

COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

PARKTOWN, JOHANNESBURG

10

07 FEBRUARY 2020

DAY 209

FINAL

20

HEARING RESUMES

CHAIRPERSON: Good morning Ms Hofmeyr, good morning everybody.

ADV KATE HOFMEYR: Good morning Chair.

CHAIRPERSON: Are we ready?

ADV KATE HOFMEYR: We are indeed Chair subject to one aspect that I would like to raise with you. Ms Memela is here to give evidence today. She has raised with me however a few moments ago when she arrived that she would like an opportunity to consider the bundles of documents that have been prepared for her evidence today. The Legal

10 Team of the Commission certainly has no difficulty with that. As I have explained to Ms Memela the bundles comprise initially a statement that she submitted, I think it was last week, after many months of engagement with the Commission's investigators and Legal Team and a position that she took in January that she did not want to provide an affidavit nor did she want the assistance of the Commission in preparing one. So her bundle comprises the statement that she then did submit which she makes clear is not an affidavit in the statement as well numerous documents that came through with it. We were not certain how to arrange them because they were not identified a

20 annexures to the statement but we have put them in as best an order as we can and then beyond that in the bundle as is usually the case in these proceedings there is an additional document section which comprises documents that have been discovered in the course of the investigation and which Ms Memela will be referred to in the course of her evidence today. So it would be our submission that we should take

an adjournment just to facilitate Ms Memela familiarising herself with the bundle. I did discuss with her earlier a half an hour to an hour's adjournment. She seemed to indicate that that would be adequate but possibly she would like to make some representations in relation to that.

CHAIRPERSON: Ms Memela good morning.

MS MEMELA: Good morning Chair.

CHAIRPERSON: You confirm that you would like to have some opportunity to go through the bundle?

10 **MS MEMELA:** Yes Chair given the fact that there are additional documentation that I might not have seen.

CHAIRPERSON: Okay.

MS MEMELA: Yes.

CHAIRPERSON: I think just bring the microphone closer to you I cannot hear you very well.

MS MEMELA: Yes Chair.

CHAIRPERSON: Yes you said something I just want you to repeat that.

MS MEMELA: Yes I have requested like maybe thirty minutes of your time to – for me to go through the files that I have just received now.

20 And then given the fact that like there are additional documentation that maybe I have not seen. So I just want to go through that and then I will be – I think I will ready and then I will have three requests before we start.

CHAIRPERSON: Yes.

MS MEMELA: After – *ja* I do not know if I can make the requests now

or afterwards – after I have sworn in.

CHAIRPERSON: Well let us deal with the other issue first. Would thirty minutes be adequate for you to look at the bundle?

MS MEMELA: I believe so because like I mean most of the information here is coming from me.

CHAIRPERSON: Okay.

MS MEMELA: But I mean I just wanted to check the additional information.

CHAIRPERSON: Yes.

10 **MS MEMELA:** So that I familiarise myself with it.

CHAIRPERSON: Okay alright. Maybe you should mention now your other requests and then I can see whether we should deal with them now or we should deal with them later when you – after the adjournment.

MS MEMELA: Oh the requests?

CHAIRPERSON: *Ja.*

MS MEMELA: Okay the first request Chair is that since I had mentioned on my e-mail to the Commission that my lawyer is not available. She will be in Cape Town until Monday so I am
20 unrepresented right now. So I was going to request the Chairperson to protect my rights, guide me and – so that like maybe I do not end up like I am self – implicating myself without even realising. And then the second one will be – I will ask for your guidance like in answering certain questions that like maybe people have not been given notice which is the rule of the Commission. Where people have not been

given the Notice 3.3 that I am going to mention them. So like I mean there I will need your guidance as well if like I am obliged to answer to those questions.

CHAIRPERSON: H'mm. Well the – was that one – you said you had three requests, is that right?

MS MEMELA: *Ja* I think I have ...(intervenes).

CHAIRPERSON: What is the other one?

MS MEMELA: *Ja* no I think I have mixed the two. Like I mean where it looks like the question seeks to ...(intervenes).

10 **CHAIRPERSON:** Protection and ...(intervenes).

MS MEMELA: *Ja* like I may end up like incriminating myself.

CHAIRPERSON: And about 3.3 Notices.

MS MEMELA: *Ja*.

CHAIRPERSON: Well the Legal Team would have seen your statement.

MS MEMELA: Yes.

CHAIRPERSON: And if the names that you are talking about are in your statement they will have had a look at that and I think during the adjournment if need be they can apply their minds further to that.

MS MEMELA: Okay.

20 **CHAIRPERSON:** To the question whether anybody should have been given a Rule 3.3 Notice or not. Secondly there might be difficulty – I mean I would give you like anybody whatever “protection” that I can give. But I would want you to complain later that you answered questions which maybe you should not have answered because you would incriminate yourself.

MS MEMELA: H'mm.

CHAIRPERSON: And I did not protect you. So I am concerned about that. But from what I have seen you are a lawyer, is that right?

MS MEMELA: Yes Chair.

CHAIRPERSON: But I do know that even lawyers do need lawyers.

MS MEMELA: Exactly.

CHAIRPERSON: For advice.

MS MEMELA: Yes.

CHAIRPERSON: So I think it is something that you may wish to reflect
10 on during the adjournment as well.

MS MEMELA: Okay.

CHAIRPERSON: And the Legal Team Ms Hofmeyr would be happy to talk to you insofar as you may wish to talk to her to ascertain their position.

MS MEMELA: Alright.

CHAIRPERSON: We do the best we can to make sure that everyone who appears here is treated fairly. But where it needs to – we need to be firm we will be firm. But I just do not want you or your lawyer later on to complain that the Chair should have said, do not answer that
20 because all I know is what is here.

MS MEMELA: Ja.

CHAIRPERSON: I do not know anything else whereas your lawyer would know whatever else you may have told your lawyer. So Ms Hofmeyr do you want to say anything about the requests?

ADV KATE HOFMEYR: Chair just in relation to – if I can pick up the

second one first which I think is the one you dealt with first. The question about Rule 3.3 Notices.

CHAIRPERSON: Yes.

MS MEMELA: H'mm.

ADV KATE HOFMEYR: Chair Ms Memela was quite clear in her statement provided to the Commission right at the end that she was not implicating anyone. That has been Ms Memela's consistent position in her interactions with the Commission. And it was off the back of that that we considered the statement in its totality. She does refer to
10 people of course as she must tell the story but given her clear indication that she was not implicating anyone no Rule 3.3 Notices have been sent out pursuant to receiving her statement. It is another matter as we always encounter in the course of evidence.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: But we could – my proposal is that we address that if and when it arises.

CHAIRPERSON: Ja. Okay. Okay.

ADV KATE HOFMEYR: In relation to the second aspect insofar as legal representation is concerned until yesterday I think we understood
20 that we would receive an application from Ms Memela's lawyer for her not to appear. She has clearly been engaged with lawyers in the lead up today insofar as she indicated to the Commission on Wednesday that we would be receiving that. So it would be our submission that we continue with the evidence. Ms Memela is a lawyer and admitted Advocate and if at a point a question is asked and Ms Memela believes

that her answer would self-incriminate her in any criminal conduct she should alert us to that and we can take it from there. That would be our proposal.

CHAIRPERSON: What do you think of that? Namely you continue to make yourself available. You give evidence. You answer questions. But if there are questions where you feel that your answer might incriminate – you might incriminate yourself then you indicate that you have – you believe that giving – answering the question would result in that. And then we can take it from there.

10 **MS MEMELA:** Yes Chair I confirm that I am ready to start like provided that there are no like ...(intervenes).

CHAIRPERSON: Yes.

MS MEMELA: I am comfortable answering certain questions.

CHAIRPERSON: Yes, yes.

MS MEMELA: And I just want to touch on the statement part where I actually insisted that like it will not be an affidavit.

CHAIRPERSON: Yes.

20 **MS MEMELA:** It was because during like I mean the two meetings that I had with the team – the Commission Team they did not have specific questions for me. They actually like relied on what I was putting on the table and I said – I even said like in one of the e-mails like I will not be doing their job. You understand like I mean my understanding is that like if they are maybe see some sort of like I mean possible wrongdoing from other people they should like I mean try and prove that and then like maybe I might collaborate that. But like now I was called to

discuss like in general like the items that are going to be discussed today. And I did ask for the specific written questions so that I know that I am addressing the questions coming from them. So like that is the reason why I actually insisted on the statement. Because like it was something that was coming from me.

CHAIRPERSON: Yes, yes.

MS MEMELA: Explaining the items because they just like listed the items that they wanted to talk to me about and in the meeting like I mean they allowed me to actually start give a background and stuff and
10 then jump in and ask certain questions. So I felt it is fair to me to actually not write an affidavit because like I mean it may feel as if I am here to implicate somebody and as it is known right now that people are keep on singing people's names like sometimes unintentionally so and stuff like – so I did not want to be seen as I am pointing fingers at people for something that I do not know what they have done. Like in terms of like the wrongdoing.

CHAIRPERSON: But is your position also like Ms Hofmeyr's position that she understands that your position is that in your statement that you supplied you are not implicating anybody.

20 **MS MEMELA:** Yes.

CHAIRPERSON: You may be mentioning some name.

MS MEMELA: I mention – yes.

CHAIRPERSON: But you are not – you do not intend to implicate anybody.

MS MEMELA: No but I – that statement Sir it sounds like I mean I do

not intend to tell the truth. I do intend to state the facts.

CHAIRPERSON: Yes, yes.

MS MEMELA: Like to a certain extent.

CHAIRPERSON: Yes.

MS MEMELA: That like they do not – like I mean I do not seem as if I am process – like I mean I am pointing fingers at people.

CHAIRPERSON: *Ja.*

MS MEMELA: I want – like I came here because like I want to take accountability for any other decision ...(intervenes).

10 **CHAIRPERSON:** Yes.

MS MEMELA: That was taken by myself.

CHAIRPERSON: Yes.

MS MEMELA: And like also to justify where there are certain ...(intervenes).

CHAIRPERSON: Yes.

MS MEMELA: Decisions that like I mean the Commission thinks ...(intervenes).

CHAIRPERSON: Yes.

MS MEMELA: Were not in line with the processes and whatever *ja.*

20 **CHAIRPERSON:** Yes. Yes. Okay no that is fine. Well I will not speak for the team that consulted you but in the course of investigation sometimes you do want somebody who you believe may have information that is relevant to say, tell us what you know about this without any other specific questions and after you have been told then sometimes you might have specific questions. So sometimes you just

want to talk to different people who seem – who might have information that is relevant and arising out of that discussion. Sometimes you then have specific questions.

MS MEMELA: *Ja.*

CHAIRPERSON: So I thought I would just clarify that for them.

MS MEMELA: Okay.

CHAIRPERSON: Okay. Okay we are at about 10:1 we could resume at 10:40 if we want to make it more or less thirty minutes.

ADV KATE HOFMEYR: I think that would be 10:50 Chair.

10 **CHAIRPERSON:** *Ja* 10 to I am sorry.

ADV KATE HOFMEYR: Not at all.

CHAIRPERSON: 10 to.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: 10 to – 10:50. Shall we do it that way?

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: Okay. We will then adjourn Ms Memela and then we will resume at 10:50. We adjourn.

ADV KATE HOFMEYR: Thank you.

REGISTRAR: All rise.

20 **INQUIRY ADJOURNS**

INQUIRY RESUMES

CHAIRPERSON: Are we ready?

ADV KATE HOFMEYR: We are indeed Chair.

CHAIRPERSON: Ms Memela, did the 30 minutes was it enough?

MS MEMELA: It was enough Chair.

CHAIRPERSON: Okay. Alright. Thank you. Okay. Let us proceed then. I think administer the oath or affirmation.

REGISTRAR: Please state your full names for the record.

MS MEMELA: I am Nontsasa Memela.

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

MS MEMELA: No.

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

MS MEMELA: Yes.

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

MS MEMELA: So help me God.

CHAIRPERSON: Thank you. Ms Hofmeyr, do you know what arrangements the transcribers might be having with the Legal Team to ensure that if there are words that – for which they need spelling. That they get to be told afterwards whether they get the statement to see the – those words or names or whether. Is there any existing arrangement, because otherwise I think we do not always give the spelling

20 ...(intervenes)?

ADV KATE HOFMEYR: H'mm.

CHAIRPERSON: And do you know if there is any existing arrangement?

ADV KATE HOFMEYR: Chair, I am not aware of an arrangement.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: That does mean one does not exist.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: I am just not privy to it. What I do know though is that shortly after the evidence is completed as possible the statement is uploaded onto the website which is of course available to everyone including transcribers, but I can ask at some inquiries be made just as to what the nature of that arrangement is, because it might then obviate the need for us repeatedly to give spellings ...(intervenes).

10 **CHAIRPERSON:** Yes.

ADV KATE HOFMEYR: Or it might indicate that we need to give some more than we have been.

CHAIRPERSON: Yes. Yes. Yes, because I would imagine that maybe if they were to have access to a witness statement soon after.

ADV KATE HOFMEYR: H'mm.

CHAIRPERSON: They could pick up.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: The spelling ...(intervenes).

ADV KATE HOFMEYR: Indeed.

20 **CHAIRPERSON:** For certain names. Otherwise we would need to give spelling ...(intervenes).

ADV KATE HOFMEYR: H'mm.

CHAIRPERSON: Each time.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: Which has not been easy.

ADV KATE HOFMEYR: No. No and one does forget and I am certainly ... (intervenes).

CHAIRPERSON: Because ... (intervenes).

ADV KATE HOFMEYR: Including myself in that.

CHAIRPERSON: Because we are focusing on the substance.

ADV KATE HOFMEYR: Indeed. Indeed.

CHAIRPERSON: So, I guess they are hearing what I am saying ... (intervenes).

ADV KATE HOFMEYR: Yes.

10 **CHAIRPERSON:** And Reverend Stemela is hearing what I am saying. Something needs to be done. In the meantime maybe we will try and do that until we are told that there is an arrangement.

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: We will try and give spelling for names that we think they might – that are not English. We think they might have a problem spelling, but some like certain surnames might be English, but might be difficult to spell.

ADV KATE HOFMEYR: Indeed. Indeed.

CHAIRPERSON: So – okay. Alright. Let us try that.

20 **ADV KATE HOFMEYR:** Thank you.

CHAIRPERSON: Maybe the – we will start with spelling her name.

ADV KATE HOFMEYR: H'mm.

CHAIRPERSON: Ms Memela's name.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: Do you want to do that?

ADV KATE HOFMEYR: Let me do that just in the course of requesting that we enter into the record ...(intervenes).

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: As Exhibit DD25A and 25B. Those are the bundles containing Ms Nontsasa Memela's statement and that is N-o-n-t-s-a-s-a and the surname is Memela, M-e-m-e-l-a. The first bundle, A, comprises her statement and additional documents she supplied to the Commission. As well as in the remainder of Bundle A and into Bundle B certain additional documents that the Commissioned
10 has assembled.

CHAIRPERSON: Ms Memela's statement and annexures in the file which contains the statement will be marked – admitted and marked DD25A. That is Exhibit DD25A and the annexures that are in the other file that will be Exhibit DD25B.

ADV KATE HOFMEYR: Thank you Chair. In addition to those two files we have made reference in the course of the week to the fact that the – Ms Memela has put in two applications to cross-examine both Ms Sambo and Mr Human. We have prepared those in the cross-examination files that are usually handed up. So if I may beg
20 leave ...(intervenes).

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: To hand those up to you.

CHAIRPERSON: Huh-uh.

ADV KATE HOFMEYR: Ms Memela has been given her copy already.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Thank you. Ms Memela, if we can just again with some housekeeping aspects. If you turn to Exhibit DD25A at page 1. What is that document?

MS MEMELA: (Indistinct).

ADV KATE HOFMEYR: Just page 1. If you start at page 1. Can you identify that document for us?

MS MEMELA: (Indistinct).

CHAIRPERSON: Page – please put on your mic. When she refers to page numbers she will be referring to the red numbers on the top right-
10 hand corner of each page ...(intervenes).

MS MEMELA: Okay.

CHAIRPERSON: But she will not mention zero-zero.

MS MEMELA: Alright.

CHAIRPERSON: She will say page 1 ...(intervenes).

MS MEMELA: Okay.

CHAIRPERSON: And two and so on. Okay.

MS MEMELA: Alright. Okay. So this is my statement that I made after the voluntary meeting that I had with the Investigating Team and the Legal Team of the Commission.

20 **ADV KATE HOFMEYR:** Thank you.

MS MEMELA: So I reduced the discussion that we had to writing.

ADV KATE HOFMEYR: And if you go to page 26 in the same file. Exhibit DD25A. Is that your signature on the page? Apologies. Did I say 26?

MS MEMELA: 26 will be ...(intervenes).

ADV KATE HOFMEYR: Page 26. 26.

MS MEMELA: Oh. Page 26?

ADV KATE HOFMEYR: Yes.

MS MEMELA: Okay. This is my signature. Yes. It is my signature.

ADV KATE HOFMEYR: Thank you and do you confirm as true and correct the contents of the statement?

MS MEMELA: I confirm.

ADV KATE HOFMEYR: Then in relation to your statements accompanying your applications to cross-examine. I would like to do a
10 similar thing. If you can first take up the application to cross-examine Ms Sambo. That is indexed as SEQ04/2020. Do you have that available to you?

MS MEMELA: Yes.

ADV KATE HOFMEYR: And if you turn to page 3 in that file. Can you identify that document for us please?

MS MEMELA: That is my statement.

ADV KATE HOFMEYR: And if you go over to page 10. Can you identify the signature on that page?

MS MEMELA: That is my signature.

20 **ADV KATE HOFMEYR:** And do you today confirm under oath that the contents are true and correct?

MS MEMELA: Yes. I confirm.

ADV KATE HOFMEYR: Thank you and let us do the same if we may for the application to cross-examine Mr Human. That is indexed as 05/2020 and again if you will turn to page 3 of that file and identify the

document.

MS MEMELA: Yes. It is my statement.

ADV KATE HOFMEYR: And if you go to page 8. Can you identify the signature on that page please?

MS MEMELA: Yes. It is my signature.

ADV KATE HOFMEYR: And finally do you confirm under oath today that the contents of that statement are true and correct?

MS MEMELA: I do.

ADV KATE HOFMEYR: Thank you.

- 10 **CHAIRPERSON:** I see Ms Memela that you have already dealt with the reason why your statement is not an affidavit. We had occasion yesterday I think or the day before to discuss that issue of statements that are not under oath, but your applications for leave to cross-examine.

I see they are also supported by statements that are not under oath or that are not affirmed declarations. Please take steps to make sure that those are – at least those are affidavits. So later on you could do that to make sure they comply with the Rules.

MS MEMELA: With the Rules. Okay.

- 20 **CHAIRPERSON:** *Ja. Ja.* So you could do an affidavit and confirm that that statement – those statements are true and correct. Just so that your applications comply with the Rules.

MS MEMELA: I am prepared to do that Chair.

CHAIRPERSON: Okay. Alright.

MS MEMELA: Thank you.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Thank you Chair. Ms Memela, you are a lawyer. Is that correct?

MS MEMELA: Yes. I am.

ADV KATE HOFMEYR: And when did you obtain your law degree?

MS MEMELA: 2006.

ADV KATE HOFMEYR: And you have also indicated in your statement, I am picking it up now at page 2 of Bundle DD25A.

MS MEMELA: H'mm.

10 **ADV KATE HOFMEYR:** That you did a post graduate diploma after your law degree. What was that in?

MS MEMELA: It is a Post Graduate Diploma in Drafting and Interpretation of Contracts.

ADV KATE HOFMEYR: And when did you complete that?

MS MEMELA: 2010.

CHAIRPERSON: And for the sake of completeness. You can just confirm that your law degree is an LLB Degree?

MS MEMELA: Yes Chair.

CHAIRPERSON: Okay.

20 **ADV KATE HOFMEYR:** Thank you and you are also an advocate. Is that correct?

MS MEMELA: Yes.

CHAIRPERSON:

ADV KATE HOFMEYR: And when were you admitted as an advocate?

MS MEMELA: In 2012.

ADV KATE HOFMEYR: Thank you. I would then like to move to your position at SAAT, because I understand from your statement which has now been confirmed under oath. If we go to paragraph 6 on page 2. That you were in an acting position as HOD of Procurement. Is that correct?

MS MEMELA: Okay. Can you repeat your question?

ADV KATE HOFMEYR: Yes.

MS MEMELA: *Ja.*

ADV KATE HOFMEYR: I was interested in the positions you have held
10 at SAAT.

MS MEMELA: SAAT.

ADV KATE HOFMEYR: SAA Technical ...(intervenes).

MS MEMELA: Okay.

ADV KATE HOFMEYR: And I had picked up at paragraph 6 that you held an acting position in the role of HOD Procurement at a particular point. When did that start?

MS MEMELA: If I remember correctly I started in September – between September and October 2013 when the Chief Financial Officer of SAAT resigned and procurement at that time it was reporting to him. So then
20 it was divided between myself and the person who was acting as CFO after Mr Zulu. So that I was acting from 2013. I am not sure about the month but like between September/October.

ADV KATE HOFMEYR: And where were you before that?

MS MEMELA: Before acting?

ADV KATE HOFMEYR: Yes.

MS MEMELA: Okay. I joined SAAT as a Senior Legal and Contracts Management Specialist.

ADV KATE HOFMEYR: And when was that?

MS MEMELA: That was in – on the 15th of April 2013.

ADV KATE HOFMEYR: And before joining SAAT?

MS MEMELA: Before joining SAAT I was at the Development Bank of Southern Africa, DBSA, as the Contracts Procurement Specialist and later became Group Legal Advisor.

ADV KATE HOFMEYR: And for what period were you at the
10 Development Bank?

MS MEMELA: Chair, I did not familiarise myself like I mean on my CV, but ...(intervenes).

CHAIRPERSON: Yes.

MS MEMELA: I think it was between 2011 to 2013.

ADV KATE HOFMEYR: Right.

CHAIRPERSON: H'mm.

MS MEMELA: I am not sure about the ...(intervenes).

CHAIRPERSON: The months. The months.

MS MEMELA: Ja. The months, ja.

20 **ADV KATE HOFMEYR:** So before you joined SAAT. You had completed that Post Graduate Diploma in Drafting and Interpretation of Contracts and you had been admitted as an advocate. Is that correct?

MS MEMELA: Yes.

ADV KATE HOFMEYR: Thank you. If we can talk about then your progression from acting position to a permanent position, because I

understand that you then were appointed in a permanent position around November 2015. Is that right?

MS MEMELA: No. I think it is 2014.

ADV KATE HOFMEYR: Oh.

MS MEMELA: Ja. I think 2014. The position was then revived back to the structure. There was a position of an HOD Procurement before in the SAAT structure, but like I mean when I joined it was not there. It was reporting directly to the CFO. So the position was advertised and then like I went through the recruitment and selection process.

10 Then I got the position. So I was now permanent from 2014 as HOD Procurement.

ADV KATE HOFMEYR: And when did you leave SAAT?

MS MEMELA: When did I leave SAAT?

ADV KATE HOFMEYR: H'mm.

MS MEMELA: Oh. I left SAAT – okay. Chair, I am not sure how this question is related to the evidence. Maybe I will find out later or maybe if ...(intervenes).

CHAIRPERSON: Ja. Well it is just to understand ...(intervenes).

MS MEMELA: To understand where I am?

20 **CHAIRPERSON:** Ja. Ja.

MS MEMELA: Oh. Okay.

CHAIRPERSON: There are innocuous ...(intervenes).

MS MEMELA: Yes.

CHAIRPERSON: Questions just to give us a picture about where you have been in terms of work. How long you were with SAAT.

MS MEMELA: Okay.

CHAIRPERSON: H'mm.

MS MEMELA: Because like I mean I signed like some sort of an agreement like which has got a provision – confidentiality between SAAT and myself, but ...(intervenes).

CHAIRPERSON: Well ...(intervenes).

MS MEMELA: Then I will ...(intervenes).

CHAIRPERSON: All she wants is when did you stop being an employee of SAAT.

10 **MS MEMELA:** Of SAAT.

CHAIRPERSON: *Ja.* That is all she wants. *Ja.*

MS MEMELA: Okay. Let – but there are more information that like that how did I leave SAAT and then like I mean I was suspended in 2018, May for certain charges like I am including some of them like I mean being the items here. Then I went through the disciplinary hearing like which was chaired by Advocate Cassim.

In his outcome he did propose like I be moved from Procurement to Legal Division, but like we did not like really agree, because like I mean from my side I did not think he had the terms of
20 reference like to actually propose that. So then like he proposed like that okay. Then dismissal is fair and appropriate.

Then I went to the CCMA and applied for arbitration and I won the case on the 18th of October 2019. I was supposed to start – go back to work on the 1st of November 2019. Then when it was just one day like for me to go back. Then I received an e-mail that like I mean

they would like to review and stuff like that, but then the discussions about like settlement followed after that.

So we have just settled. I think we signed at the beginning of January this year.

CHAIRPERSON: Oh. Okay.

MS MEMELA: A separation and mutual agreement.

CHAIRPERSON: So until you were an employee of SAAT until sometime in January this year?

MS MEMELA: Yes. Yes.

10 **CHAIRPERSON:** Okay.

ADV KATE HOFMEYR: Thank you. If we pick it up at page 2 of your statement in DD25A. You will see at paragraph 6 there. You start to talk about some of your responsibilities in your role as Head of Department.

MS MEMELA: H'mm.

ADV KATE HOFMEYR: Can you tell us what those responsibilities were?

20 **MS MEMELA:** Okay. In 2015 – okay – when I was confirmed as the HOD Procurement I was only heading Strategic Procurement and Operational Purchasing. Strategic procurement consist of the long term tenders from three years to five years. Where I mean we go out on a tender process and then operational purchasing are a day to day buying of spares.

So like I was responsible for that from 2014 to 2015 and then from 2015 there was a restructuring that took place at SAAT and then

like myself and other three HOD's. Like I mean had an additional responsibility and then my position was changed from HOD Procurement to HOD SEM and that is where then like I am – I was stating my portfolios there.

Like I had senior managers reporting to me which is Legal and Contracts Management, BEE and Supplier Development, Materials Management, Logistics and Inventory and I do not know if I forgot the other one. *Ja*.

CHAIRPERSON: I think you have covered them.

10 **ADV KATE HOFMEYR:** Yes.

MS MEMELA: Yes. So like those were the like portfolios that I was responsible for and like I mean there were senior managers there that were responsible for that and reporting to me.

ADV KATE HOFMEYR: Ms Memela, I have picked up from this statement and your others that you appear to have had quite an important role to play in Supplier Development. Is that a fair comment?

MS MEMELA: That is a fair comment. Yes, because Chair Supplier Development and BEE – B-BBEE was part of my job description. Other than that it was also part of the strategy enterprise development and
20 also part of the business scorecard of the company. I will – I do not know if maybe you will come back to this, but like I would like to go in detail about like I mean the role that like I was expected to play.

ADV KATE HOFMEYR: Indeed. Please do.

MS MEMELA: Okay. So on the Supplier Development Chair why it started. When I took over SAAT as HOD Procurement there was no

BEE suppliers in our database. They were buying directly from the multinational companies and if like it was like I mean the local company. It all was like I mean white owned companies.

