: Maybe some provinces had half a page others had a full page.

CHAIRPERSON: Yes.

MS ROCKMAN: But you would not get 9 different editions of one newspaper.

CHAIRPERSON: Yes, yes.

MS ROCKMAN: Yes.

CHAIRPERSON: No that I understand.

MS ROCKMAN: Yes.

- 10 **CHAIRPERSON:** In the same edition would there be a page dedicated to a particular province or is the position that there was one page which was shared by the different provinces which had Subscription Agreements with the New Age?

MS ROCKMAN: I am not sure how the level to the details of the Subscription – how the Subscription Agreement links to the page specifically.

CHAIRPERSON: Hm.

MS ROCKMAN: But provision was made for each province.

CHAIRPERSON: Hm.

- 20 **MS ROCKMAN:** To have a dedicated page at least. Half a page/page.

CHAIRPERSON: Yes. Okay.

MS ROCKMAN: Yes.

CHAIRPERSON: So on your understanding if today's edition of the New Age had 20 pages there would only be like page 3 or 4 that is for the Free State province?

MS ROCKMAN: Yes, yes Chair.

CHAIRPERSON: But would that be another page for example the KZN province?

MS ROCKMAN: Yes.

CHAIRPERSON: That is how you understood it?

MS ROCKMAN: Yes Chair.

CHAIRPERSON: Oh okay.

MS ROCKMAN: Yes.

CHAIRPERSON: But are you saying that that page would be used for
10 each province or provincial government to put in whatever message it
wanted to convey to the population or whatever story or it wanted to
convey but apart from that journalists of the New Age would also put in
their own stories in relation to the province on the same page?

MS ROCKMAN: That is correct Chair.

CHAIRPERSON: So the page was not dedicated to the provincial
government exclusively. In other words it was not going to be filled
with what the provincial government decided should go into that page
only. It would be what the provincial government puts in but there
would be something that the newspaper itself decides to put in?

20 **MS ROCKMAN:** That is correct Chair.

CHAIRPERSON: It would be two – both?

MS ROCKMAN: Yes.

CHAIRPERSON: Okay.

MS ROCKMAN: It was definitely broader than provincial government.

CHAIRPERSON: It was broader than it.

MS ROCKMAN: Sometimes municipalities ...(intervenes).

CHAIRPERSON: Yes.

MS ROCKMAN: Would also ...(intervenes).

CHAIRPERSON: Yes.

MS ROCKMAN: Generate content or have something that they wanted covered.

CHAIRPERSON: Yes.

MS ROCKMAN: And like I say New Age journalists themselves.

CHAIRPERSON: Hm

10 **MS ROCKMAN**: They were obviously not limited to that page.

CHAIRPERSON: Yes, yes.

MS ROCKMAN: They would – appear.

CHAIRPERSON: They could write on other – *ja*.

MS ROCKMAN: If it was newsworthy enough it would compete with the front page, second page, and third page.

CHAIRPERSON: *Ja*.

MS ROCKMAN: Whatever the priority would be.

CHAIRPERSON: *Ja*.

MS ROCKMAN: Yes.

20 **CHAIRPERSON**: The advertisements that the provincial government would have for jobs, DG or whatever – there is a vacancy would they go into that page or would they – could they be put elsewhere in other pages? In other words did this dedicated page mean that your adverts would also go into that page and not anywhere else?

MS ROCKMAN: I think that was the layout and design decision. I do

not think we – we had covered that in any way.

CHAIRPERSON: Yes.

MS ROCKMAN: As a preference.

CHAIRPERSON: Yes.

MS ROCKMAN: It might or it might not.

CHAIRPERSON: Yes. Okay. Now did the provincial government in terms of the Subscription Agreement pay any particular amount for this page as opposed to the obligation to buy 4000 or whatever the number was of copies per day?

10 **MS ROCKMAN:** No Chair.

CHAIRPERSON: There was ...(intervenes).

MS ROCKMAN: It was – *ja* the expenditure to New Age was as and when we advertised.

CHAIRPERSON: *Ja*.

MS ROCKMAN: And the Subscription Agreement was a Subscription Agreement. We did not pay additional amounts for that page.

CHAIRPERSON: Yes. So basically you paid for the copies 4000 or whatever the number was per day and in return you got a page that you could use for whatever you wanted to write or advertise?

20 **MS ROCKMAN:** Yes Chair.

CHAIRPERSON: And then when I say advertise I accept that you are not sure whether you could advertise on other pages or not?

MS ROCKMAN: Yes Chairperson.

CHAIRPERSON: Okay alright. And you said that the justification for the Subscription Agreement was basically to give support to the New

Age? Is that right?

MS ROCKMAN: Yes.

CHAIRPERSON: Is my understanding correct?

MS ROCKMAN: Yes. As a new entrant in the market.

CHAIRPERSON: Yes. Yes.

MS ROCKMAN: It was a new voice. It was speaking to a niche market that no one else covered in the Free State being the only English daily newspaper.

CHAIRPERSON: Hm. Hm.

10 **ADV GCABASHE**: I had asked you about the term of the contract. You said it was a three year subscription contract?

MS ROCKMAN: That is correct.

ADV GCABASHE: Was it renewed?

MS ROCKMAN: Yes. There was a function shift around 2015 where certain of the transversal communication matters, it related to the public information platform and the Subscription Agreement was moved from office of the Premier to Provincial Treasury. It was a function shift and accordingly the budget also shifted. So the – after the expiry of the first Subscription Agreement a second Subscription Agreement was
20 entered into between Treasury and New Age and that one was also the same three year period. Then in 2017/2018 there was an instruction note of National Treasury on cost containment measures which addressed really a broad range of issues.

Anything from entertainment, telephone data costs, included in that cost containment measure was then the measure that says

subscriptions to newspapers or other publications should – when they run out they should not be renewed and we implemented that. So early 2018 I think around March 2018 when that Subscription Agreement came to an end that was the end of the relationship. We did not renew.

CHAIRPERSON: You said that was end of 2018?

MS ROCKMAN: Yes. March 2018.

CHAIRPERSON: March 2018?

MS ROCKMAN: Yes. Yes Chair.

CHAIRPERSON: Is that not when it closed down? I mean the New

10 Age?

MS ROCKMAN: I think it was before.

CHAIRPERSON: Or was it soon thereafter?

MS ROCKMAN: It was before it closed down. I know we made a final payment to the liquidators.

CHAIRPERSON: Yes.

MS ROCKMAN: If I can remember one of the spreadsheets that I saw. It was a few months before.

CHAIRPERSON: Yes.

MS ROCKMAN: The New Age closed down.

20 **CHAIRPERSON**: Yes and ...(intervenes).

ADV GCABASHE: Chairman it actually closed down in June.

CHAIRPERSON: In June?

ADV GCABASHE: 2018.

CHAIRPERSON: Yes and it may be that – I am trying to remember whether we have been told as to when the Gupta family fled from South

Africa. I cannot remember whether in the – in Mr Ajay Gupta's Application for Leave to cross-examine anybody whether he dealt with that but we know that they did flee from South Africa.

ADV GCABASHE: Yes but can I ask this question? The paper was called Afro Voice from about 2017 when Mr Manye took over and rebranded the New Age. Would the old Subscription Agreement have carried over to that new company if I might call it that or do you recall if the Subscription Agreement would have terminated by that time?

MS ROCKMAN: I cannot recall.

10 **ADV GCABASHE:** You cannot recall?

MS ROCKMAN: I would – no I would have to go back Chair and look at that but I cannot recall anything about that. Although I know Mr Manye himself also made a presentation to the Executive Council after he had taken over the New Age same principle of requesting support and so forth.

ADV GCABASHE: Hm.

MS ROCKMAN: But I cannot remember the technicalities around whether the Subscription Agreement had continued or I am sorry I cannot remember.

20 **ADV GCABASHE:** But again it would now be Provincial Treasury that would have been in charge of.

MS ROCKMAN: Yes.

ADV GCABASHE: Taking a decision.

MS ROCKMAN: Yes.

ADV GCABASHE: On whether to subscribe or not to Afro Voice.

MS ROCKMAN: Yes.

ADV GCABASHE: You cannot recall whether you did or did not?

MS ROCKMAN: No.

ADV GCABASHE: But what you do recall is that you were asked in terms of that cost containment directive to cut all the excess.

MS ROCKMAN: Yes.

ADV GCABASHE: Things you were doing and one of them was the buying of newspapers?

MS ROCKMAN: Yes. It was not only newspapers it was newspapers
10 and publications. I mean departments subscribe to magazines professional industry type magazines so you would really have to review – do you really need everything? Do you need the quantity of newspapers that you may be subscribing to? It was a quite extensive cost containment measure. It is instruction note 3 of 2017/2018.

ADV GCABASHE: A related questions is the following: You had the Subscription Agreement in place for two terms. During that period did you continue to advertise and pay separately for any advertisement space that you were taking in the New Age paper?

MS ROCKMAN: Chair I am sure that is the – that would have been the
20 arrangement. Yes.

ADV GCABASHE: Again on that ad-hoc basis that you described earlier?

MS ROCKMAN: Yes.

CHAIRPERSON: Why would advertising in the New Age even if it was advertising most of the Provincial Governments in the New Age – why

would that not have been enough support to the New Age? Why did you have to go to the extent of subscribing to – I know that I am using the figure 4000 but you said you are not sure.

MS ROCKMAN: *Ja.*

CHAIRPERSON: But it was in 2000's. Why did it – did the Provincial Government have to subscribe to buying every day thousands of copies of this newspaper?

MS ROCKMAN: Chair I think I would speculate but ...(intervenes).

CHAIRPERSON: Well you were the DG of the province at the time, is it
10 not? So you cannot be speculating.

MS ROCKMAN: The advertisement would only – it would be limited support.

CHAIRPERSON: *Ja* but that would be ...(intervenes).

MS ROCKMAN: It was not predictable.

CHAIRPERSON: But that would be the support you can give. I mean obviously as a Judge my background is that of a lawyer. When I left practice a lot of us as black lawyers wanted support from government but we did not expect anything other than that if and when there is work to be – that needs a lawyer then we would be considered. We did not
20 even think of – we did not even ask to be guaranteed just that we would be considered. So in other words you have work to be done, you need a lawyer therefore you give support to categories of people that might deserve special support. So I do not understand why it was necessary to go beyond just saying okay the way we can support you is consider you may be considering – consider giving you more adverts than – even

most adverts compared to others if that is justified. But to say we will subscribe to thousands of copies per day seems to me to be on the excessive side. I may be missing something and you must help me if I am missing something.

MS ROCKMAN: *Ja* I think Chair if you go back to the context of that time. I can remember clearly out of ANC Lekgotla's, out of government Lekgotla's and I am talking about both province and national. Government's ability to communicate was extracted as a specific area of concern.

10 So it is not randomly that we decided in the Free State this is the way to go. There was a bigger picture that informed that. I do not deal with this in any of the affidavits and I am certainly able to go back and extract those kind of documentation.

I think as an entrant – as a new entrant to the market we know the existing media ownership was skewed to a specific group. I think it was a very particular argument to say let us do something to promote the diversification of media ownership. I think it should also be seen in that context.

 It is a – I mentioned it before it is a highly cost driven industry.

20 So you would not expect any media house to simply cover their costs through advertisements if they do not have some other kind of support that they can rely on. And in this case it was government providing focused support whether it is through a Subscription Agreement, whether it is through advertisements to a specific new player in the market.

CHAIRPERSON: Well I think we have heard evidence of how much was spent by the Provincial Government or maybe the Premier's office on the New Age at a certain time. We did have that evidence and Mr Manye did deal with it but I think – *ja* we did have that evidence. I cannot remember the amounts that were involved. But I mean if one is talking of 4000 and again I accept that that is the figure that you are sure about. If it was – if the New Age a copy was R10.00 that would be R40 000.00 a day – five days that would be R200 000.00 in five weeks that would be a million. Then one can go on if it was not R10.00 it was
10 R5.00 it would be half of that. But I have this impression that it seems excessive but I think you have said what you are able to say about that. But if there is something you want to add you know feel free to add.

MS ROCKMAN: Chair I have so many documents that to extract it might be – might take some time.

CHAIRPERSON: Okay well you can always ...(intervenes).

MS ROCKMAN: But certainly I think the – I agree with you the evidence was already in the Commission. I think almost it came from the GCIS presentation.

CHAIRPERSON: Hm. Yes. It did *ja*.

20 **MS ROCKMAN:** They did outline.

CHAIRPERSON: Hm.

MS ROCKMAN: The expenditure. I think per province, national departments.

CHAIRPERSON: Yes.

MS ROCKMAN: And provincial departments.

CHAIRPERSON: *Ja.*

MS ROCKMAN: It is there.

CHAIRPERSON: Did *ja.* Okay thank you.

ADV GCABASHE: Thank you Chairman. Then just to tidy up this part of our discussion. You said one of the returns that you indicated to the New Age was that they should develop young people. There should be a skills transfer.

MS ROCKMAN: Yes.

ADV GCABASHE: Did this take place to your knowledge?

10 **MS ROCKMAN:** I know in the time that I was still DG there was a recruitment process so a number of young people were nominated and they had gone to like interviews, skills test type of thing. After I had then left I do not know what happened to that part of the program. But certainly they started or they started to participate in a possible recruitment training type of program.

ADV GCABASHE: Would there be a record somewhere of the achievement of that particular objective?

MS ROCKMAN: I am not sure whether there would be. We would nominate and we being broadly it could be anyone that forward names.
20 New Age would invite them. They would do the skills test. See who they wanted to develop – who they could develop in terms of potential whatever. But I do not know that there was ever any formal feedback process.

ADV GCABASHE: Even in relation to your media strategy and the work around that is there no line items someone or reports somewhere

whether it is in the annual performance plans of the particular department that is either the Premier's office or later on the Provincial Treasury where you are saying we achieved this objective. These are the numbers of students that were able to participate in this particular program. Alternatively in the SOPA addresses because I know that as a matter of course politicians like to say, this is what we actually worked for and achieved and this is the kind of report I have in mind.

MS ROCKMAN: Chair it may or may not have been. I just do not have that information available at this stage.

- 10 **ADV GCABASHE:** Okay. Can I then come back to your meeting with Mr Tony Gupta? One of the things you said he asked about was ...(intervenes).

CHAIRPERSON: I am sorry Ms Gcabashe I just do not want to forget this. Will somebody not check if nobody has checked the exact number of copies that – of the New Age that the Provincial Government agreed to buy every day number 1.

- Number 2 will somebody not check how – what percentage of what the New Age sold of the newspapers they sold in the Free State was the amount that was bought by government in terms of the
- 20 Prescription – no was this a situation where for all intents and purposes only the Provincial Government was buying their newspapers. That is what I am looking for and hardly anybody bought it or what the position was and that be given to me or to the hearing at some stage in the future.

ADV GCABASHE: We will do that Chairman.

CHAIRPERSON: *Ja. Ja. Okay.*

ADV GCABASHE: We are back at the meeting with Mr Tony Gupta and one of the things you said that he was concerned about – this is my paraphrasing of what you said about continuity. Because you were now moving from being DG of the Premier's office in the Premier's office to MEC. The question is: Why would he be concerned about an item that had been budgeted for? Was the province not paying timeously?

MS ROCKMAN: Do I understand you correctly as referring to the outstanding debt for the newspaper?

10 **ADV GCABASHE:** For the newspaper.

MS ROCKMAN: Yes.

ADV GCABASHE: Yes that is what I am talking about.

MS ROCKMAN: Yes.

ADV GCABASHE: Sorry I did not make that clear.

MS ROCKMAN: Yes Chair at that stage because we used the media bulk buying agency the office of the Premier would pay the bulk buying agency who would in turn pay all the relevant newspapers. There developed a problem with the media bulk buying agency both between the partners and in terms of reconciliation of payments between what
20 we paid to them and what they paid to respective newspapers. So there was a stage where New Age and a number of others were saying we are not paid and we were saying but we have paid. We cannot double pay. We cannot pay the media bulk agency plus pay you then. So it was quite a technical process of reconciliation until we were able to resolve it. But it was ultimately resolved and in addition let me be

honest between January and March of any given financial year you would find it very difficult to get 30 day payments out of most Provincial Government departments. Most service providers are now equipped to know that in their planning they must know there – everyone is made to survive in that period but no-one or very few would actually be paid in full because by then cash runs out. That is the reality.

CHAIRPERSON: It is one of the things I have never understood with government. They say they support small business – businesses and so on, small businesses are very important for the economy. But they
10 just do not pay them on time and I think various Presidents of the country over the years have made all kinds of promises that this would be fixed but one continues to hear that it is not done. A lot of businesses get – go under because government is not paying them.

MS ROCKMAN: Yes Chair you are correct.

CHAIRPERSON: Hm.

MS ROCKMAN: It is a problem that bedevils Government
...(intervenes).

CHAIRPERSON: Hm.

MS ROCKMAN: But it is about cash management ...(intervenes).

20 **CHAIRPERSON:** Hm.

MS ROCKMAN: And in your last quarter you protect salaries – cash for salaries so that you do not overspend. Inevitably you run up your accruals and payables. I think in the period 2011/2012 to 2017/2018 the Free State accruals doubled from – 2011/2012 I think it was about 1.3 billion. By 2017/2018 it stood at 2.6 billion.

That is money really owed to people for services rendered, goods rendered. That at year end closed they had not been paid but it was – it – expenditure was ...(intervenes).

CHAIRPERSON: It is just so unacceptable. It is just so unacceptable. You know small business who – of people who are trying to do the best they can. They are asked to do a certain job. They do the jobs and then they are not paid for months on end and it is just so unacceptable. Ms Gcabashe you may proceed.

ADV GCABASHE: I – thank ...(intervenes).

- 10 **CHAIRPERSON**: It is just that it is one of those things that I think the problem is that public service have a problem about supervising that people do the job that they are employed to do and that they do it on time and they do it properly. For me it is a simple thing.

Do not ask a small business person or anybody to do a job unless you know you would pay them on time. You may be protecting salaries for – I mean public servants protect their own salaries but they forget about the salaries of people who are employed by these business people and these people complain, complain, complain and nothing happens and that is a Government that says it cares about poor people.

- 20 **ADV GCABASHE**: Well ...(intervenes).

CHAIRPERSON: Yes.

ADV GCABASHE: Chairman we are here talking about Mr Tony Gupta complaining about the 84 million ...(intervenes).

MS ROCKMAN: Yes.

ADV GCABASHE: That they were expecting to receive from the

Provincial Government or from the Department of Agriculture and Rural Development but before we deal with that in detail I just wanted clarity. So one of the discussions with Mr Tony Gupta at the time concerned payment to the New Age?

MS ROCKMAN: Yes.

ADV GCABASHE: Good. So let us come back to the monies that were due on the Estina agreement and my question at the time was really a reflection of how the – and it is my understanding of the contract was that this is a contract. Government is the principal requester of
10 services.

Estina has been employed as the implementing agent. Estina has already been given R30 million to start certain processes. In April of 2013 which is when this meeting took place you have Mr Tony Gupta saying to you, you guys owe us money. You have not given us the 84 million that is outstanding.

So my question was did you engage him just in discussion on two things? One; that it cannot be an owing of money because they were at the end of the day implementing services that Government had requested. That is one. Second, when you really look at when that
20 contract came into effect it would have been on the 7th of July.

The 12 month period to – for – that would trigger the payment of the full 114 had not been reached yet. So why was he concerned. I just want to know if you discussed this and if you did what the tenure of those discussions might have been.

MS ROCKMAN: I think we did not discuss it in – at that level that you

would be discussing or you are referring to. It was mostly a discussion Chair that this is how the contract was structured. We must pay X amount per financial year. It did not come into 12 months from this month to that month. It was per financial year.

