

COMMISSION OF INQUIRY INTO STATE CAPTURE
HELD AT
CITY OF JOHANNESBURG OLD COUNCIL CHAMBER
158 CIVIC BOULEVARD, BRAAMFONTEIN

19 AUGUST 2020

DAY 252



Gauteng Transcribers
Recording & Transcriptions

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TRANSCRIBERS:

B KLINE; Y KLIEM; V FAASEN; D STANIFORTH



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PROCEEDINGS RESUME ON 19 AUGUST 2020

CHAIRPERSON: Good morning Mr Pretorius, good morning everybody.

ADV PRETORIUS SC: Morning Chair.

CHAIRPERSON: Are we ready?

ADV PRETORIUS SC: Yes we are.

CHAIRPERSON: Okay. Please administer the oath again?

REGISTRAR: Please state your full names for the record.

MR SODI: Pheane Edwin Sodi.

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

MR SODI: No I do not.

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

MR SODI: 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.

20 **MR SODI:** So help me God.

REGISTRAR: Thank you.

CHAIRPERSON: Thank you.

ADV PRETORIUS SC: Thank you Chair.

CHAIRPERSON: Okay let us continue.

ADV PRETORIUS SC: Mr Sodi I would like for a short

while to go back to the position in Gauteng where your company Blackhead Consulting Pty Limited did work for the Gauteng government.

MR SODI: Okay.

ADV PRETORIUS SC: If you would look please at Free State 1 the bundle is behind you.

CHAIRPERSON: That is Bundles FS1.

ADV PRETORIUS SC: Yes. The spines have not been changed on all the bundles Chair.

10 **MR SODI**: Ja I have got it here.

CHAIRPERSON: Mr Pretorius I cannot hear you I do not know if it is the air conditioner noise. I think they will sort out the air conditioner noise. Just – you might have to raise your voice.

ADV PRETORIUS SC: Yes Chair. In fact, if we could ask that the air conditioner be switched off.

CHAIRPERSON: Ja I think they will do that. I think they will do that. I think you were saying something about the bundles behind him that is what I did not hear.

20 **ADV PRETORIUS SC**: Yes Chair it is not an important point but we will refer to FS1 at page 406, do you have that?

CHAIRPERSON: Did you say 406?

ADV PRETORIUS SC: Yes.

MR SODI: Yes.

CHAIRPERSON: And we are using the black numbers again, 406.

ADV PRETORIUS SC: FS1, 406. Do you have that in front of you?

MR SODI: I do.

ADV PRETORIUS SC: Mr Sodi that is what we have referred to in evidence previously as a service level agreement applicable to the appointment of a panel.

MR SODI: That is correct.

10 **ADV PRETORIUS SC:** So each member of the panel would have entered into a service level agreement of this nature?

MR SODI: That is correct Chair.

ADV PRETORIUS SC: This does not contain any contractual terms and conditions for example price or the nature of the work to be done?

MR SODI: That is correct Chair.

ADV PRETORIUS SC: As you have told us that is contained in an instruction to perform work IPW?

MR SODI: That is correct Chair.

20 **ADV PRETORIUS SC:** This agreement is its own terms appears to have expired after a duration of 36 months. It was a three-year service level agreement of FS1. We are looking at the black numbers in the top left-hand corner.

CHAIRPERSON: Mr Pretorius are we not supposed to give it its own exhibit number and admit as – it is not a

standalone document?

ADV PRETORIUS SC: Well up to now we have been ...

CHAIRPERSON: I think the arrangement was we would deal with them as and when you get to them – the different documents in terms of getting them admitted those that are standalone documents.

ADV PRETORIUS SC: DCJ the document that we are talking about is Annexure ES1 to Exhibit TT8 Mr Sodi's first affidavit.

10 **CHAIRPERSON:** Oh, it is an annexure to an affidavit?

ADV PRETORIUS SC: Yes Chair.

CHAIRPERSON: Okay then we do not have to give it a separate – okay no that is fine. You said we should go to 452?

ADV PRETORIUS SC: Yes Chair. The signature of this SLA was affected on the 14 September 2010, you recall that Mr Sodi you will see that on page 452 of FS1?

MR SODI: That is correct Chair.

20 **ADV PRETORIUS SC:** So it would – would have expired but for the extension three months after the 14 September 2010?

MR SODI: That is correct.

CHAIRPERSON: Three months or three years?

ADV PRETORIUS SC: Sorry three years?

CHAIRPERSON: Hm.

ADV PRETORIUS SC: Apologies Chair. 36 months. That as I understood your evidence was a service level agreement entered into by each service provider on a panel of between fifty and sixty service providers.

MR SODI: That is correct Chair.

ADV PRETORIUS SC: The agreement or let me put it another way. Let me deal with that now rather. That agreement was extended and if we look at FS8 159 you have just told the Chair that that agreement was extended
10 to the month of August 2014 you said late August 2014, is this the extension letter?

MR SODI: That is the extension letter Chair.

ADV PRETORIUS SC: It is addressed to you, attention Edwin Sodi of Blackhead Consulting. You see that?

MR SODI: I see that.

ADV PRETORIUS SC: And it is dated the 13 May 2014.

MR SODI: That is correct Chair.

ADV PRETORIUS SC: What happened between September 2013 when it would have expired and the date of this letter
20 the 13 May 2014?

MR SODI: This could have been the second extension Chair I would not recall but this probably – this letter probably refers to the second extension because it would have expired the previous year. So...

ADV PRETORIUS SC: Alright we have not seen that letter

nor have the investigators been able to obtain any further correspondence than that.

MR SODI: Ja I do not think I have got a letter either Chair but it should have been there.

CHAIRPERSON: Yes. Well the first paragraph of the letter suggests that there may have been a prior extension.

MR SODI: That is correct.

CHAIRPERSON: Because it says:

10 “This letter serves to advise Blackhead
 Consulting that the contract to provide
 professional resource teams services to the
 department is extended by five months from
 1 April 2014 to 31 August 2014.”

And – so it suggests that there may have been...

MR SODI: Ja.

CHAIRPERSON: A prior extension because otherwise they would extend it from September 2013?

MR SODI: That is correct Chair.

CHAIRPERSON: Ja.

20 **MR SODI**: I do recall that it was more than one extension definitely but I do not seem to have the first extension letter. This would be the second one.

CHAIRPERSON: Hm.

ADV PRETORIUS SC: It is signed by a Ms Margaret Ann Diedericks, who was she?

MR SODI: She was the acting Head of Department at the time.

ADV PRETORIUS SC: In Gauteng?

MR SODI: In Gauteng correct ja.

ADV PRETORIUS SC: And you would have been doing work for that department for a period of at least three to four years?

MR SODI: That is correct Chair.

ADV PRETORIUS SC: Do you recall receiving more than
10 one extension letter?

MR SODI: I recall that the extension was done more than once Chair.

ADV PRETORIUS SC: More than once.

MR SODI: But I do not seem to recall getting more than one letter.

ADV PRETORIUS SC: Did Ms Diedericks sign both letters or just one?

MR SODI: I am not sure Chair. She came in the department I think after the HOD then had resigned and
20 she came in – in an acting capacity. I cannot recall the exact dates on which she came in. So it is possible that she could have signed the first one or it could have been the previous HOD who resigned. I cannot recall those details unfortunately.

ADV PRETORIUS SC: Then if we could go please to FS8

at page 88.

MR SODI: Ja I am there Chair.

ADV PRETORIUS SC: This is a memorandum that has been dealt with in evidence which motivates the initiation of a plan to eradicate asbestos roofs in Gauteng. It is dated the 13 March 2014. You recall the initiation of that plan, you have spoken about it?

MR SODI: We have spoken about this ja.

ADV PRETORIUS SC: Yes.

10 **MR SODI**: I do recall this.

ADV PRETORIUS SC: And it is addressed to Margaret Ann Diedericks and it said she was and you knew her to be the acting Head of Department of the Gauteng Province Human Settlements, is that correct?

MR SODI: That is correct Chair.

ADV PRETORIUS SC: Now this document although it is a memorandum sets out certain terms and conditions including on page 91 of FS8 a rate of R650.00 per house.

MR SODI: That is correct.

20 **ADV PRETORIUS SC**: And attached to it – well first of all let us go to the recommendations in the memorandum.

CHAIRPERSON: I am sorry, I am sorry Mr Pretorius. Did you say the rate is at page 91? Oh yes I can see it. Okay. No you may continue.

ADV PRETORIUS SC: Do you have it Chair?

CHAIRPERSON: Ja.

ADV PRETORIUS SC: That is a fixed rate not subject to any variations. I think we have dealt with that.

MR SODI: Correct.

ADV PRETORIUS SC: And we have also dealt with the fact that at page 92 this memorandum recommended the appointment of eight professional resource teams.

MR SODI: That is correct.

ADV PRETORIUS SC: And appointment in terms of
10 attached Terms of Reference and those Terms of Reference appear at page 94 of FS8 and on page 98 there is a detailed scope of the work to be done. Do you see that?

MR SODI: I see that Chair.

ADV PRETORIUS SC: And we have dealt with some of that including the particular paragraph 5.1 on page 98 where the detail of this scope of work is set out in the Terms of Reference. Those would have been incorporated I presume in an instruction to perform work later issued to you.

20 **MR SODI:** That is correct ja.

ADV PRETORIUS SC: Including the price of R650.00?

MR SODI: Correct.

ADV PRETORIUS SC: And this provided for the appointment of eight service providers?

MR SODI: That is correct.

ADV PRETORIUS SC: Of which Blackhead Consulting Pty Limited was one?

MR SODI: That is correct.

ADV PRETORIUS SC: The income from the asbestos work that Blackhead Consulting did in Gauteng you told the investigators in an interview that the – the income was approximately R200 million, is that correct?

MR SODI: Well the – Chair we were appointed for – to audit approximately – I am speaking under correction in the
10 region of about 250 000 units. So the income would have been 250 000 multiplied by the R650.00. So that would have been the total – well the total value of the project would have been 250 000 multiplied by R650.00.

CHAIRPERSON: Ja I think – I think in terms of the transcript of the interview you – you put it in the region of R200 million if I am not mistaken or somewhere...

MR SODI: It could have been – ja.

CHAIRPERSON: Ja.

MR SODI: I mean – you know it could have been.

20 **CHAIRPERSON:** Ja.

ADV PRETORIUS SC: Well let us just go to what you said it is in FS6 at page 268.

MR SODI: Okay I am there Chair.

ADV PRETORIUS SC: Right. At FS6, 268 line 10 one of the investigators Mr Gerard Swanepoel asks a question, he

says:

“Okay so last question from my side around Gauteng now. How much money did you make on the Gauteng audit?”

And then Mr Edwin Sodi:

“I think it was about – ja it was about in the region of about R200 million.”

Mr Gerard Swanepoel.

10 “No, no, no that is the total how much did you?”

And then there is a – some exchange of words between you – polite words and you reply further down the page. Mr Edwin Sodi:

“Yes it was – I mean I can give you the exact figure but it was in the region of about R200 million.”

“So that was your profit”

Says Mr Swanepoel.

“No, no, no.”

20 Says Mr Sodi.

“It was the total.”

Right. And then over the page FS6, 269 in relation to the profit – perhaps we should go back to the question on page 268. Mr Swanepoel says to you:

“So that is my question. You got a total

amount paid by the department for the work. How much profit did you make?”

And over the page Mr Edwin Sodi:

“It would have been about 60% of that more or less 50 to 60% of that.”

And you say you were very happy with that. So the exchange here indicates that as far as you were aware certainly at the time of the interview you would have made at least R100 million in the Gauteng Asbestos Project?

10 **MR SODI:** Well give or take Chair. We were appointed for R650.00 per house and if I recall our cost for doing the work was between R300.00 and R350.00. The balance would have been profit.

ADV PRETORIUS SC: Right.

MR SODI: So that is – that is how I arrived at this.

ADV PRETORIUS SC: We have more precise figures later but for the – for the present just to establish that your profit would have been and I stress in the region of R100 million.

20 **CHAIRPERSON:** Well I am not sure it looks like much more than that.

MR SODI: No.

CHAIRPERSON: Because if he says the cost was about R300 000.

MR SODI: Average – so I am saying the – Chair that our

costs per house was in the region of between R300.00 and R350.00.

CHAIRPERSON: Oh R300.00 oh – not...

MR SODI: Yes. So if you minus the R350.00.

CHAIRPERSON: And that was the whole...

MR SODI: From the R600.00 you are left with R300.00. That would have been more or less our profit margin.

CHAIRPERSON: Yes but ...

MR SODI: Per house.

10 **CHAIRPERSON:** But looking at how many houses you were to do if you were...

MR SODI: Then yes.

CHAIRPERSON: If you were – if you – if your cost per house was about R300.00 then for the – for all the houses then would you not be looking at more or less 300 000 in terms of total costs? Were the houses not about R300.00 or were they R200.00 and something?

MR SODI: No, no it was not – it was like that.

CHAIRPERSON: R300 000.00 was Free State.

20 **MR SODI:** That is correct ja.

CHAIRPERSON: Gauteng was what? R200.00 and something?

MR SODI: It was between – ja it was about R250 – R250 000.00.

CHAIRPERSON: Yes.

MR SODI: Ja.

CHAIRPERSON: But actually, if they were less than 300 then that increases your profit compared to if they were 300 000?

MR SODI: No it – no it does not because your profit margin in this case is calculated per house. So depending on the number of houses that we would have been appointed for – so in other words if it was 250 000 houses for instances and we are making a profit margin of R300.00
10 per house we would multiply the 250 000 by R300.00 and that would give us more or less the profit margin.

CHAIRPERSON: Yes I – we are probably under – we are probably on the same page but I am not sure.

MR SODI: Ja.

CHAIRPERSON: The R300.00 per house would have been your cost not your profit or would that have been your profit?

MR SODI: Ja so I am saying Chair between R300.00 and R350.00.

20 **CHAIRPERSON:** Ja.

MR SODI: That was the cost.

CHAIRPERSON: That was the cost ja.

MR SODI: So in other words – that was the cost. In other words that is the money that we spent to do the actual job.

CHAIRPERSON: Ja.

MR SODI: So it would have been ...

CHAIRPERSON: Anything outside of that amount would have been...

MR SODI: Ja. So it would have been ...

CHAIRPERSON: Anything outside of that 300 000 – R300.00 or R350.00 per house would have been profit.

MR SODI: That is correct Chair.

CHAIRPERSON: Yes now if you were doing 300 units – 300 houses okay remember that the – the amount that you
10 are going to be paid for the whole project as I understand is not going to be changed – is not going to change it is fixed.

MR SODI: That is correct.

CHAIRPERSON: So if you were doing – if the houses in Gauteng were 300 that you had to do and you are – the cost for that...

MR SODI: You mean 300 000.

CHAIRPERSON: 300 000 yes.

MR SODI: It was less it was about 250 000 but...

20 **CHAIRPERSON:** Ja but let us say – let us say for argument sake because we start – I talked about 300 000 earlier.

MR SODI: Ja.

CHAIRPERSON: Let us say if the – if they were 300 000 – the houses in Gauteng and let us say for argument sake

your cost was R300.00 per house okay. The proposition I was putting to you earlier on with which you seemed to disagree and maybe we were not on the same page.

MR SODI: Maybe it was – maybe I misunderstood you Chair.

CHAIRPERSON: Was that – if there were 300 houses and you were spending – you were spending R300.00 per house your profit would be less than if you had 250 houses. In other words, the lesser the number of houses the more
10 profit you make. The higher the number of houses the less profit you make.

MR SODI: Okay.

CHAIRPERSON: Because the total amount is fixed you are not going to change it.

MR SODI: Yes. The total amount is fixed.

CHAIRPERSON: Yes. It is fixed but if you – if you are going to do more houses on the same price.

MR SODI: Ja.

CHAIRPERSON: Obviously you will make less profit, is it
20 not?

MR SODI: Ja. So – maybe let me explain it this way.

CHAIRPERSON: The lesser the number of houses

MR SODI: Ja.

CHAIRPERSON: You make because the total amount that is coming to your company from the department is the

same.

MR SODI: Correct.

CHAIRPERSON: The lesser the number of houses you make.

MR SODI: Ja.

CHAIRPERSON: The more profit you are going to do. The more houses that they say you must do the less your profit is going to be. Is it not like...

MR SODI: I am not sure if that is entirely correct Chair
10 and it could be that maybe that maybe you talking about ...

CHAIRPERSON: Okay let me put it this way

MR SODI: Ja.

CHAIRPERSON: If they said they are going to give you – what was the total amount in Gauteng that they were going to give you, the total amount?

MR SODI: It was R650.00.

CHAIRPERSON: Let us say for 300 houses for 250 houses.

MR SODI: 250 000.

20 **CHAIRPERSON**: Ja and what was the total amount for 250 houses that they were going to give you more or less?

MR SODI: Well maybe we can get someone to do...

CHAIRPERSON: Oh alright.

MR SODI: Calculator and multiply.

CHAIRPERSON: Anyway, let us assume they were going

to give you R200 million.

MR SODI: Ja.

CHAIRPERSON: For you to do 100 houses at – and your cost is R300.00 per house the rest is your profit. Obviously, you will make more profit than if they say no you must actually 100 000 houses for the same price.

MR SODI: Chair the – so the total amount of – or the total value of the project is dependent on the total number of houses that you audit. So using the same figures that you
10 mentioning. If in this case it was 250 000 houses.

CHAIRPERSON: Hm.

MR SODI: Our total revenue would be the 250 000 houses multiplied by the R650.00. So it is linked to the quantities that had to be audited or assessed.

CHAIRPERSON: Hm.

MR SODI: If for instance the scope was let us say 100 000 houses then it should have been 100 000 houses multiplied by R650.00. So obviously the less number of houses that you do means that your – your total revenue would be less.
20 Do you understand what I am saying? So if we do...

CHAIRPERSON: That is if – that is if the total amount changes? If the total amount changes?

MR SODI: Ja so – so...

CHAIRPERSON: But I think the point you are making is...

MR SODI: Ja.

CHAIRPERSON: The point you are making is the total amount is based on a certain number of houses.

MR SODI: No I am saying that we were given a rate of R650.00 and we were then given quantities.

CHAIRPERSON: Hm.

MR SODI: That we had to audit and assess.

CHAIRPERSON: Hm.

MR SODI: So in this case it was – it was...

CHAIRPERSON: I am sorry. I am sorry. What is
10 happening?

ADV PRETORIUS SC: It is just that I think the witness would be assisted if he could have a pen and paper to make his own calculations.

CHAIRPERSON: Okay. I need to know otherwise...

MR SODI: Yes.

CHAIRPERSON: Yes.

MR SODI: Ja so the point I was alluding to is that – so your rate is determined in this case predetermined and they say: “here is the rate” and then we get given a scope
20 – a scope of work to do. So in our case it was 250 000 units and which we had to audit. Alright? So the total revenue as I have said was therefore the R650.00 multiplied by the 250 000. But as it turned out Chair, we audited about 200 000 more than the scope that was given to us. However, our revenue was fixed on the scope that

was given to us. So the department did not say, Blackhead you were given 250 000 you came back, you have done the work, you have assessed, we see your report but the report says you have done 400 000. So therefore we are paying you for 400 000. It was not the case. So they said.

CHAIRPERSON: Yes.

MR SODI: Ja.

CHAIRPERSON: Yes, no, no I understand.

MR SODI: Ja.

10 **CHAIRPERSON:** But – but I would imagine that you would agree that if you were assigned to do 300 000 – 250 houses.

MR SODI: Ja.

CHAIRPERSON: For a certain fixed rate and you ended up doing 400 houses and for each house you were paying R300.00 – your cost was R300.00 now instead of your cost being limited to 250 units your cost is now for 400 units and you will not be paid for the extra.

MR SODI: Absolutely you are correct.

20 **CHAIRPERSON:** So that extra.

MR SODI: Yes. Reduces your...

CHAIRPERSON: From 251 reduces your profit.

MR SODI: That is correct. That is correct ja.

CHAIRPERSON: That was the point ja.

MR SODI: Oh is that the point? Okay alright.

CHAIRPERSON: Ja.

MR SODI: You are absolutely correct Chair.

CHAIRPERSON: Okay alright. Mr Pretorius.

ADV PRETORIUS SC: Yes we were going to deal with it later but perhaps we should complete this line of enquiry now. Firstly, let us just recap Mr Sodi what you told the investigators. As I understand it on FS6, 268 you said that Gauteng paid you in the region of R200 million. That is what you said.

10 **MR SODI:** Give or take Chair ja.

ADV PRETORIUS SC: Yes. And then you said on page 269 of FS6 that of that amount 50 to 60% of that would have been profit and the calculations can then be done at least R100 million would have been profit.

MR SODI: Give or take.

ADV PRETORIUS SC: Give or take. If one does another calculation on what you say here you say R300 per house would have been profit. If one multiplies 300 by 250 000 one gets R75 million. You can trust the calculator on that.

20 **MR SODI:** That is correct. We would trust the calculator on that ja.

ADV PRETORIUS SC: Okay. But there is another document that the investigators produced on enquiry from the Gauteng Department of Human Settlements and that appears in FS8 at page 111. And if it will assist you when

we go through this table you want to write down the amounts on that piece of paper your attorney has kindly provided for you. This is a document from the Department of Human Settlements that the investigators speak to in their overall report.

MR SODI: Ja I can see that.

ADV PRETORIUS SC: It lists four payments related to – do you have it Chair? It deals with four payments Gauteng Asbestos Johannesburg North, Gauteng Asbestos
10 Ekurhuleni, Gauteng Asbestos Johannesburg North, Gauteng Asbestos Ekurhuleni and lists the amount authorised and paid in relation to four claims arising out of those projects.

MR SODI: That is correct.

ADV PRETORIUS SC: Payments to Blackhead Consulting Pty Limited – CC there. You see that?

MR SODI: I see that.

ADV PRETORIUS SC: The total of those four amounts is R229 710 000.00 but that includes VAT, VAT. If one takes
20 VAT away the total amount is R201 500 000.00. You see that?

MR SODI: Ja.

ADV PRETORIUS SC: And if you divide that amount by R650.00 the amount per house one gets 310 000 units. Those are the calculations that appear from this document.

Do you recall how that could have come about? Do you want me to go through those figures again?

MR SODI: I am not sure how that – I mean these figures I would imagine I am seeing this document for the first time Chair. But I would imagine that this refers to the four IPW's that were issued Chair to Blackhead Consulting.

ADV PRETORIUS SC: For the Asbestos Project.

MR SODI: To go and audit in those four areas that are specified here on this sheet I cannot – you know say for
10 sure those are the exact amounts. I have not seen this document but it may very well be.

ADV PRETORIUS SC: Yes. These are Human Settlement's records.

MR SODI: Okay.

ADV PRETORIUS SC: And these record amounts paid to Blackhead totally – excluding VAT R201 500 000.00 but in any event apart from the R1 500 000.00 your recollection and this information more or less coincides.

MR SODI: My recollection with regard to these four
20 different areas is correct in as far as the spread sheet – this document is concerned. I cannot for sure say Chair that these amounts are exactly what is reflected on the IPW's. It could be that it is the same amounts but you know I am not sure Chair if perhaps Mr Pretorius might have the copies of the actual IPW's because that will be

quite helpful.

CHAIRPERSON: Hm.

ADV PRETORIUS SC: We have got copies of the invoices would you like to see those?

MR SODI: That is fine we can have a look at those.

ADV PRETORIUS SC: The first invoice is FS8 page 127.

MR SODI: Yes I can see that.

ADV PRETORIUS SC: That is an invoice... if you will just bear with me for a moment Chair?

10 **CHAIRPERSON:** [No audible reply]

ADV PRETORIUS SC: In the amount of 59 280 which is the second invoice on the table on FS8 page 111.

MR SODI: I can verify that Chair. It is correct.

ADV PRETORIUS SC: So there, at least, there is a coincidence ...[intervenes]

MR SODI: Ja.

ADV PRETORIUS SC: ...between your invoice and the payment.

MR SODI: That is correct, ja.

20 **ADV PRETORIUS SC:** If one goes to 134... sorry, I am giving you the wrong number. Page... yes, it is 134 of FS8. There is the amount for that total claim by Blackhead Consulting to the Department of Housing, as was the last invoice, in the amount of R 32 604 000,00.

MR SODI: That is correct. I can confirm that Chair.

ADV PRETORIUS SC: Alright. The third one is at page 144. R 88 9020 000,00. Invoice to the Department of Housing, Gauteng Provincial Government by Blackhead Consulting. That coincides with the last amount on the table.

MR SODI: That is correct, Chair.

ADV PRETORIUS SC: And then on page 151 the total claim R 48 906 000,00 invoice by Blackhead Consulting to the Department of Housing, Gauteng Provincial Government.

MR SODI: That is correct.

10 **ADV PRETORIUS SC:** So we know then that the table shown at Free State 8 or FS8 page 111 coincides with your own records.

MR SODI: That is correct, Chair.

ADV PRETORIUS SC: So let us go back to FS8 page 111, if we may? The total of the amounts in that table is R 229 710 000,00 but that includes VAT.

MR SODI: Okay.

ADV PRETORIUS SC: Excluding the VAT ...[intervenes]

20 **CHAIRPERSON:** I am sorry Mr Pretorius. That is your own... that is a number that does not... a figure that does not appear on the page.

ADV PRETORIUS SC: Yes.

CHAIRPERSON: Is that right?

ADV PRETORIUS SC: Yes, Chair.

CHAIRPERSON: And it is two hundred and twenty-nine...?