So - because of the Supplier Development that was in place at that time and the fact that B-BBEE required all – also the State Owned Companies to actually have a certain level of BEE status. When I joined procurement. SAAT was sitting at Level 6 which is the worst for a State Owned Company. It means that like I mean they were not involved.

10 The national agenda like I mean transformational agenda. So then like I started like I mean proposing and of course from SAA they had drafted like Enterprise Supplier Development Strategy in 2014 which allowed us like I mean as from like Procurement, HR and whoever is responsible for like I mean making sure that like the company adheres to B-BBEE and then like one of the elements there says that the local suppliers should – we should promote the local supplies to join franchise with multinational companies.

 So Chair remember like when the – when I took over HOD Procurement position as I mentioned. There was no black owned
20 companies and like I mean they knew companies that came forward after the – this – the workshop that took place like I mean about Supplier Development and stuff.

They did not have the knowledge in the aviation sector. So like I had to open doors for them and like I mean in doing that like work closely with them. Guiding them and asking also ...(indistinct) from

SAAT to guide them. Making sure that like I mean whatever parts for instance that they buy on behalf of SAAT and not all those parts and all those kind of things and then I listed – I came up with a list of suppliers.

I remember the first one was around like maybe 11 out of 3 000 like I mean suppliers on the database. Ms Sambo was actually one of those suppliers that like I mean I opened doors for at SAAT. It was not an easy journey. Like I mean of course I had ruffled feathers, because SAAT Procurement had been just doing their thing on their own and just dealing with multinational companies and not giving any opportunities to the black companies in South Africa.

So like I mean I was that involved. Yes. So as – like I mean as we go on you will see how much I was involved like in guiding some of them. Yes.

ADV KATE HOFMEYR: Would the NIP, the National Industrial Development Program, program have applied at the time to those multinational companies?

MS MEMELA: There was – the NIP obligation was supposed to start applying as far back as 1999.

20 **ADV KATE HOFMEYR:** Correct.

MS MEMELA: For instance like I mean for a tyre contract. Like SAAT entered into a tyre contract in 1999. It is one of those Chair Evergreen contract that SAAT had and then there was logistic contract. There was a components contract also which I think started in 2008 with Air France and SAAT.

Before that I think it was Lufthansa, but like I mean remember the NIP obligation is managed and controlled by the DTI. Not by the company. So like I mean I cannot speak on behalf of the DTI, but like I am just saying they were supposed to have enforced ...(intervenes).

ADV KATE HOFMEYR: H'mm.

MS MEMELA: And make sure that like these multinational companies are giving something back to the country instead of just taking these huge contracts and not doing anything like in terms of maybe transferring skills back to the country. Like I mean technology and
10 know-how.

So like after I had learnt about the difference between NIP obligation requirements versus Supplier Development. Then we find out that actually Supplier Development is part of the NIP obligation. You cannot like really apply both of them. So that is the reason then like that I was pushing for Supplier Development to be applied at SAAT, because like that way we will have control and we will be able to manage the relationship between multinational companies and local companies.

ADV KATE HOFMEYR: And what is supposed to be achieved by
20 Supplier Development?

MS MEMELA: Chair like this. It is a long list. It could be training from multinational companies. For instance I will make an example. If there is a five year contract and one of the multinational companies like have joint ventures with the local supplier. In a contract they would agree that. They will be transferring skills.

They would be training them. They will be transferring technology and know-how and then like I mean the purpose of that is to ensure that like when the tender goes out again the local supplier is able to actually compete with these guys. You understand? Like I mean SAAT as an MRO.

They buy mostly from multinational companies and like local suppliers did not have that knowledge and they needed as much guidance as possible.

ADV KATE HOFMEYR: All of the objectives that you have listed there
10 training skills transfer, exposure to technology suggests to me longer term development of the selected supplier. Is that a fair comment?

MS MEMELA: I guess that is your view. Like I mean it is relevant, but like I mean it could ...(intervenes).

ADV KATE HOFMEYR: Sorry. It is relevant or irrelevant? I just did not hear that.

MS MEMELA: I am saying it is relevant.

ADV KATE HOFMEYR: Relevant. Thank you.

MS MEMELA: It is relevant like, but just depending on how you interpret your long term.

20 **ADV KATE HOFMEYR:** Indeed.

MS MEMELA: Long term could be five years.

ADV KATE HOFMEYR: H'mm.

MS MEMELA: Within five years like multinational companies if they are working closer together and there is a watertight contract in place. They could like really transfer these skills and then like you know that

okay by the end of that contract they are able either to go with these ones or they have the freedom to actually approach others or maybe bid on their own with partnership like with other – like the new multinational companies.

ADV KATE HOFMEYR: So grow the selected supplier so that they can ultimately compete on their own terms. Is that a fair summary?

MS MEMELA: Okay. Repeat that.

ADV KATE HOFMEYR: The idea of Supplier Development is to grow the supplier ...(intervenes).

10 **MS MEMELA:** *Ja.*

ADV KATE HOFMEYR: So that at some point they can compete on their own terms.

MS MEMELA: That is one of them. Like I mean it could be a list of things that like I would like to get out of Supplier Development.

ADV KATE HOFMEYR: Anything else that comes to mind now?

MS MEMELA: Maybe it could be creation of work in South Africa where maybe – I will make an example Chair. So that like you have a clear picture. For instance with the tyres I will say like the current contract now is with Bridgestone and they are based in Brussels. So
20 Bridgestone will have a part – site like where they are supposed to actually ship the tyres to South Africa and then like when the tyres get to South Africa, I mean the container.

There could be an agreement maybe between the multi – like I mean Bridgestone and the local company that okay. You will be playing this role. You will – as soon as the ship gets to Durban – if it

gets to Durban or wherever. You will then take over the transportation of the tyres from Durban to SAAT. You see. Like so that is where maybe they would ...(intervenes).

ADV KATE HOFMEYR: H'mm.

MS MEMELA: Actually agree. So like I mean it is about that. I can remember out of that phase there would be people who are employed and that is creation of jobs.

ADV KATE HOFMEYR: Thank you. Ms Memela, I would then like to move to page 3 of your statement in Exhibit DD25A. You have a
10 heading there.

CHAIRPERSON: Ms Hofmeyr, I see we are at 19 minutes past ...(intervenes).

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: But we had some adjournment ...(intervenes).

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: Earlier. Maybe we should take the tea break at 11:45.

ADV KATE HOFMEYR: Certainly.

CHAIRPERSON: Yes. Okay. Alright.

20 **ADV KATE HOFMEYR:** Thank you.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: I will just need somebody to remind me when we get there.

CHAIRPERSON: Yes. Okay.

ADV KATE HOFMEYR: Right.

CHAIRPERSON: Will that be fine with you Ms Memela?

MS MEMELA: That is fine Chair.

CHAIRPERSON: Okay. Alright.

ADV KATE HOFMEYR: Thank you Chair. Ms Memela, we are at Exhibit DD25A at page 3 and you have a heading towards the bottom of that page. “**Swissport**” in bold. Do you see that?

MS MEMELA: *Ja*.

ADV KATE HOFMEYR: And then you start at paragraph 9 below that heading to say:

10 “What I recall during this time was that the Board
decided who should act as the CPO after the
departure of Dr Dahwa at SAA.”

Do you see that?

MS MEMELA: *Ja*.

ADV KATE HOFMEYR: Do you know anything about the circumstances surrounding Dr Dahwa’s departure at SAA?

MS MEMELA: Okay. Your question is quite – when you are asking like that do I know the circumstances surrounding his departure. Do you mean do I know the charges against him like what happened and stuff?

20 **ADV KATE HOFMEYR:** Yes.

MS MEMELA: I do not.

ADV KATE HOFMEYR: You do not know?

MS MEMELA: No.

ADV KATE HOFMEYR: Mr – Dr Dahwa, has given evidence before this Commission previously. Are you aware of that?

MS MEMELA: I am aware, but I was not watching.

ADV KATE HOFMEYR: Right. His evidence included the following. I am going to just reference it, because I do want to ask you some questions, because you were responsible for procurement in SAAT at a similar time that Dr Dahwa was responsible for procurement at SAA. Is that correct?

MS MEMELA: That is correct.

ADV KATE HOFMEYR: Right. So Ms – Dr Dahwa's testimony before this Commission was that on the 2nd of October 2015 he was forced
10 during the course of eight hours on a day to sign certain letters of award to Swissport and Engen and he was placed under great pressure to do so by the then Members of the Board of SAA, Ms Kwinana and Ms Myeni that was pursuant to the SAA 30% set aside policy are you aware of that policy?

MS MEMELA: I'm aware of the policy 30% set aside but I never applied it under SAAT contracts.

ADV KATE HOFMEYR: Right well nor did Dr Dahwa, his evidence was that he regarded that 30% set aside policy as unlawful and so he refused to sign agreements that would have applied it. His evidence
20 was also that during that meeting he was threatened that on the Monday, the following Monday the EFF would be protesting at SAA and they wanted all Zimbabweans out of SAA and Dr Dahwa was Zimbabwean and so he feared for his safety at the time. He was shortly, thereafter charged and went through a disciplinary process. Did you hold a view, at the time about the lawfulness of the 30% set

aside policy?

MS MEMELA: Chair with regard to a 30% set aside from a legal point of view it was not in line with the relevant legislations that I'm abiding the procurement process in the State Owned Companies. However, without defending the Board I believe that the reason maybe they wanted to apply such a percentage was to make sure that they are giving as much opportunity to black owned companies as possible because I remember during that time they started with the workshop and going around the country and introducing the tenders and letting
 10 the local companies to know that they don't have to be scared to play a role in the Aviation Sector it's not as difficult as it looks. So to answer Counsel's question, from SAAT's side I've never or my team have never applied 30% set aside instead we actually used 10% like from the BEE point of view depending on the price like for instance 90/10 or 80/20 we actually followed that. The actual certain things that like we kept on maybe just putting ...(indistinct) Supply Development as we were moving along. So I remember the Board that was following – the previous Board of Ms Myeni had asked myself as the Head of Supply Chain for SAAT and SAA to list the contracts that we had ensured that
 20 they adhered to the 30% set aside and like they actually – they thought there was that 30% set aside also at SAAT and like I mean we proved to them that we never applied that until it was actually included in the legislation PPFA in 2017.

ADV KATE HOFMEYR: And when ...(intervenes).

CHAIRPERSON: So just to get clarity on your answer to the question,

the question was, whether your view at the time was that the 30% set aside was unlawful and I think you have said that you believe that it was not in line with ...(intervenes).

MS MEMELA: The legislation.

CHAIRPERSON: Yes, so you believed it was unlawful?

MS MEMELA: Yes Chair.

CHAIRPERSON: *Ja* okay.

ADV KATE HOFMEYR: And were you aware that National Treasury took a similar view in 2015 – late 2015?

10 **MS MEMELA:** Yes I heard that they had sent a letter from National Treasury to the then Acting CEO, Ms Thule Mshe, I think she had shared it with procurement and stuff so I am aware of that letter from National Treasury.

ADV KATE HOFMEYR: Thank you, we don't need to go there for present purposes because your recollection is a good one Ms Memela, with respect but Chair just for the record it is in Exhibit DD25B at page 648, we've referred to it previously in the evidence of Dr Dahwa and that was the letter of the Chief Procurement Officer of National Treasury, as you indicated to Ms Mshe indicating that the resolution of
20 the Board to set aside the 30% in it's current form is not supported by procurement – by any procurement legal framework and must be stopped with immediate effect. Ms Memela with that background in place I'd like to move to the two transactions that the Commission is focusing on in its hearings at the moment. The first is the sale of the SAAT GPU's and the second is the award of the components tender to

the joint venture of JM Aviation. These are the two aspects that you have focused on in your statement because they were the two transactions that your engagements with the Legal Team and the Commission's investigators made clear to you, were of relevance to our proceedings. So I'd like to give you an opportunity at the outset if we can take the sale of the SAAT GPU's to start with to explain to us what your role was in relation to that sale.

MS MEMELA: Chair to answer that question, I had no role nor did I initiate the sale of the GPU's I have also proven that at the CCMA. The
 10 sale of GPU's was within the delegation of authority of the Board and the submission to sell the GPU's was done by the previous Acting CEO of SAAT. Based on the contract between Swissport and SAA. So it went to the Board and the Board approved based on the contract that was in place, my understanding is that. I did attach the minutes of the Board like on my answer just to show that who was there and how was it discussed and like I mean on what basis did the Board reach their decision. So you asked about my role the only time I got involved was when like I was asked by the Acting CEO to sit in the negotiation, I mean he actually received the proposal ...(intervenes).

20 **CHAIRPERSON:** Was that Mr Zwane?

MS MEMELA: No, no it was not Mr Zwane, it was Mr Arson Malola-Phiri who was acting at SAAT at that time.

CHAIRPERSON: Okay.

MS MEMELA: Yes.

ADV KATE HOFMEYR: Chair just for clarification – if I may just come

in there because it's part of this majeure at that stage, our investigations have been revealed, and I think there has been evidence on this already, Mr Zwane was in a CEO position at SAA and yes, this did come out in previous evidence and Mr Phiri was in the Acting CEO role at SAAT, thank you.

MS MEMELA: *Ja.*

ADV KATE HOFMEYR: Apologies Ms Memela.

CHAIRPERSON: Of course there – part of the problem is that when we talk about SAAT in the context of these SAA keeps coming in so it's
10 important to understand when you refer to an Acting CEO or CEO whether you're talking about SAAT CEO or SAA CEO so *ja*, okay alright.

MS MEMELA: Alright Chair.

CHAIRPERSON: Yes.

MS MEMELA: Yes, so the Acting CEO of SAAT wrote a submission after – I don't know like after he received an instruction maybe to sell the GPU's but I do understand that the submission was linked to the contract between Swissport and SAA. Yes, and then he did, the submission after he had received an e-mail proposing to buy the GPU's from SAAT and then his response to the e-mail he said – he stated that,
20 okay like I mean, he still has to go to the Board and have the approval by the Board and then before he can go back to them and negotiate. So after – and he did exactly that he went to the Board and then it was discussed and then the Board approved and as the CEO, my role, let me give clarity on that Chair, my role was reporting to the CEO. *Ja*, so he gave me an instruction to sit and negotiate the proposal that was

already sent to him yes and like it was not just me I had other colleagues that were there, although, like I mean some like now, I think out of fear they say they did not attend and of course I don't have much proof to say, okay you were there ...(intervenes).

CHAIRPERSON: But if they were there you say they were there.

MS MEMELA: Yes they were there okay I had ...(intervenes).

CHAIRPERSON: There might not be a register, attendance register but if you know they were there, then you say they were there.

MS MEMELA: Yes so I had Mr Chele Makaleng who was the owner of
10 the GPU's like his department was the owner of the GPU's and then we had Stan Vosloo who was responsible for Materials Management and then I had also invited Leon Roberts who was the Logistics and Inventory Manager, he couldn't make it, he's the only one that I remember that couldn't make it. So like we were joined by the two Members of the JM, Mr Jules – no it was Mr Jules, I don't remember who the other one was but I think it was two of them. So like we discussed based on the proposal that they had sent to Mr Malola-Phiri before he wrote the submission to the Board. So we started based on that, you know and we asked them, what was their basis of the price
20 that they had put forward and then, like I mean, you'll see like there was an e-mail written back to me by Ms Sokhulu saying okay this – like thank you for the meeting this is the amount like the GPU's or current GPU's are going for at that time. So that's where my involvement started like from the negotiation up to the time when the invoice was signed by the CEO and myself.

ADV KATE HOFMEYR: That meeting that you're discussing, I just want to be clear, you've mentioned Mr Jules Aires, Chair reminding myself of our undertaking this morning that's J-u-l-e-s A-i-r-e-s was he present?

MS MEMELA: Mr Jules?

ADV KATE HOFMEYR: Yes.

MS MEMELA: Yes he was in the meeting.

ADV KATE HOFMEYR: And you've mentioned a Ms Sokhulu, was she present in the meeting?

MS MEMELA: I don't remember if she was present but I think she was
10 ...(intervenes).

ADV KATE HOFMEYR: But you mentioned an e-mail that she sent to you that said thank you for the meeting, does that help you recall.

MS MEMELA: Yes, yes I think she was because I know it was two of them.

ADV KATE HOFMEYR: Right and that's S-o-k-h-u-l-u, and then who else was in the meeting you said a Mr Vosloo, is that V-o-s-l-o-o?

MS MEMELA: Yes.

ADV KATE HOFMEYR: And a Mr Makaleng is that M-a-k-a-l-e-n-g?

MS MEMELA: Yes.

20 **ADV KATE HOFMEYR:** And was that the meeting that occurred on the day prior to you receiving the e-mail from Ms Sokhulu referring to the meeting?

MS MEMELA: Referring to the meeting yes.

ADV KATE HOFMEYR: And is that the only meeting you had to discuss pricing with JM Aviation?

MS MEMELA: That was the first meeting that we had because it was followed by the Board Resolution so we were following the Board Resolution and the instruction from the CEO to sit with them.

ADV KATE HOFMEYR: Are you sure about that chronology?

MS MEMELA: Chronology I mean like in terms of ...(intervenes).

ADV KATE HOFMEYR: That the meeting preceded the decision of the Board.

MS MEMELA: Yes I'm sure.

ADV KATE HOFMEYR: Okay thank you.

10 **CHAIRPERSON:** I wasn't sure earlier on whether you meant the resolution of the Board came first and then the meeting so – but you have just confirmed that the meeting happened before.

MS MEMELA: Yes Chair the Board Meeting happened before after the submission by Mr Malola-Phiri to the Board it was discussed and then like we negotiated after the Board Meeting.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Sorry then there was some confusion because I thought that you just said that you had that pricing meeting before the Board's decision.

20 **MS MEMELA:** No it was afterwards because it was ...(intervenes).

CHAIRPERSON: Oh then there is confusion okay so let's get that. The meeting that you have just talked about.

MS MEMELA: Ja.

CHAIRPERSON: You say happened after the Board had, had a meeting and made a resolution.

MS MEMELA: Yes Chair.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: And then just to be clear so that we're not at cross-purposes was that the only pricing meeting at which the sale price between SAAT and JM Aviation was discussed.

MS MEMELA: Yes and according to the meeting, like physical meeting that was the only meeting, afterwards it was just, like I mean e-mails from – and yes.

ADV KATE HOFMEYR: Yes, thank you, I just want to be clear about
10 that. Right then I'd like to meet to the components tender. Ms Memela you will know that, and we have spent two days dealing with the various versions of this components tender because it starts as early as – the first one was in 2013 and there is version one, and two and three and four. For today's purposes I'd like to hone in on the ones that are really of most relevance to the Commission but at any point that you feel that you need to give some reference backwards, please do so. What I'd like you to explain to the Commission now if you will, was your role – let's say from about 2014 in relation to the components tender.

MS MEMELA: Okay.

20 **ADV KATE HOFMEYR:** Yes, and just for a reference for you, you start your explanation of that at page 6 of DD25A, the reason why I gave the introduction I did a moment ago is because a great deal of your initial discussion of this components tender does go through the history and all that I am saying to you is we have traversed the history over the last two days, so I would like to pick it up if we may in about 2014 to

understand your role in relation to it, but you must not feel limited if there is some aspect of what happened previously that you need to go to please tell us that.

MS MEMELA: Okay are you going to ask a question on your one question?

ADV KATE HOFMEYR: Well what your role was, could you start with that, what was your role?

MS MEMELA: From 2014?

CHAIRPERSON: From 2014.

10 **ADV KATE HOFMEYR:** From 2014.

MS MEMELA: Okay.

CHAIRPERSON: Well you might miss off or you might wish to mention some headings relating to 2014 and after that might help her to focus on which she might, you might wish her to focus.

ADV KATE HOFMEYR: Indeed, let me do that Chair.

CHAIRPERSON: *Ja.*

ADV KATE HOFMEYR: Let's start in October of 2014, because October of 2014 is when the second five year tender was advertised, is that correct?

20 **MS MEMELA:** Yes that's correct.

ADV KATE HOFMEYR: So let's maybe take it from October 2014 and then you can track for us forward what your role in SAAT was relative to that procurement process.

MS MEMELA: Okay Chair in terms of the role – I am trying to understand like the question like when ...(intervenes).

CHAIRPERSON: Okay let me assist you, what Ms Hofmeyr would like you to tell me is if you look at that particular tender you would know obviously the steps that need to be taken normally for a procurement process and you would know what process, if any was followed in regard to that one and she then wants you to say out of this process this is where I got involved, this is where I got involved, I did this, I didn't do that, that is what she wants you to talk about for that tender and throughout the process from the time the RFP would have been issued to the time it was withdrawn or cancelled or whatever the
10 position.

MS MEMELA: Okay Chair, I will try and be as brief as possible. I would like first to highlight the hierarchy or how things work in procurement.

CHAIRPERSON: Yes.

MS MEMELA: And how until the Board level like when we run the process, so ...(intervenes).

CHAIRPERSON: And I'm sorry in answering the question feel free to say as Head of Procurement this is what your role normally would be.

MS MEMELA: Exactly.

20 **CHAIRPERSON:** And this is what it was in this particular case.

MS MEMELA: Yes, that is where I am going. So I am trying to explain that, the tender and evaluation voting and stuff is done by the CFST, it is Cross Functional Section Team, in other companies it is called BEC or you know the people that are actually responsible for the evaluation, so the evaluation – the CFST is usually managed by a person from

procurement who is now called the Project Manager, who is actually running with the whole process and then when they are done evaluating and coming up with the highest scoring bidder they then make it a recommendation to myself and then explain why that one, of course like my role is to make sure that I am as independent as possible, I don't intervene or interfere with their decision, because remember they are the ones who was sitting there making the decision like after they have voted and looked at all the elements that are applicable.

So like from then, from the recommendation by the CFST
10 through the project manager then it will come to me and then I will have certain questions, maybe to say okay have you checked that, especially, I would look especially on the Supply Development, that okay are you sure that Supply Development is aligned and everything is okay and stuff like that, and BEE as well, so after that like I would take their recommendation to Exco, Exco then comprises of GM's.

CHAIRPERSON: Sorry before you talk about the first call the first committee, CFST.

MS MEMELA: CFST yes Chair.

CHAIRPERSON: You said the project manager would be somebody
20 within procurement, is that right?

MS MEMELA: Yes, yes.

CHAIRPERSON: Would the project manager be the same person all the time or it would depend on each tender?

MS MEMELA: Chair it is ...(intervenes).

CHAIRPERSON: Is somebody in charge of the department which

needs that particular service or product or is it just one person all the time?

MS MEMELA: Actually when I took over it was like as you have raised it, it has always been one person, like for component it will be a certain person, like for logistics it will be a certain person, for tyres it will be a certain person, so like I mean those are the things that I changed because like I mean we also had a problem of like them knowing so much like they are able to give from inside yes.

CHAIRPERSON: Okay.

10 **MS MEMELA:** *Ja*, so that I mean ...(intervenes).

CHAIRPERSON: But you changed that?

MS MEMELA: I changed that.

CHAIRPERSON: So it was during your time it became one person.

MS MEMELA: It became like I mean it will be that person who is relevant to that commodity at that time, yes chair, who is the – either specialist or a manager.

CHAIRPERSON: Okay now the people who make up the CFST would they be under you, would they fall under your department, procurement or some would others would not?

20 **MS MEMELA:** Some would Chair and others would not. For my department it will be the person that I am talking about who is project manager, maybe with one specialist or maybe one buyer to help with the admin and then all others will representing different divisions, like from operations, like 2A Finance, Legal and all.

CHAIRPERSON: Okay alright, no that's fine. I just wanted to

understand that. I interrupted you as you were moving on to talking about Exco's role. You would take the recommendation to Exco.

MS MEMELA: Yes.

CHAIRPERSON: Would you take the recommendation after you have satisfied yourself that you are happy with the recommendation?

MS MEMELA: Yes, after ...(intervenes).

CHAIRPERSON: Or you just take as is?

MS MEMELA: I usually take it as it is, because remember because I don't sit in the Evaluation Team.

10 **CHAIRPERSON:** Yes, yes.

MS MEMELA: I am not there when they are evaluating, so like I mean I usually only would attend their thing if like maybe there is some information that I need to pass to them, I would make an example, for instance if their Board meeting, like maybe depending on the delegation of authority at that time like on what contract that we are running, and then I know that the Board meeting will be in two weeks time from that period so like I mean I will ask like before they start, like that I mean okay guys you need to know like I mean we need to move speedily like I mean the next Board meeting is on this date, which is two weeks from
20 now and if we miss that you must know like we would still have to wait for like I mean more months and stuff like that, so that is when I would actually go in or maybe when they don't like really understand the Supply Development, because at SAAT Chair the issue of BEE and Supply Development was just zero, the way I pushed it there was even a time where it was called Nontsasa's BEE, I had to actually like I mean

sit down with my team and made them understand that it was not something that I came up with, it was actually the law, *ja*.

So I attend like only on invite and then *ja* they will do everything independently, so they will recommend to me and then after certain questions like and I am satisfied with their answers and stuff like I would sign.

In fact like the most like issue that like I would be looking at it was to apply my mind and make sure that I mean like the submission is flowing for them, because like remember when they do the submissions
10 sometimes they don't, they are not clear of what they are asking for ...*(intervenes)*.

CHAIRPERSON: The presentation of the ...*(intervenes)*.

MS MEMELA: Exactly so like I mean it was my responsibility to ensure like I mean they to state everything like I mean in detail so that I mean when it gets to the Board, the Board doesn't have to ask questions and say okay go back for the work or anything like that.

CHAIRPERSON: H'mm, okay.

MS MEMELA: So like after I have satisfied myself with the flowing of the submission I will sign and then take it to like I mean to the Exco,
20 which maybe will give us about three days before it gets to Exco ...*(intervenes)*.

CHAIRPERSON: And signing it would that be signification that you are happy with the document including the recommendation or it will simply be signification that you have seen it?

MS MEMELA: It will be signification that I am happy and I am

supporting them on their decision, having satisfied myself that they have followed all the processes.

CHAIRPERSON: Okay, no that is fine.

MS MEMELA: Then it will go to Exco, which I said Exco comprises of the GM's of SAAT, General Managers, including myself, being the HOD at the time. So I also played the role of being the company secretary for Exco meetings, so like I mean the reason why I was part of that is I would like sometimes take notes, take minutes for the Exco and stuff, so like it would go to Exco and then Exco will discuss it in detail, raise
10 their questions before it goes to BAC, so like I mean once Exco is happy as well they also sign just like me and say okay like we are happy with what has been recommended by the CFST, and then from the Exco it goes to BAC.

BAC then Chair is the Bid Adjudication Committee that comprises of like I mean managers or HOD's, now actually HOD's from SAA and all the subsidiaries of SAA, and then people will sit there and look at the submission, and when BAC look at those submissions they don't start evaluating again, their duty is to check if the evaluation was done fairly, transparently as per the 217 Constitution or the PPFA, and
20 everything like I mean the National Treasury knows like I mean have we followed the stuff, that is what they look at and if they that also maybe the – because sometimes it will happen that the CFST would recommend the bidder, that is not the highest scoring bidder and put down their reasons why they do that, like maybe risks or something like that, so the BAC would also ask why did you like jump the highest

scoring bidder, I mean have you checked, have you made be sure that like we won't be taken to court and all that, so those are the things that they look at and then I must explain Chair that like when it goes to BAC from SAAT it is not for approval, it is for notification and even their SCM policy that like I mean covers for SAAT.