The first 30 million was supposed to go for X, Y and Z. Whether it was land acquisition, whether it was feasibility studies this that this that. What we had discussed more was there was a report from Provincial Treasury. One of our budget officers had visited the farm in January 2013 and he had raised a number of issues and he had
10 photos.

I think it is somewhere in the supporting documents. That report is there.

ADV GCABASHE: Is that the Asset Management Unit Report?

MS ROCKMAN: I think it is the – it was the budget office. It is the Myburgh Report. It is saying.

ADV GCABASHE: Yes.

MS ROCKMAN: It was in the Sustainable Resource Management Unit.

ADV GCABASHE: Yes.

MS ROCKMAN: So a number of issues were raised and the HOD at the
20 time – HOD Treasury of the time had also raised concerns to say look when this project started this is what we said should be done. The contracts needed to be reviewed. We wanted X, Y, Z. By January it seemed that some of the documentation was not provided to Treasury.

By April – by the time we were going to meet it seemed that events had overtaken the January concerns. So I was saying to

Mr Gupta that – to Tony Gupta that regardless of whether there is a payment now. In April the new budget is – firstly it is loaded on the system.

You do not just open the system on the 2nd of April and everyone starts merrily paying people. It does not work that way. It takes time to upload the budget on the system. Then we wait for cash. It is not like National Treasury is either going to dump cash on us on the 1st or 2nd of April. It is as and when money becomes available.

So depending on what cash we have available is how we will
10 process the payments but more importantly is Treasury is going to do its own site visit because there is a lot of noise in this space. So we want to make sure that what you had said is going to be done in the first phase or the first year or the first payment.

We need to compare that with what is actually on the ground and that is what informed the May 2013 site visit which I went with the whole merry gang of Provincial Treasury and whoever else wanted to be present was there. They did not have a problem at all with the site visit. They were quite comfortable to say things are in order.

There is work in progress on site. We have planted – we
20 have done this that the other. The animals are being bought, delivered so forth.

ADV GCABASHE: Let us take a step back. You were aware that 30 million had already been paid to Estina?

MS ROCKMAN: Yes.

ADV GCABASHE: Had you seen an accounting for the use of that 30

million?

MS ROCKMAN: It would be difficult for me now Chair to say when did I see that accounting because I know I knew about the Myburgh Report after I had become MEC ...(intervenes).

ADV GCABASHE: Yes.

MS ROCKMAN: In March, but I had not seen that report and that report was not necessarily an accounting report. It was also type of a site visit report. So I do not think by April I had seen an – a report accounting for the funds.

10 **ADV GCABASHE**: In fact the Myburgh Report criticised the Project Managers, the implementing agent for their lack of progress. My colleague is just trying to find that particular document but they certainly made various points where they distinctly identified the lack of value for money for what had already been disbursed as one of the key areas that Treasury would have to look at but we will come back to that particular document as soon as we find it but I do – I know exactly which document you are talking about and which particular visit and those were their conclusions.

My question really is in your discussions with Mr Gupta was
20 there an obligation that rested on you – that oversight obligation to say to him. Show me even if it is in document form what you say you have done with the first 30 million that we have given to you as an advance payment and then we can properly assess whether the 84 is due now or at a later stage.

I would have thought that that is the type of discussion you –

because you are trying to bargain and buy time knowing you do not have those funds in your account and I would have thought that would be the type of discussion you would be having with him.

MS ROCKMAN: No not ...(intervenes).

ADV GCABASHE: Oh.

MS ROCKMAN: Not at that technical level, no.

ADV GCABASHE: Can I also say that there is a bit of a dispute around what that first 30 million was intended to do? On Estina's version that 30 million they took 29 million of that and sent it out of the country.
10 Ostensibly they were reserving parlour milking machinery. Then eventually the last one million that was left they also reserved for other purposes.

Mr Thabethe's view of what ought to have happened with the first 30 million was that it ought to have paid for the feasibility study, for the EIA Study, for the planning that needed to be done etcetera. So there is a bit of a disjuncture between Estina and Mr Thabethe with regard to what that first 30 million ought to have been doing.

Hence my interest in whether you had a discussion with him about why they were asking for more money when they had hardly
20 finished Phase 1 which the 30 million was supposed to take care of on Mr Thabethe's version. I do not know if you are aware of that disjuncture between what Estina thought the money – they could do with the first 30 million and what Mr Thabethe believed they were supposed to have done with the first 30 million.

MS ROCKMAN: Thanks Chair. We are stuck with what is presented to

Treasury by Agriculture Rural Development. We had no relationship with Estina. So whatever happened between Estina and Agriculture is between them. Mr Thabethe was the Accounting Officer. He had to be comfortable that conditions had been met.

The accounting treatment was in order. Ours was more a cash management and the oversight and the oversight part. So we would not necessarily know those levels of details. What was that 30 million for except for what Agriculture put in front of Treasury.

CHAIRPERSON: And is what they put in front of Treasury in
10 accordance with what Ms Gcabashe has just stated as having been Mr Thabethe's evidence?

MS ROCKMAN: From – Chair from what I could construct out of the correspondence at the time because this was now before I become MEC in March 2013. What Advocate Gcabashe has put on record to say it was supposed to pay for feasibility study, environmental impact this that this that, that is in Treasury's records that is what is reflected.

CHAIRPERSON: Okay.

ADV GCABASHE: And that would be correct because there is a letter
dated the 18th of January 2013 signed by Mr Thabethe which says these
20 – Phase 1, these were the milestones they have been achieved. Therefore we are asking you to release further funds ...(intervenes).

MS ROCKMAN: Yes.

ADV GCABASHE: To this particular implementing agent?

MS ROCKMAN: Yes Chair.

ADV GCABASHE: But can we move beyond that to some of the other

meetings that you had with Mr Gupta and the essential question because we are really interested in Estina is whether any other meetings you held with him where the purpose of the meeting was to discuss matters relating to Estina and the Vrede Dairy Farm of course?

MS ROCKMAN: I think in between there were numerous other TNA Breakfasts running into people here there but focus discussions on this – Estina there was a specific discussion after it was – there were quite a number of media reports about cows dying on the farm. I think this was somewhere in 2014 – early 2014 and we raised specific concerns
10 to say you know you cannot be spending this amount of money and we have cows – in the media it says cows are dying on the farm.

Then we were provided by Agriculture by ...(intervenes).

ADV GCABASHE: Before you go there. Who did you have those discussions with? Who did you express those concerns to?

MS ROCKMAN: Firstly Mr Thabethe himself ...(intervenes).

ADV GCABASHE: Yes.

MS ROCKMAN: And then there was a meeting with Mr Tony Gupta and Ashok Narayan was present where we said look this is just not on.

ADV GCABASHE: And would these meetings have taken place at 5
20 Saxonwold?

MS ROCKMAN: That one specifically, yes. The February 2014 around there. I am not sure about exact dates Chair.

ADV GCABASHE: Yes.

MS ROCKMAN: Then we were provided with that email correspondence from the SPCA that said they had done an on-site inspection. There

are no causes for concern. That is two completely different sets of information you get that in the one hand the media is reporting cows are dying.

On the other hand here is an email from the SPCA saying there is no cause for concern. You do not see it – you did not really know which version do you believe. Are these even our cows that are busy dying all over the project? I can up to today not say to you yes it was our cows.

No, it was not our cows because it seemed there is also a
10 difference of opinion whether the cows were probably branded. It did not seem – now I am talking about information we got to know after the Public Protector's Report initially came out. This is much later than at the start of the project.

That it appeared that the cows were never properly branded or tagged when they first arrived. Those that seemed to have been bought and delivered. So it was – there was a lot of inconsistencies uncertainties which we also later picked up in audit when there was a reluctance from the department to disclose the assets as part of work in progress in the asset records.

20 That we deal with extensively in the audit and accounting treatment part. So it was clear that we had a feeling things were not going that well but after the May 2013 site visit at that time it seemed that the project had started. Fields had been planted with I presume maize or whatever it is that cows had.

I am not an agricultural person. The first infrastructure

developments had started. It looked like a project in progress. There was nothing alarming in May 2013 that said we need to stop. We need to reassess. It seemed that things were as it should be with a project as it begins to be implemented.

ADV GCABASHE: So you are here still explaining some of the meetings you held with Mr Tony Gupta ...(intervenes).

MS ROCKMAN: Yes.

ADV GCABASHE: And you say that would have been one of the more critical meetings you held with him to discuss what was going on at the
10 farm?

MS ROCKMAN: Yes.

ADV GCABASHE: And that meeting you held before you went on a site visit – you personally went on a site visit?

MS ROCKMAN: Yes. It was March 2013 and then the last reference I made this is around February 2014. That is about a year later. Then in between – around – I think it was September 2013 there was also a request that we assist a student from India who had interest in enrolling for a Master's Degree at University of the Free State but it was completely unrelated to Estina and that was just a matter of – we
20 handed it over to the Department of Health to say please advise but I do not think it went anywhere because the student had not qualified already.

He was still said to qualify. Then he would have had to go through the processes of writing the medical board examination and so forth and so forth. It was a long process but that was just a request. It

was not linked to any other thing.

ADV GCABASHE: Some of the other meetings – I have a list of roughly about 14 meetings. Oh no, 20 meetings that my colleague has noted for us. That you are said to have attended and my real interest is in the Estina/Vrede connection. The ones you have told us about those meetings are the only ones you can recall attending with Tony Gupta that dealt with the Vrede Dairy Project?

MS ROCKMAN: I think there were subsequently in April 2014 there was also a meeting, same story, start of a new financial year and so
10 forth until the termination of the decision to terminate. I think there were quite a number of meetings that was planned that never took place. There were two or three meetings which was cancelled at a very last minute.

To the extent that I had already arrived at Saxonwold. I was dropped by my protectors and I was told sorry something came up. The meeting is not happening and we had to – and we would leave again. So there was quite a number of – a few of them, two/three of those type of meetings, a number of others would have been planned.

It did not happen. Either I was not available or he was not
20 available or someone got sick something like that.

ADV GCABASHE: Did the Premier know that you were meeting with Mr Tony Gupta?

MS ROCKMAN: I am ...(intervenes).

ADV GCABASHE: I really – you know the difficulty is in part you were meeting with him as DG in the Premier's Office. So it is really that

reporting line. Would he know that you were doing so?

MS ROCKMAN: Yes.

ADV GCABASHE: On the other hand as an MEC you were meeting with Mr Tony Gupta. Again just the reporting – I am just trying to understand the reporting structures or relationships and just how informed the Premier would have been about what was going on right or wrong with one of his mega projects.

MS ROCKMAN: Well as DG he would have known about the TNA – those meetings. He would have known. As MEC I am sure he would
10 have known but we never attended a meeting together ...(intervenes).

ADV GCABASHE: Ja.

MS ROCKMAN: With Mr Gupta or Mr Zwane and the Premier.

ADV GCABASHE: Did you attend any meeting with Mr Gupta and Mr Peter Thabethe?

MS ROCKMAN: Not that I can remember.

ADV GCABASHE: Would you have attended a meeting with Mr Tony Gupta and Ms Seipati Dlamini, the CFO?

MS ROCKMAN: No.

ADV GCABASHE: The other persons who are reputed to have been at
20 those meetings, not all of them some of them, are a Mr Ashu Chawla of Sahara Computers. Do you know about him? Who he is?

MS ROCKMAN: No Chair.

ADV GCABASHE: Did you have a meeting with him?

MS ROCKMAN: No Chair.

ADV GCABASHE: So no. Not Chawla. Chawla - C-H-A-W-L-A

Chairman. Then the other one is Mr Evan Tak. Tak spelt T-A-K. Is also reputed – also of Sahara Computers. Also reputed to have attended meetings.

MS ROCKMAN: No Chair.

ADV GCABASHE: It would appear those meetings might have had something to do with computers. That the Premier's Office is again reputed to have bought from Sunday Trading (Pty) Ltd which is one of the associated companies of Sahara Computer. You do not know anything about those meetings?

10 **MS ROCKMAN**: Not about meetings. I know that when I was DG office of the Premier did buy laptops. I think – I cannot remember the purpose for it. At one stage it was for – it was either intervention unit or community development workers. The others would – may have been laptops for students but I do not have those details but I did not have meetings with those – the names you have mentioned. No Chair.

ADV GCABASHE: What about Mr Kamal Vasram? Would you have had meetings with him? He remember was the Sole Director of Estina when the agreements with DARD were signed.

MS ROCKMAN: Chairperson I may have met him but I have no
20 recollection of ever meeting – being in a meeting discussing Estina with him.

ADV GCABASHE: He is also or was also a Director of the same Sunday Trading (Pty) Ltd which is why we had an interest in finding out what his relationship in that case would have been with you. You have no clue at all?

MS ROCKMAN: No.

ADV GCABASHE: Never met him?

MS ROCKMAN: No recollection, no.

CHAIRPERSON: So what is your recollection of the number of meetings that you had with Mr Gupta in relation to Estina or Vrede Farm?

MS ROCKMAN: I would imagine Chair around four or five.

CHAIRPERSON: Around four or five?

MS ROCKMAN: *Ja* over the period.

10 **CHAIRPERSON:** Yes. What was the venue or were the venues of those meetings? If you can remember.

MS ROCKMAN: Some were at Sahara Computers. Some were at Saxonwold. Some were – either Bloemfontein that would have been not the directly related to Estina ...(intervenes).

CHAIRPERSON: Yes.

MS ROCKMAN: But mostly between those two.

CHAIRPERSON: Yes. So is my understanding correct that those that related to Estina or Vrede Farm either happened at the – in their company. That is the Gupta company, Sahara, or in their home?

20 **MS ROCKMAN:** Yes.

CHAIRPERSON: Is that right?

MS ROCKMAN: Yes Chair.

CHAIRPERSON: In Johannesburg?

MS ROCKMAN: Yes,

CHAIRPERSON: And you had to travel from the Free State to

Johannesburg for that purpose?

MS ROCKMAN: Mostly we tried to have the meetings if I was already in Gauteng for any other business. Whether it was meetings – any other kinds of meetings that I would be already here. It would not be a specific trip.

CHAIRPERSON: So it was not a situation where arrangements were made for you to come for that meeting only?

MS ROCKMAN: No. No Chair.

CHAIRPERSON: Yes, but from what you say it looks like they never
10 held meetings in your office about Estina?

MS ROCKMAN: We had no direct relationship as Treasury with Estina. So ...(intervenes).

CHAIRPERSON: Hm, hm.

MS ROCKMAN: The engagement in the offices would have been with Agriculture Rural Development.

CHAIRPERSON: Hm, but why would they discuss Estina anyway with you then instead of discussing with the Rural Development Department?

MS ROCKMAN: Purely from having the funding available in terms of
20 the budget.

CHAIRPERSON: Hm, hm. Okay.

ADV GCABASHE: Can I ask you about the 20 – November 2010 Diwali Celebration that was held by the Guptas? Were you invited to that? So it would have been in November 2010.

MS ROCKMAN: I do not think I was invited, no but I did not attend

either Chair.

ADV GCABASHE: You do not recall ...(intervenes).

MS ROCKMAN: No.

ADV GCABASHE: Attending a Diwali ...(intervenes).

MS ROCKMAN: No.

ADV GCABASHE: Celebration in November 2010? Then the next one is the Gupta family wedding at Sun City in 2013. Were you invited to that wedding?

MS ROCKMAN: I was invited but I did not attend.

10 **ADV GCABASHE:** But you did not attend?

MS ROCKMAN: Yes.

ADV GCABASHE: Can you just – if you are able to assist the Chairman in understanding whether all HOD's or all MEC's would be invited to a function of that nature or whether specific people would be targeted as invited guests? In other words why did you get lucky and get an invitation? I do not know if you can answer the question.

MS ROCKMAN: Chair I wonder, the wedding invitation I took it as one of those courtesy type of invitation, you know you invite people to certain events because you work with the but you don't really expect
20 them to turn up. I took it that it's that type of invitation it's not like it's compulsory to actually go, you decide to go or you don't go, I decided not to go but I can't say there was a strategy to say invite this one, that one, the other one, I don't know what informed, who got invited and who didn't.

ADV GCABASHE: Do you know if any of your other colleagues who

were invited and who did attend?

MS ROCKMAN: I think MEC Zwane at the time was invited, I think HOD Thabethe was invited, I'm sure the Premier was invited, I'm not sure about the others.

ADV GCABASHE: And do you know if they attended?

MS ROCKMAN: I'm under the impression that MEC Zwane and Mr Thabethe might have attended I doubt whether the Premier has attended I have no recollection but I don't think he attended.

ADV GCABASHE: You know what we have found interesting is that
10 that wedding was hosted between the 28th and the 30th of April 2013. You visited Saxonwold to discuss the payment of outstanding monies with Mr Gupta in April of 2013. Payment was made in three tranches, payment of the R84 million that was outstanding was made in three tranches, on the 18th of April 2013, on the 26th of April 2013 and the 3rd of May 2013 and of course speculation out there and certainly from some of our witnesses, is that this money was not used for Estina/The Vrede Dairy Project, it was used for the wedding. Did you have any idea as to what these monies that you were paying in April and in May would be used for?

20 **MS ROCKMAN:** We would only know what agriculture had presented to Treasury in terms of the submission. The three payments would be – would have been made in accordance to how cash was available. They would obviously have preferred probably one payment for the whole amount and we would have said to them, it depends. As and when cash becomes available that is how we can pay but we would not go into

overdraft this early in a financial year to enable a payment to be made but we would be limited to what agriculture tells us, to say they need X amount, they must pay for A, B, C, D, E, we would not have had any other information.

ADV GCABASHE: That's a fair comment because we are in the process of taking Mr Thabethe through the monthly and quarterly reports of Estina on the Vrede Dairy Project and I'm sure the Chairman will be pursuing some of these questions with him because he had a look at what they reported on. Can we briefly deal with Mr Ashok
10 Narayan? Now you met him long before he became economic advisor to the Premier.

MS ROCKMAN: That's correct Chair.

ADV GCABASHE: You would have met him what 2010/2011?

MS ROCKMAN: I would imagine around 2010.

ADV GCABASHE: And at that time who was he representing in relation to the matters you were discussing?

MS ROCKMAN: I had always associated him with the New Age.

ADV GCABASHE: Do you at any point associate him with Estina?

MS ROCKMAN: I think I did yes and it's fair to say that that was the
20 inference it was not only – when I started knowing him, in was in relation to our dealings with the New Age but as it started evolving into the Mahoma Mobung strategy and so on, I also realised that he was assisting Mr Thabethe in some way. I'm not able to say by when but yes.

ADV GCABASHE: Now the appointment of Mr Narayan took effect on

the 1st of March 2012, there's a letter signed by the Premier to that effect. Your engagements with him, not just on New Age but also on Estina would have preceded the 1st of March?

MS ROCKMAN: I don't think on Estina.

ADV GCABASHE: One of the issues that really arises in relation to Mr Narayan is that he appears to have been wearing both an Estina hat and an economic advisor to the Premier hat when he dealt with matters relating to the dairy farm. Would that have been your observation as well, just reflecting back on your engagements with him?

10 **MS ROCKMAN:** Because I had known him from before the time of his appointment to the Advisory Council and I hear you say there was a letter from the Premier of a certain date. That council was announced during the budget vote speech of the Premier.

ADV GCABASHE: Date?

MS ROCKMAN: It was slightly after – it's not the 1st of March but it was in March 2012, I do address it somewhere in the affidavit.

ADV GCABASHE: There's a 16th of February 2012 SOPA address that I think that that might be the one that you're referring – no it must have been after that because I know as a fact that his appointment took
20 effect on the 1st of March 2012.