ADV PRETORIUS SC: R 229 710 000,00.

CHAIRPERSON: Okay thank you.

ADV PRETORIUS SC: But that includes VAT. So the calculation I am putting and on which I am relying at my peril
Chair ...[intervenes]

CHAIRPERSON: Ja?

ADV PRETORIUS SC: ... is R 201 500 000,00 excluding VAT.

CHAIRPERSON: Two hundred and one million...?

10 **ADV PRETORIUS SC:** Five hundred thousand excluding VAT.

CHAIRPERSON: Thousand...

ADV PRETORIUS SC: So ...[intervenes]

CHAIRPERSON: That is the profit you calculate based on the 50%?

ADV PRETORIUS SC: Yes, Chair. Well, whatever... at the rate was at that time.

CHAIRPERSON: Yes, okay. H'm?

20 **ADV PRETORIUS SC:** In any event. Simply... Mr Sodi, your recollection in the interview is, more or less, give or take R 1 000 500,00 the same as the amount that this spreadsheet shows as having been paid to for the Asbestos Project in Gauteng?

MR SODI: Sorry, Chair. I am o am not sure. Where does the R 1 000 500,00 come from?

CHAIRPERSON: I am sorry. Actually before that.

ADV PRETORIUS SC: Alright.

CHAIRPERSON: Mr Pretorius, there must be something I did not get right here. At page 111, the total including VAT, on your calculation, was R 229 710 000,00.

ADV PRETORIUS SC: R 710 000,00, yes.

CHAIRPERSON: Yes. And then there was another figure which I understood to be R 201 500 000,00. What did you say that one is?

10 **ADV PRETORIUS SC:** Excluding VAT.

CHAIRPERSON: Excluding. Ja, excluding VAT.

ADV PRETORIUS SC: So you take the VAT away, you get R 201 500 000,00.

CHAIRPERSON: Oh, from that total. Ja, okay, okay.

ADV PRETORIUS SC: So you take... so the total is R 229 710 000,00.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: But all those figures, R 229 710 000,00, all those figures include VAT.

20 **CHAIRPERSON:** Yes. No, that is fine.

ADV PRETORIUS SC: So if you take VAT away, the payment is R 201 500 000,00.

CHAIRPERSON: Okay alright.

ADV PRETORIUS SC: Alright.

CHAIRPERSON: So the total paid to Blackhead Consulting

for the Gauteng Project, excluding VAT, is R 201 500 000,00?

ADV PRETORIUS SC: Correct.

CHAIRPERSON: Okay, okay. Now I understand. I think you had the question that Mr Sodi wanted to elaborate on.

ADV PRETORIUS SC: Well, let us leave aside the comparison between what you said to the investigators and what appears here.

MR SODI: Ja.

10 **ADV PRETORIUS SC:** It is someone... anybody can do on reading both documents but for the present, it appears that the figures that appear on Free State 8 or FS8 page 111, coincide with your own invoices. We have established that.

MR SODI: That is correct. Ja, we have established that.

ADV PRETORIUS SC: Alright.

CHAIRPERSON: So the profit, if it was 50% of that amount, would have been in the region of R 100 million?

MR SODI: That is correct, Chair.

CHAIRPERSON: Yes.

20 **MR SODI:** Give or take, it would have been around there.

CHAIRPERSON: Yes, okay.

MR SODI: Ja. So in other words, the cost of doing this job was about 50% of what was paid to us here.

CHAIRPERSON: Of course, you did say 50/60. So.

MR SODI: Ja, ja.

CHAIRPERSON: Ja. And this was over how long a period?

MR SODI: H'm. Geez, Chair. I am speaking under correction. This could have been over... anywhere between three and five months or six months on. Three and about six months.

CHAIRPERSON: Between three months to six months?

MR SODI: Ja. Ja, somewhere around that.

CHAIRPERSON: Yes.

MR SODI: I cannot recall exactly how many ...[indistinct]

10 **CHAIRPERSON**: Yes, okay.

MR SODI: But I do know that we were able to complete the project on record time because we had, you know, appointed a lot of people, field-workers, that were deployed in the various areas that we had appointed. So we were able to finish and complete the project on record time.

CHAIRPERSON: By the way. How much time had you been given to complete the project?

MR SODI: Oe ...[intervenes]

20 **CHAIRPERSON**: [Indistinct] If you cannot find it, I am sure we can look later.

MR SODI: Ja. Ja, I am not sure if it is specified on the actual IPW.

CHAIRPERSON: But ...[intervenes]

MR SODI: No, it is not specified here. It is ...[intervenes]

CHAIRPERSON: But you finished it much earlier than

...[intervenes]

MR SODI: No, much earlier. Much earlier.

CHAIRPERSON: Much earlier. Ja, but it was not more than 12-months that you were given, as you remember?

MR SODI: No, no. Definitely not.

CHAIRPERSON: It was less than 12-months?

MR SODI: No, way, way less.

CHAIRPERSON: But you finished it within... about six-months.

10 **MR SODI**: It could have been even less than that.

CHAIRPERSON: Even less than six-months?

MR SODI: Ja, ja, ja.

CHAIRPERSON: Okay. And the number of workers that you had to employ to do this, is that something that you are able to remember? In what region you might be ...[intervenes]

MR SODI: No, Chair. No. [laughs]

CHAIRPERSON: That might be...

MR SODI: Ja, but I would not remember the exact number of people that ...[intervenes]

20 **CHAIRPERSON**: Over one hundred maybe?

MR SODI: Oh, definitely. It was ...[intervenes]

CHAIRPERSON: Definitely more than a hundred?

MR SODI: Ja, definitely.

CHAIRPERSON: Yes.

MR SODI: Ja.

CHAIRPERSON: Okay.

ADV PRETORIUS SC: Their income would have been derived from the costs of the project?

MR SODI: Correct so.

ADV PRETORIUS SC: Just one calculation that I would like to put to you. The amount of R 201 500 000,00, the amount excluding VAT, if one divides that by R 650,00 per unit, one gets an amount of 310 000 houses. How do you explain that then?

10 **MR SODI:** [No audible reply]

ADV PRETORIUS SC: Can you explain that?

MR SODI: Chair, I am not sure why you would... work it out that way because the R 650,00 is inclusive of VAT and the R 201 00 000,00 is excluding VAT.

ADV PRETORIUS SC: Right. Well, we will redo that calculation.

MR SODI: Yes, okay.

ADV PRETORIUS SC: But let us just go to a question that the Chair asked. If one goes to FS8 at page 100, this is the
20 memorandum we referred to earlier in terms of which the instructions to perform work would have been issued for the eight service providers to be appointed for the project. And there in paragraph 7 a time-frame of eight weeks was set.

MR SODI: Ja.

ADV PRETORIUS SC: Do you recall that time-frame?

MR SODI: I seem to recall that now here.

ADV PRETORIUS SC: Was that the timeframe within the relevant timeframe completed?

MR SODI: In the relevant timeframe that was... ja, ja.

ADV PRETORIUS SC: A few months?

MR SODI: Ja.

CHAIRPERSON: Well, let us go back to the issue of the profit and that Blackhead Consulting made. On the basis of its profit having been 50% of the total value of the project.

10 Blackhead Consulting made about R 100 million funds?

MR SODI: That is correct, Chair.

CHAIRPERSON: Okay. In the circumstances where it did about 400 houses?

MR SODI: Correct Chair. More or less.

CHAIRPERSON: Ja, more or less. Instead of 250. Actually, almost doubled.

MR SODI: Almost double to be the scope that was given to us. Correct, ja.

CHAIRPERSON: Ja, almost double to the number of houses
20 that you were supposed to do?

MR SODI: Ja.

CHAIRPERSON: If it had done 250, its houses, its profit would have been much more.

MR SODI: A little bit more.

CHAIRPERSON: Yes, yes.

MR SODI: Ja, that is correct.

CHAIRPERSON: Now does that not suggest that the price for the houses... for the 250 units was quite high?

MR SODI: [laughs] Chair, you would recall the last time I was here, I mentioned that when we were appointed on this exercise, we were given a rate.

None of us knew what we were going to come across because this had never been done before. No one had this sort of experience to refer to the past to say that based on
10 the past, you know, this is more or less how much we, you know, we are going to make.

But in any event. We did not negotiate for the rate with the department. It was not a choice that was given to us. This was, as I said, we used the word or, you know, a percentage(?) take it or leave it.

It was the department who said: "Guys, we have done our own exercise. We now want to appoint service providers who can go and do this audit or assessment and we are going to pay each one of you this amount.

20 Now we take these appointments and we start working. And it is only afterwards.... when you are done with the project then, you know, basically you get your expenses and, you know, how much you would have spent and so forth. Then you are able to determine how much you have made.

So we would not have known upfront whether the rate

was high or low. We would not have known that. And it would obviously again lead onto what happened in the Free State, was that this is a precedent now.

Anyway, this is a precedent that has been set that, more or less, you know, R 650,00 is the rate that we pay, you know, for this kind of work.

The Commission's own witness who came here, also alluded to that fact, you know, because he was... that question was posed to him to say: "More or less, how much
10 would it cost do this kind of work?" And if my memory serves me well Chair, he mentioned that it should be around in the region of six hundred.

This is a specialist who has been in the industry for many, many years. Much more experienced than any one of us. So one would, therefore, arrive at a conclusion that to do this kind of work based on, you know, what the experts are saying, would be around that sort of region.

Of course, you know, it does suggest that, based on our experience as well, that it is profitable project, you know.

20 There is nothing wrong with that.

CHAIRPERSON: Very profitable.

MR SODI: It is very profitable Chair. You know, it happens. You get projects that are less profitable in our industry.

CHAIRPERSON: H'm.

MR SODI: Where you take a project, some you even make a

lot. And you do get projects where ...[intervenes]

CHAIRPERSON: I think the point you are making... there are only two points you are making about it. But there is one, you did not decide on the rate per house.

MR SODI: That is exactly ...[intervenes]

CHAIRPERSON: Gauteng(?) made that decision and said you take it or leave it. Two, you are saying that you did not know how many houses you would end up doing. It could be 250. It could be more. You took your chances and it worked

10 the way it worked.

MR SODI: You are absolutely correct Chair.

CHAIRPERSON: Ja.

MR SODI: Ja.

CHAIRPERSON: Okay. Mr Pretorius.

ADV PRETORIUS SC: I understood from your answer Mr Sodi that when you went into the project, you did not know how much profit you would make because it was a new project and it would be a learning experience for your company.

20 **MR SODI:** That is correct, Chair. That is correct.

ADV PRETORIUS SC: So insofar as one might say that a R 1 000 000,00 profit over two months is excessive in the circumstances, that would have been based on the fact that you made a mistake in over-charging, if it was an over-charge but you say, in any event, I understand it, that you

did not over-charge. This was their profit.

MR SODI: I did not over-charge because, as I have indicated, I did not, you know, submit a price to the department and say, “Pay me an X amount”.

It was a price that was predetermined that was given to all the eight service providers that were appointed. And as I said, it was profitable and we were quite happy with it.

But at the beginning when we were appointed, I had no idea at that point in time, how much it was going to cost us
10 to execute this project. We took a chance and said, “Look, let us go for it”. And it turned out that it became a profitable project.

And, you know, as a businessperson, I was quite happy with the profit margin that we made. So I cannot consider that Chair to have been over-charged. Think on the basis that we did not... we were not given an opportunity to negotiate the rate. It was given to us.

ADV PRETORIUS SC: Well, the first issue that one might raise and let us place it at the door of the Department of
20 Human Settlements for the moment.

Mr Sodi, is that this budget is meant for service delivery in respect of people who do not possess enough money to live in decent housing.

That is what the budget, more or less, is about and that was what this project was about. Correct?

MR SODI: Chair, this project, as I have indicated, was about getting service providers to go out and do an assessment within the province that are roofed with asbestos so that the department can then be able to plan accordingly because remember, the end goal has always been to eradicate Asbestos.

So this budget was about that. It was about to say, “Guys, we know have a challenge”. And as I have indicated previously, the last time I was here, was what triggered this?

10 It was that huge health storm that happened in late 2013. That was the trigger because what was established is that a lot of the damaged roofs were asbestos roofs.

And as I have indicated, that caught the department off-guard because it was like: “Look, we know there is this problem but we just do not know have an idea of how much it is going to cost us to deal with it. And the only way that we will be able to get an idea is to actually get this assessment done”.

20 And that is what led now to the appointment of the eight contractors to say, “Guys, assist us in determining and giving us accurate information as to the number of houses, the pre-1194 stock, that we have in the province so that we can then be able to put a budget for the eradication”.

So the R 650,00 was just for the audit. That was it was meant more, nothing else and nothing beyond that. I would

imagine that there would have been a separate budget which I would not have knowledge of but that was probably set aside for the actual eradication.

We were not involved in that. But this particular one we are speaking about now Chair, was simple just for the auditing assessment.

ADV PRETORIUS SC: Mr Sodi, the proposition is a straightforward one. In the space of three months in an Asbestos Eradication Project and the Department of Human
10 Settlements, they paid an amount of over R 200 million, allowing a private company to make approximately R 100 million. That is a fact.

MR SODI: It is a fact.

ADV PRETORIUS SC: Whether that is a good or bad thing, we can leave those who are in power to make judgments to judge.

MR SODI: [laughs] It is a fact. You know, it was an exercise Chair that had to be done and the department went ahead and they did it and they paid for it.

20 **ADV PRETORIUS SC:** Yes, but the point I am making to you is that this money comes from the budget that is supposed to provide service delivery ...[intervenes]

MR SODI: Well ...[intervenes]

ADV PRETORIUS SC: ...to poor people.

MR SODI: Chair, the budget allocated to... and I certainly do

not want to speak on behalf of the departments because I am not qualified to do that but the budget that gets allocated to the various departments, including the Department of Human Settlements, one would safely assume that it is meant for services, to provide services.

In this case, it had to provide human settlements, you build for, you know, indigenous people and so forth. So, ja the... to answer your question. The amount or the budget utilised would have been used, you know, would have been
10 meant to provide for services for people that otherwise cannot afford.

And I see this as being part of that. It may not have been utilised, for instance, to build the actual houses, you know, but it is a human settlement function, you know, and it was used for that, you know, for that function which is human settlements.

CHAIRPERSON: How much time would your company have spent in training the field-workers who would visit the different houses?

20 **MR SODI:** Chair, it was not long. It could have been a day.

CHAIRPERSON: A day?

MR SODI: Ja, it could have been a day. But it was not long. I mean, the training was not complicated training.

CHAIRPERSON: Yes.

MR SODI: So it would not have taken...

CHAIRPERSON: You know what? A thought that keeps on worrying me and it applies to the Free State but we will talk about the Free State soon.

Is if the training that is necessary to be given to the field-workers who will visit the different houses in order for them to obtain the necessary information, is simple and it is straightforward, is...

Well, maybe it takes a day or maybe less than a day, whether it would not have been a better idea to say each
10 household must make available somebody from the household who would attend that training, get that information from their own house and of which they would not need to charge.

The department would not have to ever pay that person because that family wants the house to be improved for themselves.

So in other words, your company could be obtained but to the extent that it is necessary... actually you say, "Look, each household..."

20 Well, I do not know whether you need a matric for every person who would attend the training but even if you needed matric, you know, I am sure there would have been many households who would have somebody who could do that to say if you want... we want to check if your house has got an asbestos roof because we need to improve your house and

your living conditions.

The houses that have got asbestos roofs should be... the roof should be removed in due course and another roofing be put in place. It is for your benefit.

Make one person from the household or family available in order to assist with this. Then you do not have to... the department does not have to pay. Save a lot on what has to be paid.

MR SODI: Chair, that could be a way of looking at it but how
10 we executed this, it is not very far or different to what you are proposing.

Because what happened was, in every locality or ward that we went to, we first had to engage the ward councils and we then said to the ward councils: "Listen, there is this project that ought to be undertaken".

We have the criteria of the people that we required because remember Chair, you know, it is not... it was not just about looking at the house and, you know, and making an opinion.

20 There was a set of questions that they compiled and some budgets that were utilised. So the questions would have been incorporated into the budget.

So obviously, you know, you would have needed someone with a basic literacy to understand exactly what needs to happen because we did not want to produce a

report or inferior report to the client.

We wanted to make sure that whatever information that we provide to the client is information that is credible. Now we were specific that we want to use local people in those areas where we were doing the assessments.

And we said to the ward councils: “You go to. This is the set of criteria. You go and identify these people, okay. And you come back to us. We will give you the exact number of people that we need”.

10 So if... in one area, for instance, we wanted to employ 200 people, we would say, “Yes, we want 200 people. So go and find these people. Here is the criteria and come back and give us a list of those people.”

You know. And that is what happened. The ward councillors would call meetings, community meetings and they would deal with that and said,

“Look, there is going to be a project, you know, in our locality. We... it is also job creation, okay. So there is going to be a job creation component and we need so many
20 people”.

Maybe 50% women, maybe 50% youth but there was a criteria. And that is what happened.

CHAIRPERSON: But the long and short is simple, you are saying that the way you did it is not very dissimilar to what I am saying.

MR SODI: Correct.

CHAIRPERSON: And I take it that you are saying you think it could have been done that way but it was done this way. Of course, what I am saying is, the department could have spent less on the project if it was on the basis that I have indicated. Would you accept that?

MR SODI: I accept that. Yes, Chair.

CHAIRPERSON: Yes.

MR SODI: Ja.

10 **CHAIRPERSON**: Ja okay. Mr Pretorius.

ADV PRETORIUS SC: Thank you, Chair.

CHAIRPERSON: I see we are about close to tea-time. I do not know how much ...[intervenes]

ADV PRETORIUS SC: Perhaps we should take the short adjournment.

CHAIRPERSON: Okay alright. Let us take the tea-adjournment. We will resume at half-past eleven.

ADV PRETORIUS SC: Thank you, Chair.

CHAIRPERSON: We adjourn.

20 **INQUIRY ADJOURNS**

INQUIRY RESUMES

CHAIRPERSON: Let us continue and just for the sake of completeness, Mr Sodi, on the questions that I asked before the adjournment. Was it as requirement for the trainees of fieldworkers to have matric or was that not a

requirement?

MR SODI: Chair, if my memory serves me well, that was a requirement.

CHAIRPERSON: That was a requirement.

MR SODI: I think so, ja.

CHAIRPERSON: Okay, alright. Thank you.

ADV PRETORIUS SC: Thank you, Chair. Mr Sodi, let us go back to FS8111, that table we discussed earlier. You told us in answer to a calculation put to you that the unit
10 price of R650 per house included VAT, is that correct?

MR SODI: That is correct, Chair, according to [inaudible – speaking simultaneously]

ADV PRETORIUS SC: So if one applies the calculation to the amount of 229 710 000 which also included VAT one would be dealing like with like, as I understand it.

MR SODI: Correct, so the 229, Chair...

ADV PRETORIUS SC: Includes VAT.

MR SODI: Includes VAT.

ADV PRETORIUS SC: So if you divide 229 710 000 by
20 650 - you can check it if you like, if you have got a cell phone there. One would get 353 400 houses. In other words, if you charged R650 including VAT for each unit and you came to a total charge 229 710 000 you would have charged for 353 400 houses, not 250 000. Do you want to check that calculation?

MR SODI: Ja. Chair, I think maybe before we even do that, if I may make a suggestion, with your permission, is to look at the four IPWs that we referred to because those IPWs would have the quantities there as to how many, you know, units must be assessed. So we can check that because then we know that we are talking about accurate information, you know?

ADV PRETORIUS SC: Well, the IPW ...[intervenes]

CHAIRPERSON: Was 250 not an accurate number for
10 houses?

MR SODI: What I said, more or less.

CHAIRPERSON: More or less.

MR SODI: Ja.

CHAIRPERSON: Okay.

MR SODI: Sorry, let me see if...

ADV PRETORIUS SC: Sorry, if I may just make one comment by way of question. Does the IPW not tell you what you should do, not deal with what work you have done and for which you charge?

20 **MR SODI:** No, no, the IPW deals with what needs to happen.

ADV PRETORIUS SC: Yes, not what happened.

MR SODI: No, no, no, it deals with what should happen.

ADV PRETORIUS SC: Yes.

MR SODI: Ja.

CHAIRPERSON: But you wanted to establish the exact number of [inaudible – speaking simultaneously] that you wanted, ja.

MR SODI: Ja, so that we do not ...[intervenes]

CHAIRPERSON: Do you know where we find the ...[intervenes]

MR SODI: So I am looking at one here. So this is the invoice. So I am just looking for where ...[intervenes]

CHAIRPERSON: Just one second. I am going to have to
10 say this noise must go now. If I hear that noise again, I will kick you out. Yes, Mr Pretorius?

ADV PRETORIUS SC: Yes, we were just allowing Mr Sodi to find the IPWs relevant to those charges.

MR SODI: Ja, we looked at them, Mr Pretorius, I cannot remember which page.

ADV PRETORIUS SC: We looked at the invoices.

MR SODI: Oh, we looked at the invoices. Oh, okay. Do you not ...[intervenes]

ADV PRETORIUS SC: The invoices – I can give you – do
20 you want the references?

MR SODI: Do you not have copies of the IPWs in the file because I think that would assist us a great deal so at least we know that we are talking about exact numbers.

ADV PRETORIUS SC: Well, we could do that exercise over the long adjournment and [inaudible – speaking

simultaneously]

MR SODI: Ja, so that would, you know, give us accurate information.

CHAIRPERSON: Okay.

MR SODI: So I am not sure if there any in these files because that would be quite helpful, Chair.

ADV PRETORIUS SC: I am told that initial glance that they are not there but we will check that.

MR SODI: Ja.

10 **ADV PRETORIUS SC:** And come back to you.

MR SODI: Correct.

ADV PRETORIUS SC: But let us just establish the sequence. The IPW tells you what work you should do.

MR SODI: Ja, so the IPW tells you exactly what needs to happen. It details, Chair, the amount that would be payable. It also details how that payment would be made.

ADV PRETORIUS SC: Yes, but because ...[intervenes]

MR SODI: Because it would also indicate, if my memory serves me well, it would also indicate the quantities that
20 had to be ...[intervenes]

ADV PRETORIUS SC: That had to be done.

MR SODI: That had to be ...[intervenes]

ADV PRETORIUS SC: As I understand your evidence, Mr Sodi, you did more than you had to do.

MR SODI: We definitely did more than what the IPW

stipulated.

ADV PRETORIUS SC: So the IPW would not be an accurate guide as to what work you actually did. The most accurate guide would be the charge levied per house.

MR SODI: No, no, that is not correct. Irrespective of the number of houses over and above that we did we would still be paid according to the IPW, Chair. So again, going back to, you know, what I had stated earlier, we audited more than we were supposed to audit.

10 So if you look at – take, for instance, project north on that spreadsheet on page 111, okay, it gives you the project description, the amount and so forth. That amount that is specified there, will not change because we would have done more. Which will still be the same amount and, like I said, I can safely, you know, say that we did way more than we were supposed to do. But what we get paid, it is still in accordance with the IPW. It is not based on what we found on the ground.

CHAIRPERSON: I think the principle that Mr Pretorius
20 maybe seeking your comment on is that whatever the number of houses were that the IPW talk about, there should be – you should be able – rather, the total amount paid to Blackhead should be made up of 650 multiplied by the number of houses that you were asked to do.

MR SODI: Correct, Chair.

CHAIRPERSON: And he was saying if one looks at R229 710 000 and you go back to saying the rate is R650 per unit, you do not come out with 250 000 units but you did say that that was not an exact ...[intervenes]

MR SODI: It is not, ja. Yes.

CHAIRPERSON: But do you accept that principle.

MR SODI: I accept the principle.

CHAIRPERSON: Yes.

MR SODI: And that is why, Chair, I was saying that if we
10 are able ...[intervenes]

CHAIRPERSON: Ja, to get the correct ...[intervenes]

MR SODI: To get the actual IPWs.

CHAIRPERSON: Ja.

MR SODI: Then we know we are talking about the exact things(?).

CHAIRPERSON: Yes, okay.

ADV PRETORIUS SC: Well, the straightforward proposition that is being put, Mr Sodi, is that the total amount paid divided by the unit price yields a number of
20 353 400 houses which is not more or less 250, it is far in excess of 250 000.

MR SODI: Again, Chair, we are talking here about a project that happened six years ago and I am giving estimate on each – it could be close to what was the case or it could be a bit far apart. Hence, I am saying that what

would be useful for us so that we do not go to and fro, is to be able to have those IPWs then it is very specific because it will tell us.

CHAIRPERSON: Yes.

MR SODI: That this is – or these are the quantities that had to be audited.

CHAIRPERSON: Okay.

MR SODI: Ja.

ADV PRETORIUS SC: Let me put a last proposition to
10 you then, Mr Sodi, in a different way.

MR SODI: Ja.

ADV PRETORIUS SC: If you had been told in the IPWs to audit 250 000 houses at R650 per house, the total you could have charged on that basis would have been approximately 170 million, if I recall correctly. 650 times 250 000.

MR SODI: Ja.

ADV PRETORIUS SC: 1 point...

MR SODI: That is correct about 162 ...[intervenies]

20 **CHAIRPERSON:** I think he wants to show you the correct ...[intervenies]

ADV PRETORIUS SC: 160 approximately.

MR SODI: 160, ja, ja.

ADV PRETORIUS SC: 162 500 000.

MR SODI: That is right, ja.

ADV PRETORIUS SC: Okay. So we have all those figures down on the record.