CHAIRPERSON: So why are they called adjudication? It is not for them to adjudicate?

MS MEMELA: *Ja*, they – okay the SAAT Procurement part has got its own section in the SME policy Chair because of the technical buying of
10 the tools and stuff like that, so sometimes I think like the way it was drafted it was to ensure that like maybe if the tool is needed as in urgently they are able to go out and acquire the tool and then notify BAC, so usually then like I mean it will be taken to BAC for notification even afterwards, after it has been acquired.

CHAIRPERSON: So BAC just notes.

MS MEMELA: BAC notes yes.

CHAIRPERSON: But they query if there is something to query.

MS MEMELA: They query if there is certain things that they don't agree with, like based on the relevant legislation that is surrounding,
20 yes, and then if they feel they need it to go back for work they send it back, *ja*.

CHAIRPERSON: Okay.

MS MEMELA: And from there it goes to the Board.

CHAIRPERSON: Oh, okay.

MS MEMELA: Yes and then the Board being the accounting authority

of the organisation they take the decision, either they agree or they say okay it is subject to, or they overrule the decision of the CFS Team and the Management.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Chair I do have some follow-up questions but we have exceeded our teatime schedule, maybe we should take the break and I can follow up afterwards.

CHAIRPERSON: Yes let's take the tea break, it is ten to now, we will resume at 12:05.

10 **ADV KATE HOFMEYR:** Thank you.

CHAIRPERSON: We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay, let us continue.

ADV KATE HOFMEYR: Thank you Chair. Ms Memela thank you for that overview initially in relation to your role. I would just like to pick up on a few clarificatory points. You described a Project Manager when you were describing the role of the CFST. Do you recall that?

20 **MS MEMELA:** I recall.

ADV KATE HOFMEYR: Did you ever play the role of Project Manager in relation to the ...(intervenes).

MS MEMELA: CFST?

ADV KATE HOFMEYR: Yes.

MS MEMELA: No.

ADV KATE HOFMEYR: No, and when a bid documents were referred to Project Managers. Is that the CFST Project Manager?

MS MEMELA: Yes.

ADV KATE HOFMEYR: Thank you. And then my next question is, just clarificatory again, you said from CST – CFST it goes to Exco and then are you a Member of Exco?

MS MEMELA: I was not a Member of Exco until 2017.

ADV KATE HOFMEYR: Right.

MS MEMELA: Yes.

- 10 **ADV KATE HOFMEYR:** So, you then were not signing off on the BAC recommendation for the 2016 tender as a Member of Exco, is that right?

MS MEMELA: Okay, you are mixing two different committees.

ADV KATE HOFMEYR: Right.

MS MEMELA: Exco and BAC. They are separate Chair.

ADV KATE HOFMEYR: Let us do Exco, ...(intervenes).

MS MEMELA: So ...(intervenes).

ADV KATE HOFMEYR: Sorry what I meant to say is CFST, you said makes a recommendation to Exco, is that right?

- 20 **MS MEMELA:** Yes – *ja*.

ADV KATE HOFMEYR: When the final five-years ...(intervenes).

CHAIRPERSON: Well I thought she said they make a recommendation to her – to you.

MS MEMELA: Yes, they make a recommendation to me to check if everything is okay like I mean if they have adhered to relevant laws and

everything that is surrounding the process. Then like I mean, I would sign, I think I understand her question now, I would sign as the HOD SCM. So, like I think she wants to understand if I sign as a Member of Exco ...(intervenes).

ADV KATE HOFMEYR: Indeed.

MS MEMELA: Oh yes, I sign as HOD SCM.

ADV KATE HOFMEYR: But in so doing ...(intervenes).

CHAIRPERSON: But just, I am sorry. Let us just get that right because it is important to understand these things. CFST, do they
10 make a decision, or do they only make a recommendation to somebody or to a committee?

MS MEMELA: Okay, CFST Chair, they are responsible for evaluation of the BEE stuff, like I mean they go through all the elements, like I am talking – critical criteria, functionality, BEE, price. So, like remember the in terms of the PPPFA they have to go for the highest scoring bidder. So like after they have gone through all those elements, and then like they will have certain number that they have like if depending on the delegation for authority, the amount like it will be 90/10, so like I mean they would start counting from there. Then like they would then
20 make a recommendation to award or maybe to appoint based on the points that they have come up with, like the highest scoring points.

CHAIRPERSON: So are you confirming that what they do is to recommend ...(intervenes).

MS MEMELA: Yes.

CHAIRPERSON: And not to make the decisions themselves.

MS MEMELA: Yes Chair.

CHAIRPERSON: About who should get the tender.

MS MEMELA: Exactly.

CHAIRPERSON: Okay.

MS MEMELA: Ja.

CHAIRPERSON: Now the recommendation, was it to you or would it be a recommendation to Exco ...(intervenes).

MS MEMELA: Through me.

CHAIRPERSON: But it has to go via you?

10 **MS MEMELA:** Okay, yes, thanks Chair for putting it that way. It will be a recommendation to the Board, remember like I mean, all the transactions depending on the delegation of authority, some like will be under me and I think for me I only sign for up to a certain amount ...(intervenes).

CHAIRPERSON: Up to a certain amount?

MS MEMELA: Yes exactly. So, like I mean, based on the delegation of authority they will be going to the Board. So, like looking at the price of that certain contract it will tell you then that it is a Board matter. It will go to the Board. So, like they are recommending
20 ...(intervenes).

CHAIRPERSON: To the person who has the power to decide in terms of delegation of authority. It could be the Board sometimes it could be somebody else sometimes ...(intervenes).

MS MEMELA: Yes.

CHAIRPERSON: Okay, all right.

MS MEMELA: And then just to add there Chairperson, when they recommend through me then I recommend to at Exco, then the CEO then from Exco, like after it came back from BAC the CEO then will recommend to the Board on behalf of Management and the Supply Chain.

CHAIRPERSON: Okay so, from the BAC it would not go straight to the Board it would go ...(intervenes).

MS MEMELA: It goes through the CEO.

CHAIRPERSON: The CEO.

10 **MS MEMELA:** *Ja.*

CHAIRPERSON: Okay, alright.

ADV KATE HOFMEYR: So when the final five year tender that was eventually awarded to the joint venture of JM Aviation and AAR went to the Board, were you a Member of Management at that time?

MS MEMELA: As Management off-sight?

ADV KATE HOFMEYR: Yes.

MS MEMELA: Yes, I was.

ADV KATE HOFMEYR: Right.

MS MEMELA: I was the HOD.

20 **ADV KATE HOFMEYR:** Indeed, so just to follow through you were explaining a moment ago that it is Management that then places the submission before the Board for its decision when the value is within their delegation of authority. Is that correct?

MS MEMELA: It is through the CEO.

ADV KATE HOFMEYR: Yes. But he is speaking for Management. He

is not speaking alone is he?

MS MEMELA: Exactly.

ADV KATE HOFMEYR: Right. And just help us with what goes to the Board on the day that it convenes its meeting to make a decision like this? Do they get all of the bid submissions put before them? What do they get?

MS MEMELA: You mean like I mean ...(intervenes).

CHAIRPERSON: In other words what does the CEO take to the Board?
Ja what documents?

- 10 **MS MEMELA:** Okay the CEO takes the submission to the Board which is the summary of what went on within the CFST and what has been approved or maybe recommended yes, then like it is now a submission that is made to the Board, they do not get all this admin who was who and who was not.

ADV KATE HOFMEYR: Let us ...(intervenes).

CHAIRPERSON: So, okay, I am sorry, so the CFST sends a document to you. That document would you call it a submission.

MS MEMELA: It is a submission Chair.

- CHAIRPERSON:** And does it seek to summarize the information that
20 they had before them before they made the recommendation that they reached or what?

MS MEMELA: Yes, they summarize what they have agreed upon and what they have voted for, and then they would list the bidders names, and then like they would say price, BEE, and stuff like that and then that is when we will start knowing that okay from here there is phase

one, and then from phase one they will explain that okay from phase one, Bidder A or something like that has been disqualified based on this. And then going to phase two, we were left with these two bidders and then like from two, phase three, like that.

CHAIRPERSON: And when you say the CEO takes the submission to the Board, is that the same submission he takes to the Board, or would it be a revised submission, that has been revised on his journey from the CFST up to CEO.

MS MEMELA: Okay Chair. When it goes to the Board it is a revised
10 submission.

CHAIRPERSON: Okay.

MS MEMELA: It is no longer the same as the one that was coming from CFST. The one that is coming from CFST, has got like I mean, a list of signatures like I mean that is for the person who compiled the recommendation which is like usually the Project Manager and then like I mean it would come to me and then like the Members of Exco and then it will go to BAC.

Then when it comes from BAC for notification then it will come back and then the CEO then like will revise and take exactly what is not
20 there but like I mean now ...(intervenes).

CHAIRPERSON: Puts it in his own way.

MS MEMELA: It will just be his signature, yes.

CHAIRPERSON: So, he would prepare a revised submission but which is based on the submission that came from CFST.

MS MEMELA: Yes Chair.

CHAIRPERSON: Okay.

MS MEMELA: Except like I mean maybe the Exco was not in agreement. Because like also Exco has – had the power to say okay ... (intervenes).

CHAIRPERSON: We do not agree.

MS MEMELA: We do not agree. It is a pity that Ms Hofmeyr jumped ... (intervenes).

CHAIRPERSON: She might come back.

MS MEMELA: Yes. So, Chair she jumped from like where Exco had
10 the power to actually give feedback and say okay do not give to these
bidders because of this and that and that ... (intervenes).

CHAIRPERSON: Yes.

MS MEMELA: And stuff like that and then we had to actually cancel
and restart.

CHAIRPERSON: Yes, okay. I think she might ask you at some stage
about that, but she – Ms Hofmeyr.

ADV KATE HOFMEYR: Thank you. Thank you so much Chair. And
then just in relation to the BAC, your role in the BAC in May of 2016,
what was that?

20 **MS MEMELA:** If I remember correctly, Chair I think I was the
Chairperson of the BAC and I will explain, the – because I think the
public would like to know what the role is in there. So, as I said, that
like the BAC does not do adjudication.

They do not re-evaluate what has already been re-evaluated
by the CFST. The only thing that they are looking at are the elements

of the PPPFA, the Constitution and all the legislation that are surrounding this. Then like I mean if they are not happy with certain things then they will say okay, please do this before we note. But I will tell you this Chair now ...(intervenes).

CHAIRPERSON: So, they check compliance.

MS MEMELA: They check compliance. If like I mean, there is like I mean for instance like CFST was not too restrictive in terms of technicalities and stuff like that and then they check that okay there was fairness, there was transparency, there was competitive kind of
10 process. So, like I mean, as I said before that like I mean the BAC notes the submission from SAAT. Why?

Because SAAT has got its own chapter in terms of the procurement process because of the kind of commodities that they have to buy. So, like I mean, they unlike SAA that like would go to BAC maybe just like for approval, SAAT will go to BAC for notification. But Chair like I do not know maybe if I will get the evidence later and stuff, but like we will see that even though I was the Chairperson, all the items that were coming from SAAT I recused myself. Although like there was absolutely nothing that I could change and stuff like I mean,
20 then the BAC would not have any powers to change what has been put like I mean front by the CFST and Exco.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: So, did you recuse yourself in relation to the components tender that was awarded in May 2016?

MS MEMELA: I recused myself from components and then I remember

I had recused myself for logistics as well, I think we were also running the tyre tender as well.

ADV KATE HOFMEYR: Thank you. And, I am jumping now ahead to the final tender, because that is where we are going to focus some of the evidence today. You indicated that you were part of Management who had received the recommendation from the CFST in that process. Correct?

MS MEMELA: Yes, like the recommendation is made by CFST based on their evaluation and the results in the CFST.

10 **ADV KATE HOFMEYR:** And before that then went to the Board as you described it, did you support the decision taken by CFST in terms of the ranking of Air France first, JM Aviation, AAR second and Lufthansa third?

MS MEMELA: Okay as I had mentioned Chair that the CFST I like I mean, I always make sure that like I mean they are, their decision is independent from me, they do not feel that I am actually controlling them to do anything and stuff like so. Lufthansa, they have first proposed for Lufthansa to be awarded, and although Lufthansa did not have the Supplier Development and commitment or maybe a mutual
20 joint venture with any local company.

They submitted that, and I did raise that to like I mean to the Project Manager that okay maybe we might have a problem here because remember the Supplier Development was part of the requirements of the tender but of course based on the preferred or like I mean scoring points Lufthansa was the highest scoring bidder.

Remember the PPPFA say like I mean the award or the tender should be awarded to the highest scoring bidder and then like it gives you exceptions that like you could give it to the bidder that is like has scored the lowest but like you should be able to justify why you have done that like and it should stand in a Court of Law. So, like I mean when they propose for Lufthansa, they did say also like I mean Lufthansa was low-balling. Lufthansa was extremely cheap. Chair, Lufthansa as I have mentioned, like I mean, they were the previous service provider for components of SAAT and they know very well that

10 they will not be able to, like I mean, what do you call this? Afford the components like with the amount that they put, like I mean, on their proposal. So, like, they were lowballing, but, like I mean, of course, like those things can actually, like, be put on a water tight contract to ensure that, like, they are mitigated.

So but – like I mean, when they proposed that – like, okay the Board should award, they highlighted the risk that they are picking up from this. As much as they are cheap, there might be a risk later, that, like I mean, maybe they will keep on coming back to us and ask for increase. Most multi-national companies, most of these big companies,

20 they like to do that – come in and then, like, ask for increase later. So, like, it went to the Board and then the Board noticed that it did not go to BAC first, like, I think that they applied the fact that like, okay, it could go to BAC afterwards after the fact I was not there when, like, I mean, when it was tabled to the Board, but then, I did support the recommendation of Lufthansa.

The Board asked again like as they have the power to say, go back and rework and then like see if it will go to the BAC first before it comes to us. So that's when, like I mean the CFST realized that, okay, I think they think, like I mean, the risk quite too high in terms of the price that like was put by Lufthansa. I am sure you will notice after the ruling of the court like when France took us to court, like I mean, Lufthansa just asked why they did not get the tender and they understood when we responded to them why they could not get the tender. So like, they went back to the bidders and said, okay, please
 10 sharpen up your pencil and see if, like I mean, because Air France at that time was still a bit expensive. I think A.J. Walters was extremely expensive. They had already been disqualified maybe. I do not remember, but like I mean, it was Air France, Lufthansa and AAR. So, like, they were still a bit up and like they went down.

And I want to state it on record, Chairperson, that, like I mean, the purpose of going out on this tender and the purpose of, like I mean, testing the market before this final one which was for five years was to ensure that we get as much saving as possible because remember the company had raised that the money that was charged by Air France was
 20 extremely high and there was even a seventy million delta that no one could explain why SAAT was paying so much, you know?

So, like I mean, charging – like I mean, testing the market and going up and making sure that the CFST to go back was to make sure that we get value for money and much more cheaper than what we were paying Air France before.

ADV KATE HOFMEYR: Ms Memela I think we might have been at cross purposes because the process that you have described now as I understand, it is the process where the bidders kept being approached again for their best and final offers. Is that right?

MS MEMELA: Yes.

ADV KATE HOFMEYR: What I had actually asked was whether you supported the final recommendation that was made to the SAAT Board because you will recall, that was in May of 2016, and that was the recommendation that it be awarded to Air France and that second in the
10 running was JM/AAR and that third in the running was Lufthansa and the question was did you support that position?

MS MEMELA: Okay. Let me correct you, Kate, Lufthansa was not the third in the running, Lufthansa was the first in the running.

ADV KATE HOFMEYR: Well.

MS MEMELA: Followed by – I am just talking in terms of the preferential, like I mean, oh, the ...(intervenes).

CHAIRPERSON: The ranking.

MS MEMELA: The ranking. Yes, but I understand your question. You are saying, did I support the recommendation to the Board like to award
20 Air France.

ADV KATE HOFMEYR: Yes.

MS MEMELA: Yes, I signed for Air France.

ADV KATE HOFMEYR: Thank you.

MS MEMELA: Yeah.

ADV KATE HOFMEYR: I would now like to move to the entity JM

Aviation and I understand from you when you were first introduced to that entity.

MS MEMELA: When was I first introduced? Okay, Chair, I was not formally introduced because like I am trying to understand this question. I was not formally introduced to JM. Let me just like I mean put the brief background first like about JM. We had JM International, that has been our supplier as such since 1992 and there has been then all these workshops in terms of bringing in black owned suppliers and stuff.

10 So, like I mean, during the workshops, like that is when I got to know, I got to meet some of the black owned suppliers and the instruction from the Board at that time was that procurement SAA, procurement SAAT, procurement Air Chfs, like people, like I mean, were told that you need to go to the Procurement Team and register your names down and then ask for maybe the list of tenders that are about to go out. You know?

 So, like, they were also told that okay they are welcome to approach these multi-national companies and then like I mean they will be given support from SAA as a whole and SAAT and Air Chfs. So,
20 like I mean, I got to know – like one – some of the Directors of JM like from those workshops.

ADV KATE HOFMEYR: And I understood from your statement that those workshops commenced in around 2015, is that right?

MS MEMELA: They commenced around 2015.

ADV KATE HOFMEYR: And who in particular did you meet in 2015

from JM Aviation South Africa?

MS MEMELA: I think I may have met Mr Ndzeke, Vuyo Ndzeke.

ADV KATE HOFMEYR: And had you met a Ms Sokhulu at that stage?

MS MEMELA: She was not there.

ADV KATE HOFMEYR: At the Supplier Development workshop?

MS MEMELA: Yes, she was not the one that like I that attended like I mean her father attended it. Midrand.

ADV KATE HOFMEYR: And where – was that – I have a recollection that that was in the middle of the year. Am I right in that or do you
10 have a better ...(intervenes).

MS MEMELA: I think it was around like May, June.

ADV KATE HOFMEYR: And you say Mr Ndzeke attended that, but Ms Sokhulu did not?

MS MEMELA: I do not remember if she was there, but I just remembered Mr Ndzeke was there. That is when we got to chat during this what – the workshops.

ADV KATE HOFMEYR: Yes.

MS MEMELA: Yes.

ADV KATE HOFMEYR: And was he ...(intervenes).

20 **MS MEMELA:** And, I, okay. Sorry, Chair. I chatted with lots of BEE suppliers during these workshops and in fact even outside the workshops that includes even Ms Sambo. Ms Sambo like when she testified here, like I mean, she did mention that, like I mean, I did assist her and like I gave her certain documentation and stuff, like I mean, I think you will get to that later, but, like I mean, I did not only

meet with Mr Ndzeke and like I mean assist JM like I mean, I have had that responsibility which was actually recorded on my job description.

I do not know if you have my job description, like I mean, the Supply Development BEE is part of my job description, Chair. And then it was also part of the Enterprise Supplier Development strategy that was started in 2014 and then there was an MOU between DTI and SAA to ensure that, like I mean, the transformational agenda is pushed hard. So, like I mean, just like because, I just want to give clarity before Counsel continues with her question that the role that I played

10 was to be as close as possible to these BEE suppliers as I said that there were no BEE suppliers at SAAT, like I mean, in our database and you will notice that like I mean Mr Ndzeke was not part of the list of black-owned suppliers that was tabled to the Board to notify them that we are progressing in terms of bringing in black-owned suppliers. Chair, I might have ruffled a lot of feathers by doing that because for the first time SAAT as the State Owned Company had somebody who was pushing so hard for black people and then like that, there were certain questions, like not just from open water like from Ernest and Young and stuff like, because where they would just ask you that like

20 okay, do you know Sibongile Sambo? Is she your cousin or something like that and I remember I lost it at that time, Chairperson because my understanding and the view in South Africa is that once you interact with a black supplier, being a black person, automatically there is fraud or corruption involved.

So like, I had to deal with all those things and I even said

when I was actually listening to Ms Sambo that like if she had money she will actually have a JEV contract with AAR, not dump each other like I mean, on the five month contract before the last one, and then they warn on the final one. I will be sitting here again, Chairperson, defending myself against another black-owned supplier or maybe any other person saying; you were too close. You interacted too much. You favoured them and stuff. So that is the reality of the matter that when you support a black person, when you talk to them privately trying to guide them and stuff like, it is assumed that, like I mean, there is

10 fraud involved or there is corruption. And when you look into this, Chair, like I mean, I am sorry, Kate. I have to state this on record. For instance, I did mention that there are lots of ever-green contracts at SAAT. SAAT is a State Owned Company. It is supposed to, like I mean balance what they need from others when they run tender in terms of, like I mean, the BEE status and stuff like. They also should exercise saying, you know. So, and, like, that was not done. As long as the contract is between the white suppliers, I am not playing a race card, Chair, but I am just stating the facts that I met at SAAT when I took over this position.

20 But like I mean when I gave instructions to ensure that like – for the supplier to get the tender or business, they have to meet these requirements. The Supplier Development requirements. I went as far as touring Europe, US and everywhere, letting them know about the laws of this country because nobody has ever done that. These companies like – have been at SAAT like I mean having contracts since

1999. Nobody questioned that. Nobody questioned the fact that the nip obligation was not adhered to.

Of course, it is controlled and managed by DTI, but, like I mean, somebody should have, like I mean – maybe the accounting authority or the accounting officer being the CEO. So, like I mean, I had that role. Like I mean, also protecting the CEO, protecting the Board, like in saying, “Okay, we push hard.” So, like I mean when I listened to Ms Sambo – like I mean saying all those things, I said you know, it is a pity that I cannot mention the BEE suppliers – other by
10 name that I have given like I mean the same help – like given the same help as JM or Ms Sambo, or anybody else, you know – like for instance, like, Air France had Kwane Capital as their black-owned company and, like I mean, I was pushing also for them because they only had the MOU between Kwane Capital being the black owned company in South Africa and then Air France.

If you noticed, Kate, if you did not jump there or maybe you will go back, you will notice that when Air France bided in 2015, they bided with Kwane Capital, but like I mean whatever they had promised in terms of Supplier Development, they never delivered. There are
20 certain letters that I wrote, pushing Air France and making sure that they adhered to what they had confirmed with the local supplier. Nobody, Chairperson, has gone through my e-mails and has gone through my laptop and actually picked up all those things that I had raised.

The focus is only on JM and like I mean, Chair, sorry. Like I

mean, the open water report, I did say I will explain this. The open water report – like I mean it – the open water came in around 2015 and they came for the main purpose. The first one was the fact that SAAT was losing assets left right and centre. They would buy spares worth millions of Rands and then later on the spares have been lost and then would have to buy again. There was some sort of a syndicate happening, you know. That was the first one, and the fact that there was the scrap that belonged to SAAT but they still had value and like I mean somebody sold the scrap for zero value instead of hundred and
10 seventy-five million.

So I was actually mentioning all those things when I talked to the team of investigators that:

“Guys I feel that you are being selective in terms of who you focus on, where the focus is on, where is actually names and mentions white people that have made sure like I mean that SAAT loses a whole lot of money through assets, through everything”.

Nobody is looking back there.

CHAIRPERSON: Yes. Okay. Ms Memela, the Commission obviously
20 will not finish its job if it is to look at everything. In the process it has to prioritise and in prioritising there may be people who will not agree with its decision to prioritise that, or that, but what you and everyone else have been invited to do since the Commission started is to give the Commission any information you have which you think may relate to matters that fall within its terms of reference.

So, some people have done so and they might have focused on certain contracts, and then maybe you have not given the Commission information focusing on the contracts on which you wanted to – you would have liked to also look at. So, even now, free if later on you would like to send documentation, statement to the Commission to say, here are other things that fall under the Commission's terms of reference that you might not be aware of and the Commission can look at that.

Of course, it is public knowledge that I have said that the
10 Commission will probably have to secure another wing of its scope if it is to finish its work. But I have said that there may be matters are brought to my attention and I might say that one seems to be important. But those that might not looked into by the Commission would have to be looked into by some other agency. So, I am just explaining that part. I suggest that what we should do is, answer the questions that Ms Hofmeyr puts to you.

MS MEMELA: Okay.

CHAIRPERSON: If you feel that you need to add some information in order to ensure that you give – you do justice to your answer, that is
20 fine.

MS MEMELA: Okay.

CHAIRPERSON: But I will be quite happy when you are done to give you a chance if there is something else ...(intervenes).

MS MEMELA: Alright.

CHAIRPERSON: That was not raised by Ms Hofmeyr with you.

MS MEMELA: Okay.

CHAIRPERSON: Which you think you would like to deal with in order for there to be fairness in terms of your own role and so on.

MS MEMELA: Yes.

CHAIRPERSON: Is that alright?

MS MEMELA: That is alright.

CHAIRPERSON: Okay alright.

ADV KATE HOFMEYR: Thank you Chair. So, Ms Memela just to clarify, when you first met Mr Ndzeke at that workshop in Midrand in
10 May June 2015, was he introduced to you as a JM Aviation South Africa representative?

MS MEMELA: Oh, he I – he introduced himself as an individual not as JM. I am not sure when JM was registered but I do know that
...(intervenes).

ADV KATE HOFMEYR: I think it was about October 2015.

MS MEMELA: Yes.

ADV KATE HOFMEYR: Is that accord with your recollection?

MS MEMELA: Yes. That is *ja*. so he introduced himself as himself
...(intervenes).

20 **ADV KATE HOFMEYR:** Oh.

MS MEMELA: Not as the Director of – remember the only JM that was – that we were aware of was JM International which ...(intervenes).

ADV KATE HOFMEYR: But by October of 2015 when they joined the supplier database, were you aware of his link then to JM Aviation?

MS MEMELA: They did not join the database in October.

ADV KATE HOFMEYR: 2015?

MS MEMELA: 2015. Can you ...(intervenes).

ADV KATE HOFMEYR: Maybe we can return to it.

MS MEMELA: Okay.

ADV KATE HOFMEYR: If you want to get the specific date that is the
...(intervenes).

MS MEMELA: Okay.

ADV KATE HOFMEYR: Recollected date that I have but I just want to
know at what point in time you made the association between Mr
10 Ndzeke and JM Aviation South Africa? Would that have still been
within 2015?

MS MEMELA: I think it was somewhere in 2016. I do not remember
exactly. *Ja*.

ADV KATE HOFMEYR: And Ms Sokhulu, when did you make the
association between her and JM Aviation?

MS MEMELA: Ms Sokhulu came in I think for that negotiations for the
GPU's. When was it? Was it on 2016, I think?

ADV KATE HOFMEYR: Yes.

MS MEMELA: *Ja*.

20 **ADV KATE HOFMEYR:** Yes. And did you know that they were father
and daughter?

MS MEMELA: I think it was introduced sometime later when there was
the negotiations of the contract Chair of JM and AAR.

ADV KATE HOFMEYR: H'mm.

MS MEMELA: *Ja*.