MS ROCKMAN: The advisory council was, Chair, announced during the budget vote speech of Premier on the 29th of March 2012.

ADV GCABASHE: Excellent, that helps. Mr Narayan accompanied Mr Thabethe to India. There is a memorandum that he submitted to the Premier requesting leave to go – Mr Thabethe wrote to the Premier

requesting leave to go to India and Mr Narayan was going to accompany him. Because at that time you were still DG in the Premier's office, were you aware of that submission?

MS ROCKMAN: No Chair I wasn't.

ADV GCABASHE: So not all submissions from HOD's to the Premier would have come past your desk?

MS ROCKMAN: No, unless they wanted the DG to recommend something to the Premier, they could write directly to the Premier.

ADV GCABASHE: In that motivation which, Chairman for record
10 purposes, you will find at HH reference bundle D for Donald at page 1323.

CHAIRPERSON: Page 13?

ADV GCABASHE: 23 – Estina reference 1323. A couple of issues arose in relation to this submission and I really ask for your view from you because you worked in the Premier's office at the time. The first thing the Chairman took up with Mr Thabethe was what was reflected in paragraph 2.1, so I don't know if you can find – I can read this to you otherwise if you want to find reference bundle D and it will be 1323 but essentially what – I want it to be convenient to you, what would you
20 prefer to do?

MS ROCKMAN: I would rather listen, you can read please, thanks.

ADV GCABASHE: What's written here at 2.1 is the following:

“Provincial Treasury received the final preliminary allocation letter from National Treasury on the 12th of December 2011. An amount of R1 million in 2012/2013

R.837 million, that's R8 073 000, I presume we were battling a bit with those numbers but we can take it, it's R8 073 000 in 2013/2014 and R8 073 000 in 2014/2015 has been allocated, additional to your baseline to cover carry through costs on improvement in conditions of service",

And it's that last line that's important. To cover – carry through costs on improvement in conditions of service and the question from the Chairman at the time was what would this have to do with the
 10 motivation to go to India. The response if I recall correctly was, oh we were able to dip into those funds, they were available, they weren't necessarily firewalled for these carry through costs but these were funds that would be available. I must say I didn't quite understand the answer but I knew that I would have a former DG coming to give evidence and in that capacity I don't know if you are able to explain what this might have been about? You would understand baseline to carry through costs.

MS ROCKMAN: Yes Chair the improvement of conditions of service, you know it's a salary adjusted related issue. Now you would imagine
 20 that in your projections have 10 staff members you're going to need X amount more depending on how improvement of conditions of service is implemented. So if you lose two staff members a year you don't replace them, there's a technical saving. So that would be the way to say we have funding available that we can shift to accommodate other expenditure. If you did not lose staff members during a year or you

increased staff members it would be very difficult to tap into that funding.

ADV GCABASHE: So this really is an indication that there was money allocated for conditions of service, salaries or whatever that might – what other things might be entailed under conditions of service but these funds were lying fallow – they were not being used and could therefore be shifted in an adjustment or readjustment budget process. Is that the essence of what this might have been about?

MS ROCKMAN: It could be but you also need to look at the phrasing
10 it's – National Treasury says specifically it's added to your base line for your carry through effect. So once you start tampering with that money it might mess you up in future so it might be better to leave the money as ring-fenced because presumably you needed this additional funding to maintain your current staff compliment at that time but it does happen. Departments tap into compensation of employee funds because you can move the funding out of COE but you can't move money into COE. So in order to technically balance your books you often tap into your COE funding.

ADV GCABASHE: Then ...(intervenes).

20 **CHAIRPERSON:** I'm sorry Ms Gcabashe can you go back to explaining that conditions of – improvement of conditions of service issue again, paragraph 2.1 of that memo from Mr Thabethe to the Premier says,

“Provincial Treasury received the final preliminary allocation letter from the National Treasury on the 12th of December, an amount of – here is that R100 000 000

that was written, I think we were told we should read it as R1 million in 2012/2013 and ...(indistinct) R3 million, I mean R100 000, R8 073 000 in 2013/2014 and R8 073 000 in 2014 has been allocated to your baseline to cover carry through costs on improvement in conditions of service”

Just give me that explanation again if you ...(intervenes).

ADV GCABASHE: That’s paragraph 2.1.

MS ROCKMAN: Chair it’s very difficult to find the relevance of
10 paragraph 2.1 in the rest of the motivation, it just makes reference to –
there was a preliminary allocation letter from National Treasury
...(intervenes).

CHAIRPERSON: I think that was my concern, that I didn’t see what the relevance of improvement of terms and conditions of service was.

MS ROCKMAN: The next paragraph talks to the issue of identify dairy farming and so forth and then the allocated budget of R17 million for completion of three dairy plans. It does not say they have the funding to – I think it’s a presumption probably, that what they were trying to suggest is that they have funding available to undertake this trip but
20 that’s not the strict and the narrow interpretation of the letter would not suggest that. It does not actually say where are they getting this funding from ...(intervenes).

CHAIRPERSON: The money from.

MS ROCKMAN: Yes.

CHAIRPERSON: Yes, and yet it was supposed to be a letter to do

exactly that, isn't it, to provide motivation?

MS ROCKMAN: The Premier at the time would approve the principle of the trip, he would not necessarily approve the expenditure part of the trip.

CHAIRPERSON: Yes.

MS ROCKMAN: They would know whether they have the money or do not have the money.

CHAIRPERSON: Yes.

MS ROCKMAN: But this first paragraph is a bit misplaced in this
10 letter, I also struggled to see the relevance of it.

CHAIRPERSON: Yes and of course what is strange is that all three signed it without anybody – it's as if they knew what this was about, we don't know what it was about.

MS ROCKMAN: There's no other comments or notations made, so – it's just signed.

CHAIRPERSON: Okay thank you.

ADV GCABASHE: Thank you Chairman. Then of course you note at paragraph 4.1 we've got Mr Ashok Narayan undertaking the trip with Mr Thabethe and the issue that arose in relation to that was whether it was
20 correct/prudent for a department to pay for a third party, who did not work for government to undertake a trip to – a trip of this nature. In essence the department was paying for Mr Narayan to go to India and the questions that were asked of Mr Thabethe was, is this regular, the man is not employed by the Free State government, he is not yet appointed as the Economic Advisor, why is it that you would spend

departmental money on a stranger. I don't know if you can just clarify what might have been the position in this instance, especially because you ended up working with Mr Narayan in the Premier's office, once he was appointed?

MS ROCKMAN: Chair I would presume that Mr Narayan was going to accompany Mr Thabethe in his capacity as a member of the Economic Advisory Council, whether – I note your point that this three dates, you've mentioned the letter signed by the Premier but it has happened that third parties or other parties not employed by government that
10 their expenditure has been paid to participate in international visits.

ADV GCABASHE: What's the justification for that?

MS ROCKMAN: Exposure, empowerment you can – it would depend on the purpose of a specific visit to be undertaken, I don't know what was the specific purpose of this visit.

ADV GCABASHE: This visit was to go and find a strategic partner in India and Mr Thabethe had done a desk top study and identified Paras and decided he wanted to go and talk to them. He had not selected them but he wanted to talk to them about the possibility of becoming a strategic partner, so that's the one fact. The second fact is that Mr
20 Zwane has submitted an affidavit to the Commission in which he takes responsibility for suggesting that Mr Narayan, in particular accompany Mr Thabethe, reason being, says Mr Zwane they were to deal with protocol issues, foreign culture issues etcetera, etcetera so it was as a convenience to Mr Thabethe but the question remains, are these justifiable reasons for using tax payers money to pay for somebody

who, from his own profile – Mr Narayan's profile is quite capable of paying for himself to go to India and come back to South Africa.

MS ROCKMAN: Chair I think it would depend on whether he wanted – he had his own agenda to pursue in India, if he was only going on request of Provincial Government then it might have been reasonable to presume Provincial Government would pay for him. If he had his own interests that he was going to pursue he should certainly have paid his own expenditure.

ADV GCABASHE: There's a matter I'm going to be taking up with you
10 later relating to the Municipal Manager of Phumelela Local Municipality, Mr Moremi but part of that discussion I want to extract now and use now because Mr Moremi says that when the Indian delegation arrived at Vrede to speak with him, one of the members of that Indian delegation, representing Estina was Mr Narayan. So we here have Mr Narayan, the same Ashok Narayan, representing Estina in discussions with the Phumelela Municipality, we have the same Mr Narayan being paid for by government to accompany Mr Thabethe to India. The question must arise, which does he wear and how do you determine which hat he is wearing at any particular point in time? I don't know if you can throw
20 light on this question?

MS ROCKMAN: No Chair it would be difficult to make such a crisp distinction. For all intents and purposes he was announced as a member of that Economic Advisory Council so the expectation was that, that is the capacity he would act in. It would be very challenging to manage interests if we also then say but he was representing Estina. I

cannot remember at that time that he was said to be representing Estina. I was not part of meetings in Phumelela so I would not have that perspective that Mr Moremi would have.

ADV GCABASHE: No in fact that is Mr Moremi's evidence that, Mr Narayan indicated – and even in the negotiations themselves indicated that he was representing Estina in those negotiations but that's fine because it's not a matter, as you say, that you can take very much further.

CHAIRPERSON: What is your reaction to Mr Thabethe's evidence, if I
10 recall correctly that Mr Narayan was needed for protocol purposes to assist with protocol, are you able to understand that?

MS ROCKMAN: Chair it's difficult, I don't know if Mr Narayan had any specific protocol training but certainly he would understand the language.

CHAIRPERSON: Yes.

MS ROCKMAN: He would understand the culture.

CHAIRPERSON: Yes.

MS ROCKMAN: But apart from that I would not be able to comment what else he could have done.

20 **CHAIRPERSON:** *Ja* something that I maybe should have raised with Mr Thabethe but he's coming back. South Africa would have an embassy in India I would imagine, I think it does have an embassy, there would be an ambassador there, I don't know if there would also be Consul Generals in different cities and so on and one would have thought that one of the things an Ambassador has to try and understand

is the culture of the people in the country where he or she serves and the people that he or she has in the embassy, the staff and people who assist him or her would include, maybe advisors and people who understand the culture when one would think that, then if Mr Thabethe needed somebody who would advise him on those things the embassy in India would have been – the South African embassy would have been best placed to provide him with somebody without incurring the expenses of travelling to India. Is that something you are able to comment on?

- 10 **MS ROCKMAN:** Chair yes I think India has a – we have a High Commission in India if I'm not mistaken, we are all part of the Common Wealth so it's High Commission ...(intervenes).

CHAIRPERSON: Yes, is the difference in terminology, not just terminology the substance is the same as an Ambassador?

MS ROCKMAN: Yes, so there would be capacity in the High Commission to take care of whatever protocol requirements, logistical arrangements and so forth that would be available. I would not know specific dynamics that required this unless it is – I'm just not able to comment further on that.

- 20 **CHAIRPERSON:** Yes thank you.

ADV GCABASHE: When did you first hear about this company called Paras, so would it have been before the Exco decision of the 13th of June 2013, that's an easy defining point, would it have been during the Mahoma Mobung discussion, you know which really would have started around November – September 2011, so I'm just giving you a timeframe

that might assist?

MS ROCKMAN: I think it must have been around – Chairperson I think around June 2012, *ja* the Exco submission was June 2012 ... (intervenes).

ADV GCABASHE: On the 13th of June 2012?

MS ROCKMAN: Yes.

ADV GCABASHE: So you heard about Paras before that or at that meeting?

MS ROCKMAN: I can't remember having heard of Paras before that
10 meeting. Before that meeting it was Vrede Dairy, I don't now that it was presented as – with that level of details now talking about Estina and Paras and there were quite a number of names that later came in. I think it was only after we got the copy of the agreement that had been signed before that Exco date, that we had seen, okay there's now a number of other entities that is involved.

ADV GCABASHE: Would you know anything at all about the relationship between Estina and Paras?

MS ROCKMAN: No Chair, sorry nothing.

ADV GCABASHE: Did you have any meetings with anybody from
20 Paras?

MS ROCKMAN: No, no Chair.

ADV GCABASHE: Did you come across payments that had to be made specifically to Paras for services rendered to Estina or in relation to the dairy farm?

MS ROCKMAN: No Chair.

ADV GCABASHE: So the only people who would have talked to you about money really and Estina – rather money and the Vrede Dairy Farm would have been Mr Tony Gupta, as we've already discussed?

MS ROCKMAN: Yes, in terms of budget.

ADV GCABASHE: Yes.

MS ROCKMAN: Not of expenditure and who they had sub-contracted, no there was not that level of discussion.

ADV GCABASHE: Correct, we will of course come a little later to the Free State Development Corporation but I think that's a matter we'll
10 raise with you just after lunch. Chairman I notice it's just about 1 o'clock I'm now moving actually to the regulatory framework and just so that you know where we're moving to now, I'll be putting the testimony of Mr Jankielsohn to you and we'll really be talking about that R114 million, how – what provision was made for it, that's the area we're now going to move into after lunch.

CHAIRPERSON: Yes We'll take the lunch adjournment but maybe Ms Rockman, I can just mention this so that maybe during the lunch break you can reflect on it and see whether later on you might be able to enlighten me on. When I read your affidavit I got the impression that
20 you may have been trying to stay away from accusing anybody of not doing the right things, of not following procedures that were supposed to be followed and that all you wanted to do is just give us certain information that you can back-up with documents, whether it's a resolution or the passing of a bill, adjustment bill or appropriation bill or whatever. What I was expecting from your affidavit statement was

something along the lines that, having set out what the role of provincial treasury is, then to say in regard to Estina, here is what was supposed to happen, it was done, here is what was supposed to happen it wasn't done and deal with it in that way. I seem to struggle to find that, so you might be able later on to enlighten me but that's what I was expecting I found that a lot of it was really saying this is the framework, that's the framework but without connecting it to say, let's look at whether certain things in regard to Estina were done with full compliance with the requirements and/or with certain procedures. So I
 10 just want you to know that that's a concern I have about you – one of the concerns I have about your statement and later on you could enlighten me on it. We are going to take the lunch adjournment and well resume at 14:00, we adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes let us continue.

ADV GCABASHE: Thank you Chairman. Ms Rockman we are now going to just try and understand whether Section 38.2 of the PFMA was
 20 complied with by the Department of Agriculture and Rural Development and if not what steps were taken by Provincial Treasury to deal with this irregularity? It may not just be Provincial Treasury you may want to indicate other institutions within the Regulatory framework that are supposed to monitor and correct non-compliance. So are you ready?

MS ROCKMAN: Yes.

ADV GCABASHE: The focal provisions that relate to your oversight functions are found in if I am not wrong Chapter 3. Yes Chapter 3 of the PFMA. I do not know if you do not really need the Act but I can take you to it if you think you might want to use it. Are you alright without it?

MS ROCKMAN: Yes.

ADV GCABASHE: It is in the Legislative bundle under tab 3.

MS ROCKMAN: Okay.

ADV GCABASHE: But shall we just continue? You will tell me if you
10 want to actually pull ...(intervenes).

MS ROCKMAN: Yes thank you.

ADV GCABASHE: The Act out. At of course Section 17 and 18 deal with your powers and functions both as MEC and what you are able to delegate to others. The other important provision we are going to deal with – so I think the most important thing really about Section 17 let us just pause here for a minute. Is 17.2 which says;

20 “The MEC for Finance as the Head of a Provincial Treasury takes the policy and other decisions of the Treasury except those decisions taken as a result of a delegation or instruction in terms of Section 20.”

You are the Head of the Provincial Treasury. That is the most important thing about Section 17. Am I correct?

MS ROCKMAN: Yes as the ...(intervenes).

CHAIRPERSON: Well you mean she was.

MS ROCKMAN: Yes.

ADV GCABASHE: Well yes. In your capacity.

CHAIRPERSON: *Ja.* Yes.

ADV GCABASHE: At the time. In your capacity yes Chairman.

MS ROCKMAN: But not at – sorry – Chair not at the time.

ADV GCABASHE: In 2013 as of April 2013.

MS ROCKMAN: *Ja.*

ADV GCABASHE: Let us be very specific.

MS ROCKMAN: As of March 2013 but not as of June 2012.

ADV GCABASHE: Absolutely. June 2012 you were still in the
10 Premier's office.

MS ROCKMAN: Yes.

ADV GCABASHE: That is correct. And in fact that is part of the
difficulty because I tend you ask you questions that speak to 2012
whereas quite frankly they are questions that relate to 2013. So
whenever I do that just bring us back to the correct timeframe and
simply say I will relate to what happened in 2013 when I was MEC for
Finance. Then that will then contextualise properly your answer.

MS ROCKMAN: Thanks Chair.

CHAIRPERSON: But of course you may ask her some questions when
20 she was not MEC of Finance if you want information that could be
expected of – that she could be expected to know because of her
experience as both DG of the Province and MEC Finance.

ADV GCABASHE: Indeed so Chairman.

CHAIRPERSON: In terms of procedures and so on. *Ja.*

ADV GCABASHE: Absolutely.

CHAIRPERSON: And then she can throw light on the basis of what she knows even if she was not occupying the particular position.

ADV GCABASHE: Thank you Chairman.

CHAIRPERSON: Hm.

ADV GCABASHE: I think it is useful to contextualise this round of evidence by just reminding you about what Mr Jankielsohn said. He essentially said and it was not only about you it was about the Premier and other members of Exco that in your capacity as members of Exco and he names you MEC of Finance as well in that grouping that you
10 were one of the individuals who was and I quote:

“Pertinently aware of the issues and problems relating to Estina and in spite of that allowed substantial payments to be made towards this project while being pertinently aware of these issues.”

That is the one comment. He goes on and I really paraphrase his other comments. He goes on to intimate that you were aware of the skewed allocation of shares to Estina and that fact that Estina never contributed any of its own funds.

He also points out that the contract was drafted in the office of
20 the Premier. Last he goes on to say and I have not taken everything out of his transcript verbatim but this is the last section that I would like to add. He also says that you were aware that there were no beneficiaries in this project.

And I suppose this is an important point because the conditional grant allocations relevant here the CASP allocation and to

the extent that it was used the Ilima Letsema allocation that Ms Elder Mtshiza testified about at this Commission would have been processed through the Provincial Treasury.

If I might just add to this list of indicators that Mr Jankielsohn placed on record is that you were a member of Exco when the FDC, the Free State Development Corporation, was appointed to take over from Estina.

Now Mr Jankielsohn noted that substantial funds were paid to FDC and its agent ...(indistinct). So when we look at these comments
10 they really give context to the questions that are going to follow. And there are comments made to you in your capacity as MEC for Finance.

The first comment really relates to how aware you were of the issues that bedevilled this particular contract. I do not know if you want to very briefly touch on that know that you are still going to come back to dealing specifically with the R104 million that had to be found for each year for Estina. What is your response to Mr Jankielsohn?

MS ROCKMAN: Thank you Chair. I think in my initial communication with the Commission I also indicated that I think Mr Jankielsohn was relying on a National Treasury investigation report with a certain date
20 which he appears to have knowledge of which we never had a copy of. And I indicated in the subsequent financial years the audit reports of each and every one of those financial years. The Auditor-General reflected that that investigation had not been concluded. So I do not know what else Mr Jankielsohn was relying on.

Certainly ...(intervenes).

ADV GCABASHE: Can I interrogate just that first portion.

MS ROCKMAN: *Ja.*

ADV GCABASHE: Are you saying that you did not have sight of that report at any point in time? It is actually a report that is dated February 2014. There are some versions that dated 2013 that is an incorrect date. The correct date is February 2014. That is the first fact.

The second one that I really want you to respond to is when the Public Protector made enquiries about this matter the Premier
10 responded and gave a response that indicated that he was aware of the report and had read the report which is why he was able to respond to it.

