

COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

BRAAMFONTEIN CHAMBERS

10

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DAY 221

20

PROCEEDINGS RESUME ON 11 MARCH 2020

CHAIRPERSON: Is this how it is going to be throughout or is it going to improve? It will improve? Okay alright because it looks very dark, closed behind. It is like we are in the dark. Only the furthestmost parts of the hall seems to be – have enough lighting. Okay alright we will – we will continue and hopefully during the course of the day the lighting will improve. Before we start I just want to take this opportunity to express my sincere thanks and appreciation to the Johannesburg Municipality for making this venue available to the Commission from
10 now up to the end of the year. We appreciate this very much. We wish that we had been able to get this venue from the beginning they made it available to us without us having to pay any rent and therefore as the commission we will save packs of money. So I just want to place it on record that we really appreciate the co-operation that they have extended to us and for making this facility available to the commission. Thank you very much. Mr Soni.

ADV VAS SONI SC: Mr Chairperson in the next few days perhaps the next eight days we will be hearing evidence about PRASA. Before I get into that Mr Chairperson ...

20 **CHAIRPERSON:** Yes I think there is possibly the sound does not appear to be as clear as it should be and it probably has nothing to do with how far you are from the microphone but it is not as clear as it should be.

ADV VAS SONI SC: Mr Chairperson I am just wondering if I – is that much better it sounds a bit better from here?

CHAIRPERSON: That is – that is better.

ADV VAS SONI SC: Yes.

CHAIRPERSON: Okay so maybe it does require raising your voice a bit.

ADV VAS SONI SC: Yes.

CHAIRPERSON: But let us try and I take it the technicians will be working on the problem. Okay.

ADV VAS SONI SC: Chairperson may I deal with a set of housekeeping matters? In regard to the exhibit relating to the evidence that is going
10 to be led they all start with SS. We have taken the liberty of dividing the exhibits into a number of categories and if I could just go through that with you Mr Chairperson? The first category is SS1 and this deals with legislation that some of the witnesses intend referring to.

CHAIRPERSON: Hang on one second Mr Soni. Why do we have this here? Why is this here? Yes.

ADV VAS SONI SC: The most important piece of legislation for this session Mr Chairman is the legal succession to the South African Transport Services Act which is the first document in SS1. The second document in SS1 is the (indistinct) of the PRASA board and the third
20 set of documents are the relevant provisions of the PFMA to which some of the witnesses refer. We thought we would just collate them so that you would have them ready when witnesses refer to them.

CHAIRPERSON: I see the lever arch file marked on the spine Exhibit SS1 that is the legislation exhibit. SS2 that is documents. SS3 pleadings. Is that the file you are talking about?

ADV VAS SONI SC: That is the file yes.

CHAIRPERSON: Yes okay.

ADV VAS SONI SC: So the SS1 effectively contains 3 sets of documents Mr Chairperson.

CHAIRPERSON: Yes.

ADV VAS SONI SC: And then Mr Chairperson I will explain the need for this. There are a number of judgments that take on and added significance for this session of our sittings and we have taken the liberty of including four of those judgments because reference will be
10 made to them during the course of the testimony especially of the third witness who is going to be called before you. The judgments are Mr Chairperson the judgment of the Gauteng Local Division in the matter of PRASA versus ...

CHAIRPERSON: One second Mr Soni. I picked up yesterday that it seems that with regard to some of the lever arch files there seemed to be no index to the contents of the lever arch file and I am trying to look at the one I have now just to check whether it has an index and whether the index is one that I can follow? I see that you – there is an index but it does not tell me what pages I get the – bundle and judgments and
20 pleadings and bla, bla, bla. But I see that later on – two pages later there is what is referred to Index Exhibit SS1 and it says, Annexure PM1 from the affidavit of P S Molefe page 1 to 14. And then number 2 then Act number 38 of 2008 pages 41 to 45. Now I think it does not look like there is an index for the entire file or does it exist somewhere it is just that it is not here? It is much better if I can look at an index

at the beginning.

ADV VAS SONI SC: Yes.

CHAIRPERSON: And it tells me where to find what document then I can go straight there.

ADV VAS SONI SC: Yes.

CHAIRPERSON: Rather than looking at small indexes or small components of the file.

ADV VAS SONI SC: Yes.

CHAIRPERSON: But if you have got small indices for various
10 components of the file it should be easy to produce an overall index because it is a question of just piecing that together.

ADV VAS SONI SC: Consolidating all the indexes.

CHAIRPERSON: Yes.

ADV VAS SONI SC: Yes.

CHAIRPERSON: But that is much better.

ADV VAS SONI SC: Yes.

CHAIRPERSON: Than if I - if you refer me to anything or if I want to look at any document I go to the controlling index and it tells me where exactly to find the relevant documents.

20 **ADV VAS SONI SC:** Mr Chairman would you give us an opportunity to attend to that in the next break or two?

CHAIRPERSON: Yes, yes. Ja if that can be dealt with in the course of the morning.

ADV VAS SONI SC: Yes.

CHAIRPERSON: It should be available in due course.

ADV VAS SONI SC: Yes.

CHAIRPERSON: Okay alright.

ADV VAS SONI SC: Okay.

CHAIRPERSON: That is for the file that we need today.

ADV VAS SONI SC: Yes.

CHAIRPERSON: Ja.

ADV VAS SONI SC: Yes.

CHAIRPERSON: Okay alright. Okay so you can continue.

ADV VAS SONI SC: Yes. Mr Chairman the judgments and the
10 relevance of the judgment will come out in...

CHAIRPERSON: Oh I am sorry you know what? Oh well you might
have to – I see the next exhibit index SS2 that it is as from page 1 as
well so it might not be as easy as we thought it would be.

ADV VAS SONI SC: Yes.

CHAIRPERSON: Because it looks like for each item the index starts
from 1 again.

ADV VAS SONI SC: Yes.

CHAIRPERSON: But it should not be – should not take long.

ADV VAS SONI SC: It should not.

20 **CHAIRPERSON:** Ja. Okay.

ADV VAS SONI SC: And Mr Chairperson I should also say that when
you look at the index to SS2 you will see a reference to PM5, 6, 9 and
15. What we decided is to remove them from Mr Molefe's affidavit and
put them in a general bundle so that all the witnesses could refer to the
same bundle and there is no need then to have Mr Molefe's affidavit

present all the time. I will Mr Chairperson – perhaps I should take this opportunity to say the importance of especially the first two judgments is that scathing remarks are made about the procurement processes at PRASA and the fact that...

CHAIRPERSON: I am sorry Mr Soni I think you had begun to tell us what the evidence starting today into next week will cover when I intervened. I think initially I think after that you – you continued on the basis that maybe you had said what you wanted to say but I missed it because something else was in my mind. You might wish to just
10 capture again what the evidence will cover.

ADV VAS SONI SC: Yes.

CHAIRPERSON: During this period starting today up to – is it Thursday next week?

ADV VAS SONI SC: Yes.

CHAIRPERSON: Ja.

ADV VAS SONI SC: Mr Chairman the – the evidence relating to the capture of PRASA or state capture of PRASA however one wants to describe the situation that exists there will be led in two stages. What that evidence will show in essence Mr Chairman is the following:
20 First two individuals where the principle beneficiaries through entities in which they had an interest of lucrative contracts that PRASA concluded with different contracts. One of those persons who benefited Mr Chairman is directly or indirectly from these contracts is Mr Chockalingam popularly known as Roy Moodley. Between July 2000 and I am just sketching all the evidence that will be led Mr Chairman.

Between July 2007 and June 2009 an entity directly linked to Mr Moodley Royal Security Propriety Limited paid some R64 000.00 a month to Mr Jacob Zuma until just about the time Mr Zuma became President of the country in May 2009. The total amount that was paid by Rail Royal Security invested in Mr Zuma in monthly instalments is more than R1.5 million. The exact amount being R1 560 486.32. Then from 2010 Royal Security began receiving contracts from PRASA and had so far been paid more than R471 million by PRASA. Now the importance of stressing 2010 Mr Chairman is related to the previous
10 point I made and that is that...

CHAIRPERSON: Just one second. There seems to be some interference with the door behind me. Ask somebody we need to (indistinct) and make sure there is no interference. Yes.

ADV VAS SONI SC: The point I was making Mr Chairman is you have the payments starting in 2007 ending in 2009. 2010 the Royal Security starts receiving contracts and up to now R471 million has been paid to the Royal Security. Then Mr Chairman Mr Moodley and Mr Zuma reportedly have been to a number of social functions together. This has been in the media (indistinct). He was on TV July – the Durban
20 July where Mr Moodle appears to have hosted Mr Zuma. And there are anecdotal incidents to reports one them where Mr Zuma allegedly won R15 000.00 at a Durban July where he was hosted by Mr Moodley. Then Mr Chairperson perhaps the one that is of significance or the commission is an entity called Siyangena Technologies Propriety Limited which has received payments from PRASA exceeding R4 billion

Mr Chairman. It reportedly paid more than R500 million to entities in which Mr Moodley has an interest.

CHAIRPERSON: Is that – is that now separate from the R400 and something million that Mr Moodley's entities.

ADV VAS SONI SC: Yes.

CHAIRPERSON: Obtained by way of tenders from PRASA?

ADV VAS SONI SC: And the R471 Mr Chairperson is purely Royal Security. This is the company which paid.

CHAIRPERSON: Yes.so this is to a separate company where just – or
10 companies one of them being Headway Trading.

CHAIRPERSON: Yes.

ADV VAS SONI SC: But those details will be in the next session where we will present it all (indistinct).

CHAIRPERSON: Yes okay.

ADV VAS SONI SC: Mr Lucky Montana whom you will hear quite a bit
Mr Chairman was PRASA's CEO at all relevant times relevant to these –
the conclusion of – and implementation of the contracts and I stress
that Mr Chairperson because the evidence will show it is not only the
conclusion but thereafter the – the indulgences granted – extensions
20 granted in respect of those contracts. And he played a central role in
the – the award of – of that contract through Siyangena. The validity of
the contracts that I have been referring to Mr Chairman in regard to
Siyangena has been challenged in the courts. Not – I must stress not
the Royal Security contract but the Siyangena contract and there is a
contract that was entered into by prodigy with PRASA and on – in

respect of Mr Moodley's role in regard to that contract of which two witnesses will testify of who tried to force PRASA or employees of PRASA to agree to pay the amount owing to Prodigy and made certain remarks about the power he held. That will be the evidence that – that the witnesses will give. Then the other individual Mr Chairman who has benefited directly or indirectly from PRASA contracts is Mr Makhenza Mabunda the person who worked with Mr Montana when he was previously at the Department of Public Enterprises. Mr Mabunda's Siyaya or S entities have been paid more than R1 billion by PRASA for providing – purportedly for providing certain consultancy services. He also – this is Mr Mabunda Mr Chairperson received an amount of more than R80 million in respect of a locomotive contract that PRASA concluded with a third party and apparently the payment was and we are going to get the evidence from the master was for facilitating that contract. So that Mr Chairman is in substance what the – the nature of the evidence we lead to show that PRASA was in fact captured and who the capturers were and who the enforcers of the contract – of the – the capture were. Now at the time the contracts from which Mr Moodley and Mr Mabunda benefited were awarded whilst Mr Montana was the CEO another important figure in this mix is Mr Sifiso Buthelezi who was the Chair of the Board. And the importance of that position Mr Chairman will come in when Mr Molefe gives his evidence. He is the Chairperson of the PRASA's board between August 2014 to July 2017. And that is an important part of how – why he will describe Mr Chairperson what he found in regard to these matters and what he did

and was prevented from doing. Then Mr Chairperson in July 2017 in regard to the R3.5 billion contract that I have referred to that is the locomotive contract Justice Francis in the Gauteng Local Division set aside that contract on the basis that it had – there were – it was tainted by corruption and fronting and in a scathing judgment which we will be referring to he – he made some very adverse comments about Mr Montana and the person called Mr Daniel Mthimkhulu whom you will hear about as well. That decision was taken on appeal to the SCA. Th Justice Lewis in the judgment of the SCA was equally scathing about
10 the role Mr Montana and Mr Mthimkhulu how especially Mr Mthimkhulu engineered the processes despite the fact that he no engineering qualifications and that becomes important Mr Chairman. How he engineered the processes to ensure that there was only one outcome in regard to that claim. The Siyangena contracts Mr Chairperson as I have said are valued at about R4 billion. They are also the subject of review – a review before the Gauteng ...

CHAIRPERSON: So there is Siyaya and Siyangena?

ADV VAS SONI SC: Yes.

CHAIRPERSON: Is that right?

20 **ADV VAS SONI SC:** Yes. Siyaya is Mr Mabunda.

CHAIRPERSON: Yes.

ADV VAS SONI SC: Syangena linked to Mr Moodley.

CHAIRPERSON: Ja okay.

ADV VAS SONI SC: And then this (indistinct) is a third party that Mr Mabunda is a beneficiary of that and we need not deal too much with

that except what the courts have said about how PRASA manipulated processes in regard to that contract and when one reads the review – the review papers in the Siyangena Matter Mr Chairperson the – the – one sees a similar pattern but we will come to those details. And the regard to the Siyaya Matters Mr Chairman and they take on a slightly different significance. They are the subject notwithstanding that about R1 billion has been paid they are the subject of arbitration proceedings and those amount to the amounts claimed are in the region of about R6 – just a little more than R60 million and you will see how the former
10 chairperson of PRASA's board attempted to secure payment for Siyaya and in the course had to intervene in that. So that Mr Chairperson is the – the evidence that will be led puts – based on documents in our possession in effect cannot be disputed. Now at the outset Mr Chairman I pointed out that you will be leading evidence in two stages. In the – in the stage which we are busy now for the next eight days the evidence that we will be leading will be the following:

The evidence will focus on the interactions between two individuals at PRASA in particular the role Mr Montana in facilitating PRASA's capture especially by Mr Moodley and Mr Mabunda and by certain persons –
20 and certain other persons who used entities for gain lucrative contracts. And Mr Chairman just so that it is not said that well either you blame Mr Montana you as the CEO the evidence will show his hand in each of these. Some of it is in handwriting in fact the first witness will show in respect Prodigy contract Mr Montana's clear hand in the matter. And that evidence will be led – that is the evidence which will

be led over the next eight days. May I now Mr Chairman just so that you have an idea of what you can expect over the next eight days is summarise very briefly the witnesses and what their evidence is? Mr Chairman as I understand it I am not required to identify the witnesses at this stage but if you want me to I will.

CHAIRPERSON: Well you can – it depends you know if there are certain issues of safety and security that make it not appropriate to mention their names until they arrive here and so – so you would know best.

10 **ADV VAS SONI SC:** Yes there are no safety issues Mr Chairman so I will name them.

CHAIRPERSON: Okay.

ADV VAS SONI SC: The first witness is going to be Mr Tiro Holele and the next witness is Mr Jacob Rakgoathe. The thrust of their evidence deals with a meeting they had had with Mr Moodley in 2000 – in about February 2017 where Mr Moodley wanted payment to be made for an entity in which he had an interest and in respect of that he fed through the two employees. I do not know why he would (indistinct) in this matter. I want to say to you that there – I am one of the 15 top
20 decision makers in this country, those were his words and there are going to be major changes coming and you better be on the right side of the fence. Now fortunately Mr Chairperson nothing came of that. And when I say fortunately from PRASA's point of view money was now paid that evidence is relevant for a number of issues and the first one is Mr Molefe will testify he will be the third witness that when he

became the Chairperson of the board in July 2014 he heard of Mr Moodley and saw Mr Moodley there and he says “when you walked around people would say, that is the owner of PRASA” pointing to Mr Moodley. And he would be in and out of the offices of different managers walking around with them. In fact Mr Molefe keeps saying this on every occasion and I have consulted with him. You would think he was one of the top managers at PRASA. So I am just trying to show the influence that Mr Moodley has. So that is the purpose of leading these two witness on that very narrow point. The next witness and perhaps the principle witness in regard to State Capture is Mr Molefe. And Mr Molefe’s role Mr Chairman when one looks at it effectively is quite important because it comes in after...

CHAIRPERSON: I think your voice is going down.

ADV VAS SONI SC: I am sorry.

CHAIRPERSON: Yes.

ADV VAS SONI SC: It comes in after this period when Mr Montana and Mr Sfiso Buthelezi were in effect in control of PRASA and especially in the procurement processes. And he will deal with that and the concerns he had and what he did to reverse some of the decisions that were taken. But what his role is, is that from 2014 – we think 2017 he and his board tried to steer the PRASA ship in a different direction. More importantly Mr Chairman he tells you how – or he will tell you how State Capture at PRASA and we do not need to go in (indistinct) appeared to operate. He will tell you how Mr Moodley on several occasions tried to capture him as he puts it. He will also tell you that

he then had a fallout with Mr Montana because Mr Montana would not rectify the manner in which he operated and which the court – the courts were later critical of and the Public Protector as Mr Molefe would say. Now when one goes past that the next – the next thing happened. Mr Montana hands in his resignation against this backdrop that I have described the board accepts the resignation and then – then President Zuma calls a meeting between the then Minister, Minister Dipuo Peters, Mr Molefe, Mr Montana and the Minister in the Presidency at which he (indistinct) to get Mr Molefe to persuade his board to reinstate Mr Montana. Mr Molefe will say he was surprised that the Head of State would want to interfere in this but when he looks at it as a whole he understands what the big picture was.

CHAIRPERSON: This is a situation where – that attempt was made in regard to Mr Montana who had resigned. He had not been dismissed?

ADV VAS SONI SC: No.

CHAIRPERSON: He had resigned.

ADV VAS SONI SC: Yes.

CHAIRPERSON: And the board had accepted his resignation.

ADV VAS SONI SC: Yes.

20 **CHAIRPERSON:** Okay.

ADV VAS SONI SC: That is so. So you quite right and it was important to emphasise that. It is not as if the board was taking drastic action. This was a mutual separation.

CHAIRPERSON: Well you might – you probably are not being accurate when you say it was a mutual separation. As I understand it if it was

resignation.

ADV VAS SONI SC: Yes.

CHAIRPERSON: Mr Montana made the decision.

ADV VAS SONI SC: Yes.

CHAIRPERSON: Unilaterally.

ADV VAS SONI SC: Yes.

CHAIRPERSON: That he was leaving PRASA.

ADV VAS SONI SC: Yes sure. Yes.

CHAIRPERSON: The board just accepted his decision. It is unlike a
10 situation where there is a problem and the parties reach an agreement
let us part ways. He made his own decision to leave PRASA.

ADV VAS SONI SC: Yes.

CHAIRPERSON: And the board accepted that.

ADV VAS SONI SC: Absolutely yes Mr Chairperson.