ADV KATE HOFMEYR: And did you know that Mr Ndzeke was a Director of Swissport South Africa when you met him in 2015?

MS MEMELA: Of course, when we talked because I think I cannot remember everything that we chatted about Chair but I do know he did introduce himself saying okay he does have a lot of aviation experience through Swissport and all that.

ADV KATE HOFMEYR: I would then like to move to the property purchase that you made in – for a house in Bedfordview. Ms Memela during your involvement in these two contracts, that is the one
10 involving the sale of the GPU's and the one involving the components support services that was awarded to the joint venture of JM Aviation and AAR.

MS MEMELA: H'mm.

ADV KATE HOFMEYR: There was an amount of 2.5 million Rand paid towards a house you were buying in Bedfordview by JM Aviation. Is that correct?

MS MEMELA: The deposit was 1.5 so the amount was the amount of the land owed.

ADV KATE HOFMEYR: Sorry, I do not understand that.

20 **MS MEMELA:** I am saying the deposit of the house was 1.5 the amount of the land was 2.5 that was bought by Mr Ndzeke.

ADV KATE HOFMEYR: No, no, sorry. My question is when you bought your Bedfordview house in 2016, JM Aviation paid 2.5 million Rand towards the purchase of that house. Is that correct?

MS MEMELA: That is correct but it was not JM Aviation, it was Mr

Ndzeku. It may have come from JM Aviation – I explained that already to the Investigating Team and I gave the what the prove for that.

ADV KATE HOFMEYR: Well let us go through that if we can. I understand your account of it is at page 21 of your statement that is in DD25A.

MS MEMELA: Ja.

ADV KATE HOFMEYR: And you start there to deal with the background to this payment of 2.5 million.

MS MEMELA: Yes.

10 **ADV KATE HOFMEYR:** And you indicate that it involved a sale by your mother of two properties. Is that correct?

MS MEMELA: Yes. That is correct.

ADV KATE HOFMEYR: What were those two properties that she sold?

MS MEMELA: Okay, it was the land in Eastern Cape. Chair it was the land in Eastern Cape at Mpindweni and the other one it was a land in Mbotyi. So the one the amount that was paid for the purchase it was actually merged to be paid for the purchase in Eastern Cape for Cove Ridge and then because it took longer to happen and then it was redirected to the amount of the house in Bedfordview when the bank
20 approved a certain percentage and then I needed a deposit.

CHAIRPERSON: Maybe Ms Hofmeyr, maybe we must give you a chance to explain how it came about that you – that payment was made whether by JM or by Mr Ndzeku.

MS MEMELA: Yes.

CHAIRPERSON: I know you have given this explanation here but the

people who are listening have not read this and there is something that has come up publicly. You might wish to just explain to say this is how Mr Ndzeke or JM came to pay for my house. These are the circumstances. Then Ms Hofmeyr will ask you the questions.

MS MEMELA: Okay chair. In 2015 I was purchasing a property in Cove Ridge in Eastern Cape and it took longer to be finalised and then I started looking for a property to live in here in Johannesburg as I was living in Alberton. So, at the time when it was finalised before it was finalised the bond from Standard Bank, they approved a certain
10 percentage. I remember at that time they were quite strict with approval of 100% bond and stuff.

So, the deposit was needed. One of some of the deposit was coming from my husband's pension fund and some of the deposit was coming from the amount that was coming from the land purchase of my mother. And I did ask also that the fact that it was coming from JM what account it was coming from Mr Ndzeke because the deal was between Mr Ndzeke and my mother, not JM. *Ja*.

CHAIRPERSON: Ms Hofmeyr.

ADV KATE HOFMEYR: So, let us just unpack that a bit if we may. You
20 indicated that there were two properties that your mother sold to Mr Ndzeke.

MS MEMELA: Yes.

ADV KATE HOFMEYR: Located in the Eastern Cape. Is that correct?

MS MEMELA: That is correct.

ADV KATE HOFMEYR: How is she introduced to Mr Ndzeke?

MS MEMELA: Okay my mom came for the eye operation in Johannesburg in 2015 and I told her about the intention to buy the property in Eastern Cape and stuff like that. And she showed interest that okay I have this kind of – part of lands and she had also land in Vusi and Mount Frere at stuff. So, she said she would sell some of the properties.

At that time there was quite an interest like when you talk to some of the BEE partners, there were some of the BEE supplier who were actually interested in buying certain properties in Eastern Cape to develop and do other things, do other projects. So, I remember most of them they bought from Mbotyi and the one in Mpindweni is actually next to Umzimvubu and it was from my mother's parents.

ADV KATE HOFMEYR: So, did you put her in touch with Mr Ndzeku?

MS MEMELA: Yes. I actually said because Ndzeku from our discussions when we chat, he did explain that he was looking for the property in Eastern Cape and everybody is buying and he has so many projects to run in the coming- *ja*. So I introduced him.

ADV KATE HOFMEYR: And what did you understand he wanted to do with the property?

20 **MS MEMELA:** At that time, he did not explain what he wanted to do.

ADV KATE HOFMEYR: And what type of property is it

MS MEMELA: It is the land ...(intervenes).

ADV KATE HOFMEYR: Sorry, the two properties?

MS MEMELA: Yes, they are the land. Where my mother's parents used to have the land in Mpindweni and then they moved to another and then

they left that one under her.

ADV KATE HOFMEYR: Is it – can it be used for business purposes or not?

MS MEMELA: It can be used for business purposes because it is next to the river and it is next to the field Chair.

ADV KATE HOFMEYR: So, is it zoned for business purposes?

MS MEMELA: Yes, I think his interest was for that. And Chair, just to add, when I was asked by the Investigating Team around this from Open Water report, they had said my property was like the deposit was
10 coming from the increase from my salary and I had corrected that. Also, Ms Sambo said the same thing that it was an increase of my salary also Mr Human. So, I explained to them these are the facts and I think this is the part like I said I do not understand the reference or maybe the link between purchase of my property versus the tenders that were running at that time.

ADV KATE HOFMEYR: When Open Waters was probing with you the salary increase, did you say to them, no, the money for my Bedfordview house did not come from the salary increase. It came from the deposit from Mr Ndzeku.

20 **MS MEMELA:** Okay. Chairperson let me give clarity to this. Open Water never gave me an opportunity to state my side of the story. At the time when they started checking this, they actually take – they took everything from my laptop and then everything from whoever that they listened to instead of coming to me and asking me questions because I would have clarified at that point where my deposit came from.

But they have written what they through was happening and it is a result of this Chair certain people nearly got fired because from HR the recommendation for my salary was made from HR and stuff like. So, I want to put it on record that Open Water never asked me about like with the purchase of my property. I only find out when the team – the Zondo Team started asking questions.

ADV KATE HOFMEYR: But they did engage you about the salary increase.

MS MEMELA: They did not engage about the salary increase. I only
10 heard about it when I think, Arson Malola-Phiri, was the Acting Chairperson – Acting CEO of SAAT wanted to find out how is my salary being discussed like it is relating to the tender and stuff. And he said some of the questions that were coming from the Commission's Team was that maybe it was ratification payment from top Management to me for a job well done. I am not sure what job well done but they were linking to that. Open Water never talked to me about my salary increase. They talked to everybody else except me.

ADV KATE HOFMEYR: And we were at the point where you indicated you had introduced your mother to Mr Ndzeku.

20 **MS MEMELA:** *Ja.*

ADV KATE HOFMEYR: He wanted to buy two properties for her for business purposes. Is that correct?

MS MEMELA: Okay I am not – not like I am unclear I think he will be the right person to actually answer that question.

ADV KATE HOFMEYR: Indeed. No, I am interested at the moment

about your understanding of his intentions for the property.

MS MEMELA: Okay. I did not understand at that time so I think he will be a correct person to actually answer that one.

ADV KATE HOFMEYR: And do you know when he concluded the purchase with your mother?

MS MEMELA: I think it was concluded between 2015 and 2016. I am not sure about the year but I think it was concluded around there.

ADV KATE HOFMEYR: And do you know what the sale price was?

MS MEMELA: For Mpindweni it was 2.5, I think. These documents
10 belong to my mother, not me. So, I am actually talking on her behalf.

ADV KATE HOFMEYR: H'mm.

MS MEMELA: Ja. So, and then Mbotyi it was I think 500 000.

ADV KATE HOFMEYR: Are you sure that both transactions went through?

MS MEMELA: I am not sure right now. That is one of the things that I was trying to figure out but those were the questions that were not asked during the investigating meeting. So, I think Mr Ndzeku is the right person to actually answer that.

ADV KATE HOFMEYR: Why do you say that...(intervenes).

20 **MS MEMELA:** But I know that the Mpindweni one went through because he paid for that one.

ADV KATE HOFMEYR: Why do you say those questions were not asked during the meetings with the Commission?

MS MEMELA: No, I am saying the question you are asking now, if I am aware that it – they went through. Yes.

ADV KATE HOFMEYR: Do you recall being asked to provide the Commission with all the supporting documents for this transaction?

MS MEMELA: I was not asked to submit the supporting documents. I was asked to explain and then Mr Kirtland Chair said, are you sure, do you have the title deed? Do you have offer to purchase? Do you have this and that? So, I responded to that. So, this is I think where I had said I would appreciate if the team sends me specific written questions so that I am able to answer properly and then I attach exactly what is required.

10 **ADV KATE HOFMEYR:** Would you like me to take you to the e-mail where it was specifically requested that you provide the supporting documents?

MS MEMELA: You can take me to that e-mail.

ADV KATE HOFMEYR: And it is with reference Ms Sambo to where you say in your own ...(intervenes).

CHAIRPERSON: Ms Memela.

ADV KATE HOFMEYR: Oh, apologies Ms Memela. Where you say in your e-mail that you have – there are papers to support this. I first want to give you that reference. So, you will find it at page 21.

20 **MS MEMELA:** Okay.

ADV KATE HOFMEYR: Of Exhibit DD25A and it is at paragraph 48. If you look at paragraph 48 just before the bottom of the page.

MS MEMELA: Ja.

ADV KATE HOFMEYR: You have been talking there about this very transaction. Right? And when you get to paragraph 48, you are talking

about the purchase agreement to sell the two properties and then you talk about Cove Ridge. And then you see in the second last line you have a sentence “there are papers to support this”. Do you see that?

MS MEMELA: I see that. I thought you were directing me to the e-mail that I received.

ADV KATE HOFMEYR: No, I want to locate – because the e-mail refers specifically to this sentence in this paragraph of your statement.

MS MEMELA: Okay.

ADV KATE HOFMEYR: So that is why I wanted you to have the benefit
10 of seeing this sentence.

MS MEMELA: Okay.

ADV KATE HOFMEYR: In this paragraph of your statement. Chair for this purpose I need to take Ms Memela to a correspondence bundle which has not been handed in yet. I do note that we are close to the tea break. I am happy to do it now. It just involves handing out documents. Otherwise we can do it when we return from the – I beg your pardon, lunch break,

CHAIRPERSON: Yes. What is convenient to you? Is it something that is short and ...(intervenes)?

20 **ADV KATE HOFMEYR:** It is fairly short Chair.

CHAIRPERSON: *Ja*.

ADV KATE HOFMEYR: So, we can hand it up.

CHAIRPERSON: Let us do it *ja*.

ADV KATE HOFMEYR: Let us do that.

CHAIRPERSON: Let us do it.

ADV KATE HOFMEYR: If I may beg leave then to just then hand up to yourself Chair a correspondence bundle that has been prepared and to Ms Memela.

CHAIRPERSON: H'mm. This has not been admitted as yet, right.

ADV KATE HOFMEYR: It has not Chair.

CHAIRPERSON: It has not yet.

ADV KATE HOFMEYR: It was really a correspondence bundle put together in anticipation of Ms Memela possibly making application today not to appear.

10 **CHAIRPERSON:** Yes.

ADV KATE HOFMEYR: But it was only compiled overnight. But if we can enter it as ...(intervenes).

CHAIRPERSON: Well there are two ways of dealing with it. For now, you just want to refer to one e-mail.

ADV KATE HOFMEYR: I do indeed.

CHAIRPERSON: Do you contemplate that you will be referring to this correspondence file much later?

ADV KATE HOFMEYR: No, not at all. Unless something arises in Ms Memela's testimony that is at odds.

20 **CHAIRPERSON:** Because what we could is maybe just take out.

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: Make a copy of the e-mail and then we add it to her file.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: And then we – for purpose of asking questions we

relate to that without admitting this whole file.

ADV KATE HOFMEYR: Indeed Chair.

CHAIRPERSON: *Ja.*

ADV KATE HOFMEYR: I am indebted to you for that. What I will do for present purposes is just if I may direct you to the pagination in the file.

CHAIRPERSON: Yes okay.

ADV KATE HOFMEYR: But then we will extract it.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: And in so far as the pagination is concerned, I
10 must just begin with an apology. This was originally put together as a
file of more than 800 pages but it included an enormous amount of
repetition. So overnight in preparation for today I had stripped out the
repetition but in consequence of the is that the pagination does not run
beautifully from 1 to whatever. It retains the old pagination but you will
still – it still moves numerically. We will just have to find the page I am
looking for. It is page 398 of the correspondence bundle.

CHAIRPERSON: 398.

ADV KATE HOFMEYR: 398.

CHAIRPERSON: Okay.

20 **ADV KATE HOFMEYR:** So if you page it will not move beautifully in
numerical order but it does move progressively.

CHAIRPERSON: What I was saying is maybe we should take it out
here, give it a page number for this one.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: So when you refer to it ...(intervenes).

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: You refer to the page number as ...(intervenes).

ADV KATE HOFMEYR: As we have extracted it.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: *Ja* so I think that might be ...(intervenes).

ADV KATE HOFMEYR: That might be preferable.

CHAIRPERSON: That might be preferable.

ADV KATE HOFMEYR: Chair then I am going to ask if you would not
10 mind taking out from 398 all the way to 422 because this is an e-mail
that has an attachment to it.

CHAIRPERSON: Yes okay.

ADV KATE HOFMEYR: And we are going to need to look at the
attachment.

CHAIRPERSON: Should it not be 423? I see that the second
...(intervenes).

ADV KATE HOFMEYR: Sorry, 442 if I said that incorrectly.

CHAIRPERSON: Oh 442.

ADV KATE HOFMEYR: Yes, it is the last page of a draft affidavit.

20 **CHAIRPERSON:** But at this stage you just want to refer to that e-mail
only.

ADV KATE HOFMEYR: And I will take you to one page in attached
document. So, Chair for now my proposal is let us work with the
pagination in red at the top if we may.

CHAIRPERSON: H'mm.

ADV KATE HOFMEYR: Then I will indicate how that pagination changes when we put it into the file so that the record will be able to reflect that change.

CHAIRPERSON: But we put it at the back of Ms Memela's bundle.

ADV KATE HOFMEYR: Indeed. I suggest at the back of DD25B.

MS MEMELA: So where are we now?

CHAIRPERSON: Oh, at the end of DD25B?

ADV KATE HOFMEYR: B, yes.

CHAIRPERSON: Oh okay.

10 **ADV KATE HOFMEYR:** Because that is the end of the additional documents.

CHAIRPERSON: I am sorry Ms Memela we have left you out of this discussion. I think somebody will help you afterwards.

MS MEMELA: Yes.

ADV KATE HOFMEYR: Indeed. We will arrange Ms Memela's file.

CHAIRPERSON: *Ja*.

ADV KATE HOFMEYR: For now, she can leave it in the correspondence bundle.

CHAIRPERSON: *Ja*. Sorry we did not tell you.

20 **ADV KATE HOFMEYR:** Apologies.

CHAIRPERSON: Okay so we go to the end of that bundle.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: You see what I wanted us to do is that if for now you are only going to refer to that e-mail.

ADV KATE HOFMEYR: H'mm.

CHAIRPERSON: We may just paginate that e-mail only.

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: Sequentially with this.

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: Then you can do the rest of the pagination during the lunchbreak or whatever.

ADV KATE HOFMEYR: Well why do we not do that.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: I can refer to what follows but we will do
10 pagination without having to go there in the lunchbreak.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: I think that makes eminence sense.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: If I may.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: So, the current bundle DD25B ends on page
670 as I have it.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: So, we would paginate this from 671.

20 **CHAIRPERSON:** Yes.

ADV KATE HOFMEYR: Ms Memela this is an e-mail sent by the
Commission's investigator Mr Kirtland to yourself. Is that correct?

MS MEMELA: Okay, which one now...(intervenes).

CHAIRPERSON: Ja.

ADV KATE HOFMEYR: Sorry so, at the top right-hand corner.

MS MEMELA: H'mm.

ADV KATE HOFMEYR: The red paginate page is 398. Do you have that?

MS MEMELA: 398 *ja*.

ADV KATE HOFMEYR: Yes. Do you confirm that it is an e-mail from Mr Kirtland to yourself?

MS MEMELA: It is an e-mail coming from Mr Kirtland to myself on the 14th of January.

ADV KATE HOFMEYR: Thank you. Chair just to give a little bit of
10 background to the chronology that precedes this. It is in the
correspondence. We can go there if any aspect of it is disputed by Ms
Memela. But in the interest of time I just propose to summarise it so
that this e-mail can be placed in context.

There had been engagements with Ms Memela at the end of
last year in a meeting with the Legal Team and the investigators and
there was a follow up from January and later in December about an
affidavit that she was going to provide to the Commission. What
happens around this time is Ms Memela had put in an e-mail to the
Commission her account of the topics.

20 **MS MEMELA:** H'mm.

ADV KATE HOFMEYR: And Mr Kirtland was following up about
converting that account in the e-mail to an affidavit. And what Mr
Kirtland had done by this stage is actually placed it into an affidavit
format for Ms Memela and he had gone through the affidavit and
indicated to her specific questions to follow up from the broad account

that she had given. And so, what is detailed in this e-mail is precisely that. He indicates in the second paragraph that Ms Memela had requested to provide – that we provide her with a standard template of an affidavit to use by the Commission and highlight the questions that she – we still wanted her to address.

MS MEMELA: H'mm.

ADV KATE HOFMEYR: And then she said I will just copy and paste to the affidavit. And what Mr Kirtland was explaining was that was precisely what he had done the previous week. And you will see the
10 attachment is first the summons, a copy of the summons that was sent as a courtesy to Ms Memela. And then the affidavit that had been sent to Ms Memela from page 424. And Chair if you just scroll into that affidavit to page 437.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: You will see paragraph 52 at that page is basically a replica of paragraph 48 in her current statement before the Commission.

CHAIRPERSON: H'mm.

ADV KATE HOFMEYR: And you will see four lines from the bottom.

20 **CHAIRPERSON:** H'mm.

ADV KATE HOFMEYR: It says, "there are papers to support this". This is the exact same paragraph we were looking at in her statement.

MS MEMELA: Oh okay, I thought you were going to show us the e-mail that I said I will send the documentation. But it is okay Chair, I am sure there is another e-mail where I had written to Mr Kirtland saying –

because he had indicated that he had sent me a draft affidavit with the comments and said ...(intervenes).

CHAIRPERSON: *Ja* no, no, that is fine. Just hang on.

MS MEMELA: Yes *ja*.

CHAIRPERSON: Let her finish.

MS MEMELA: Okay.

CHAIRPERSON: And then when you have a chance then you can respond.

MS MEMELA: Okay.

10 **CHAIRPERSON:** *Ja*.

ADV KATE HOFMEYR: Yes. Ms Memela we are going through this exercise because my questions began with a query about your knowledge of the sale agreements. And I had said to you that we had previously requested that you provide us with those agreements.

MS MEMELA: *Ja*.

ADV KATE HOFMEYR: And as I understood your testimony you said, no, we had not made that request. And that is why I am moving to this document to show you where we made that request previously.

MS MEMELA: Okay from the affidavit.

20 **ADV KATE HOFMEYR:** Yes.

MS MEMELA: Okay.

ADV KATE HOFMEYR: So, in the affidavit at what is paragraph 52 of the affidavit in page 437 you will see a paragraph beginning, “my mother then entered into a purchase agreement”. Do you see that?

MS MEMELA: *Ja*.

ADV KATE HOFMEYR: And do you see further down in that paragraph there is the sentence four lines from the bottom starting at it end that says, “there are papers to support this”. Do you see that?

MS MEMELA: *Ja.*

ADV KATE HOFMEYR: And do you see the comment bubble on the right-hand side of that page from Mr Kirtland saying, please attach all the papers and correspondence in this regard?

MS MEMELA: I am seeing it now Chair. But as I said but you said I will answer later. But as I said ...(intervenes).

10 **CHAIRPERSON:** Yes, now that she has asked you the question you can deal with it. *Ja.*

MS MEMELA: Okay. Yes. I indicated to Mr Kirtland that I was using my phone and that the comments were not appearing and stuff. So, I could not see the comments on the side and then he had to resend the word and then not with this – because I said okay, I am using the phone so it does not have that option for me to actually check the comments that he have made. So, I have nothing against submitting the documentation as promised. I can still submit that from my side. So, I did not maybe keep them ...(intervenes).

20 **CHAIRPERSON:** You did not see.

MS MEMELA: Because I do not want to submit.

CHAIRPERSON: *Ja.*

MS MEMELA: I do have them but it could – they could follow afterwards.

CHAIRPERSON: *Ja.*

MS MEMELA: It is just Chair what I wanted to know was that I just needed to know because Mr Kirtland only said the link between my purchase of the property and the reason why it is actually raised here is the fact that I purchased it during the time when the component tender was taking place and stuff.

So, I was trying to understand I actually wrote to Mr Kirtland as well asking what is the link? Is it because of the director had bought the land or is it because it was both at the same time and or maybe there is just an assumption or suspicions that maybe it was the money for tender which is I do not understand because did – *ja*.

CHAIRPERSON: *Ja*.

MS MEMELA: So, I wanted to find – *ja*.

CHAIRPERSON: Okay but you say you are happy to provide the documents?

MS MEMELA: I will provide the documents.

CHAIRPERSON: Yes.

MS MEMELA: But I am saying also Chair I will provide the documentation as I promised.

CHAIRPERSON: Yes.

20 **MS MEMELA:** But I also want to know what Ms Hofmeyr.

CHAIRPERSON: *Ja*.

MS MEMELA: The question is directed to. I mean what is the link between my property and the tender?

CHAIRPERSON: *Ja*, no that is fine.

MS MEMELA: *Ja*.

CHAIRPERSON: She still has quite some questions for you. Maybe or are you done with this part?

ADV KATE HOFMEYR: Indeed Chair. I understand there to be a concession by Ms Memela so we can move on after the lunchbreak.

CHAIRPERSON: Yes. Okay alright. I think we will take the lunch adjournment and then when – then you can do the pagination of these.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: And when we resume maybe for purposes of the transcript, you can just announce what the new pages are.

10 **ADV KATE HOFMEYR:** I will do that precisely.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Thank you Chair.

CHAIRPERSON: Okay. We are going to adjourn now. And it is 13:05 we will resume at 14:05.

MS MEMELA: Okay.

CHAIRPERSON: We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

20 **CHAIRPERSON:** Are we ready?

ADV KATE HOFMEYR: We are indeed Chair.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Chair just over the lunch adjournment we managed to change the pagination on the pages. Our efficient document Management people were actually here with the replacement

pages before we had even left the room so that was excellent.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: But we also used the break Chair to paginate just a few more documents that I want to hand up now if I may because it picks up on a matter that Ms Memela testified about just before the break. I had not anticipated that there might be a difference in her recollection from the facts as I had them. So we just went to go and get the records. What they are is communication October 2015. Ms Memela you will recall I asked you when JM Aviation was added to the
10 data base at SAAT. So I just want to have for your benefit the records of that. So if I may beg leave to hand up the copies?

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: They have been paginated already to go at the end of Exhibit DD25B.

CHAIRPERSON: H'mm. Okay.

ADV KATE HOFMEYR: We will start with those documents.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: And they have been paginated to commence at page 698 and that is in Exhibit DD25B.

20 **CHAIRPERSON:** Sorry. Yes. Ms Memela have you got the pages?

MS MEMELA: I have the pages Chair. I have the pages Chair.

CHAIRPERSON: Thank you. Yes.

ADV KATE HOFMEYR: 698 Chair.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: If we start at the bottom of that page in the e-

mail that appears that appears in the last half. Ms Memela can you tell us who sent that e-mail and to whom?

MS MEMELA: It was Ms Khosi Sokhulu to myself.

ADV KATE HOFMEYR: And the subject of the e-mail?

MS MEMELA: JM Aviation Company Documents.

ADV KATE HOFMEYR: And the date of the e-mail?

MS MEMELA: 13 October 2015.

ADV KATE HOFMEYR: And could you read into the record what she says to you in that e-mail?

10 **MS MEMELA:** “Good day Nontsasa it was a great pleasure to finally meet you on Friday 2 October please find JM Aviation South Africa’s Company Documents attached as requested. We look forward to the opportunity to be of service.”

ADV KATE HOFMEYR: So you will recall in your evidence earlier I asked if you could recall when you first met Ms Sokhulu.

MS MEMELA: Yes.

ADV KATE HOFMEYR: Has this assisted you with that recollection?

MS MEMELA: *Ja* it assists yes.

20 **ADV KATE HOFMEYR:** So it was in fact on the 2nd of October 2015 that you met her?

MS MEMELA: Yes it is.

ADV KATE HOFMEYR: And then these documents were forwarded to you on the 13th of October, what did you then do?

MS MEMELA: I forwarded them to the list of guys like at Procurement

and to one BEE officer.

ADV KATE HOFMEYR: Yes and that you see at the top e-mail on that page 698, is that correct?

MS MEMELA: That is correct.

ADV KATE HOFMEYR: And you request that the company be added to the data base, is that correct?

MS MEMELA: *Ja.*

ADV KATE HOFMEYR: Do you know if that occurred?

MS MEMELA: If that occurred I do not – I did not follow up. Like
10 remember there is as I said like I mean a person who is responsible for BEE and Supply Development.

ADV KATE HOFMEYR: Yes.

MS MEMELA: *Ja.*

ADV KATE HOFMEYR: You facilitated them getting onto the data base and amongst the documents that they had to submit if you will turn to page 727?

MS MEMELA: 727. *Ja.* Yes.

ADV KATE HOFMEYR: 727 what is that document?

MS MEMELA: Oh it states like the shareholders of JM.

20 **ADV KATE HOFMEYR:** Yes and can you read into the record who those shareholders are and what proportions they hold as shares in the company.

MS MEMELA: “Dear Sir ...(intervenes).”

CHAIRPERSON: Maybe before that just say who the letter comes from and so on. Synergy, it comes from Synergy Chartered Accountants, is

that right? Ms Memela?

MS MEMELA: Okay it is the document of the suppliers so I will let ... (intervenes).

CHAIRPERSON: H'mm.

MS MEMELA: The documents ... (intervenes).

CHAIRPERSON: No, no I just want you to identify who the document came from.

MS MEMELA: Oh okay. At the – on the letterhead is Synergy Chartered Accountants.

10 **CHAIRPERSON:** Yes and it is written by T Nyepa

MS MEMELA: Nyepa.

CHAIRPERSON: N-y-e-p-a.

MS MEMELA: Yes.

CHAIRPERSON: And it is addressed, to whom it may concern.