Would you not have been in his office at that point in time or would you not have been aware of that report having being sent to the Premier?

MS ROCKMAN: Thank you Chair. If the report is somewhere in 2013 what I remember is that the Provincial Account and General at the time Ms Fourie was giving evidence. I think it was around October 2013 she made us aware that she was requested to meet with the investigators
20 appointed by National Treasury. So certainly at the time by then the investigation was still in progress. The HOD Treasury later requested information from Agriculture Fishery and Forest – Fisheries and Forestry about the progress of the investigation. Because National Treasury never communicated with us directly.

ADV GCABASHE: Who is us?

MS ROCKMAN: Provincial Treasury.

ADV GCABASHE: Thank you.

MS ROCKMAN: This is now after I had become the MEC Finance. They never communicated with us as Provincial Treasury on any aspect of the investigation asking us for information, asking us for assistance, they communicated directly with the Provincial Department of Agriculture. So we were left in the dark.

Equally when whether it was a preliminary report or a final report was issues National Treasury never asked us for comments on
10 the report. They never asked us for input. The report was never referred by the Premier to Provincial Treasury either.

ADV GCABASHE: Was it not discussed at Exco at all?

MS ROCKMAN: It was never tabled in Exco for any form of discussion. Neither was the investigation or a draft report by the Public Protector. It was not referred to Provincial Treasury. It was never tabled in the Executive Council.

ADV GCABASHE: Can I ask you to pause again? Would it have been quite regular for the Premier to have discussed this particular report with Exco at one of the Exco meetings?

20 **MS ROCKMAN:** It is difficult to say. Some reports on forensic investigations some were presented, some were not presented. If it was a report on I could remember specific municipalities that was placed under administration. Those type of reports would mostly or generally it would go to Exco and be presented. But the others on specific matters it might not be.

ADV GCABASHE: The fact that the Public Protector got involved in this particular matter again would not necessarily mean that it would come before Exco in any form?

MS ROCKMAN: No it would not.

ADV GCABASHE: I ask these questions because I know you would have been DG at the time but there was quite a bit of irregular conduct/expenditure in that period spanning 2011/2012 that the Free State government was aware of. It was brought to the attention of the relevant parties. Or am I wrong?

10 **MS ROCKMAN:** Chair if you are referring to – I think the one big problem that the Free State has or had was the 23 roads project that was around 2009/2010.

ADV GCABASHE: Yes.

MS ROCKMAN: And then around 20 ...(intervenes).

ADV GCABASHE: Just elaborate for the Chairman what that particular project would have been about?

MS ROCKMAN: It was a project initiated by the Department of Police Roads Transport where we either rebuilt or upgraded 23 roads simultaneously. It was pretty much a similar problem at that time as
20 ultimately Vrede Dairy. It was not fully budgeted for. So the project started, budget was or funding was committed and when it came to payment obviously we ran into trouble. Then a year later it was the advance payment to material suppliers. It was ...(intervenes).

ADV GCABASHE: Material suppliers to which project?

MS ROCKMAN: Human Settlement sorry. To Human Settlement.

ADV GCABASHE: Human Settlement.

MS ROCKMAN: Department of Human Settlement yes.

ADV GCABASHE: In what amount? What were the amounts involved there?

MS ROCKMAN: No. I cannot remember the exact amount.

ADV GCABASHE: Roughly.

MS ROCKMAN: But it was substantial because it was the Human Settlements grant – conditional grant funding that we were at risk of losing. I think it was close to R1 billion probably. It was a substantial
10 amount of money. That led to cabinet invoking Section 100A of the Constitution. Is that December 2011 I think? Because the Minister of Finance then issued a directive to the Premier January 2012 and if I am correct indicating that certain measures had to be taken to ensure that the Provincial Government comply with standard provisions of the PFMA that certain performance audits had to be undertaken in departments I think it included Police, Roads, Transport, Human Settlements and Education. There was quite a number of issues that the Minister covered in that directive.

ADV GCABASHE: Yes. So those were the two large areas where there
20 were irregularities and National Government then put the Free State Government on terms and asked you to essentially monitor what was going on and correct what was going on?

MS ROCKMAN: That is correct. It was not only the Free State at the time. It was the Section 100 1A interventions was Free State and Gauteng Health I think and Limpopo was 100B.

ADV GCABASHE: Yes. You mention these in your supplementary affidavit.

MS ROCKMAN: Yes, yes.

ADV GCABASHE: So Chairman you will find the reference to the fact that there was this directive made in terms of Section 100 1A of the Constitution that impacted on the Free State. And this is why I ask the question and what worries me about the fact that the irregularities seem to recur. You had been put on terms as the Free State Government here we have got yet another project. It might not be as
10 large as the R1 billion project but it is a substantial project in its own right, the Estina Project. And again you have irregularities that occur I would put that to you because again Section 38 2 was not complied with. And this is what Mr Jankielsohn is in effect saying that you were aware that there were problems but did nothing about it.

MS ROCKMAN: Chair if you could clarify? We were aware of the broader problems around the issues of budget not being fully secured before a project commences. Yes indeed. Whether we were aware of the operational details of the Vrede Dairy Project that is not something Treasury would have been aware of.

20 We did the oversight visit in May 2013 I indicated it seemed like a project that has commenced. Various aspects were in progress. It is not Treasury's responsibility to monitor the day to day running of projects. You would imagine when we deal with transfer payments we transfer hundreds of millions every year to non-profit organisations.

We do not go out as Treasury and monitor whether each and

every one of those ECD's for example Early Childhood Development Centres whether they exist. We simply do not have the capacity.

So the monitoring and evaluation responsibility remains that of the Contracting Department and the Contracting Department was Agriculture. By signing off on each and every invoice they signed off, they confirmed goods and services rendered. They have complied with all provisions to the PFMA.

The Executive Council functions as a collective leadership. There is no super power except maybe the Premier. There is no MEC
10 that is individually going to stand up and say, we have a problem with this project let us stop it or go outside the Executive Council that consistently approved and supported the project. And then say, no we are acting on our own.

I remember clearly the project as presented in June 2012. The MEC Finance at the time was in the meeting. I am quite convinced the HOD was in the meeting. They did not object to the approving the memorandum at the time. They would not go afterwards and say, we now object to the project. They would not act outside the collective.

ADV GCABASHE: You see I really want to just tease this out a little
20 more because I have now found that Myburgh document that we were talking about before lunch. And I also have I think it is your ER102 and I think ER103 that is from your original bundle and that will be bundle C. 103 is also a further report I think by Mr Moses regarding that visit. Now if you will recall really the bad press around the Vrede Dairy Project really only emerged in early 2013. All was quiet in 2012. It is

with that media report and with Treasury and its investigation that people started asking questions and that would have been in 2013. You would agree with that? I call it the – yes the – I want – let me call it the “bad press” in inverted commas around what was happening at the project. You then followed on in March with your own visit in 2013 as well.

MS ROCKMAN: In May.

ADV GCABASHE: In May I beg your pardon.

MS ROCKMAN: Ja.

- 10 **ADV GCABASHE:** But in January 2013, Mr Myburgh and here he is part of the budget management directorate that is your ER102 at page 1220. So that would be at Volume C of your original affidavit. I am going to wait for you to find it. Your original affidavit.

MS ROCKMAN: Ja.

ADV GCABASHE: You have got three volumes to it. A, B and C.

MS ROCKMAN: Hm

ADV GCABASHE: HH13. It should be on the table. So Volume C of that is what you are looking for.

CHAIRPERSON: Look at the spine.

- 20 **ADV GCABASHE:** HH13. Volume C and that is page 1220 is where the letter starts. I am really just going to go straight through to the findings which are on page 1221 in January 2013.

MS ROCKMAN: Yes I am there. Thanks.

ADV GCABASHE: Can I also confirm that Mr Myburgh sat in Provincial Treasury?

MS ROCKMAN: Yes although I was not there at the time but I can confirm he was there.

ADV GCABASHE: Yes. In Provincial Treasury?

MS ROCKMAN: Yes.

ADV GCABASHE: Absolutely you arrived much later. And he says here that:

1. The land on which the project is to be developed belongs to the municipality and they are currently still valid leased contract to other commercial farmers in the area. The contract will only expire in August 2014 and no progress was made to buy out these contracts. The project managers can therefore not do any developments on the land until such time that the issue is resolved. We have had corroboration of this particular fact in other evidence that we have put to Mr Thabethe.
2. A total area of about 151 hectares have however been planted with maize and beans. These crops will be cut and used as silage (feed) for the cows when they arrive. So that you would call progress.
3. Some money was spent on the purchasing of tractors and implements. Two tractors were purchased with implements for them to work on the farm. That you would tick off as progress.
4. No permission is granted up to date by the

Municipality for the project managers to start drilling for water (boreholes) in the area where the actual dairy (milking parlour etcetera) will be established problem. Now water, no farm.

5. The dam wall close to this area is on the verge of collapsing but repairs cannot be made without permission from the municipality. Problem.

10 6. Some ground work was done only to the extent of levelling a piece of land where the actual construction of the silage storage facility is supposed to be constructed. Work has however come to a standstill and no actual work is being done as we speak. Problem.

7. Rough estimates would be that an amount of approximately 6 to 7 million could actually be verified as expenditure on the project. This would include the abovementioned progress as well as salaries for staff currently employed on the farm.”

20 Now this is a report that speaks to the situation at the farm in January 2013. And I bear in mind that in April already Mr Gupta is asking where the rest of the R84 million is.

These are the types of facts that Mr Jankielsohn drew on. I am not saying this report just the types of facts that he used to inform his view that you were aware that there were problems. You as in the collective you but did nothing or very little about it.

MS ROCKMAN: I am not able to comment on how this report was processed at the time internally in Treasury. What I do know is in April when the department approached us with the request for payment – for further payments I had a discussion with the former HOD of Treasury, Mr Kgomongwe at the time who did raise queries – issues around the January report.

We then established find from Agriculture certain documents had been produced. I think they had forwarded the feasibility study, whatever other requirements that was agreed to in June 2012 the prior
10 year. It was subsequently submitted. But then we had agreed to do a further over – further sight visit to establish in May now what was actually happening on the farm.

So that was – but we were sufficiently comfortable that most of the January concerns by then had been addressed to some extent or was in the process of being addressed that it was not necessary to take any other actions at that point in time.

ADV GCABASHE: Now the report you speak of – the May report would that be the one that was authored by Mr I J Moses? The date here is the 22nd of May 2013? Does that sound familiar? It is ER103 the very
20 next document in that file.

MS ROCKMAN: No I am sorry on – in which file are you?

ADV GCABASHE: File C.

MS ROCKMAN: Ja.

ADV GCABASHE: Your original affidavit. This is an annexure to that. So the one we have just been reading from was 102 that was the one

Myburgh had presented. And the very next one is 103 – ER103 the page number is 1226 and it is titled Preliminary Financial Report on Mohama Mobung and in brackets (Vrede Project).

MS ROCKMAN: Chair no there is a different report. I think it was drafted by Mr Leboni that directly speaks to the site visit. This was a different financial report. The site visit report of Mr Leboni did not cover all aspects of finances. This is an additional report.

ADV GCABASHE: But this is one that you have annexed to your papers and it is one that says:

10 “The purpose of this preliminary report is to provide the Honourable MEC for Finance with the following information regarding Vrede Dairy Project. Project background, cost and finding – funding implications, progress on to date.”

That is what is written in paragraph 1. At 1 – page 1226.

MS ROCKMAN: Yes. Chair you are correct. In my main affidavit on ECR0106 the report I am referring to about the site visit of Vrede Dairy 23 May is ER43.

ADV GCABASHE: ER43?

20 **MS ROCKMAN:** *Ja.*

ADV GCABASHE: I have it. Yes please point out the salient portions of ER43 that you want the Chairman to note? Again the purpose essentially is the same? Exactly what Mr Moses has – had written.

“Purpose of the report is provide the Honourable MEC of Finance and the CEO Provincial Treasury with the

following regarding Vrede Dairy Project in brackets

(Mohama Mobung). Projects background ...”

CHAIRPERSON: I think hang on she is still trying to find it.

MS ROCKMAN: I am so lost with this document that I do not know where you are.

ADV GCABASHE: The page number is written in red.

CHAIRPERSON: I think maybe start with the Exhibit name on the spine so that she checks whether she has got the right file.

ADV GCABASHE: It is file ...(intervenes).

10 **CHAIRPERSON:** Look at the spine of the file ...(intervenes).

ADV GCABASHE: And it will be File B.

MS ROCKMAN: B?

ADV GCABASHE: Yes and it is written in red – the pages numbers are written in red. It is 5-6-3.

MS ROCKMAN: Yes. Chair I am with you.

CHAIRPERSON: You found it?

MS ROCKMAN: Yes. Thanks.

CHAIRPERSON: Okay.

20 **ADV GCABASHE:** So were pointing to this as a report that you can relate to?

MS ROCKMAN: Yes. This is – I was with Mr Moses. There was a whole delegation of Treasury Officials.

ADV GCABASHE: Yes.

MS ROCKMAN: That was at the site of Vrede Dairy. It sets out the basic financial information. It sets out what – paragraph 9 of that

report says:

“The 30 million was required to do one, two, three,
four, five ...”

ADV GCABASHE: Now ...(intervenes).

MS ROCKMAN: “... land acquisition ...”

ADV GCABASHE: Continue.

MS ROCKMAN: “...land acquisition, environmental impact
assessment, feasibility study and so forth.”

ADV GCABASHE: Now remember we spoke about this earlier on about
10 the disjuncture between what Mr Thabethe thought the money – the first
30 million was for and what Estina thought the first 30 million was for
but continue. At least here this corroborates what you said to the
Chairman earlier on.

MS ROCKMAN: Yes.

ADV GCABASHE: This is exactly what you said.

MS ROCKMAN: We would not have information about what Estina
alleges they were supposed to do with the money. We are stuck with
the version that Agriculture tells us in whatever submission they made
they must do one, two, three.

20 **ADV GCABASHE**: Yes.

MS ROCKMAN: Then paragraph 14 deals with the progress on-site.
Then they do say paragraph 15:

“55 million was spent at the June 2013 the physical
progress on-site seems to be sluggish due to the fact
that bulk of the funds were meant for parlour equipment

which was ordered. The milking parlour equipment has not yet arrived. However the order has been made.

From ...”

ADV GCABASHE: Yes, but if you just want to pause there for one minute. There is again disjuncture between paragraph 15 and what you agreed in paragraph 9.

MS ROCKMAN: *Ja.*

ADV GCABASHE: You would agree that the two are completely different?

10 **MS ROCKMAN:** Yes. Paragraph 9 is exactly what Agriculture presented at the time they made the request for the first payment to be made. They said we want to do X, Y, Z.

ADV GCABASHE: Yes.

MS ROCKMAN: Now we are on the site visit a couple of months later May 20 – May 2013.

ADV GCABASHE: Yes.

MS ROCKMAN: And we are told this is what has happened with the first payment.

ADV GCABASHE: And you are told by who?

20 **MS ROCKMAN:** By the officials of Agriculture.

ADV GCABASHE: And the Project Manager. I am just ...(intervenes).

MS ROCKMAN: Yes.

ADV GCABASHE: I am just wondering if the Project Manager was on-site.

MS ROCKMAN: Yes. The Project Manager was on the farm but he was

very difficult to understand. He spoke with a very heavy accent.

ADV GCABASHE: That is Mr Prasad?

MS ROCKMAN: Yes. That is correct.

ADV GCABASHE: So your information really came from the Departmental Officials?

MS ROCKMAN: Yes.

ADV GCABASHE: The same people who had given you the information in paragraph 9?

MS ROCKMAN: Yes.

10 **ADV GCABASHE:** Continue.

MS ROCKMAN: That would be correct. Then it says:

“The tractors that were purchased, the total area of land that has been planted, the harvesting machine, implements and other agriculture equipment.”

And we would not be – we were not doing a stocktaking. We would not go to that level of details.

“The construction of silage bunkers that was in progress on the day.”

It - the estimate was – it was about 80% complete.

20 “Construction of dairy parlour was in an initial state. The milk processing plant was not yet started as the latter is interdependent on completion of the dairy parlour and also relates to Phase 2. Indication from Project Manager was that this project will gain momentum immediately once approval of usage of land

for different purposes has been granted by National Department of Agriculture.”

And then it confirms the following obligations were executed:

“Land acquisition, environmental impact, feasibility study.”

They were in the process of finalising identification of beneficiaries for the Agri BEE entity and there was a number of photos that indicates.

ADV GCABASHE: Yes.

- 10 **MS ROCKMAN:** Then the recommendations. It was noted the amount they had spent. It is note that progress seemed to be sluggish because the land usage application had not yet been approved and it recommended that we agree that we must make a follow up visit during November 2013.

- ADV GCABASHE:** Now this makes the precise point that Mr Jankielsohn makes. At paragraph 20.1 you are correct. It notes that the total amount of 85 million has been spent thus far. Now we know we can take 29 million off - let us call it 30 million off because they said they had put that away to reserve it for buying milking parlour
20 equipment.

You still have an amount of 55 million that is noted here as having been spent so far and the simple point really is could you see 55 million as you walked around that farm? That is really what the site visit was about. Could you see where the 55 million that you know had come from your coffers could possibly have been employed?

MS ROCKMAN: At that time we knew that a significant portion of that money went into the studies. For example feasibility study, environmental impact assessment. You would not expect to see that physically on the ground. The paperwork had been submitted and it was subsequently forwarded to Treasury. So it was to Agriculture.

What was on the ground was exactly as I said. It was a project in the beginning stages of implementation.

ADV GCABASHE: You know can I ask you to pause because interestingly enough that memorandum we showed you of the 28th
10 of February that Mr Thabethe and MEC Zwane signed off on and sent through to the Premier author – asking for authorisation to go to India. In the third or fourth paragraph of that particular memorandum Mr Thabethe mentions 17 million that at that point in time was available for – either for plans for three projects Qwaqwa, Setsoto and Vrede.

All feasibility studies. There was a bit of a debate about what exactly that 17 million had been allocated to but my understanding of Mr Thabethe's evidence is that that 17 million was in the bag. It had already been set aside for whether it is for the plans or for the feasibility studies is immaterial at this point in time.

20 So when I then look at the 55 million that paragraph 20.1 would be referring to should you take the 30 million off. I come back to asking as Mr Jankielsohn might have had he been here. Could you see the South African taxpayers 55 million on this farm that you were visiting?

MS ROCKMAN: Chair for 2013/2014 in the APP there was 53.9

committed for – from CASP for funding. That is the Conditional Grant Funding.

ADV GCABASHE: In which year?

MS ROCKMAN: 2013/2014.

ADV GCABASHE: 2013 – I agree with you on that.

MS ROCKMAN: Yes.

ADV GCABASHE: Yes.

MS ROCKMAN: And from infrastructure enhancement allocation where was 60.

10 **ADV GCABASHE:** 6-0?

MS ROCKMAN: Ja. 6-0 million.

ADV GCABASHE: Yes.

MS ROCKMAN: So that constituted the full funding. It was taken up in the annual performance plan.

ADV GCABASHE: Yes.

MS ROCKMAN: In other words it was approved by the National Department. At least the CASP funding of 53.950 million. It went through the whole process that they standardly followed. The Department of Agriculture would prepare a business plan, would submit

20 to the assessment panel of the National Department.

Projects would – some would be approved. Some would be not approved. There would be certain conditions. So the funding was definitely secured.

ADV GCABASHE: Can I ask you to pause? Please do not forget where you are going to because I am simply reminding you that that letter that

was written to the Premier asking for permission to go to India is dated the 28th of February 2012. At that point in time this 53 million and the 60 million that CASP was giving for this particular project had not been allocated yet.