CHAIRPERSON: Okay.

ADV VAS SONI SC: And that decision too is important. Mr Molefe will
also say Mr Chairman that one of the things that concerned him and he
will reflect on it when he is giving evidence and I am sure there would
be exchanged between you and Mr Molefe hopefully I will try and
20 resolve most of them first. That given the bad publicity surrounding
PRASA for a number of years even before the time Mr Montana decided
to resign and I say that Mr Chairperson because the Public Protector
too has investigated PRASA from a complaint – a set of complaints
starting in 2000 – which she received in 2012 and she finalised her
report in 2015. And it is scathing and we will reflect on that report.

But what Mr Montana – what Mr Molefe will say is this. Given the fact that our constitutions demands accountability from everyone. He is surprised that Mr Montana was allowed to remain at the helm of PRASA over such a prolonged period and – and at the end of the day one needs to look for a better reason than his just intolerant. He will also say Mr Chairperson that when he got – when he and his board started putting things right for example in regard to the Swifambo contract which Mr Montana – Mr Molefe took to court and had reviewed and set aside and he also took the Siyangena matter to court but it eventually
10 had to come back to court because of certain matters which we need not entertain this. But when they did investigations as described by the Public Protector and for example laid charges the HAWKS did nothing. He had to take the HAWKS and that matter is a 2017 (indistinct). The appeals to Parliament. Parliament too did nothing. In fact they were hostile to Mr Molefe and his board whenever they appeared there. Of course I need to add this just to give some balance. They stuck on one fact that the forensic investigations that Mr Molefe's board had in – the forensic investigators had – that Mr Molefe's board had engaged having been told to do so by the Public Protector that that had turned out to be
20 costly and I will put the figure on the table the figure that is available at the moment is about R300 million. And that has been in the public's space as well. But we will deal with the separation of the relevant issues as to whether it was necessary to – to investigate and if so then put a limit on the amount of investigations. But not to stop the investigations and gives us the view that there was not the bona fide

reason to act with his board in the (indistinct). And finally conclude Mr Chairperson's Molefe that since Mr Montana left as the CEO that is in July 2015 we are now nearly – we are in March 2020 nearly five years later PRASA has not yet had a fully appointed CEO it only had acting CEO's and that too – another witness will tell you Mr Chairperson has been eliminated and replaced by an administrator. Secondly Mr Molefe will also say that from the time his board was effectively dissolved because their (indistinct) was not extended PRASA has not had a permanent board only had internal board then until December and that
10 board too – that board was in fact formerly dissolved by the Presidency. And he finds this disturbing in view of the number of matters including the matter that came up a few weeks ago where the Siyangena matter was before the High Court and PRASA was not represented until the very last minute and would have incurred a – expenses of about R6 billion had the matter gone undefended as it were and it was only at the last minute that the matter was in fact was postponed and – but of course PRASA has paid the costs effectively – means you are in everybody's (indistinct) Mr Chairman. Then Mr Chairperson we have two important witnesses that their evidence is going to be condensed
20 quite considerably.

CHAIRPERSON: One second Mr Soni. Can I just check that everybody is able to hear me and to hear Mr Soni well. I see some of the people shake their heads, others agree and those who are far cannot hear. Does that include me or only Mr Soni? Can – even me? You can hear me? Okay but you cannot hear Mr Soni?

ADV VAS SONI SC: I will speak a lot louder.

CHAIRPERSON: Ja. Try and speak loud so that they can – everybody can hear. Okay thank you.

ADV VAS SONI SC: We have Mr Chairperson the head of PRASA's legal section and general manager in that section who had complained that they – when they tried to intervene in contracts in which Mr Molefe appeared to – oh Mr Montana appeared to have an interest. For example in the Prodigy contract steps were taken against them in fact both of them were dismissed. They will give details of that. We do not
10 need extensive detail but it goes on to show Mr Chairperson that that is the manner in which Mr Montana ran PRASA. They came back only through the intervention of Mr Molefe. They came back but the culture that Mr Montana started at PRASA has now returned after the short intermission as it were during which Mr Molefe and his board tried to put PRASA on a better wicket. They will also say Mr Chairperson that whenever not whenever when decisions are taken about legal matters they are excluded. They believe deliberately so that no dissenting voice can be heard about those decisions. Now there is one aspect of their evidence which is quite disturbing Mr Chairperson and it is this.
20 That I have told you that the Swifambo Contract has been set aside. The Siyaya matters and the Siyangena matters are the subject of litigation where the review proceedings or arbitration proceeding. But very recently the Department of Transport had a meeting with representatives of Siyaya and Siyangena where they were saying but why are we defending these matters we must save legal costs. But

they will give that evidence. And a disturbing thing Mr Chairperson is and I say this because there is the heart of State Capture. We know that the rule of law and the principle of legality are central values in our constitution. Where there is a legal dispute in terms of Section 34 of the Constitution anybody who has an interest in the matter must take it or ought to take it off. And that is what PRASA has done in these matters. What they are trying to do is bypass all this constitutional mechanisms and (indistinct). And these as I say Mr Chairman are not small sums of money. The arbitration is a R60 million and the

10 Siyangena matter is totally if same remedy is issued as was issued in this Swifambo matter then the R4 billion that has been paid might well have to be returned or parts of it. But one does not know what the purpose is of these mechanisms bypass the legal process. And Mr Chairperson we submit that their evidence is quite crucial of that. They also say Mr Chairperson and another disturbing matter and Ms Ngoye who is the head she filed two affidavits. In an earlier affidavit she filed she says that a move has been made by people outside the Department – outside legal at PRASA. She will enter into a contract between PRASA and the DBSA for R1 billion and DBSA's role effectively will be

20 to run PRASA's infrastructure probe effectively it will then distribute these lucrative contracts and the question really that we would need to (indistinct) how it is. Is it a mechanism to ensure that those in PRASA who scrutinise these matters are kept out that space – that crucial space which affects the public interest? Then Mr Chairperson we have the evidence of Ms Kweyama who is the last chairperson of a board at

PRASA. That board was dissolved in December 2019 and what she will say is that the reason her board was dissolved is that the Minister wanted a particular individual namely Mr Mpondo to be appointed the CEO and the board wanted a proper process before a decision was taken and what effectively happened was the Minister became impatient.

CHAIRPERSON: Is that the Minister of Transport?

ADV VAS SONI SC: The Minister of Transport Mr Mbalula.

CHAIRPERSON: At the moment. Mr Mbalula okay.

10 **ADV VAS SONI SC:** And the – the – sorry I just lost my train of thought sorry Mr Chairperson.

CHAIRPERSON: Yes well you were talking about the dismissal or disbandment or dissolution of the board that was chaired by Ms Kweyama and you were saying that she is going to give evidence.

ADV VAS SONI SC: Yes.

CHAIRPERSON: To the effect that the reason why she – her board was dissolved and you were going to proceed with that.

20 **ADV VAS SONI SC:** That he became impatient and as is the want of people who exercise public powers especially is that it should – was why should I wait for you I am just the dissolving the board. But the dilemma he then faced Mr Chairperson is he does not have a CEO because the board would not participate and I just need to say I would refer you to the relevant provision of the board charter which says that the Minister appoints the CEO on the recommendation of the board. But if there is no recommendation no appointment can be made. So

what the Minister does – what Mr Mbalula does is the following. He dissolves the board. He does not appoint Mr Mpondo as the CEO rather he appoints him as the Administrator. Now Mr Chairperson we have included the – the relevant statutory provisions relating to PRASA and no provision is made for an (indistinct). But I just put one difficult...

CHAIRPERSON: Yes so – so Ms Kweyama will say the Minister wanted him – wanted the board to appoint Mr Mpondo as CEO and the board did not seem to be keen to say the least.

10 **ADV VAS SONI SC:** Yes.

CHAIRPERSON: And the Minister was the right person to appoint the CEO but in terms of the relevant statute he could only appoint a CEO if there was a recommendation from the board and according to Ms Kweyama the Minister – when the Minister realised that the board did not seem to be keen on appointing Mr Mpondo he dissolved the board and then appointed Mr Mpondo as Administrator of PRASA. But you say that in law there is no provision for the appointment of an administrator in regard to PRASA and you saying that the function of an administrator would include the functions of a CEO maybe go much
20 beyond that I do not know but it would include the functions of a CEO. Is that what you are saying?

ADV VAS SONI SC: And if I could add the following Mr Chairperson. In terms of the PFMA every public entity if it has a board that is the accounting authority. Now the statutory provision provides for the Minister to appoint a board. If there is no board there is accounting

authority. So effectively Mr Mpondo wears two hats. He is the CEO on the one hand because he is in charge of the day to day operations but because there is no board he is effectively the accounting authority.

CHAIRPERSON: Well – but if you are correct that as a matter of law there is no power even to the Minister to appoint an administrator at PRASA then – then the administrator has no power to do anything. It has no power to make any decisions at PRASA and all the decisions that he could possibly make are not lawful

ADV VAS SONI SC: Yes indeed.

10 **CHAIRPERSON:** That is if – if your – your – or submission that there is no law provided giving the Minister such power. That would be the effect.

ADV VAS SONI SC: Yes.

CHAIRPERSON: Of that, that – and there is somebody who purports to exercise power that does not exist in law? Yes.

ADV VAS SONI SC: Now if I could go back to the two legal advisors. They gave such an opinion to the administrator and in retaliation he suspended one of them.

20 **CHAIRPERSON:** That is – so that would be the – that – is that Ms Ngoye?

ADV VAS SONI SC: He suspended Mr Dingiswayo.

CHAIRPERSON: Mr Dingiswayo.

ADV VAS SONI SC: Who is on suspension at the moment.

CHAIRPERSON: Yes. For – following upon that advice that he gave.

ADV VAS SONI SC: He does not say that ...

CHAIRPERSON: Is it following the course...

ADV VAS SONI SC: Because of this but what he says is, you are undermining my position.

CHAIRPERSON: By raising that point?

ADV VAS SONI SC: That is right.

CHAIRPERSON: That he does not have any legal power to – to exercise – there is no legal authority to exercise any power as an administrator. Okay.

ADV VAS SONI SC: But if – if this had happened prior to the
10 promulgation of this commission's evidence then one could understand
but when it happens while this provision – this commission is sitting it
is a very worrying commentary the respect that our authorities have for
the rule of law and for constitutional principles Mr Chairperson.

CHAIRPERSON: Yes.

ADV VAS SONI SC: Ebersohn finally – our final witness is going to be
Mr Zackie Achmat. Now he is a voice from Civil Society. He comments
quite instinctively in his affidavit but the importance of his evidence Mr
Chairperson is this. He is one of the leaders of an organi – an NGO
called #UniteBehind. They have been involved both with and against
20 PRASA in the courts. For example in the Siyangena matter they are
with PRASA against Siyangna. But in other matters for example
against the HAWKS and so on the – there they are with PRASA against
– against the HAWKS for not doing their job. Now he has taken – he
has researched this and he makes two points Mr Chairman which I
submit are very vital. That as a public body they were entitled to look

at our public representatives to fix up matters. So in February 2018 UniteBehind sent a submission to Parliament on State Capture at PRASA. Parliament undertook to conduct that inquiry. It has reneged on that and it has not happened to this day three years later. And again his point is if you had done what you are paid to do as Parliamentarians maybe PRASA would not be in this sorry state and we would not be saying things about PRASA today. But finally I need to make this point about Mr Achmat's evidence. Mr Chairperson at some level those of us who – who are involved in investigations into State
10 Capture or in discussions in State Capture and so on we deal with this on the basis that the State Capture is there. What Mr Achmat does is he tells you the direct effect this has on men, women and children.

CHAIRPERSON: I wanted to say – I forgot to switch off my cell phone. So may I remind everybody to do so. So it just rang at the wrong time. So yes please proceed.

ADV VAS SONI SC: But – but the value of his evidence is he is not talking as from afar afield. He is saying, I take the (indistinct). I look at what happens. We have been fighting this for the last six years or so nothing has happened. Nothing good has happened in fact if
20 anything the situation has deteriorated. And in that sense everybody has failed. Most vulnerable members of our society. That our democracy (indistinct) Mr Chairman cannot continue.

CHAIRPERSON: Going back to the issue of the administrator, the appointment of the administrator for PRASA do you know how far the litigation is that one has heard about?

ADV VAS SONI SC: Yes. It is before the courts brought by UniteBehind which challenge the Minister's power to make that appointment. That Mr Chairman unfortunately is a matter in the Western Cape High Court. I have not enquired but I know it is still in...

CHAIRPERSON: Yes exchange of affidavits. Okay. It will be interesting to know how far it is to getting a date if possible whether we – it is a situation where all affidavits are in and the date might be allocated at any time.

ADV VAS SONI SC: Quite so yes.

10 **CHAIRPERSON:** It just might be important to know.

ADV VAS SONI SC: Yes.

CHAIRPERSON: Ja okay.

ADV VAS SONI SC: Mr Chairperson then that is going to be the totality of the evidence and some of the evidence that is going to be led during this sessions. Because in...

CHAIRPERSON: Okay no thank you.

ADV VAS SONI SC: May I then just again allow you to navigate through the rather bulky bundles that have been presented to you and if I could just orientate you towards those Mr Chairperson. SS1 is the
20 legislation and of course there are two very important provisions there that is the legal secession had because that will determine the powers of the Minister in regard to the appointment of a – of an administrator and not having a board. And secondly the board charter which as I say has a specific provision which I will refer you to at the appropriate time Mr Chairman that there is – that the Minister appoints the CEO on the

recommendation of the board. And then of course the relevant provisions of the PFMA and the one that is important is 49 and 50 that the board is the accounting authority of PRASA. And then of course I have dealt with the two judgments regarding Swifambo and then they need to take you to the third judgment Mr Chairperson. It is a judgment that Ms Molefe is well qualified to deal with because it is his taking the Minister to court. The Minister at that time Minister Dipuo Peters because she dissolved the board without good reason and the High Court set aside that decision and the comments you have made about
10 the importance of the board. And then the fourth decision there is PRASA bringing Mr Molefe effectively bringing an application against the HAWKS to investigate the Swifambo and the Siyangena matters and as I say nothing has been done. The significance of that though Mr Chairperson is the – the HAWKS in their first response to this very serious charge that you are not doing your job they challenge Mr Molefe's locus standi to bring the application. And Judge Davis in a rather scathing judgment says: it is a pity that organs of state would waste state money to deal with proliferable matters rather than getting to the source of the matter. It is clearly a scathing indictment of the
20 way the HAWKS have purport to exercise their powers. Then Mr Chairperson it is – I suppose the (indistinct) there are two matters that we will refer to at different parts. I am not going to take you through everything but I merely make this point Mr Chairperson one of things we want to say is yes we know what the Swifambo court said about – about irregularities, corruption and fronting as well. But what we want

to show with these others and they include their criticism of Mr Montana would these is the role that Mr Montana gave in it. And then SS4 Mr Chairperson is a general reference bundle because Mr – for example Mr Achmat had mentioned certain documents which some of the implicated parties and it said they want copies of and we have included one of those in this reference bundle. And then PRASA's Policies and Procedures just in case you want to look at them Mr Chairperson. Then in the affidavit of Mr Achmat he refers to the role of Mr Arthur Fraser whom we all know from the SSA and he says that Mr

10 Fraser worked through Researching Risk – Researching Risk was his company through which he offered security services to PRASA notwithstanding that being in the security services of the state it was his duty to provide that in his capacity – in the capacity he occupied at that time. So that is the Researching Risk Report and then there are disciplinary proceedings against Mr Zide relevance of that will come at a later stage Mr Chairman. Then we have a Liquidators Report. We are not going to present it to you Mr Chairperson and I should explain we had intended it to show the benefits that Mr Mabunda received. The Liquidators Report refers to a number of – of the people and on further

20 consideration we thought we should present that as when – sorry at the time we present the money flow matters relating to PRASA so that we could just articulate and isolate those persons. But if other persons are mentioned they would be given an opportunity and we would show them why we are presenting them. So those are the documents that are before you Mr Chairman and those are – that is the summary of the

evidence that will be led.

CHAIRPERSON: I take it that all implicated persons have been served with Rule 3.3 Notices and the period of fourteen days has lapsed?

ADV VAS SONI SC: Yes.

CHAIRPERSON: Is that correct?

ADV VAS SONI SC: Yes.

CHAIRPERSON: Okay alright.

ADV VAS SONI SC: Mr Chairperson I have a document here I just want to make two points. There is one person who was not served and a
10 company he is associated with that is because he is from Zimbabwe and he has moved back to Zimbabwe.

CHAIRPERSON: Yes.

ADV VAS SONI SC: So – but everybody else who is implicated has been served.

CHAIRPERSON: Hm.

ADV VAS SONI SC: And – and...

CHAIRPERSON: So you have not been able to find any way of communicating giving notice to the particular person and his company?

ADV VAS SONI SC: No.

20 **CHAIRPERSON:** Yes.

ADV VAS SONI SC: And he is not at the centre of things which is the effort that was put in was on the basis that how relevant is that evidence.

CHAIRPERSON: Okay. Okay. So you ready to start with the first witness?

ADV VAS SONI SC: We are ready to meet our first witness.

CHAIRPERSON: We are at eight minutes past eleven and we due to have the tea break at quarter past. Maybe we should start so that the oath is administered and maybe some preliminary issues then we take the break.

ADV VAS SONI SC: Yes.

CHAIRPERSON: And then he continues after.

ADV VAS SONI SC: Yes. Yes Mr Chairperson.

CHAIRPERSON: Okay. Please administer – well you want to tell us
10 the name of the witness you calling?

ADV VAS SONI SC: Yes. Tiro Holele.

CHAIRPERSON: And you want to spell that for the benefit of the transcribers?

ADV VAS SONI SC: T-i-r-o H-o-l-e-l-e.

CHAIRPERSON: Yes okay. Please administer the oath or affirmation.

REGISTRAR: Please state your full names for the records?

MR HOLELE: Tiro Holele.

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

MR HOLELE: No I do not.

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

MR HOLELE: Yes I do.

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

MR HOLELE: So help me God.

CHAIRPERSON: Thank you. Maybe we should take the tea adjournment or do you think maybe you could – you could use this five minutes left?

ADV VAS SONI SC: Yes.

CHAIRPERSON: For preliminary issues?

ADV VAS SONI SC: There is one issue Mr Chairperson.

CHAIRPERSON: Yes.

ADV VAS SONI SC: Currently the witness deals with a meeting relating
10 to Prodigy and Prodigy's legal representative is here. Mr Chairperson I know you asked much earlier if the representatives at that time nobody was here but he would like to place himself on record.