CHAIRPERSON: Would the position be that if the figure of 250 units, houses, is found to be correct, if it is what is in the IPW, would the position be that in all probability the department miscalculated to come with a higher total amount or how would one explain the discrepancy?

MR SODI: Chair, I do not think there was any miscalculation.

10 **CHAIRPERSON:** So you think when we get – got [inaudible – speaking simultaneously]

MR SODI: Ja, so it will ...[intervenes]

CHAIRPERSON: It will correlate.

MR SODI: Ja.

CHAIRPERSON: Ja.

MR SODI: But there would not have been any miscalculation.

CHAIRPERSON: Okay, ja.

20 **ADV PRETORIUS SC:** In addition, to avoid confusion, Mr Sodi, we had perhaps been using terminology of profit margins quite loosely.

MR SODI: Ja.

ADV PRETORIUS SC: If you invest a R100 million and you make another R100 million on top of that, that is a 100 percent, correct?

MR SODI: Correct so.

ADV PRETORIUS SC: If you would go to FS6 please at page 280.

CHAIRPERSON: Did you say 282?

ADV PRETORIUS SC: Two eight zero, Chair. FS6, 280. Now we know that in Gauteng Blackhead was not the only service provider. Now you say there were five or six others, there may have been seven others.

MR SODI: It was a total of eight service providers, Chair.

10 **ADV PRETORIUS SC:** Yes. And at the bottom of the page in relation to their profits in the Gauteng asbestos project you say the following:

“Of course, I mean, I can tell you right now, even the other five companies or six companies that were appointed, they made exactly that. They made more than that, so it was not just Blackhead that made that kind of profit, all of us.”

MR SODI: I cannot, Chair, you know, state how much the other companies made as a profit margin. That statement
20 obviously is incorrect, if that is what I said. I would not have known, I can only speak for Blackhead Consulting but I cannot speak for the other service providers. So I would not have known at all how much they would have made.

ADV PRETORIUS SC: Can you explain why you would have said that in the interview?

MR SODI: As I have said, I do not recall, I could have made it, that statement, but I do not recall making that statement and certainly I have got nothing to make it up, I have got now way that I can make up that statement because I would not have known. So it is an incorrect statement if I did make that statement for myself.

CHAIRPERSON: As I understand it, that is a transcript of an interview you had with the investigators of the Commission, is that right, or - you have seen this
10 document before have you not, in your bundle in the documents and the files that you have received. This transcript, have you not seen it before?

MR SODI: Ja, I do not remember seeing...

CHAIRPERSON: Is that so?

MR SODI: Ja, I do not – I did not receive a bundle upfront, Chair.

CHAIRPERSON: Yes, ja. Oh. Okay, well if you have not seen that document just say so, so that your answer can be understood in that context if that is actually the case or
20 if you are not sure that you have seen it or not seen it, just say so.

MR SODI: Ja and like I am saying, Chair, you know, I do not remember saying it, I am not saying I never said it but I am saying that now sitting here and, you know, dealing with this aspect, I do not know on what basis I would have

said something like that when I never had access to, you know, the other eight contractors, I never knew how, you know, how much profit they made or what was their cost so – it could have been, Chair, that maybe it was in the heat of the moment I said it but I certainly do not have anything to back up this statement.

CHAIRPERSON: Yes. No, I am sure, if necessary, the relevant part of the recording, if it exists, can be played.

MR SODI: Yes.

10 **ADV PRETORIUS SC:** My instructions are, Chair, from the investigators, that the transcript was provided.

CHAIRPERSON: Was provided.

MR SODI: Yes.

CHAIRPERSON: Okay and do you know whether there is a recording that would be available if necessary?"

MR SODI: Yes, Chair.

CHAIRPERSON: Yes. And maybe the – one of the investigators might be able to actually give instructions that definitely, if we go to the recording, there will be this
20 part. Do we know whether somebody who has listened and so it ...[intervenes]

ADV PRETORIUS SC: Chair, there would be direct evidence.

CHAIRPERSON: There would be direct evidence.

ADV PRETORIUS SC: As to the accuracy of the transcript

but there is a transcribers' certificate that appears at page 357.

CHAIRPERSON: Yes.

ADV PRETORIUS SC: Of Free State 6.

CHAIRPERSON: Yes, I think, Mr Sodi, you may have to maybe not now, though it might be necessary to listen if you want to listen in due course to the recording.

MR SODI: Ja.

CHAIRPERSON: But at some stage you would have to
10 make up your mind whether you say yes, I did make a statement or no, I did not make it. As I say, you might be in a position to say so while you are seated there.

MR SODI: No, no, that is correct, ja.

CHAIRPERSON: Maybe in due course that can be arranged, if necessary.

MR SODI: No, correct, correct.

ADV PRETORIUS SC: Yes, the only purpose of making such a statement and according to you, if you made it, would be to somehow justify the profit you made by saying
20 that others did it as well.

MR SODI: Chair, even that, I mean, I would not be making a statement like that because I would not know what the other contractors, what their costs would be. You know, so it would be difficult for me to make a statement like that but, like I said, I am sitting here, I am not saying

that I did not make it, I am not saying I made it, I am saying that it could have been at the time but, you know, I may have made it, I do not remember, I cannot recall that.

But certainly, what I can say for a fact is I have no access to information relating to what the other contractors would have made. Those were seven other independent service providers, they would have done it in their own way, they would not have shared that information with me at all. The same way that I did not share my information
10 with anyone in terms of what the cost was. So, you know...

CHAIRPERSON: There was no - the distribution of work was not on an equal basis among the seven – some did more houses than – were expected to do more houses than others.

MR SODI: That is correct, that is correct, Chair.

CHAIRPERSON: Yes, okay.

MR SODI: That is correct, ja.

ADV PRETORIUS SC: If we could move to another topic please, Mr Sodi. If you would look at FS8 at page 110, this
20 is a letter addressed to yourself, Blackhead Consulting (Pty) Ltd dated the 7 April 2014 and addressed to you by Mr T W Zulu, Director General. Do you recall receiving this letter?

MR SODI: I do recall, Chair.

ADV PRETORIUS SC: And you knew that Mr Zulu was the

Director General, not of the provincial but of the national department?

MR SODI: That is correct, Chair.

ADV PRETORIUS SC: And, as I understand this letter it is an appointment to the National Department of Human Settlements, a panel appointment.

MR SODI: That is correct, Chair.

ADV PRETORIUS SC: Alright. And then if one goes to FS8 169.

10 **CHAIRPERSON:** 169?

ADV PRETORIUS SC: 169, Chair. I think we have dealt with this letter before but for the purposes of current series of questions that we could just look at it again, it is a letter dated 19 June 2014 addressed to you by Mr Mokhesi, addressed to the CEO Blackhead Consulting and it reads:

“The above has reference to your proposal submitted to this department and your appointment by the National Department of Human Settlements.”

20 So the proposal was the proposal by the joint venture to the Free State department. We know that.

MR SODI: That is correct, Chair.

ADV PRETORIUS SC: And the appointment by the National Department of Human Settlements would have been the appointment we have just referred to.

MR SODI: That is correct, Chair.

ADV PRETORIUS SC: The letter continues to read:

“Note has been taken of the above and we wish to request your approval as follows, that the department wishes to extend your current contract secured by National Department of Human Settlements in line with Treasury Regulation 16/06/2005.”

So what Mr Mokhesi is saying here is that the department in the Free State wishes to extend to the Free State the
10 National panel appointment.

MR SODI: That is correct, Chair.

ADV PRETORIUS SC: And we have heard from Mr Zulu that you cannot extend a panel appointment because there are no terms and conditions in that appointment, am I correct? Or let us leave the law, out of your province.

MR SODI: Okay.

ADV PRETORIUS SC: We have debated it even with those that ought to know.

MR SODI: Ja, absolutely. Ja.

20 **CHAIRPERSON:** But what I thought there was unanimity on was that you cannot extend a panel appointment.

MR SODI: Ja.

CHAIRPERSON: You cannot extend - if one department or if the national department has appointed a panel of service providers, you cannot as a provincial department seek to

ride on the back of that, you must do your own or did I understand that ...[intervenes]

MR SODI: Chair, this is my understanding and I have seen it in practice so I can speak with confidence that it does happen. You get instances, for instance, where one sphere of government, could be a provincial government, would say we do not have our own panel, we want to appointment service providers, we do not want to go through the lengthy process of having to advertise and so
10 forth and so forth.

There is work that ought to happen immediately but we do not have a panel. They would then right, for instance, to another sphere of government or another department that has a panel and they will say guys, we would like to participate in your panel, could you therefore provide us with a list of companies that are on the panel.

That department would then say okay, we are happy, if they are happy. They say no, we are happy that you can participate in our panel, here is a list, okay, and
20 they will forward the list to that requesting department. The list would be inclusive of everyone who is on that panel and that would then be forwarded to the requesting department to say there it is.

Of course, this happens formally, you know, that has to be returned and signed. That happens all the time.

So to answer your question ...[intervenes]

CHAIRPERSON: So you would say factually or practically this is what does happen, that you know.

MR SODI: Absolutely.

CHAIRPERSON: But whether it is proper, whether it is in accordance with regulations, that is something you would not know.

MR SODI: Absolutely, Chair.

CHAIRPERSON: Ja, okay.

10 **ADV PRETORIUS SC:** Yes, of course do know that the panel was not – or a panel arrangement was not extended to the Free State, you were appointed.

MR SODI: That is correct, Chair.

ADV PRETORIUS SC: And as the Chair says, whether this is lawful or not is not a department that you want us to debate with.

MR SODI: That is correct, I would stay out of that debate.

ADV PRETORIUS SC: The letter goes on to say in paragraph 4 that your appointment will be subject to your
20 company securing funds to roll out the project in line with your proposal and, as I understand, you have dealt with that issue.

MR SODI: Correct, Chair.

ADV PRETORIUS SC: But what we do know from this letter is that Mr Mokhesi was instrumental at least

attempting according to a practice that you have now said happened frequently, that might or might not be legal to facilitate the appointment of Blackhead Consulting in the Free State.

MR SODI: Sorry Chair, do you mind to repeating Mr Pretorius the question again?

ADV PRETORIUS SC: Maybe I should break it.

MR SODI: Ja.

ADV PRETORIUS SC: It was Mr Mokhesi that was the
10 actor here, he was the Head of Department, Human Settlements, Free State.

MR SODI: That is correct.

ADV PRETORIUS SC: And what he was trying to do was to use a legal device because he mentions it here...[intervenes]

MR SODI: Ja.

ADV PRETORIUS SC: In specific terms to facilitate the appointment of Blackhead in the Free State?

MR SODI: Correct.

20 **ADV PRETORIUS SC:** Whether what he was doing was lawful or proper or not is not a matter that we will debate with you at the present. One goes to this next letter that I would like to draw your attention to and I am sorry we going to have to change bundles.

MR SODI: Okay.

ADV PRETORIUS SC: FS1 at page 465. This is a letter from Mr Mokhesi to Mr Zulu dated 19 June 2014 and...[intervenes]

CHAIRPERSON: On my one the date is not legible.

MR SODI: Ja, same as my one.

CHAIRPERSON: Is your dates legible Mr Pretorius?

ADV PRETORIUS SC: Yes it is there is another copy of the letter at FS1, 214.9.

CHAIRPERSON: Okay well if you just tell me that the
10 dates that you have mentioned is correct that would be enough for my purposes.

ADV PRETORIUS SC: It appears there from a better copy that the date is the 19th of June 2014.

CHAIRPERSON: 19 June 2014?

ADV PRETORIUS SC: Yes, Chair.

CHAIRPERSON: And the other letter is it got page the one that has got – is legible?

ADV PRETORIUS SC: 214, FS1, 214.9.

CHAIRPERSON: Okay, thank you.

20 **ADV PRETORIUS SC:** And it appears that what Mr Mokhesi is asking Mr Zulu here is to extend the contract the national panel contract to the Free State, you can look at it.

MR SODI: Ja, it appears so Chair.

ADV PRETORIUS SC: In affect what it says.

MR SODI: Ja.

ADV PRETORIUS SC: We agree? What is significant about this letter in paragraph 1 it refers to Blackhead Consulting Pty Ltd not the joint venture. Do you see that?

MR SODI: I can see that, ja.

ADV PRETORIUS SC: The joint venture off course was not part of any national panel arrangement.

MR SODI: That is correct Chair.

CHAIRPERSON: I am sorry are you still at 465 Mr
10 Pretorius?

ADV PRETORIUS SC: Chair your question?

CHAIRPERSON: Are you still at page 465?

ADV PRETORIUS SC: Yes.

CHAIRPERSON: Are you still on that page?

ADV PRETORIUS SC: Yes Chair, paragraph 1 of that letter under the heading refers to Blackhead Consulting Pty Ltd not the joint venture that was appointed in the Free State.

CHAIRPERSON: Oh okay no that is fine I think I was – on
20 paragraph 1 I was looking at the heading...[intervenens]

ADV PRETORIUS SC: Yes, Chair.

CHAIRPERSON: Because the heading is like a paragraph on its own.

ADV PRETORIUS SC: Yes and a better copy it is underlined.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: That heading.

CHAIRPERSON: Okay.

ADV PRETORIUS SC: Paragraph 3 of that letter is the letter that talks about the extension of the contract through the participation process but we have settled that issue. Mr Sodi if you could now go to FS2 page 99. That is a statement of – that is part of the statement of Miss Diederick's we have referred to her earlier an affidavit that
10 commences at FS2, 95. She identifies the document at page 99 but let us go there it is at page 111 of FS2. This is a letter also from Mr Mokhesi but now to the Head of Department, Department of Housing that is Miss Diederick's, correct?

MR SODI: That's is correct.

ADV PRETORIUS SC: But that would have been the Department of Housing at Gauteng at that time.

MR SODI: That is correct.

ADV PRETORIUS SC: And it is a letter which appears in
20 page, in paragraph 2 of the letter to say the Free State Department of Human Settlements hereby request your department, that is now the Gauteng department not national Gauteng...[intervenes]

MR SODI: Correct.

ADV PRETORIUS SC: To extend the services of

Blackhead Consulting Pty Ltd in line with treasury regulations 16A6.6 of March 2005. So we here talking about an extension from province to province not from national to province.

MR SODI: That is correct Chair.

ADV PRETORIUS SC: The next paragraph we see it is in therefore this regard that approval is hereby sort that you provide written confirmation to extend SAM in line with your approved terms and conditions as contained in your
10 instruction to perform. We know by way of example that in the Gauteng department project the term and condition relating to price per unit was R650,00 per unit.

MR SODI: Correct Chair.

ADV PRETORIUS SC: That term and condition was not extended to the Free State.

MR SODI: That is correct.

ADV PRETORIUS SC: And we have looked at the other terms and conditions that were set out they to do not appear to have been extended. Remember we talked about
20 the terms of reference and the detail of those terms and conditions.

MR SODI: Are you referring to the SLA the ones of the SLA?

ADV PRETORIUS SC: Not the SLA, well there were no terms and conditions in the SLA.

MR SODI: Okay.

ADV PRETORIUS SC: Do you agree with that?

MR SODI: Ja, yes.

ADV PRETORIUS SC: The only terms and conditions were contained in an instruction to perform work.

MR SODI: That is correct.

ADV PRETORIUS SC: And that instruction to perform work would have contained a unit price of R650,00 per unit?

10 **MR SODI:** That is correct Chair.

ADV PRETORIUS SC: So we know that that was not extended ultimately to the Free State.

MR SODI: Correct.

ADV PRETORIUS SC: But this letter here purports to seeks permission or purports to seek approval or an extension of the Gauteng contract to the Free State. Correct?

MR SODI: That is correct, ja.

20 **ADV PRETORIUS SC:** So now we have so far two arrangements in place, one the national panel and two the Gauteng contract.

MR SODI: Ja, I can explain that briefly...[intervenes]

ADV PRETORIUS SC: Please.

MR SODI: Chair it was initially according to my recollection the Free State Department wrote to the

National Department requesting that they extend the panel to the Free State that is the letter the previous letter Chair that we looked at. Then there was also a subsequent letter which is the letter that we are looking at now which also came from the Free State but in this case, it was not addressed to national. It was addressed to the Gauteng Department of Human Settlements and in the end, what happened was the treasury regulation 16A6.6 was utilised through the Gauteng Department of Local Government Housing not National Treasury. So that correspondence between the province and National Treasury in the end was not utilised. So what was then transferred or extended rather was the Gauteng Department of Local Government Housing to the Free State. So that is where they – according to my understanding of how that regulation functions was the reliance was therefore on Gauteng simply because we performed a similar service that needed to be performed in the Free State. And I think that was the reason why it was decided in the end that you know let us utilise the dual appointment in the Gauteng Department of Local Government.

ADV PRETORIUS SC: Okay Mr Sodi did you know this was happening at the time?

MR SODI: I saw correspondence I was aware that there was some correspondence happening between the Free

State and national and as well as Gauteng. But I was not party to a lot of these correspondence. I have seen some of these letters but I was not – I was certainly not involved you know.

ADV PRETORIUS SC: But Mr Sodi you have given a detailed explanation before this short adjournment of the practice that you say was prevalent...[intervenes]

MR SODI: Ja.

ADV PRETORIUS SC: ...in relation to contracts.

10 **MR SODI:** Ja.

ADV PRETORIUS SC: You have also now given a detailed explanation of the sequence of events in relation to the attempt to secure your appointment in the Free State by way of some form of transfer or another.

MR SODI: Correct.

ADV PRETORIUS SC: Did you know this at the time?

MR SODI: I got to know in the end when you know all this had happened that the reliance was placed on our appointment in Gauteng that is what
20 eventually...[intervenes]

ADV PRETORIUS SC: When did you get to know this the time the contract was concluded with you?

MR SODI: It was before we started with the execution of the project.

ADV PRETORIUS SC: 2014?

MR SODI: Ja, it would have been 2014.

ADV PRETORIUS SC: So you knew in 2014 that Mr Mokhesi was communicating with the national department Mr Zulu and you knew that Mr Mokhesi was communicating with the Head of Department of Housing Gauteng that is Miss Diederick's...[intervenes]

MR SODI: Correct.

ADV PRETORIUS SC: In order to facilitate the finalisation of your contract in the Free State.

10 **MR SODI:** That is correct Chair, I knew.

ADV PRETORIUS SC: But just to return to Free State 2, 111 we know that the approved terms and conditions in fact that term and condition that was fixed could be changed under no circumstances did not find their way from Gauteng to the Free State.

MR SODI: Which one is it Mr Pretorius?

ADV PRETORIUS SC: R650,00 remember it was immovable.

MR SODI: Okay.

20 **ADV PRETORIUS SC:** Unchangeable term and condition of the contract that you would be paid R650,00 per house.

MR SODI: That is correct, ja.

ADV PRETORIUS SC: It was put to you in your own words on a take it or leave it basis.

MR SODI: That is correct Chair.

ADV PRETORIUS SC: That term did not find its way from Gauteng to your contract in the Free State.

MR SODI: That is correct.

ADV PRETORIUS SC: Let us go again please to 4 August 2014 now in the timeline and my apologies back to Free State 8.

CHAIRPERSON: Of bundle FS8?

MR SODI: Which page are we looking at?

ADV PRETORIUS SC: Bear with me a moment please,
10 176 if you would FS8, 176. This appears to be Miss Diederick's reply to Mr Mokhesi because it refers to Mr Mokhesi letter of 15 July 2014 which we just dealt with.

MR SODI: That is correct.

ADV PRETORIUS SC: But what we see here in paragraph 1 is a statement by Miss Diederick's dated the 4th of August 2014 in this email or letter. She says "I hereby confirm my decision taken on 21 July 2014 that the Gauteng Department of Human Settlements granted approval in terms of treasury regulation 16A6.6 for the
20 Free State Department of Human Settlements to participate in the contract arranged by means of a competitive bidding process from the database of the Gauteng Department of Human Settlements for professional resourced teams where Blackhead Consulting Pty Ltd was appointed from". That is on the face of it appears to be an approval to

extend a panel contract.

MR SODI: I am not sure if this is extending the panel contract Chair.

ADV PRETORIUS SC: Well your contract to perform work in terms of an instruction to perform work you and the seven others in the Free State on the asbestos project that was not the result of a competitive bidding process. As I understand it whatever competitive bidding process there was, was to get on the panel in the first place.

10 **MR SODI:** That is correct.

ADV PRETORIUS SC: So what she is referring to here is a panel not what Mr Mokhesi was referring to which was an individual instruction to perform work. She is talking another language.

MR SODI: Look Chair I am not the author of the letter so it is going to be difficult for me to respond to that question to say what she is referring to...[intervenes]

CHAIRPERSON: Well Mr Pretorius seeks your own understanding of what is being said here which did concern
20 your company.

MR SODI: Ja.

CHAIRPERSON: Ja to say what is your understanding of what the author is talking about here.

MR SODI: Okay so my understanding is that subsequent to a letter that was written by the Free State department by

Mr Mokhesi specifically to request or rather to get the Gauteng Department of Human Settlements to confirm that we were indeed appointed there. So this was the response from Gauteng from the acting HOD confirming that indeed Blackhead Consulting was a service provider in the department and you know obviously that if that particular regulation the treasury regulation had to be implemented there were certain things that needed to happen. So it was in response to a request from a letter that was resent by
10 the HOD in the Free State.

ADV PRETORIUS SC: It says and I think you have confirmed this but let us just deal with it so we can move on. In paragraph 1 is that she has made a decision and she made it on 21 July 2014 that is six days after the letter of 15 July 2014 to which she refers and the decision is that the Free State Department of Human Settlements may participate and I am changing the quote for grammatical reasons in the contract arranged by means of a competitive bidding process from the database of the Gauteng
20 Department of Human Settlements or professional resource teams. That is the Free State and sorry the Gauteng panel contract.

MR SODI: Correct, ja.

ADV PRETORIUS SC: We know that in the Free State you were appointed in terms of an individual contract. SLA

which appointed you not a panel.

MR SODI: That is correct.

ADV PRETORIUS SC: And it also refers in case there should be any confusion in paragraph 3 this letter to the fact that the database will lapse at the end of August 2014 and we know we have dealt with that.

MR SODI: Ja, correct.

ADV PRETORIUS SC: So, so far, we have national involved in a process to extend a national database to Free
10 State which you say fell way. We have Mokhesi asking for a particular contract to be extended, in fact it refers to an instruction to perform of work one can read and now we have Diedericks purporting to extend a panel arrangement to the Free State. You nod?

MR SODI: Ja, I agree.

ADV PRETORIUS SC: But what is also important Mr Sodi is that what Miss Diedericks is doing here is taking a decision involving Blackhead Consulting Pty Ltd not a joint venture. Correct?

20 **MR SODI:** That is correct yes.

CHAIRPERSON: I just want to make sure that we have the same understanding of what that paragraph 1 means. Mr Pretorius is confirming a decision she made on 21 July 2014 and the decision is that the Department of Human Settlements in Gauteng was granting approval in terms of

what – that regulation in terms of regulations stated there for the Department of Human Settlements in the Free State to participate in the contract arranged by means of a competitor bidding process. The contract arranged by means of a competitor bidding process which contract would that be?

MR SODI: This would be Chair the panel contract.

CHAIRPERSON: That is the one that was arranged by way of a competitor.

10 **MR SODI:** That is correct, ja.

CHAIRPERSON: To get onto the panel?

MR SODI: Absolutely yes.

CHAIRPERSON: And then she says from the database of the Gauteng Department of Human Settlements for professional resource teams where Blackhead Consulting Pty Ltd was appointed from. So the contract she talks about the Free State Human Settlements Department being granted approval to participate in the contract.

MR SODI: That is correct.

20 **CHAIRPERSON:** And that contract is the contract of getting onto the panel in Gauteng as far as Blackhead is concerned.

MR SODI: Correct.

CHAIRPERSON: Is that right?

MR SODI: Ja.

CHAIRPERSON: Not the contract which Blackhead obtained after being on the panel namely other assessment and auditing of houses.

MR SODI: Ja so these particular paragraph here...[intervenes]

CHAIRPERSON: Yes, this paragraph.

MR SODI: Would refer to that contract...[intervenes]

CHAIRPERSON: Of getting onto the panel.

MR SODI: Getting onto the panel.

10 **CHAIRPERSON:** And not of actually doing the work.

MR SODI: That is my understanding.

CHAIRPERSON: Yes, okay is that your understanding as well Mr Pretorius?

ADV PRETORIUS SC: Yes, Chair.

CHAIRPERSON: Okay I just wanted to make sure that we are on the same page.

ADV PRETORIUS SC: But it is - well I have put the question I am not going to summarise it again it may just cause more confusion. We move to another point, we have
20 established that what Miss Diedericks is talking about here is Blackhead Consulting Pty Ltd and not a joint venture.

MR SODI: Correct Chair.

ADV PRETORIUS SC: By the 4th of August 2014 the date of this letter the joint venture proposal had already been made to the Gauteng department.

MR SODI: Free State.

ADV PRETORIUS SC: Sorry the Free State department.

MR SODI: That is correct Chair.

ADV PRETORIUS SC: That was made on the 28th of May 2014 and the proposal appears at FS1, 457 but if you agree with that we do not need to go there.

MR SODI: I agree with it, yes.

ADV PRETORIUS SC: If you look at FS2 page 100...[intervenes]

10 **CHAIRPERSON:** One second Mr Pretorius of course paragraph 2 of that letter at page 176 reveals that the author of the letter seems to contemplate that Blackhead is going to be given work to do by the Free State department because she says the approval and she is talking about the approval in paragraph 1 is subject to the conditions that Blackhead Consulting Pty Ltd must approve in writing that it is willing to do the required work for your department and that the participation of Blackhead Consulting may not negatively impact on their performance towards the

20 Gauteng Provincial Government. That is something else, she does contemplate that as a result of this approval that she was giving Blackhead would do some work in the Free State.