MS MEMELA: Yes.

CHAIRPERSON: And then the subject – you can read the subject and then you can identify the shareholders.

MS MEMELA: Okay.

20 **CHAIRPERSON:** Actually you can read the letter because that will give a complete picture.

MS MEMELA: Okay.

“Dear Sir or Madam, we hereby confirm that we are the duly appointed auditors of the abovementioned entity and we hereby confirm the entity's shareholding as follows: Ms M V Sokhulu, 35%, Ms I

N Louw, 30%, Mr J Aires, 15%, Mr V A Ndzeke, 20%

Kindly contact the undersigned hereof should you
require any further clarification.”

ADV KATE HOFMEYR: Thank you Ms Memela you just left out the title
of the letter, the subject. What is that?

MS MEMELA: Okay.

“Re JM Aviation South Africa PTY LTD Company
Registration Number 2015/053564/07 Shareholding
confirmation.”

10 **ADV KATE HOFMEYR:** And the date of the letter?

MS MEMELA: The date of the letter is 18th of January 2016.

ADV KATE HOFMEYR: Can you tell me when you met with Ms Sokhulu
on the 2nd of October 2015 what were the circumstances around that
meeting?

MS MEMELA: Okay Chair I will not remember because like I did not
have the information in front of me but like one thing I would remember
is that I have met so many BEE companies especially after their
workshop in 2015 and stuff like. So I am sure it was definitely about
them being added into your data base and like I mean what is it that is
20 expected from them like I mean they should not front and like all those
kinds of schooling and training.

ADV KATE HOFMEYR: Do you know that she was not a Director of JM
Aviation at that time?

MS MEMELA: I do not know.

ADV KATE HOFMEYR: H'mm. Was your understanding from the

interaction that she did have a role to play there?

MS MEMELA: Okay like I mean there are certain questions that you ask like I mean the suppliers. Remember like I mean we – the Board or the Chairpersons of the Board like ...(indistinct) the workshops like to actually address like the Supply Development and the lack of like having BEE companies like into the data base of SAAT and stuff like. So there were certain questions that they were asked. Like I mean question like okay would they be able to provide or supply certain things and stuff like – and then to question who is the director that time

10 or who is not like it was not part of the – *ja*.

ADV KATE HOFMEYR: Right.

MS MEMELA: *Ja*.

ADV KATE HOFMEYR: But I think given this refreshing of your memory would it be fair to say that at least by the end of 2015 you knew Mr Ndzeku, Ms Sokhulu and JM Aviation?

MS MEMELA: Yes like I mean based on this information.

ADV KATE HOFMEYR: Thank you.

CHAIRPERSON: *Ja*.

ADV KATE HOFMEYR: I would now like to move to Cove Ridge
20 because part of the ...(intervenes).

CHAIRPERSON: Well I am sorry you say based on this information?

MS MEMELA: Yes based on the information here that I received the ...(intervenes).

CHAIRPERSON: You are not talking about the letter at 727 because the letter at 727 is 18 January 2016.

MS MEMELA: Yes, no I am talking about like the e-mail that was sent.

CHAIRPERSON: About other documents?

MS MEMELA: Yes.

CHAIRPERSON: Okay.

MS MEMELA: Yes.

ADV KATE HOFMEYR: Thank you for that clarification. I would like to just explore Cove Ridge a little bit more because your evidence previously indicated that that was a property in the Eastern Cape that you were interested in buying, is that correct?

10 **MS MEMELA:** That is correct.

ADV KATE HOFMEYR: And for what purpose was that?

MS MEMELA: It was the purpose for the purpose of business renting out and – *ja*.

ADV KATE HOFMEYR: Renting out?

MS MEMELA: *Ja* – business purposes.

ADV KATE HOFMEYR: So was – business purposes.

MS MEMELA: Yes.

ADV KATE HOFMEYR: Okay. And was it a developed property?

20 **MS MEMELA:** It was not a developed property it was in the process of being developed.

ADV KATE HOFMEYR: Right.

MS MEMELA: *Ja*.

ADV KATE HOFMEYR: And you indicated that your mother had said to you she wanted to assist with the deposit on that property, is that right?

MS MEMELA: That is correct.

ADV KATE HOFMEYR: And what was the sale price of that property?

MS MEMELA: I think if I remember correctly Chair it was 2.8.

ADV KATE HOFMEYR: And how much was the deposit of that purchase price?

MS MEMELA: I think like we were going to pay half of that and then like I am getting the amount from the bank, the remaining amount from the bank.

ADV KATE HOFMEYR: Right.

MS MEMELA: But it did not continue it was cancelled.

10 **CHAIRPERSON:** Were you looking Ms Hofmeyr for the deposit that was paid or for the deposit that was required?

ADV KATE HOFMEYR: The deposit that was required. So I think ...(intervenes).

CHAIRPERSON: *Ja* what was the deposit that was required?

MS MEMELA: The deposit that was required I think – I do not remember like I mean if it is written here but like I mean there was a certain amount that was required. But like I mean the cost of the land was 2.8.

20 **CHAIRPERSON:** Okay the one that you say you paid which was you said about half or would have been more than the deposit that was required by the bank?

MS MEMELA: It would have been half of what was required.

CHAIRPERSON: Oh okay.

MS MEMELA: Yes.

ADV KATE HOFMEYR: So ...(intervenes).

MS MEMELA: But it was not finalised.

ADV KATE HOFMEYR: So just so I can clarify. The purchase price was 2.8. The deposit was about half of that and the remainder would be made up by a bank mortgage, is that correct?

MS MEMELA: I think that is correct like but I am just checking quickly if it is not recorded. If you tell Ms Hofmeyr what document you are looking for she might be able to help you.

MS MEMELA: Okay I am looking for the – over the purchase of the Cove Ridge.

10 **ADV KATE HOFMEYR:** Oh yes let us – can I – can I just finish one or two more questions and then we will go there because it will follow the flow. And then can I just understand the arrangement with your mother was that the deposit that she was going to assist with on Cove Ridge would then be redirected to your Bedfordview house when Cove Ridge was cancelled, is that correct? If you will just put your ...(intervenes).

CHAIRPERSON: Please switch on your microphone again and then give the answer again.

MS MEMELA: Sorry Chair.

CHAIRPERSON: Give that answer again?

20 **MS MEMELA:** Yes like I mean the deposit that was meant for Cove Ridge like then it was going to be later directed to the Bedfordview house.

ADV KATE HOFMEYR: And when did you find the Bedfordview house, do you recall that?

MS MEMELA: I think it was around February I do not remember the –

ja exact dates.

ADV KATE HOFMEYR: No of course.

MS MEMELA: *Ja*.

ADV KATE HOFMEYR: That is February 2016, is that right?

MS MEMELA: *Ja* I am saying like I do not remember the exact dates so I – *ja*.

ADV KATE HOFMEYR: No, no I thought you meant the day in February but you said February.

MS MEMELA: *Ja* I think somewhere in February.

10 **ADV KATE HOFMEYR:** Right.

MS MEMELA: Like I am saying I am not – I do not remember.

ADV KATE HOFMEYR: But I am just identifying the year, February?

MS MEMELA: I think 2016.

ADV KATE HOFMEYR: Right. Right. Because you are in 2015.

MS MEMELA: *Ja*.

ADV KATE HOFMEYR: When you are engaged in the Cove Ridge transaction, is that right?

MS MEMELA: That is right.

ADV KATE HOFMEYR: Then you find the property in Bedfordview, is
20 that correct?

MS MEMELA: That is correct.

ADV KATE HOFMEYR: And at that point you cancel the Cove Ridge so that you can pursue the Bedfordview property, is that correct?

MS MEMELA: That is correct.

ADV KATE HOFMEYR: What was the sale price on the Bedfordview

property?

MS MEMELA: Chair this is one of the questions that I had said like I mean I would ask you if I am obliged to answer and stuff like – because I am really trying to figure out like I mean how is my purchase of my house like I mean relative to what I am here for.

CHAIRPERSON: Yes.

MS MEMELA: Which is the component.

CHAIRPERSON: Well you see the reason why Ms Hofmeyr is asking about details about the purchase of your house and the money that was
10 paid in regard to that came from either Mr Ndzeke or JM is to see whether there may have been anything improper about the payment or – of that amount in regard to your house in circumstances where you were Head of Procurement at SAAT and Mr Ndzeke was a Director of JM and at a certain stage it was making a – putting in bids. So these questions are just to check whether there was nothing improper. So from my point of view there should be no problem in answering it but you remember what we said at the beginning. If you feel that answering that question is going to be – you are going to be incriminating yourself you must indicate but on the face of it I do not
20 see a problem. But I do not know much as much as you know about those transactions.

MS MEMELA: Ja. Chair like I think the reason why I am raising this I am not running away from accountability or maybe like I mean responding.

CHAIRPERSON: Yes.

MS MEMELA: To the facts and stating my own facts.

CHAIRPERSON: H'mm.

MS MEMELA: But like I think like I mean remember before the break I did ask like what the link is.

CHAIRPERSON: *Ja.*

MS MEMELA: Between my property and ...(intervenes).

CHAIRPERSON: Yes.

MS MEMELA: The transactions that we are talking about now.

CHAIRPERSON: Yes, yes.

10 **MS MEMELA:** I think like that will give me an indication of where she is heading.

CHAIRPERSON: No, you need not know where she is heading.

MS MEMELA: *Ja.*

CHAIRPERSON: You must just answer the question. You do not need to worry about where she may be heading.

MS MEMELA: Okay.

CHAIRPERSON: But as I said you know if you feel strongly that maybe if you answer the question you might be incriminating yourself we will hear from you – indicate but if you feel comfortable to answer the question do not worry about where she may be heading. Is that alright?

20

MS MEMELA: That is alright Chair.

CHAIRPERSON: Okay alright.

ADV KATE HOFMEYR: Do you remember the question?

CHAIRPERSON: We want to be fair to everybody. We want to be fair to you. We need to ask certain questions to establish what had – what

happened but we want to make sure that as we do that there is fairness but at the same time we must try and get to the bottom of the situation.

MS MEMELA: Okay.

CHAIRPERSON: Okay. Alright. Thank you.

ADV KATE HOFMEYR: The question was, what was the sale price of the Bedfordview house?

MS MEMELA: It was 3.8.

ADV KATE HOFMEYR: R3.8 million. So I assume based on your previous testimony that R3.8 million plus R2.8 million at the same time
10 if you had a liability for both would not have been a liability you could meet, is that correct?

MS MEMELA: If I had the liability for both?

ADV KATE HOFMEYR: Yes.

MS MEMELA: Okay I would like I mean continue with both of them.

ADV KATE HOFMEYR: Indeed.

MS MEMELA: Ja.

ADV KATE HOFMEYR: So as I understand it once you had found the Bedfordview house you then decided to cancel the Cove Ridge, is that right?

20 **MS MEMELA:** Yes.

ADV KATE HOFMEYR: Thank you. Ms Sambo gave an account in her evidence about an interaction she had had with you around this property and you in fact responded to what she had said in your cross-examination application.

MS MEMELA: Ja.

ADV KATE HOFMEYR: And your statement that you confirmed this morning under oath. I would like to take you to two aspects of it.

MS MEMELA: Okay.

ADV KATE HOFMEYR: You will find that in the cross-examination application in front of you numbered 04 of 2020 and the part of your statement that I want to pick up at is at page 8. At 8 there you commence dealing with this aspect at paragraph 8.5.

MS MEMELA: H'mm.

ADV KATE HOFMEYR: You say there:

10 "I deny and refute the allegation as
misrepresentation of facts by Ms Sambo in that she
was not a close – not that close to me as a friend for
me to discuss my intention to buy pro – my property.
(People who are close to me would testify to this that
I never share my private information with anyone
except one has something to do with such
information)."

Then you go on and say:

20 "The bank has never declined my application instead
in 2015 the banks had been very strict in approving
100% bond."

MS MEMELA: Yes.

ADV KATE HOFMEYR: "But they were mostly approving a
certain percentage of the bond requiring a deposit.
A deposit which had nothing to do with Ms Kwinana

and Mr Zwane.”

MS MEMELA: H'mm.

ADV KATE HOFMEYR: And then you go on and explain how that deposit was going to be paid. I just want to pause there. Do you maintain in your evidence today that this payment of this deposit had nothing to do with Ms Kwinana or Mr Zwane?

MS MEMELA: I maintain that.

ADV KATE HOFMEYR: And then if we can go to page – paragraph 8.6. You say there:

10 “During 2016 Ms Sambo called me congratulating me
and informing me that she had heard that I had
moved to a new home and asked where it was. I told
her it was in Bedfordview. That was only from that
call she learned about my property in Bedfordview. I
remember she asked me to send her a photo which I
did and her comment was, wow this one cannot be
less than R10 million. And that time I had not picked
up her bitterness towards me. I innocently
responded that it was not even close to R4 million
20 and added that my salary would not be sufficient
enough to even attempt to purchase a property for
R10 million.”

Do you see that?

MS MEMELA: Ja.

ADV KATE HOFMEYR: Why did you say to Ms Sambo that the property

was not even close to R4 million?

MS MEMELA: Because it was not R4 million. I guess like because I said it is 3.8.

ADV KATE HOFMEYR: So is 3.8 not close to 4 million?

MS MEMELA: Okay it is close but *ja* I am not sure about where that question is going. But like I mean it close to 4 million.

ADV KATE HOFMEYR: But then why did you tell her it was not close to 4 million?

MS MEMELA: Look like I mean there are things that like I mean you
10 disclose to certain people and stuff like I mean I was not going to
disclose that to Ms Sambo. Like I mean it is not like she was
investigating or maybe I owed her any information about my property.

ADV KATE HOFMEYR: But you volunteered information about its sale price as not being close to 4 million, that was false, correct?

MS MEMELA: Okay like I mean me saying it Ms Sambo that it was not close to 4 million. So like I mean ...(intervenes).

CHAIRPERSON: Yes that is what Ms Hofmeyr is putting to you.

MS MEMELA: Yes.

CHAIRPERSON: Whether you admit that saying that the property was
20 not close to R4 million was not true.

MS MEMELA: *Ja* but like I mean she did not ask about 4 million. Like I mean she talked about 10 million. So like I mean it was just me like responding. So I was writing what I had said like when I was talking to her. So like I mean this is not about 4 million or anything. Like I mean I am the one who actually came up with 4 million. She like I mean

suspected that it was over 10 million.

ADV KATE HOFMEYR: Yes.

MS MEMELA: So I am not sure like I mean how maybe saying like not close to 4 million to Ms Sambo stands like I mean to prove that maybe I was lying to her or I had to – I am not sure. Like maybe I do not understand.

ADV KATE HOFMEYR: Ms ...(intervenes).

CHAIRPERSON: Well no let – okay let us do it this way.

MS MEMELA: Ja.

10 **CHAIRPERSON:** Am I correct that your property, the purchase price of your property was 3.8 million?

MS MEMELA: Yes Chair.

CHAIRPERSON: Am I correct that Ms Sambo said to you that house after seeing the picture could not be less than R10 million?

MS MEMELA: Yes like I mean it was just an informal conversation.

CHAIRPERSON: Yes.

MS MEMELA: Ja.

CHAIRPERSON: Is it correct that in responding to her you said the house was not even close R4 million?

20 **MS MEMELA:** Yes I did say that.

CHAIRPERSON: Is R3.8 million close or not close to R4 million?

MS MEMELA: It is close to R4 million Chair but like I mean that responding to Sibongile was not something that I was under oath.

CHAIRPERSON: Yes. No, no.

MS MEMELA: Exactly.

CHAIRPERSON: Let us ...(intervenes).

MS MEMELA: So the ...(intervenes).

CHAIRPERSON: Let – we will get there. So you accept that it is close to R4 million?

MS MEMELA: Yes Chair.

CHAIRPERSON: Yes. And you accept that what you said was not true?

MS MEMELA: Yes it was not.

CHAIRPERSON: Okay. Do you want to provide an explanation why you said it was not close to R4 million?

10 **MS MEMELA:** There is no-one so far that I have given the exact answer of how much my house is. Like it is either I change like I mean because I do not – I never like really disclose such information to anyone. In fact like even my first property in Douglasdale Fourways I have never told anyone how much it was.

CHAIRPERSON: But ...(intervenes).

MS MEMELA: So like this here like it was just being like me saying to a person like who wants to know that okay like I mean it is not close to this. So I am not sure Sir – Chair that like maybe by saying that like I mean I was supposed to tell her exactly how much.

20 **CHAIRPERSON:** Well you might not have needed to tell her exactly how much it was.

MS MEMELA: Ja.

CHAIRPERSON: But you could have said it is not even close to 10 million and left it at that. And that would have been true, is it not?

MS MEMELA: Okay but like I mean an informal conversation between

two people versus like me sitting here taking an oath is like different. What I say out there because I was like just quoting what we had said to each other.

CHAIRPERSON: H'mm.

MS MEMELA: Yes.

CHAIRPERSON: Ms Hofmeyr do you want to take that ...(intervenes).

ADV KATE HOFMEYR: No we do not need to take that further.

CHAIRPERSON: You do not? Okay.

ADV KATE HOFMEYR: Ms Sambo has been given an opportunity to
10 explain why she might have said something false to Ms Sambo but unless there is anything else she wants to add we do not need to take that further. Thank you.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: I would then like to move to that agreement that purchase agreement for the Cove Ridge property that you requested you be directed to. It is in Bundle DD25B – apologies A. And you will find it at page 370.

MS MEMELA: 370?

ADV KATE HOFMEYR: Yes. Can you identify the document at 370?

20 **MS MEMELA:** Yes I can.

ADV KATE HOFMEYR: Apologies I see you are still getting there. What is that document?

MS MEMELA: It is a Deed of Sale.

ADV KATE HOFMEYR: Between what parties?

MS MEMELA: Slipknot Investment and Nontsasa Memela.

ADV KATE HOFMEYR: And what page does that document end on?

MS MEMELA: It ends 374.

ADV KATE HOFMEYR: And was this the Deed of Sale for you to purchase the Cove Ridge property?

MS MEMELA: Yes.

ADV KATE HOFMEYR: Let us just go through it at page 371. I think you indicated in your evidence earlier that the purchase price was R2.8 million. You can see that on page 371. Is that correct?

MS MEMELA: That is correct.

10 **ADV KATE HOFMEYR:** And you indicated earlier that there was a deposit amount and an amount that would be covered by the bond. Can you identify for us the clause that sets that out?

MS MEMELA: The clause – I did not say that there was a clause that will set it out.

ADV KATE HOFMEYR: Oh but ...(intervenes).

MS MEMELA: Ja.

ADV KATE HOFMEYR: But it was part of the agreement?

MS MEMELA: It was part of like I mean the plan that okay like I mean the deposit will be paid and then like I mean the remainder I am going
20 to get from the bank.

ADV KATE HOFMEYR: But would that not have to be set out in the agreement?

MS MEMELA: Okay it was not in the agreement.

ADV KATE HOFMEYR: It was not?

MS MEMELA: It was not.

ADV KATE HOFMEYR: Do you know the requirements of the Alienation of Land Act for the identification of a purchase price for the sale of immovable property?

MS MEMELA: No I do not.

ADV KATE HOFMEYR: Okay. And when was the purchase price required to be paid under this agreement?

MS MEMELA: It was required to be paid if I remember correctly after 90 days or like – but it was not an agent. I do not remember like the days or maybe the months that like it was required to be paid. So like I
10 do not want to like I mean say things that like I mean when I find out maybe when I go back to my files and stuff. Like I mean it does not support this. So I am safe to say like I do not remember.

ADV KATE HOFMEYR: Well it is about a three-page document. We have looked at it. I struggle to find a provision that indicated when the purchase price had to be paid. Can you assist with that at all?

MS MEMELA: The part where it indicates?

ADV KATE HOFMEYR: When the purchase price had to be paid?

MS MEMELA: No it is not here. That is why I am saying like I mean I do not remember like how long it was going to be. And then like I mean
20 it was not agent as well.

ADV KATE HOFMEYR: It was not agent. Just explain to us what that means?

MS MEMELA: I am saying like I mean it was not like I mean something that was required to be paid like within 60 days or 90 days.

ADV KATE HOFMEYR: Sorry so I am just not sure I understand your

testimony. I thought a moment ago you said you – it did have to be paid in 90 days.

MS MEMELA: I said I do not remember.

ADV KATE HOFMEYR: Right.

MS MEMELA: It may have been like 90 days or more.

ADV KATE HOFMEYR: But you agree that this agreement does not make any provision for when the purchase price has to be paid?

MS MEMELA: No it does not.

ADV KATE HOFMEYR: And it does not contain a deposit provision nor
10 a provision to get a bond?

MS MEMELA: No it does not.

ADV KATE HOFMEYR: Right. And do you know who the owners and Directors of Slipknot Investments were at the time that you purchased this property?

MS MEMELA: I am not sure about like the Directors or the owners of the – but like I mean we signed like I mean based on the company or maybe family trust or something.

ADV KATE HOFMEYR: Who ...(intervenes).

MS MEMELA: But I know that like I mean the person who signed for it
20 like that I was buying from was – the person who signed was – the person signed was – I think Yakhe Kwinana.

ADV KATE HOFMEYR: Yakhe Kwinana?

MS MEMELA: Yes.

ADV KATE HOFMEYR: The Chair of the Board of SAAT?

MS MEMELA: The Chair – *ja* the former Chairperson of the Board of

SAAT.

ADV KATE HOFMEYR: At the time that you concluded this agreement with her she was the Chair of the Board of SAAT, is that correct? You can look at page 373.

MS MEMELA: 373.

ADV KATE HOFMEYR: For the date. It is April 2015.

MS MEMELA: No I do not remember. Like I mean when did she become a Chair of SAAT or not?

ADV KATE HOFMEYR: Was she known to you at SAAT at this time?

10 **MS MEMELA:** *Ja* like I mean she had known me at SAAT.

ADV KATE HOFMEYR: Just for the record she was the Chair of the SAAT Board at that stage. We have had evidence to that effect. And I see it was signed in Centurion on the 21st of April. Do you recall who the witnesses were of this agreement?

MS MEMELA: No I do not recall.

CHAIRPERSON: The signature of the seller there, who was that? On page 373.

MS MEMELA: I think the seller on behalf of the Slipknot was – it was signed by Ms Yakhe Kwinana. *Ja*.

20 **CHAIRPERSON:** And you would be able to identify her signature anyway or did she sign in your presence?

MS MEMELA: I ...(intervenes).

CHAIRPERSON: The – everybody seemed to have signed on the 21st of April 2015.

MS MEMELA: *Ja* I think we signed at the same – but like I cannot

confirm it.

CHAIRPERSON: Were you all at the same place when you signed?

MS MEMELA: I think so yes.

CHAIRPERSON: So you would know that she signed here?

MS MEMELA: Yes. Yes Chair.

CHAIRPERSON: Okay alright. And in any event that signature would be a signature that you are familiar with having worked with her for quite some time or not really?

MS MEMELA: Ja having to – like having seen like on the Board
10 Resolutions.

CHAIRPERSON: In other documents.

MS MEMELA: Yes.

CHAIRPERSON: Yes okay.

ADV KATE HOFMEYR: The witnesses appear to have been the same witnesses so I think.

MS MEMELA: It was signed at the same place.

ADV KATE HOFMEYR: Same place indeed. And you can confirm Ms Kwinana signed it for the seller and you signed it as purchaser, is that correct?

20 **MS MEMELA**: That is correct.

CHAIRPERSON: Would the witnesses have been people that came with her to the place where the signing took place or would one or – one of them have come with you or will both have come with you? Or was it people that were just grabbed as they were passing?

MS MEMELA: No Chair. No. I think like if I remember correctly, but

like I might be wrong, but I think it was signed at the law firm
...(intervenes).

CHAIRPERSON: Okay.

MS MEMELA: And then like maybe some of the ...(intervenes).

CHAIRPERSON: So it would have been the staff at the law firm that
may have signed as witnesses?

MS MEMELA: Yes or maybe people that she came with or
...(intervenes).

CHAIRPERSON: Ja. Okay.

10 **MS MEMELA:** From, ja.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Which law firm would that be?

MS MEMELA: I think it will be Mbanjwa Law Firm.

ADV KATE HOFMEYR: Is that the law firm that was going to take care
of the transfer of the property?

MS MEMELA: Yes.

ADV KATE HOFMEYR: As indicated at page 371?

MS MEMELA: Yes.

20 **ADV KATE HOFMEYR:** Thank you and can you just assist me with a
sale agreement for R2.8 million. That does not indicate when the
purchase price needs to be paid. Was that not an issue for Ms Kwinana
when she entered into this agreement with you?

MS MEMELA: Like she did not raise an issue. Of course like if it like I
mean drafted by the lawyers. We like I mean there were witnesses and
stuff like I mean we knew what we were agreeing on.

ADV KATE HOFMEYR: H'mm.

MS MEMELA: *Ja.*

ADV KATE HOFMEYR: When did you think the purchase price had to be paid?

MS MEMELA: I do not remember.

ADV KATE HOFMEYR: H'mm.

MS MEMELA: *Ja.*

ADV KATE HOFMEYR: And – but what is also clear is that there was no deposit provision for this agreement. Was there?

10 **MS MEMELA:** Like it was – like I think a verbal agreement, but like it was not included into the agreement at least.

ADV KATE HOFMEYR: And are ...(intervenes).

MS MEMELA: And ...(intervenes).

ADV KATE HOFMEYR: You aware you said previously you were not aware of the provisions of the Alienation of Land Act, but are you aware that those agreements for the sale of immovable property unlike other agreements do have to be reduced to writing in their terms?

MS MEMELA: For it to be valid?

ADV KATE HOFMEYR: Yes.

20 **MS MEMELA:** So like you are saying now like I mean this might be invalid like does not ...(intervenes).

ADV KATE HOFMEYR: H'mm.

MS MEMELA: Like that differ from one way lawyer to another?

ADV KATE HOFMEYR: No. I would not think it differs from one lawyer to another, but I do not think we need to have a legal debate.

MS MEMELA: Okay.

CHAIRPERSON: Yes. What – on some of these legal issues I think Ms Hofmeyr is asking so that you can give an answer based on what you know and if you do not know. It is fine. Part of the reason is that you are a lawyer. So you might know, but you might not know. Law is too wide. So feel free to give what you understand to be the position.

MS MEMELA: I did say Chair to her like I mean earlier on that I do not know and that I am ...(intervenes).

CHAIRPERSON: Yes. No. No. That is fine, but I am just clarifying so
10 that you do not ...(intervenes).

MS MEMELA: Okay.

CHAIRPERSON: You do not wonder why some of the questions are legal. Okay.

ADV KATE HOFMEYR: Thank you Chair and then if we can move to the deposit that your mother was going to pay ...(intervenes).

MS MEMELA: Huh-uh.

ADV KATE HOFMEYR: Because my ...(intervenes).

CHAIRPERSON: I am sorry. Before that Ms Hofmeyr. So Ms Memela, can you tell me how it came about that you went to – how it came about
20 that you concluded this agreement with Slipknot Investments (Pty) Ltd represented by Ms Kwinana. How did it come about? How did this – what happened?