CHAIRPERSON: Yes let him place himself on record. He will come – you will come to that – to the podium there.

ADV RAVINDRA MANIKLALL: Good morning Judge.

CHAIRPERSON: Good morning, good morning you are not new in this commission.

ADV RAVINDRA MANIKLALL: Yes.

CHAIRPERSON: Yes.

20 **ADV RAVINDRA MANIKLALL:** Good morning Judge it is Maniklall initial is R.

CHAIRPERSON: Yes.

ADV RAVINDRA MANIKLALL: Judge I represent actually two parties in this proceedings.

CHAIRPERSON: Yes.

ADV RAVINDRA MANIKLALL: First party my learned friend correctly pointed out is a service provider by the name of Prodigy. I commonly refer to Prodigy in proceedings. And Judge these – this party is subject involved in litigation with PRASA. That is currently before the courts. That is why I will not take it any further than that.

CHAIRPERSON: Yes.

ADV RAVINDRA MANIKLALL: But being – reserve the rights to apply for Leave to Cross-Examine subject to Judge.

CHAIRPERSON: Yes.

10 **ADV RAVINDRA MANIKLALL:** Discretion in the matter.

CHAIRPERSON: Okay. No that is fine.

ADV RAVINDRA MANIKLALL: Yes. That is the first party.

CHAIRPERSON: Yes.

ADV RAVINDRA MANIKLALL: Judge the second party that I represent is one my learned friend did spend some time on and that is Mr Moodley.

CHAIRPERSON: Yes.

20 **ADV RAVINDRA MANIKLALL:** And Judge with the same – without taking too much of your time essentially Mr Moodley denies the allegations that have been made. He said he will make the necessary application in due course for Leave to Cross-Examine these witnesses that makes the allegations and he will easily dispel the notion that my learned friend set forth in the address which is obviously arriving from what the witnesses say in their affidavits. But Judge.

CHAIRPERSON: Yes.

ADV RAVINDRA MANIKLALL: It would be premature for me to address you on that until we listen to the witness' evidence.

CHAIRPERSON: Ja no that is true.

ADV RAVINDRA MANIKLALL: That is for the record Judge.

CHAIRPERSON: Okay thank you very much.

ADV RAVINDRA MANIKLALL: Thank you.

CHAIRPERSON: Okay. Mr Soni. I think we may just take the tea adjournment.

ADV VAS SONI SC: As you please yes.

10 **CHAIRPERSON:** And discuss when we come back. We are going to take the tea adjournment and we are going to resume at half past eleven. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

ADV VAS SONI SC: ...SS10, exhibit SS10 it starts at 5, 6, 8, 9, 10 and 11.

CHAIRPERSON: Maybe they must match this first so that we don't forget, so that we don't forget. And now the – I see that this file has
20 got SS5, SS8, SS9, there's no 6 and 7, is that somewhere else?

ADV VAS SONI SC: Yes and that's because we are unlikely to refer to those today.

CHAIRPERSON: Oh, I think it might be better if they were under one exhibit and then we have A, B, C, D, E because it helps when we admit it helps if what they say is what they see.

ADV VAS SONI SC: Yes.

CHAIRPERSON: And on the spine of the file.

ADV VAS SONI SC: Yes.

CHAIRPERSON: So I think when my mic is on yours should be off I think, I think that's, ja, otherwise there is echo, and when yours is on mine would be off, and we will do it like that. I don't know whether that would be the same with the witness, but you will need yours to be on when you are asking the witness and his will need to be on because he will be answering, any other thing two could be on without any problem,
10 I am hoping that somebody is going to whisper to you just now as I feel what the position is and you will let me know in due course.

Now with regard to this lever arch it has got these exhibits, these statements that they are marked under different – as different exhibits and the file is not a controlling file and would it be easy to make this as EXHIBIT – or it can't be EXHIBIT S5 and then A, B, C, D because you already have this, okay, maybe for other – okay switch yours off, maybe you want – or the other lever arch files somebody needs to attend to that, it is the way we have been doing them all the time, what is written on the spine of the lever arch file should be
20 indicating the controlling exhibit and then if necessary you can have A, B, C which are inside the lever arch file, that makes it easier so your junior counsel should be able to attend to that in regard to the others. I guess we just have to use this as is because we don't have time to change but all the others ...[indistinct] should be made to try and align them with how we have been dealing with the others, ja.

The lever arch file I think – ja it's complicated, it is a question of identification, when I ask somebody to go and look for it I must be able to say it is a lever arch file marked so and so but here it says EXHIBIT SS5, EXHIBIT SH and so on and so on, which are exhibits inside, that's fine, but so if I say EXHIBIT SS5 it is not 5 it's an exhibit inside but of course the important thing is not the file for admission, it is the contents but for identification it helps if one says on the spine this is the file.

I think we will just deal with each exhibit as it comes, maybe
10 we will find a way of sorting it out later, let us deal with them as they come, so we will admit each exhibit as need arises, and not everything at the beginning.

ADV VAS SONI SC: As it pleases. Mr Chairman I apologise, I came into a process which I was told operate in this way.

CHAIRPERSON: Yes, no, no that's fine.

ADV VAS SONI SC: And obviously it's not the case.

CHAIRPERSON: It's not the case yes.

ADV VAS SONI SC: Mr Chairperson I have also been told that the facility that existed at the previous venue exist here, in other words all
20 our mics can be on at the same time, that's what I have been told.

CHAIRPERSON: Well the way it is – my voice is when yours is on does not appear to be what one expects, but let's continue I am sure they will be doing what they may need to do, but I will put mine off while you are talking and while the witness is talking and when I put it on – I don't know whether it is the same, what is your feeling when I

speak with my mic on and mine being on and when yours is off, is it like the same. Ja, I think I see somebody else behind who corroborates you so maybe the problem is just me. Yes, okay if the technician say it is fine if all three are on at the same time ja, I am told that it is fine, okay we can keep them on then.

Okay, you may proceed. Switch it on.

ADV VAS SONI SC: Mr Holele where are you employed at the moment?

MR HOLELE: I am ...[intervenes]

10 **CHAIRPERSON:** Hang on, let's identify the statement first so that where it ...[indistinct – echo on recording] let him confirm that it is his statement and then you take it from there.

ADV VAS SONI SC: Yes. Mr Holele you have made a statement in relation to the evidence you are about to give today.

MR HOLELE: Yes.

ADV VAS SONI SC: Do you have the statement in front of you?

MR HOLELE: Yes I do Chair.

ADV VAS SONI SC: Now that statement is marked SS10, am I correct.

MR HOLELE: Yes sir.

20 **ADV VAS SONI SC:** EXHIBIT SS10.

MR HOLELE: Yes sir.

ADV VAS SONI SC: Now you have read the statement?

MR HOLELE: Yes sir.

CHAIRPERSON: Hang on, I must just get to it. Yes? Yes continue.

ADV VAS SONI SC: As it pleases. You confirm the correctness of what is contained in here sir?

MR HOLELE: Yes I do Chair.

ADV VAS SONI SC: Now I want to ask you where do you work at the moment?

MR HOLELE: I am the Acting CEO of Autopax, a wholly owned subsidiary of the Passenger Rail Agency of South Africa.

ADV VAS SONI SC: And in your previous positions in PRASA or any of its subsidiaries what positions did you hold?

10 **MR HOLELE:** Various roles Chairperson, I have been a General Manager in the Office of the Group CEO of PRASA.

ADV VAS SONI SC: Just at that point when you say the Group CEO whom are you talking about, the identity of the person?

MR HOLELE: Mr Lucky Montana.

CHAIRPERSON: Who?

MR HOLELE: Mr Lucky Montana.

CHAIRPERSON: Oh okay, thank you.

ADV VAS SONI SC: I think your voice is falling and I think like the Chairperson I was having difficulty. If you could closer to mic
20 ...[intervenes]

CHAIRPERSON: Yes, just try the best you can.

ADV VAS SONI SC: Yes.

MR HOLELE: General Manager in the Office of the Group CEO, Mr Lucky Montana. I have been ...[intervenes]

CHAIRPERSON: And ...[indistinct] as you – he is asking his questions

but you face me, I think that's going to help me to hear what you are saying.

MR HOLELE: Yes I will do that. And I have been General Manager for Corporate Affairs in PRASA at some point. I have been Group Chief Strategy Officer and I have also been a manager, an executive manager at Intersite Asset Investments which is another subsidiary of PRASA looking at the property and other related assets, and I have been then back again to Corporate Office as Group Executive in the Office of the Group CEO a few years ago, until recently and now I am Acting CEO at
10 the PRASA ...[indistinct – recording faulty]

CHAIRPERSON: I wonder whether you need to lower the mic, ja, I think maybe it might have a better chance of capturing what you say, okay.

ADV VAS SONI SC: Now Mr Holele in your statement from paragraph 5 to paragraph 7 you refer to an affidavit made by Ms Ngoye and an affidavit by Mr Dingiswayo.

MR HOLELE: Yes I do Chair.

ADV VAS SONI SC: I want to return to those matters in a little while, I want to start off though your evidence with what you say in regard to
20 the meeting that you, Mr Rakgoathe, and Mr Moodley had, are you aware of that?

MR HOLELE: Yes I am.

ADV VAS SONI SC: Let's start off when was that meeting held?

MR HOLELE: The meeting was held Chairperson in 2017 at the beginning of the year, I think it could have been around

February/March.

ADV VAS SONI SC: How did that meeting come about?

MR HOLELE: I was called by I think the MD, Managing Director of ...[indistinct]

ADV VAS SONI SC: Who was that?

MR HOLELE: Ms Nerishni Shunnugan and she asked for a meeting.

CHAIRPERSON: Maybe it would be good if we can give spellings for names that might not be familiar in terms of spelling for the transcribers. Yes, you can give it if you are able to.

10 **MR HOLELE:** Nerishni I think it is ...[intervenes]

ADV VAS SONI SC: N-e-r-i-s-h-n-e and Shunnugan is S-h-u-n-n-u-g-a-n.

CHAIRPERSON: Thank you.

MR HOLELE: Yes I was called by Ms Shunnugan, and she requested a meeting and because at that point now I was Chief Executive in the office of the Group CEO and she requested a meeting to ...[intervenes]

ADV VAS SONI SC: Sorry, but it is going to be important, at that time who was the Group CEO.

20 **MR HOLELE:** At that time Mr Linke Kajubede ...[indistinct] was the Acting Group CEO of ...[indistinct]

ADV VAS SONI SC: Does that mean that this is long after Mr Montana left?

MR HOLELE: Yes sir. And so Ms Shunnugan asked for a meeting and we discussed you know the issues relating, the issues between PRASA and Prodigy and I agreed to them.

ADV VAS SONI SC: Now just tell us who was Prodigy?

MR HOLELE: Prodigy was a service provider, providing training for employees on I think customer related services matters.

CHAIRPERSON: Can I find out whether the transcribers have no problem hearing what the witness is saying? I am just concerned that we go on for quite some time only to find out later that they are struggling.

ADV VAS SONI SC: Yes.

CHAIRPERSON: They can hear, okay, alright.

10 **ADV VAS SONI SC:** Alright, so let's get to the meeting now, you are called by Ms Shunnugan and you agree to the meeting?

MR HOLELE: Yes Advocate.

ADV VAS SONI SC: Did you go alone from PRASA side?

MR HOLELE: No I did not.

ADV VAS SONI SC: Who went with you?

MR HOLELE: I asked Mr colleague Mr Jacob Rakgoathe who is in the legal section to accompany me to the meeting.

ADV VAS SONI SC: Is there any particular reason you asked him to accompany you?

20 **MR HOLELE:** Yes Chairperson there is, because I knew that there was you know this dispute between PRASA and Prodigy I felt it prudent to just get somebody to accompany me to that meeting and given that I could get somebody from the legal section of the company.

CHAIRPERSON: Maybe just tell us what the issue was between PRASA and Prodigy.

MR HOLELE: If I recall Chair I think there were really two, the first was generally a dispute regarding the validity of the contract, but on this meeting it was about payment that Prodigy felt was due to Prodigy and PRASA was in dispute regarding that payment.

CHAIRPERSON: What was the payment which was the second issue, was the payment in relating to a different contract or in relation to the same contract, the validity of which was being challenged by PRASA?

MR HOLELE: It was in relation to the same contract Chairperson.

CHAIRPERSON: Okay.

10 **ADV VAS SONI SC:** Now you go to this meeting whom did you expect would be representing Prodigy at the meeting?

MR HOLELE: I expected Ms Nerishni Shunnugan to be representing Prodigy.

ADV VAS SONI SC: And where was the meeting to take place?

MR HOLELE: In the PRASA building and in the small boardroom of the Group CEO.

ADV VAS SONI SC: Was there any discussion about what the venue of the meeting should be?

20 **MR HOLELE:** Yes, Ms Shunnugan wanted the meeting to be outside of the PRASA building.

CHAIRPERSON: Outside PRASA?

MR HOLELE: Yes outside PRASA.

CHAIRPERSON: Okay.

ADV VAS SONI SC: Did she indicate why?

MR HOLELE: She said something to the effect that it was for my own

protection.

ADV VAS SONI SC: For your protection?

MR HOLELE: Yes.

ADV VAS SONI SC: Did you ...[intervenes]

CHAIRPERSON: I'm sorry, I'm sorry there was a minute or two when I could hear you very clearly, I don't know what has happened but otherwise there is some difficulty, just repeat why she wanted the meeting to be outside of PRASA?

MR HOLELE: She said for my own protection.

10 **CHAIRPERSON:** Oh your own protection.

MR HOLELE: Yes.

CHAIRPERSON: Okay.

ADV VAS SONI SC: What did you understand that to be?

MR HOLELE: It was bizarre, it was a bizarre statement Chair and I said no the meeting will take place in the PRASA building.

ADV VAS SONI SC: And why did you insist on the meeting being held at the PRASA building?

20 **MR HOLELE:** For the reasons that you know I have spelt out Chair that it is a sensitive matter, it is a matter in court, it is a matter in dispute and it just it would have been improper for me to have a formal meeting of the business on a matter like this outside of the business.

CHAIRPERSON: I wonder whether – you see I can hear you Mr Soni much better and I am struggling to hear the witness, I wonder whether if he is sitting elsewhere that would change, improve anything. Okay let's see how it goes and then if need be we could – maybe much

further because I can hear you well, but let's try again.

ADV VAS SONI SC: I must confess Mr Chair I am also having some difficulty with hearing ...[indistinct]

CHAIRPERSON: Okay, let's try and see after the intervention and see if there is any improvement.

ADV VAS SONI SC: Quite ironically she thought that if the meeting is held outside PRASA you would be protected, but you thought if the meeting was held at PRASA you would be protected.

MR HOLELE: Yes Chairperson.

10 **CHAIRPERSON:** Did you ask why she was saying you needed protection for this meeting?

MR HOLELE: No I did not. It5 was just enough reason for me ...[indistinct] that it be in the building.

CHAIRPERSON: Yes and have you had any dealings with her before?

MR HOLELE: Yes I had Chair.

CHAIRPERSON: Many dealings?

MR HOLELE: Not many no.

CHAIRPERSON: Ja.

20 **MR HOLELE:** I mean they were just about the building and with the programs owned ...[indistinct] and the program was introduced.

CHAIRPERSON: Yes, yes and previously she had never talked about you needing any protection?

MR HOLELE: No.

CHAIRPERSON: Okay. There is some improvement at least from my side.

ADV VAS SONI SC: In fact it is better from my side.

CHAIRPERSON: Yes, okay, let's see.

ADV VAS SONI SC: Now you go to this meeting expecting to see Ms Shunnugan?

MR HOLELE: Yes Chairperson.

ADV VAS SONI SC: Who appears at the meeting on behalf of Prodigy?

MR HOLELE: So Mr Rakgoathe and ...[indistinct] walk into the Boardroom and Ms Shunnugan was not there the person who was there
10 instead was Mr Roy Moodley.

ADV VAS SONI SC: Did you know Mr Roy Moodley?

MR HOLELE: Yes I do.

ADV VAS SONI SC: How did you come to know him?

MR HOLELE: I knew him through you know him being a service provider at PRASA and especially through the Prodigy work, he had been you know in the business, ...[indistinct] at the graduation function you know and the graduation.

ADV VAS SONI SC: I am just going to ask you this, in an affidavit that Mr Molefe made he says that people referred to Mr Moodley as the
20 owner of PRASA, I would just like you to comment on that?

MR HOLELE: Yes, I think generally he was known to be a very influential person.

CHAIRPERSON: He was known as an influential person.

MR HOLELE: Yes generally amongst senior people especially.

ADV VAS SONI SC: This is at PRASA.

MR HOLELE: Yes at PRASA, at PRASA, no at PRASA, yes.

CHAIRPERSON: Is that a view that you share that he was influential at PRASA?

MR HOLELE: Yes, I do Chair.

CHAIRPERSON: Why did you think he was influential at PRASA?

MR HOLELE: He was just you know through various contracts he would be there, he would be in the building, from time to time and just the manner in which he surrounded, he was known to be an influential person.

10 **CHAIRPERSON:** Yes. Well I want to get more details about that, did you – to your knowledge were there any decisions that were taken at PRASA which he influenced in any way?

MR HOLELE: I wouldn't have direct knowledge about that Chair, but I knew that through this contract, you know he was involved in it, in and around the contract, I knew that he at the security company and just the know the manner in which would interact with the business, very forceful.

CHAIRPERSON: (laughing) what was it, must employees wait around, what was he doing that made you think he was influential at PRASA, he
20 was only a service provider wasn't he?

MR HOLELE: Yes,

CHAIRPERSON: He was an outsider to PRASA?

MR HOLELE: Yes he was an outside to PRASA.

CHAIRPERSON: Yes.

MR HOLELE: You know the context at the time was such that ja he

would you know he would be in the building from time to time, and he ...[intervenes]

CHAIRPERSON: Did he claim to be the owner of PRASA?

MR HOLELE: No I ...[intervenes]

CHAIRPERSON: As far as you know.

MR HOLELE: No I have never heard him make such a claim.

CHAIRPERSON: Did he claim to be influential within PRASA, is it because maybe people heard him say he is influential, anything like that ...[intervenes]

10 **MR HOLELE:** Not directly to me no Chair.

CHAIRPERSON: Yes, yes. How often would he be around at PRASA more or less?

MR HOLELE: Well from time to time you would see him Chair, from time to time and like I said you know I saw him at a very you know I think the launch of the programme or the training and at the graduation function at ...[indistinct] Hotel, and ja, so he asked us in front area.

CHAIRPERSON: Was he ever or did he often, was he often at a function or based in PRASA where he was not supposed to be?