MS ROCKMAN: No.

ADV GCABASHE: You had not started having those discussions?

MS ROCKMAN: Yes.

ADV GCABASHE: And that is just the contrast I am bringing. I am simply saying and I am really looking at this letter ER43. At paragraph
10 20.1 at the 85 million minus 30 and really just asking in this context knowing that Thabethe – he may have been wrong. Mr Thabethe said there is a 17 million. He said that to the Premier.

The Premier signed off on that basis. Gave him permission to go to India. There was a 17 million for the plan/feasibility study. At the same time you here have paragraph 9 that speaks of 30 million for Phase 1 which included a feasibility study. At paragraph 20.1 we have got 85 million which includes the 30 million that has already been spent.

This is what people are telling you. Your oversight role, to
20 what extent would you have to interrogate some of what you were seeing and hearing? I really do not know. I ask the question because I have not worked in Provincial Government. Otherwise I would have had some sense.

MS ROCKMAN: Thanks Chair. The 2011/2012 budget was the limited one. It was one amount – one source of funding was 6 million.

ADV GCABASHE: Yes.

MS ROCKMAN: There were two sources of 3 million, 3 million of which one was EPWP.

ADV GCABASHE: So the total for 2011/2012 would have been 13?

MS ROCKMAN: 12 million - 12 million in total.

ADV GCABASHE: 12 - 12 million?

MS ROCKMAN: Ja. It was six million from ...(intervenes).

ADV GCABASHE: I have the 3.5 and the 6.5 and then another three.

MS ROCKMAN: Sorry. That is the – are you in 2012/2013 now?

10 **ADV GCABASHE:** No, no. I am simply working from memory because ...(intervenes).

MS ROCKMAN: Okay.

ADV GCABASHE: I have been looking at these documents for a while.

MS ROCKMAN: 2012/2013 from CASP there was 6 million.

ADV GCABASHE: Yes.

MS ROCKMAN: Then from Ilima/Letsema there was 3 million ...(intervenes).

ADV GCABASHE: Yes.

MS ROCKMAN: And then from EPWP there was 3 million.

20 **ADV GCABASHE:** Okay.

MS ROCKMAN: So that gives you 12 million.

ADV GCABASHE: 12.5?

MS ROCKMAN: Ja.

ADV GCABASHE: Okay. Yes and that is for 2011/2012.

MS ROCKMAN: No. 2012/2013.

ADV GCABASHE: 2012/2013?

MS ROCKMAN: *Ja.*

ADV GCABASHE: 2012/2013. Are you ...(intervenes)?

MS ROCKMAN: 2011/2012 there was no delegated budget.

ADV GCABASHE: Thank you.

MS ROCKMAN: There was no expenditure in respect of Vrede Dairy.

ADV GCABASHE: *Ja.* Absolutely. I am quite happy with that. In fact you put that in your supplementary affidavit ...(intervenes).

MS ROCKMAN: Yes.

10 **ADV GCABASHE:** Because really Mohama Mobung was a concept ...(intervenes).

MS ROCKMAN: *Ja.*

ADV GCABASHE: Vrede Dairy was hardly a concept. So ...(intervenes).

MS ROCKMAN: *Ja.*

ADV GCABASHE: In 2011/2012 there would have been no ...(intervenes).

MS ROCKMAN: *Ja.*

ADV GCABASHE: And not for that project anyway. For other projects
20 but not for that project.

MS ROCKMAN: Yes.

ADV GCABASHE: *Ja.* So I am happy enough for that. So we are talking 2012/2013, 12.5 million.

MS ROCKMAN: Yes.

ADV GCABASHE: I must say please I am moving around a little simply

because I have read your supplementary affidavit. So if you want us to do this in a more structured fashion by going through that. I am happy if you would prefer doing that because you actually set it out very nicely in that supplementary affidavit.

Every year what was allocated and what was spent but I am quite happy with just doing high level - having a high level discussion about these amounts. As the Chairman has indicated he is happy to drill down into the specifics at his leisure. Are you comfortable with continuing like this?

10 **MS ROCKMAN**: *Ja*. I am fine with whichever direction you want to take.

ADV GCABASHE: I am – let us continue this way. So we are again looking at a high level discussion about the amount that were made available. I am really focusing on this report because you have brought it to the attention of the Chairman. ER43 and the conclusions drawn at paragraph 20.1.

I am also pointing to the information that is contained in this particular letter and maybe there is no answer to this because you are given information. Different bits of information that do not really make
20 sense when you look at it in composite form but you are reliant on the people who are giving you this information?

MS ROCKMAN: That is correct Chair.

ADV GCABASHE: Is this really what you are saying?

MS ROCKMAN: Yes.

ADV GCABASHE: My only question then is Oversight Section 18 of the

PFMA. Would one person not necessarily the MEC or even the Accounting Officer, any official not sit down and say wait a minute. This does not make sense. You do not do that type of thing in Provincial Treasury?

MS ROCKMAN: Not at such an early stage at the start of a project. That would be not something we would be doing.

ADV GCABASHE: Hm.

MS ROCKMAN: In addition to the fact that we do not necessarily have the capacity. If Agriculture comes and tells you we have planted X
10 amount of hectare. We have bought this, bought that. This is where the money has gone. We do not have Agricultural economists in Treasury who is able to take an informed decision.

We run into the same problem for example when we had the health crisis. We had a situation where our health officials were telling us but National Department of Health has introduced a certain tablet that was 12 times more expensive than something that had been used. It is not decision Treasury can pronounce itself on because we have no clue.

We do not have the expertise. We do not have the capacity
20 to say use this pill. Not that pill because it is cheaper or not cheaper. It is too specialised for us to have an informed position on. We would then defer to say National Department there is provision in the PFMA to say if there is an unfunded mandate can you attend to it.

In that specific case we had asked for them to attend to it and absolutely nothing happened subsequently. So it did not matter

whether we reported or not reported it. There was no outcome. So those anomalies in Government exists like in presume inherently to any other system it will happen.

I think it is important to note the way Agriculture structured the agreement. It made provision for phases of the project and money was going to be transferred X, Y, Z. No one ever came back to say guys let us take a step back. We are not comfortable with this. We are not comfortable with that.

10 The accounting responsibility remained with the HOD ultimately.

ADV GCABASHE: Of the Department of Agriculture and Rural Development?

MS ROCKMAN: Of that department.

ADV GCABASHE: *Ja.*

MS ROCKMAN: You can also say the legislature has a specific role when it – to play. When it comes to consideration of the annual performance plan. This is part of – it is linked to the budget. You table your annual performance plan before the budget vote speech is delivered.

20 Now consistently throughout the years the State of the Province Address spoke to the Vrede Dairy Project. The ...(intervenes).

ADV GCABASHE: As of 2013? As of 2012 actually.

MS ROCKMAN: I think it ...(intervenes).

ADV GCABASHE: Mohama Mobung you see ...(intervenes).

MS ROCKMAN: *Ja.*

ADV GCABASHE: Because it is really two sides of the same coin?

MS ROCKMAN: Yes.

ADV GCABASHE: Yes.

MS ROCKMAN: The budget vote speech of the department then goes into further details. Now the APP is, the Annual Performance Plan, is tabled before the budget vote speech. It gets referred to the Legislature's Committee on – in this case it would have been Agriculture and whatever other portfolios were linked into the Legislature's Committee.

10 They consider the APP. They consider the budget speech. They report back to the house. Now I have not gone into those reports at all. I am unable to say how did the Legislature look at the APP's. What was the recommendations? What was that oversight role because the oversight role cannot only be one entity or one party?

 The first line monitoring and evaluation should have come from Agriculture and Rural Development itself.

ADV GCABASHE: Hm.

MS ROCKMAN: Treasury was looking at the funding. The way it was budgeted. It was also budgeted as transfer payments and I think I
20 dealt extensively in the affidavit on the accounting treatment of transfer payments.

ADV GCABASHE: And we are going to come back to that because the Chairman has a particular transfer payments.

MS ROCKMAN: Yes.

ADV GCABASHE: But let us leave transfer payments – I am sorry

Ms Rockman.

MS ROCKMAN: I think you broke my train of thought there for a minute.

ADV GCABASHE: I am – I do apologise.

MS ROCKMAN: But - okay the – it was budgeted as transfer payments because at the time the accounting treatment was that a transfer payment becomes unrequited funds. It ceases to be public money. So you would have a limitation. There was no way Treasury would go to Estina for example and say okay explain to us how you used this
10 money.

It – the moment the transfer payment was affected it was unrequited funds and I think that is an important aspect that comes into it. Now in the audit treatment I think the audit section of my affidavit goes to details of the engagements we had with National Treasury and the National Accountant-General and the fact that it took almost two years to get to a point to clarify is this a transfer payment or should it be reclassified as goods and services.

So it may have looked that – I do not know what people expect the Treasury to do. We were not going to jump up and down and
20 say we are stopping this project right here. That was not going to happen. It does not work like that in Government but our behind the scenes role on trying to assist Auditor-General and the Accountant-General to get a sense of finality around how to deal with the accounting treatment was – that was a critical part for us because had it been classified as goods and services it brought the whole Vrede

Dairy Project and whatever was procured it would have brought it back into the public sector and we could then systematically start working through it but as it stayed a transfer payment and it was unrequited funds our role was cut off at that stage.

ADV GCABASHE: I really must say we are going to come back to this discussion. We must ...(intervenes).

CHAIRPERSON: I was about to say it looks like cannot win to shift it to later.

ADV GCABASHE: I ...(intervenes).

10 **CHAIRPERSON:** Because she seemed to deal with it but I am happy to – for us to deal with it later.

ADV GCABASHE: I think we should Chairman because it is a very discussion and ...(intervenes).

CHAIRPERSON: Yes.

ADV GCABASHE: And Ms Rockman is correct.

CHAIRPERSON: *Ja*.

ADV GCABASHE: It took them from 2016 to 2018 ...(intervenes).

CHAIRPERSON: *Ja*.

ADV GCABASHE: To get a definitive ...(intervenes).

20 **CHAIRPERSON:** *Ja*.

ADV GCABASHE: Directive ...(intervenes).

CHAIRPERSON: Yes.

ADV GCABASHE: From National Treasury.

CHAIRPERSON: *Ja*.

ADV GCABASHE: And it is – it ...(intervenes).

CHAIRPERSON: We can deal with it later.

MS ROCKMAN: *Ja.*

ADV GCABASHE: Yes and the impact was national. It was not just ...*(intervenes)*.

MS ROCKMAN: Yes.

CHAIRPERSON: Hm, hm.

ADV GCABASHE: In relation to the Free State. So I think – it is an important aspect that we will come back to later. In the meantime I hear what you are saying about the limitations or the constraints on
10 your oversight role and I note those and will move on so that we get to those transfer payments sooner rather than later.

CHAIRPERSON: Well if you are moving away from ...*(intervenes)*.

ADV GCABASHE: Not quite Chairman ...*(intervenes)*.

CHAIRPERSON: The oversight role.

ADV GCABASHE: But you – please not ...*(intervenes)*.

CHAIRPERSON: Well if you are still with the oversight role you may proceed but if you are moving away from it I want to talk – to ask her some questions.

ADV GCABASHE: Chairman if you do not mind I just want to squeeze
20 in one ...*(intervenes)*.

CHAIRPERSON: *Ja.*

ADV GCABASHE: Question.

CHAIRPERSON: Okay. That is fine.

ADV GCABASHE: If that is alright with you.

CHAIRPERSON: Yes. That is fine.

ADV GCABASHE: And that really is just a reference to with – t o Ms Elder Mtshiza's evidence because when they went – I think it would have been in June/July 2013 to go and inspect the farm. For one there were no cattle there. They had been taken to another farm. Did you find cattle on the farm when you were there?

MS ROCKMAN: Yes. On every occasion.

ADV GCABASHE: Each time. Oh, how many times did you go there?

MS ROCKMAN: It was May 2013. It was the first time.

ADV GCABASHE: Yes.

10 **MS ROCKMAN:** Then in 2014 – I think it was 2014. I was at the Phumelela Municipality with an engagement that on municipal financial management ...(intervenes).

ADV GCABASHE: Yes.

MS ROCKMAN: And audit outcomes and Mr Odwa Dudu was the Business Executive for the AG in the Free State. He was accompanying us together with Ms Alice Miller. She was from the National AG's Office. In that meeting I suggested to the Mayor to say look everyone is here. This is really like an elephant in the room.

20 Let us just ask do they want to see the farm or not. It turned out Mr Dudu had at that stage already visited the farm before. Ms Miller had not been to the farm. So that was the second time – the second like visit to the farm. I will find the date.

ADV GCABASHE: Do you want to go to page 56, 5-6, of Volume A of your original affidavit paragraph 4.3.12? I do not know if that is the visit you are referring to.

MS ROCKMAN: Yes. Thank you. That is correct Chair.

ADV GCABASHE: There would also be at page 44 reference to the first visit – the 23rd of May visit.

MS ROCKMAN: Yes.

ADV GCABASHE: At page 44.

MS ROCKMAN: It was actually February 2015.

ADV GCABASHE: So that is the one on page 56?

MS ROCKMAN: Yes.

ADV GCABASHE: Of Volume A.

10 **MS ROCKMAN**: But at both occasions there were cattle on - on the farm. I cannot – I really cannot say how many cattle, what kind of cattle. There were cattle. They seem to be a few. We were told other cattle are in the fields – are in wherever but we saw cattle. I took photos of cattle. The numbers are – is obviously ...(intervenes).

ADV GCABASHE: Give us a quick sense a 100, 50 ...(intervenes).

MS ROCKMAN: Hm.

ADV GCABASHE: 10. This is a farm that was ...(intervenes).

CHAIRPERSON: Those that you saw. Those that you saw.

MS ROCKMAN: Ja. That big structure that I think there were photos at
20 one stage in the Commission.

CHAIRPERSON: Hm.

MS ROCKMAN: The – that whole structure was full from front to back.

ADV GCABASHE: Hm.

MS ROCKMAN: Cows were being fed. So ...(intervenes).

CHAIRPERSON: What would be your estimate 100 - 50 or it is difficult

to say?

MS ROCKMAN: I can show you the photos. You can ...(intervenes).

CHAIRPERSON: Well because you were ...(intervenes).

MS ROCKMAN: You should estimate from that.

CHAIRPERSON: Because you were ...(intervenes).

MS ROCKMAN: *Ja*.

CHAIRPERSON: MEC for Finance I nearly said you a finance person.

So you should know but that is not your background.

MS ROCKMAN: There ...(intervenes).

10 **CHAIRPERSON**: You were just MEC for Finance ...(intervenes).

MS ROCKMAN: There was not 800 in that ...(intervenes).

CHAIRPERSON: *Ja*.

MS ROCKMAN: What we saw.

ADV GCABASHE: *Ja*.

CHAIRPERSON: Hm.

MS ROCKMAN: Definitely not.

CHAIRPERSON: 500?

MS ROCKMAN: No. Far less.

CHAIRPERSON: Far less?

20 **MS ROCKMAN**: Yes.

CHAIRPERSON: Hm.

ADV GCABASHE: Yes. So that was the first observation Ms Mtshiza made. The other observation was they too found in June/July 2013 very little progress had been made. They could not see where their 24 million had made a difference which is one of the issues that informed

their decision to withdraw – one of not the only one, one of the ones that informed their decision to withdraw the CASP funding.

I just wanted to put that in Chairman but you had wanted to deal with some of the oversight or related matters.

CHAIRPERSON: Hm

MS ROCKMAN: Could I comment ...(intervenes).

CHAIRPERSON: Yes.

MS ROCKMAN: Just before ...(intervenes)?

CHAIRPERSON: Yes. Please do.

10 **ADV GCABASHE:** Do please.

MS ROCKMAN: I think that is another example of the fragmented approach that Government had because as DAFF did that site visit we did not have information on those details. They – for example they said that there is a technical report. We never had sight of that technical report.

So it made it very difficult and I – we know National Treasury is now investigating something this side. DAFF is doing site visits that side. No one is talking to us as Treasury at the time. So that fragmentation really did not assist anyone. Mr Jankielsohn is saying
20 we did not do anything but realistically what else do you want us to have done at that stage because exactly National Treasury had already initiated an investigation.

We cannot initiate another investigation. DAFF is doing site visits. They are stopping their funding. If we had stopped the funding at that stage then what. Except for being technically right. What was

going to happen to the animals on the farm? They were going to what - die. It was not a solution.

I think the focus at that stage was that everyone was trying to be right and no one was trying to find a solution to the problem and I think that to me was something that we really had to take into account. The animals were there. They had to be fed. They had to be medicined. They had to be watered. They had to be milked.

Simply stopping funding does not make all these other problems disappear. I think it was November that – November 2013
10 that a further submission came. It was either November 2013 or 2014.

ADV GCABASHE: From?

MS ROCKMAN: From Agriculture because we had not made available funding in the adjustment budget. I think it was November 2013. We had not made funding available because the funding was simply not there and yet afterwards another submission did come from Agriculture asking us for – to make funding available and the HOD Treasury – it is that letter with the long notation – handwritten notation to say though we agree that we will make this funding available it does not mean that we agree to the purpose of the expenditure.

20 We do not intend to undermine the National Treasury investigation but he took into account the possible consequences of not acting. So it was – it is much more complicated than just to say you should have stopped the funding. There were specifically practical reasons. I think we should also point out that at no stage did anyone at a political level from National Government raise the matter with me

as MEC of Finance.

Not the Minister of Finance, not the Deputy Minister of Finance, no one, not the Minister, Deputy Minister Agriculture. It was not raised with us and we had a practice in the budget council which is like the MINMEC of the Finance MEC's. There was space where the Minister could raise specific issues directly with us and issues that was raised at various times included, for example, over commitment on bursaries as the Free State, it included Makufe so issues were raised. Vrede Dairy was never raised at that level. It would have been
 10 appropriate that at such a political level, if there was this substantial concern, the Ministers would sit with Premiers, not only in the National Executive Committee of the ANC, they could have discussed it there. They could have discussed it in the President's co-ordinating council, they could have discussed it in any other number of inter-governmental forums. It was, to my knowledge, never discussed. No one raised it with us directly so I think that it also illustrates that it was not as easy as Mr Jankielsohn may make it out to be.

ADV GCABASHE: Can I say...(intervenes).

CHAIRPERSON: Well let's go back to the limitations on oversight. I
 20 thought that it's part of the obligations that National Treasury has, and I would imagine that what National Treasury is obliged to do at national level is the same thing that Provincial Treasuries apply to do at provincial level. I thought that one of the obligations of National Treasury is to look after how different departments are spending tax payers money and to take measures – certain measures when they

realise that a particular department might not be spending tax payers money in the right way. I know that I'm putting that at a very general level. Am I mistaken in that understanding, I'm talking about National Treasury on the basis that whatever National is supposed to do at National level, Provincial Treasury is supposed to do at Provincial level but you would be more informed and might be able to tell me that some of the obligations are the same but others are not, they apply to both but some don't apply to both?

MS ROCKMAN: Chair the basic workings would be the same, we have
 10 for example what we call the July/August visits of National Treasury where – but it happens at a technical level. All departments or at least the ...(indistinct) spending departments, your education, your health, your police, roads, transport, the bigger departments. There would be engagements, it would also serve as benchmarking exercises for us. It would flag certain issues where there would be concerns, under spending, over spending, over commitments, various issues. Then importantly we would have the provincial medium term expenditure hearings. That is sort of an assessment of where we are halfway through the financial year, it forms almost a foundation for your
 20 consideration of the adjustment appropriation bill as we begin to put it together but it also informs priorities for the budget for the forthcoming financial year. So literally departments are required to report extensively on what was in the APP's, what have they done up to a certain point of the financial year, about halfway through the financial year. Our funds committed, our funds likely to be under spent, it

enables us also to see where funds are clearly not going to be spent. We would know, okay we are going to take money from X, Y, Z and reallocate to address pressures wherever else. So that processes does happen and did happen consistently yes.