MS MEMELA: Okay. Chair, Ms Kwinana – of course like many people know her as like I mean the Chairperson of like our former Chairperson of SAAT like you do ...(intervenes).

CHAIRPERSON: Yes.

MS MEMELA: And like I mean I would – I can say now confidently so that like I mean she was not playing that role alone like as the Chairperson like she would play a role of like a sister advise like in terms of investment and stuff. She is in that space of like I mean property development and like she would mention that okay this is what I am doing and like I mean if you want to invest like you could do that and do that.

10 So like I mean we started talking about that and then I was interested in investing there.

CHAIRPERSON: When you talked about – when you had discussions that led to the signing of this agreement were the two of you quite close or not really?

MS MEMELA: Like we were like professional close.

CHAIRPERSON: Yes. Yes.

MS MEMELA: Yes. Yes Chair.

CHAIRPERSON: Yes. Yes. So she came to understand that you were looking at buying property and she told you about a property that was on the market.

20 **MS MEMELA:** That she was developing and - *ja*.

CHAIRPERSON: That she was developing?

MS MEMELA: Yes. She is in a property development base like for quite some time.

CHAIRPERSON: Yes.

MS MEMELA: *Ja*.

CHAIRPERSON: Okay.

MS MEMELA: H'mm.

CHAIRPERSON: And you agreed on the price and then she said ... (intervenes).

MS MEMELA: Yes.

CHAIRPERSON: Come to talk to my lawyers and then they prepare an agreement?

MS MEMELA: Yes.

CHAIRPERSON: Is that right?

10 **MS MEMELA**: That is right Chair.

CHAIRPERSON: And do you know whether this agreement was actually prepared by the lawyers? I am – I know when I say whether you know whether they prepared it. You might say I do not know if they actually prepared it, but it came from them.

MS MEMELA: Yes.

CHAIRPERSON: Did it come from them as far as you know?

20 **MS MEMELA**: *Ja*. My understanding or what I had learnt was that they had been dealing with her properties and property development like I mean all the deeds of sale like were done by them. So like I mean going like from this property to the other there will be just like I mean entering like I mean details of like the next purchaser or like what investment and stuff. So like I would say I believed it came from her lawyers.

CHAIRPERSON: Yes. Okay.

ADV KATE HOFMEYR: Thank you Chair. Then just in relation to the

deposit for this property.

MS MEMELA: Huh-uh.

ADV KATE HOFMEYR: We have established that that was not reflected in the written agreement ...(intervenes).

MS MEMELA: Ja.

ADV KATE HOFMEYR: But I understand your evidence to be there was ...(intervenes).

MS MEMELA: The intention ...(intervenes).

ADV KATE HOFMEYR: A deposit of about half of the value that was
10 going to be paid ...(intervenes).

MS MEMELA: The intention. Yes.

ADV KATE HOFMEYR: And just so I get your evidence correct. Once your mother had concluded the agreement with Mr Ndzeke to sell her properties. She was going to use the proceeds of that to assist you with the deposit.

MS MEMELA: To assist ...(intervenes).

ADV KATE HOFMEYR: Is that correct?

MS MEMELA: Ja. That is correct.

ADV KATE HOFMEYR: So did Ms – did your mother then receive the
20 proceeds from the sale to Mr Ndzeke which I understood was in about 2015 and then make it available for the deposit on this property?

MS MEMELA: No. Like I mean it was made directly to the lawyers. So that they can transfer to the lawyers that were responsible for the Bedfordview house.

ADV KATE HOFMEYR: Right.

MS MEMELA: H'mm.

ADV KATE HOFMEYR: And ...(intervenes).

MS MEMELA: And then, *ja*.

ADV KATE HOFMEYR: So who gave Mr Ndzeke the details about where to pay the money if your mother did not pay it?

MS MEMELA: If my mother did not pay it?

ADV KATE HOFMEYR: She did not pay the deposit.

MS MEMELA: No. She ...(intervenes).

ADV KATE HOFMEYR: As I understand your evidence.

10 **MS MEMELA:** *Ja. Ja.*

ADV KATE HOFMEYR: It was that Mr Ndzeke rather than paying her ...(intervenes).

MS MEMELA: *Ja.* It shall be ...(intervenes).

ADV KATE HOFMEYR: Was going to pay you directly?

MS MEMELA: Yes.

ADV KATE HOFMEYR: And he was going to pay to – did you say the transferring attorneys?

MS MEMELA: It - like I mean it was going to come from Mr Ndzeke to the Mbanjwa.

20 **ADV KATE HOFMEYR:** Right.

MS MEMELA: Yes. Like – and then like from Mbanjwa to the transferring attorneys or registering attorneys. Yes.

ADV KATE HOFMEYR: Right.

MS MEMELA: But like Mbanjwa was not responsible for the transfer of the Bedfordview property.

ADV KATE HOFMEYR: I understand.

MS MEMELA: *Ja.*

ADV KATE HOFMEYR: So once Mr Ndzeke was to pay for the property he purchased in the Eastern Cape he would just in a sense redirect that money straight to L Mbanjwa Attorneys.

MS MEMELA: Yes.

ADV KATE HOFMEYR: Is that right?

MS MEMELA: Yes.

ADV KATE HOFMEYR: And by the time you had found the Bedfordview
10 house Cove Ridge was off the cards.

MS MEMELA: Yes.

ADV KATE HOFMEYR: Is that right?

MS MEMELA: Yes.

ADV KATE HOFMEYR: Thank you and can I just understand the terms of your arrangement with your mother. Was it a loan? Were you going to be paying it back?

MS MEMELA: No. It was a donation.

ADV KATE HOFMEYR: H'mm.

MS MEMELA: *Ja.*

20 **ADV KATE HOFMEYR:** Thank you. Now the cancellation of Cove Ridge took place when you had found the Bedfordview house. Is that right?

MS MEMELA: *Ja.*

ADV KATE HOFMEYR: We are still the agreement.

CHAIRPERSON: I am sorry Ms Hofmeyr, because I think you may have

– you are almost through on this ...(intervenes).

ADV KATE HOFMEYR: H'mm.

CHAIRPERSON: Sale agreement. What is strange with this agreement is what Ms Hofmeyr pointed out. Namely although there is a price – purchase price. There is no indication of when the purchaser would be obliged to pay it and whether it would be paid in instalments and it seems to me there is no indication that the agreement does not seem to say this is subject to getting a bond and so on.

MS MEMELA: *Ja.*

10 **CHAIRPERSON:** When you signed it where you aware of all of those things?

MS MEMELA: Yes.

CHAIRPERSON: But you did not ...(intervenes).

MS MEMELA: We ...(intervenes).

CHAIRPERSON: Deal with those things?

MS MEMELA: Yes. Like I went – browsed through ...(intervenes).

CHAIRPERSON: *Ja.*

MS MEMELA: And like I mean, because like they have been dealing with like I mean property development and using the same agreements
20 and stuff. My understanding from the contracts and legal point of view
...(intervenes).

CHAIRPERSON: H'mm.

MS MEMELA: As much as I did say that like the Alienation of Land Act I mean I would not be aware of, but ...(intervenes).

CHAIRPERSON: H'mm.

MS MEMELA: There might be like an agreement that like I mean provision of the agreement that is written down, but like I mean if the parties like in the same mind and the intention like whatever that like I mean you are agreeing upon. Like I mean that is acceptable. *Ja*.

CHAIRPERSON: So is – so you say you thought that whatever verbal agreement you may have had with the seller.

MS MEMELA: *Ja*.

CHAIRPERSON: Would be fine.

MS MEMELA: It would have been fine, because like ...(intervenes).

10 **CHAIRPERSON:** Yes.

MS MEMELA: We knew each other. She knew I would not run away

CHAIRPERSON: Yes.

MS MEMELA: And yes.

CHAIRPERSON: Yes, but you say you did go through the sale agreement before signing it?

MS MEMELA: Yes Chair.

CHAIRPERSON: Yes. Did you see that at the end of it - that is clause 8 the last sentence – do you see that it says?

20 “No agreement to cancel, alter or add to this
 agreement shall be of any force or effect unless
 signed by both the seller ...(intervenes).”

MS MEMELA: Both the seller ...(intervenes).

CHAIRPERSON: “ ... and the purchaser.”

MS MEMELA: Yes Chair.

CHAIRPERSON: You saw that?

MS MEMELA: *Ja.*

CHAIRPERSON: Did you see the sentence of the same paragraph which says:

“This agreement constitutes the entire contract
between the parties.”

MS MEMELA: Huh-uh.

CHAIRPERSON: And the next one that says:

“The purchaser has not in making this offer relied
on any warranty or representation not contained
herein.”

10

MS MEMELA: *Ja.*

CHAIRPERSON: You saw all of those things?

MS MEMELA: I may have not like I mean read like in what like applying my mind on the whole like I mean provision, but that I do know that like I picked up that like I may know cancellation or alteration would be done without the signature of the parties.

CHAIRPERSON: But that first sentence that says:

“The entire contract ...”

It means you cannot say there is another part of the
20 agreement that is verbal.

MS MEMELA: Yes. I am not saying ...(intervenes).

CHAIRPERSON: You accept that?

MS MEMELA: Yes Chair. I am not saying there is another part. I am saying like there was an intention to pay a deposit ...(intervenes).

CHAIRPERSON: H'mm.

ADV KATE HOFMEYR:

MS MEMELA: As soon as like I mean the property ...(intervenes).

CHAIRPERSON: H'mm.

MS MEMELA: Is sold and then like the money is like available.

CHAIRPERSON: H'mm.

MS MEMELA: Yes.

ADV KATE HOFMEYR: Sorry.

CHAIRPERSON: *Ja*. It is just a very strange agreement of a property which is quite an important asset for most of us and at a quite high
10 price, R2.8 million. Where there is no indication as to when this will be paid. How it would be paid. Okay. Alright. Ms Hofmeyr.

ADV KATE HOFMEYR: Ms Memela, just before the Chair's latest comment you testified that it was understood that the deposit would be paid ...(intervenes).

MS MEMELA: Yes.

ADV KATE HOFMEYR: With the purchase – when the purchase of your mother's properties went through. Is that correct?

MS MEMELA: That is correct.

ADV KATE HOFMEYR: The difficulty with that Ms Memela is that this
20 agreement was signed – concluded in April 2015.

MS MEMELA: *Ja*.

ADV KATE HOFMEYR: Your had not met Mr Ndzeke by then yet?

MS MEMELA: Like remember like I mean the deposit was not like entirely dependent on Mr Ndzeke.

ADV KATE HOFMEYR: Oh.

MS MEMELA: I said like I mean my mother showed interest like I mean in selling like the property so that she can help me with the deposit.

ADV KATE HOFMEYR: Right. So it was your understanding that she was going to sell some property in the Eastern Cape?

MS MEMELA: Yes.

ADV KATE HOFMEYR: That was then going to form the basis of the deposit here?

MS MEMELA: Exactly. So that I mean ...(intervenes).

ADV KATE HOFMEYR: But that was not included in the agreement?

10 **MS MEMELA:** Not in the agreement, but like I mean during the workshops like of the Supplier Development and stuff like I mentioned like to some of the BEE suppliers of like I mean the intention to sell the land if anyone is interested in stuff like that. That is when then I mentioned to Mr Ndzeke I think around like May/June ...(intervenes).

ADV KATE HOFMEYR: And that would have facilitated you being able to get this property yourself. Is that correct?

MS MEMELA: That is – sorry. Repeat that.

ADV KATE HOFMEYR: So you were speaking to people at the Supplier Development Workshops ...(intervenes).

20 **MS MEMELA:** Ja.

ADV KATE HOFMEYR: To see if they were interested in buying your mother's property.

MS MEMELA: Not people. Like I mean certain individuals.

ADV KATE HOFMEYR: Right.

MS MEMELA: Like I mean BEE people. Like I mean ...(intervenes).

ADV KATE HOFMEYR: Right.

MS MEMELA: Especially – okay. I do not know if you will understand, but ...(intervenes).

CHAIRPERSON: Not the whole audience you mean.

MS MEMELA: *Ja*.

CHAIRPERSON: *Ja*.

MS MEMELA: Yes.

CHAIRPERSON: Just some of the people.

MS MEMELA: Exactly.

10 **CHAIRPERSON:** *Ja*.

ADV KATE HOFMEYR: Indeed.

MS MEMELA: Yes. Some of them.

ADV KATE HOFMEYR: Apologies.

MS MEMELA: Exactly. So like I just wanted to explain to you that like I mean sometimes like when you meet a person coming from the same culture or same tribe as you. Like I mean you get to talk like a lot and stuff like that and catch up and get to share certain like I mean information.

ADV KATE HOFMEYR: H'mm.

20 **MS MEMELA:** I will make an example Chair. That like maybe when you walk into the lift and then you meet somebody and they say ...(indistinct, African word). You feel like okay you have met your brother or your sister and then you start talking and chatting and discussing like. So it was not the whole audience.

ADV KATE HOFMEYR: No. No and forgive me if that was the way my

question came across.

MS MEMELA: *Ja.*

ADV KATE HOFMEYR: I am just trying to get the chronology right. So you conclude an agreement in April 2015 with Ms Kwinana's company, Slipknot Investment ...(intervenes).

MS MEMELA: *Ja.*

ADV KATE HOFMEYR: To buy a property worth 2.8 million. Correct?

MS MEMELA: *Ja.*

ADV KATE HOFMEYR: At that stage the intention is your mother's
10 going to try and sell some properties in the Eastern Cape
...(intervenes).

MS MEMELA: Yes.

ADV KATE HOFMEYR: To assist you with a deposit on this property?

MS MEMELA: Yes.

ADV KATE HOFMEYR: You then go to Supplier Development Workshops in May 2015 ...(intervenes).

MS MEMELA: H'mm.

ADV KATE HOFMEYR: And you speak to some people at those workshops about the property that your mother is selling. Is that right
20 – correct?

MS MEMELA: Okay, Chair. Let me correct this part. Like I mean it is not like I went to the workshop to talk about the property. The property was just part of the discussion. Like I mean I went to the workshop like for Supplier Development to introduce like BEE companies into the database and all that. They can understand that.

Like I mean they are welcome to come and be added into a database. So like I mean the discussion would like be added. Like I mean during the discussion or maybe afterwards or so. So I am not saying like I went to the workshop like I am – that is not the picture I am trying to paint. That I went to the workshop like just to discuss the property.

ADV KATE HOFMEYR: Oh. Ms Memela ...(intervenes).

CHAIRPERSON: Yes. So you are saying that at some stage or another while you were interacting with some individuals ...(intervenes).

10 **MS MEMELA**: Yes.

CHAIRPERSON: Within the workshop ...(intervenes).

MS MEMELA: The – yes.

CHAIRPERSON: And chatting. The topic cropped up ...(intervenes).

MS MEMELA: Then ...(intervenes).

CHAIRPERSON: One way or another.

MS MEMELA: Yes Chair.

CHAIRPERSON: *Ja*.

MS MEMELA: Then there would be this topic. For instance like I will make an example with Ms Sambo. Like I mean we used to chat a lot
20 about like I mean her joining ventures like with aviation companies and then getting an office at like where at SAAT. Like so that like she will be able to provide her services, but like I mean on the same note like I mean even if it is not the same time.

Like I mean she would say okay you know like what I mean I am interested in venturing into oil or fuel like I mean and then like I

mean transporting fuel from this to that and then she say like it makes a lot of money. So like I mean you discuss like those kind of transactions with people and then like it depends like you – if you are interested like you want to embark on it or maybe like if it does not interest you.

Then like you leave it. So like I am trying to explain that. That like I mean the discussions were not like necessarily about property or what.

ADV KATE HOFMEYR: So if any of the suppliers to whom you spoke at
10 that workshop were interested in buying your mother's properties in the Eastern Cape.

MS MEMELA: *Ja.*

ADV KATE HOFMEYR: Then you would be able to conclude this transaction with Slipknot Investment. Is that right?

MS MEMELA: Yes. I would have been. Anybody including Ms Sambo I would have been.

ADV KATE HOFMEYR: Yes.

MS MEMELA: *Ja.*

ADV KATE HOFMEYR: And as it so happened Mr Ndzeke was
20 interested?

MS MEMELA: *Ja.*

ADV KATE HOFMEYR: One last thing before we leave the agreement. You said that there was an understanding working alongside this agreement. Notwithstanding the clause that the Chair has taken you to. That there would be a purchase price paid at some time.

MS MEMELA: Huh-uh.

ADV KATE HOFMEYR: Did you have an understanding from Ms Kwinana what expectation she had in that regard? When was she expecting it to be paid?

MS MEMELA: I do not remember. *Ja*. Like I said earlier.

ADV KATE HOFMEYR: So it was actually open ended?

MS MEMELA: It was an open – *ja*. I do not ...(intervenes).

ADV KATE HOFMEYR: H'mm.

MS MEMELA: *Ja*.

10 **ADV KATE HOFMEYR:** So she was going to sell a property of R2.8 million to you without clarity as to when she would receive the money for it?

MS MEMELA: Like it was not in the contract Chair. You know and I think like I mean when she gets the chance to actually like I mean to be on this chair. She will be to prove like I mean – show precedence that like I mean there are lots of other – of her other properties that like I mean she had used the same template and stuff.

I understand like that maybe because of a certain act. Like it should have been indicated. You know ...(intervenes).

20 **CHAIRPERSON:** No.

MS MEMELA: And I guess like I suspect also like because I do not remember very well, but I suspect that like maybe it may have not been indicated. Like I mean the deposit, because we are not sure if like I mean my mother's going to get a buyer during that time. So like I was either going to like I mean rely on the bank or maybe take time or like I

mean sell like I mean something else like I mean to cover here and there.

I do remember in – I mentioned this during our meeting. I do not know if it was with you or the Investigating Team that when I bought the Douglasdale property. I did not mention that I will pay the deposit, but like I mean when it became available I paid it and then like I mean I had the property in Bloemfontein like for investment purposes in 2007.

So like I mean those are the kind of things that like I mean you get interested in and like I mean investing in property. So like I
10 mean for me to go through this like detail by detail especially if you buy it like from somebody you know and like I mean who you know that like I mean they will not maybe run away or maybe like they will not say – they will change their mind later on and say okay. I am no longer selling property to you or something like that.

CHAIRPERSON: Okay and she is Ms Hofmeyr.

MS MEMELA: Sorry.

CHAIRPERSON: She is Ms Hofmeyr.

MS MEMELA: What did I say?

CHAIRPERSON: Oh. Advocate Hofmeyr.

20 **MS MEMELA:** Okay.

ADV KATE HOFMEYR: I think today you have been referring to me as Kate.

CHAIRPERSON: Ja. You have been referring ...(intervenes).

MS MEMELA: Okay. Okay. Ja.

CHAIRPERSON: Ja and I thought it was just once ...(intervenes).

MS MEMELA: I am sorry if – *ja*.

CHAIRPERSON: So, *ja*. Okay.

ADV KATE HOFMEYR: Ms Memela, let us just talk about the cancellation of this agreement. You indicated that once you had found the Bedfordview property you cancelled it. There actually is not an entitlement under this agreement to cancel it. Did you notice that?

MS MEMELA: There is no ...(intervenes)?

ADV KATE HOFMEYR: Entitlement to cancel.

MS MEMELA: To cancel. Like I mean it does not like really have to be
10 in the ...(intervenes).

ADV KATE HOFMEYR: H'mm.

MS MEMELA: *Ja*. To cancel the contract.

ADV KATE HOFMEYR: It is just that usually sellers ...(intervenes).

MS MEMELA: H'mm.

ADV KATE HOFMEYR: Want to ensure that the purchasers are bound by the agreement. Do you accept that?

MS MEMELA: I accept that ...(intervenes).

ADV KATE HOFMEYR: H'mm.

MS MEMELA: But *ja*. Like I mean it does not necessarily mean that
20 like because there is no cancellation clause like I mean you cannot cancel.

ADV KATE HOFMEYR: No.

MS MEMELA: *Ja*.

ADV KATE HOFMYR: That is certainly not what I was suggesting.

MS MEMELA: *Ja*.

ADV KATE HOFMEYR: I was asking for you to confirm that there is not ... (intervenes).

MS MEMELA: *Ja.*

ADV KATE HOFMEYR: An entitlement under the agreement for the purchaser to cancel it. Do you accept that?

MS MEMELA: *Ja.* It is not here.

ADV KATE HOFMEYR: So did you have to secure Ms Kwinana's agreement to the cancellation?

MS MEMELA: Yes. I think we signed some documentation like I may
10 ask for it and then like we will send it to you later.

ADV KATE HOFMEYR: Right.

MS MEMELA: *Ja.*

ADV KATE HOFMEYR: H'mm.

CHAIRPERSON: Well Ms Hofmeyr, clause 7 ... (intervenes).

ADV KATE HOFMEYR: H'mm.

CHAIRPERSON: Does give the – does seem to give the seller – does not the right to cancel if there is a breach.

ADV KATE HOFMEYR: Yes. Sorry, but I was saying from the position of the purchaser cancelling. There was not a clause.

20 **CHAIRPERSON:** Oh. From the purchaser?

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Because in this case it is Ms Memela who later cancels ... (intervenes).

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Because she is buying the Bedfordview property.

CHAIRPERSON: Yes.

MS MEMELA: Ja.

CHAIRPERSON: Okay.

MS MEMELA: Ja. I think Chair is correct ...(intervenes).

CHAIRPERSON: Well ...(intervenes).

MS MEMELA: Because I mean under eight as well it says:

10 “No agreement to cancel or alter unless signed by
both parties.”

So I am saying like there is a document that talks to the cancellation and like I will find that and I will send it.

ADV KATE HOFMEYR: Right. We may have it ourselves. I will draw you ...(intervenes).

MS MEMELA: Is it.

ADV KATE HOFMEYR: Your attention to that in a moment when I get there.

MS MEMELA: Alright.

20 **ADV KATE HOFMEYR:** But the facts, if you can just help us with those, at some point did you approach Ms Kwinana about cancelling it?

MS MEMELA: Yes. Like I mean the – that is the discussion that should happen before you ask about like – ja.

ADV KATE HOFMEYR: And was she willing to agree?

MS MEMELA: She was not difficult about it, because she understood that like it took longer. Like I mean to get like to finalise that - this

one. *Ja*.

ADV KATE HOFMEYR: Did she also appreciate your having found the Bedfordview property and wanting to purchase that? Did you discuss that with her?

MS MEMELA: I discussed that with her and then like I mean she actually said okay like I mean if we still continue like you can still use L Mbanjwa like I mean to get like I mean the payment and then we will use the – I remember the reference was her name or something.

ADV KATE HOFMEYR: Thank you. Are you aware that the money that
10 Mr Ndzeke had committed to pay your mother for the purchase of the properties was paid much later than you actually concluded your Bedfordview sale?

MS MEMELA: *Ja*.

ADV KATE HOFMEYR: Do you recall when he paid the money?

MS MEMELA: I do not remember when the money was paid.

ADV KATE HOFMEYR: H'mm.

MS MEMELA: *Ja*, but like I mean it took longer. Like I mean I think it took longer to finalise and then like for him to get the amount like to send to Mbanjwa.

20 **ADV KATE HOFMEYR:** Did you have discussions with him about that?

MS MEMELA: Like he had discussions with my mother. So like I – *ja*.

ADV KATE HOFMEYR: Oh. With your mother?

MS MEMELA: *Ja*.

ADV KATE HOFMEYR: Right, because they concluded their agreement in 2015.

MS MEMELA: *Ja.*

ADV KATE HOFMEYR: Is that correct?

MS MEMELA: *Ja.*

ADV KATE HOFMEYR: And he paid in May 2016.

MS MEMELA: Yes.

ADV KATE HOFMEYR: Is that correct?

MS MEMELA: That is correct.

ADV KATE HOFMEYR: Right, but it was okay, because you had already cancelled the agreement once you had purchased the
10 Bedfordview property.

MS MEMELA: Yes.

ADV KATE HOFMEYR: Is that correct?

MS MEMELA: That is correct.

ADV KATE HOFMEYR: Let us go to the cancellation that you agreed with Ms Kwinana. You will find that in DD25A at page 397. Is that the cancellation that you were referring to?

MS MEMELA: I think it is the one, but like I think there was some sort of an agreement attached – that was supposed to be attached to this one.

20 **ADV KATE HOFMEYR:** H'mm.

MS MEMELA: I will try and find it.

ADV KATE HOFMEYR: If we can just go through what this letter contains. Can you tell us to whom it is addressed?

MS MEMELA: Attention Kwinana Consult or dear Ms Kwinana.

ADV KATE HOFMEYR: And the title of it.

MS MEMELA: Formal Cancellation of Sale Portion 11 of Farm 925 Cove Ridge East London.

ADV KATE HOFMEYR: And can you confirm that you prepared this letter?

MS MEMELA: Yes. I wrote the letter.

ADV KATE HOFMEYR: And is that your signature at the bottom of the letter?

MS MEMELA: That is the signature.

ADV KATE HOFMEYR: And let us look at what you said in the first
10 paragraph. Can you read that into the record?

MS MEMELA: “I refer to the abovementioned sale and
confirm my intention to cancel the transaction as
proclamation is taking longer than anticipated and I
have since identified a residential property in
Bedfordview that I am interested in buying.”

ADV KATE HOFMEYR: What did you mean when you referred to
proclamation taking longer than expected?

MS MEMELA: Like I mean they were talking about like I mean certain
things that like had to be approved and stuff. I would not remember
20 like I mean detail by detail.

ADV KATE HOFMEYR: Because I thought your evidence previous was
that what was taking long was your ability to get the deposit or the
bond. Is that not correct?

MS MEMELA: No, no, no. Like I mean I did not say that like that
there.

ADV KATE HOFMEYR: H'mm.

MS MEMELA: What was taking longer it was because of the deposit. I said like the transaction took longer than anticipated.

ADV KATE HOFMEYR: Right.

MS MEMELA: Ja.

ADV KATE HOFMEYR: But once you found the Bedfordview property you were now going with it.

MS MEMELA: Yes.

ADV KATE HOFMEYR: Is that correct?

10 **MS MEMELA:** That is correct.

ADV KATE HOFMEYR: And then you go on and say in the second paragraph if you would read that into the record.

MS MEMELA: "Therefore this is a formal cancellation of the above transaction. The deposit of which will be used on the sale of the aforementioned house in Bedfordview. The monies that were paid to L Mbanjwa Incorporated in respect of this transaction should now be paid over to the seller's attorneys being ...(indistinct) with account number."

20 **ADV KATE HOFMEYR:** Thank you.

MS MEMELA: Ja.

ADV KATE HOFMEYR: What is the date of this letter?

MS MEMELA: It is 7 May 2016.

ADV KATE HOFMEYR: You had purchased the property in Bedfordview in February 2016. Had you not?

MS MEMELA: There is a difference between purchasing and making an offer to purchase.

ADV KATE HOFMEYR: Huh-uh.

MS MEMELA: *Ja.* So I did not purchase. I made an offer to purchase around February.

ADV KATE HOFMEYR: Yes and when it is accepted then you are bound by it. Is that correct?

MS MEMELA: Like I mean once it is accepted like you are bound it ...*(intervenes)*.

10 **ADV KATE HOFMEYR:** Yes.