MR SODI: Ja, my assumption Chair would be that she would make a statement like that because in the letter that

was addressed to her by her counterpart in the Free State
it was specific that they dealing with Blackhead.

CHAIRPERSON: Please repeat that last part.

MR SODI: I say...[intervenes]

CHAIRPERSON: It was specific that they.

MR SODI: They intending to appoint Blackhead to do
some work in the Free State.

CHAIRPERSON: Ja.

MR SODI: Ja, correct Chair I agree with it, ja.

10 **ADV PRETORIUS SC:** Yes, for the present purposes the
letter at FS2, 111 that you have just referred to from Mr
Mokhesi to Miss Diedericks or Department of Housing I am
not sure precisely when Ms Diedericks took office
contemplates the extension of the contract to Blackhead
Consulting Pty Limited.

MR SODI: That is correct and that is precisely the point I
was saying that you know she would have indicated that
second paragraph because she was already aware based on
the letter that she received from the Free State that it had to
20 do with Blackhead Consulting.

CHAIRPERSON: Hm.

ADV PRETORIUS SC: But we know at that stage that the
proposal for the performance of the work in the Free State
was a proposal by the Joint Venture and that proposal was
made earlier on the 28 May 2014.

MR SODI: That is correct Chair.

ADV PRETORIUS SC: And if one looks at Diedericks' statement in FS2 at page 100 one sees her response to those circumstances.

CHAIRPERSON: I am terribly sorry Mr Pretorius I just want to finalise on that – on that letter at page 176. I am sorry Mr Sodi I am disorganising both you and Mr Pretorius.

MR SODI: No problem.

CHAIRPERSON: If we go back to that letter of Ms
10 Diedericks at page 176 I note that she says in the second
paragraph from the end of the letter that she says – I am
reading from the middle.

“Your department may also consider or “

She says:

“It should further be noted that the Gauteng
Department of Human Settlements can –
currently has in place a data base of service
providers that provide PRT work. The data
base will lapse at the end of August 2014
20 and processes are in place to establish a
new data base. Your department may also
consider this should the identified service
provider not agree or not be in a position to
do the required work. If you follow this route
you should embark on the procurement

process from the companies provided and enter into an own service level agreement with the successful bidder.”

What is your understanding of this part? Is it that if the Free State Department – is it that the Free State Department would be free to approach one of the service providers in the – on the panel?

MR SODI: That is correct ja.

CHAIRPERSON: And if that service provider was happy to
10 do the work then they would go ahead and make whatever arrangements. But if the identified service provider was not prepared to agree to do the work then there would have to be a new procurement process to be followed. Is that your understanding?

MR SODI: Chair that – that is my understanding hence there was a letter that was also written to us requesting us to confirm that we accept the appointment.

CHAIRPERSON: Ja.

MR SODI: From the Free State.

20 **CHAIRPERSON**: Ja.

MR SODI: So that – this paragraph talks to that aspect as well.

CHAIRPERSON: Yes.

MR SODI: But after we had said that look, we have got too much work.

CHAIRPERSON: Ja.

MR SODI: Or we have got a lot on our plate.

CHAIRPERSON: Ja.

MR SODI: We do not think we will be able to take additional work in the Free State.

CHAIRPERSON: Ja.

MR SODI: Then they probably would have went to the panel and certify let us maybe identify someone else on the panel.

CHAIRPERSON: Ja.

10 **MR SODI:** And you know – that is basically what is captured here.

CHAIRPERSON: Okay, alright. Mr Pretorius.

ADV PRETORIUS SC: Thank you Chair. If we could go back to FS8 please at page 177.

CHAIRPERSON: What is the page number Mr Pretorius?

ADV PRETORIUS SC: 177 Chair.

CHAIRPERSON: Okay.

20 **ADV PRETORIUS SC:** Now we know from previous correspondence that we have just dealt with Mr Sodi that when Mr Mokhesi wrote to Ms Diedericks on the 15 July, he was referring to the extension of a contract – whatever contract that might have been to Blackhead Consulting Pty Limited.

MR SODI: That is correct Chair.

ADV PRETORIUS SC: And it appears on FS8, 177 a letter

addressed by yourself to Ms Diedericks.

MR SODI: That is correct.

ADV PRETORIUS SC: And you knew her as the acting Head rather than the appointed Head at that stage, is that correct?

MR SODI: Ja she – she was the acting HOD Chair.

ADV PRETORIUS SC: It says:

10 “Dear Ms Diedericks appointment of
 Blackhead Consulting Pty Limited for the
 asbestos eradication program in the Free
 State Province.”

 Now this letter is dated 7 August 2014 we know that
the proposal that the Joint Venture would do the work in the
Free State was dated the 28 May 2014.

MR SODI: That is correct.

ADV PRETORIUS SC: You say to Ms Diedericks:

20 “We acknowledge receipt of your fax dated 4
 August 2014 in which you respond to the
 Head of Department Human Settlements in
 the Free State Province regarding the
 appointment of Blackhead Consulting Pty
 Limited for the asbestos eradication
 program.”

 Correct?

MR SODI: Correct.

ADV PRETORIUS SC: So you are telling her that it is the

appointment of Blackhead Consulting Pty Limited who had done work for her in the Free State that was at stake here?

MR SODI: That is correct.

ADV PRETORIUS SC: And you say:

“We would like to confirm the following:

1. That Blackhead Consulting Pty Limited is willing and committed to perform the required work for the Department of Human Settlements in the Free State.”

10 Correct?

MR SODI: That is correct.

ADV PRETORIUS SC: And you sign it Mr Edwin Sodi in your capacity as Chief Executive Officer of Blackhead Consulting Pty Limited?

MR SODI: That is correct.

ADV PRETORIUS SC: Why did you not tell her that it was the Joint Venture that was going to be appointed?

MR SODI: At the time Chair I – my understanding was that if one of the parties to the JV has done this sort of work in this case we were on the panel from the – on the Gauteng Department of Human Settlements. We had done – we had already completed the asbestos audit so my understanding was that if on the JV one of the parties had done work then you know it is not an issue at all. Of course, my understanding there could have been wrong. But that is how

20

I understood that Blackhead had done this work, it was on the panel from the Department of Human Settlements in Gauteng and it was part of a JV. So my understanding at the time was that there is absolutely nothing wrong with it. But you know it turned out later that you know my understanding could have been incorrect but at the time I did not think that it was an issue.

ADV PRETORIUS SC: Right but Mr Sodi both Mr Mokhesi and yourself in seeking to participate in a Gauteng contract
10 tell Ms Diedericks that the party in the Free State that would do the work is Blackhead Consulting Pty Limited when both Mr Mokhesi and you knew that it was not it was a Joint Venture a different entity, correct?

MR SODI: Correct Chair this is exactly what I am explaining you know that it is – my understanding was that if one of the parties to the JV you know had done the work which was the case in this case. My understanding at the time was that it is not a – it was not an issue. You know the fact that there was a Diamond Hill that was not mentioned I did not at the
20 time I did not see that as a problem you know. And I can – I can also illustrate this point with another example. That if you look for instance at the way government works when it comes to partnerships and JV's I will give you an example. If there is a tender that gets issued out usually before submission there will be a briefing session which is meant to

really give clarity to the potential bidders in terms of what ought to happen. What would happen in most cases that if for instance there has to be a partnership the company that attends the briefing session and it can partner with any other service provider or any other company that did not attend the briefing session. So in this case it could be for instance Blackhead goes to the briefing session and we write on the attendance register which is usually also a requirement when they do the evaluation because some of them are

10 compulsory. We can choose anyone else for instance if we want to partner. We can choose anyone else or any other company that did not attend the briefing session and partner with them or form a JV and submit. That is acceptable, that is the standard practice that is what happens in most cases. So that I will – even in this case Chair I would have seen it in that way because it is allowed that for as small as one member of the part of the consortium or the JV or the partnership as long as one member had complied in as far as you know the compulsory briefing session is concerned that

20 is acceptable. And I looked at it in that context but like I am saying some of these things could be legal which I would not be able to – to deal with. But that is the normal practice Chair that is what happens in the industry.

ADV PRETORIUS SC: Well let us leave aside what the Treasury Regulation permits and does not permit and just for

the record it – it only permits a contractual arrangement to be extended involving the same parties but put that aside for the moment. If it was a matter in which you had the attitude on the 7 August that it was perfectly permissible and in order for the Joint Venture to do the work why not just say it?

CHAIRPERSON: In other words, Mr Sodi I think the point that Mr Pretorius or what maybe triggering his question and he wants your comment is this. Mr Mokhesi and yourselves – and yourself know that it is a Joint Venture that is going to
10 be appointed in the Free State.

MR SODI: Correct.

CHAIRPERSON: When Mr Mokhesi writes to Ms Diedericks, he knows that it is a Joint Venture that is going to be appointed.

MR SODI: That is correct.

CHAIRPERSON: When you write this letter, you know that it is Joint Venture that is going to be appointed.

MR SODI: That is correct Chair.

CHAIRPERSON: He finds it strange that both you and Mr
20 Mokhesi

MR SODI: Did not specify.

CHAIRPERSON: Do not appear to be upfront with...

MR SODI: Ja.

CHAIRPERSON: Ms Diedericks to say, we are going to appoint a Joint Venture, these are the names, we do not

think it matters that you know Diamond Hill was not – did not participate in Gauteng because Blackhead did participate. So you are open about it because you see nothing wrong about it.

MR SODI: Yes, ja.

CHAIRPERSON: But on the – on the contrary it appears that coincidentally both of you do not see the need to tell Ms Diedericks that actually it is a Joint Venture.

MR SODI: It is a Joint Venture ja.

10 **CHAIRPERSON**: Yes. I think that is what is triggering his inquiry.

MR SODI: Okay no I mean I would admit that in hindsight, in retrospect we should have specified that you know. We could have done that but like I am saying you know I had a completely different understanding but I take the point and I am saying that you know given a second chance I would do it different.

CHAIRPERSON: Yes.

MR SODI: Ja.

20 **CHAIRPERSON**: Of course, if it was one of you maybe one could leave it at that.

MR SODI: Yes.

CHAIRPERSON: It is just strange that both of you do not mention it.

MR SODI: ja.

CHAIRPERSON: But of course you cannot speak for him.

MR SODI: Yes.

CHAIRPERSON: You can only speak for yourself.

MR SODI: Ja.

CHAIRPERSON: But I am just saying that is the context.

MR SODI: Exactly but also again not wanting to get in a to
and fro sort of debate and I cannot certainly speak on behalf
of Mr Mokhesi I can speak for myself because I wrote the
letter but I would assume the only reason why he would have
10 omitted the JV aspect was because it was not the JV that
was appointed in Gauteng it was Blackhead that was
appointed there. Had it been a JV I am sure that he would
have said listen we intending as the Free State Department
to appoint this JV. But as it turned out it was only Blackhead
and I can only assume that that is only the reason why you
know he would have just been you know said listen we
referring to Blackhead here and nothing else.

CHAIRPERSON: Mr Pretorius.

ADV PRETORIUS SC: Well that is...

20 **CHAIRPERSON:** I hope I understood your – what triggered
your question.

ADV PRETORIUS SC: Yes. So now I think the point has
been made by Mr Sodi that the reason for confining the
identity to Blackhead Consulting Pty Limited in a
communication with Ms Diedericks both from Mr Sodi's side

and from Mr Mokhesi's side was because you knew that the only contract that had been entered into in [indistinct 00:16:08] in Gauteng was Blackhead Consulting Pty Limited.

MR SODI: That is correct. That is correct Chair.

ADV PRETORIUS SC: Right. So it was deliberate. I mean when you wrote Blackhead Consulting Pty Limited you knew what you were doing?

MR SODI: I knew what I was doing Chair and as I said again that I did not see anything wrong at the time you know doing
10 it in this particular fashion because of the examples that I gave previously about you know how it works you know. For instance, when one party has complied if there is a consortium or a JV or a partnership if one party to that partnership has complied with certain provisions then it is acceptable that you can do it that way. But I – but I you know I take the point.

ADV PRETORIUS SC: Yes.

MR SODI: And I am saying that is...

ADV PRETORIUS SC: Thank you Mr Sodi. So you
20 deliberately put Blackhead Consulting Pty Limited in there when you knew it was the Joint Venture rather that would be appointed in the Free State in order to allow Ms Diedericks to say that the Gauteng contract which involved only Blackhead could be extended.

MR SODI: That is correct. That is correct Chair.

ADV PRETORIUS SC: Right well she said it did matter because she said had she known that it was a Joint Venture she would not have extended the contract because it was not permitted in terms of the law. Do you know that?

MR SODI: I – no I do not know that.

ADV PRETORIUS SC: Do you want to see her affidavit to that effect?

MR SODI: Ja I am sure if it is in the affidavit, we can look at it.

10 **ADV PRETORIUS SC:** Yes let us look at FS2 page 100. Perhaps we should go back to FS2 99.

MR SODI: What page are we at Mr Pretorius?

ADV PRETORIUS SC: FS2, 99.

MR SODI: Okay.

ADV PRETORIUS SC: If we could just go to paragraph 14.4 she was shown the Joint Venture proposal addressed to Mr Mokhesi and she says in paragraph 14.4:

“The proposal is dated 28 May 2014”

20 Do you know that that is the Joint Venture proposal to the Free State Department?

MR SODI: Correct ja.

ADV PRETORIUS SC:

“Therefore, as of 28 May 2014 Mr Mokhesi may have been aware of the fact that Diamond Hill will form a Joint Venture with

Blackhead.”

Well he knew that is a fact not may fact.

MR SODI: Correct ja.

ADV PRETORIUS SC: Correct.

“Why Mr Mokhesi did not mentioned this in his letter dated 15 July 2014 to the HOD Department of Human Settlement in Gauteng is unknown to me.”

Then she says over the page, page FS2 100.

10 “If the involvement of Diamond Hill were divulged to me I would not [and she underlines not] have issued my letter dated 4 August 2014.”

Then she refers to another document or the same document.

20 “At all relevant times Diamond Hill was not on the Gauteng date base if the letter from the HOD of the Free State applied for permission to appoint Blackhead/Diamond Hill JV I would not have been able to get permission in terms of Regulation 16a6.6 because this JV was not a registered vendor in Gauteng.”

Correct?

MR SODI: Correct.

ADV PRETORIUS SC: Everybody knew that.

MR SODI: Correct ja.

ADV PRETORIUS SC: And that is why reference is only made to Blackhead.

MR SODI: That is correct.

ADV PRETORIUS SC: If we could then move on – if you would bear with me a moment please. Would you go to FS8 179 please?

CHAIRPERSON: What is the page number again?

10 **ADV PRETORIUS SC:** FS8 179.

CHAIRPERSON: Bundle FS8 page 179. Okay.

ADV PRETORIUS SC: That is a letter from Mr Mokhesi dated the 11 August 2014 to yourself as the CEO of Blackhead Consulting Pty Limited.

MR SODI: Correct.

ADV PRETORIUS SC: And it – its title or heading is Appointment of Blackhead Consulting Pty Limited for the asbestos eradication program in the Free State Province.

And it says:

20 “The above has reference to the concurrent approval by the Gauteng Province Department Human Settlements dated 4 August 2014 regarding your participation in an agreement currently secured by them.”

Whether that is referring to a panel or a specific

contract does not appear to be very clear so I am not going to press you on that but let us look at paragraph 1.

MR SODI: Ja.

ADV PRETORIUS SC: You formerly agree to participate and extend your services – now this is to you, Blackhead Consulting Pty Limited to the Department of Human Settlements Free State in line with the Terms and Conditions of their IPW. So it seems that what Mr Mokhesi is here talking about is the instruction to perform work that existed
10 in the Free State – um in Gauteng.

MR SODI: That is correct.

ADV PRETORIUS SC: And we have been through this a number of occasions. That is not what formed the basis of the contract in the Free State?

MR SODI: Because the amounts were different.

ADV PRETORIUS SC: Yes. And there were other differences.

MR SODI: Correct ja.

ADV PRETORIUS SC: But we can go there as well.

20 **MR SODI**: Ja.

ADV PRETORIUS SC: Then over the page Free State 8, 180, FS8, 180. That is a letter from yourself to Mr Mokhesi. Do you see that?

MR SODI: Correct.

ADV PRETORIUS SC: Now it appears for the first time that

the Joint Venture at least on the letterhead appears. Do you see that?

MR SODI: Correct.

ADV PRETORIUS SC: And although the previous correspondence deals with – and the invitations deal with Blackhead Consulting Pty Limited you confirm here – well let us deal with the first paragraph.

“We acknowledge receipt of your fax dated 11 August 2014 in which you request our written response regarding the
10 appointment of Blackhead Consulting Pty Limited.”

Do you see that?

MR SODI: Huh-uh.

ADV PRETORIUS SC: Specifically, Blackhead Consulting not the Joint Venture.

MR SODI: Correct.

ADV PRETORIUS SC: Correct.

“We would like to confirm the following:

20 1. That Blackhead Consulting Pty Limited JV is willing and committed to perform the required work.”

So you are quite aware of the distinction in this whole saga of events between Blackhead Consulting Pty Limited on the one hand and Blackhead Consulting Pty Limited Joint Venture on the other because you mention them both separately.

MR SODI: Correct.

ADV PRETORIUS SC: In the same letter, correct?

MR SODI: Ja.

ADV PRETORIUS SC: So this is a deliberate introduction of the JV to Mr Mokhesi, correct?

MR SODI: That is correct Chair but you would also recall that the proposal.

CHAIRPERSON: He knew it was going to be the JV.

MR SODI: Ja.

10 **CHAIRPERSON**: That is the point you made.

MR SODI: So the proposal that was submitted in May.

CHAIRPERSON: He is not going to hear for the first time about JV now.

MR SODI: Ja. It was – that proposal was very specific.

CHAIRPERSON: Hm.

MR SODI: That it is a JV.

CHAIRPERSON: Hm.

MR SODI: That he is applying for there.

20 **CHAIRPERSON**: Well I note that even though you do include JV in paragraph 1 in that letter you do not mention Diamond Hill. Is there a reason for that?

MR SODI: There would not have...

CHAIRPERSON: Was it not in the Joint Venture?

MR SODI: There would not have been any specific reason.

CHAIRPERSON: Was the Joint Venture not Blackhead,

Diamond Hill, JV.

MR SODI: Ja it was. It was. I suppose that should have been specific there.

CHAIRPERSON: Hm.

MR SODI: That it is a Blackhead Consulting, Diamond Hill JV.

CHAIRPERSON: So we move from a point where Mr Mokhesi in correspondence with Ms Diedericks does not mention the JV at all and you do not mention the JV in the
10 other letter that we looked at a few minutes ago. But here there is a difference. You mention Blackhead Consulting Pty Limited and then you say JV.

MR SODI: Ja.

CHAIRPERSON: But you do not put in Diamond Hill?

MR SODI: For the full name.

CHAIRPERSON: At this stage.

MR SODI: Ja.

CHAIRPERSON: Maybe later you do but at this stage you do not.

20 **MR SODI**: We do not but Chair if you look...

CHAIRPERSON: It is like a gradual.

MR SODI: No Chair. If you look at that letter.

CHAIRPERSON: Ja.

MR SODI: On top right next to Blackhead there is a Diamond Hill stamp. I do not know if you have got that letter

in front of you.

CHAIRPERSON: Oh yes I see that.

MR SODI: Ja.

CHAIRPERSON: Yes, yes.

MR SODI: So it was not...

CHAIRPERSON: Yes so there is...

MR SODI: To conceal anything.

CHAIRPERSON: Okay so...

MR SODI: Ja.

10 **CHAIRPERSON**: That may be a fair point ja.

ADV PRETORIUS SC: Yes and in the footer of the letter too Diamond Hill is mentioned as well in fairness to Mr Sodi.

CHAIRPERSON: Yes. No that is the point ja.

ADV PRETORIUS SC: In the green bar.

CHAIRPERSON: Hm.

ADV PRETORIUS SC: What is instructive about this particular letter Mr Sodi? It was your understanding that what was going to happen in the Free State was your appointment as a JV and not the appointment of any panel?

20 **MR SODI**: That is correct.

CHAIRPERSON: Well we are at one o'clock Mr Pretorius maybe we should take the lunch adjournment or do you have a last question before lunch?

ADV PRETORIUS SC: I do not think it makes much difference Chair. We have got a lot more questions.

CHAIRPERSON: I leave room just in case you had one more question.

ADV PRETORIUS SC: No Chair I will move on.

CHAIRPERSON: Yes. Okay alright. We will take the lunch adjournment and resume at two o'clock.

ADV PRETORIUS SC: Thank you.

CHAIRPERSON: We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

10 **INQUIRY RESUMES:**

CHAIRPERSON: Okay let us continue.

ADV PRETORIUS SC: Thank you, Chair. Mr Sodi, can we go to FS8 at page 180?

MR SODI: [No audible reply]

ADV PRETORIUS SC: Just to recap. This letter from yourself to the Department of Human Settlements in the Free State who introduces the JV for the first, in fact, in this series of correspondence.

20 **MR SODI:** Chair, I would not say it is for the first time. The first the JV was introduced to us was when we submitted the proposal which was around May of 2014.

ADV PRETORIUS SC: No, you are entirely correct but what I am putting is that, in the correspondence that we have just been through ...[intervenes]

MR SODI: Okay, yes.

ADV PRETORIUS SC: ...between Free State, Gauteng and the National Department, the first time it is placed on record.

MR SODI: Okay that is correct.

ADV PRETORIUS SC: We go over the page to FS8 page 181. We see there a letter from Mr Zulu to Mr Mokhesi dated the 13th of August 2014.

Now this letter deals with, on the face of it again, not the particular instruction to perform work emanating from Gauteng but the database contract. In other words, the
10 panel contract we have referred to.

MR SODI: That is correct Chair.

ADV PRETORIUS SC: It also deals with Blackhead Consulting (Pty) Limited and not the Joint Venture.

MR SODI: That is correct.

ADV PRETORIUS SC: If one goes to the last letter in the series that I want to put to you, please. It is FS8 page 188. Now the appointment letter that we have referred to in evidence before of 1st October 2014, addressed by Mr Mokhesi the head of the department in the Free State to the
20 chief executive officer of Blackhead Consulting (Pty) Limited, JV. Correct?

MR SODI: That is correct.

ADV PRETORIUS SC: And the second paragraph reads:

“The department wishes to advise that your company has been exclusively appointed for the audit and

assessment of asbestos, handling of hazardous material, removal and disposal of asbestos contaminated...”

And then that next word is clear or unclear rather.

“...and replacement with SABS approved material in the Free State Province...”

I apologise. The letter is not very clear but that is more or less what it says except for one word which I could not read.

10 **MR SODI**: That is correct. Correct Chair.

ADV PRETORIUS SC: So what is apparent from this letter of appointment is that it is an appointment of the JV as the exclusive service provider to do the work set out there. Correct?

MR SODI: That is correct Chair.

ADV PRETORIUS SC: And it also includes an appointment for handling of hazardous material, removal and disposal of asbestos contaminated material and replacement with SABC approved material in the Free State Province.

20 **MR SODI**: That is correct.

ADV PRETORIUS SC: If I could just summarise because it is apparent that in relation to the extension of the contract from wherever it may have originated to the Joint Venture in the Free State, there is, to put it at its lowest, a great deal of confusion. Like if I can just summarise for you.

And in the first place, Mokhesi seeks to... Mr Mokhesi seeks to extent a national panel contract and Mr Zulu appears to cooperate in that.

And in the second place, Mr Mokhesi seeks to extent the instruction to perform work in Gauteng. In the third place, Diedericks seeks to extent a panel contract, not an instruction to perform work.

And in the fourth place, Diedericks and Zulu and up to a point Mr Mokhesi talks about Blackhead. The appointment
10 letter appoints the Joint Venture.

And finally, we have a solar appointment of a joint venture, not of Blackhead, not of a panel arrangement and not in accordance with the Gauteng instruction to perform work and terms and conditions particularly in regard to price. It is a fair summary of what appears to lack clarity at the very least.

MR SODI: Correct Chair.

ADV PRETORIUS SC: If you could assist the Chair, please Mr Sodi? It is in relation to two issues and that is to
20 understand what you know of what work was done in the Free State and the costs of that work. You may be able to fill in some gaps that exist in evidence thus far.

MR SODI: Ja.

ADV PRETORIUS SC: As I understand it. In your first statement, you said that virtually all of the work on the

ground was carried out by the ORI Group.

MR SODI: Ja, we... Chair, we sub-contracted MasterTrade who and then, you know, subsequently contracted ORI Group to do the actual work. But at all times there, I was always, until much later, under the impression that it was MasterTrade that was doing the actual work.

I only found out much later when there was a dispute between ORI Group and MasterTrade that in actual fact there was an entity called ORI Group but at the beginning, that
10 information was kept from me. I was not aware about it.

ADV PRETORIUS SC: At the time the Free State Department of Human Settlements agreed to pay you R 850,00 per unit, did they know that you were going to sub-contract the work, substantially all the work to MasterTrade for R 44 million?

MR SODI: Chair, as far as I know the department, at least from my side, was not informed that we were going to sub-contract. I am not sure if that conversation could have happened between my late partner and the department. You
20 know, it may have happened. I would not know. But for my side, certainly, there was no... that discussion never took place.