CHAIRPERSON: So in terms of payments when Provincial Treasury is supposed to either make payments or authorise payments this might not be literally, technically correct but when it is supposed to do that in regard to the projects of any particular department, is it not obliged to check whether, for example, certain or rather procurement procedures

10 have been followed even though the Accounting Officer of the department is there to sit with that. Aren't they entitled to say, if you are asking for us to authorise this funding, you need to satisfy us that you are going to spend it properly and properly includes where you are supposed to follow procurement procedures, satisfy us that you have followed them because if we are not satisfied that you want money to spend on a project where you have satisfied or complied with procurement procedures, we will not authorise. If you think you were justified not to follow procurement procedures for this project because

20 you believe there should be deviation, satisfy us that this is a deviation case. Isn't that the position because we won't be party in that way to you spending money in breach of the PFMA and the PFMA, as I understand the position being basically National Treasury legislation therefore you would be the guardians of that piece of legislation?

MS ROCKMAN: Thanks Chair, the Provincial Treasury pays its own service providers. Departments request cash on a monthly basis, they

give us cash projections. You have R120 for the year, so every month you get 10. If you project by December your spending is going to slow down you will ask for maybe R3 and in January you will ask for 7. Then every month we give you the cash, what you asked for. Your disbursement of the money we allocate on a monthly basis is between you, your procurement processes and your service providers, that is why the irregularity of expenditure that occurs happens at the point where the expenditure is incurred. Where the procurement takes place and then in this case of agriculture where expenditure is incurred. So

10 we do not have sight on the details of invoices. What comes to us is cash projections, cash requisitions where you need so much money, this is in line with whatever the department would have projected for the year, we will check, do you still have money, have you over spent, do we have cash available and then we would disburse. If a department suddenly wants two or three times the amount that we would have anticipated, there would have to be a motivation to say why would we need this money because it's cash management we have to protect resources also, we are trying to make a little extra money with bank interest and so forth.

20 It would also be influenced by, for example, conditional grants, the relevant transferring department. We would only release conditional grant funding if we had received it from the relevant National Department. So the details of expenditure would lie with the Department of Agriculture in this case. Those details would not be submitted to us we would not have sight of invoices or that type of

procurement details.

CHAIRPERSON: Of course I heard evidence some time back in relation to this matter that National Treasury initiated an investigation and we also know that a Treasury issues what is it, instruction, I can't remember I don't know the full term but basically giving guidance as to – even with procurement as to what will be accepted as compliance and what will not be accepted as compliance. So the National Treasury seems to play a very important role with regard to procurement and the compliance with procurement procedures at least at National level is
10 that right?

MS ROCKMAN: Yes as National Treasury would issue either instruction notes or it would issue practice notes or Treasury regulations, at a provincial context we contextualise.

CHAIRPERSON: Yes.

MS ROCKMAN: And then also subsequently issue a provincial instruction note to say this is how this Treasury regulation in the provincial context does this, this and this indications. On cost containment measures for example this is the same. You would not apply it equally across the country because of different dynamics, so
20 we customise that into what is workable for us and we would issue similarly such cost containment or relevant practice notes but the responsibility would remain that of the Accounting Officer and in this case, once the Accounting Officer had signed the deviation, he approved the deviation and stood by that deviation, I think we had a long conversation and engagement with the AG on – at which stage can

this deviation be set aside. If the Accounting Officer stands by his decision to deviate someone will have to approach court to set it aside, who is that someone in this case?

CHAIRPERSON: Well we'll talk about that in due course because I found that part of the discussion quite interesting but you have said that the Provincial Treasury would issue the equivalent of provincial instruction notes.

MS ROCKMAN: Yes.

CHAIRPERSON: But who enforces them, is it not the provincial
10 Treasury. You issue them to say, departments must do A, B, C, D or mustn't do A, B, C, D is it not provincial Treasury who has the obligation to enforce those?

MS ROCKMAN: In our key control matrix reports somewhere in the affidavit and supplementary affidavit we outline all of those areas, that it's also a monitoring tool to see what is our compliance of departments with relevant prescripts and so forth. Those same instruction notes, practice notes etcetera would also be provided to the office of the Auditor General. So in the audit, part of the audit would be – it would include the compliance with all relevant regulations, instruction notes,
20 practice notes etcetera that would have been issued. Then you would also have the CFO forum that was chaired by the Provincial Accountant General, they would report against these issues and it would depend on the accuracy of their reports on the extent to which we were able to monitor, compliance or non-compliance.

CHAIRPERSON: But you referred to monitoring compliance that must

be supervision that must be enforcement, why would you monitor if you're not the enforcer, what's the purpose of monitoring?

MS ROCKMAN: You would be able to say, department X you have not addressed, 1, 2, 3, 4, 5 but you cannot – we did not have the ability...(intervenes).

CHAIRPERSON: The power to issue a sanction?

MS ROCKMAN: *Ja* to issue a sanction.

CHAIRPERSON: Yes, but you would – part of the Provincial Treasury's obligation was to monitor whether, in this case, the Department of
10 Agriculture complied with PFMA procedures including whatever provincial instruction notes may have been issues, isn't it?

MS ROCKMAN: Yes Chair.

CHAIRPERSON: Yes, now did it monitor that?

MS ROCKMAN: To the extent it was able to yes, I think we did.

CHAIRPERSON: Yes why do you say to the extent, was there anything that prevented you from – when I say you, I mean the Provincial Treasury, was there anything that prevented the Provincial Treasury from monitoring the full extent of compliance or non-compliance, was there anything which it could not – were there any corners it could not
20 go to, to check whether there had been proper compliance?

MS ROCKMAN: In terms of all the standard procedures that would – any department would expect to be followed I think all of that was followed. In the case of Estina, specifically the deviation, there was no recovery from the deviation.

CHAIRPERSON: I'm sorry, just repeat there was no?

MS ROCKMAN: There was no way to recover from the fact that the Accounting Officer concluded the contract based on the deviation, there was no procurement process followed, no other procurement process followed. We could not redo a procurement process, the contract was signed, Mr Thabethe was adamant he stood by the deviation that he had the power to approve the deviation.

CHAIRPERSON: Okay, no, no I understand that I just want us to get there at the right time. So, but in terms of – as a response to my question you accept that whatever it is you would have wanted to see in
10 order to effectively perform your monitoring obligations, you would have been able to see if you wanted to see it?

MS ROCKMAN: Yes, we were not prevented from going to the farm, there was co-ordination if someone wanted to go to the farm they could, no one was prevented or instructed to say, no you can't go to the farm.

CHAIRPERSON: Yes okay.

MS ROCKMAN: That was never a problem.

CHAIRPERSON: Okay so is the position that you are saying what you did pick up as part of monitoring, maybe not necessarily as part of monitoring but what you did pick up as a matter of fact is that there
20 was deviation. Did you consider, and I would imagine you would have, when I say you again, Provincial Treasury maybe you in particular I'm not sure, did you consider whether this was a case where deviation was justified, because I'm taking it that if you have an obligation to monitor you must have the obligation to satisfy yourself whether things have been done properly otherwise there's no point in monitoring if you can't

– if you're not expected to form a view whether things have been done properly?

MS ROCKMAN: Chair, yes then I must refer back to – I'm able to reconstruct how the MEC at the time and the HOD at the time applied their minds from the available documentation. I think in other evidence before the Commission it came out that the Provincial Accountant General had advised that this is going to be a problem and the whole process that was then agreed upon arising from the Treasury Committee meeting to say, ultimately this – what is going to have to
10 happen before the HOD Treasury at the time and the MEC Finance at the time signed off on the request of Agriculture. If you remember they said part of it was that the contract must be reviewed, there must be further discussions on securing the funding etcetera. So at that time, I'm not aware whether there were other engagements between Treasury and agriculture or anyone else in the environment, I only know what I knew as DG at the time attending that specific Treasury Committee meeting and what was clear there was that Treasury at the time was not in possession of all the relevant documentation and part of what I had to do was to make sure that agriculture provide Treasury with the
20 documentation. Based on what they had they could not sign off and there was that process of engagement and going through documentation, consultation with the state law advisors and so forth that then led to them – the HOD Treasury at the time and the MEC at the time, they both signed off on certain conditions.

CHAIRPERSON: Well you, like Ms Gcabashe you must also remind me

when I put you into matters where you were not MEC for Finance but at the time that you became MEC for Finance and you became involved with this, where was this whole project at that time. I'm now trying to see what it is you may have had an obligation to check and what you might not have had an obligation to check in terms monitoring or your people under you?

MS ROCKMAN: The approval was June 2012.

CHAIRPERSON: June 2012?

MS ROCKMAN: Yes the Exco approval and then *ja* it was still when I
10 was DG.

CHAIRPERSON: Yes.

MS ROCKMAN: I became MEC March 2013.

CHAIRPERSON: Yes.

MS ROCKMAN: The first funding had been paid before I had started and then after I had started the funding was still made available.

CHAIRPERSON: Continuing?

MS ROCKMAN: Yes.

CHAIRPERSON: Yes but do you remember whether – when you became MEC for Finance the problem about deviation had been picked
20 up by the Provincial Treasury or not?

MS ROCKMAN: Yes it was already in June 2012.

CHAIRPERSON: Oh it had already been picked up?

MS ROCKMAN: Yes it was picked up at the time that the request was made for the first funding of the R30 million.

CHAIRPERSON: Yes and I guess that you are not in a position to

justify or not justify how it was dealt with before you became MEC for Finance or are you able to – in terms of monitoring and what was done pursuant to monitoring?

MS ROCKMAN: From what is clear to me is that the Provincial Accountant General at the time this is what he did advise that this is going to be a problem it's likely to constitute irregular expenditure. The MEC and the HOD at the time acknowledged, I think, that shortcoming in the procurement process but in mitigation agreed that whatever contract that was signed before this matter went to Exco that
10 that contract had to be redrafted, that further funding solutions had to be provided or had to be considered etcetera, etcetera.

CHAIRPERSON: Okay alright so – but I think that what we have established is that at least provincial Treasury has an obligation to monitor and that includes procurement issues even though the Accounting Officer of each department remains responsible for that.

MS ROCKMAN: Yes.

CHAIRPERSON: Okay, alright thank you.

ADV GCABASHE: Chairman I would like actually to go back to your visit, I know you've gone way beyond that but just to tidy that up
20 because you are then there in May of 2013, it's really relevant what the Chairman's been asking you about your oversight role and as you were speaking the comment I wrote down here that I want to pursue in the context of you saying there was very little that you could do because different investigating arms of government, whether it was staff or whether it was National Treasury, whether it was the department itself

were not talking to one another, they certainly were not talking to Provincial Treasury. The topic is still oversight – the oversight of Provincial Treasury and as you were responding the thought that went through my mind was, your difficulty really or certainly my difficulty with your answer is by going there on a site visit you placed yourselves as the Provincial Treasury squarely in the cauldron of the debate around what that R85 million may or may not have done for the project because you actually went there and you made certain observations. You could have gone back to the department for instance and engaged with them

10 further because you were aware that they do get monthly and quarterly reports am I correct?

MS ROCKMAN: Yes.

ADV GCABASHE: Those are a must those are part of what they have to get and I was just looking at – in fact my colleague just brought to my attention a quarterly report that we have been dealing with Mr Thabethe and it's ER106.1 it's at – I'm at page 1270 that's C – Volume C 1270, really and I'm interrogating what you're saying about your role – your oversight role, 1270 and it's ER106.1, this is a quarterly progress report dated December 2012 and I concede this would have

20 gone to the department and not to yourself but this information, prepared by Estina, not by the department that was then filed with the department and if we go over the page to point number five as at December 2012 this is what Estina says, it's at page 1271 paragraph five titled cow purchase they say and I quote,

“We are planning to make the purchase of cows by the

end of March 2013. For that we have visited more than nine dairy farms and identified about 1 600 pregnant Heifer cows. Their cost varies from R7 000 to R18 000 per animal depending on their pregnant status and genetics. They are quite careful in selecting the animals for their production potential, health other condition and age of the animals. Now we are going to start the negotiations for the purchase of cows. Meantime we have also contacted some insurance
 10 companies to insure the cows before their transportation. If everything goes well, cows will be purchased during March 2013.”

Then over the page at page 1272 right at the bottom at (V) they talk about setting up a cattle feed plant and then over the page again at page 1273 (VI) purchase of cows in their report, I quote,

“Keeping all the facts in mind the Estina will try to purchase at least 300 cows by the end of March 2013.”

The rest of the report really speaks to what they say were limitations in getting this project going but if you were there in May –
 20 March, April, May – 23rd of May, let’s say two months later I would like to understand from this report that they would have purchased no more than about 300 cows, just from what they are saying here in this report, does that make sense to you because you speak of the number of cows you observed on the property?

MS ROCKMAN: That number of cows was when I was with Mr Duda

and Miss Miller in 2015.

ADV GCABASHE: February 2015?

MS ROCKMAN: *Ja.* At this first visit there was not that number of cows at the farm. There were some cows but not the number of cows that was there in 2015.

ADV GCABASHE: So you would estimate that when you were there in 2013 in May having now paid the entire R114 million, roughly how many cows were there?

MS ROCKMAN: They were not in one place so you could not see all of
10 them at the same time. We were taken to the – where the calves were. Others were in this veld, that veld. They were not in one place so you could not get a picture to say okay the first X number of cows' looks like they have arrived and they are here. But as you indicate also Chair the – this is the report between Estina and – and Agriculture. This would not be the level of details that Treasury would necessarily have insight to.

ADV GCABASHE: That is really the theme of your answer as I have understood it. That at a certain level of detail the Provincial Treasury would not get involved. But you expect to be informed of any hiccups
20 or any difficulties that arise by the Accounting Officer. So the Commission should really continue to look to the Accounting Officer for answers to various issues that are raised by witnesses who have been to these proceedings.

MS ROCKMAN: Yes simply because we would not be involved to that detailed level of operations on a daily basis.

ADV GCABASHE: Yes. I am moving on Chairman if you have no other questions on this aspect?

CHAIRPERSON: Let us just – you know the visit to the farm I think Ms Gcabashe is probably right that demonstrates something and one I guess it demonstrates that you as Provincial MEC for Finance as Provincial Treasury you regarded it as your obligation to at least go and have a look whether certain things are in place. And you probably would agree with me that even though you might not be expected – have been expected to deal with certain details but there would be set
10 ball parks so that if certain things were not in place you would say, hang on what is going on here? Is that right? Am I right?

MS ROCKMAN: Yes that is correct Chair.

CHAIRPERSON: Yes so there have to be certain fissures that you have to look for. If they are in place then maybe you are expected to go into finer details but if one or more is not in place that is supposed to be a red flag for you to say come on Department of Agriculture tell us more we are not happy. That far we agree?

MS ROCKMAN: Yes.

CHAIRPERSON: Ja. Now I would think that if you had – as Provincial
20 Treasury had an obligation to monitor that it cannot be right that the Commission should only look to the Accounting Officer for the Department of Agriculture for answers. I would think that what is – what would be correct is that in regard to certain things the Commission is entitled to look for answers both to the Accounting Officer of the department as well Provincial Treasury. But with regard

to some things that maybe only the Accounting Officer of the department. Because at a certain level you have said finer details may be not but that means at a certain level you share certain obligations. Maybe you do not share but you are – you were as the Provincial Treasury the supervisor or the one who monitors whether there is proper performance. Maybe supervisor is not the correct term but you are supposed to keep an eye whether things seem to be in order in terms of performance. And if you see red flags you are supposed to intervene, is that right?

10 **MS ROCKMAN**: To a certain extent yes Chair.

CHAIRPERSON: Yes. It just depend what ...(intervenes).

MS ROCKMAN: Ys.

CHAIRPERSON: What things would be red flags or what things you are supposed to look for?

MS ROCKMAN: Yes in as far as controlling revenue and expenditure.

CHAIRPERSON: Yes.

MS ROCKMAN: That they did not spend more than ...(intervenes).

CHAIRPERSON: Yes.

20 **MS ROCKMAN**: What was allocated that indeed that – there was never a question.

CHAIRPERSON: Yes.

MS ROCKMAN: That – what was outside the budget would be supplemented.

CHAIRPERSON: Yes.

MS ROCKMAN: I think we deal in detail in the affidavit and the

supplementary affidavit on the way Agriculture was also impacted when they received money and when money was taken away from the department.

CHAIRPERSON: Hm. Hm

MS ROCKMAN: Like I said also in the Provincial Medium tech expenditure hearings the PM Tech hearings the department had to report in detail.

CHAIRPERSON: Hm.

MS ROCKMAN: They had to meet the monthly reporting requirements.

10 **CHAIRPERSON:** Hm.

MS ROCKMAN: The key control matrix reports. Those reports were also sent to the relevant MEC's of all departments not only Agriculture but Premier and all MEC's received their reports. Attention was drawn to certain areas that needed to be improved on.

CHAIRPERSON: Yes.

MS ROCKMAN: I know in 2013/2014 after the audit we did the analysis. We said per department this was your main issues in your audit you need to know that you need to address this otherwise it is going to impact your next audit. So all of those things were done in
20 terms of the broader monitoring. We simply did not have the capacity to monitor project implementation at the level of the details of specific projects. Also in the environment at the time Vrede Dairy is not a particularly big project. It might sound big in the sense of R250 million, R500 millions whatever how many millions it was but in comparison to other budgets.

When we had to intervene in the Department of Health we were looking at accruals of between R700 million and R1.2 billion. Then obviously your focus shifts to where the bigger problem is in – and the cows in Vrede had to look after themselves for a while whilst we were busy dealing with health.

The following education we had to intervene. So we had two Provincial Departments' Health and Education then under administration of Treasury. So the environment was very complicated and took up quite a significant period of time that would not have
 10 enabled us to pay detailed minute attention to relatively let me say small projects implemented by one department of Agriculture when we had the big hitters like education and health that had specific problems that had to be dealt with.

CHAIRPERSON: Hm.

MS ROCKMAN: So the capacity basically of our practical oversight or monitoring that capacity just is not there.

CHAIRPERSON: Hm. Well we will come back to it when you talk about the deviation and the implementing agents and so on. I do not know whether you were going to go there already or you still have some other
 20 topic.

ADV GCABASHE: Chairman with your leave I had actually just like Ms Rockman to look at her supplementary affidavit.

CHAIRPERSON: Yes.

ADV GCABASHE: And just at least enlighten the Commission on the funding sources. Ms Anna Fourie did tell the Commission that all funds

must be paid into the Provincial Revenue Fund. You are looking for the – 13 – HH – Exhibit HH13.1. It is the smallish file so it is 13.1 it is fairly small. Supplementary affidavit so the new one you sent in day before yesterday. Is that marked 13.1 the file?

MS ROCKMAN: No it is 13.

ADV GCABASHE: I think the big file on the – to your left is one top of your supplementary affidavit.

CHAIRPERSON: It is the smallest of the lever arch files.

ADV GCABASHE: That looks like the right file. I am going to – you
10 are going to take us through that material. Can I just continue to say that of course Ms Fourie did give us a sense of the sources of funding and she pointed out at the time that Section 21 to 25 of the PFMA which give effect to Sections 226 and 227 of the Constitution regulate provincial revenue funds? That is correct?

MS ROCKMAN: Yes.

ADV GCABASHE: Aha. Briefly using your supplementary affidavit take the Chairman through these funding sources just so that he has a clear picture to where money comes from?