MS MEMELA: But remember there is also a cooling off period ...*(intervenes)*.

ADV KATE HOFMEYR: Yes.

MS MEMELA: And stuff like that, but *ja*. I also like I do not remember like the bond, ...*(indistinct)* when it was approved.

ADV KATE HOFMEYR: *Ja.* 60 days.

MS MEMELA: *Ja.*

ADV KATE HOFMEYR: It had to be secured within 60 days of February 2016 acceptance.

20 **MS MEMELA:** Huh-uh.

ADV KATE HOFMEYR: H'mm. So you had already committed on the Bedfordview property in February 2016.

MS MEMELA: *Ja.*

ADV KATE HOFMEYR: Correct?

MS MEMELA: Correct.

ADV KATE HOFMEYR: Why did you cancel this agreement only on the 7th of May 2016 then?

MS MEMELA: Because like I mean there is no way that I was going to continue with both of them.

ADV KATE HOFMEYR: But then why did you not cancel it in ...(intervenes).

MS MEMELA: And it was taking like I mean longer also to – you know. Like I mean and I saw that like I mean I should focus on the one that is the residential property.

10 **ADV KATE HOFMEYR:** Ms Memela, your testimony earlier was that once you had identified Bedfordview property there was no way that you could afford 3.8 million plus 2.8 million and so you cancelled the Cove Ridge transaction. Do you recall that evidence?

MS MEMELA: Yes. That is exactly what I am saying now. That like I mean there is no way that I will continue with both the properties.

ADV KATE HOFMEYR: Yes.

MS MEMELA: So like I mean I did mention Chair that like I mean I may not remember the dates and when like was it cancelled and like when – but I do know that like I made an offer to purchase in February. *Ja*. So
20 I am not sure. Like I mean if like you are getting my answers correct or ...(intervenes).

ADV KATE HOFMEYR: No. I am. Let me be clear about what I am struggling with. Your previous testimony was once you had secured the arrangement for the Bedfordview property sale.

MS MEMELA: Huh-uh.

ADV KATE HOFMEYR: You could not continue with the Cove Ridge property transaction. Is that correct?

MS MEMELA: That is correct.

ADV KATE HOFMEYR: That occurred in February 2016. Correct?

MS MEMELA: The offer to purchase was done in February 2016.

ADV KATE HOFMEYR: Yes and accepted in February 2016.

MS MEMELA: Yes.

ADV KATE HOFMEYR: Correct?

MS MEMELA: Correct.

10 **ADV KATE HOFMEYR:** So that is a valid agreement of sale ... (intervenes).

MS MEMELA: Yes.

ADV KATE HOFMEYR: For the Bedfordview property in February 2016.

MS MEMELA: 2016. *Ja*.

ADV KATE HOFMEYR: Correct.

MS MEMELA: Huh-uh.

ADV KATE HOFMEYR: Your testimony earlier was once you had done that you cancelled the agreement on the Cove Ridge property. Do you recall that evidence?

20 **MS MEMELA:** Yes. Like I mean here it was cancelled. Like here is the letter. I said to you like I will find something like that. That talks to that.

ADV KATE HOFMEYR: Yes and we have ... (intervenes).

MS MEMELA: So like I mean your struggle is like now on the dates.

ADV KATE HOFMEYR: It is precisely.

MS MEMELA: That it was cancelled.

ADV KATE HOFMEYR: H'mm.

MS MEMELA: So like I mean you – I do not know Chair if like she is expecting me to have cancelled like immediate in January or maybe that is the impression that I gave her when I responded.

CHAIRPERSON: Well just answer to the best of your recollection and knowledge.

MS MEMELA: H'mm.

CHAIRPERSON: She is going to – she says that her – what she is
10 struggling with are the dates. Now you might or might not recall the dates, but she appreciates that 2015 is quite some time back, but ...(intervenes).

MS MEMELA: Huh-uh.

CHAIRPERSON: I think just do your best. Okay.

MS MEMELA: Okay.

CHAIRPERSON: Ms Hofmeyr, do you want to repeat the question?

ADV KATE HOFMEYR: Yes I indicated in the lead, and it was the dates
Chair, that were troubling me because I understood Ms Kwinana's previous evidence to be once Bedfordview was secured Cove Ridge
20 was no longer an option right and what I can't understand is why ...(intervenes).

MS MEMELA: No Chair ...(intervenes).

ADV KATE HOFMEYR: If I could finish my question.

CHAIRPERSON: Let her finish Ms – just don't forget what you wanted to say.

MS MEMELA: Okay.

ADV KATE HOFMEYR: If, once the Bedfordview property had been secured and your previous evidence was, then there was no reason to continue with Cove Ridge, why did you wait until May of 2016 only to cancel the Cove Ridge transaction?

MS MEMELA: Okay I did not – like maybe I must just like repeat again, like maybe my intention is not like she had interpreted my answer to be. My answer I mean, we still cancelled like the Cove Ridge property and like I mean after I had identified the Bedfordview in February, you
10 know, so I think like you know you are struggling between – with the period between February and May.

CHAIRPERSON: Is the period close to a year.

ADV KATE HOFMEYR: No it's a matter of three month's it's the same year so it's February 2016 to May of 2016 and the challenge for me – let me make it clear is that between February 2016 you had obligations under the Bedfordview property to pay R3.8 million to the sellers and at the same time you had an obligation to pay R2.8 million to Slipknot Investments and that persisted for three further months until you cancelled and I'd understood your previous evidence to be, you could
20 not entertain two liabilities like that and that is why, once you'd secured Bedfordview you cancelled Cove Ridge.

MS MEMELA: Ja, Chair, like for me or maybe me and Ms Seaka we did not see any difference between cancelling when or – because I did notify her that like you see I've identified this and I think I'm going to be focusing on it. So like it might happen that like we had agreed

verbally and then we cancelled later on after three months.

CHAIRPERSON: Yes okay.

ADV KATE HOFMEYR: The other reason why the date troubles me a bit, Ms Memela, is that it's two days after the deposit was received from JM Aviation, are you aware of that?

MS MEMELA: I'm not aware of remember ...(intervenes).

CHAIRPERSON: Sorry what is two days after receipt of the deposit?

ADV KATE HOFMEYR: So Chair at 397 this Slipknot Investments purchase agreement is cancelled on the 7th of May 2016, if you go back
10 two pages in the file to page 395.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: That is the records of the bank account of L Mbangwa Attorneys to whom Mr Ndzeke it is claimed, paid the deposit amount of R2.5 million and that you will see reflected in the fifth line on that page. He paid that in on the 5th of May 2016, that was my reference to two days earlier.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Were you aware that he'd paid it in two days earlier?

20 **MS MEMELA**: I was not aware until you – or like Andrew showed this to me yes.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: So had you been led to believe by your mother that the deposit had been paid earlier?

MS MEMELA: No, no she did not discuss that like I mean, the only

interest that she showed Chair was that she was going to help me with the deposit and the deposit was going to be R1.5 million and then the remainder that was going to help with the legal fees together with my husband's deposit and then like the remainder was also going to go to her.

ADV KATE HOFMEYR: So do you have any understanding why Mr Ndzeke waited so long to pay that deposit for the transaction with your mother?

MS MEMELA: I think that – like the person will be in a right position to
10 answer that, it will be Mr Ndzeke.

ADV KATE HOFMEYR: No I'm just asking whether you have any knowledge about why he delayed until the 5th of May?

MS MEMELA: I have no knowledge, I don't remember.

ADV KATE HOFMEYR: And if you just look at that fifth line on the page.

MS MEMELA: Which page?

ADV KATE HOFMEYR: 395 you'll see there the date of 5 May in the fifth line and it says under the first column, internet banking payment from and then you'll see a description for the payment, do you see
20 that?

MS MEMELA: Yes that's what I mentioned earlier on like, Ms Kwinana was used as a reference.

ADV KATE HOFMEYR: Yes, and it says, consulting Kwinana, there.

MS MEMELA: Yes.

ADV KATE HOFMEYR: Do you have any idea why it would say,

consulting Kwinana?

MS MEMELA: Consulting Kwinana, I think maybe it was her consulting company I don't know I think she will be the right person to answer but like my understanding like the reason why she was used as a reference is that like I was buying from her like her property and stuff and then now for Mbanjwa to pick up the deposit like was to highlight like I mean Kwinana is – remember they were her main lawyers all this time. So like, that was the reason why.

ADV KATE HOFMEYR: No I understand, possibly the reference to
10 Kwinana, what I'm struggling with is consulting, do you have any idea why consulting would be the description.

MS MEMELA: No I ...(intervenes).

ADV KATE HOFMEYR: Because this had nothing to do with consulting did it?

MS MEMELA: Of course it had nothing to do with consulting, I don't know, between Kwinana and Mbanjwa, what is their relationship in terms of consulting or whatever but like I don't want to answer on behalf of ...(intervenes).

ADV KATE HOFMEYR: Of course, I was simply interested in whether
20 you had any knowledge as to why it would be described as a consulting payment.

MS MEMELA: No.

CHAIRPERSON: Well the letter of cancellation that we talked about a few minutes ago at page 397 that you wrote to Slipknot Investments, said attention Kwinana Consult, what is that, is that a company, a firm

belonging to Ms Kwinana or what was it?

MS MEMELA: I don't remember Chair, I don't remember I think like if I may ...(intervenes).

CHAIRPERSON: But you would have known it at that time at lease.

MS MEMELA: Yes I'm saying if I may maybe that's what she said like I must refer it as like so that it's in line I mean the reference to the lawyers.

CHAIRPERSON: And if – so I'm wondering Ms Hofmeyr whether consulting Kwinana that appears there at page 395 is meant to say this
10 is for consulting services or whether it refer to an entity. I see that at the top of the column it says description *ja*.

ADV KATE HOFMEYR: Chair I take the point let me follow up, if I may, with Ms Memela about that.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Let's assume, for present purposes that there is an entity, Kwinana Consulting, this arrangement that your mother had with Mr Ndzeke had nothing to do with Kwinana Consulting did it?

MS MEMELA: No it didn't.

ADV KATE HOFMEYR: And when he paid the R2.5 million on the 5th of
20 May I understand you regarded that as related to the purchase of property agreement he'd entered into with your mother, is that correct?

MS MEMELA: Yes.

ADV KATE HOFMEYR: So that too, had nothing to do with Kwinana Consulting?

MS MEMELA: It didn't have anything to do with Kwinana Consulting

but I mean, because they were the lawyers for her who had been helping her like I mean, they – apparently they had lots of ...(indistinct) transactions that they were doing together. So like I mean, they wanted – like she wanted them like to be able to pick up this specific transaction, so I think ...(intervenes).

CHAIRPERSON: Why would she want them to associate this deposit with her?

MS MEMELA: Like – because like I mean ...(intervenes).

CHAIRPERSON: Because, as I understand it, it had nothing to do with
10 her.

MS MEMELA: It had nothing to do with her but like I mean, remember I was buying a property from her and that she had introduced me to L Mbanjwa Attorneys. Yes so like I mean for them to able to pick up out of all their transactions and files and stuff they would know which one is that one because like I mean I remember ...(intervenes).

CHAIRPERSON: I'm sorry at the time that they made – they paid this money to L Mbanjwa and Associates, to the law firm the contract between yourself and this Slipknot had not been cancelled, is that right?

20 **MS MEMELA**: Like I mean, I'm looking at the letter now that letter, I mean Ms Hofmeyr has just like showed me, it had been cancelled like two days before.

CHAIRPERSON: Yes, yes.

MS MEMELA: Yes two days or three days before *ja*.

CHAIRPERSON: So yes, but is the position – had Mr Ndzeku or JM

had they been told that they must pay the money into the lawyer's account...(intervenes).

MS MEMELA: *Ja* instead of Slipknot.

CHAIRPERSON: *Ja.*

MS MEMELA: *Ja.*

CHAIRPERSON: But they didn't know about the Bedfordview property or did they, that is now Ndzeke?

MS MEMELA: *Ja* like I would assume like he did know or maybe he did not because like I'm not sure how much – what is it that they have
10 discussed, him and my mother but like I do know, like I mean, he knew that the purpose of that sale is to pay for my deposit as well *ja*.

CHAIRPERSON: Ms Hofmeyr?

ADV KATE HOFMEYR: Chair this is just a point that I want to make, not directly to Ms Memela but it's related to the evidence of Mr Ndzeke who is coming on Monday to give evidence and the reason I raise it is because his lawyers are present today. We had not, until today, still not received a statement or affidavit from Mr Ndzeke but we have had discussions in the course of the week and there was an indication that we would receive one in advance of his evidence. We would be most
20 grateful for that, time is running out, hopefully over the weekend but I wanted to just highlight a particular aspect that we would request that they deal with in that affidavit because we haven't been able to have interactions with Mr Ndzeke to this point. You see the challenge is that this payment was not made by Mr Ndzeke, the payment, not from any personal account of his, it was made from the account of JM Aviation

and so what I'd like to request that Mr Ndzeke do in his affidavit, is explain to us why the payment was made from JM Aviation and explain to us the tax treatment that was given to this payment in the records for SARS insofar as JM Aviation's Tax Records are concerned. So if that can just be taken note of so that it can be included in the affidavit. Ms Kwinana, the Chair picked up on a point that I was going to make right at the end, which is your indication in your statement in response to Ms Sambo's evidence was that this whole payment of the deposit had nothing to do with Mr Zwane or Ms Kwinana, we have gone through the
10 facts and there is quite a pivotal role that Ms Kwinana has played in all of this, do you accept that?

MS MEMELA: But like the payment has nothing to do with her, it's not coming from her, nor Mr Zwane so that's what I meant.

ADV KATE HOFMEYR: You meant it didn't come from them?

MS MEMELA: Yes.

ADV KATE HOFMEYR: But you accept that, but for Ms Kwinana's involvement in this, the deposit would not have got to pay for your Bedfordview house?

MS MEMELA: No I don't accept that.

20 **ADV KATE HOFMEYR:** Why not?

MS MEMELA: Because, like I mean, she was not the one who bought the land.

ADV KATE HOFMEYR: No but you had to cancel the agreement with her and Slipknot Investments in order for the deposit that was going to be paid to be redirected, did you not?

MS MEMELA: I did but, like I mean Chair it's not coming from her personal capacity or maybe business capacity, so that's what I mean, I mean like, they had nothing to do with my deposit.

ADV KATE HOFMEYR: In the sense that she was not a payer of the deposit.

MS MEMELA: Yes it was not coming from her.

ADV KATE HOFMEYR: But she did forsake a binding purchase agreement with you in order for the deposit to be re-directed to the Bedfordview house correct?

- 10 **MS MEMELA:** Yes we cancelled but it's not like I mean, she actually was going to pay for my – like the property that I was planning to buy from the Eastern Cape like coming from here. So like what I meant when I was responding to Ms Sambo is that, like I mean, this had nothing to do with Mr Zwane or Ms Kwinana because like I mean, how she had put it in her affidavit it was as if they were going to pay for me and Chair, like I mean, I just like I mean, wanted to kill that narrative because like even now Ms Hofmeyr is still going through like the property and I think I have responded enough and I did promise that I will send the supporting documentation. Like shortly like after like
- 20 Monday to prove like my state. So I'm more interested now in the link between my property and the component tender, the final component tender because like she was there, she was talking about the final component tender like when you came to this one.

ADV KATE HOFMEYR: Yes, let's go to what Ms Sambo said because you were responding to what she'd said in her affidavit. You'll find that

in the files on your left-hand side Ms Memela because we need to pick up Ms Sambo's affidavit so it's in Exhibit DD18 and you'll find it at page 35. Ms Memela if you look at the chair next to you, there are a number of files there and amongst them is the bundle containing Ms Sambo's evidence.

MS MEMELA: Okay.

ADV KATE HOFMEYR: You'll need to pick up Exhibit DD18 and open it at page 35.

MS MEMELA: Page 35?

10 **ADV KATE HOFMEYR:** Yes, do you have it?

MS MEMELA: *Ja.*

ADV KATE HOFMEYR: The relevant paragraph is paragraph 121 there Ms Sambo states in her affidavit:

20 "I cannot recall the exact date but it could have been in 2016, Advocate Memela verbally told me that she wanted to purchase a house and that she'd put an offer in on a property in Bedfordview. The offer was declined as her salary was not sufficient. Advocate Memela then informed me that Ms Kwinana and Mr Zwane were going to make a plan for her."

Do you see that?

MS MEMELA: I see that paragraph.

ADV KATE HOFMEYR: And it is not Ms Sambo's allegation there that Ms Kwinana or Mr Zwane were going to pay for the property, do you accept that?

MS MEMELA: It is not – are you saying it is not?

ADV KATE HOFMEYR: It is not saying that Ms Kwinana and Mr Zwane were going to pay for your property, do you agree?

MS MEMELA: Yes, like I mean ...(intervenes).

ADV KATE HOFMEYR: It is simply saying that they were going to make a plan for you, do you accept that?

MS MEMELA: But like I mean that's a ...(indistinct) statement so I ...(intervenes).

ADV KATE HOFMEYR: Yes.

10 **MS MEMELA**: So I don't know if you say I must accept what do you mean?

ADV KATE HOFMEYR: No I'm saying, I want us to be clear about what this means and your understanding. Is your understanding that she was alleging here that Ms Kwinana was going to pay something to that property?

MS MEMELA: Chairperson remember, like I mean, I'm not the author of this affidavit ...(intervenes).

CHAIRPERSON: No she's asking your understanding of what Ms Sambo is saying here.

20 **MS MEMELA**: *Ja* I said to her, my understanding was like when she said Mr Zwane and Ms Kwinana, like, we're going to make a plan, like I mean, maybe she meant that the money was going to paid by them.

CHAIRPERSON: Oh okay.

MS MEMELA: Exactly so like I mean also ...(intervenes).

CHAIRPERSON: You interpreted the plan?

MS MEMELA: I interpreted the plan.

CHAIRPERSON: To mean, to include paying for you?

MS MEMELA: Yes so that's why when she's asking like is this my understanding, I'm saying I cannot interpret for the author, but my understanding when I was reading it, that's exactly how I understood it but I mean the – like I mean, she also added that the offer was declined. Here it could also be proven that the offer from ...(indistinct) was not declined. So like I mean, I'm just like trying to balance things, I mean it does not necessarily mean because like Ms Sambo stated it,
10 it's correct.

CHAIRPERSON: *Ja.*

ADV KATE HOFMEYR: No indeed, what we seem to have clarified is that Ms Kwinana certainly did not, herself pay over money for the purchase of your property, correct?

MS MEMELA: Correct.

ADV KATE HOFMEYR: What she did do though, Ms Memela is move from a situation in which you owed her R2.5 million ...(intervenes).

MS MEMELA: I owed her?

ADV KATE HOFMEYR: Yes well you owed Slipknot ...(intervenes).

20 **CHAIRPERSON:** R2.8 million isn't it or R2.5 million?

ADV KATE HOFMEYR: R2.8 million apologies, R2.8 million you ...(intervenes).

CHAIRPERSON: That's in terms of the sale agreement.

ADV KATE HOFMEYR: Yes, you owed her R2.8 million in terms of the sale agreement and then she agreed to forsake the R2.8 million that

you owed her and have the month that might have come to her got to you to purchase the Bedfordview house, is that correct?

MS MEMELA: No it's not correct Chair and I refuse to legitimise Ms Hofmeyr's perception because like once I said ...(intervenes).

CHAIRPERSON: Well let me say she's giving you a chance to refute that or put a different perspective or to put your side of your version.

MS MEMELA: Exactly Chair that's where I'm going, that like I mean it seems like she's pushing a certain narrative and I think like at the end of the day today you will know exactly where she wants to go with it but
10 ...(intervenes).

CHAIRPERSON: No, no, no Ms Memela, Ms Hofmeyr is an Evidence Leader in the Commission, she is entitled and actually she's obliged to ask questions that will probe and try and establish the truth. The rules of the Commission make that plain, she's not necessarily – if you look at other witnesses that she has dealt with she does exactly the same. So she's obliged to ask questions with a view to establishing exactly what happened, what the position is. So please don't read into that, any personal motives all she's doing is just her job but you are free to say, that approach to this issue is not justified because of these facts
20 that I'm placing before the Commission. So you put your perspective fully *ja*. Okay alright.

MS MEMELA: The concern then Chair that I have like with her questioning style, I understand like you're saying I mean she is supposed to be leading evidence and I mean like when you twist the question to sound like something else instead of what I'm supposed to

understand to say because I owed Ms Kwinana R2.8 million, like when you're talking about owing somebody – maybe our interpretation is not the same it will be like maybe she had loaned me some money and stuff we are talking about the deed of sale that could be cancelled. Yes like I mean the cancellation clause or maybe the entitlement as she had said it was not there but like I mean I'm just concerned about how she had – *ja*.

CHAIRPERSON: Okay no that's fine, I think the thrust of her question was, there was an agreement that you had with Ms Kwinana's company.

10 **MS MEMELA**: *Ja*.

CHAIRPERSON: In terms of that agreement you were supposed to buy her property and pay her R2.8 million and I think – she didn't say this but I think it's implied, she was entitled to insist that this agreement stands, you must pay but she was prepared to say, okay let's cancel this agreement because you want to buy property elsewhere. Okay but I don't want to ask the question for her, I'm just giving you my understanding of her question.

MS MEMELA: Okay I understood it that way Chair because I mean she was reading from Ms Sambo's statement.

20 **CHAIRPERSON**: Yes okay, alright.

MS MEMELA: So that's why I said like I will not legitimise what Ms Sambo had said.

CHAIRPERSON: Okay.

MS MEMELA: And like I mean, my understanding of her statement is like – of her question is like, she is trying to collaborate what Ms

Sambo has said, I may be wrong but like I'm saying that is not what like what it was meant, I mean I did not owe Ms Kwinana any money other than what was agreed upon for the purchase of the sale which was cancelled later. So like I mean, this statement left by Ms Sambo to say like Ms Kwinana and Mr Zwane will make a plan does not really collaborate or justify what she had said here.

ADV KATE HOFMEYR: Do you accept that unless Ms Kwinana agreed to cancel the Slipknot investment purchase you would not have been able to buy the Bedfordview house?

10 **MS MEMELA:** Like, had she refused?

ADV KATE HOFMEYR: Yes.

MS MEMELA: Then what will be her reason for refusing?

ADV KATE HOFMEYR: That's not my question I'm asking whether you accept that if she hadn't agreed to cancel the Slipknot agreement she had with you, you would not have been able to purchase the Bedfordview house?

MS MEMELA: Yes I wouldn't continue with the Bedfordview house.

ADV KATE HOFMEYR: Thank you. Ms Memela at the time that Mr Ndzeke or JM Aviation paid this R2.5 million into the attorney's
20 account, that was at 5 May 2016, you were a Member of Exco of SAAT is that correct?

MS MEMELA: 2016?

ADV KATE HOFMEYR: Yes.

MS MEMELA: No I became the Member of Exco I think at the 2017 when it was announced, like I said like earlier on Chair, like I was the

minute taker or company secretary for Exco of SAAT.

ADV KATE HOFMEYR: I did misunderstand that then, I apologise I thought you said when the submission was placed before Exco, this is the submission in relation to the final components tender you had been a member that had agreed with the submission made by CFST, did I have that wrong?

MS MEMELA: I said I had signed and – like I mean I had signed and supported the CFST as the HOD Supply Chain Manager.

ADV KATE HOFMEYR: And as HOD for Supply Chain Management you
10 didn't hold a position on Exco?

MS MEMELA: At Exco *ja*. like I mean at that time like it was just GM's.

ADV KATE HOFMEYR: Right apologies and you weren't a GM you were a HOD.

MS MEMELA: Yes.

ADV KATE HOFMEYR: I've understood that now, so let me correct that at the time that he paid R2.5 million that was going to be used for your property you were only the HOD of Procurement at SAAT, correct?

MS MEMELA: Yes.

ADV KATE HOFMEYR: And at that time the decision on the bids for the
20 final components tender had not yet been concluded, is that correct, it was still open?

MS MEMELA: At what date can you repeat I'm trying to remember.

ADV KATE HOFMEYR: Yes, so he pays on the 5th of May and just to help you, it was on the 9th of May that the Board decided, finally to award it to JM Aviation and AAR. So at the time that he paid for the

property the decision had not yet been taken on that tender, do you accept that?

MS MEMELA: I accept that but like I mean if you, like I mean Chair, I understand the corporate governance I'm sure like the pack, the Board pack had already made its way to the Board like looking on the dates, like I mean the pack should make it to the Board like seven days before the Board Meeting.

ADV KATE HOFMEYR: Unfortunately that didn't occur in this case because the BAC meeting only took place on the 6th of May, the day
10 after he paid the R2.5 million.

MS MEMELA: Okay, *ja* so I'm trying to understand like the BAC and the deposit where is the link?

ADV KATE HOFMEYR: No I'm asking a question of fact Ms Memela, at the time that he paid the R2.5 million the Board had not yet decided who to award the contract to, correct?

MS MEMELA: *Ja* like based on the dates of the Board resolution.

ADV KATE HOFMEYR: Yes, and also on the date that that property or that amount was paid to be used for your property, JM Aviation was negotiating the sale price on the GPU's with SAAT, was it not?

20 **MS MEMELA:** Yes which was already decided by the Board.

ADV KATE HOFMEYR: No it wasn't actually because what had happened was, on the 26th of April the first e-mail came from Mr Aires saying, we'll offer R225 000 for the GPU's.

MS MEMELA: *Ja*.

ADV KATE HOFMEYR: So that was on the 26th of April and about a

week and a bit later on the 5th of May that's when the R2.5 million was received and thereafter the Board meets and then the final decision is made on the sale price, do you accept those facts?

MS MEMELA: I don't know Chairperson like because I'm trying to understand ...(intervenes).

CHAIRPERSON: If you don't understand – if you don't remember the dates you can say you don't remember the dates.

MS MEMELA: No, no I do Chair I do remember the dates, like what I don't understand is the mentioning like the deposit and the GPU's and
10 the component, she just like rightfully reminded me like the proposal to SAAT CEO was made on the 26th of April and if you check like that proposal and that e-mail is not addressed to me it's addressed to the Acting CEO and the Acting CEO is responding to the – to Jules and I think like he's stating that he's going to follow this and that and that *ja*.

CHAIRPERSON: Well, do you want to repeat your question? You just answer what you know. The question. If you do not know, you do not know.

MS MEMELA: Chair I might remember like what happened, but like I mean I am worried like as I said earlier on before we started, that I do
20 not want to say yes or no on something that like later on I will have to work so hard to get myself out of. Because like I mean ...(intervenes).

CHAIRPERSON: No, no, no, I understand that but that is why I am saying to you where if you do not know, where if you do not remember you just say you do not remember. If you think it is a particular answer but you are not sure, feel free to say I think that is the answer but I am

not sure, so you do not need to commit yourself to something that you are not sure about – to an answer that you are not sure about, but you just need to answer to the best of your knowledge and ability and to the best of your recollection. Okay?

MS MEMELA: Okay Chair.

CHAIRPERSON: Is that alright? Okay.

ADV KATE HOFMEYR: So, just back to the 5th of May is the date on which the R2.5 million is paid. That was about a month and a bit before you were charged with negotiating the sale price on the GPU's
10 with JM Aviation. Is that correct?