20 **MR HOLELE:** Well remember it is a public institution Chair, so it would be difficult to say no he is not supposed to be there.

CHAIRPERSON: Yes, but it might be a public institution but I can't just walk in there and sit in the boardroom.

MR HOLELE: No, no, not in the regards but he will be having meetings, which is normal in that regard as a service provider so that would be normal but I am saying that's how you come to you know oh

you see him at the graduation function.

CHAIRPERSON: Yes, okay.

ADV VAS SONI SC: If I could just ask for a summation of things, compared to other service providers was he more prominent.

MR HOLELE: Oh yes, much more prominent.

ADV VAS SONI SC: Yes, and was there anybody else who was as prominent as he was?

MR HOLELE: No I can't recall.

CHAIRPERSON: But when you say he was prominent are you simply
10 talking about his frequent presence at PRASA?

MR HOLELE: Yes, his presence there.

CHAIRPERSON: *Ja.*

MR HOLELE: And not you know like I said presence in the symbolism of power you know ...[indistinct]. You know at the graduation he would be also there in front, you know, You notice him you know it is that kind of symbolism of authority.

CHAIRPERSON: I am trying to understand because you're saying as far as you know he didn't claim to be influential generally speaking I guess.

20 **MR HOLELE:** But not directly to me.

CHAIRPERSON: Not directly to you?

MR HOLELE: Yes, but you thought that other people not as understanding that he was influential and ...[indistinct] in a way he was the owner of PRASA. I was trying to understand how people came to give him those labels.

ADV VAS SONI SC:

MR HOLELE: Because like said Chair because of the manner he carried himself and I mean the meeting that we speak about ...[indistinct – audio faulty]

CHAIRPERSON: Ja, ja.

MR HOLELE: But that which I then also come know.

CHAIRPERSON: Ye, okay, Mr Sonic

ADV VAS SONI SC: In fact it is the very first time in this meeting that he formally tells you about the power he holds.

10 **MR HOLELE:** Yes.

CHAIRPERSON: But let's have that come from you. Tell us about that meeting, you were expecting somebody ...[intervenes]

ADV VAS SONI SC: Yes.

CHAIRPERSON: ...and he was there and what happened.

MR HOLELE: So I was expecting Ms Nerishni Shunnugan, I entered the meeting with Mr Jacob Rakgoathe and we walked into the boardroom and Ms Shunnugan wasn't there and Mr Moodley was seated, present in there.

CHAIRPERSON: At that time did you know Mr Moodley to be
20 associated in any way with Prodigy?

MR HOLELE: Yes I did.

CHAIRPERSON: Had he had a position at Prodigy?

MR HOLELE: I didn't really know at that time what his position was.

CHAIRPERSON: Yes.

MR HOLELE: But he was associated with Prodigy.

CHAIRPERSON: When you saw him there did you immediately think he would be the person representing Prodigy by virtue of what of the association you thought he had with Prodigy.

MR HOLELE: Yes Chair, yes, I knew that but I was still shocked that Ms Shunnugan was not there.

CHAIRPERSON: Yes. Ms Shunnugan.

MR HOLELE: Shunnugan, ja.

CHAIRPERSON: Had she told who was going to represent Prodigy at the meeting?

10 **MR HOLELE:** No it was meant to be a meeting between PRASA and her.

CHAIRPERSON: Yes, ja.

MR HOLELE: She did not tell us that she was not ...[intervenes]

CHAIRPERSON: What was her position at Prodigy?

MR HOLELE: I think she was managing director.

CHAIRPERSON: Yes, okay and as far as Mr Moodley was concerned you didn't know whether he had a formal position at Prodigy or not?

MR HOLELE: No I didn't know Chair.

CHAIRPERSON: But you knew he had an association with Prodigy.

20 **MR HOLELE:** Yes, yes.

CHAIRPERSON: Okay, and then the meeting started, did you ask about why the MD wasn't there?

MR HOLELE: Yes I did actually, I remember I did ask where Nerishni is and he said no she is in another meeting somewhere.

CHAIRPERSON: Just repeat that.

MR HOLELE: He said she is in another meeting somewhere else.

CHAIRPERSON: Oh, okay.

MR HOLELE: So he is representing Prodigal.

CHAIRPERSON: Yes, tell us about the context of the discussion at the meeting.

MR HOLELE: So we exchanged pleasantries Chairperson, morning, morning sir, you know how are you and I think at least I was taken aback so you know I needed to compose myself a bit and we exchanged pleasantries and then we said yes we are here and he said well guys
10 you know that PRASA owes us money and you know I have come to request that you make the payments that are due to Prodigy. Did you ...[intervenes]

CHAIRPERSON: At that stage how much were they claiming was due to them from PRASA.

MR HOLELE: I think it was about R24million or so, ...[indistinct]

CHAIRPERSON: Okay, so he said that.

ADV VAS SONI SC: Did he mention a figure at the meeting?

MR HOLELE: Yes, he would have mentioned the figure I think, ja.

AUDIO ENDS – NO ADJOURNMENT

20 **CHAIRPERSON:** We are now back. Looks like there might be challenges with the technicians but they are being attended to and we are grateful that arrangements have been made for us to be able to continue. Yes, thank you Mr Soni.

ADV VAS SONI SC: Thank you so much. Mr Holele you were now telling us what happened at the meeting with between you and

Mr Mkwewe and Mr Audrey.

MR HOLELE: Yes, Chairperson so as I have said you know we greeted and eventually got to the purpose of the meeting and Mr Moodley said he was here to resolve the matter of the payment that is due to Prodigy, more or less about 24 million rand and ja it needed to be done. PRASA needed to pay.

ADV VAS SONI SC: And what is your what was your attitude to the stance that there is legal dispute that you must pay.

MR HOLELE: So we made it clear, I started and told him that, but
10 Mr Moodley we are in court. PRASA and Prodigy are in court regarding this matter regarding this matter and regarding the validity of the contract and as we know the court process is underway, and at that point I signalled to Mr. Rampathi, you know who is legally trained to take over that conversation.

ADV VAS SONI SC: And what did he say?

MR HOLELE: No, Mr Rampathi then affirmed it in legal language that look if – if you are so insistent, your lawyers must speak to our lawyers to explore if you, because clearly it looks like you are looking for some settlement. Your lawyers must be in touch with of our lawyers for the two
20 parties then you know to explore the matter further.

ADV VAS SONI SC: And on whom was the initiative to do those exploratory processes?

MR HOLELE: Well we, it was then from us because Mr Moodley was insisting on payment. It was said in court, so Mr Rampathi then affirmed that the only other make way if this thing would relooked differently as if

we were to put forward some settlement proposal but in a legal fashion.

ADV VAS SONI SC: So, it was up to now Prodigy and Mr Moodley to make that bow.

MR HOLELE: Yes.

CHAIRPERSON: So, I am sorry. So, Mr Moodley said he was there to resolve the issue of payment, is that right?

MR HOLELE: Yes.

CHAIRPERSON: But was he negotiating, no compromise, or was he demanding that the whole amount that they believed was due to them be
10 paid?

MR HOLELE: No, he was demanding the whole amount to be paid.

CHAIRPERSON: Yes. Okay. Your – your – your microphone.

ADV VAS SONI SC: What was Mr. Moodley's reaction to your assertion or Mr Mkwewe's assertion that, well to get your lawyers to make a proposal to our lawyers?

MR HOLELE: It was like we had not said anything before, Chair, disregarded what was said and he kept on accepting the demand for the payment.

ADV VAS SONI SC: And how did you respond to that continued demand
20 for payment? When I say you, I am talking about you and Mr Rampathi.

MR HOLELE: We kept on insisting that we are in court. Any other matter would have to be a proposal from his lawyers to our lawyers.

ADV VAS SONI SC: And was it getting into a heated meeting, or was it friendly, cordial?

MR HOLELE: Very calm. Very – very calm but both parties resolving

their position.

ADV VAS SONI SC: Eventually [intervenes].

CHAIRPERSON: Sounds like it was not negotiations it was you pay no we will not pay, you pay no we will not pay, is that right?

MR HOLELE: I think that would have taken about fifteen minutes of that to and fro.

CHAIRPERSON: That to and froing.

MR HOLELE: Yes.

ADV VAS SONI SC: And anybody – was anybody's temper then raised
10 as a result of these resolutions sessions.

MR HOLELE: No, the – the temper was no temper was raised. But a firmness came up.

CHAIRPERSON: A what came up?

MR HOLELE: A firmness.

CHAIRPERSON: Oh, yes. Okay.

ADV VAS SONI SC: And how what happened next then of any significance?

MR HOLELE: Mr Moodley in a very stern voice looked at us and told us that look guys as you know, no not as you know, let me know that I am
20 one of the top fifteen decision makers in this country and you may have known or you may have heard, you may have seen, you may have read big changes are coming. You better be on the right side of those changes.

ADV VAS SONI SC: Now when he talked about big changes did, he mention anything about what to make his nature of those changes would

be?

MR HOLELE: No, he did not Chair. But then it was clear that he was talking governmental changes.

CHAIRPERSON: By the way when was this meeting?

MR HOLELE: February, March 2017.

CHAIRPERSON: February, March 2017.

MR HOLELE: 2017.

CHAIRPERSON: Okay.

ADV VAS SONI SC: Now in your affidavit you say that he mentioned
10 and impending cabinet reshuffle.

MR HOLELE: Yes.

ADV VAS SONI SC: Is that what you have said?

MR HOLELE: Yes. He said in Government. It was essentially saying to us that you would have read that, and you would have heard that big changes are coming in Government.

ADV VAS SONI SC: So, you said that he would have said or did he say that?

MR HOLELE: He said that.

ADV VAS SONI SC: Ja.

20 **MR HOLELE:** And – and – and he went further to say you know that at the top – the top of the country.

ADV VAS SONI SC: Of the whole country.

CHAIRPERSON: Maybe before you proceed when he said big changes are coming, you say in your understanding was that he was talking about changes in Government or did he say that himself?

MR HOLELE: He said changes in Government at the top.

CHAIRPERSON: At the top.

MR HOLELE: Yes, and we understood that very clearly.

CHAIRPERSON: And what was your understanding to what that was?

MR HOLELE: To me at the cabinet level.

CHAIRPERSON: At the cabinet level.

MR HOLELE: Yes.

CHAIRPERSON: But he did not mention the cabinet himself or did he also mention it?

10 **MR HOLELE:** No, he said – he said at the top in Government.

CHAIRPERSON: The top. Ja. Okay, in Government. Okay. Did you ask him any questions to get more details about these changes?

MR HOLELE: No, Chair. We were just sitting there.

CHAIRPERSON: Yes, you were surprised.

MR HOLELE: Ja, we were surprised.

CHAIRPERSON: Ja. Okay.

ADV VAS SONI SC: Now well this following up from what this is based on. When he said he is one of the fifteen top decisionmakers in the country. How did you react to this?

20 **MR HOLELE:** We reacted to it, Chair [intervenes].

ADV VAS SONI SC: Let us – let us talk about you.

MR HOLELE: Look we just kept quiet. We just listened.

ADV VAS SONI SC: What was your internal reaction?

MR HOLELE: Well, it was – it was fear.

ADV VAS SONI SC: Fear?

MR HOLELE: Yes.

ADV VAS SONI SC: Did you believe him?

MR HOLELE: Yes.

CHAIRPERSON: Did you say you believed him?

MR HOLELE: Yes, I did.

CHAIRPERSON: Why did you believe him?

MR HOLELE: As I said earlier Chair because of you know the posture that was taken because of the talk of how important he is and now here he was – he was just confirming all of that – that knowledge.

10 **CHAIRPERSON:** Okay. He said that big changes are going to be happening in, at the top of Government.

MR HOLELE: Yes.

CHAIRPERSON: And what else did he say?

MR HOLELE: And then he said, and you must be on the right side of those changes.

CHAIRPERSON: Oh, okay. And what did you understand that to mean?

MR HOLELE: Well I understood it to mean whatever the changes at the top of us we do not want to be on the wrong side of whoever may come in.

20 **CHAIRPERSON:** Yes.

MR HOLELE: To be in charge.

CHAIRPERSON: Yes.

MR HOLELE: And in this case at Ministerial level.

CHAIRPERSON: At this stage who was the Minister of Transport?

MR HOLELE: It was Minister Dipuo Peters.

CHAIRPERSON: Yes. Yes, thank you.

ADV VAS SONI SC: And this was early March 2017 it was the beginning of 2017.

CHAIRPERSON: I am sorry two thousand and?

ADV VAS SONI SC: 2017.

CHAIRPERSON: Yes 2017.

ADV VAS SONI SC: Can I ask you this, he talked about big changes in Government did he say anything about any possible changes that passed?

MR HOLELE: Yes, he did.

10 **ADV VAS SONI SC:** What did he say about it?

MR HOLELE: He basically said and then when those changes happen, and the young man will come back.

ADV VAS SONI SC: And what did you understand that to mean?

MR HOLELE: We understood it to mean Mr Montana would recur as group CEO.

CHAIRPERSON: Why did you associate his returns to the young man would come back to Mr Montana.

MR HOLELE: It was just the context, Chair. So basically, and remember me as an official when essentially those were threats that were
20 being made. And it means you know when he comes back you had better not entertain it and so and he did this, the young man will come back.

CHAIRPERSON: So, did he say when the big changes that you was talking about happened the young man would come back?

MR HOLELE: Yes.

CHAIRPERSON: And your understanding was that the changes he was

talking about included a change in terms of the Minister of Transport.

MR HOLELE: Yes.

CHAIRPERSON: Okay.

ADV VAS SONI SC: Now I just want to raise with you something, if you know that it is in the first week of March 2017, that Minister Dipuo Peters dismissed Mr Molefe's Board. Are you aware of that?

MR HOLELE: Yes, I am.

ADV VAS SONI SC: Did this meeting take place before that dismissal or after that?

10 **MR HOLELE:** This took place before that.

CHAIRPERSON: Now, when Mr Moodley said when big changes happen the young man would come back which you understood to be a reference to Mr Montana, what was your reaction to that?

MR HOLELE: Well, my reaction to impair like I said firstly was that in the conversation we kept quiet we did not say anything. We just listened to it. We just sat there.

CHAIRPERSON: What was your understanding as to Mr Montana's departure from PRASA. Was it your understanding that he had left of his own accord, he had resigned or was it, was the understanding that he had
20 left against his will or had been dismissed?

MR HOLELE: Firstly, factually Chair, my understanding was that he had left of his own accord, he had resigned. But, of course as an Executive I knew that there were conflict at that level of the Board and was monitored.

CHAIRPERSON: So when Mr Moodley said the young man will come

back when those big changes happen did that surprise you bear in mind that your understanding was that he had left of his own accord? Or not really or is it something that you did not take a reflect to think about?

MR HOLELE: It did not surprise me that he would say something like that.

CHAIRPERSON: And why did it not surprise you?

MR HOLELE: Like I said because of the posture or influence and power you know that he conducted himself with that we have come to know. So, he was basically saying like I have said we must be on the right side of
10 all of these things and yes so it did not surprise me.

CHAIRPERSON: Yes, do you know on which side he was going to be when that happened?

MR HOLELE: Say that again Chair.

CHAIRPERSON: Did you know on which side he was going to be when the big changes happened?

MR HOLELE: Which side Mr Moodley?

CHAIRPERSON: Mr Moodley. Did you know on which side he was going to be and whether it was the same side that he wanted you to be or different sides?

20 **MR HOLELE:** No, it was clear that I needed to be on his side and Mr Raphati were needed and continuing to refuse to pay for it meant that we are against that side.

CHAIRPERSON: Okay

ADV VAS SONI SC: Now you did not agree to pay Prodigy at that meeting, sir?

MR HOLELE: No, we did not.

ADV VAS SONI SC: Were you willing to then risk being on the wrong side of the changes that he had fore scheduled in that meeting?

MR HOLELE: Yes, I was.

ADV VAS SONI SC: And why is that so?

MR HOLELE: Because it was a simple matter and here is a legal dispute. The matter is in court. The papers are before court. We certainly had, would not have had the way forward given the fact the payment.

10 **ADV VAS SONI SC:** Now dealing with, were there any changes that came through after the meeting?

MR HOLELE: Yes, Chair.

ADV VAS SONI SC: What was that change?

MR HOLELE: Well as - as [intervenes].

CHAIRPERSON: I am sorry before that, how did your meeting with Mr Moodley end?

MR HOLELE: Was just that a dead end. A stalement.

CHAIRPERSON: Was a stalement.

20 **MR HOLELE:** Ja, just a stalement because we kept on going back and forth and we struggled to then find our conclusion to even look at things, like we have exhausted the effects of ...[intervenes].

CHAIRPERSON: Yes. Were there any arguments advanced by Mr Moodley to try and persuade you to pay or was it just a situation that he was just demanding that you pay and you were saying no there is, we are in court we won't pay now and there was no motivation, new

arguments that you had not heard or anything like that.

MR HOLELE: No, Chair, there was no new arguments.

CHAIRPERSON: And there was motivation why it would be a good thing for you to pay?

MR HOLELE: Yes, I mean he just insisted that you know the payment must be done. It was just this insistence.

CHAIRPERSON: Ja, but what I am asking was whether in support of that insistence he told you anything other than that what appeared to be a threat?

10 **MR HOLELE:** No. No.

CHAIRPERSON: Yes, okay.

ADV VAS SONI SC: In other words, it was simply a question of, I, Roy Moodley say to you pay therefore you must pay. Not because the money is due, not because your defence is forgery or what?

MR HOLELE: Yes, of course it was those kinds of, I mean the key one then, which is what they are arguing that PRASA owes them this amount of money. These invoices are due and payable. You know beyond that nothing – nothing more.

20 **CHAIRPERSON:** Well, I guess that from his point of view the money was due to to ...[intervenes].

MR HOLELE: It was due and pay for yes.

CHAIRPERSON: Ja.

ADV VAS SONI SC: Now in relation to the change that Mr Moodley had forecast at the meeting did anything happen to indicate that his forecast was correct?

MR HOLELE: Yes, Chairman, it happened.

ADV VAS SONI SC: What happened?

MR HOLELE: Indeed, a sharpening of Cabinet happened and Mr Dipuo Peters was removed as our Minister of Transport and Mr Joe Maswanganyi was appointed as Minister of Transport.

ADV VAS SONI SC: Right about how long after the meeting?

MR HOLELE: Like I say it was merely a couple of weeks towards the end of March.

ADV VAS SONI SC: And when that happened did it strike you that here
10 is a person who had already forecast?

MR HOLELE: Yes, it did.

CHAIRPERSON: You say a couple of weeks I am sure that the actual date can be found of the announcement of the change so that should be looked into but you are confident that few weeks?