ADV PRETORIUS SC: Did you not think to inform the department of the fact that you could, in fact, sub-contract the work for a fraction of the price that they were going to

pay?

MR SODI: Chair, in normal practice in the industry that we operate in, we often sub-contract but what remains is the contract is between two parties.

In this case, the contract was between the Department of Human Settlements in the Free State together with the Blackhead/Diamond Hill.

So the expectation from the department was that the JV would do the work. But as it happens in the industry, you
10 from time to time especially where you need services of a specialist nature, you would sub-contract.

But there is certainly no obligation, as far as I know, that you ought to disclose to the client that we are going to sub-contract the work. It certainly does not happen in most cases.

You are expected that you will do all the work and you be held responsible as the contracted party to deliver on what you are supposed to deliver.

So in most cases, it is not a requirement at all that, you
20 know, you need to come back or disclose to the client to say, “Client, listen. Yes, we acknowledge that you gave us this work but we are actually going to, you know, use the services of a sub-contractor”.

It hardly happens in the industry Chair.

ADV PRETORIUS SC: Arising from your answer now Mr Sodi.

Do I understand you to say that it is common practice that when contractors do work with a province or a national department for these... for similar sub-contracting arrangements to take place? It happens often?

MR SODI: It happens quite often Chair. Ja.

CHAIRPERSON: I can up to a certain point understand within maybe certain context a situation where a department or any client says, “I am giving you this work. You know what the standards are that must be met. I will hold you
10 responsible.

I do not really care whether you do the work or somebody else does the work but if you let somebody do the work who ends up not meeting the standard expected, you will be accountable”.

MR SODI: That is correct.

CHAIRPERSON: Up to a certain level I can understand that.

MR SODI: Ja.

CHAIRPERSON: But also, I can understand a situation where the client would say, “I am giving you the work
20 because you have put up a proposal for me. You have convinced me that you have got the expertise to do this job and the experience.

I do not want anybody else to do the work because if I wanted somebody else, I would have given it to somebody else.

I wanted you to do the job. So as far as I am concerned, it is not permissible for you having got the job from me to give it somebody else”.

MR SODI: Ja, of course Chair. If that is specified ...[intervenes]

CHAIRPERSON: Let me qualify that.

MR SODI: Ja.

CHAIRPERSON: It is unacceptable. It is not going to be permissible for you to give it to somebody else without my
10 permission.

MR SODI: Ja.

CHAIRPERSON: Ja, okay.

MR SODI: So to respond to that Chair. If it is made very clear by the client that: “Listen Mr Blackhead, we are giving you this project and we expect you to do the work. We do not expect anyone else to do the work on your behalf.

But you, because you have presented to us that you are capable that you indeed have the necessary skill and experience and qualification to do the work. So we expect
20 you to do the work”.

If that is specified, whether it be in an SLA or whatever contract, then indeed, we will have to abide by those instructions.

But if such is not specified anywhere, we would typically do it, you know, the same that we do with a whole lot of

other projects where we say, “Look, at the end of the day it is our responsibility to make sure the job gets done. It gets done properly”.

It gets done according to the standards that would have been set by the client. If anything, go wrong, we cannot now turn and say, “Well, Mr Client we have appointed someone else to do the work. They messed up. So deal with them”.

We would still be accountable for anything that goes wrong. So the responsibility still lies with us as the service
10 provider to make sure that the product is up to the satisfaction of the client.

CHAIRPERSON: Mr Pretorius.

ADV PRETORIUS SC: We understand Mr Sodi that when the state or the executive or when the administration spends money in a procurement exercise, it is bound by, not only constitutional provisions but a host of other legislative provisions and Treasury regulations. You know that?

MR SODI: [No audible reply]

ADV PRETORIUS SC: And the Constitution says that when
20 money is spend it must be cost-effective. You understand... you know that? Do you?

MR SODI: [No audible reply]

ADV PRETORIUS SC: Anyway, you can trust me. That is what the Constitution says ...[intervenes]

MR SODI: Okay.

ADV PRETORIUS SC: ...in Section 217.

MR SODI: Okay.

ADV PRETORIUS SC: In order for a state department to know that it is embarking upon a procurement exercise which must be cost-effective, quite apart from being fair and transparent and the like, it needs to have all the information at its disposal. You would agree with that?

MR SODI: I would agree with that.

ADV PRETORIUS SC: So, and this is not your responsibility
10 because I understand as a businessman you might well say, well it is up to the department to do its homework. Here is my bid. They can give me the work or they do not have to.

MR SODI: Correct.

ADV PRETORIUS SC: Correct?

MR SODI: That is correct.

ADV PRETORIUS SC: But in relation to the department, if they had known that, firstly, you were to sub-contract and secondly, had they known the terms and conditions of the sub-contract, they would have been in a better position to
20 ensure that the contract was, from their point of view, cost-effective. Would you agree with that?

MR SODI: Well, Chair it could be that yes we could have assisted the department to come to that determination. But let us bear in mind that what happened in this case was, there was a negotiation with regard to the fee that was

ultimately agreed upon between the two parties.

The Department of Human Settlements, in this case - and I am certainly not speaking on their behalf. They can maybe speak to that point. – my assumption is that they were guided as well.

Because remember I said, no one had done this sort of project prior to Gauteng. So they were guided by the fee or the price that was charged in Gauteng which was in a way some kind of a precedent if one wants to put it that way.

10 And I explained previously when I was here that the reason why the Free State fee was higher than Gauteng was to then take care of the unknown factors that I explained, you know.

The fact that now we are dealing with the entire province, not just certain, you know, certain parts of the Free State. Now we are dealing with the entire province.

So, certainly from their point of view, they would have said, “Okay, we have got a benchmark in terms of price. The benchmark is R 650,00. We know it because it has
20 happened, you know, service providers who were appointed on that”.

And certainly, when we negotiated with them we said, “Look. Yes, that is what we got”.

CHAIRPERSON: Yes, I know I am interrupting you Mr Sod.

MR SODI: Ja.

CHAIRPERSON: But I think the point that Mr Pretorius wishes you to comment on is a very narrow one. A very narrow point ...[intervenes]

MR SODI: Okay?

CHAIRPERSON: ...that you... I think he wishes you to comment on.

MR SODI: Ja.

CHAIRPERSON: Namely, this project was not done in a cost-effective manner from the point of view of the department. How that came about might be a matter for
10 debate but that is a fact. You accept that?

MR SODI: [No audible reply]

CHAIRPERSON: You accept that?

MR SODI: I do accept that Chair.

CHAIRPERSON: You accept that, yes. That is point one. Point two, had the department known what we know now, namely, that there was or would be an entity that could do this job for much less, there is no reason why we should think they would have been prepared so much to you. You
20 accept that?

MR SODI: I do accept that.

CHAIRPERSON: Yes.

MR SODI: I do accept that Chair.

CHAIRPERSON: Yes.

MR SODI: And just to add onto that. Chair, you would

remember, I also mentioned the last time that I was here that from the very beginning when we started engaging with the department and when we wrote that first letter, it was never anticipated at all that the project was going to be sub-contracted at least from my point of view because we had done this.

So I did not even entertain that thought. It never even occurred to me that we may get to that stage until much later when Mr Bombane approached me and asked me if I could,
10 you know, be available for a presentation by MasterTrade.

He convinced me and eventually I agreed. I said, "I am fine. Let us meet. Let me listen to the presentation".

Which I did. And I also mentioned that I was shocked by the proposal. My first instinct was they are not going to be able to execute the project at that price. That was my first instinct.

And that was followed by me approaching or saying to Mr Bombane: "But you need to speak to these guys because I have my doubts, you know, that they will be able to do the
20 project at that price. I, you know, think you should go and speak to them and verify that".

Which he did and he came back and he said, "Look, these guys they are happy. They are comfortable".

Of course, Chair we know and I said that, when we implemented, we did not have the technology but these guys

demonstrated during the presentation and we know introduces optimisation and, you know, efficiencies.

But I certainly did not think that the optimisation and the efficiencies would greatly reduce the cost of doing this project to an extent that it did because all along, and based on my experience of the Gauteng project, I anticipated that we would spend more... give or take around fifty or so percent as the cost of doing the bid.

That is what I thought but of course, as it turned out,
10 these guys presented, they said, “Look, we have got the most recent advanced technology and you will be able to realise some efficiency and optimisation”. And that is exactly what I did.

CHAIRPERSON: Of course, it would appear that, to say the least, the Free State Department of Human Settlements did not do its homework properly in arriving at the amount that they arrived at per house.

Because had they known that in Gauteng you had made the kind of profit that you had made, they should have said,
20 “No, but you should make such a big profit out of this”. Then go and reduce the amount.

MR SODI: [laughs] Ja.

CHAIRPERSON: Do you agree?

MR SODI: Chair, can I be honest with you?

CHAIRPERSON: Yes.

MR SODI: I would not have told them the profit margin that I would have made. [laughs]

CHAIRPERSON: [laughs]

MR SODI: So I may have said to them: “Guys, I made... my profit margin was 20%”. We are businesspeople. So we always wanted to keep it light, you know. [laughs]

CHAIRPERSON: Would you not have been truthful with them?

MR SODI: H’m?

10 **CHAIRPERSON**: Would you not have been truthful with them?

MR SODI: I am just being honest Chair.

CHAIRPERSON: [laughs]

MR SODI: [laughs]

CHAIRPERSON: Mr Pretorius.

20 **ADV PRETORIUS SC**: You see Mr Sodi, as a prominent businessman and someone who has frequently done work with state organs, it is not the Chair’s duty to only deal with this matter. He has to look at cost-effectiveness across the board in all procurements.

MR SODI: Ja.

ADV PRETORIUS SC: Because the country is facing serious problems ...[intervenes]

MR SODI: Absolutely.

ADV PRETORIUS SC: Which has even raised, amongst

other things, to this inquiry.

MR SODI: Ja.

ADV PRETORIUS SC: So in that sense, we are specific questions but they also have a general relevance and a general importance.

MR SODI: Ja, ja.

ADV PRETORIUS SC: But when a service provider tenders for a contract or makes a proposal as in this case, an unsolicited bid, it is incumbent upon both the service
10 provider and the state organ providing the work to ensure that what processes takes place are lawful and result in a constitutionally compliant procurement process.

One of the conditions or requirements is that it be cost-effective. You accept all that, do you?

MR SODI: I accept that Chair.

ADV PRETORIUS SC: Now it may well be that you say, as you have just said, “I am a businessman. I am entitled to make my profit. I do not have to disclose my profit. It is up to the department to make sure that it gives out work in
20 accordance with its requirements and its statutory duties”.

That argument may or may not be a good one but I do not want to debate it with you.

The point that the Chair has just made and I would like to ask you about is that in order to comply with its own duties, the department should either do its own homework or

make sure it gets full information from a service provider.

That is ...[intervenes]

MR SODI: I ...[intervenes]

ADV PRETORIUS SC: If the department is going to complain that they have entered into a contract which was not cost-effective and to the benefit of the taxpayer, it cannot... it can only legitimately complain if somehow it has been misled. It is up to it to do its homework.

MR SODI: Absolutely.

10 **ADV PRETORIUS SC**: Alright.

MR SODI: Ja.

ADV PRETORIUS SC: But there is a provision in our law and regulations which caters for this and that is the Competitive Bidding Process because in the Competitive Bidding Process, you would have had a completed which... although it would not have seen your bid, would have known that in order to win the business, it would have to come in with a cost-effective and competitive bid.

20 The point I want to make is that the very process that would have ensured cost-effectiveness here was absent and it was absent because of the very complex and confusing attempts to extend the contract, which we will submit in due course, it is clearly unlawful.

MR SODI: Chair, can I... I would like to make a submission. That certainly from our point of view, we complied with what

needed to be complied with in order to give affect Treasury Regulation 16(a).6.6.

Of course I do not know the mechanics of how that works but I do have a broader view, a broader understanding rather of how it works, you know but not in so much detail.

I mean, over the years I have come to, you know, because of this process understand that it has to work in a certain way but at the time, I understood it to mean exactly what we did from our side.

10 And one would have expected that the department in this case would have made sure that all the provisions of that regulation are complied with which I would not have known.

And I doubt if Mr Bombane would have known that either. So from our side as the service provider who wanted to get work, we certainly, you know we complied with what we needed to comply with. And that is my submission to that point, Chair.

CHAIRPERSON: Well, I just wanted to say because you did not comply when you made that misrepresentation in
20 the proposal, that part was not complied.

MR SODI: Correct, Chair, but I, at the time, I did not know that I was not complying like I explained my – I do not know what I put that is what I explained of, you know, if you put a proposal through a JV or consortium or partnership but if one of the members of the partnership or

the consortium ...[intervenes]

CHAIRPERSON: No, no, no, we are not on the same page.

MR SODI: Okay.

CHAIRPERSON: You are thinking of a different point.

MR SODI: Okay.

CHAIRPERSON: No, the point I was making, you remember the misrepresentations we talked about on your first day in regard to the handling of asbestos and
10 ...[intervenes]

MR SODI: Oh, okay, alright.

CHAIRPERSON: So that is the part I am talking about.

MR SODI: Okay, I get it, I get it.

CHAIRPERSON: In regard to that, that was not complied.

MR SODI: Okay.

CHAIRPERSON: That you accept, ja.

MR SODI: Okay. I accept that, ja.

ADV PRETORIUS SC: Just to deal briefly, Mr Sodi, with the subcontracting issue. You recall in the service level
20 agreements – and I can refer you to FS8 191 at paragraph 4.1, in accordance with that service level agreement you undertook to execute the project in line with the agreement, the approved instruction to perform work and the applicable legislation and regulations, that was an undertaking by the service provider. Paragraph 4

...[intervenes]

CHAIRPERSON: I am sorry, on what page are you?

ADV PRETORIUS SC: FS8 191.

CHAIRPERSON: 191, okay.

ADV PRETORIUS SC: 4.2 reads:

“The service provider undertakes that they have the capacity to and are able to enter into this agreement.”

4.2.2:

10 “They have all the necessary experience, skill and capability to render the service in accordance with the requirements and expectations of the department.”

From these clauses it appears that the contents of the service level agreement indicated that you would – could do the work and you would do the work.

MR SODI: That is correct, Chair, but the service level agreement does not say that we are not entitled to subcontract the works. It is very fine when it comes to that point and this is the point, I made earlier that if it was specified ...[intervenes]

20

CHAIRPERSON: Okay, now I am going to interrupt you.

MR SODI: Okay.

CHAIRPERSON: What Mr Pretorius is putting to you is that you or the JV and the department are entering into

this agreement and no one else.

MR SODI: Correct, yes.

CHAIRPERSON: And that what this 4.2 says is that you are saying to the other party to the agreement, namely the department, we are – we have the capacity.

MR SODI: Correct.

CHAIRPERSON: And the ability to do this.

MR SODI: That is correct.

CHAIRPERSON: Yes.

10 **ADV PRETORIUS SC:** You are not saying we do not have the capacity, we do not have the ability, so you are entering into the contract with somebody who will give the job to somebody else because they do not have the capacity. He is saying you are saying to the department you are entering into a contract with the right people.

MR SODI: That is correct, yes.

CHAIRPERSON: You have got the capacity.

MR SODI: Yes, yes.

CHAIRPERSON: They have got the ability.

20 **MR SODI:** That is correct, Chair.

CHAIRPERSON: You agree with that?

MR SODI: I agree with that, ja.

CHAIRPERSON: Okay, alright.

ADV PRETORIUS SC: You were dealing earlier in your recent testimony, Mr Sodi, with the timing of the

subcontracting arrangements. When were those, according to your knowledge, entered into?

MR SODI: Chair, again, I am speaking under correction but I think this was around October/November of 2014, somewhere around there. Cannot recall the exact date but it was maybe a month or so before we started with the actual work.

ADV PRETORIUS SC: Well, that would have been after the letter of appointment of 1 October 2014.

10 **MR SODI**: Correct, ja.

ADV PRETORIUS SC: Mr Manyike, who testified earlier in the series of issues, you know who he is?

MR SODI: I know him.

ADV PRETORIUS SC: He is the owner of ORI.

MR SODI: That is correct.

ADV PRETORIUS SC: The second subcontractor.

MR SODI: Ja.

20 **ADV PRETORIUS SC**: He gave evidence on the 7 August 2020 and I am referring to the transcript of his evidence, Chair, at page 15 and I recall this, in any event, because I put the question. I put the following question to him after he gave a history of his involvement and the involvement of Master Trade, the first subcontractor with the joint venture and I put it to him as a conclusion of his evidence:

“So the arrangement with Mpambani of the joint

venture with Master Trade that you would be a subcontractor to a subcontractor to do the whole of the work was discussed, it appears, and agreed in principle before the contract with the joint venture and the Gauteng Department of Human Settlements was finalised. That is how I understand your affidavit.”

Mr Manyike:

“Yes, yes, that is correct, that is correct.”

10 Do you have any comment on that?

MR SODI: Well, Chair, my comment to that is – and again I have alluded to this point previously, that it appeared that there were parallel discussions that were happening between Mr Mpambani and Master Trade, Sidney, and Kgotso as well which I was not aware of. So it is possible that they started having these discussions about Master Trade coming on board long before we signed that subcontract agreement with them and I am not surprised and I will not be surprised if that was the case because,
20 like I said, even when he came to me, initially – like I said I was very reluctant right at the beginning when he said to me that, you know, would you mind if we listen to these guys?

And I was like but why do we even have to listen to these guys because we are going to do this job ourselves,

we have got the experience, we have got the skill, we have got the capacity, why should we even listen to someone else? We are going to do this, we have got the recourses and he was adamant, that no, listen to them and, you know, you do not have to say yes, you know, but listen to them and hear what they say and reluctantly agreed and, you know, made myself available to that presentation.

But, you know, as we – I would have said here, the relationship, prior relationship that existed between Mr
10 Radebe and Mr Mpambani for many, many years. So it is highly probable that he would have said to him listen, I do not think Mr Sodi is going to have a problem with this, you guys are going to do the job. It is possible, seeing the character, the kind of character that we know him to be and that I came to know him to be later on, that he could have simply said to these guys I will speak to him, you know, he will get this thing done, so do not worry.

So certainly, I was not surprised with Mr Manyike's evidence here when he said there were discussions that
20 were taking place but I was not party to those discussions and I could believe indeed those discussions were happening long before we even signed or long before they even came to do the representation. They may have had their own arrangements. So that is my submission to that.

ADV PRETORIUS SC: Well, for present purposes we can

put it higher than that, it is strange that two business partners do not know how they are going to execute a project of this nature at the time they are signing up the agreement.

MR SODI: Are you referring to myself?

ADV PRETORIUS SC: And Mr Mpambani.

MR SODI: I knew how the project was going to be executed, I had not even once anticipated that we were going to subcontract it.

ADV PRETORIUS SC: I do not understand the answer you
10 did not know how the project was going to be
...[intervenens]

CHAIRPERSON: Let him finish, Mr Pretorius.

ADV PRETORIUS SC: Because you did not know of the subcontractor, that is the point I make.

MR SODI: Okay.

ADV PRETORIUS SC: And I find that ...[intervenens]

CHAIRPERSON: Hang on, hang on, Mr Pretorius, he had not finished.

MR SODI: Yes.

20 **CHAIRPERSON:** Ja.

MR SODI: So what I am trying to explain, Chair, is it was never anticipated from my side that we would eventually subcontract. It was certainly not once mentioned to me by Mr Mpambani that he would prefer us to subcontract right up until the last minute and when he came with his

proposal.

So from call it May of 2014 to about October there was certainly no discussion at all between the two of us about having to subcontract the project to someone else. That discussion never happened.

CHAIRPERSON: Yes.

MR SODI: For that amount for that period of time.

CHAIRPERSON: Yes and I think what Mr Pretorius is saying is to the extent that Mr Mpambani may have
10 contemplated that the execution of this contract would entail subcontracting and you had contemplated that there would be no subcontracting, it is strange that two partners who are about to do the same job, execute this contract, did not have the same understanding as to how it was going to be executed. That is my understanding of what Mr Pretorius is saying to you. What do you say to that?

MR SODI: My short and quick answer to that, Chair, is Mr Mpambani may have had his own expectations, he may have had his own plans and I certainly came to realise
20 much later that he did have his own plans and, you know, and so forth. And that is demonstrated by the fact that he did not conduct himself in a manner that he should have in the spirit of a partnership as we had envisaged and as we had recorded it in our partnership or JV agreement and that point, Chair, is demonstrated by two things.

It is demonstrated by the insistence from Mr Mpambani to utilise the services of a subcontractor. That is one.

Two, that when a payment was made into the JV account, Mr Mpambani instead of acting in accordance with the agreement that, you know, costs would be – or expenses, rather, would be deducted and whatever remains would be shared equally. In the last payment he transferred the entire funds into his personal account and
10 that became a subject of litigation and so forth and civil action.

So you would expect in a normal environment that partners who work together would know what to happen, how things have to happen but if you have got one of the partners having ulterior motives, such things would happen, as it happened in this case and I am sorry, Chair, I do not want to speak ill of those that have departed, may his soul rest in peace, but this is exactly what happened, I got into a contract or into a partnership with someone who
20 was not honourable and this is why we see some of the things, dealing with some of things that we are dealing with.

ADV PRETORIUS SC: In fairness to you, Mr Sodi, I should put on record that the Master Trade quote was accepted by the joint venture on the 25 October 2014.

That accords with what you have just told the Chair.

MR SODI: That is correct.

ADV PRETORIUS SC: And the appointment of ORI, the second subcontractor, was made on the 31 October 2014. That also seems to accord with your recollection, at least of the sequence.

We have been a bit distracted down the subcontracting detour but let us get back to the work and the cost of the work. There are certain gaps that need to
10 be filled in.

MR SODI: Sure.

ADV PRETORIUS SC: There is, according to your statement, a second phase of the project and I am not talking now about the removal and rebuilding phase but the capturing and analysis of the data that has been produced by the work on the ground. Do I understand your evidence correctly – and we can go to your statement, if you wish, that was conducted by Mr Manyike and Mr Zwane and Mr Mtau and Zwane and Mtau were employed directly by the
20 joint venture, do I understand that correctly?

MR SODI: Yes and let me just maybe give context to that, Chair. So the second phase we are referring to – so you are quite correct, Mr Pretorius, what would have happened in this case was the first phase, as we would call it, would be the capturing of the data on the ground. So the data

would be captured by the fieldworkers using the gadgets that we referred to, going through, you know, questions that would have been given to them. That information gets conducted from house to house and it then gets fed into call it a central depository and once it is there, then it has to be analysed. This is now the second phase that Mr Pretorius is referring to.

So we would have a – well, we had engineers, a team of engineers that sat in the office and they received
10 this information and then they analyse it. The culmination of it, it is a report which then gets to be produced and been given to the client.

So Mr Zwane, as I said earlier on, was brought into the project because I wanted him to make sure that what gets produced is what is expected of us because he was involved in the Gauteng project. He was assisted by Mr Mtau who is a qualified civil engineer as well. So they would have, you know, made sure that the data that is collected is analysed properly, reports are generated
20 together with Manyike and then ultimately submitted to the client. So that is the second phase that Mr Pretorius is referring to.

ADV PRETORIUS SC: Alright. That work was performed as I understand your statement at least by Messrs Manyike, Zwane and Mtau.

MR SODI: That is correct.

ADV PRETORIUS SC: If you would go please to FS8, page 66.

CHAIRPERSON: Did you say page 66?

ADV PRETORIUS SC: 66, Chair. This is a spreadsheet that has been the subject matter of a great deal of testimony before the Chair. It is headed Free State asbestos eradication project and there are a number of entries on the spreadsheet and I would like to deal with
10 some of them for the present but for the present just to establish the costs that you may be able to assist us with. You will see there under the head Free State Asbestos Eradication Project number of units 300 000, that is the number of units involved in this project, is that correct?

MR SODI: That is correct

ADV PRETORIUS SC: So it is a correct reflection of that fact.

MR SODI: In as far as there was number of units that exist, correct.

20 **ADV PRETORIUS SC:** Yes. And rate P/U, we can assume that that is rate per unit, R850.

MR SODI: That is correct.

ADV PRETORIUS SC: That is also a correct reflection of an external fact.

MR SODI: That is correct.

ADV PRETORIUS SC: The project value R255 million, also a correct reflection of external fact.

MR SODI: That is correct.

ADV PRETORIUS SC: That is just by way of introduction. The column on the left-hand side, if one goes down a little way, you will see the name Master Trade. That was Master Trade the subcontractor.

MR SODI: That is correct.

ADV PRETORIUS SC: And next to it is an amount of
10 R44 208 567.19. Now that is the amount quoted to the Free State deposit, you know that?

MR SODI: No, that is the amount that was agreed between the JV and Master Trade.

ADV PRETORIUS SC: Yes, quoted and agreed.

MR SODI: That is correct, ja.

ADV PRETORIUS SC: And it is correct to the last cent.

MR SODI: That is correct, Chair.

ADV PRETORIUS SC: Now how that amount is made up is of less significance to the larger issues that the Chair has
20 to consider but we do know that that amount comprised several payments and several other amounts. For example, there was an upfront payment of R4.4 million which has been discussed already.

MR SODI: That is correct, ja.

ADV PRETORIUS SC: There were three other amounts

paid to the FNB account of Master Trade, amount of R13 283 427.16, R22 600 170.74 and an amount of R600 000. I do not expect you to recall the detail to the last rand and cents but the charges of the subcontractor, Master Trade, were paid over a period of time, I understand.

MR SODI: That is correct.