MS MEMELA: Like I mean, I was instructed like with other colleagues of mine, yes.

ADV KATE HOFMEYR: Yes, we will come to that in a moment. Ms Memela you have given an explanation in your statement to this Commission about this transaction and you have indicated in that statement that you regard there is been no conflict of interest in so far as you were the recipient of this 2.5 million. Is that correct?

MS MEMELA: That is correct.

ADV KATE HOFMEYR: Can you explain to us the basis on which you
20 say there is no conflict of interest if you receive 2.5 million from a party who SAAT is contracting with?

MS MEMELA: No, I did not receive like I mean from the party. It was coming from my mother, so there is a difference, it is not like I mean there were paying me from their pockets, like I mean just like I mean, yes.

ADV KATE HOFMEYR: They did pay from their pocket; the transaction was JM Aviation paying in to L Mbangwa Attorneys ...(intervenes).

MS MEMELA: Yes, they were paying for like I mean for the land that they were purchasing. So like I mean, when I stated that like there was I did not see anything untoward Chair, and the fact that like I mean I did not see any conflict of interest. I was still responding to their question during our meeting when they said like I mean, did you not think there was a conflict of interest. And I said like from where I was sitting, like I mean like in my capacity as the HOD like there was no
10 conflict of interest, because I did not sit in the Evaluation Team or the people that were making decisions to say I am awarding this tender to you. So that is where I was coming from with the conflict of interest.

ADV KATE HOFMEYR: So, its – as I understand your position, there is no conflict of interest if you are not involved in the bodies making the decisions. Is that correct?

MS MEMELA: It will be my understanding Chair, I may be wrong, but like all I am saying is like if the decision or maybe whatever transaction has absolutely nothing to do with SAAT or like I mean it is something that is outside like and for me I would not be taking a decision or
20 making that decision to award that certain supplier, like for me it did not fall under conflict of interest. Ja you see maybe if there was a business that we were going to conduct together, like in the side, instead of like I mean them buying the property from my mother like that will be something different. So that was my understanding. And I even made an example because like I even said like I do not want to

mention any names, but like I mean there were certain people that like I mean negotiated with JM, like for other projects although they were the Chairperson of SAAT at that time, but like I mean there were negotiating for other projects. I did say that in my statement.

ADV KATE HOFMEYR: Were you aware of the terms of the conflict of interest policy that SAAT had at the time in 2016?

MS MEMELA: I think like I may have browsed through but like I mean I do not remember if I read it like during the time when I was buying my property, like I mean Chair, what I did like was to separate the two, like
10 I mean the property versus the tenders, and I even said that like I mean when we were discussing this, that if I had been like I mean the one who had said okay, let us award to JM and AAR, then like it will be seen as that conflict of interest. Then I would be expected to declare for conflict of interest. But like I mean it was not my decision to award to AAR. And then also, it was not my decision to sell the GPU's to JM for Swissport. So that is where then like I mean my understanding of like I did not see any conflict of interest.

ADV KATE HOFMEYR: Yes. My question was did you know the terms of the conflict of interest policy that operated at SAAT at the time?

20 **MS MEMELA:** No, I do not remember now.

ADV KATE HOFMEYR: You do not remember whether you did know it, or you did not know it at the time?

MS MEMELA: I did not know it at that time, maybe I did not even have a copy at that time.

ADV KATE HOFMEYR: How would you then know what interests you

had to declare?

MS MEMELA: Like it is a common knowledge like I mean Chair, like I mean if you enter into a certain agreement with maybe a supplier for something that is involving the company that you are working for. Then like I mean for instance if I open a company outside like with somebody and then like they come and tender and then like when that decision is to be made to award to that person, then I am sitting in the decision making, then like I would be able to say okay I actually know these people, and like I mean I will recuse myself or yes something like that
10 is my understanding.

ADV KATE HOFMEYR: Do you think the head of procurement at SAAT should familiarise themselves with the conflict of interest policy?

MS MEMELA: Yes, like to a certain extent.

ADV KATE HOFMEYR: Why only to a certain extent?

MS MEMELA: For instance like I mean I do know like from the risk and compliance Chair, that like when you register a company and stuff like there is a certain form that you fill that like I mean you are opening a business outside, especially if, like maybe some of the services or maybe goods like could clash with what is like I mean the services of
20 SAAT or like the company that you work for. So, like that is my understanding.

ADV KATE HOFMEYR: Ms Memela let us go to the conflict of interest policy that applied at the time. You will find it at DD25A and you will need to go to the back to page. Let me give you the first page of it, 436.

MS MEMELA: 436.

CHAIRPERSON: What is the page number?

ADV KATE HOFMEYR: 436 Chair.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: First thing I just want to highlight if I may about this document Chair. Is that it is the Group Conflict of Interest Policy for South African Airways SOC Management in general employees (recommended to be adopted to SAA subsidiaries). There is whole debate in relation to the GPU as to which applicable policy was
10 applying. I understand we were not at that debate here because this was the Group Policy that would have applied to SAAT.

MS MEMELA: We will have.

ADV KATE HOFMEYR: Yes

MS MEMELA: We will have ...(intervenes).

ADV KATE HOFMEYR: You will have a ...(intervenes).

MS MEMELA: I will raise what he has ...(intervenes).

ADV KATE HOFMEYR: Oh all right I look forward to it Ms Memela. Let us go to page 442. Clause 7 there starts Provisions of Conflict of interest. Do you see that?

20 **MS MEMELA:** Yes

ADV KATE HOFMEYR: It says at 7.1:

“Prohibited use of position. SAA employees shall not use or seek to use their positions or employment with SAA to:

- Gain direct or indirect benefits for

themselves or their family members.”

Do you see that?

MS MEMELA: Yes.

ADV KATE HOFMEYR: Do you accept that you would unlikely have interacted with Mr Ndzeke or met him but for the Supply Development workshops at SAAT.

MS MEMELA: Okay can you repeat that.

ADV KATE HOFMEYR: Yes, was it the fact that SAAT was conducting Supplier Development workshops that put you into contact with

10 Mr Ndzeke?

MS MEMELA: Yes like I mean like I said Chair earlier on that like I mean there I met Mr Ndzeke through these workshops and I would not have met him maybe like I mean to discuss these but like what I want to add is the fact that it could have been any other like BEE supplier who was interested in buying the property.

ADV KATE HOFMEYR: Yes. But it is a product of your position in SAAT that you had access to Mr Ndzeke, correct?

MS MEMELA: Yes.

ADV KATE HOFMEYR: And what this provision says is that employees
20 may not use their positions to gain a direct or indirect benefit for themselves or their family members, do you accept that you received a direct benefit from Mr Ndzeke in form of the 2.5 million Rand.

MS MEMELA: It cannot be direct like I mean he was paying for the land. Yes, so like you could say it is indirect. But like I have mean Chair with regards to these as it says at the beginning of the page,

recommended to be adopted by SAA subsidiaries. This is the first time like I mean I see this like for SAAT. That is why I said like I am going to – yes, like I am going to raise that, because like I mean I have not seen this one, like I mean what we have at SAAT is – what I know is the delegation of authority like I mean you know all these other documentation, but like I mean, I guess like I mean if it was not recommended to be adopted by SAA I do not know, like I mean, is there a documentation that proves that it was adopted by SAAT?

ADV KATE HOFMEYR: Ms Memela we will look for it. Let us assume
10 ...(intervenes).

MS MEMELA: You do not have it now.

ADV KATE HOFMEYR: That it did apply. Right. Then do you think that your acceptance of the 2.5 million Rand was in breach of clause 7.1.

MS MEMELA: Acceptance?

ADV KATE HOFMEYR: Yes.

MS MEMELA: When you say acceptance like I mean it is as if Chair like I mean it was a money paid to me by a supplier, and I am saying like I mean, that was the payment for the property that was bought. So,
20 like I mean, and also I find it difficult to respond ...(intervenes).

CHAIRPERSON: Is the point that you seek to make and have sought to make for some time, this – that payment was supposed to be paid to your mother.

MS MEMELA: Yes.

CHAIRPERSON: It was just a matter of convenience to say since your

mother was going to pass it on to you, Ndzeku or JM could well just pay it to Mbangwa Attorneys.

MS MEMELA: Yes.

CHAIRPERSON: But you are saying that as far as you are concerned, it was money that they were paying to Mbangwa Attorneys on behalf of your mother.

MS MEMELA: Yes. Like but like I mean for me, for my purchase, for the purchase of my house ...(intervenes).

CHAIRPERSON: And to avoid a situation where they would pay to
10 your mothers account and then she would have to pay it to Mbangwa.

MS MEMELA: Yes.

CHAIRPERSON: Is that the point you are making or not really?

MS MEMELA: That is the point I am trying to make Chair, because like I mean, how Ms Hofmeyr is putting the question it is as if like I mean I had benefited from JM through like I mean some payment that they received from SAAT. And like I mean to JM and then to me. So like I understand that you trying to highlight the conflict of interest and stuff like but you even said that if a direct benefit, and I said like it is an indirect benefit because like it was not coming from them direct to me.
20 It was to my mother and then like to pay for my property. So like I – and then she said like with the other part that I am concerned with Chair is that she had said let us assume that it was adopted by SAAT and I am saying like I mean this is the first time I see this document. So like I mean responding on the assumption would be quite difficult, so like I mean this is the part where I would say I cannot respond

where like you are talking assumption.

CHAIRPERSON: No, no the point you made about whether it was adopted – this document was adopted by SAAT is a legitimate point and they will look into it as I understand Ms Hofmeyr to establish whether it was adopted or not, am I right?

ADV KATE HOFMEYR: Indeed Chair, I must state it was my understanding that it was. I do not have the document before me. I have asked our investigators to obtain it so that we can clear this up.

CHAIRPERSON: Okay.

10 **ADV KATE HOFMEYR:** But I did not want to put it without the document so we will look for that. Then if you go down the page to 7.3.1. it says:

“SAA employees shall refuse gift, hospitality or other benefits that could influence their judgment or performance of obligations under this policy.”

Do you see that?

MS MEMELA: Yes, I see that.

ADV KATE HOFMEYR: Do you think it is incumbent upon employees of State-Owned Enterprises to refuse benefits that might have a effect
20 on the influencing their judgment.

MS MEMELA: Yes, like I mean benefits that will influence the judgement when you are in a decision-making position.

ADV KATE HOFMEYR: You always tack it on to a decision-making position. Is that your clarification?

MS MEMELA: Remember like I mean it will affect your judgement and

like I mean your reasoning and how you apply your mind if you were to take a decision in that certain point. So like I mean if the decision has already been made and there is absolutely nothing I can do to change it like for instance in the case of ground power units, so like I mean it will, I would not agree that it affects the judgement.

CHAIRPERSON: You agree with the principle.

MS MEMELA: Yes with the principal Chair.

CHAIRPERSON: But what you are saying is as far as you are concerned what is written here would apply if the employee concerned
10 would have the power to make a decision ...(intervenes).

MS MEMELA: He has a mandate to make a decision.

CHAIRPERSON: Yes that is the point you are making?

MS MEMELA: Yes Chair, and then I made an example of the ground power unit that like the decision was made from the Board and like based on a contract between SAA and Swissport, for reasons known to SAA. And also like on the component tender, like on the final one, the decisions were made by the Board. Yes.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Well let us move then if we may to the ground
20 power units and your role in relation to their sale. Chair I would like to start that if we may at DD25A, and I would like to look at the relevant provision of the contract that dealt with this and you will find that at page 316.

MS MEMELA: You said DD – page?

ADV KATE HOFMEYR: 316.

CHAIRPERSON: Okay, got it.

ADV KATE HOFMEYR: Thank you. This is an extract of the agreement between SAA and Swissport. Are you familiar with that agreement?

MS MEMELA: Like I saw the full agreement when I was fighting my case at CCMA.

ADV KATE HOFMEYR: Did you see the clause related to the SAAT sale before that?

MS MEMELA: The clause like relating to the GPU's?

10 **ADV KATE HOFMEYR:** Yes.

MS MEMELA: No, like I mean the one that was sent Chair by procurement at SAA it had no provision that talks about the GPU's. The only time that I got to know about, is when like I mean, Shaiyele was raising the fact that he was not happy with selling all twelve, like he was prepared to sell seven GPU's and then like I mean the acting CEO Mr Malola Phiri sent him this. I am not sure where he got it. He may have gotten it like from SAA.

ADV KATE HOFMEYR: So I do want to go back to the agreement you just referred to that had a blank space for the supplier, I will come to
20 that in a moment, but I just want to confirm my understanding. At some point in the sale of the GPU's, did you look at clause 8.1 and 8.2 that appear on this page?

MS MEMELA: At the sale, like I mean or are you saying like from my involvement with to negotiate the proposal that was put in place.

ADV KATE HOFMEYR: Yes.

MS MEMELA: Yes, like I mean I did look into it.

ADV KATE HOFMEYR: Thank you. So, let us look at what the clause says. Well it is two clauses: 8.1 and 8.2. Could you read both of those into the record please?

MS MEMELA: Okay 8.1

10 “As part of the continuous improvement of its triple
BEE and promoting the governments development
agenda, the handling company will sub-contract
some of its services or enter into agreement with
51% black-owned companies that may, that have a
representation of all either of the women, youth,
disabled persons and military veterans for the
purchase of equipment required as part of its
investment on the agreement.”

And then 8.2

 “The handling company agrees to purchase and or
arrange purchase of old recently acquired surplus
SAAT GPU’s at current book value, fair market
value or other such evaluation as mutually agreed.”

20 **ADV KATE HOFMEYR:** And just to be clear, is it your understanding
that the handling company there is Swissport South Africa?

MS MEMELA: Yes, that is the understanding.

ADV KATE HOFMEYR: Right, so Swissport South Africa, just to read it
in:

 “Agrees to purchase or arrange purchase of all

recently acquired by its surplus SAAT GPU's at current book value, at fair market value or other such valuations as mutually agreed."

Correct. And you did consider that at the time that you were tasked with the negotiation of the sale after the Board had approved.

MS MEMELA: After the Board had approved.

ADV KATE HOFMEYR: Is that correct?

MS MEMELA: Yes.

ADV KATE HOFMEYR: Right. I mentioned that I did want to take you
10 to another agreement because you indicated in your statement that you had had some interaction with a prior agreement when Mr Peter had supplied it to you. Would you mind going to page 291 of the same bundle DD25, 291, and tell me if that is the agreement you were referring to?

MS MEMELA: Two?

ADV KATE HOFMEYR: 291.

MS MEMELA: I do not remember Chair. I am not sure like this if this is your team like they found this from my e-mail because like what I said like on my statement is that like when Advocate Peter sent it to me
20 like I did not even look into it, because like he had already taken over like the Acting as the Chief Procurement Officer of SAA, yes.

ADV KATE HOFMEYR: No I fully understand that Ms Memela, then let me just ask you some questions not based on whether you saw it at the time or not, but what you make of it. If you go over the page to 292, you will see there that there is a recordal there at the top, whereas, do

you see that?

MS MEMELA: Yes.

ADV KATE HOFMEYR: It says Whereas the carrier that is a reference, you will go over the page to Swissport South Africa. It says

10 “The carrier was carrier awarded various ground-handling services, sorry the carrier is SAA. SAA awarded various ground-handling services to the handling company, that is a reference to Swissport South Africa, on 31 July 2012 for a five year period approved by the SAA Board in respect of a particular tender with a number.

(b) Due to various circumstances the terms and conditions of the contract and service level agreement, commencement date was agreed as 1 January 2016 for a period of five years collectively.”

Do you see that?

MS MEMELA: Yes I see that.

20 **ADV KATE HOFMEYR:** Ms Memela we had some evidence yesterday that I think some of us had some difficulty wrapping our minds around because what had happened in relation to this Ground-Handling Agreement at SAA was that there had been a tender in 2012. Swissport South Africa had been awarded it for five years from 2012. Then no agreement was concluded. 2012, 2013, 2014, and then in 2016 they are awarded another agreement for five years starting on the 1st of

January 2016. Without any tender process having been followed prior to that. Would your view be that that was inconsistent with procurement requirements?

MS MEMELA: You see now Chair.

CHAIRPERSON: What do I see Ms Memela?

MS MEMELA: You see ...(intervenes).

CHAIRPERSON: I hear what Ms ...(intervenes).

ADV KATE HOFMEYR: That was one of my nicest questions. I don't understand it all, but so be it. Yes.

10 **MS MEMELA:** You I may state my view, like and it might agree with Ms Hofmeyr, and stuff like and somebody else might come back, but like remember like in this I do not have I mean the full background of the Swissport, like I mean from 2012 I will still at DBSA. So, I was not at SAA like so when all these things were discussed and stuff like, but ...(intervenes).

CHAIRPERSON: You are free to talk about what you have personal knowledge of.

MS MEMELA: Exactly, without being seen as saying people have committed.

20 **CHAIRPERSON:** But she is asking because you – 2015, 2016, you were Head of Procurement. So that may be the reason and therefore you will be familiar with the requirements for procurement.

MS MEMELA: Okay, so your question Ms Hofmeyr is if I was in the shoes at SAA what would I regard this arrangement.

ADV KATE HOFMEYR: Indeed, or this was an arrangement at SAAT.

The Chair is absolutely correct with respect. You were the Head of Procurement at SAAT. So what I am interested in is your view as to whether an agreement entered into on the 1st of January 2016 for five years, that is awarded to a ground-handling company that is not preceded by any tender process, would be compliant with procurement law as you know it?

MS MEMELA: Chair, can I not respond?

CHAIRPERSON: Yes, what is your difficulty?

MS MEMELA: You know why, remember earlier on I did mention that
10 at SAAT I did not apply 30% set aside.

CHAIRPERSON: Yes.

MS MEMELA: And here, there is 30% set aside. So to talk on something that I was not like I mean part of the negotiation, maybe I think like my challenge is coming from there, but like of course I do not have any dispute in terms of saying like I mean of course when you running a tender you have to like I mean follow all these elements; competitive, transparency, fairness, like I mean giving like I mean the bidders a chance. But like I mean remember like there are certain deviations that are allowed, by the PFMA but also like I mean the SCM
20 policy, so like I mean something may have happened that I am not aware of, that is why I am saying, like I mean, I do not want to commit to Ms Hofmeyr ...(intervenes).

CHAIRPERSON: Yes. So, you saying that you do not have all the facts?

MS MEMELA: Exactly, you understand? So like I mean, I do not want

to assume what happened because like I mean I do not have the full facts.

ADV KATE HOFMEYR: Yes, I understand that. Chair we are at 15:59. I have embarked upon the GPU aspect. There is still the components aspect. I certainly will need some time to do that and Mr Ndzeke's legal representatives have already been informed that we may have to have gone over today's evidence to Monday with Ms Memela, so it would be my suggestion that we do adjourn and we return at 10:00 might also enable Ms Memela to bring those further documents that she
10 indicated she had in relation to the sales, and then we can continue with the evidence then ...(intervenes).

MS MEMELA: But Chair, don't I ...(intervenes).

CHAIRPERSON: Ms Memela h'mm.

MS MEMELA: Don't I have a right like I mean to be asked if I am available Monday what if I am in Western Cape?

CHAIRPERSON: Well that is what I am about to ask you.

MS MEMELA: Exactly because I thought ...(intervenes).

CHAIRPERSON: She is not the one to ask you, I am the one to ask you.

20 **MS MEMELA:** Yes, I was going to ask that Chair because my understanding like I did say in my response like which I response, like which I think was read loud that some of these decisions were like taken by the Board and I do not see why I should go in full detail in terms of like I mean, understanding why the Board had taken certain decisions and stuff like for instance, I made a reference to MOU, that

was a Board matter, I made a reference like I mean to GPU's, that was a Board matter like and then, AAR/JM final contract that was a Board decision, so like I mean, if it is 16:00, can we not wrap up, and ...(intervenes).

CHAIRPERSON: Well ...(intervenes).

MS MEMELA: I don't know.

CHAIRPERSON: No, no. It is legitimate for you to say if there is a chance you would prefer it if we could wrap up. That is legitimate for you to say that.

10 **MS MEMELA:** I would appreciate that Chair.

CHAIRPERSON: We just need to assess how much time is necessary for Ms Hofmeyr to complete and then of course we must have regard to our availability and your availability obviously you suggest that you are available for us to continue beyond 16:00 for purposes of wrapping up, but of course if in any event we might not finish, there might not be much benefit in continuing today if you are going to come back anyway, so that might be another issue to look at. With regard to what you may be asked and what you may not be asked, one can only take that on a case by case basis, as questions get asked. You might be able in
20 regard to some questions to say because you were not involved in the taking of that decision, you are not able to throw light on that.

MS MEMELA: Yes.

CHAIRPERSON: And that would be perfect, but it may be that you might not be asked on the basis that you were part of decision making but because you occupied a certain position you would know whether

taking that decision in certain circumstances was in accordance with policies of the company that kind of thing, so you could be asked that. So, you said Ms Hofmeyr you would still need quite some time because the other part that you have not touched

ADV KATE HOFMEYR: Indeed, the bad news Chair, is that I am on page 17 of 31 pages of notes. So, there is almost no prospect we would complete today.

CHAIRPERSON: That might need what about three hours?

ADV KATE HOFMEYR: I am optimistic, two hours or thereabout.

10 **CHAIRPERSON:** Two hours.

ADV KATE HOFMEYR: Maybe a bit more depending on the questioning and of course your questioning Chair.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: So, it seems suitable for us to reconvene on Monday.

CHAIRPERSON: Ja. And for Monday otherwise the plan was to have Mr Ndzeke.

ADV KATE HOFMEYR: Indeed, but we anticipated a potential runover here so Mr Ndzeke is scheduled both for Monday and Tuesday.

20 **CHAIRPERSON:** Yes.

ADV KATE HOFMEYR: So, I am not worried too much to taking into that time.

CHAIRPERSON: Yes. Ms Memela, we have done it quite frequently in the past in this Commission that we sit beyond normal hours where to do so would help to finish the witness's evidence so that the witness

does not have to come back.

MS MEMELA: H'mm.

CHAIRPERSON: But sometimes when one looks at the amount of time that must – of time that is necessary one is able to say we will not be able to finish and therefore another day must be arranged. So, from what Ms Hofmeyr is saying it is – she says at least 2 hours. Now that seems to suggest to me that we will not have enough time. Do you have any difficulty in terms of availability on Monday so that we could wrap up on Monday?

- 10 **MS MEMELA:** Yes. I have a project that I have to work on in the Eastern Cape on Monday.

CHAIRPERSON: Yes.

MS MEMELA: So, I- and I also do not want to be seen as if I am not cooperating.

CHAIRPERSON: Ja.

MS MEMELA: I actually did mention to Mr Kirtland that I am up and down. I am in Eastern Cape and I am mostly in Eastern Cape and then this side.

CHAIRPERSON: Yes.

- 20 **MS MEMELA:** So, there was that arrangement that I had.

CHAIRPERSON: Yes.

MS MEMELA: Which would mean if I cannot sell, I might lose some income.

CHAIRPERSON: Yes. If you are not available on Monday, would you be available on Tuesday or Wednesday?

MS MEMELA: If the Commission allows.

CHAIRPERSON: From your side you would be available to be here on Tuesday?

MS MEMELA: Okay ...(intervenes).

CHAIRPERSON: Or Wednesday?

MS MEMELA: Wednesday I can *ja* ...(intervenes).

CHAIRPERSON: Wednesday.

ADV KATE HOFMEYR: Chair I should just remind you that you may not be available on Wednesday. If I may?

10 **CHAIRPERSON:** Yes. No, no ...(intervenes).

ADV KATE HOFMEYR: Except I guess the morning might be feasible.

CHAIRPERSON: No, you are right but I would be available at least until lunch time – more or less lunch time on Wednesday.

MS MEMELA: Okay or maybe Chair I do not know I could check.

CHAIRPERSON: *Ja*.

MS MEMELA: And notify you before I leave if I will be available on Monday. Yes.

CHAIRPERSON: Okay.

20 **MS MEMELA:** I will see if I cannot move the commitment ...(intervenes).

CHAIRPERSON: The other arrangement.

MS MEMELA: That side.

CHAIRPERSON: Okay what we can do is that we can adjourn and you can communicate with the Legal Team maybe some time later this evening or whatever arrangement and if the position is that you are

able to rearrange your plans for Monday and you are able to come here then we will continue on Monday. That would be preferable if your situation permits. But if your situation does not permit then we can – we can arrange that you come back on Wednesday morning.

MS MEMELA: Okay. I also want to get a commitment from Ms Hofmeyr, she said she might need 2 hours. Are you sure about 2 hours? Do you think maybe by 10, 11 we will be done because I could maybe leave immediately afterwards?

CHAIRPERSON: On Monday?

10 **MS MEMELA:** *Ja.*

CHAIRPERSON: I think when you talk about if it is Monday, if you make yourself available on Monday.

MS MEMELA: If I may myself on Monday maybe I can be able to drive down.

CHAIRPERSON: Put it this way. She estimates 2 hours and she say subject to my questions.

MS MEMELA: *Ja.*

CHAIRPERSON: And there can be many, there can be many sometimes. So, we could end up going to 3 hours we are not sure. I
20 am not sure and she is not sure. But I do not think that we would go – that we would take 4 hours for example. So, I think we both would think it should not go beyond 3 hours. But we – *ja.* that is what we think.

MS MEMELA: Okay.

ADV KATE HOFMEYR: Chair if I may just make another possible

suggestion of an earlier start on Monday if that would assist. We could maybe start at 9:30 or 9:00

CHAIRPERSON: Well we – as things stand, I may have a commitment but if the position is that Ms Memela can rearrange her life for Monday and be here.

MS MEMELA: Yes.

CHAIRPERSON: We could look at the possibility of starting at 9:30 but I do not know whether that 30 minutes would make much difference in your life.

10 **MS MEMELA:** No, it will not.

CHAIRPERSON: It will not. So, shall we leave it on the basis that you will be in touch with the Legal Team either late at some stage this evening.

MS MEMELA: Actually, I will just make a call and before I leave here, I will give them feedback *ja*.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Certainly.

CHAIRPERSON: But we are looking at you continuing on Monday or continuing on Wednesday depending on ...(intervenes).

20 **MS MEMELA:** The feedback.

CHAIRPERSON: The call *ja*.

MS MEMELA: Okay.

CHAIRPERSON: And then we may as well just stick to 10:00 for Monday *ja*.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: So, if we continue with you on Monday, we will start at 10:00.

MS MEMELA: Alright.

CHAIRPERSON: Okay no, that is alright. Thank you for your cooperation Ms Memela.

MS MEMELA: Thank you Chair.

CHAIRPERSON: We are therefore going to adjourn until Monday. We adjourn.

REGISTRAR: All rise.

10 **INQUIRY ADJOURN TO 10 FEBRUARY 2020**

TRANSCRIBER'S CERTIFICATE FOR COMMISSION OF INQUIRY INTO STATE
CAPTURE
HELD AT
PARKTOWN, JOHANNESBURG

DATE HELD : 2020-02-07

DAY: : 209

TRANSCRIBERS : B KLINE; M NETTA; D STANIFORTH;
B DODD; D BONTHUYS

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