MR HOLELE: Of course.

CHAIRPERSON: Just a few weeks.

MR HOLELE: Ja, just a couple of weeks back that is why I am saying a meeting would have happened between end February beginning March. Around February, March.

20 **CHAIRPERSON:** Yes. Yes. Okay. And you think the cabinet reshuffle was sometime in March also?

MR HOLELE: It was the end of March or something like that.

CHAIRPERSON: Okay. Okay.

ADV VAS SONI SC: Mr Chairman the witnesses Mr. Molefe and Mr Akhmed will tell us that it happened at the end of March.

CHAIRPERSON: It happened in March. Ja. Okay. Okay.

ADV VAS SONI SC: Now can I just ask you something slightly different and go back to the issues you raise in your affidavit, which I say I was going to refer you to. Now in relation to Prodigy to Mr Dingswayo's affidavit there is attached a document which I would like you to look at. It is BM(3).

CHAIRPERSON: GM(3).

ADV VAS SONI SC: Sorry MMD(3).

CHAIRPERSON: MMD(3).

10 **ADV VAS SONI SC:** Yes. It is an annexure to Mr Dingswayo's affidavit.

CHAIRPERSON: Did you say the annexure to Mr Dingswayo's affidavit?

ADV VAS SONI SC: And it appears at that the top end of page 43
Mr Chair.

CHAIRPERSON: There are dividers marked one up to eleven.

ADV VAS SONI SC: Yes Chair it is the one that is marked three.

CHAIRPERSON: And then there is, and the one that is marked three when I opened on it that is page 54. It is very much behind ...[intervenes].

20 **ADV VAS SONI SC:** No. It should be page 43. Sorry Mr Chair, maybe I did not find ...[intervenes].

CHAIRPERSON: Is it in the same bundle?

ADV VAS SONI SC: It is SS(8).

CHAIRPERSON: SS(8).

ADV VAS SONI SC: Yes.

CHAIRPERSON: And what is the annexure?

ADV VAS SONI SC: Annexure MMD(3).

CHAIRPERSON: Yes, I have got it.

ADV VAS SONI SC: Have you got that Mr Holele?

MR HOLELE: Yes, Chair.

ADV VAS SONI SC: What is that document?

MR HOLELE: The heading, the subject is Piloting of Centre of Excellence Model in Learnership Implementation.

CHAIRPERSON: I think just repeat that I do not know what was happening maybe you are little further from the microphone.

10 **MR HOLELE:** Yes.

CHAIRPERSON: Yes. Just repeat what it is.

MR HOLELE: Yes. The subject is Piloting of Centre of Excellence Model and Learnership Implementation.

ADV VAS SONI SC: And from which Firm is that document?

MR HOLELE: It is from Prodigy.

ADV VAS SONI SC: This is the same Prodigy we have been talking about?

MR HOLELE: Yes, Chair.

20 **ADV VAS SONI SC:** Now, we need not look at the whole document but you will see right at the top, sorry on the right hand corner there is handwriting, there is manuscript inscription on that document. Do you see that?

MR HOLELE: Yes, Chair.

ADV VAS SONI SC: And that is addressed to whom?

MR HOLELE: Tiro and Mpefo.

ADV VAS SONI SC: And who is Tiro?

MR HOLELE: It is myself.

ADV VAS SONI SC: Did you see this document at the time about the time it was sent to you?

MR HOLELE: Yes, Chair.

ADV VAS SONI SC: What does that document say?

MR HOLELE: If I recall I am not just going to, I am going to read

ADV VAS SONI SC: Yes. Yes. No – no - no sorry what does the inscription say?

10 **MR HOLELE:** The inscriptions should I read it ?

ADV VAS SONI SC: Yes. Yes.

MR HOLELE: It says,

“Tiro Mpefo the proposal from Prodigy is accepted. We should enter into a partnership with Prodigy Business I think it is Solutions Property Limited. We need a formal MOU at I think it is to that – to this effect please prepare a letter for my signature in accordance I cannot read this my signature.”

CHAIRPERSON: Receipt, is that not receipt and confirm?

20 **MR HOLELE:** The signature ...[intervenes].

CHAIRPERSON: Our acceptance of the proposal from Prodigy.

MR HOLELE: Yes, I just could not see that signature and receipt and ja. But that is what it says Chair.

CHAIRPERSON: Okay.

ADV VAS SONI SC: Now, there is a signature there. Whose signature

is that?

MR HOLELE: That is Mr Montana's signature.

ADV VAS SONI SC: And whose handwriting is that?

MR HOLELE: It is Mr Montana's handwriting.

CHAIRPERSON: There is a date appearing there, but the year does not appear. Six. What would be the year?

MR HOLELE: I think it would be 2010 Chair.

CHAIRPERSON: It was the same date as the date of the letter from Prodigy.

10 **MR HOLELE:** Ja. It looks like it. Yes, Chair.

CHAIRPERSON: The letter is addressed to Passenger Rail Agency of South Africa. Care of Mr Mpefo and Mr L Montana. Is that right?

MR HOLELE: Yes, Chair.

CHAIRPERSON: And it is from N Shamagun Director of Prodigy Business Services?

MR HOLELE: Yes.

ADV VAS SONI SC: Now, in essence what does this letter contain in respect of price?

20 **MR HOLELE:** I think if I recall the letter. The letter was proposing a partnership between Prodigy and PRASA and I think at the back of the proposal was that Prodigy had arranged, had managed to secure funding from I think the transport SICA and to be in partnership with PRASA for the funding of this of the learnership.

ADV VAS SONI SC: Now, Mr Montana's note would suggest that he was telling you to accept the proposal.

MR HOLELE: Yes, Chairperson.

ADV VAS SONI SC: Was this proposal then accepted? In other words, did you action it what he asked?

MR HOLELE: Yes, Chairperson

CHAIRPERSON: Well – well that sentence on the inscription says the proposal from Prodigy is accepted like he was accepting it and then he wanted certain things to be done to give effect to the acceptance to that sentence. Is that your understanding?

MR HOLELE: Yes, Chair

10 **ADV VAS SONI SC:** And as the Chairperson has pointed out that acceptance is made on the very same day that the proposal is date.

MR HOLELE: Yes Chair.

ADV VAS SONI SC: Now is that what gave birth to a series of Prodigy contracts? There will be evidence about that? I am just asking you to do the best of your knowledge.

MR HOLELE: Yes, Chair that is exactly what happened.

ADV VAS SONI SC: Chairperson I just want to point out that Mr Dingswayo will deal with that when he comes to this.

CHAIRPERSON: Yes, okay.

20 **ADV VAS SONI SC:** And of course, he will deal with the issues relating to the resistance to payments.

CHAIRPERSON: Okay.

ADV VAS SONI SC: Now, coming back to another matter you raised in your affidavit.

CHAIRPERSON: I see we are at one. But if we are not going to take

long we could try and finish with him so that after lunch we deal with the next witness. But it depends how long you think you will still be.

ADV VAS SONI SC: May I be guided by you. The thoughts I want refer the witness to is to where he says, "I can read the affidavit and I can confirm what is there. It would be unfair to both to you and the witness by saying why do you confirm it. I have to take into effect a few minutes but more importantly if you look at paragraph 7, and I want to deal with the manner in which Mr Montana dealt with Mr Holele.

CHAIRPERSON: But how much time do you need?

10 **ADV VAS SONI SC:** I would say at least twenty minutes.

CHAIRPERSON: Okay, no, I think if it is going to take twenty minutes let us take the lunch adjournment and then you can continue. We will take the lunch adjournment now and we will resume at 2 o'clock. We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes Mr Soni, let us proceed.

ADV VAS SONI SC: Mr Holele, you might remember we have finished now with the meeting in February and March ... (intervenes)

CHAIRPERSON: Just one moment Mr Soni. When the lights were off
20 there was a light that came there that helped with the lighting here. The technicians must try and see whether that light- it is that one right at the top cannot be used so that we have better lighting.

ADV VAS SONI SC: Yes.

CHAIRPERSON: Or even this side. I do not see Commission staff here. Maybe send an SMS through and then the technicians must just

see whether we can have another light that will give us better lighting in this area. Yes okay.

ADV VAS SONI SC: I am told it is being attended to.

Now Mr Holele can I now take you to paragraph 6 of your affidavit where you refer to the affidavit of Ms Ngoye and Mr Dingiswayo. Now Mr Dingiswayo's affidavit we have already dealt with because that was that ledger the Prodigy ledger you remember.

MR HOLELE: Yes Chair.

ADV VAS SONI SC: Okay. Now ... (intervenes)

10 **CHAIRPERSON:** I am sorry. Where do we go now?

ADV VAS SONI SC: At paragraph 6 of Mr Holele's affidavit, Chair.

CHAIRPERSON: Of Mr Molefe's affidavit?

ADV VAS SONI SC: No, Mr Molela ... (intervenes)

CHAIRPERSON: Mr Holele.

ADV VAS SONI SC: Mr Holele's affidavit, yes.

CHAIRPERSON: Okay. By the way, what page was that or under what divider was that?

ADV VAS SONI SC: Under SS10.

CHAIRPERSON: SS ... (intervenes)

20 **ADV VAS SONI SC:** 10.

CHAIRPERSON: N?

ADV VAS SONI SC: 10.

CHAIRPERSON: Ja okay. I think what you should do after this is to make sure that the dividers that are marked SS are more visible.

ADV VAS SONI SC: Yes.

CHAIRPERSON: They are overshadowed by the red dividers. SS10.

ADV VAS SONI SC: I am just devising a solution in my mind Mr Chairman and I think I know what I am going to do is ask that they be placed at the top of the document rather than on the side.

CHAIRPERSON: Mm.

ADV VAS SONI SC: Because on the side what you have is the Annexure numbers.

CHAIRPERSON: Yes.

ADV VAS SONI SC: And that is what is confusing.

10 **CHAIRPERSON:** Yeah.

ADV VAS SONI SC: But as soon as we finish with today, I would do ...
(intervenes)

CHAIRPERSON: Okay. What paragraph on Mr Holele's, 7?

ADV VAS SONI SC: Paragraph 6 Mr Chairperson.

CHAIRPERSON: Okay.

ADV VAS SONI SC: So, we have dealt with MR Dingiswayo's affidavit and you might remember Mr Holele, I referred you to that letter from Prodigy that Mr Montana asked you to act upon.

MR HOLELE: Yes Chair.

20 **ADV VAS SONI SC:** Right. Now I want to deal with the affidavit of Ms Ngoye. I find I think there are two references to you. Mr Chairperson, Ms Ngoye's affidavit is SS7. I have given your (indistinct) an indication of where I will be taking Mr Holele and obviously yourself Mr Chairperson.

CHAIRPERSON: Well let us admit it now that you are going to refer to it.

ADV VAS SONI SC: Yes.

CHAIRPERSON: The affidavit of Ms Onica Martha Ngoye and it is Annexure will be admitted and marked Exhibit as SS7.

ADV VAS SONI SC: As you please Mr Chairperson. Chairperson, may I just make this point so when you are considering matter you will know that in fact there are two affidavits by Ms Ngoye.

CHAIRPERSON: Oh yes.

10 **ADV VAS SONI SC:** This is the second one, the one made in February.

CHAIRPERSON: Yes.

ADV VAS SONI SC: She made one in September last year.

CHAIRPERSON: Yes.

ADV VAS SONI SC: I am going to come to that in a moment.

CHAIRPERSON: Yes.

ADV VAS SONI SC: But for now, I am dealing with the February 2020.

CHAIRPERSON: But they are all in the same file?

ADV VAS SONI SC: They are all in the same file.

CHAIRPERSON: Ja, okay, thank you.

20 **ADV VAS SONI SC:** Thank you. Mr Holele, can I ask you to then please turn to page 282 of that affidavit? There on the top right-hand corner in the red numbers.

CHAIRPERSON: You just have to keep on saying of Exhibit SS7, so they read out the transcript we will know which bundle we are talking about.

ADV VAS SONI SC: Yes. The SS7 page 242. Have you got it Mr Holele? Now you will see there in paragraph 16.4 Ms Ngoye says;

I was summoned to a meeting ... (intervenes)

CHAIRPERSON: I am sorry. Did you say page 242?

ADV VAS SONI SC: 282.

CHAIRPERSON: 282. Okay, thank you.

ADV VAS SONI SC: And it is paragraph 16.4

CHAIRPERSON: I have got it.

ADV VAS SONI SC: So, she says she was summoned to a meeting with
10 representatives of Strawberry Worx. Who is Strawberry Worx or who
was Strawberry Worx?

MR HOLELE: Strawberry Worx is an outdoor advertising company
Chairperson that had a contract to do PRASA's outdoor advertising
work. They will- the advertising right.

ADV VAS SONI SC: She says at this meeting was a Mr Maraj and Mr
Ashveer Dwarikapersadh and Mr Selvan Moodley. Do you know who Mr
Selvan Moodley is?

MR HOLELE: Yes, I do Chair.

ADV VAS SONI SC: Who is he?

20 **MR HOLELE:** He is the son of Mr Roy Moodley.

CHAIRPERSON: He is Mr Roy Moodley's son?

MR HOLELE: Yes.

CHAIRPERSON: Okay.

ADV VAS SONI SC: And was he associated with Strawberry Worx?

MR HOLELE: Yes, he was Chair.

ADV VAS SONI SC: Now to the best of your knowledge, was Mr Roy Moodley associated with Strawberry formerly?

MR HOLELE: No, I do not know. I know Selvan.

ADV VAS SONI SC: He says, one of the people at the- or Ms Ngoye says, one of the people who was at the meeting was you.

MR HOLELE: Yes Chair.

ADV VAS SONI SC: And you recall this meeting?

MR HOLELE: Yes, I do Chair.

ADV VAS SONI SC: Okay. So (indistinct) from point out- pointed out
10 that you were at the meeting, what she says and tell the Chairperson
whether you confirm what Ms Ngoye says in this affidavit because that
is what you have done in paragraph 8 of your affidavit.

MR HOLELE: It reads;

There I was given instructions by the representatives of
Strawberry Worx on how I ought to manage the advertising
portfolio and how I was expected to take instructions from
them.

ADV VAS SONI SC: Just hold on one minute. You were present at this
meeting?

20 **MR HOLELE:** Yes, I was Chair.

ADV VAS SONI SC: What was your reaction to that? But firstly, did
that happen?

MR HOLELE: Yes, it did.

ADV VAS SONI SC: What was your reaction to it?

MR HOLELE: It was quite shocking Chair but it was- this one was a really conflictual meeting.

ADV VAS SONI SC: Excuse me?

MR HOLELE: A very conflictual meeting. So, this was real tense and tough meeting.

CHAIRPERSON: Well maybe let us go back. How did you come to be in this meeting?

MR HOLELE: Because of my role Chairperson as you know Group Chief Strategy Officer I played- I would be involved in a whole range of
10 different issues that really went to the heart of PRASA strategy. So, the Advertising Portfolio in PRASA would be covered by under the secondary mandate as given by the Legal Succession Act. And the Legal Succession Act says that the assets that PRASA applies, it must exploit to generate revenue so the Advertising Portfolio was quite central to that.

So as Head of Strategy I would especially where there were difficulties I would generally- I would generally just be there.

CHAIRPERSON: Now Ms Ngoye says she was summoned to the meeting.

20 **MR HOLELE:** Yes.

CHAIRPERSON: Were you there because you had also been summoned or you were invited to the meeting and ... (intervenes)

MR HOLELE: No, I- this one I do not recall Chair. Chance are that Ms Ngoye herself would have invited me to this meeting.

CHAIRPERSON: Yes. Okay, but you were there ... (intervenes)

MR HOLELE: I was there.

CHAIRPERSON: From the time that she was there up to the time either the meeting ended ... (intervenes)

MR HOLELE: Yes.

CHAIRPERSON: Or when she left, you left with her.

MR HOLELE: Yes. Yes Chairperson.

CHAIRPERSON: Okay alright. You may continue.

ADV VAS SONI SC: And then what happened next according to Ms Ngoye?

10 **MR HOLELE:** I was even told that they have the power to remove the portfolio from Intersite and had intended to do so because I clearly did not know what I was doing.

ADV VAS SONI SC: Just hold on there for a- where was Ms Ngoye based at that time?

MR HOLELE: She was the CEO of Intersite Asset Investments Chairperson.

CHAIRPERSON: And what was this meeting about?

MR HOLELE: So, there was litigation between Prime Media and PRASA. Prime Media had taken PRASA to court for having- for the
20 award of the advertising contract.

ADV VAS SONI SC: Through Strawberry Worx?

MR HOLELE: Through Strawberry, no, through- I think the other company was Provantage. And Strawberry Worx was in partnership with Provantage or something like that. But they were all in- or these

were the new entities that were managing the advertising portfolio. Prime Media had lost out on that contract.

So, there was litigation between Prime Media taking PRASA to court. Now this meeting was about Strawberry Worx unhappiness with how Intersite was firstly managing the portfolio and how it was managing the litigation that was the purpose of this meeting.

CHAIRPERSON: Okay.

ADV VAS SONI SC: I am interested in the point of the litigation- well firstly they said that they had the power to remove the portfolio from
10 Intersite because Ms Ngoye did not know- allegedly did not know what she was doing. What was her response to it?

MR HOLELE: Ms Ngoye is a very feisty person.

CHAIRPERSON: Is a very?

MR HOLELE: Feisty person and she took it on and the meeting- she fought like a bull. It was just conflict. She took great exception to those assertions.

ADV VAS SONI SC: And what did she say there at the meeting?

CHAIRPERSON: One second. I think you may be standing too far from your mic.

20 **ADV VAS SONI SC**: I am sorry.

CHAIRPERSON: And before lunch there had been a lot of improvement that from the witness's side but there are challenges now again. It may be that it has got nothing to do with you, maybe somebody needs to do something to the mic.

ADV VAS SONI SC: I will just ... (intervenes)

CHAIRPERSON: Just try again, ja.

MR HOLELE: Well she took exception to this assertion and I- if I recall I think she said she does not take instructions from them. But she took exception as well from her- this professional credibility that here she was being told that she does not know what she was doing.

ADV VAS SONI SC: And that a client was going to tell PRASA how it should have- how it should oversee the clients work.

MR HOLELE: Yes, and she took great exception to that.

ADV VAS SONI SC: Then you say that the second issue was that
10 Strawberry Worx apparently was unhappy with the way PRASA was
handling the litigation. Now Ms Ngoye deals with that in paragraph
15.5. What happened in that regard?

MR HOLELE: I think the demand by Strawberry Worx was that the lawyers should be changed. The lawyers who were presenting PRASA in this litigation should be changed.