MS ROCKMAN: Okay.

20 **ADV GCABASHE**: For this province.

MS ROCKMAN: For this province and any other province Chair.

CHAIRPERSON: Feel free to do it quickly because I have read it and *ja*.

MS ROCKMAN: It is equitable share which every branch of government has a share of national revenue and then it splits between the national

provincial and local governments whereas well. That is equitable share it is unconditional funding. It does not come with certain conditions. From the equitable share in the Free State the practice was developed that a percentage of equitable share was used for infrastructure enhancement allocation.

That is almost like a provincial conditional grant. It also gets published, it gets gazetted after the Appropriation Act gets passed and assented to. You publish your allocations to hospitals, to schools, to municipalities and to departments.

10 Now the infrastructure enhancement allocation is meant like co-funding to where a national department allocates conditional grant funding but it is essentially to accelerate infrastructure development. Then you would have your provincial own revenue that is basically our traffic fines, money that we get from gambling licences and so forth.

And then the next major source would be the conditional grants which comes with specific conditions from specific national transferring departments.

ADV GCABASHE: Can I ask you a question in relation to those conditional grants? Is the responsible on the Provincial Treasury that
20 dispenses these grants to monitor how they are utilised?

MS ROCKMAN: No.

ADV GCABASHE: Does that responsibility lie exclusively with ... (indistinct) with the national office?

MS ROCKMAN: It is between the National Transferring Department and the Provincial Receiving Department.

ADV GCABASHE: Hm. Does that not open those conditional grants to – to abuse in the sense of shifting money from a conditional grant to an area that the condition does not cover?

MS ROCKMAN: Strictly speaking Chairperson that cannot happen. You cannot use ...(intervenes).

CHAIRPERSON: You cannot shift it?

MS ROCKMAN: No you cannot shift it. You cannot use conditional grant money for any other purpose.

CHAIRPERSON: For anything other than.

10 **MS ROCKMAN:** Because that would then lead to almost immediate withholding of further funds. And in the case of local government we know – we have seen meek money for example utilised for operations. National Treasury immediately recovers that money. So it should not happen.

ADV GCABASHE: Well this is what I want to interrogate. Strictly speaking it should not happen, I hear what you are saying. In practice does it happen?

MS ROCKMAN: I would be hesitant to say it happens at provincial government level. I would concede that it happens at local government
20 level far more often.

ADV GCABASHE: Hm. Okay let us move on from that simply because I am trying to rush through the next section.

CHAIRPERSON: Oh I wanted to say the answer you gave to Ms Gcabashe's question about whether the Provincial Treasury would have a responsibility to monitor whether conditional grants are used by

provincial departments for the purposes for which they were given. You said that that responsibility is between the National department and I think the department concerned. I think.. ...(intervenes).

MS ROCKMAN: Yes.

CHAIRPERSON: I think you said *ja*.

MS ROCKMAN: Yes more or less Chair.

CHAIRPERSON: Do you mean that your monitoring obligation does not cover that?

MS ROCKMAN: Not in any particular detail. For example we are not a
10 party to the process where provincial departments bid for conditional grant funding.

CHAIRPERSON: Hm.

MS ROCKMAN: We do not have insight into what projects get presented. In the case of Agriculture for example. They had a national assessment panel. Whatever projects get approved and not approved the agreement is between that department and the Provincial Department. There is no role that unless a department would ask Provincial Treasury must do 1, 2, 3, 4, 5.

CHAIRPERSON: Hm.

20 **MS ROCKMAN:** The reporting for example – reporting would go directly.

CHAIRPERSON: To the department.

MS ROCKMAN: The national department. There might as a courtesy send us a copy?

CHAIRPERSON: Hm.

MS ROCKMAN: But it is not limited to Agriculture. Human Settlements for example we have no insight into the Human Settlement system.

CHAIRPERSON: So would the explanation for that be because the money does not come from Provincial Treasury.

MS ROCKMAN: Yes I think mostly.

CHAIRPERSON: That would be the explanation?

MS ROCKMAN: Yes.

CHAIRPERSON: So because the money – that money does not come from you therefore you do not have a responsibility of monitoring

10 **MS ROCKMAN**: Yes.

CHAIRPERSON: Because the person or department that grants the money is the one that has the responsibility to make sure that the money is used for the right purpose?

MS ROCKMAN: Yes. The Division of Revenue Act annually would set out in details.

CHAIRPERSON: Yes.

MS ROCKMAN: The conditions for such conditional grants and it may assign certain responsibilities to treasury as well.

CHAIRPERSON: Hm.

20 **MS ROCKMAN**: But we would – our execution of that would be limited by the information obviously we have access to.

CHAIRPERSON: Okay.

ADV GCABASHE: Yes but just to – without belabouring the point. Just to make it clear. Conditional grant funds are processed through the Provincial Treasury in that those monies are transferred into the

Provincial Revenue Fund and then Provincial Treasury dispenses those funds to the departments that those funds are supposed to go to?

MS ROCKMAN: That is correct Chair.

ADV GCABASHE: *Ja.*

MS ROCKMAN: *Ja.*

CHAIRPERSON: In that way does the Provincial Treasury act as an agent of the national department or do you know whether it simply acts in its own right? You might not know.

MS ROCKMAN: That is a – that would be an interesting question. No.

10 **CHAIRPERSON:** You do not know?

MS ROCKMAN: The provision is ...(intervenes).

CHAIRPERSON: But particularly ...(intervenes).

MS ROCKMAN: Just that all funding have to be paid into the Revenue Fund.

CHAIRPERSON: Yes.

MS ROCKMAN: The departments give us their cash projections.

CHAIRPERSON: *ja.*

MS ROCKMAN: And we pass on the money.

CHAIRPERSON: You might just be a conduit party?

20 **MS ROCKMAN:** We are basically a conduit.

CHAIRPERSON: *Ja.*

MS ROCKMAN: For the funding.

CHAIRPERSON: Okay alright. Okay.

ADV GCABASHE: But you are also the parties responsible for ensuring that the Supply Chain Management Policies and Procedures

are complied with by various departments?

MS ROCKMAN: Well each department – each Accounting Officer must execute his responsibilities or her responsibilities as Accounting Officer in respect of Supply Chain Management but then yes as – from financial governance perspective of that unit of treasury they would exercise oversight over that – over that compliance.

ADV GCABASHE: Yes.

CHAIRPERSON: So just to make sure I understand your answer to that question. To the extent that conditional grants or the expenditure of
10 conditional grants is supposed to be subject to PFMA procedures you still have the responsibility of monitoring that PFMA procedures are complied with by the Provincial Department that receives conditional grants. That part remains yours. You are not involved in whether they should be granted these conditional grants or not but if they are going to do anything that falls within the mandate of the Provincial government it is your responsibility to monitor whether they comply with PFMA procedures?

MS ROCKMAN: Yes Chair.

CHAIRPERSON: Okay. Thank you.

20 **ADV GCABASHE:** We have agreed that in the 2011/2012 financial year while you were in the Premier's office there was no allocation for Mohama Mobung or for Vrede made by the relevant department.

MS ROCKMAN: Yes Chair.

ADV GCABASHE: Ja.

MS ROCKMAN: Ja.

ADV GCABASHE: We then looked at 2012/2013 and we have agreed that in that year R12.5 million was made available for Vrede?

MS ROCKMAN: So let me just find the ...(intervenes).

CHAIRPERSON: Well if you tell her what you are looking for she might assist you.

MS ROCKMAN: *Ja.*

ADV GCABASHE: Maybe if you go to – well page 5 to 6 deals with 2011/2012.

MS ROCKMAN: Hm.

10 **ADV GCABASHE:** Then that is followed by 2012/2013. 2012/2013 starts on page 6?

MS ROCKMAN: Yes.

ADV GCABASHE: And I suppose the question that I am asking relates to what you might have picked up that there is the R12.5 million that was allocated to the Vrede Dairy Project but in the same financial year a total of R30 million was allocated to Mohama Mobung. Would that be correct? 2012/2013.

MS ROCKMAN: If you can give me the paragraph you are making reference to?

20 **ADV GCABASHE:** So we are on – let me just pick this up. We are on page 6 and it is IV where you say:

“Additional funding from Provincial Owned Revenue adjustment amounting to R14.045 million for the implementation of Mohama Mobung Development Program.

V. Additional funding from Provincial Revenue reserves amounting to R15.955 million for the implementation of Mohama Mobung Development Program.”

Page 006 paginated 6. Page 6 Chairman I should stop saying 00.

CHAIRPERSON: Yes thank you.

ADV GCABASHE: Paginated page 6.

MS ROCKMAN: Thank you. Yes the ...(intervenes).

10 **ADV GCABASHE:** So when we total those two amounts Mohama Mobung would have received R30 million.

MS ROCKMAN: Yes. In the 2011/2012 adjustment budget.

ADV GCABASHE: Ah let us just say that again. In the 2011/2012 adjustment ...(intervenes).

MS ROCKMAN: *Ja.*

ADV GCABASHE: Budget.

MS ROCKMAN: If you go to paragraph F on page 5.

ADV GCABASHE: Yes indeed. I am there.

MS ROCKMAN: *Ja.*

20 **ADV GCABASHE:** But that means that it would then be used in which financial year?

MS ROCKMAN: In the 2011/2012 financial year.

ADV GCABASHE: In the 2011/2012 financial year?

MS ROCKMAN: Yes. The year ending 31 March 2012. So Mohama Mobung was not just Vrede Dairy.

ADV GCABASHE: Correct.

MS ROCKMAN: It was a lot of other initiatives was part of it. So this indicates additional funding where it came from. For example they received additional funding for disaster management grant for – of R4.736. It is that improvement in condition of service of R1.5. There is R300 000.00 relating to veld fires. It was a roll-over of R3.4 from the previous year for CASP funding. But then also a decrease in current payments of R49.344 million.

ADV GCABASHE: Yes.

10 **MS ROCKMAN:** So it just sets out all the different changes in the 2011/2012 financial year.

ADV GCABASHE: Yes. Can you do this for me please Ms Rockman? Can you keep that page open but can you also pick up your original affidavit and can you go to page 16 and 17 of that. Are you there?

CHAIRPERSON: Yes.

ADV GCABASHE: Right.

MS ROCKMAN: I think so.

ADV GCABASHE: So your reference on page 16 under the Mohama Mobung framework and I am assuming that we are here dealing with
20 budget allocations as you say in 2.2.2 for the 2012/2013 financial year.

MS ROCKMAN: Yes.

ADV GCABASHE: You make reference to Annexure ER6.

MS ROCKMAN: Hm.

ADV GCABASHE: Please go to Annexure ER6 it is in the same document. You will find it at page 231. And keep your finger on that

page 16. I just want you to explain this to us. Here you say at page 16.

“The Executive Council discussed the proposed budgets of the following departments and agreed to the summarised issues relating to these departments.”

Over the page 3.1.

“Department of Agriculture and Rural Development.

D. Provide more details and plans for dairy parlour and processing facility in Vrede at the cost of R13 million I presume that should be.”

Are you with me as far as that is concerned?

MS ROCKMAN: I think you lost me several minutes ago.

ADV GCABASHE: Do not worry I am bringing you right back to page 17 or your original affidavit. You made me read all these papers Ms Rockman. You sent this supplementary through on Monday. I read it. So let us have a look at – and it is a useful document quite frankly.

I am glad that you did give it to us. Because it elaborates on some of the issues you raise in your original affidavit. So do not think that it is not being on any use. It has really been of use and I am sure the Chairman will find quite a lot of value just from having that to supplement what you had written in the original document. So page 17 of the original document.

MS ROCKMAN: Yes.

ADV GCABASHE: Then you move – keep your finger there. You move to ER6 because you here refer to ER6. ER6 is on page 231.

MS ROCKMAN: Okay.

ADV GCABASHE: You are at ER6?

MS ROCKMAN: *Ja*.

ADV GCABASHE: If you have a look at ER6 for one these are minutes dated the 13th of June 2012.

MS ROCKMAN: ER6?

ADV GCABASHE: ER6.

MS ROCKMAN: I have it as the Record of Cabinet decision.

ADV GCABASHE: Yes. And then it says Cabinet Minute Number.

10 **MS ROCKMAN:** Oh.

ADV GCABASHE: It does not have a minute number.

MS ROCKMAN: Yes.

ADV GCABASHE: You are correct? You are at the right document.

MS ROCKMAN: Yes.

ADV GCABASHE: So for one the date is not the same date you mention in your paragraph 2.2.2 unless I am misreading this. That is the first issue. The second more material issue is I am really trying to locate that R13 million that you say is at paragraph 3.1 of ER6. There is no 3.1. 3.1 D. There is no 3.1 D at ER6.

20 **MS ROCKMAN:** Chair the paragraph 2.2.2 refers to the Exco meeting 29 February 2012 not to June 2012.

ADV GCABASHE: So 2.2.2 refers to an Exco meeting?

MS ROCKMAN: *Ja* during its deliberations on the proposed budget allocations for 2012/2013.

ADV GCABASHE: *Ja*.

MS ROCKMAN: On 29 February 2012. I think we might have referred to the wrong annexure here.

CHAIRPERSON: Well 2.2.2 refers to Annexures ER5 not ER6 isn't it?

ADV GCABASHE: Chair 5 is a completely different document. It is a presentation September 2011 on the Mohama Mobung strategy.

ADV GCABASHE: But what I am saying is – is the position that there is reference to a wrong annexure there?

ADV GCABASHE: Yes probably.

MS ROCKMAN: *Ja.*

- 10 **ADV GCABASHE:** I think that the issue I can – I would like to think I can still raise the issue with you Ms Rockman because you worked with these documents and you are familiar with them. My real interest is in that 13 million under 3.1 D. I am assuming that minute exists.

I have no difficulty with that and here you say that the dairy parlour and processing facility were going to be put up at a cost of R13 million.

MS ROCKMAN: Yes. That is correct.

ADV GCABASHE: That is correct?

MS ROCKMAN: Yes.

- 20 **ADV GCABASHE:** Good. That minute is February 2012 minute?

MS ROCKMAN: Yes.

ADV GCABASHE: Would be and my question really is if the Vrede Facility was going to cost 13 million I am assuming it is the same – it is working off the 12.5 million we talked about earlier on that had been budgeted for ...(intervenes).

MS ROCKMAN: Yes. That is correct.

ADV GCABASHE: Because it is the closest to that?

MS ROCKMAN: Yes.

ADV GCABASHE: But the entire Mohama Mobung budget for 2012/2013 was 30 million?

MS ROCKMAN: Yes. I think that is correct.

ADV GCABASHE: This 12.5 ...(intervenes).

CHAIRPERSON: I am sorry. Just make sure that you speak loud enough that ...(intervenes).

10 **MS ROCKMAN:** Okay.

CHAIRPERSON: Your answers will be recorded. Thank you.

ADV GCABASHE: This 12.5 is it part of the 30 million that was allocated to Mohama Mobung because after all Vrede falls within the basked of Mohama Mobung Project?

MS ROCKMAN: Yes. That is correct Chair.

ADV GCABASHE: It would?

MS ROCKMAN: Yes.

ADV GCABASHE: When did this 13 million balloon into the royal sum of about 572 million – if you take all those 114 million over three years?

20 I am really just paraphrasing. I understand that the facility was doing to cost 13 million in February 2012 but as at June 2012 it would appear Mr Thabethe thought it was going to cost the department 114 million per annum over three years or per financial year over three years. I do not if you have insights into this.

MS ROCKMAN: Thank you Chair. I think we subsequently – I also

raised it in the supplementary affidavit that there was a further presentation during April where the amount of 13 million was confirmed of Vrede Dairy because initially we thought it was a typing error but unless it was a consistent typing error throughout a period of time.

It seems the cost was 13 million but I am not aware how from the February presentation, the March presentation or the April presentation how it grew from the 13 million to the big mega project ...(intervenes).

ADV GCABASHE: Hm.

10 **MS ROCKMAN:** Presented ...(intervenes).

ADV GCABASHE: Hm.

MS ROCKMAN: At Exco in June 2012 which needed additional funding of at least 84 million for the first year and then the overall funding. I have no insight into how and where that quantum changed and what motivated it.

ADV GCABASHE: Fair enough you have no idea?

MS ROCKMAN: No. I do not.

ADV GCABASHE: Much as you have made inquiries.

MS ROCKMAN: Yes.

20 **ADV GCABASHE:** Nobody has been able to explain it to you?

MS ROCKMAN: Yes. There is no records in Treasury that says there was engagements. It was motivated this way that way. It is in entirely possible that this matter was discussed in the economic cluster and I did not attend that cluster meetings.

It is possible but I have not gone into those kinds of records

of – Mr Thabethe probably presented also in these clusters – he did a number of presentations but the – that it speaks to elevating the project from a relatively small project under Mohama Mobung to the scope that was presented in June 2012. There I have no insight to share.

ADV GCABASHE: But what ...(intervenes).

CHAIRPERSON: Would it have been – would it be correct to say Provincial Treasury would have been expected to keep an eye on such things? Any project within the Provincial Government, any department within the Provincial Government that there were – they would have to
10 keep an eye if a project was initially said to require a certain amount and then at some stage it – as Ms Gcabashe put it balloons into a much bigger amount?

MS ROCKMAN: Yes. I am sure Chair that this would have taken Treasury by surprise almost.

CHAIRPERSON: And they would have asked questions?

MS ROCKMAN: It was ...(intervenes).

CHAIRPERSON: At least you would have expected ...(intervenes).

MS ROCKMAN: Yes.

CHAIRPERSON: Them to have done so?

20 **MS ROCKMAN:** Yes. Well it happened after the fact but ...(intervenes).

CHAIRPERSON: Yes.

MS ROCKMAN: Certainly the – in the annual performance plan the project was taken up at an affordable level of 13 million. It states 13 million. When the submission came to Exco it did not have – there was

previously – it was standard procedure that Exco memorandums with financial implications should go to Treasury first for comment and have their comments already included before it comes to Exco.

In this case the – this was not done. So I think Exco – Treasury would have been taken by surprise that there is now suddenly a project three months after the start of the financial year that is at a much higher – that needs much more funding than what was allocated. So I think it would have been obviously a matter of concern.

ADV GCABASHE: Can I ask was that a directive that projects with financial implications must go via Treasury – Provincial Treasury before they are placed before Exco?

MS ROCKMAN: Chair yes. Exco memorandums – it was my understanding by the time I joined Government that it even came from the previous term ...(intervenes).

ADV GCABASHE: Okay.

MS ROCKMAN: That it was standard operating procedure that a memorandum does not go to Exco without it passing through a cluster and if it has financial implications that are not accommodated in the budget. It would go to Treasury to enable Treasury to comment. To say we have funding. We do not have funding. This may be possible. This may not be possible.

ADV GCABASHE: So this is yet another directive that the HOD of the Department of Agriculture and Rural Development did not comply with?

MS ROCKMAN: He was not an HOD in the previous term of Government that ended 2009 but it would have been I think a standard

procedure but it was often not followed.

ADV GCABASHE: No. Maybe I should rephrase the question. Was that particular directive operative in the 2011/2012 financial year?

MS ROCKMAN: It would have been.

ADV GCABASHE: Good. So if it was operative and he was employed as of August 2011 he would have been able to familiarise himself with this particular directive?

MS ROCKMAN: Yes. I think so.

ADV GCABASHE: Certainly his CFO, Ms Dlamini, would have known
10 about it as the CFO?

MS ROCKMAN: Senior management in Government should have known about it.

ADV GCABASHE: So again ...(intervenes).

CHAIRPERSON: And ...(intervenes).

ADV GCABASHE: Sorry.

CHAIRPERSON: And certainly an Accounting Officer of a department?