ADV PRETORIUS SC: Including an upfront payment of R4.4 million.

10 **MR SODI:** That is correct.

ADV PRETORIUS SC: And Mr Radebe of Master Trade maintains that he still has a claim against the joint venture in an amount of R3.7 million. He may not be justified according to you in making that claim but that is what he says.

MR SODI: I am aware of that and I am not sure how he arrived at that amount because as far as I am concerned, the amount of 44 million was paid to Master Trade.

ADV PRETORIUS SC: That amount ...[intervenes]

20 **MR SODI:** Plus the change, that is the amount that we...

ADV PRETORIUS SC: Yes. And plus, you will see in the extreme right-hand column, not in the table, next to the name Master Trade R4.4 million payment.

MR SODI: That is correct.

ADV PRETORIUS SC: Or what is represented to be a

R4.4 million payment and you say that was a prepayment that was actually made.

MR SODI: Yes, that is correct.

ADV PRETORIUS SC: So that is another external fact which is verified in this schedule, correct?

MR SODI: That is correct, ja.

ADV PRETORIUS SC: Mr Zwane, you have spoken about him and his role. Does his name appear here? I think you have told the investigators about this.

10 **MR SODI:** His first name is Martin.

ADV PRETORIUS SC: Yes.

MR SODI: And I would assume that Martin refers to him.

ADV PRETORIUS SC: That Martin refers to Martin Zwane.

MR SODI: I would assume that, ja.

ADV PRETORIUS SC: He was employed by you or his company might have been employed by you, Zinawe(?).

MR SODI: That is correct.

20 **ADV PRETORIUS SC:** He invoiced the joint venture in an amount of R1.5 million. You know that? I can take you there if you want. Would you like to see it?

MR SODI: No, no, I am aware of that.

ADV PRETORIUS SC: Okay, so Mr Zwane, depicted here as Martin, would have – did invoice the company for R1.5 million. So those are external facts correctly reflected in the schedule. You nod your head.

MR SODI: Ja, correct.

ADV PRETORIUS SC: Thank you. And in your statement, we need not go to the reference because it is not in dispute, you confirm FS1 396, para 39.8, that the amount of R1.5 million was in fact paid to Zwane.

MR SODI: To Zwane. Ja, according to my recollection, it was paid to him.

ADV PRETORIUS SC: There is a record produced by the investigators showing other payments to Zinawe or Mr
10 Zwane, but they are not directly relevant to this project, I understand.

MR SODI: Ja, I used – well, Mr Zwane worked for Blackhead from time to time over and above this particular project, so the payment that you are referring to may be related to other projects or other work that he did outside of the asbestos project.

ADV PRETORIUS SC: Then underneath Martin we see Steve. Do you know who that is?

MR SODI: Again, I would make a calculated guess that
20 this would refer to Mtau, I have already mentioned, who was part of the engineering team.

ADV PRETORIUS SC: Yes.

MR SODI: That was responsible for the data analysis.

ADV PRETORIUS SC: And according to your statement, we can just go there, you said you could not recall how

much was paid to him.

MR SODI: No, I could not recall offhand.

ADV PRETORIUS SC: So you would not be able to verify that amount, the R1.2 million as being the correct amount.

MR SODI: No, I could not – I am not able to verify it now but it could be that is the amount was paid to him, we can double-check that, it is not going to be a difficult exercise.

ADV PRETORIUS SC: Alright. If we could go to FS1 at 395 please?

10 **CHAIRPERSON**: What is the page number?

ADV PRETORIUS SC: 395.

CHAIRPERSON: Okay.

ADV PRETORIUS SC: This is part of your first affidavit.

MR SODI: That is correct.

ADV PRETORIUS SC: And in paragraph 39 you say you were shown the spreadsheet.

MR SODI: That is correct.

ADV PRETORIUS SC: Now as I understand your evidence, which is contained in the statement, you know
20 that Mr Mpambani prepared the spreadsheet on your computer in your office.

MR SODI: That is correct, Chair.

ADV PRETORIUS SC: And I understand you to have said further there is nothing extraordinary in that.

MR SODI: Correct.

ADV PRETORIUS SC: Because he used your office regularly and I presume he used your computer regularly, is that correct?

MR SODI: Not my computer regularly but on this particular occasion he did not have his laptop with him when he came to the office.

ADV PRETORIUS SC: Did you watch him prepare the spreadsheet?

MR SODI: I did not watch him prepare the spreadsheets
10 as I was in another meeting, Chair, but we had a discussion prior to him preparing the spreadsheet and the discussion was centred around getting a spreadsheet done that would detail the expenses of the project and those expenses we knew, the two of us, related to the subbies(?) or Master Trade and the other guys that we used like Steve and Martin. So he worked on it and I was in another meeting and what then happened was, he then emailed – he told me that he emailed the spreadsheet to his computer because he was going to do further work on it. I
20 did not read much into it and I certainly did not - the spreadsheet that he prepared because in my view it was a straightforward spreadsheet that had to be prepared, you know just to deal with the expenses of the project.

ADV PRETORIUS SC: Alright, so I understand the position to be you are in your offices together with Mr

Mpambani, you nod.

MR SODI: That's correct ja.

ADV PRETORIUS SC: And you had a discussion about the preparation of a spreadsheet, correct – or schedule?

MR SODI: That's correct.

ADV PRETORIUS SC: And your understanding of that arrangement was that a spreadsheet would be prepared by Mr Mpambani which would reflect costs attributable to the Free State project business?

10 **MR SODI:** That's correct and if I can add on that, Chair, we just – we didn't leave it at just costs, we discussed what those costs were and those costs related to the service, to Master Trade, it related to Mr Zwane, it related to Mr Tau. So, it was very specific what costs we were talking about, when I left him and went into another meeting, those were the costs that he was going to reflect including the revenue that will come from the project. So, they were supposed to be captured on the spreadsheet.

ADV PRETORIUS SC: Well it was an important document
20 I would understand because revenue minus costs equals your profit, in other words, you would be able to see from the spreadsheet how much money would, ultimately accrue to you as profit.

MR SODI: That was the whole objective Chair.

ADV PRETORIUS SC: And I take it, as a business man –

experienced business man the revenue minus costs and your ultimate profit is an important calculation to see that it's properly done?

MR SODI: Absolutely Chair.

ADV PRETORIUS SC: Because all the costs are going to be deducted from your profit, ultimately.

MR SODI: Yes, that's correct.

ADV PRETORIUS SC: And in fact, the arrangement, as I understand it, was that the – at least at this stage was that
10 the profit would be split in equal shares between BlackHead and Diamond Hill, the partners in the joint venture.

MR SODI: That's correct Chair, that was in accordance with the JV agreement that we had signed, that we would subtract the costs and the expenses of the project and whatever then remained, would have been split equally between BlackHead Consulting and Diamond Hill. So, that was, essentially the purpose of the spreadsheet to say, this is how much the project is going to bring in revenue, this is
20 how much we're going to spend to execute the project and this is how much is going to remain and based on what remains then 50% of that would go to BlackHead and 50% would go to Diamond Hill. So, that was the long and short of it, it was mean to do exactly that, nothing less, nothing more.

ADV PRETORIUS SC: Okay, as I understand it, you left Mr Mpambani to create the spreadsheet or prepare the spreadsheet on your computer, on the understanding that you'd see it later?

MR SODI: I left him to – after we had discussed what the spreadsheet ought to reflect, I had another meeting in the adjacent boardroom and I left him to, then prepare that particular spreadsheet. I didn't anticipate that it was going to take long because we knew exactly what was going to
10 be reflected there. I went into the adjacent boardroom and had the meeting there and when I was done, he was also done with the spreadsheet and then his words were,

“I've emailed the spreadsheet to my computer, okay because I've got additional work to do on it”,

I didn't read much into that statement, I figured out, additional work might mean he wants to double-check the figures in the spreadsheet and I left it there.

ADV PRETORIUS SC: Can you recall, more or less when this conversation and preparation took place in your office
20 on your computer?

MR SODI: Chair, I cannot recall the exact date but it was in 2014, I would be misleading the Commission if I want to start guesstimating the date but it was definitely in 2014, I can't remember – I can't recall exactly when it was.

ADV PRETORIUS SC: In paragraph 39.20 FS1398 you

deal with an email, which I presume is the same email, is that the email you were referring to a moment ago when you said the spreadsheet was emailed back to you?

MR SODI: That's correct Chair.

ADV PRETORIUS SC: That appears in FS8 and there's another reference in FS9 at page 281 to 284.

CHAIRPERSON: Which bundle is that?

ADV PRETORIUS SC: FS9, Chair.

CHAIRPERSON: FS9.

10 **MR SODI:** Sorry, what is the page again, Mr Pretorius?

ADV PRETORIUS SC: 281, we'll start there. Well, first let's go to 284 that's the spreadsheet, is it, otherwise referred to as the cost of business schedule? Then on 283 we have an email, it reads – firstly it's dated the 28th of March 2015, it's addressed to Edwin, its title is, fees calculation, it says, this is a draft message it says,

20 "Sho, Eddie, please note that payments highlighted in yellow are the ones you will take care of and the rest us as discussed. I have effected the payments in two batches, kindly find attached the updated schedule with the following minor adjustments. JT from R1million to R500 000",

Do you recall receiving this email?

MR SODI: I recall receiving this email, Chair, but I need to add that my understanding of the email was, there was

funds that came into the account from the client and Mr Mpambani, who was the transactor from day one was going to make the payments in two batches. Meaning the one batch is payment that goes to BlackHead Consulting and the second batch being payment that goes to Diamond Hill, that was my understanding of this.

ADV PRETORIUS SC: Yes, that, of course is partly in dispute in the Court case but I don't want to go there, the dispute between yourselves and the Estate of Mr
10 Mpambani, I don't want to go there but if one goes to 282 of FS9, one sees the same email but it's no longer a draft email – no it's not the same email so – it deals with the same issue. It's from Ego, Diamond Hill, Ego is Mr Mpambani's first name.

MR SODI: That's correct ja.

ADV PRETORIUS SC: “Sho, Eddie, it reads, I have

effected the payment in two batches, kindly find attached the updated schedule with the following minor adjustments, JT from R1million to R500 000”.

20 And your details appear in the email chain below that? You nod again.

MR SODI: Ja, I acknowledge it.

ADV PRETORIUS SC: And then part of the email chain appears on page 281 of FS9 but there's no content on that page. Now, according to your statement, and we'll come

back to this, you say in paragraph 39.21, you never discussed payments, I presume payments on the schedule with Mr Mpambani?

CHAIRPERSON: To which page have you now gone, Mr Pretorius?

ADV PRETORIUS SC: We're on page FS1 398.

CHAIRPERSON: 3-9-8?

ADV PRETORIUS SC: Yes – well let's first deal with another matter, just in relation to the schedule itself, if one
10 goes back to the schedule, Free State 8 page 66, one sees at the bottom at the left-hand side, upfront payments R4.4million. As I understand, from your statement that is an amount you paid to Mr Radebe as an upfront payment, Mr Radebe being from Master Trade?

MR SODI: That's correct Chair.

ADV PRETORIUS SC: And you gave that information to Mr Mpambani so that he could include it in the spreadsheet?

MR SODI: That's correct, that's correct.

20 **ADV PRETORIUS SC:** And it's a correct reflection of a factual payment?

MR SODI: That's correct Chair.

ADV PRETORIUS SC: Based on information you gave to Mr Mpambani, correct?

MR SODI: That's correct ja.

ADV PRETORIUS SC: Alright, let's go back, when the email, that we've just discussed was sent to you, that's the email of 28 March 2015 or that – at the time of that email chain was the schedule returned to you?

MR SODI: I cannot recall if the schedule, Chair, was – you're referring to this spreadsheet?

ADV PRETORIUS SC: Spreadsheet, cost of business schedule yes.

MR SODI: I do not recall if it was returned to me, at all.

10 **ADV PRETORIUS SC:** When did you see it again?

MR SODI: I – to be honest, I saw this spreadsheet during the session that I had with the investigators, they presented me with this spreadsheet and I said, it's the first time that I'm seeing it I did not author the spreadsheet, sorry I'm not the author of the spreadsheet but I did have a discussion with Mr Mpambani, on a spreadsheet which I've already explained, which was meant to detail the expenses of the project but this particular spreadsheet I saw it for the first time when I was – when I had a meeting with the
20 investigators.

ADV PRETORIUS SC: When did you learn that your share of the profits amounted to R86 195 716.05?

MR SODI: So, on the day that we – that Mr Mpambani worked on the spreadsheet, remember I said, we had already discussed what the expenses were, all that needed

to happen was that it had to be recorded on a spreadsheet but during that meeting, which would have been somewhere in 2014, we already knew upfront what the costs were, it was not difficult to make a calculation of the costs. So, I knew at that time, how much was going to be the share which would have been BlackHead's share from the profits of the project.

ADV PRETORIUS SC: Well, let's just look at that, please Mr Sodi. You expected income of R255million?

10 **MR SODI:** That was – that's correct, that was the project value.

ADV PRETORIUS SC: The sub-contractor, Master Trade would be paid R44million?

MR SODI: That's correct Chair.

ADV PRETORIUS SC: That leaves R211million.

MR SODI: That's correct Chair.

ADV PRETORIUS SC: And there would be some expenses for Mr Zwane and Tau?

MR SODI: That's correct Chair.

20 **ADV PRETORIUS SC:** And we know those aren't significant amounts?

MR SODI: That's correct.

ADV PRETORIUS SC: So, did it not concern you that if you take your R86million you add another R86million you get approximately R172million? There's nearly R30million

missing.

MR SODI: Chair, I said, we discussed, on the day, the expenses of the project. I do not recall if it was R86million or it was some other figure but we knew that R44million was going to be paid to Master Trade and those other amounts that would have been paid to Mr Zwane and Mr Tau, the difference between that and the R255million would have been the profit margin and that was the purpose for which we had to get that spreadsheet done. So, it had to
10 record that but as I indicated, Mr Mpambani mentioned he had emailed it to himself so that he can do further work on it, so I didn't bother to ask, what further work are you referring to or that is going to happen on the spreadsheet. So, I'm certainly not confirming that my profit margin would have been R86million but you know, I'm saying it should have been the difference between the R255million minus the R44million plus the other amounts we spoke about.

ADV PRETORIUS SC: Alright, well, let's look at it. Your expected income was R255million, correct. You knew and
20 discussed that a spreadsheet would be prepared where the costs of Master Trade would be recorded, R44million.

MR SODI: That's correct.

ADV PRETORIUS SC: And I'm rounding the figure off, Martin Zwane, R1.5million and Steve – you say you don't know but you – are you happy to consider that figure of

R1.2million as being accurate.

MR SODI: I'm happy with that, Chair, ja.

ADV PRETORIUS SC: So that's R47million, correct?

MR SODI: Correct ja.

ADV PRETORIUS SC: Well let's round it off to R48million because it's R47.9million.

MR SODI: Correct.

ADV PRETORIUS SC: So, one has R48million coming off as expenses of an income of R255million that is
10 R207million, correct?

MR SODI: That's correct.

ADV PRETORIUS SC: Your half share of that would have been R103.5million.

MR SODI: That's correct Chair.

ADV PRETORIUS SC: But according to this spreadsheet you're only getting R86million, weren't you interested in where this money disappeared to?

MR SODI: No, hence I'm saying, I only got to see, Chair, this spreadsheet, when it was presented to me by the
20 investigator, I don't know how that R86million was arrived at, I don't know if Mr Mpambani is the one that, you know, put this figure, I wouldn't know how he made those sort of calculations.

ADV PRETORIUS SC: Well remember that there are Court papers and a whole lot of other documents which we can

look at, we may have to ask you in due course, to deal with that.

MR SODI: Correct.

ADV PRETORIUS SC: But for the present, I find it rather strange that you wouldn't have known your profit or interrogated your profit until you were – until the investigators spoke to you last year, some three/four years later.

MR SODI: Chair, this is how the project was executed,
10 and it's very simple there's nothing complicated about it. We knew what the costs were going to be and these are the costs we referred to and those costs were going to be paid to Master Trade and those two individuals that we referred to. What then would have remained, was an amount that would be shared equally between the two parties and that's exactly what happened Chair. Right up until the very last payment, which was handled in a different way, by the late Mr Mpambani but any amount that came into the project, into the JV account would be subject
20 to minusing the expenses and a lot of the expenses were minused, you know, in the first few payments that came through and then subsequent to that, whatever was in the account would be split equally. So, I had absolutely no problem at all, or never doubt that, you know, this is how it was going to be and it was certainly done in that way up

until, as I said, the very last payment, which was then handled differently.

ADV PRETORIUS SC: When did you know, that according to Mr Mpambani at least, you were only entitled to R86million or BlackHead was only entitled to R86million and not R103.5million?

MR SODI: Chair, as I've indicated, most of these figures that are on this spreadsheet were – I saw this for the first time last year. If one does the calculation, it's very easy
10 for us to actually get those records to see exactly how much was paid to BlackHead Consulting because that information is there, it's there in bank accounts, it's in our statements and I cannot verify right now whether it was R86million but that information is there. So, this R86million – so I don't know Mr Mpambani arrived at this figures but I can certainly demonstrate that, bar, for the last payment, all the other payments that came in were subjected to minusing only these costs that I'm referring to here and then what then remained would have been shared
20 equally.

CHAIRPERSON: So, are you saying that the principle on which you and Mr Mpambani had agreed was that once the costs of the project had been deducted, the two of you, that is your companies would share the profits equally, that's the first point?

MR SODI: That's correct ja.

CHAIRPERSON: Second point, are you saying that, as at the time when Mr Mpambani was preparing the spreadsheet that you and he talked about on a particular day when you were having another meeting, both of you knew what the costs of the project were, is that right?

MR SODI: That's correct, Chair, ja.

CHAIRPERSON: And therefore, both of you knew that once those costs had been deducted from the value of the project then you would share the balance, equally?

MR SODI: That's correct Chair.

CHAIRPERSON: Right, are you also saying that, in terms of the money that came into BlackHead's account, that money, if you leave out, for the time being the last payment, was in accordance with that agreement?

MR SODI: Absolutely correct sir.

CHAIRPERSON: Are you saying there was no amount – there was no money which appeared to have gone to anybody other than persons or entities that you were supposed to pay for as the JV?

MR SODI: That's absolutely correct sir.

CHAIRPERSON: That's what you're saying?

MR SODI: Ja and to add on to that, we have the JV account which shows the monies that – or the funds that went into the account. The statements also indicate how

much went into Diamond Hill and how much went into BlackHead and the statements also further indicate that the only other payments that occurred from the JV account are payments in relation to Master Trade as well as the other individuals that we paid, nothing more. So, that's why I'm saying, we can confidently present that information to say, X amount went into the JV, these are the expenses which we know, which I've spoken about, these are the expenses they were minused okay from whatever that was
10 paid and the difference was then equally split into the two entities.

CHAIRPERSON: But of course if, for argument sake, there were, what I would call illegal payments to be made, it is possible that the arrangement or understanding between the two partners could be that, we have received money from a Government Department as a joint venture to the extent that there's some people that we must pay and those payments are illegal payments, I will have my own you will have your own but I'll give you – we'll give you –
20 we'll deduct legitimate costs, if you know what I mean – legal ones, legal ones, we'll deduct those and then from the profit after the legal ones have been deducted we'll give you your half, I'll take my half but you must know that from your half you must take care of the illegal ones, is it conceptionally possible?

MR SODI: No, it's possible Chair.

CHAIRPERSON: Ja.

MR SODI: And can I, at this point, Chair, speak on my behalf and on behalf of BlackHead Consulting?

CHAIRPERSON: Ja, ja.

MR SODI: Because I certainly didn't have access into Diamond Hill account.

CHAIRPERSON: Yes.

MR SODI: But I can, categorically state that the funds
10 that were paid into BlackHead Consulting, were funds that
were due to BlackHead Consulting, there's no one else who
was paid from the funds that went into our account, not a
single individual. So, if there were payments that were
made elsewhere, I wouldn't have known. There's certainly
no payments or illegal payments that were paid from the JV
because as much as I was the signatory to the account, I
wasn't the transactor but I had access to it, so I could
monitor and see what was going on and to that extent, I
can confidently say there's no illegal payment that came
20 from the JV account. Equally so, there's no illegal
payments that came from BlackHead, I don't know about
the other side.

CHAIRPERSON: Ja well, the one part which you might
help me understand is the part of the email that says, from
Mr Mpambani to you that says, as I understand it at least,

you must take care of certain payments, he will take care of certain payments.

MR SODI: Ja.

CHAIRPERSON: Now, if those payments relate to the cost of the business why are they not being paid from the joint account?

MR SODI: I certainly didn't pay attention to that email there...[intervenes].

CHAIRPERSON: But you see what I mean?

10 **MR SODI:** I see what you're saying and I can understand it...[intervenes].

CHAIRPERSON: If it's legitimate costs of the business, there is a joint account, the principle you have agreed upon the two we pay the costs first and we share equally what remains. There is a joint account there is no reason why the payment of those accounts should not happen from the joint account and then we – you share the two.

MR SODI: Ja.

20 **CHAIRPERSON:** So that when you receive your portion you do not have to pay anybody.

MR SODI: No, no you are absolutely correct.

CHAIRPERSON: Yes.

MR SODI: You are absolutely – hence I am saying I did not pay attention to that email. I probably read it in haste.

CHAIRPERSON: Hm.

MR SODI: But as I said I understood it to mean when he was talking about payment – payments in two batches was you know one payment going to Diamond Hill and the other payment going to Blackhead Consulting. I certainly did not interrogate, did not – like I said I did not see the part where he says the one is highlighted in yellow must be paid by you and so forth. I did not get into those details.

CHAIRPERSON: Ja because you see that email says:

10 “Please note that payments highlighted in
 yellow are the ones you will take care of.”

MR SODI: Yes.

CHAIRPERSON:

 “And the rest us.”

 That is Mpambani, Mr Mpambani.

MR SODI: Ja.

CHAIRPERSON: Then it say:

 “As discussed”

 That is what he is saying.

MR SODI: Correct.

20 **CHAIRPERSON:** He says he discussed it with you.

MR SODI: Ja.

CHAIRPERSON: I have affected the payments in two batches. I may be wrong but I understand that to be – to be him saying as far as my ones are concerned, I have affected payments in two batches.

MR SODI: Ja.

CHAIRPERSON: Kindly find attached the schedule.

MR SODI: Ja. So Chair this particular email in particular this one I only started looking at it and reading it properly when we started having these interviews with the investigators. Because I went back to my history of the emails and I realised the emails that – you know sometimes it happens. Emails that come through that you ignore okay. It happens from time to time. Others you probably maybe
10 read the first line and you leave it there. It just so happened that this particular email I only got to interrogate and look at it only last year and had Mr Mpambani been alive last year I am sure I would have asked him, I said listen there is this particular email which is posing a challenge for me. I did not look at it at the time but please explain what you meant? But already I mean unfortunately he was not there for me to be able to ask him that question. But I acknowledge that I did not go through this email at all.

CHAIRPERSON: Mr Pretorius.

20 **ADV PRETORIUS SC:** Two points before we go back to the spread sheet. You seem to have forgotten a payment to Mr Jimmy Tau which I think you have conceded that he was paid an amount of R3 million from the proceeds of the asbestos audit.

MR SODI: What I Chair – what I mentioned was Mr Tau was

employed by Blackhead Consulting in the role of a business development consultant. This happened just after he stopped playing so I know him for a number of years before that and when he stopped, he came to me he said, look I am no longer playing soccer and I want to get into business. Of course, he was someone that – that I knew and I decided to appoint him as a business development consultant. So his appointment was with Blackhead Consulting specifically. And when I – what I meant in my statement was that his
10 payment – the payment that was due to him only got paid to him once we received funds from the asbestos. So I was in – I was in position of funds at the time from the – from the Asbestos Project. But that payment is not related to – to his involvement in the Asbestos Project because he was never involved. It just so happened that over a number of months I was not able to pay him because I was not in possession of funds. So it was only when I started receiving payments that I started – I started paying him. So it was an arrangement that we had you know. It was specific that he would be paid
20 a certain amount of money per month that was reduced in writing. We signed a contract to that effect and – and he was paid by Blackhead Consulting.

CHAIRPERSON: Do you mean that for some time before the asbestos money came in Blackhead was supposed to have paid him but did not pay him.

MR SODI: That is correct.

CHAIRPERSON: But had not paid him?

MR SODI: That is correct Chair.

CHAIRPERSON: Because it did not have ...

MR SODI: Funds.

CHAIRPERSON: Enough money, is that right?

MR SODI: That is correct Chair.

CHAIRPERSON: Okay.

ADV PRETORIUS SC: If one goes back to FS, 066 the cost
10 of business schedule or the spread sheet as we have called
it today you will see half way down the column on the left-
hand side or just after half way the initials JT and R3 million.

MR SODI: Hm.

ADV PRETORIUS SC: Those initials reflect Jimmy Tau I
think you have conceded?

MR SODI: Chair I – I said I assume I cannot confirm for
sure. I cannot with absolute conviction say that those
initials refer to Jimmy Tau.

ADV PRETORIUS SC: Well perhaps you can Mr Sodi
20 because the R3 million you have conceded was paid to him
from the proceeds of the income of the project.

MR SODI: That is correct yes.

ADV PRETORIUS SC: So JT, Jimmy Tau or Mr JT was paid
R3 million we know that. Is it simply coincidence that Jimmy
Tau is – those initials advocate to – who else?