ADV VAS SONI SC: And who were the lawyers who were representing PRASA then?

MR HOLELE: It was Hogan Lovells.

ADV VAS SONI SC: Now then I think just dealing with that point ask
20 you to turn to the next page at paragraph 15.6.

MR HOLELE: Records.

ADV VAS SONI SC: Ngoye then describes what happened as a result of Strawberry's unhappiness. What does she say happen? If you look at halfway down that paragraph, "however in May or June 2013".

MR HOLELE: Should I read this?

ADV VAS SONI SC: Yes.

MR HOLELE: However, in May or June 2013 the portfolio was moved from Intersite to PRASA and Hogan Lovells were promptly removed from the brief by the special legal advisor in the office of the Group CEO Ms Melanie Naidoo and replaced with a different firm.

The last attorneys who handled the matter was Maraj Attorneys who incidentally happened to also be attorneys of record of Strawberry Worx.

ADV VAS SONI SC: Can I just ask you to go back to paragraph 15.4.

10 **CHAIRPERSON:** So just before that Mr Soni. So, the meeting that you were testifying about a few minutes ago included Strawberry Worx and Mr Selvan Moodley who you said is Mr Roy Moodley's son. Is that right?

MR HOLELE: Yes Chair.

CHAIRPERSON: And at that meeting these people including Mr Selvan Moodley were demanding that the law firm that PRASA was using at the time ... (intervenes)

MR HOLELE: Yes.

20 **CHAIRPERSON:** Should be fired and another firm should be appointed for PRASA. Is that right?

MR HOLELE: Yes Chair.

CHAIRPERSON: And Ms Ngoye resisted that.

MR HOLELE: Yes Chair.

CHAIRPERSON: But now when you read the 15.6, she says in June 2013 the portfolio was moved from Intersite which is where Ms Ngoye was in charge. Is that right?

MR HOLELE: Yes Chairperson.

CHAIRPERSON: To PRASA and then Hogan Lovells were removed as attorneys for PRASA. Is that right?

MR HOLELE: Yes, that is what she says.

CHAIRPERSON: And then in their place the Maraj Attorneys were appointed and they happen to be attorneys according to Ms Ngoye of
10 also of Strawberry Worx.

MR HOLELE: Yes Chair.

ADV VAS SONI SC: Now at 15.4 in the second line Ms Ngoye says that there was a Mr Maraj present. Is this same attorney that replaced Strawberry- I mean that replaced Hogan Lovells?

MR HOLELE: I imagine it would be. Chair, I cannot recall the characters but I imagine it would be him.

ADV VAS SONI SC: Anyways ... (intervenes)

CHAIRPERSON: Either it may or may not be depending.

ADV VAS SONI SC: Ms Ngoye will come and say.

20 **CHAIRPERSON:** Oh, she would testify to that. Okay.

ADV VAS SONI SC: Then can I ask you ... (intervenes)

CHAIRPERSON: But you- are you able to say that she will say it is the same attorney?

ADV VAS SONI SC: Yes.

CHAIRPERSON: Yes, okay.

ADV VAS SONI SC: And then can I ask you to turn to page 284 at paragraph 15.8? Oh sorry, can I ask you to turn to page 285 at paragraph 15.10? And then the enclosing sentences of that paragraph she talks about a meeting. It says she asked for a meeting with all the relevant parties relating to Mr Montana, Strawberry Worx and so on is present at the meeting where Ms Zinde, Ms Naidoo, Mr Holele, Mr Montana and myself. You see that?

MR HOLELE: Yes, I do.

ADV VAS SONI SC: You recall that meeting?

10 **MR HOLELE:** Yes, I do.

ADV VAS SONI SC: Okay. Now what happened at this meeting?

MR HOLELE: The- if I recall the matter was meant to be- the matter of this conflict was meant to be discussed and the meeting deteriorated very fast because Mr Montana asserted that Ms Ngoye and especially me should have followed his instructions to actually remove the advertising portfolio from Intersite. And that this problem would not have arisen if I followed that instruction.

And I actually if I recall the instruction was given when I was at some point Acting Group CEO and Mr Montana was away for one
20 thing or the other. And I was given this instruction through I think Strawberry Worx or through Ms Ngoye that this thing had come up and I need to remove the portfolio. I think Mr Montana actually called me and I did not because Intersite is a separate company. It has a board and I was simply Acting as Group CEO so we did not do it at the time. So, this reflects- this point that is made here by Ms Ngoye reflect that

detail that had we followed that instruction, we would not be sitting in this meeting with this problem.

ADV VAS SONI SC: And it indicated that he was unhappy- Mr Montana was unhappy that you and Ms Ngoye had not carried out his instruction.

MR HOLELE: Yes Chair.

ADV VAS SONI SC: Then I then ask you to look at paragraph 15.13 at page 268, it is on the following page.

CHAIRPERSON: 286.

ADV VAS SONI SC: 286 yes.

10 **CHAIRPERSON:** Ja.

ADV VAS SONI SC: It is paragraph 15.13 Mr Chairperson, yes.

Now as a result of all of this Ms Ngoye says that Mr Montana thereafter dismissed Mr- oh sorry, suspended Mr Martin Chauke.

MR HOLELE: Yes Chair.

ADV VAS SONI SC: And it was all over the fact that you and Ms Ngoye had not carried out his instructions.

MR HOLELE: Yes. The details regarding this is that at this meeting there was some misunderstanding on the part of Ms Naidoo of email communication between Mr Chauke who was the actual then Portfolio
20 Manager, highly experienced skilled advertising professional employed by PRASA.

Mr Chauke was communicating with the PRASA lawyers Hogan Lovell- I will not to call it details. He was communicating with the PRASA lawyers around strategy in this litigation. Ms Naidoo misunderstood whatever that communication was and informed Mr

Montana that Mr Chauke was actually strategizing with the lawyers of the opposition and he had gotten it wrong.

ADV VAS SONI SC: And he suspended Mr Chauke.

MR HOLELE: Yes. Mr Chauke had to be suspended that same evening.

ADV VAS SONI SC: But Mr Chauke had had nothing to do with defying his instructions.

MR HOLELE: Yes. But if he was being accused of working with the lawyers of the opposition, it was read in that context that he was part
10 of this defiance.

ADV VAS SONI SC: Now Ms Naidoo was his personal lawyer- I mean was the lawyer in Mr Montana's office at the time. Am I correct?

MR HOLELE: Yes Chairperson.

ADV VAS SONI SC: Now can I now ask you to keep on SS7 but turn to page 46? Chairperson this now is the first affidavit that Ms Ngoye admitted, the one from September 2019.

CHAIRPERSON: Okay. You say page 46?

ADV VAS SONI SC: Page 46, yes.

CHAIRPERSON: Yes okay.

20 **ADV VAS SONI SC:** Now if I could just ask you to look at the first full paragraph on page 46. Have you got it? 46 yes.

MR HOLELE: Okay.

ADV VAS SONI SC: Have you got it?

MR HOLELE: I have got it.

ADV VAS SONI SC: Ms Ngoye in her capacity as Legal Head Risk and Compliance decline to clear the letter the DBSA soon after this is issued and served, received this advice from the legal department Ngoye was put on special leave together with Tiro Holele an Executive responsible for Strategy in the office of the CEO. You recall this?

MR HOLELE: Yes.

ADV VAS SONI SC: Now this obviously happened after Mr Montana.

MR HOLELE: Yes Chairperson.

ADV VAS SONI SC: Okay. But I just want to point out that effectively
10 it looks like the same culture demands when a decision is resisted,
then the person is put on suspension or dismissed.

MR HOLELE: Yes Chair.

ADV VAS SONI SC: Let us just finalize your affidavit now Mr Holele. And in paragraph 7 of your affidavit you say you want to inform the Chairperson of three incidents involving yourself. And you put them out as 7.1, 7.2 then 7.3

MR HOLELE: Yes.

ADV VAS SONI SC: Now ... (intervenes)

CHAIRPERSON: Hang on one second.

20 **ADV VAS SONI SC:** Sorry, that is now SS10 page 2, Mr Holele's affidavit. Into the record SS10 Mr Holele and paragraph- page 2.

MR HOLELE: Yes.

ADV VAS SONI SC: So, you say that on a number of occasions there were verbal abuse from Mr Montana towards you.

MR HOLELE: Yes Chair.

ADV VAS SONI SC: Then you say that in 7.1 Mr Montana accused you of leaking information to the Public Protector.

MR HOLELE: Yes Chair.

ADV VAS SONI SC: Was this during the period when she was compiling a report which later emerged as the “Derailed” report?

MR HOLELE: Yes Chair.

ADV VAS SONI SC: And what did Mr Montana do based on those allegations?

MR HOLELE: Well I was as I say here just accused of this and I was
10 then demoted Chairperson and removed from the role of Group Chief
Strategy Officer and I was sent to Intersite.

ADV VAS SONI SC: Was any hearing held?

MR HOLELE: No nothing. No hearing, nothing.

CHAIRPERSON: What was the reason that was given to you for your demotion?

MR HOLELE: So, as we say Chair it was a culmination of a number of these problems. These relations becoming really difficult between me and my supervisor, Mr Montana ... (intervenes)

CHAIRPERSON: And you supervisor being?

20 **MR HOLELE:** Mr Montana.

CHAIRPERSON: Okay mm.

MR HOLELE: And I mean the Advertising Portfolio is one of them, it was a really big one that, “you know, I give you instructions and you second guess me.” And then it was the Public Protector issue because we were compiling responses to the Public Protector and Mr Montana

was very unhappy about our compilation. And then again then from there, “you have leaked information to the Public Protector”. So, it was a culmination of just bad relations at the workplace.

CHAIRPERSON: But those were the reasons for your demotion as well as you saw them?

MR HOLELE: Yes.

CHAIRPERSON: Did he tell you what the reason was?

MR HOLELE: This were all the allegations that he raised. We did have a meeting and in the- well before the actual demotion and in the formal
10 meeting he was, “you know look, things are no longer working okay between you and me. We must look at a different place for you.” Again, maybe as still as I was waiting, a week or two later I was then again told that, “It looks like you are going to be removed and primarily on this issue of the leaking of information to the Public Protector”.

ADV VAS SONI SC: And he specifically gave you that as the reason for your being ... (intervenes)

MR HOLELE: Ja.

ADV VAS SONI SC: Mr Chairman, may I on that point make this point
20 that when we get to the report of the Public Protector through Mr Molefe and Mr Ahmad, you will see that the Public Protector complains that there was no cooperation, documents were not provided, incomplete documents but furthermore we will give the details. But it is quite significant that Mr Holele because he is in some way cooperating with the Public Protector basis Mr Montana as well.

Chairman, subject to anything that you may want from this witness (indistinct).

CHAIRPERSON: Yes no, that is fine. You are done?

ADV VAS SONI SC: I am done.

CHAIRPERSON: You are done. Thank you Mr Holele.

MR HOLELE: Thank you.

CHAIRPERSON: If a need arises, we will ask you to come back but thank you very much. You are excused.

MR HOLELE: Thank you very much Chair.

10 **CHAIRPERSON**: Thank you. For the next witness I wonder whether there is a chance to change and let him sit much further maybe that we contribute to me hearing what they say clearly.

ADV VAS SONI SC: Yes. Perhaps he should sit here then.

CHAIRPERSON: Ja. Yes, because I can hear you quite well but I have been struggling. So maybe it is the distance, the further somebody is from the better maybe.

ADV VAS SONI SC: Yes.

CHAIRPERSON: But I do not know whether that is going to be easy and probably whether it will need any adjournment. But I see that the
20 mic that Mr Holele was using has a base. And I do not know whether that remove it will be taken to the end of the, where the witness will be or whether they would need another one. Maybe Mr Soni you can talk to the technicians to see whether we ... (intervenes)

ADV VAS SONI SC: Yes.

CHAIRPERSON: That they would need or should we adjourn for a short time? Ja, I think let us take a short adjournment to ... (intervenes)

ADV VAS SONI SC: I am sorry Chairperson.

CHAIRPERSON: Allow everything to be sorted out. We will take a 5 minutes adjournment.

ADV VAS SONI SC: 5 minutes.

CHAIRPERSON: We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

10 **CHAIRPERSON:** Yes Mr Soni, your mic is not on.

ADV VAS SONI SC: As you please. The next witness is going to be Mr Makwantala[?] Jacob Rakgoathe. His affidavit is ...[intervenes]

CHAIRPERSON: I thought that they were going to try something else, did the technician say it was not going to work?

ADV VAS SONI SC: It couldn't work because none of the others are active.

CHAIRPERSON: ...[Indistinct] or are active?

ADV VAS SONI SC: Yes.

CHAIRPERSON: And what needs to be done to make them active. I
20 think Reverend Stamela wants to tell you something, unless the technicians tell me that it won't make a difference.

ADV VAS SONI SC: For today they have suggested they have adjusted the mic and they will attend to this tomorrow because it needs an activation process done.

CHAIRPERSON: Oh which is not possible today.

ADV VAS SONI SC: It can't be done today.

CHAIRPERSON: ...[Indistinct – recording breaking up] but is this supposed to be better now.

ADV VAS SONI SC: That's what the technicians say.

CHAIRPERSON: Okay, alright let's see. Okay we can continue.

ADV VAS SONI SC: Fine, can the witness be sworn in.

CHAIRPERSON: Please administer the oath or affirmation.

REGISTRAR: Please state your full names for the record.

WITNESS: My name is ...[Indistinct] Jacob Rakgoathe.

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

WITNESS: No.

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

WITNESS: I do.

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

WITNESS: So help me God.

20 **JACOB RAKGOATHE:** (duly sworn, states)

CHAIRPERSON: Thank you, you may be seated. Yes Mr Soni?

ADV VAS SONI SC: As it pleases Mr Chairperson. Mr Rakgoathe in front of you is a document headed Affidavit, you recognise that document?

MR RAKGOATHE: I do sir.

CHAIRPERSON: Well first is the document not in the same bundle that we were using?

ADV VAS SONI SC: Yes.

CHAIRPERSON: I think[indistinct] state that for whoever is the transcribers they know we're still using the same bundle.

ADV VAS SONI SC: Yes, and is that document on the top right hand corner marked SS11?

MR RAKGOATHE: Correct.

CHAIRPERSON: The file – this witnesses' affidavit is on page – in the
10 same bundle that we were using earlier on in respect of Mr Kodela's
evidence that contains Exhibit SS7, SS8, SS9, SS10, SS11, SS12, yes
thank you.

ADV VAS SONI SC: Mr Chairman before I start dabbling [indistinct]
for Moodley and prodigy wish to place some stuff on record.

CHAIRPERSON: Oh – ja please come through, I thought we had done
that, oh that might involve somebody else?

ADV VAS SONI SC: That was the previous witness [indistinct].

CHAIRPERSON: No we don't have to get you to place yourself on
record for each one unless you – there is some additional person you
20 represent in regard to whom you didn't place yourself on record, if it's
the same people it's fine.

UNIDENTIFIED MALE: I will leave it with the same reservation as with
all the witnesses, thank you Judge.

CHAIRPERSON: Thank you.

ADV VAS SONI SC: Thank you Mr Chairman. Mr Rakgoathe have you read the affidavit in front of you?

MR RAKGOATHE: Yes I have.

ADV VAS SONI SC: The signature at the bottom of that affidavit is that your signature?

MR RAKGOATHE: It is indeed.

ADV VAS SONI SC: Do you confirm that...[intervenes].

CHAIRPERSON: Is that at the bottom of the second page of the affidavit?

10 **ADV VAS SONI SC:** That's correct.

CHAIRPERSON: Yes okay.

ADV VAS SONI SC: And do you confirm that what's contained in this affidavit is true and correct?

MR RAKGOATHE: That's correct Chair.

ADV VAS SONI SC: Now, you've heard the evidence of Mr Holele[indistinct] in February/March 2017 that was you, he and Mr Moodley were present.

MR RAKGOATHE: Correct.

20 **ADV VAS SONI SC:** Tell the Chairperson how it came about that you went to that meeting?

MR RAKGOATHE: Chair I was called by [indistinct – recording breaking up].

CHAIRPERSON: ...the witness who would testify on the same side would be listening in the room but – because the idea would be that his evidence must be based on his own memory but check him because

these proceedings are broadcast so even if somebody is not in the room, they may be watching and listening but it does [indistinct] one would have preferred that he was not listening to that evidence and then you ask him to give you his evidence as he recalls it without having listening – without having been in the room when the evidence was given but those are the challenges that come with technology and, ja. Okay your mic is not on again.

ADV VAS SONI SC: Sorry please accept that we did debate this and the very issue that you raised is if Mr Rakgoathe is sitting next door
10 he'd be able to have – but [indistinct] and I think you are right or submit you are right and that in future we must ensure a [indistinct] between who is the person giving evidence and the person who is [indistinct].

CHAIRPERSON: It's – as I say it's tricky but if somebody is known to be sitting here and listening to evidence of a witness that later on he or she is required to [indistinct] he or she is able to [indistinct – recording breaking up] evidence is not the same as that of somebody who might not have been in the room, so [indistinct] but as I say sometimes somebody's listening and they don't even know they'll end up being
20 called but they get called and that they give evidence but it's just that we need to be alive to these challenges [indistinct] what needs to be done.

ADV VAS SONI SC: Chairperson, may I just say that [indistinct – recording breaking up] to err on the side of [indistinct] rather than convenience that one could – and I think that is for me [indistinct].

CHAIRPERSON: Yes because of course [indistinct] be open to anybody who might want to challenge his evidence to say that what [indistinct] put on – can the Commission put on his evidence because he was sitting here, he heard everything that Mr Holele says, he then comes after Mr Holele and says, yes it's right but you are sitting here listening to everything.

ADV VAS SONI SC: I will go on Mr Chairman and we just – you have [indistinct].

CHAIRPERSON: Ja okay.

10 **ADV VAS SONI SC:** Now, you've heard the evidence of Mr Holele and as Chairperson has rightly pointed out to us [indistinct] but before you made your statement you had seen his statement?

MR RAKGOATHE: That's correct.

ADV VAS SONI SC: And you, in fact say that you confirm what he has said.

MR RAKGOATHE: That's correct Chair.

ADV VAS SONI SC: Now let's just get to the nub of your evidence [indistinct] we know this meeting happened, so tell us in your own words what happened at the meeting, in other words, how did you – we
20 know that Mr Holele invited you but where was the meeting held?

MR RAKGOATHE: The meeting was held...[intervenes].

CHAIRPERSON: Let's just make sure – is the meeting that Mr Holele said happened in March or February 2017, that's the meeting you're talking about?