MS ROCKMAN: Yes. It ...(intervenes).

CHAIRPERSON: Hm.

MS ROCKMAN: It would make sense Chair.

20 **CHAIRPERSON**: *Ja*.

MS ROCKMAN: In the sense of you would not want to take your colleagues by surprise ...(intervenes).

CHAIRPERSON: Hm.

MS ROCKMAN: In an Exco meeting to say I am coming with this project whether or not there is funding or there is funding. You would

consult ...(intervenes).

CHAIRPERSON: Hm.

MS ROCKMAN: Before you ...(intervenes).

CHAIRPERSON: Hm.

MS ROCKMAN: Before you go to Exco.

CHAIRPERSON: Hm.

MS ROCKMAN: So I am just not able to comment on whether there was that kind of engagement but certainly the Exco memorandum that went in June 2012 is silent on that kind of engagement.

10 **CHAIRPERSON:** Hm.

ADV GCABASHE: So what you are really saying is Exco itself ought to have inquired in the debate whether that particular memorandum that committed the Departure of Agriculture and Rural Development to this huge sum of money had gone via the Provincial Treasury?

MS ROCKMAN: (No audible reply).

ADV GCABASHE: It ought to have been debated at Exco on the 13th of June 2012?

MS ROCKMAN: It should have been noticed at the very least that it did not contain the comments of Provincial Treasury or for that matter I
20 think the comments of the State Law Advisors because a standard Exco memorandum format provides for legal implications to be set out.

ADV GCABASHE: So what we have is as at the 5th of June 2012 is this – there is this directive that *prima faci* was not complied with by the HOD Agriculture and Rural Development. Two, Section 38(2) of the PFMA says:

“You do not commit a department to a liability unless you have made provision for it.”

No provision has been made for this particular project at that point in time. Can I rephrase that?

MS ROCKMAN: (No audible reply).

ADV GCABASHE: Inadequate provision had been made because 30 million was sitting there under Mohama Mobung but inadequate provision had been made when you look at the 114 million that Government was now committed to pay to Estina. Am I correct?

10 **MS ROCKMAN:** Chair I think you are correct. Accept to say that when the HOD Treasury and the MEC Treasury then ultimately signed off that fulfilled the requirements of the committing the revenue fund.

ADV GCABASHE: But they signed off on the 5th of July 2012 agreement because the 5th of June 2012 agreement was found to be invalid?

MS ROCKMAN: Yes. That is correct.

ADV GCABASHE: And you are saying that the 30 million that was then allocated to the Estina Project or the Vrede Dairy Project would have come from the Provincial Equitable Fund?

20 **MS ROCKMAN:** Yes.

ADV GCABASHE: I think that is

MS ROCKMAN: Yes.

ADV GCABASHE: What you say in - in your statement.

CHAIRPERSON: Well Ms Gcabashe ...(intervenes).

ADV GCABASHE: Hm.

CHAIRPERSON: We are at nine minutes/10 minutes past four. Let us talk about the way forward.

ADV GCABASHE: Yes Chairman.

CHAIRPERSON: How – at this stage how much more time do you think is necessary in terms of hours before we finish?

ADV GCABASHE: Chairman I would like to think ...(intervenes).

CHAIRPERSON: Before you finish with her.

ADV GCABASHE: I would like to think we will be done by lunchtime tomorrow. If you will permit us to run till half past four today unless it
10 is not convenient.

CHAIRPERSON: Huh-uh.

ADV GCABASHE: The reason I ask Chairman is ...(intervenes).

CHAIRPERSON: *Ja*.

ADV GCABASHE: I think I want to squeeze into this area of inquiry ...(intervenes).

CHAIRPERSON: *Ja*.

ADV GCABASHE: Just a question whether the 104 million ...(intervenes).

CHAIRPERSON: Hm.

20 **ADV GCABASHE:** We know it was not properly budgeted for ...(intervenes).

CHAIRPERSON: Hm.

ADV GCABASHE: In the first year that it was supposed to be paid ...(intervenes).

CHAIRPERSON: Hm.

ADV GCABASHE: And all I really want to know without going into the detail budgeting process ...(intervenes).

CHAIRPERSON: Hm.

ADV GCABASHE: Is whether it was then properly budgeted for and if so where. If we just have a clear indication as to what. That really is the essence of this area Chairman.

CHAIRPERSON: Yes.

ADV GCABASHE: We can deal with it in the morning of course.

CHAIRPERSON: Yes. We can - maybe we can - we can go up to 16:30

10 or if we take a break now then go up to 16:45.

ADV GCABASHE: My feet are killing me Chairman. So 16:30 I think is about as long as they are going to keep me standing ...(intervenes).

CHAIRPERSON: Hm.

ADV GCABASHE: But I am also trying to - to cut out some of the other questions which I know really are ...(intervenes).

CHAIRPERSON: Yes.

ADV GCABASHE: Not contentious ...(intervenes).

CHAIRPERSON: Yes.

ADV GCABASHE: Or does not cover contentious material.

20 **CHAIRPERSON:** No, no, no. That is fine. It is just that if we continue I think I – we should just take a short break and I am thinking if you need 20 minutes – if we take a short break we must compensate for that but if you say whether we take a break or not let us stop at 16:30 our we will because I understand your situation.

So let – maybe let us take a break now for five minutes and

then – but sometimes I say five minutes and five minutes is not adequate when you are supposed to start. So shall we say 20 past - we resume at 20 past? It is now about 11 minutes past.

ADV GCABASHE: Yes. Chairman that is in order.

CHAIRPERSON: And - and then we can take it from there how far we go whether half past or 25 to, *ja*.

ADV GCABASHE: Thank you Chairman.

CHAIRPERSON: Okay. We will – Ms Rockman we normally finish at 16:00 but we would like to continue. Is that fine with you?

10 **MS ROCKMAN:** Yes. It is fine Chair.

CHAIRPERSON: And I think it is fine with your counsel as well.

ADV ROELOFFZE: We have no difficulty Chair.

CHAIRPERSON: Thank you. We will adjourn for – and resume at 20 past. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay, let's continue. Are you going to prefer half past or a little ...(intervenes)

20 **ADV GCABASHE:** Just a little beyond Chairman it is just a section that I am trying to concertina.

CHAIRPERSON: *Ja*, okay.

ADV GCABASHE: And just deal with so that tomorrow we just deal with one or two areas then we finish earlyish.

CHAIRPERSON: Okay, alright.

ADV GCABASHE: Thank you Chairman. Ms Rockman the section I am dealing with now really speaks to the budgeting process I suppose but the relevance for this inquiry is back to Section 38(2) of the PFMA whether in the 2012/2013, 2013/2014, 2014/2015 financial years, I will just stop there for current purposes, provision was made for the Vrede Dairy project, because that's what the law requires – the PFMA requires.

MS ROCKMAN: Thank you Chairperson. Yes in 2012/2013 financial year, I am at the supplementary statement, page 6, there was
10 infrastructure enhancement allocation was made available of 41 851 000 ...(intervenes).

ADV GCABASHE: Sorry I – which page are you on?

MS ROCKMAN: I am now on seven.

ADV GCABASHE: Page 7?

MS ROCKMAN: Yes of the supplementary.

ADV GCABASHE: Paragraph B?

MS ROCKMAN: Yes.

ADV GCABASHE: Yes IEA's okay, I am with you.

MS ROCKMAN: Yes, so Agriculture did receive 41.8 for infrastructure
20 enhancement allocation.

ADV GCABASHE: Yes.

MS ROCKMAN: The overall budget made provision for – the overall budget was R579 482 000, prioritising amongst others Mohama Mobung development of an agriculture master plan and refurbishment of veterinary laboratories. Then there was the presentation dealing with

the infrastructure projects, that was on 7 March and 4 April respectively 2012 now.

ADV GCABASHE: Yes.

MS ROCKMAN: Agriculture only presented on the 4th of April and that supplementary, the next year is 5A which confirmed the budget of R13 million.

ADV GCABASHE: Yes, what I would like to understand is where the 114 million for the 2012/2013 financial year came from, I don't know if you are able to lead us to those particular numbers. If it's something
10 you would rather do first thing in the morning again I am quite comfortable with that, because I think the information is spread between the two affidavits.

MS ROCKMAN: Yes, between the two affidavits *ja*, if we can deal with that in the morning it might be easier.

ADV GCABASHE: Okay, let's do that. Can I then ask you to please take the Chairman back to your original affidavit, that is Volume A, take the Chairman through what you refer to as the critical decision points of an annual budget process, and I assume you mean by this that it should be regular and within the framework of the law these are must
20 do's, and I point you here to paragraphs 1.8.1 to 1.8.4 possibly of your affidavit if I have it right.

MS ROCKMAN: Thank you Chair. Essentially there is prioritisation stage which happens between April to September where we determine priorities to be implemented over a forthcoming financial year and the MTF that gets drawn from your national priorities, your outcome based

priorities, what was in your strategic framework and so forth. Then its preparation and review of – for the medium term expenditure framework, that's between April and August, National and Provincial Departments. July/August it's what I've referred to previously as the July and August National Treasury visits. We look at a macroeconomic fiscal framework, there's a division of revenue between the three spheres of government.

During I think it's around August every year that is where there's a special cabinet meeting which considers the recommendations
 10 of National Treasury, it would have gone through the whole process now of consultation within the different MINMEC's, within the different inter-governmental forums, relating to different sectors. The Budget Council would have met, that's the Minister of Finance with all the MEC's Finance, SALGA is represented there, we also meet as Budget Forum then with the MEC's of COGTA. Then there's a special cabinet meeting that gets called, it's every year, and Premiers and MEC's finance are invited to attend a part of that, so cabinet more or less finalises then Premiers and MEC's come in, the Minister of Finance does the briefing indicating these are our challenges, this is the
 20 direction we want to take, Premiers, MEC's can make input to say but we can't continue carrying the impact of improvement of conditions of service, we have this priority, that priority, but fundamentally that is the overall allocations is decided, and in that meeting.

ADV GCABASHE: And you have to then go back to your Provinces and work within that framework?

MS ROCKMAN: Yes. If you thought you were going to get R100 and you only got 75 it was now your job to go back, start cutting back projects, informing departments, unfortunate we cannot accommodate this, that and whatever so go back review, make your adjustments, defer projects, scale down projects, look at different phases, look at different implementation models, see where we can gain efficiencies and so forth and so forth, it becomes a very, a technical process but you need political buy-in from all your MEC's, not only in the Free State but in every other Province I am sure the Minister of Finance had that

10 battle at National Government level to get everyone on board, to understand that there really is an end to money. We don't have unlimited sources of funding.

Then we would go through the MTEC hearings. In our case National Treasury in all provinces participates in Provincial MTEC hearings but we would also if there were specific areas of concern like in our case we would standardly invite the National Department of Health for Health session, the Department of Basic Education for education, Human Settlements for human settlements, so you would invite your National counterparts to get a broader understanding of

20 what our challenges are but also from their perspective what they think we should be doing better, or more efficiently, it's quite a dynamic process then.

ADV GCABASHE: Without cutting you short can I ask you to skip through some of the other material and go down to 1.8.10 which I think directly relates to the Provincial Treasury.

MS ROCKMAN: Yes.

ADV GCABASHE: And that fits in with the oversight issues that we have been dealing with today.

MS ROCKMAN: Yes, Chair just to conclude that process of the budget would then culminate after PMTEC hearings you go through your adjustment budget process and that concludes almost a financial year in our case we still gave room around December for departments, everyone protects their money and we would bring either a second adjustment appropriation or a second adjustment appropriation where
10 we cleaned out any possible under spending and reallocate it. That concludes then the whole budget process by a certain financial year.

ADV GCABASHE: Can you correct me if I'm wrong, the most important thing about any reallocation or readjustment of the budget is it can only be done in terms of Section 31 of the PFMA?

MS ROCKMAN: Yes ...(intervenes).

ADV GCABASHE: Those are the bases on which you can ask for more or shift monies around etcetera, etcetera.

MS ROCKMAN: Yes the PFMA spells it out quite clearly, unforeseen, unavoidable expenditure, emergency funding, money that may have
20 become available to the Province, conditional grant rollovers which usually happens after the main budget is approved and then your technicalities, your defraying of expenditure between votes and savings and you can shift money within your budget in terms of the Act. It would not be expected that you introduce an entirely new project in an adjustment budget, because that undermines the purpose of why you

did your annual performance plan. It is systematic, government likes systems and processes and we walk smoothly until we reach a stage where we can properly plan and make budget provision.

ADV GCABASHE: You know I am sure I misunderstood Mr Thabethe but my recollection seems to be that, and I will check this Chairman, that he said that the Estina Vrede project, the shortfall was brought to one of these adjustment budget processes, but that can't be right if you say you can't bring a new project into an adjustment process, unless I am just not understanding something very well.

10 **MS ROCKMAN:** I think it was that first year.

ADV GCABASHE: Yes, correct. It would have been the first year.

MS ROCKMAN: It would be the first year where it was under-funded.

ADV GCABASHE: Correct.

MS ROCKMAN: So it was not an entirely new project but to come up with the difference in the funding required that was a quantum that would have been challenging for Treasury.

ADV GCABASHE: Oh so they were quite entitled as Department of Agriculture and Rural Development to come to the adjustment process and say we have a project, we had under-budgeted for it and if there is
20 money available can you move something around and make sure that we have sufficient funds.

MS ROCKMAN: That is correct, because at the time the submission was approved in June 2012, they had amended their Table B5 infrastructure project list Chairperson so if those – if that project on that project list is not created on the system you are unable to allocate

and transfer funding in respect of those projects, so the problem was that it was substantially underfunded, but they did bring it in marginally, for the R13 million issue.

ADV GCABASHE: And they were entitled to do so, so his evidence was actually quite consistent with what you are saying, that they were able to bring it and they got whatever you were able to give them.

MS ROCKMAN: Yes, he could not have done it if it was not in the APP or nowhere at all.

ADV GCABASHE: *Ja*, no that helps clear that particular issue up.

10 Then I was then just asking you to very briefly look at 1.8.10 on page 12, which I believe is consistent with the oversight issues we've been raising.

MS ROCKMAN: Yes that is now a financial governance process, that process is led by our Provincial Accountant General, at the time that was Ms Fourie. I think I have made reference to the key control matrix reports, the engagements with the Auditor-General, engagements with the CFO Forums, we do reviews of the draft annual financial statements, give feedback to departments to say you need to amend, adjust, correct, whether they do or don't has a direct impact on your
20 audit process.

ADV GCABASHE: If they ignore your advice there's nothing you can do about that?

MS ROCKMAN: They pay the price in audit.

ADV GCABASHE: In audit?

MS ROCKMAN: Yes, in audit outcome.

ADV GCABASHE: But of course, anyway we will talk about that tomorrow, they then engage audit and tell audit why they believe they have complied and agreed to differ with audit.

MS ROCKMAN: Yes.

ADV GCABASHE: I really am talking about facts that relate to Estina but we will deal with them in the morning.

MS ROCKMAN: *Ja.*

ADV GCABASHE: So that is not a particularly effective stick because they can literally just argue and say we are right, if you think we are
10 wrong tough cookies.

MS ROCKMAN: A lot of is technical interpretation and there is a lot of constructive engagements Chairperson with the office of the Auditor-General, Treasury and the Department but if a Department is adamant that they are right there is little we can do to force an Accounting Officer to reclassify for example expenditure, that we don't have that capacity or power.

ADV GCABASHE: So again by way of example this is precisely why National Treasury had to intervene and issue a new directive in relation to how to classify goods and services and how to classify transfer
20 payments?

MS ROCKMAN: Yes, that's correct.

ADV GCABASHE: So it came from the top to be able to regulate what happened at Province.

MS ROCKMAN: Yes, because ultimately we – the ultimate authority is the National Accounting and General Accounting Standards Board, so if

all of us small people here sit and disagree with each other you defer to the proper authority.

ADV GCABASHE: Absolutely. The last couple are that the asset and liability component that's the same one that Mr Myburgh for instance was a part of that went to do the inspection – the site visit at Vrede?

MS ROCKMAN: I am not 100% sure whether at that stage, there was a small restructuring internally in Treasury. I think at one stage the budget component overlapped with asset and liability but later it separated, so sustainable resource management became our budget
10 division and Mr Myburgh was part of that and assets and liabilities was about provincial asset and liability management. They for example would take care of transversal contracts and so forth, which had nothing to do with the sustainable resource management unit.

ADV GCABASHE: But again just to make this a practical example when we get to dealing with the assets of the Vrede Dairy Project as at August 2014 when the Free State Development Corporation took over this is the unit that ought to be involved in discussions around who those assets belong to, would that be correct?

MS ROCKMAN: No that would be between the relevant asset divisions
20 of departments that are affected but with us the Provincial Accountant General played a much stronger role. That is why when the agreement was finally cancelled Provincial Accountant General was the one coordinating with Public Works to say this agreement is cancelled, make sure that you disclose the land of, that was part of this land use agreement, or the 99 year lease agreement, that was taken up in the

Asset Register of Public Works. Our Provincial Accountant General and the State Law Advisors made sure that that was done. It had little to do with our asset and liability unit. We treated it as a matter arising from Audit and the Audit Intervention Committee and therefore the PGA and the State Law Advisors was driving that process, together with the CFO of Public Works, Agriculture had no role to play because Public Works own all land on behalf of Government, we would not transfer the land to Agriculture.

ADV GCABASHE: That clarifies the point on land, but if you look at
 10 tractors, cattle, buildings at the Vrede Dairy Farm there is a debate, or there was a debate about who those assets belong to, we will deal with it in detail tomorrow, I just want to understand Provincial Treasury's role in helping clarify who those assets would actually belong to.

MS ROCKMAN: Our advice at the time is that – because it's almost inventory items, it's not assets-assets, that the Department of Agriculture and Rural Development should bring it into their annual financial statements as work in progress, until the beneficiaries had come on board or whatever matters were finalised and it would then be transferred to the beneficiaries, but the vacuum that then was created
 20 is that there's all these assets lying around after the termination of the Estina agreement but no one is disclosing it anywhere. It was not FTC's responsibility because they were not appointed to take over the assets, they were there to manage the assets, so the feeling and the advice from Provincial Treasury was Agriculture bring this into your financial statements, at least disclose it as work-in-progress. For

various reasons they did not accept that advice.

ADV GCABASHE: We will debate that tomorrow, particularly in the context of implementing agents, what their functions are, who they are, whose assets they are handling etcetera, etcetera, and I think that will fit into that particular – if you don't mind you will go back to giving us this example, we will deal with it in that manner.

MS ROCKMAN: Okay.

ADV GCABASHE: Chair that takes us to page 15 of this document and I can safely stop here because we then deal with other issues that
10 covers that budgeting process adequately.

CHAIRPERSON: Yes, we will stop here. Tomorrow you said you think we will finish by lunch time. I would like us to finish within one and a half hours, at the most two hours.

ADV GCABASHE: I think it can be done Chair.

CHAIRPERSON: But not because of anything, just because of my thinking that a lot of things are not in dispute, okay, alright.

ADV GCABASHE: Thank you Chair.

CHAIRPERSON: Thank you, we will adjourn now and we will start at 10:00?

20 **ADV GCABASHE:** Yes Chair.

CHAIRPERSON: We will start at 10:00, we will resume at 10:00 tomorrow.

MS ROCKMAN: Thank you Chair.

CHAIRPERSON: We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS TO 17 OCTOBER 2019

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TRANSCRIBER'S CERTIFICATE FOR COMMISSION OF INQUIRY INTO STATE
CAPTURE
HELD AT
PARKTOWN, JOHANNESBURG

DATE HELD : 2019-10-16

DAY: : 181

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