MR SODI: No, no I am saying that I cannot with absolute conviction say that because in any event Chair the purpose for the spread sheet and I will – I will just go back to this point slightly so that you know it is made clear. The purpose for the spread sheet was to record the income and expenses of the Asbestos Project period. Jimmy Tau was not involved in the Asbestos Project.

CHAIRPERSON: So why was he recorded here then?

MR SODI: That is why I am saying I cannot with absolute conviction Chair say that refers to him. It could be that Mr Bombani knew and I think we – we probably had this discussion before that I had funds – I had owed Mr Jimmy Tau for the service that he had rendered.

CHAIRPERSON: Hm.

MR SODI: He knew that because – because we ultimately became acquaintances the three of us. So he knew so – but – if why he would have recorded it here if you know if that was meant to him it is beyond me because the spread sheet we discussed was only supposed to refer to the expenses of the project.

CHAIRPERSON: But – well this goes both to the question of you not knowing whether JT is Jimmy Tau or refers to Jimmy Tau. Would you not know anybody who was going to be paid R3 million out of this partnership? Could there be somebody who was going to be paid R3 million out of your partnership

with Mr Mpambani and you do not know who that person is?

MR SODI: Absolutely – absolutely no Chair. Hence I am saying...

CHAIRPERSON: You would know everybody that was going to ...

MR SODI: I would know everybody.

CHAIRPERSON: Yes.

MR SODI: Hence I am saying that it is you know – when I was presented with this spread sheet last year and I am
10 looking at it I am like but you know I cannot with authority verify what is in this spread sheet. I cannot because there are some things that makes sense in the spread sheet and there are some things that just do not make sense at all.

CHAIRPERSON: Yes.

MR SODI: You know.

CHAIRPERSON: But – but you did say that the purpose of the spread sheet was to – to – was to identify the costs that would be paid by the business – the Joint Venture. That it was going to be paid out of the Asbestos money basically.

20 **MR SODI**: That is correct Chair.

CHAIRPERSON: Yes. And in that email that we referred to earlier Mr Mpambani says – it refers to a discussion between the two of you about payments. You remember that?

MR SODI: Yes.

CHAIRPERSON: Yes. It just seems strange that he would

write people to be paid on this – on such a spread sheet down for the purpose that you have told me about.

MR SODI: Ja.

CHAIRPERSON: But people that you do not know.

MR SODI: That is...

CHAIRPERSON: When you are a partner in the business.

MR SODI: That is precisely the point Sir.

CHAIRPERSON: Especially if it is not very small amounts.

MR SODI: Ja.

10 **CHAIRPERSON**: Maybe R3 million is not such a big amount.

MR SODI: Ja.

CHAIRPERSON: To certain business people.

MR SODI: Ja. Ja.

CHAIRPERSON: But it just seems to me that he would write – he would write in the spread sheet information or names of people that he knew you would know. Because otherwise what was the point? Because the point of the spread sheet as you indicate it was for both of you. You had to understand who is going to be paid what so that you are able
20 to say, the total costs comes to so much. So our profit is so much and I will get 50% of that.

MR SODI: Correct.

CHAIRPERSON: And obviously if he is going to write something that you do not know you are going to say, but who is this?

MR SODI: That is precisely what I have done.

CHAIRPERSON: And here if JT is not Jimmy Tau it is strange that – it would be strange that that is so when you say there is R3 million that you owed Jimmy Tau and you paid and here we have got JT and we have got R3 million.

MR SODI: Ja. I have – Sir – Chair I have actually – his fees came to more than R3 million. It was not.

CHAIRPERSON: Yes okay.

MR SODI: It came to more than R3 million.

10 **CHAIRPERSON**: Yes.

MR SODI: But Chair the point I am making here is the first time I got to be made aware of this spread sheet was last year in 2019 when it was presented to me by the investigators.

CHAIRPERSON: Hm.

MR SODI: That was the first time. It is just unfortunate that the person who offered was not there because I would have said to him, Mr Mpambani I see this spread sheet that you prepared please take me through so I can understand what
20 you meant by the entries that are reflected on this particular spread sheet.

CHAIRPERSON: But the spread sheet that the two of you spoke about on the particular day.

MR SODI: Ja.

CHAIRPERSON: And you said you were having a meeting.

MR SODI: Yes.

CHAIRPERSON: On that day – another meeting.

MR SODI: Ja.

CHAIRPERSON: Did he never present it to you, this one?

MR SODI: No. No Chair he did not. So we discussed – so we met and we said okay fine this is going to be the revenue. So we know what the revenue is going to be because it is – you know it was – it was given okay. We knew how much Master Trade was going to be paid. Okay.

10 We knew how much Master Trade was going to be paid and so forth and so forth.

CHAIRPERSON: Hm.

MR SODI: And those are the expenses. Those are the only expenses that we discussed.

CHAIRPERSON: Hm.

MR SODI: So when I left him to you know to prepare it when I went into another meeting it was on the understanding that it was going to capture the conversation and the discussion that we had. As it turned out when he left he said, look I
20 have emailed it to myself because I am going to do more work on it. I did not read much into that as to what more work he could have been referring to.

CHAIRPERSON: Hm.

MR SODI: So I left it there. Okay. And that was it until – until last year when I was presented with this.

CHAIRPERSON: So as I understand it the day on which you were speaking you had a conversation with him about a spread sheet and the day when he was preparing a spread sheet in your office was in 2014 or was it 2015?

MR SODI: I think it was – I think it was 2014. I think it was 2014.

CHAIRPERSON: 2014?

MR SODI: Ja.

CHAIRPERSON: And ...

10 **MR SODI:** I cannot recall the exact dates but I think it was 2014 ja.

CHAIRPERSON: Ja. Ja. And he passed away – he passed on in 2017 – 2016?

MR SODI: 2017 I think.

CHAIRPERSON: Hm.

MR SODI: 2017.

CHAIRPERSON: 2017.

MR SODI: Ja.

20 **CHAIRPERSON:** So – so are you saying that – or over a year maybe even two years you never asked him about the spread sheet that he was supposed to produce?

MR SODI: No because the information – like I said the information was – it was pretty straight forward in terms of what expenses we were going to incur. It was lengthy where you know for instance I would have said, you know what I

have to go through item by item and look at the amounts. It was pretty straight forward. The biggest costs Chair was for the sub-contractor.

CHAIRPERSON: The sub-contractor.

MR SODI: And the other ones were small amounts.

CHAIRPERSON: Yes. So – but is your answer yes I never asked him?

MR SODI: Correct Sir.

CHAIRPERSON: Yes. Yes. Okay ja.

10 **ADV PRETORIUS SC:** Mr Sodi I would have thought that if Mr Mpambani of the Joint Venture was tasked to prepare the spread sheet or the document which showed the expenses of the business which would have to be deducted before you could receive your profit that you would be interested at the very least in that document and its accuracy?

MR SODI: That is correct Chair it was...

ADV PRETORIUS SC: Because we are talking tens of millions of rand here.

20 **MR SODI:** We talking a lot of money but we talking Chair maybe three lines items as expenses. So I could immediately calculate on top of my head that if the cost and the expenses are amounting to R49 or R48 million if you minus that from the total revenue this is the amount that would be left so it was not a complicated exercise at all you know to make that sort of determination.

CHAIRPERSON: But why would you need a spread sheet then? Why did you need a spread sheet then?

MR SODI: Because Chair we need to make sure that the amounts are recorded okay and we keep that as a record you know that – it has to be recorded somewhere that was the feeling that we have got to record that elsewhere to know that these are the amounts that must be paid. So that come – when it comes to payment you know of those sub-contractors then we know exactly how much must be paid.

10 So that was really the purpose.

CHAIRPERSON: But that is why Mr Pretorius says and I think you agree one would expect that you would be interested to check that document to see whether Mr Mpambani has correctly recorded the position. Because you intend to use it for the future.

MR SODI: Correct Sir especially for payments.

CHAIRPERSON: Hm.

MR SODI: Ja.

20 **ADV PRETORIUS SC:** But what is extraordinary quite frankly – let me try and maintain the level of politeness that we have maintained thus far Mr Sodi.

MR SODI: Ja.

ADV PRETORIUS SC: What is quite simply extraordinary is that a businessman dealing with a contract worth R255 million would not want to see the record. You have

acknowledged now that it is important to have these matters recorded accurately and you do not want to see it. And the first time you see it is several years later when investigators come and visit.

MR SODI: Chair again as I have indicated it was not something that was difficult to calculate at all and that is why for me...

CHAIRPERSON: That is assuming.

MR SODI: Ja.

10 **CHAIRPERSON**: That the spread sheet he – Mr Mpambani prepared was in accordance with your understanding.

MR SODI: Precisely.

CHAIRPERSON: That is assuming.

MR SODI: That is ...

CHAIRPERSON: That if you see the spread sheet you do not know whether that is what he has done.

MR SODI: Yes Chair. The – the assumption was that what was going to be recorded is the discussion that we had about those expenses and the revenue and so forth okay. And I
20 already knew even before I went into my meeting, I already knew that we have got a quotation from Master Trade which was a certain amount. We knew how much we were going to pay Martin and we knew how much we were going to pay Steve. So it was – it was a simple thing. It was not difficult.

CHAIRPERSON: And it is important to see whether that is

what Mr Mpambani has recorded because if he had recorded something different you want to take it up with him.

MR SODI: So how I checked that Chair was through – when the payments were made. So when the client paid, I made sure that in accordance to what he have discussed that those expenses are indeed paid to Master Trade and the two gentlemen that we are referring to. And that happened and – so beyond that it was not a – it was not an issue for me because most of those payments were actually you know
10 paid.

CHAIRPERSON: Mr Pretorius.

ADV PRETORIUS SC: Well in – in our view the more probable version might appear in the transcript of your interview and in your statement. At paragraph 39.25 on Free State 1 – FS1, 399 you say:

“With the benefit of hindsight, I should have asked Mpambani about the letters and or names that appear on the spread sheet but at the time I did not do that.”

20 That statement presumes or assumes rather that you saw the spread sheet at the time but you did not ask Mpambani about the letters or names that appear on it.

MR SODI: Chair what I acknowledged are two things. I acknowledged that there was a spread sheet that we discussed. The contents of what ultimately came out is

different to what we agreed on. I also acknowledge that there is a spread sheet that was emailed to me okay but further to that I also acknowledge that I should have with the benefit of hindsight I should have opened the spread sheet and interrogated it. Which is something that I did not do because had I done that then I would have been able to say, but hang on his is not what we discussed. There seems to be other entries on this spread sheet which I am not aware of. Do you mind to take me through these entries so that I
10 can understand what it is all about? And that is what I meant by that.

ADV PRETORIUS SC: Well my understanding of the instruction – or the advice from the investigators is that what was sent to you by Mr Mpambani together with those emails that we have discussed the draft one and the other one that talked about items marked in yellow the spread sheet was attached. You have just confirmed that.

MR SODI: That is what I am saying Sir.

ADV PRETORIUS SC: Are you seriously saying as a
20 businessman you did not look at that spread sheet at the time?

MR SODI: Chair I did not look at it. I am submitting – making a submission that I did not go through that spread sheet at all.

ADV PRETORIUS SC: Quite frankly that is infallible. That a

businessman who is dealing with now profits of hundreds of millions of rand for the Joint Venture does not look at the very document his partner has prepared showing that profit and what has to be deducted from the income.

MR SODI: Ja. Chair the simple answer to that and I do not want to keep repeating the same point. The simple answer to that Chair was that the spread sheet according to my understanding and according to the discussion that we had was a fairly simply document okay. The entries was
10 probably three or four entries and we knew what those entries were and the amounts. So if it was a lengthy document for instance Chair that had a number of entries I am sure that I would have gone through it and interrogated it but I knew that look the highest amount that we are going to pay if Master Trade and there is one or two amounts. So I left it there but you know – and that is what I said in hindsight with the benefit of hindsight I should have opened it and looked at it but I said I already know. So when it came through, I am like I already know. These are the
20 assumptions that I made but I already know what it contains. I already know the figures so it is pointless for me to look at it. And you know it happens that sometimes like I said you do go through some emails, sometimes you do not.

ADV PRETORIUS SC: Well in paragraph 39.25 you do not say with the benefit of hindsight I should have looked at the

spread sheet. You say with the benefit of hindsight I should have asked Mpambani about the letters and or names that appear on the spread sheet but at the time I did not do that. So your omission there was not to discuss the letters or names on the spread sheet not an omission of not looking at the spread sheet at all.

MR SODI: Chair the correct version that I am submitting to the court – to the commission is that I did not look at the spread sheet and what I meant was that with the benefit of
10 hindsight I should have opened the spread sheet. I should have opened the email because had I done so then I would have been in a better position to go through it and interrogate it and get answers from Mr Mpambani. And that is Chair the correct version.

ADV PRETORIUS SC: Let us look what you said in your interview with the investigators and if I may refer you to Free State 6 – FS6 at 332. Exercise is now permitted.

MR SODI: What page is that Mr Pretorius?

ADV PRETORIUS SC: 332 FS6. Here you discussing the
20 email about which we talking and the spread sheet with the investigators and if you want to take a chance to familiarise yourself with the context I am sure you should do so but let me first put to you at the bottom of page 332 of FS6 where against your name the following appears.

“Yes an email was sent to me. Okay it was

sent to me and all that I noticed was that these payments that we made and I noticed that there was payment that came into my account and I was happy with that and that is where it ended.”

And then you later say you never discussed that with him between that time and the time he unfortunately passed away. But that statement is much clearer. That you looked at the spread sheet. You noticed the payments on the spread sheet and you were happy with the contents.

MR SODI: Chair again I acknowledge that I received the spread sheet but I did not go through the spread – I did not interrogate it.

ADV PRETORIUS SC: No, no, no. Sorry let me – let me not interrupt.

MR SODI: Okay. That there was a payment that came into my – into my account and that was payment which was the 50% share you know of what was due to Blackhead Consulting. But the actual spread sheet itself I did not go through it as I have stated.

ADV PRETORIUS SC: Well Mr Sodi there is a big difference between not looking at the spread sheet at all which is the impression you have given us.

MR SODI: Ja.

ADV PRETORIUS SC: And not interrogating what you see

on the spread sheet. Which was it?

MR SODI: I am saying that I – the email came through Chair and I could see the email had a spread sheet so I saw the spread sheet. You can see when the email has an attachment and that is what I noticed okay. But there was a spread sheet attached to the email – it was an Excel spread sheet but I did not open the spread sheet at all. And this is what I am referring to here that in retrospect I should have opened it because had I done so then I would have been
10 empowered to say, but hold on there is this spread sheet which is different to the spread sheet that we discussed. And at the point in time I would have been able to then you know have a discussion with Mr Mpambani and say, please explain what you mean by this you know. So that did not happen because I did not open it and I did not go through it. But I saw it as an attachment. That is what I am referring to.

ADV PRETORIUS SC: But what you say here on page 332 Mr Sodi is:

20 “Yes the email was sent to me. Okay it was sent to me and all that I noticed was that there was payment that came into my account and I was happy with that.”

The clear import of what you are saying here is that you looked at the spread sheet, you noticed certain things and you moved on.

MR SODI: Chair that is – that is – that is not entirely correct. I again point that the email came through from Mr Mpambani with the spread sheet okay.

CHAIRPERSON: I am sorry Mr Sodi.

MR SODI: Ja.

CHAIRPERSON: As you respond to that question.

MR SODI: Ja.

CHAIRPERSON: Just bear that in mind – just bear in mind that Mr Pretorius is not necessarily – Mr Pretorius' question
10 is not necessarily talking to what actually happened. He is talking to what the import is of what you said to the investigators when they were talking to you.

MR SODI: Yes.

ADV PRETORIUS SC: Okay.

CHAIRPERSON: So in other words when you look at what is reflected here.

MR SODI: Yes.

CHAIRPERSON: Does it mean what he says it means? That is the question. So he is inviting your comment to that.

20 **MR SODI:** Okay.

CHAIRPERSON: As opposed to where – what actually happened.

MR SODI: I see.

CHAIRPERSON: And of course, when he gives that meaning to this he means that is what probably happens because that

is what you are saying. But your answer must talk to what is the meaning of what you said to the investigators?

MR SODI: Okay. Alright. Thank you Chair.

CHAIRPERSON: Ja. You can deal with it. If you want him to repeat the question?

MR SODI: Maybe he should.

CHAIRPERSON: Because he is saying to you.

MR SODI: Ja so that...

CHAIRPERSON: Ja he is saying to you, his understanding
10 of what you are saying here or he is saying what you said to the investigators is ABC and you must say I agree that is what I said or I do not agree that is not what it means or what I said here.

MR SODI: Yes.

CHAIRPERSON: Okay. Mr Pretorius.

ADV PRETORIUS SC: Chair I am going to have to find the page again I apologise. Page 332 you say Mr Sodi:

20 “Yes the email was sent to me. Okay it was sent to me. All that I noticed was that these payments that we were make – that we made and I noticed that there was payment that came into my account and I was happy with that and that is where it ended.”

The clear import of what is said here and bear in mind what the Chair has just pointed out is that you looked

at the spread sheet and you noticed certain things on the spread sheet.

MR SODI: No Chair that is not what I – what I meant by this statement.

ADV PRETORIUS SC: Ja. Well let us – do you concede that what you said was that you noticed certain things on the spread sheet? Let aside what you might have had by way of mental reservation.

MR SODI: What I am saying in this statement is that the
10 spread sheet was attached to the email and I did not open or go through the details of the spread sheet but I also noticed there was amount that was paid into the Blackhead account that would be in accordance with the agreement of the JV that we had. And that is what I meant simply by this statement Chair.

ADV PRETORIUS SC: Okay.

CHAIRPERSON: Mr Pretorius we are at four minutes – what five minutes past four let us talk about the way forward. I am quite happy to sit further. What would you like to see?

20 **ADV PRETORIUS SC**: Well Chair it would be useful for the purposes of the investigation whether that investigation ultimately involves the Free State Department or Mr Sodi or the late Mr Mpambani and his composition of the spread sheet for us to accept the offer of Mr Sodi and ask him to produce his books for the period and his tax returns so that

we can interrogate those and he nods and he is quite willing to do that. It is quite important to give Mr Sodi full extent of his offered cooperation so that we can deal with this thoroughly.

CHAIRPERSON: Yes. What does that say to the question of the way forward today?

ADV PRETORIUS SC: Well I am – I know that these records are some years back but they should not be too long to get hold of and we could come back in a few days' time.

10 **CHAIRPERSON**: So is your suggestion that we should stop for today and he – arrangements be made for him to come back some other time after that further investigation has been done or is the – is your suggestion that we continue and cover whatever else we can cover today and then when he comes back we deal with whatever arises from the further investigation or what is your suggestion?

ADV PRETORIUS SC: Well I do not want to traverse the same territory twice and we will traverse the financial aspects at a later stage. There are other matters I can
20 proceed with for an hour or so.

CHAIRPERSON: Okay. Mr Sodi from your side you are quite happy that we continue for another hour?

MR SODI: Ja.

CHAIRPERSON: Okay.

MR SODI: I am happy with that Chair.

CHAIRPERSON: Your Counsel has no problem? Yes.

COUNSEL FOR MR SODI: He fully cooperates and to proceed for another hour there is no issue in that regard. We did anticipate that.

CHAIRPERSON: Yes.

COUNSEL FOR MR SODI: The only issue that we do have is we will cooperate fully with providing the documents we just need some assurance of confidentiality because it is the tax returns and I think it does extend very wide. There is full
10 cooperation but as long as we are assured confidentiality there is full cooperation.

CHAIRPERSON: Yes.

COUNSEL FOR MR SODI: Thank you.

CHAIRPERSON: Okay no that is alright. We are going to then continue but I think we should take a small break and then come back. Let us take a break it is about seven minutes past four. Shall we come back at twenty past four? We will adjourn. We adjourn.

REGISTRAR: All rise.

20 **INQUIRY ADJOURNS**

INQUIRY RESUMES

CHAIRPERSON: So we will continue until about twenty five past five. Okay thank you.

ADV PRETORIUS SC: Thank you, Chair. Let us go back please Mr Sodi to FS8 page 66.

MR SODI: [No audible reply]

ADV PRETORIUS SC: You were asked about the contents of this spreadsheet by the investigators at your first interview with them or your only interview with them.

MR SODI: That is correct Chair.

ADV PRETORIUS SC: And that interview, did it take place before you told about the investigations that the investigators had done in regard to the payment to Mr Zulu and in regard to the joint investment with Mr Mokhesi?

10 **MR SODI**: Sorry, Mr Pretorius can you just repeat the questions. I am not sure.

ADV PRETORIUS SC: You had the interview with them, the investigators.

MR SODI: That is correct.

ADV PRETORIUS SC: At that stage, they did not put to you the fruits of their investigation in regard to the payment to Mr Zulu or the payment for his benefit, Mr Zulu's benefit, the payment to the motor deal in Natal, Kwazulu Natal? At that stage, that has not been to put to you?

20 **MR SODI**: I cannot remember sir. I cannot remember that.

ADV PRETORIUS SC: And at that stage too and I think it is apparent from the documentation - and we can show it if necessary – at that stage too the information obtained by the investigators about the venture, the property investment, the joint property investment with Mr Mokhesi, that had not been

put to you when you first interviewed?

MR SODI: I can also not recall it.

ADV PRETORIUS SC: Well, let us just look please at the initials in the first column of the spreadsheet on FS8 page 66. Have a look at those.

MR SODI: Yes.

ADV PRETORIUS SC: We know from your evidence so far – and I am talking about the evidence that you have given here – that the involvement of Mr Thabane Zulu was necessary for
10 this Asbestos Project to get off the ground. He dealt with the budget issues and he also dealt with certain procurement issues. We know that.

MR SODI: Chair, I am not sure about Mr Zulu's involvement in procurement issues but from the evidence that he presented here, it is apparent that his involvement was limited to the budget issues for the Free State Project.

CHAIRPERSON: The suggestion that Mr Pretorius is putting to you is whether one calls that involvement of Mr Zulu, limited or not, that it was necessary in order for this project
20 to happen. Do you want to comment on that?

In other words, without that involvement, limited as it may have been, the project might not have gone ahead.

MR SODI: Ja, from the evidence that was presented here, I would say that it was necessary.

CHAIRPERSON: Yes, yes. Ja, okay.

ADV PRETORIUS SC: Because he needed to approve the budget adjustment.

MR SODI: That is correct Chair.

ADV PRETORIUS SC: We know that Mr Thabane Mokhesi's involvement was necessary because he approved the budget ...[intervenes]

MR SODI: That is correct. He was the ...[intervenes]

ADV PRETORIUS SC: ...as the head of the department.

MR SODI: He was the head of the department, ja. And
10 ultimately, the accounting officer in that department.

ADV PRETORIUS SC: You had engaged with both of them. you correspondent with Mr Zulu. You knew who he was.

MR SODI: I knew who he was. Do you want to clarify when you say I correspondent with him? What do you mean by that?

CHAIRPERSON: And maybe Mr Pretorius, at what stage are you talking about.

MR SODI: Correct. Yes. Ja.

ADV PRETORIUS SC: Well, if we go to FS8 page 110 about
20 a letter addressed to yourself to Mr Zulu dated 7 April 2014.

MR SODI: Correct Chair.

ADV PRETORIUS SC: It deals with the procurement issue or deals with the contractual issue.

MR SODI: Ja, but can I just explain sir so that we are on the same page? This letter was addressed to Blackhead

Consultant for successfully being appointed onto the panel of the National Department of Human Settlements. So it has got absolutely nothing to do with the Free State. It has got everything to do with the panel for national. That is what it is meant for.

CHAIRPERSON: Okay.

ADV PRETORIUS SC: Yes, but the only point that I am making at this stage in relation to that letter is that you knew who Mr Thabane Zulu was.

10 **MR SODI**: Chair, I knew Mr Thabane Zulu long before these letters were exchanged in a personal capacity. So I knew who he was.

ADV PRETORIUS SC: And you knew that he was involved in arranging for the release of funds, the budgetary issue?

CHAIRPERSON: Have you talked about when, at what stage Mr Pretorius? When it was dated?

ADV PRETORIUS SC: In 2014.

MR SODI: Ja, I was not, Chair, aware of what Mr Zulu's role was going to be. You would recall that I have indicated that
20 my involvement at the beginning was to submit a proposal.

And Chair, you would also recall that I also mentioned in this Commission that Mr Bombane's role was to engage with the relevant people and officials in the Free State.

Now it was only much, much later that I got to know that the process that would have to be undertaken to make the

budget available would include, amongst other things, a revision of the business plan by the Department of Human Settlements in the Free State, which business plan had to be approved by the DG, National DG.

So in that context I knew that his role was to make sure that it gets approved but also to make sure that, you know, the funding becomes available.

But at the beginning when we were doing the exchanges, I, you know, I was not familiar with the mechanics of how these things were going to happen because I left that role specifically to Mr Bombane who was running it.

CHAIRPERSON: H'm. Okay.

ADV PRETORIUS SC: And you would have come to know, on your version Mr Sodi, of Mr Zulu's involvement in 2015/2016 because you just said that you came to learn ...[intervenes]

MR SODI: No, no. I... it was probably 2014 still that I ...[intervenes]

CHAIRPERSON: It was still 20104?

20 **MR SODI**: Ja, it was still 2014.

CHAIRPERSON: Okay.

ADV PRETORIUS SC: Alright. So as early as 2014 you knew that?

MR SODI: Yes.

ADV PRETORIUS SC: And we know – and we will deal with

it in a moment – the payment made to a motor dealer to pay for a deposit on a car to Mr Thabane Zulu that he bought there.