MR RAKGOATHE: Correct, I can't remember the date specifically as

indicated by Mr Holele but certainly I remember the meeting that I was invited to by him. As I indicated Chair, I was sitting in my office and Mr Holele called me from the office and said, join me in a meeting. When I enquired what was the meeting about he said come, and I said, let me just go with a colleague and that meeting was in the section we call the Group CEO section, in one of the boardrooms and as I indicated I was not aware about the meeting or what the subject meeting was or who we were meeting for that matter and when I walked into the boardroom there was a gentleman sitting, I didn't know the name, I didn't know the person it was my first encounter with the gentleman. I remember he was introduced but I didn't take it to note because that was not part of the meeting so I didn't know [indistinct – recording breaking up] that particular meeting. We then sat down and enough of the discussion was that PRASA owes Prodigy a certain sum of money for the services rendered and Mr Moodley then indicated that he's surprised that [indistinct] why we're defending the matter for services that had been rendered. He did most of the talking and I then – when it came to my turn to speak in the meeting I then indicated to Mr Moodley that if you [indistinct] on making a proposal that he must make the proposal formally and that will be considered by PRASA attorneys so that the matter can be looked at. It was difficult to say with regards to his decision, his proposal or his demand for payment other than the fact that, that kind of process you need to process what you require from PRASA through a process that we indicate and then the process – I said to him that he must make a formal proposal to our lawyers so that

the matter – because the matter was in Court at that stage for that other proposal to be considered.

ADV VAS SONI SC: Before you carry on, can I just ask you this, was any figure mentioned, to the best of your knowledge?

MR RAKGOATHE: I can't remember the number there was a number that was mentioned in the meeting Chair.

ADV VAS SONI SC: And were you aware of the fact of the dispute and the nature of the dispute?

MR RAKGOATHE: I was on high level – I'm part of the Group Leader
10 Risk and Compliance, my role is compliance so we hold meetings regularly to discuss the workload that we have through the Group Risk Legal meeting. That matter was mentioned but I can't remember the nature and the substance of the meeting but it was one of the matters that was mentioned.

ADV VAS SONI SC: And when you [indistinct] rebuffed the demand, what was Mr Moodley's reaction?

MR RAKGOATHE: Well I suppose it was insisting – there was a stalemate but what I remember was that at the tail end of the meeting, they mentioned that he was fine with the top 15 or 17, I recall it to be
20 17 but I could be on advisement if 15 or 17 that was part of the decision maker and that decision making, involved appointments or looking at nominations for State owned enterprises he used and that when the decision – and that the young man – he did say that the young man may be coming and as a result we must be on the right side of the changes that are eminent.

ADV VAS SONI SC: Can I just get back to precisely what Mr Moodley said in relation to being one of the [indistinct – recording breaking up] and you say you can't remember if it was 15 or 17, did he mention one number or did he mention multiple numbers?

MR RAKGOATHE: He mentioned one number but I thought in my head that it was the 17 but it could have been the 15 Chair, I can't remember that precisely.

ADV VAS SONI SC: Now he either said, I am one of the top 15 decision makers in the country or he said I'm one of the top 17 decision
10 makers [indistinct] and decisions relating to what, that decision involves a nominations of State owned enterprises CEO as part of the decision making processes that were involved.

CHAIRPERSON: Hang on I'm sorry, you say he said he was one of the top – well 15 or 17, you can't remember which one but you think it's 17, you say decision makers, I just want to...[intervenes].

MR RAKGOATHE: He's a decision maker.

CHAIRPERSON: In the country or how [indistinct]?

MR RAKGOATHE: I don't know if in relation to the country but [indistinct] State owned enterprises [indistinct].

20 **CHAIRPERSON:** Was he saying he was one of the top 17 decision makers in relation to State owned enterprises?

MR RAKGOATHE: CEO's.

CHAIRPERSON: Sorry?

MR RAKGOATHE: CEO's.

CHAIRPERSON: Ja, CEO's.

MR RAKGOATHE: CEO's, Chief Executive Officer.

CHAIRPERSON: Okay no, let me just get that, he was saying he was one of the top 17 decision makers in relation to the appointment of CEO's of State enterprises?

MR RAKGOATHE: Correct.

ADV VAS SONI SC: And what did you understand by that, I mean, I know it's almost obvious but what did you understand by it?

MR RAKGOATHE: Chair I understood two things, that I didn't know the man or [indistinct] and I didn't know the extent of his power. So
10 when he mentioned that, at the back of my mind was, his probably informing us that we must understand that if the changes come, we might be on the right as indicated, we must be on the right side or maybe it may have been a ploy because the basis of our discussion was that he wanted payment to say, you dare not make payment, those are the kind of things that are running in my head.

ADV VAS SONI SC: Okay those are the two things that went in your mind at that time?

MR RAKGOATHE: That's correct.

ADV VAS SONI SC: Let me ask you, you had not met Mr Moodley
20 before this meeting?

MR RAKGOATHE: No I had not.

ADV VAS SONI SC: After the meeting did you become aware of Mr Moodley and his dealings with PRASA?

MR RAKGOATHE: I had become aware of it[indistinct] when I read the book by Jacques Pauw, the President's Keepers, that's when I then

formed a notion about the extent of his power at least as indicated in that book and that [indistinct] person that we spoke to and maybe has reached that [indistinct].

CHAIRPERSON: Ja, prior to this meeting, you say you had not met Mr Moodley?

MR RAKGOATHE: No I had not met Mr Moodley.

CHAIRPERSON: Had you heard of him?

MR RAKGOATHE: I've heard of him in the corridors but not in so many greater details.

10 **CHAIRPERSON:** Okay.

ADV VAS SONI SC: And what was the talk in the corridors. Mr Chairperson I'm aware of hearsay but I want it for a different context, just to say, that was the thinking.

CHAIRPERSON: Ja, what did you know about him that people may have been saying within PRASA about him.

MR RAKGOATHE: Certain [indistinct] to be – before I joined PRASA the compliance I had been working at Interside Asset Investment and I was in the CO's office, in Martha's office, there was a rumour that he was aligned to [indistinct].

20 **ADV VAS SONI SC:** So when you talk about Martha, you're talking about Ms Ngoye?

MR RAKGOATHE: That's correct.

ADV VAS SONI SC: This is the person that Holele talked about being at one of those meetings?

MR RAKGOATHE: That's correct.

ADV VAS SONI SC: Now, did you treat this as just a [indistinct] or did – after the meeting you asked Mr Holele, but who is this person to tell us about how we should operate?

MR RAKGOATHE: I did ask Mr Holele about the person and he said, no that is [indistinct] but obviously I didn't go to the great extent of saying what power does he have within PRASA but at some point, I think because of my experience as a lawyer it might be name dropping and maybe that extent of what he wanted to show off that he has got power within PRASA and that he's got power [indistinct] so that he can
10 make changes that we have [indistinct].

ADV VAS SONI SC: Hindsight sometimes throws greater light on what happened before. You, thereafter read Jacques Pauw's book, the President's Keepers.

MR RAKGOATHE: That's correct.

ADV VAS SONI SC: When you read the book, did you then go, in your own mind go back to this incident where Mr Moodley had told you what powers he supposedly had.

MR RAKGOATHE: It did really [indistinct] that might be the person that – that when he said he's got power that he probably might have the
20 power that he indicated he had.

ADV VAS SONI SC: After the meeting, immediately after, you didn't have any further dealings with Mr Moodley?

MR RAKGOATHE: Not at all.

ADV VAS SONI SC: [Indistinct].

MR RAKGOATHE: Not at all Chair.

ADV VAS SONI SC: And what happened to the dispute between Prodigy and PRASA, the one that Mr Moodley was demanding payment [indistinct]?

MR RAKGOATHE: I'm – although I'm [indistinct] but I didn't deal with the matter and I'm not too sure how far it is currently or where it ended, if it has.

ADV VAS SONI SC: Well evidence will be led by [indistinct] but you have no idea?

MR RAKGOATHE: No I don't have recollection of the end of that
10 matter Chair.

ADV VAS SONI SC: Now Mr Moodley said, I am one of the 15 or 17 people who appoint or nominate people to be appointed as CEO's of SOE.

MR RAKGOATHE: That's correct.

ADV VAS SONI SC: What else did he say in relation to PRASA itself?

MR RAKGOATHE: Other than the young man was coming back he then – I can't recall any other matter that he may have mentioned in the meeting.

ADV VAS SONI SC: Now when he said, the young man is coming
20 back, what did you understand him to mean by that?

MR RAKGOATHE: I understood Chair that, he was referencing obviously that – because the discussion was prefaced by one of the top 15/17 decision makers of SOE's and therefore reference would have been to – at that time PRASA didn't have a full time or permanent CEO and therefore the reference would have been to a CEO who had been

gone and come back and I could only relate it to Mr Montana who had left, although in 2015 and he intends [indistinct] that, that could be the person.

ADV VAS SONI SC: So that's what you understood?

MR RAKGOATHE: Correct.

ADV VAS SONI SC: Now he also said you need to be on the right side of [indistinct].

MR RAKGOATHE: That's correct.

ADV VAS SONI SC: Okay, what did you understand by that, that you
10 must be on the right side of the fence in relation to a decision you were going to make in regard to him?

MR RAKGOATHE: Chair as I indicated two things that [indistinct] you see that there's going to be some serious challenges to us at work because of the decision – well I call it no decision because he just indicated the correct process that he needed us to follow or having rebuffed by myself or Tiro but alternatively as I've said at that time of the meeting I thought, it might be a name dropping exercise so he's trying to nudge us to re-think or to re-think what he had proposed.

ADV VAS SONI SC: But if he was not name dropping then you
20 understood by resisting his demand or not acceding to his demand you were risking being on the wrong side, you reconciled yourself in that?

MR RAKGOATHE: Correct, I think, in hindsight, after reading the book, Jacques Pauw and then I realised he probably might have power, he probably then might have been that our careers at PRASA – my career at PRASA would have been [indistinct] but I hadn't been on the

backside of either Mr Montana or Mr Moodley to have experienced that and say, it's that, that's going to happen, that assumption certainly I couldn't make based on the reflection that I had a few years down the line when I read Jacques Pauw's book.

ADV VAS SONI SC: You say you were not on the wrong side of Mr Montana are you aware of people who were on the wrong side of Mr Montana?

MR RAKGOATHE: Correct.

ADV VAS SONI SC: And what happened to them?

10 **MR RAKGOATHE:** The allegation – well the reality that Mr Chauke experienced at PRASA, because he was a colleague that I worked with, although I was not involved intricately with his disciplinary, what was indicated in the corridors was it was an insistence that came from [indistinct] which was aligned with Mr Moodley as I indicated and then through Mr Montana that he then got suspended.

ADV VAS SONI SC: Are there any other people who suffered any disadvantage as a result of being on the wrong side of Mr Montana that you're aware of?

20 **MR RAKGOATHE:** I'll be speculating, other than corridor talk. The fate that Mr Holele suffered, I know he moved to PRASA but I can't tell you the detail about the reason and the reason he was suspended, it will be [indistinct – audio breaking up].

ADV VAS SONI SC: Those are the questions I have for this witness.

CHAIRPERSON: Thank you very much Mr Rakgoathe, did I pronounce it correctly?

MR RAKGOATHE: Rakgoathe, yes.

CHAIRPERSON: Thank you very much for coming to give your evidence, if we need you again I will ask you to come back but for now you are excused.

MR RAKGOATHE: Thanks.

CHAIRPERSON: Thank you.

ADV VAS SONI SC: Mr Chairman, as I indicated earlier this morning our next witness is going to be [indistinct – audio breaking up].

CHAIRPERSON: Yes, [indistinct] Mr Soni did somebody speak to the
10 technicians about – give us more light?

ADV VAS SONI SC: Mr Chairman we could not find any of the technicians here, we've escalated it [indistinct].

CHAIRPERSON: Somebody must just speak to somebody, the lighting is very poor really here in front.

ADV VAS SONI SC: I can tell you it has been escalated.

CHAIRPERSON: I don't know with this Government, escalating means when you get the answer on Friday because I mean, somebody must just talk to somebody, I would imagine nobody would have any objection to giving us more light. I don't know if it's something that
20 must go to committees or municipalities [laughter]. It was before lunch, in fact quite early when we started that I raised the issue.

ADV VAS SONI SC: Yes you did.

CHAIRPERSON: Yes, okay.

ADV VAS SONI SC: May the witness be sworn in?

CHAIRPERSON: Yes, please administer the oath, I think it was the oath last time, well affirmation if it has changed.

REGISTRAR: Please state your full names for the record.

WITNESS: My name is [inaudible – not speaking into mic]

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

WITNESS: [Inaudible].

REGISTRAR: Do you consider the oath to be binding on your conscious.

WITNESS: I do.

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

WITNESS: So help me God.

MR POPO SIMON MOLEFE: (duly sworn, states)

CHAIRPERSON: Welcome back Mr Molefe you're coming back for the second time and we appreciate it very much. When you were here, of course, it was about Transnet, this time it's about PRASA but we appreciate that you are back, thank you. Are you able to hear me well there Mr Molefe, are you able to hear me?

20 **MR MOLEFE:** I do Chairperson, I do hear.

CHAIRPERSON: Okay, alright.

ADV VAS SONI SC: Mr Molefe, you have an affidavit before you...[intervenes].

CHAIRPERSON: It looks like you are not comfortable there is that because of the microphone, perhaps it should be taken out or what, or

it can't be taken out will somebody assist him. I think somebody will come and assist you. You didn't look comfortable, oh the chair is too short, too low ja. Is there something that can be done to raise it or is there nothing that can be done?

MR MOLEFE: We'll just change the sitting position, the chairs.

CHAIRPERSON: Yes you look kind of squashed but are you comfortable?

MR MOLEFE: I will sit this way.

CHAIRPERSON: Ja as long as you are comfortable ja, okay alright,
10 thank you.

ADV VAS SONI SC: Mr Molefe you have an affidavit in front of you, am I correct?

MR MOLEFE: I do sir.

ADV VAS SONI SC: And on the top...[intervenes].

MR MOLEFE: May I request, before we proceed with that affidavit I make certain....[intervenes].

CHAIRPERSON: Some corrections?

MR MOLEFE: Some corrections because I've not had the opportunity to see it with counsel.

20 **CHAIRPERSON**: Oh is that so, okay.

MR MOLEFE: I just need the opportunity, we could...[intervenes].

CHAIRPERSON: Well we could do one of two things, we can take a five-minute adjournment for you to alert him to what you wish ...[intervenes].

MR MOLEFE: I think that might be better.

CHAIRPERSON: That might be better that way, ja let's take a five-minute adjournment, we adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Are we ready?

ADV VAS SONI SC: Yes.

CHAIRPERSON: Okay let us proceed.

ADV VAS SONI SC: Mr Chairperson may I quickly go through those?

They – it is only about five paragraphs and they deal with just
10 (indistinct) mainly.

CHAIRPERSON: The ...

ADV VAS SONI SC: Or would you like me to do that?

CHAIRPERSON: There are two ways in which we can do it. One is to point them out now.

ADV VAS SONI SC: Yes.

CHAIRPERSON: Another is to keep an eye on them and as and when he reaches a point where he talks about the part of the affidavit where the – the mistakes or errors are then we can deal with them.

ADV VAS SONI SC: Yes.

20 **CHAIRPERSON**: I am happy with either.

ADV VAS SONI SC: In view of the fact that some of the dates are quite crucial I am going to ask if we cannot – and it is not going to take more than about three minutes.

CHAIRPERSON: Ja okay. No that is fine. Of course it may be necessary to arrange for a supplementary affidavit.

ADV VAS SONI SC: Yes.

CHAIRPERSON: To correct it but for purposes of today the errors can be pointed out.

ADV VAS SONI SC: Yes.

CHAIRPERSON: Okay.

ADV VAS SONI SC: Mr Molefe you have raised with me a number of issues I just want to go through the ones that are worrying you. If you look at paragraph 1 we say...

CHAIRPERSON: Oh I am sorry. I may have intervened earlier before
10 the adjournment when you were still about to get into identify his affidavits that you confirm that it is his affidavits.

ADV VAS SONI SC: Yes.

CHAIRPERSON: So you want to do that first?

ADV VAS SONI SC: Yes. Mr Molefe you accept that your affidavit has been marked SS6? It is – you will see that on the top right hand corner.

MR MOLEFE: Yes I do.

ADV VAS SONI SC: Except for those corrections that we are going to go through now do you confirm that what is contained in this affidavit is
20 true and correct?

MR MOLEFE: I do Chairperson.

ADV VAS SONI SC: Alright let us just look at those matters that are of some concern to you. Firstly in paragraph 1 in the second line you say, during the period 1 August 2014 to – and you have got the 30 August 2017. What did you want to change in that?

MR MOLEFE: The correct date Chairperson is the 31 July 2017.

CHAIRPERSON: Is that in the place of ...

MR MOLEFE: So you substitute 30 – 31 July for 30 August.

CHAIRPERSON: Yes okay.

ADV VAS SONI SC: Now paragraphs 2 and 3 that you dealt with are grammatical mistakes and we can deal with them with a little later. May I go – because this worries you at paragraph 30?

MR MOLEFE: Yes.

ADV VAS SONI SC: In the last sentence of that paragraph you say, all
10 this continued until Mr Montana left office on the 31 March 2015. You want to change that there?

MR MOLEFE: Chairperson I want to substitute 15 July 2015 for 31 March 2015.

CHAIRPERSON: 15 July 2015 that is what it should be?

MR MOLEFE: Yes Chairperson.

CHAIRPERSON: Is that right? Well I can tell you that when I read this affidavit I saw this date I made a note – wrong date.

MR MOLEFE: That is why I wanted to correct it before.

CHAIRPERSON: Ja. Yes.

20 **ADV VAS SONI SC:** And then paragraph 50 Mr Molefe. On the 4th line you say, starting at the end of the third line. The Department of Transport later launched the multimillion rand Taxi Recapitalisation Programme what did you want to change?

CHAIRPERSON: I am sorry which paragraph?

ADV VAS SONI SC: Oh sorry. Paragraph 50 Mr Chairperson.

CHAIRPERSON: 15?

ADV VAS SONI SC: 50.

CHAIRPERSON: 50.

ADV VAS SONI SC: 50.

CHAIRPERSON: Okay.

MR MOLEFE: Line 4.

CHAIRPERSON: Okay. Thank you. Yes I have got it.

MR MOLEFE: So it should be multibillion rand instead of multimillion.

CHAIRPERSON: Thank you. Thank you.

10 **ADV VAS SONI SC:** Those are the essential changes.

CHAIRPERSON: Yes.

ADV VAS SONI SC: And we will – we will have a – Mr Chairperson.

CHAIRPERSON: The minor ones later.

ADV VAS SONI SC: Yes. I want to also say Mr Chairperson you will recall that when you look at the annexures some of the annexures have been removed from Mr Molefe's affidavit and put up under References and Legislation. That affidavit will deal with that.

CHAIRPERSON: Okay.

ADV VAS SONI SC: Alright so let us go there now Mr Molefe.

20 **MR MOLEFE:** Yes.

ADV VAS SONI SC: That this is not the first time you are coming to this commission. You have given evidence before in relation to State Capture in respect of Transnet am I correct?

MR MOLEFE: That is correct Chairperson.

ADV VAS SONI SC: Now I just at a level where people would

understand. The nature of the evidence you are going to be giving in this affidavit is that in substance different from the nature of the evidence. I am not talking about the detail. In other words about State Capture.

MR MOLEFE: Would you please repeat the question?

ADV VAS SONI SC: Yes. Okay perhaps – perhaps I could leave it. I am just trying to say that...

CHAIRPERSON: Or maybe what if we put it this way? If you look at the evidence you are going to give today with regard to PRASA and
10 having regard to the evidence you gave with regard to Transnet in the context of State Capture are there any common features that you are able to identify?

MR MOLEFE: There are certain common features.

CHAIRPERSON: Yes.

MR MOLEFE: And – which I would.

CHAIRPERSON: Which you will deal with.

MR MOLEFE: We will deliberate on as we go along.

CHAIRPERSON: Yes. Does that cover what you wanted to?

ADV VAS SONI SC: Indeed and I am (indistinct) with you Mr
20 Chairperson. But I just want to ask a follow up question today. Are there unique features or different features in PRASA and that too we can cover but I am just asking so that we know we should be alert to them?

MR MOLEFE: Well the unique features are to the extent of the – the individuals who feature and who are considered to behind the capture

of the state. But the modus operandi in both instances as in commonalities.

ADV VAS SONI SC: Now in paragraph 5 of your affidavit you set out why in your view your experiences at PRASA will assist the commission to better understand and make recommendations in respect to State Capture. Could you explain to the Chairperson what those particular features are?

MR MOLEFE: What the Chairperson the features really I – which I set out in my statement.

10 **CHAIRPERSON:** I am sorry Mr Molefe I am going to disturb you. Mr Soni I may be mistaken but maybe because we had some – there were some corrections to be made under paragraph 1 you thought that has been dealt with in terms of him saying when he became Chairperson of the Board and what his term was.

ADV VAS SONI SC: Yes.

CHAIRPERSON: Or has that been covered?

ADV VAS SONI SC: That has been covered Mr Chairperson.

CHAIRPERSON: Oh okay. Okay. Okay I am afraid you might have to ask the question again.

20 **ADV VAS SONI SC:** Yes

CHAIRPERSON: Because I have not intervened.

ADV VAS SONI SC: Not at all Mr Chairperson. Mr Molefe if you look at paragraph 5 of your affidavit and I just want to ask you to considered what you have said in paragraph 5 and set out for the Chairperson why your experiences at PRASA will assist this commission? You have set

it out in paragraph 5.

MR MOLEFE: Basically what I am saying Chairperson is that in all that to facilitate the capture which is fundamentally of PRASA but we do it in the context of State Capture that the modus operandi was firstly to capture people who hold positions of trust and responsibility and that was done by those at the heart of State Capture and they do so because there is individuals have the authority and influence in awarding tenders. These people who were made vulnerable by those who have the – the intent on capturing the organs of state in this
10 instance PRASA. But I also seek to show that individuals and institutions which were under obligation and duty to protect PRASA and those who were made vulnerable failed to fulfil that duty and as a result allowed the capture of PRASA to succeed and to benefit certain individuals and (indistinct) concerned. We will when we talk of institutions we will deal with those matters later on when we refer to Portfolio Committees, Parliament.

CHAIRPERSON: Yes.

MR MOLEFE: Even organs of state who have a duty to discharge constitutional mandate of dealing with the – the (indistinct).

20 **ADV VAS SONI SC:** And to your credit as is – as emerges from the – the court cases that are before the Chairperson you took on some of these institutions. You took on the Minister when she dissolved your board. You took on the HAWKS when they refused to make certain investigations.

MR MOLEFE: If you saw Chairperson that it is what we did – I did well

representing the board of directors, the board of control of Passenger Rail Agency of South Africa. Well firstly that you know the – we had gone into detailed investigation, laid before the HAWKS. Volumes of evidence in lever arch files. Even made available to them forensic capacity so that they could analyse instances of – of corruption and also be able to follow the funds of course and collaborate with other state institutions which had that responsibility. But of course it is now a matter of record that they refused to do their job. Secondly we as a board we – we rejected an attempt of abuse of office by the Executive Authority to muzzle the board and prevent it from doing what was right in discharging its fiduciary duties. And in this instance we will later deal with what the Minister did. The third aspect is what the Portfolio Committee whose responsibility is to assess the work of these all important state owned company objectively and to take together what the board of directors corrective measures which would strengthen the Passenger Rail Agency of South Africa and that of course it not happened and I – I wrote to the Speaker of Parliament on behalf of the board to ask for a public inquiry on maladministration in PRASA and of course their relationship between the Minister and the board of directors. Similarly I wrote to the Portfolio Committee on Transport again asking that that (indistinct) distract its responsibility in a far more dignified way and in a professional manner. All of that is detailed in I am sure Counsel will refer me to those documents. Counsel I might just go on and on.

CHAIRPERSON: Ja.

MR MOLEFE: I must allow you to lead me.

CHAIRPERSON: Well I was about to say maybe he should – Counsel should have allowed you to come at the right time to those issues because they are very important issues and I myself am very interested in your evidence with regard to those efforts that you have made and the question of lack of support that you talk about from quarters where you expected support and as you say failure to perform constitutional obligations by certain bodies. So – so.

ADV VAS SONI SC: Yes.

10 **CHAIRPERSON:** So when you come – when you come to that point I am – I will be very interested in those parts. Yes.

ADV VAS SONI SC: Mr Molefe just in order to understand the structure of the affidavit you do not deal with matters necessarily in a chronological order you deal with them in terms of different subjects. Am I correct?

MR MOLEFE: That is correct yes.

ADV VAS SONI SC: Among the subjects that you raise are the problems that PRASA – that the new board encountered after it was appointed in August 2014. Is that correct? I am just going through it
20 so we can deal with each one that we have a road map for whoever is listening as to what is coming next.

MR MOLEFE: That is correct Chairperson.

ADV VAS SONI SC: And then you again – you then deal with an attempt by Mr Moodley to capture you personally. It is all there I am just – I am just going through it.

MR MOLEFE: That is correct Chairperson.

ADV VAS SONI SC: And then you deal with the deterioration in the relationship between you and Mr Montana – well you and the board on one hand and Mr Montana on the other.

MR MOLEFE: That is correct Chairperson.

ADV VAS SONI SC: Then you also say that you found certain very worried features about the governance including some quite lucrative contracts that had been concluded just before our board took office.

MR MOLEFE: That is correct Chairperson.

10 **ADV VAS SONI SC:** And you detail them. Then you say after Mr Montana left the former President called you to a meeting where he was attempting to persuade you and the board to reinstate Mr Montana notwithstanding that he had handed in his resignation and the resignation had been accepted by the board?

MR MOLEFE: That is correct and by the way I need to also to state Counsel that ...

ADV VAS SONI SC: And you must please address the Chairperson (indistinct).

20 **MR MOLEFE:** Chairperson that in reality Mr Montana's contract was ending on the 31 March 2015. It is therefore a misnomer to even talk of him resigning but that is what he said to us.

CHAIRPERSON: Oh.

MR MOLEFE: Because he had actually requested that he be allowed to work with the board for another six months to assist the board in its search for a new Group CEO. And it is in that context therefore that we

allowed him to stay longer and we are talking about the 15 July.

CHAIRPERSON: Yes. Oh but that is important to note because when I was reading here I was just saying references to letter of resignation, resignation and acceptance of resignation. So that is what the letter said but his term was coming – his contract was coming to an end and there was no need to resign.

MR MOLEFE: That is correct Chairperson.

CHAIRPERSON: Yes. Okay.

MR MOLEFE: Ja save that he could of course (indistinct) what he said
10 was a commitment he made to serve an extra six months.

CHAIRPERSON: Yes.

MR MOLEFE: And that he wanted to use that six months to assist the board of directors.

CHAIRPERSON: Yes.

MR MOLEFE: The board of control in his search for a new CEO.

CHAIRPERSON: Yes.

MR MOLEFE: But of course in – in hindsight now after the investigations had happened it is now clear to me that he wanted the six months to continue covering up the corrupt activities that had taken
20 place under his watch.

CHAIRPERSON: Yes thank you.

ADV VAS SONI SC: Then you deal with the fact that you made several attempts and you have referred to them – take the HAWKS to court to get the – to take the Minister to court – to take – to reach out to the Speaker to have a proper investigation into matters concerning PRASA

and on each of those occasions you were spurned effectively?

MR MOLEFE: It is so.

ADV VAS SONI SC: And then finally you – you lament the fact that the board was allowed to effectively disintegrate because no new appointments were made and since your board has been dissolved effectively there has been no permanent board?

MR MOLEFE: That is correct Chairperson. And I think at that point it had become clear to me that I was now being considered as the main obstacle by the government and the Minister and in order to give this
10 individual who is an (indistinct) new to the board of its directors make the board not to have a quorum in which case then it could not validly make decisions.

ADV VAS SONI SC: Now during the course of your evidence Mr Molefe we will deal with two important issues was – important provisions. One is the provisions of the succession of South African Transport Services Act and then also the board charter because that tells you the division of power between the Minister and the board. But let us deal with them when they become relevant. Okay. And then...

CHAIRPERSON: Yes.

20 **ADV VAS SONI SC:** And then you then say that PRASA is a bit of an unusual state owned entity because it falls under the Minister of Transport as opposed to the Minister of Public Enterprises as do most of the other major state owned entities.

CHAIRPERSON: Hang on Mr Soni.

ADV VAS SONI SC: Oh sorry.

CHAIRPERSON: Are you starting to deal...

ADV VAS SONI SC: Paragraph...

CHAIRPERSON: To link it on the evidence and you finish outlining.

ADV VAS SONI SC: Yes.

CHAIRPERSON: The road map.

ADV VAS SONI SC: Yes sorry.

CHAIRPERSON: Okay alright. Okay that is where – which – I think you can ask the question again.

ADV VAS SONI SC: Yes. So with we dealt with paragraph 8 which
10 deals with the legislation that we will refer to and then in paragraph 9
you make the point that unlike other SOE's PRASA falls under the
general authority of the Minister of Transport. Why do you think that
that is an important issue to raise?

MR MOLEFE: The – I think (indistinct) on PRASA was not entity whose
fundamental objective Chairperson was to generate it was an entity that
was promoting public good and as a transport organisation I think
therefore it was for that reason that the government chose to place it
under the Ministry of Transport and those that had the potential to
generate growth in the economy and generate the kind of affects which
20 would augment the fiscus would then fall under Public Enterprises.
There are Chairperson others that fall under departments if you think of
Minerals and Mineral Resources and Energy. You would have the –
what used to be known as the Central Energy Funds and the strategic
(indistinct) as well as Petroleum Corporation of South Africa Petro SA
they would fall under the Minerals an Energy. You would singular

others falling for example under different departments. Amcor would fall under the Minister of Defence. The Armaments Corporation of South Africa.

ADV VAS SONI SC: Yes then you then make the point that the Accounting Authority of PRASA is the board.

MR MOLEFE: That is correct Chairperson.

ADV VAS SONI SC: Ja and we will deal with the legislation in terms of which the board is to be appointed at a later stage. I just want to set the scenario for as far as – because procurement is an important issue
10 you say that as the Accounting Authority the board had to involve itself in ensuring that there was – there were proper processes for the procurement of goods in terms of the PFMA.

MR MOLEFE: That is correct Chairperson.

ADV VAS SONI SC: And then you say it is...

CHAIRPERSON: Please try and get him to give evidence. Get him to give to me the one giving the evidence.

ADV VAS SONI SC: Yes. Now what are PRASA's main objects in business? If you look at paragraph 10 you deal with that issue.

MR MOLEFE: I have already said Chairperson the primary mandate of
20 PRASA is that of new moving commuters within to and from South Africa. Large numbers of workers who are critical for (indistinct) production in the business. But it also has a secondary mandate. The secondary mandate was that of – let me first say that moving those workers had to be done through the rail operations to a lesser extent the Oropex as the base subsidiary of PRASA. Then the secondary

mandate was to look at the assets that PRASA had and do what is normally in the business (**indistinct**) called sweating those assets. Generating revenue out of those assets – optimising it so that PRASA could generate its own income.

ADV VAS SONI SC: Those are the main aims or principle or the objects of PRASA?

MR MOLEFE: That is correct.

ADV VAS SONI SC: And you then say to the extent...

CHAIRPERSON: Maybe before that Mr Soni if you are able to maybe
10 you can just give me a picture in terms of subsidiaries of PRASA. You do not have to mention all of them if there are many. The – some of the – whether it has got subsidiaries and what I have heard Autopax – something about.

MR MOLEFE: Unfortunately Chairperson PRASA had only two subsidiaries.

CHAIRPERSON: Oh is that so?

MR MOLEFE: Intersite and Autopax.

CHAIRPERSON: Oh okay, okay.

MR MOLEFE: The boards of which had their own board of directors.

20 **CHAIRPERSON:** Yes. Okay. Thank you. Mr Soni I interrupted you.

ADV VAS SONI SC: No thank you Mr Chairman. Now they would each have their own board of control as opposed to PRASA's board of control.

MR MOLEFE: That is correct Chairperson.

ADV VAS SONI SC: So they enjoy their measure of independence

notwithstanding that they were subsidiaries of PRASA?

MR MOLEFE: It is so Chairperson but I need to state that when we got onto the board of control of PRASA it became immediately clear that that independence was affected by the fact that the Group CEO of PRASA was put as Chairperson of all of those subsidiaries. And our argument was that that did not (indistinct) well for good corporate governance. It cannot be in those subsidiaries and accounting himself when it comes to the main board.

ADV VAS SONI SC: When you say he was the Chairperson you talking
10 about the Chairperson of the board of Autopax and Intersite?

MR MOLEFE: That is correct.

ADV VAS SONI SC: But they had their own CEO's?

MR MOLEFE: They had their own CEO's Chair. They had their own boards and relevant statutory committees.

CHAIRPERSON: So it was quite – quite strange or interesting. So the Group CEO of PRASA would be the Group CEO of PRASA then there would be those two subsidiaries of PRASA and they would each have their own board and where they would also have their own CEO's but the Group CEO of PRASA would be the Chairperson of the board of
20 each of these subsidiaries and that board – the CEO of each – of each subsidiary would effectively report to the Group CEO of PRASA. Of course they report to the board but if you are Chairperson you have what is more interaction with the CEO than other members of the board?

MR MOLEFE: That is correct Chairperson. I need to hasten to say that

we stopped that kind of arrangement.

CHAIRPERSON: Yes.

MR MOLEFE: We felt that it was incorrect.

CHAIRPERSON: Yes.

MR MOLEFE: We even argued that directors in the main board should not sit on the board of the subsidiaries.

CHAIRPERSON: Yes.

MR MOLEFE: So that they needed to have their own independence.

CHAIRPERSON: Yes. Thank you.

10 **ADV VAS SONI SC:** And later in your affidavit in fact you point out that that decision was taken soon after Mr Montana's term of office came to an end although he continued. I am just going further to link it up with what you have just said now.

MR MOLEFE: It is correct. He was still there or – on the board serving what he said was six months which of course we did not allow to reach his finality.

CHAIRPERSON: The – the idea that the Group CEO of PRASA would be Chairperson of each of the boards of each of the two subsidiaries was that something that had occurred as you understood it when you
20 came in as a practical measure which was not provided for in any official document that that is how it shall – it would be? Or was there something in the articles of association or some other document that said the Chairperson of the board of this subsidiary would be the Group CEO of PRASA?

MR MOLEFE: My recollection Chairperson is that there was no legal

instrument that authorised the appointment of the Group CEO as Chairman of the subsidiaries.

CHAIRPERSON: Okay thank you.

ADV VAS SONI SC: And you then say at the end of paragraph 10 that the delivery was not there and may I just ask you what was the consequence of the failure of PRASA to fulfil its mandate?

MR MOLEFE: The consequences Chairperson of PRASA failing to fulfil its mandate was a huge one. It meant that the effective and efficient transport services necessary to ferry the workers to work and go was
10 impacted. The – we have lots of problems of failures in respect of (indistinct) system, poor maintenance of rail infrastructure. So it – it meant therefore that the commuters had no protection. Now the – I must say that further with this kind of failure the Civil Society Organisation (indistinct) to take upon themselves the decision to approach the (indistinct) PRASA to act in a manner that protected the rights of commuters and the public. As I understand Chairperson there will be detailed evidence led by other witnesses in this regard.

ADV VAS SONI SC: Well certainly Mr Achmat is going to give evidence about why they were effectively prompted to (indistinct). Chairperson I
20 am then going to go to the next section of the affidavit which is the early days at PRASA. I see it is four o'clock I do not what your view is about whether I should start – it is unlikely we will finish that section today.

CHAIRPERSON: We normally finish but we go beyond four o'clock when it is necessary to do so. Do you want to cover some section

before we adjourn or what is your attitude?

MR MOLEFE: I would like to – to take this – like to take a bit of time to consider how to condense this.

CHAIRPERSON: Yes okay.

ADV VAS SONI SC: Because although it is necessary background one can stick to certain facts.

CHAIRPERSON: Ja.

ADV VAS SONI SC: And I am wondering if I could take later this evening to do that.

10 **CHAIRPERSON:** Yes.

ADV VAS SONI SC: And sort of press ahead more quickly tomorrow morning.

CHAIRPERSON: So you would prefer that we adjourn now?

MR MOLEFE: We adjourn now on this.

CHAIRPERSON: Okay alright. I think then we should adjourn now and then start at ten tomorrow. We should be fine with starting at ten. We should be able to – do you contemplate that we will finish tomorrow with Mr Molefe's evidence or you think we might go beyond that?

ADV VAS SONI SC: We think it probably will spill over into Friday.

20 **CHAIRPERSON:** Ja okay. Okay, no that is fine. That is fine with you Mr Molefe?

MR MOLEFE: It is fine.

CHAIRPERSON: It is fine okay. Alright we will adjourn for the day now it is about one minute past four and we will resume tomorrow morning at ten o'clock.

ADV VAS SONI SC: As it pleases.

CHAIRPERSON: We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS TO 12 MARCH 2020