MR SODI: Correct.

ADV PRETORIUS SC: So you had all this knowledge at the time you were interviewed by the investigators?

MR SODI: That is correct. That is correct Chair.

ADV PRETORIUS SC: Although you did not know that the investigators knew about the payment to the motor dealer
10 ...[indistinct] told you they had time to ...[indistinct]

MR SODI: Well, Chair, you know, I dealt with the questions that were posed to me by the investigators and as far as I am concerned, I have dealt with those questions comprehensively.

There may have been gaps here and there but I certainly did not do anything to conceal whatever information that may have been beneficial for the Commission. Whatever was posed to me, I responded.

ADV PRETORIUS SC: When they asked you about the
20 contents of the spreadsheet and they have asked you about the initials KZ, you expressed complete ignorance of it. You said you had no knowledge of who that could be.

MR SODI: Well, Chair. And I have said this earlier as well. I cannot with absolute conviction Chair confirm or make a speculation and reduce that into a fact to say that this initial

refers to so and so especially because I was not the author of this spreadsheet.

I can... we can probabilities to say, "Well, it is probable that this initial can be so and so". But I cannot, you know, put my head on the block Chair and say definitely this initial refers to Mr Thabane Zulu. That is basically what I said, ja.

ADV PRETORIUS SC: Well, fair enough Mr Sodi. I do not think anybody in that interview asked you to put your head on a block or say anything with absolute certainty. They
10 merely asked you about those initials.

What you did not do was say, "Well, it could be Thabane Zulu. I know he was involved in the project. It could be Thabane Zulu because I know I made him a payment."

MR SODI: Chair ...[indistinct]

ADV PRETORIUS SC: No, let me just complete. Your answer was not full and frank. It was a simple bear denial of any knowledge. Correct?

MR SODI: That is correct Chair. I did not want to speculate on the initials. I think Chair you would understand, that
20 would have been a grave mistake because if I speculate on initials and it turns out that, you know, the speculation is incorrect, I would have misled the Commission.

I would have given them incorrect information. More so because I was not involved in putting together. So it would have been difficult.

If it was a full name I would have said definitely, I think, this I can say that person refers, you know, that name refers to this person but it is initials that are on the spreadsheet.

And one can make assumptions, you know. But to absolutely say yes this is so and so, Chair, you know, it would have been difficult for me.

CHAIRPERSON: As I understand it, there was a transaction in respect of which you used the initials TZ.

MR SODI: That is correct.

10 **CHAIRPERSON:** You referred to Mr Zulu. Is that correct?

MR SODI: That is correct Chair.

CHAIRPERSON: Yes. So it would appear, therefore, if one looks at that fact and the fact that in a spreadsheet that your partner, Mr Bombane meant for both of you, you used the initials... he also used the initials TZ, it seems likely that the two of you could have been talking about the same TZ here. I am saying likely.

MR SODI: It is possible.

CHAIRPERSON: I am not saying certainly.

20 **MR SODI:** Correct Chair.

CHAIRPERSON: You would accept that?

MR SODI: I accept that Chair.

CHAIRPERSON: Yes.

MR SODI: Ja.

CHAIRPERSON: Is there another person with those initials

that you know both of you knew?

MR SODI: Not that I know of Chair.

CHAIRPERSON: Yes. The only person with those initials that both of you knew is Mr Zulu.

MR SODI: That is correct Chair.

CHAIRPERSON: Okay.

ADV PRETORIUS SC: Alright. Well, when asked about it – and I am referring to FS6 page 325 in your interview with the investigators – you were asked a question:

10 “TZ. Who is TZ?”

And your answer was quite straightforward Mr Sodi:

“I have no idea.”

You were asked again:

“You have got no idea?”

Mr Sodi: “No.”

“TZ. Who is TZ?”

“I have no idea”.

20 So the answer was, as you like to put it absolute. You did put your head on a block and say, “I have no idea”. But you did have an idea.

MR SODI: Chair, I was avoiding making speculative answers to very specific questions that were posed to me and that is how I answered it. That I could not make... give a speculative answer that I did not that indeed that initials or those initials rather refer to the same person that I also

happen to know as TZ.

ADV PRETORIUS SC: Well, at the very least, I think you clearly conceded that it was within your knowledge and capacity at that stage to assist the investigators by telling them about your involvement, Mr Zulu's involvement in the project and the payment you made to Mr Zulu.

MR SODI: What is the question again?

ADV PRETORIUS SC: You could have said that at that stage.

10 **MR SODI:** Yes ...[intervenens]

ADV PRETORIUS SC: You could have said, "I cannot be certain. I do not want to speculate but to assist you, I can tell you these things".

MR SODI: If my memory serves me well, I seem to recall that I could have mentioned, you know, we can look at the transcript that Mr Thabane Zulu was a DG at National.

You know, I could have said that he was a DG because I knew that he was a Director General at the National Department of Human Settlements.

20 But I would have answered questions that were posed to me and I would have given specific answers to those particular questions.

ADV PRETORIUS SC: Well, we can argue semantics for a long time Mr Sodi.

MR SODI: Ja.

ADV PRETORIUS SC: But at that time, you knew a person with the initials TZ. You knew a person with the initials TZ who had been involved in facilitating the project. And you knew a person with the initials TZ to whom you made payment.

MR SODI: That is correct sir.

ADV PRETORIUS SC: Your answer, however in the interview was: “I have no idea.”

MR SODI: Because the question that was posed to me Chair
10 was: “Do you know who is TZ?” And based on the spreadsheet that was presented to me, which as I have indicated, I was seeing for the very first time.

Now I did not want to speculate that the TZ that was on the spreadsheet with an amount next to it definitely referred to the TZ that I knew to the Director General of the Department of Human Settlements.

And I was responding to that question in that context. And if maybe the question was posed to me to say, you know, or maybe an additional question to say, “Do you know
20 anyone who has the similar initials as TZ?” I would have said yes.

I would have confidently said, “Yes, I know a person who has got those initials.” But that question was not posed to me.

ADV PRETORIUS SC: Well, you were asked later in the

interview but the bottom line is it cannot perhaps be Thabane Zulu. You say, “I do not know. I do not want to make speculations.” You have confirmed that now.

MR SODI: That is correct, ja.

ADV PRETORIUS SC: But you insisted you have no idea. A simple proposition I want to put to you is that there was much more information you had about the person called TZ involvement in the project, recipient of payment that you could have given at that stage.

10 **MR SODI**: I... Chair, I take that, you know. Sometimes when these kind of situations where, you know, where questions are posed, you want to be as honest as you can and answer the questions and, you know, not be all over the place.

And end up answering things that you should be answering to. So I was assisting the Commission and the investigators in dealing precisely with the questions that they have posed to me.

ADV PRETORIUS SC: TM, the next name on the list. You knew Mr Mokhesi as Tim Mokhesi. We have established
20 that.

MR SODI: That is correct Chair.

ADV PRETORIUS SC: Again, you said you had absolutely no idea of... well, you did not say absolutely. You said, “I have no idea in relation to who TM was. But again we know he was involved in the project.”

MR SODI: That is correct.

ADV PRETORIUS SC: His involvement was necessary in order to bring about the project.

MR SODI: Correct Chair.

ADV PRETORIUS SC: And he entered into a joint venture property investment with you, on your version, after the conclusion of the project.

MR SODI: That is correct Chair.

ADV PRETORIUS SC: Again, information which you knew at
10 the time and could have given to the investigators.

MR SODI: Again Chair, I dealt specifically with the questions that were posed to me and I was not evasive in responding to those questions. I responded to those questions.

And that is how the process went. I was... and I cooperated fully and I gave them as much information as I could based on the questions that they have asked me.

ADV PRETORIUS SC: AM, could you have guessed who that was?

20 **MR SODI**: Absolutely not sir.

ADV PRETORIUS SC: You knew who the premier was at the time.

MR SODI: I knew who the premier was but I... Chair, I was not going to again start speculating that AM refers to the premier.

ADV PRETORIUS SC: We do not have any evidence that he was directly involved in the project although there is other evidence that he gave instructions that all procurement issues were to be send to his office but that is not something that concerns you for the moment. OM. Did you know an Ollie Mamale?

MR SODI: Not at all Chair. I do not.

ADV PRETORIUS SC: MEC. Could you guess what that stood for?

10 **MR SODI:** Absolutely not Chair.

ADV PRETORIUS SC: Member of the Executive Council.

MR SODI: It could mean that Chair. I do not know whether it is an initial for someone's, you know, names or whether it actually refers to what Mr Pretorius is alluding to.

ADV PRETORIUS SC: Alright. And just at the bottom above 2013/2014, Diedericks. You knew a person called Diedericks and you knew that Diedericks had some involvement with the procurement aspects of the project. Correct?

20 **MR SODI:** That is correct. The Diedericks that I knew was the acting HOD of the Department of Human Settlements in Gauteng, whose role was limited to confirming that Blackhead Consulting was indeed part of the PRT panel in Gauteng.

And that is evidence by the letter that we have dealt with that was sent to the Department of Human Settlements. So

to call it involvement in procurement, I think would be over-reaching.

I would not say that she was involved in procurement but rather just mere confirmation that this company that you are referring to Mr Mokhesi is indeed and that is what happened.

ADV PRETORIUS SC: Yes, perhaps my shorthand can be subject to that comment. I accept that. But we know the extent of her involvement. We have traversed it in full in evidence.

10 **MR SODI:** Okay.

CHAIRPERSON: But just to clear up something. I thought at some stage the evidence was that the permission of the Gauteng Department of Human Settlements was required by the Free State Department of Human Settlements for that department to so to speak participate in the Gauteng contract to the extent that it what was contemplated to be done. Is that not your understanding?

MR SODI: Well, Chair I would not call it permission.

CHAIRPERSON: Ja.

20 **MR SODI:** What happened in this case was a request to confirm. You know, it was: Can you confirm that this entity has done work in your department or is on our panel?

CHAIRPERSON: H'm. Okay.

MR SODI: So that is ...[intervenes]

CHAIRPERSON: Confirmation.

MR SODI: She is a confirmation. Ja, that was sought.

ADV PRETORIUS SC: Well, we can get the letter out but again, give permission, it is a semantic debate. The law required her to authorise the participation in the contract by Free State and the Gauteng contract.

Of course, we also know that none of these efforts and participation actually resulted in a lawful and proper participation but that is a legal argument again which I will spare you.

10 **MR SODI**: Correct.

ADV PRETORIUS SC: Is it coincidence then that at least as far as TZ, TM and Diedericks are concerned that they are all people who had, to some degree or another, an involvement in the facilitation of the contract with the Joint Venture? A mere coincidence? You could not have put two and two together?

MR SODI: I mean, it is the quantum. But again, I would not want to speak with authority on a document that I had not role in drafting.

20 But I, you know, I hear what you are saying that there is a coincidence there but there is a name there and the initials and these initials, they appear to be similar to initials of people that are involved in the process.

ADV PRETORIUS SC: They are not similar. They are exactly the same initials.

MR SODI: Correct

ADV PRETORIUS SC: Yes. Had you seen this at the time
...[intervenes]

CHAIRPERSON: I am sorry, Mr Pretorius. Let me take that
one step further.

MR SODI: Ja.

CHAIRPERSON: You have got TM. Okay, I have got two TZ.
No full name is given, just the initials.

MR SODI: Ja.

10 **CHAIRPERSON**: You have got TM. NO full name is given,
just the initials. We leave out AM and OM and MEC. And
then you have got Diedericks. Just a surname is given, no
name.

MR SODI: H'm.

CHAIRPERSON: What are the chances that it is just mere
coincidence? Not a single one of these initials TZ and TM
and Diedericks, not a single of these initials and its name,
the surname refers to the people who each had such an
important role in this project.

20 **MR SODI**: Thank you for the question Chair. You will recall
that I mentioned here that if I had gone through this when it
was sent to me I would have been inquisitive. I would
have called Mr Mpambani and said Mr Mpambani, I want to
understand what is going on here and I am sure that he
would have given me some explanation because he offered

the document. I am sure he would have explained, I am sure he would have some explanation but as it turned out, it never happened and only later on when I received the spreadsheet, I then said but what is going on here? But then it was too late because Mr Mpambani was no more. So I did not have the opportunity to then go to him and say listen, I am seeing the spreadsheets and it has got entries which I do not understand, can you explain what they mean, you know?

10 **CHAIRPERSON:** Can I take what you say, what you have just said, as meaning that if you had seen these names – if you had seen the spreadsheet and seen this initials, TZ, TM and Diedericks, that in your mind you would have thought of Mr Thabane Zulu, Mr Mokhesi and Diedericks, that does not mean necessarily it would be them.

MR SODI: Correct.

CHAIRPERSON: Because they were important role players, that that is what probably would have come to your mind and you would have asked him ...[intervenes]

20 **MR SODI:** Absolutely and I would have wanted him to verify that.

CHAIRPERSON: Yes, yes.

MR SODI: You know, to say please verify.

CHAIRPERSON: Yes.

MR SODI: Because I can make speculations.

CHAIRPERSON: Yes, yes.

MR SODI: But seeing that you are the one who offered this, can you please verify.

CHAIRPERSON: Yes.

MR SODI: You know and then he would have been able to do that, I suppose.

CHAIRPERSON: Yes.

MR SODI: But also, the other problem – sorry, Chair, the other I suppose question that I would have asked was but
10 why all these amounts for these people? Why – what do these amounts mean? You know, I would have asked that question, you know? And I am sure he would have given me an answer and not that I would have agreed to the answer that he would have given me but I would have wanted to know, what do these amounts mean?

CHAIRPERSON: Yes.

MR SODI: You know?

CHAIRPERSON: And, of course, what one notices is that on the spreadsheet some names are written clearly, you
20 know who they are talking about, they refer to, and then these particular ones, it is just initials and in regard to Diedericks, it is just a surname. But why is the full name not written just like Master Trade – well, there is Martin, there is Rampa, but the full names are written, but why are these TZ, TM, OM, AM, why are they are not – why is there

no transparency about them?

MR SODI: Correct, Chair, and that is one of the questions that I would have asked. I would have asked him, you know?

CHAIRPERSON: And they happen – at least the initials that I have thought about, TZ, TM and then of course Diedericks, we know that on the project that happen to have important roles to play and initials that coincide with their initials are written, not the full name.

10 **MR SODI:** Ja.

CHAIRPERSON: There is no transparency about who these people are.

MR SODI: Correct.

CHAIRPERSON: Okay.

MR SODI: And, Chair, but also, there are other initials here that we do not know who they refer to and next to them these amounts and I battle to understand what role they would have played in the project, you know? And that is what created difficulty for me, to say if you have got any
20 fee, you have got – but what role did they play, you know, I – and that is what makes it difficult for me to understand, you know why this would have been drafted with those kind of amounts.

CHAIRPERSON: Mr Pretorius?

ADV PRETORIUS SC: Thank you. We know that in March

2015 – well, let us just summarise from the beginning, we know that you had a conversation with Mr Mpambani and his job was to create a spreadsheet showing all the expenses of the business.

MR SODI: That is correct, Chair.

ADV PRETORIUS SC: Particularly the asbestos project.

MR SODI: That is correct.

ADV PRETORIUS SC: We know that he went away and did that on your computer or he stayed and did that on
10 your computer.

MR SODI: That is correct, Chair.

ADV PRETORIUS SC: He later in March sent you - March 2015 sent you an email referring to the spreadsheet with a spreadsheet attached.

MR SODI: That is correct, Chair.

ADV PRETORIUS SC: You knew that attached to those emails was a spreadsheet.

MR SODI: That is correct, Chair.

ADV PRETORIUS SC: Your evidence in your statement
20 and in your interview at the lowest seems to suggest that you looked at the spreadsheet. I would submit that it clearly says you looked at the spreadsheet. Your evidence today says you did not look at the spreadsheet.

MR SODI: No, the evidence that I am putting to the Commission today is that I did not look at the

spreadsheets.

ADV PRETORIUS SC: Well, firstly, I would suggest to you, Mr Sodi, that it is improbable that that very document which contains the income, your expenses and your profit would not be scrutinised by you.

MR SODI: Chair, remember I have already stated that before Mr Mpambani put the figures that we had already discussed in a spreadsheet. That conversation had already taken place prior to him reducing it in writing on a spreadsheet. So I knew – so it was not something that was
10 unknown to me, actually, I knew what – as I have indicated, were the total revenue of the project was going to be and I also knew what the costs were going to be.

So to answer Mr Pretorius' question that it is improbable, I deny that because I knew upfront what the expenses of the project were. So I did not see it as being absolutely necessary to go through it because already we had discussed and I knew exactly how much it was going to be.

20 **ADV PRETORIUS SC:** Had you looked at it – I persist with the probability that you did look at it – you would have seen, as the Chair has pointed out, a list of initials and then some names. The legitimate payments, the names are in full and the payments where there are initials, had nothing to do with the conduct of the business. If these

payments were to be made.

MR SODI: Had I looked at it, Chair, I would have asked Mr Mpambani questions about it, had I looked at the spreadsheet.

CHAIRPERSON: But as you sit there and knowing what the costs of – let me put it – as you sit there, are you able to say there is no TZ or there is nobody with the initials TZ who had – who was entitled to be paid any legitimate money from the business or are you saying there was?

10 **MR SODI:** Chair ...[intervenes]

CHAIRPERSON: You know of no person with those initials who had a legitimate claim to any payment?

MR SODI: Absolutely, Chair.

CHAIRPERSON: Is that the same – you give the same answer in regard to TM?

MR SODI: That is precisely correct, Chair.

CHAIRPERSON: Yes. And AM?

MR SODI: Correct.

CHAIRPERSON: And OM.

20 **MR SODI:** Correct.

CHAIRPERSON: And MEC?

MR SODI: That is correct.

ADV PRETORIUS SC: And Diedericks.

CHAIRPERSON: And Diedericks.

MR SODI: That is correct.

CHAIRPERSON: And to the extent – or rather, let me put it, to the extent that JT is not Jimmy Tau, then you give the same answer?

MR SODI: Correct, Chair.

CHAIRPERSON: But if JT is Jimmy Tau, your version is that he was – he had an entitlement to payment not necessarily out of money from this project but you owed him some money or something unconnected with this project.

10 **MR SODI:** That is correct, Chair.

CHAIRPERSON: But if JT does not refer to Jimmy Tau, you are saying there is no JT who had a legitimate entitlement of being paid.

MR SODI: Absolutely and I would have asked Mr Mpambani, who are these people, you know?

CHAIRPERSON: Yes.

MR SODI: And why are they appearing in the spreadsheet.

CHAIRPERSON: Yes.

20 **MR SODI:** And what reason do they need to be paid.

CHAIRPERSON: Yes.

MR SODI: You know, I would have posed those questions, you know?

CHAIRPERSON: Yes.

MR SODI: But, as it turned out, by the time that I got to

be made aware of the spreadsheet, he was not there to answer those questions.

CHAIRPERSON: Just looking at those particular initials and Diedericks, it appears to me that to the extent that the spreadsheet reflected – may have reflected an intention that those people must be paid those amounts, it would seem that your partner, on your version, you are saying your partner, knew of about x number of people who were to be paid more than R25 million from the business and
10 you knew nothing about those people. Is that what you are saying?

MR SODI: That is what I am saying but can I just add to that? I mean, what we prepared, Chair, to give to the Commission are two things, is a reconciliation of the affairs of the JV accounts. That reconciliation, Chair, will show how much come into the business and much was paid out to whom. We have already done that exercise, so it is easily available to transfer that information as soon as possible.

20 Further to that, I am willing – and we spoke about it earlier, to provide information relating to the affairs of Blackhead Consulting and you will notice that from the JV account and from Blackhead we had not made any of those payments at all to those people that are alleged to, you know, to be the recipients of these monies that are

reflected on the spreadsheets. But I have said as well that in as far as the affairs of Diamond Hill, I am unable to confirm whether there would have been any transactions from that side to perhaps any of the people that are listed on the spreadsheet.

CHAIRPERSON: Yes, Mr Pretorius.

ADV PRETORIUS SC: One can conclude reasonably from this that where legitimate payments are made one sees a name and where payments that had nothing to do with the proper operation of the business are apparently to be made
10 initials are used, the intent of that is to conceal.

MR SODI: Chair, I cannot speak to that because ...[intervenes]

CHAIRPERSON: What Mr Pretorius is doing is putting to you the conclusion he arrives at on interrogating what was being done here.

MR SODI: Okay.

CHAIRPERSON: To give you a chance to say I agree with that conclusion. There must have been an attention to
20 steal of to say no, but I do not think necessarily so, I think that there was no – there might not have been an intention to steal or there was no intention to steal ...[intervenes]

ADV PRETORIUS SC: Conceal, sorry.

CHAIRPERSON: Oh, conceal, sorry.

ADV PRETORIUS SC: Conceal, ja.

CHAIRPERSON: Well, conceal and steal.

MR SODI: Ja.

CHAIRPERSON: Yes, so he is giving you that chance to say when you look at this what do you say about that conclusion?

ADV PRETORIUS SC: Yes.

MR SODI: Well, I would agree with that. That, you know, just mere reflection of the initials, you know, would in any way imply someone is trying to conceal something. So I
10 would agree with that, that version.

CHAIRPERSON: Okay.

ADV PRETORIUS SC: And in any event you would know, as a businessman, Mr Sodi, that this is an extraordinarily unusual way of recording the expenses of a business.

MR SODI: Absolutely.

ADV PRETORIUS SC: But we also know that this document was only intended to be between yourself and Mr Mpambani. It was not – it will not find its way into any official record of the finances, was not intended to.

20 **MR SODI:** Chair, I do not know what Mr Mpambani's intentions were. I mean this document, as far as I know, and I could be wrong, was produced by Mr Dukwana. So the question that I have is simply this, how did Mr Dukwana come to be in possession of this document? Where did he get it from? So these are the questions that I have been

asking myself and I was wondering could Mr Mpambani have shared this document with someone else? I could be wrong but I think Mr Dukwana did concede here that he knew Mr Mpambani, that they knew each other on a personal level. So the question I have is, is it probable that Mr Mpambani could have shared this document with Mr Dukwana? And if that was the case, what would have been the reason for that? I do not have answers to those questions.

10 So it would be important to know for my sake, at least, how he got to have access to these documents, what he knows about it and how was it shared with him? You know, I am saying those are the some of the things that I would be inclined to know, you know, and maybe it could solve some of the answers that we have.

CHAIRPERSON: I may have I misunderstood but I was under the impression that you had accepted that the spreadsheet we are looking at is the spreadsheet that Mr Mpambani prepared and sent to – emailed to you which
20 you said you did not look at.

MR SODI: Interrogate, yes.

CHAIRPERSON: Okay.

MR SODI: Ja.

CHAIRPERSON: So if you accept that, I do not see why it is relevant whether Mr Mpambani shared it with Mr

Dukwana for purposes of Mr Pretorius' question. You understand what I mean?

MR SODI: Ja.

CHAIRPERSON: If you accept that it is the one, it is different if you say you are putting that in dispute but if you accept that it is the one then the fact is, here are names that were put in and initials that were put in by Mr Mpambani.

MR SODI: Correct, correct, ja.

10 **CHAIRPERSON:** Meant to have a meaning to you, his partner, you see?

MR SODI: I get him.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: And we know, of course, some of the contents of the spreadsheet contain information that you gave to Mr Mpambani.

MR SODI: That is correct, ja.

20 **CHAIRPERSON:** So would it be correct to say the spreadsheet does contain all the costs of the business as you expected them to be reflected in the spreadsheet that Mr Mpambani was going to prepare but that it contains also other costs?

MR SODI: Additional information, ja.

CHAIRPERSON: Which you say you knew nothing about?

MR SODI: That is correct, ja.

CHAIRPERSON: So it has everything that you expected.

MR SODI: That is correct.

CHAIRPERSON: But it has more.

MR SODI: It has more.

CHAIRPERSON: Ja, okay.

MR SODI: Ja.

CHAIRPERSON: And what is more is, you accept, would have been illegitimate payments.

MR SODI: Absolutely.

10 **CHAIRPERSON:** Ja.

MR SODI: Absolutely.

CHAIRPERSON: Okay, ja.

ADV PRETORIUS SC: It is common cause, it seems, I am moving on to a new topic now, Chair, I do not know how – it is twenty past. Okay, let us see how we go with these three issues that remain and perhaps we could do the rest by way of written question and reply. So I would actually appreciate an opportunity to complete today.

CHAIRPERSON: Okay, how far do you want to go?

20 **ADV PRETORIUS SC:** Let me not be too bold, let us reassess at twenty past.

CHAIRPERSON: Okay, alright. Okay.

ADV PRETORIUS SC: It is common cause, Mr Sodi, that you effected a payment of R600 000 to a motor dealer in Kwazulu-Natal and that was used by Mr Zulu for

...[intervenes]

CHAIRPERSON: I am terribly sorry, Mr Pretorius, I just thought of something that I want to put to Mr Sodi.

ADV PRETORIUS SC: Sure.

CHAIRPERSON: Is it not – would you not concede that it is strange or extraordinary that a document that both you and Mr Mpambani agreed he should prepare for your purposes, the two of you, when it comes to the names that are there, you seem to know only the people whose
10 payments would have been legitimate and you do not know a single one of those whose payments seem to have been illegitimate and it seems Mr Mpambani would have been the only one who knew all of those.

MR SODI: I want to make sure that I answer your question properly.

CHAIRPERSON: But do you understand the question?

MR SODI: I do.

CHAIRPERSON: If you want me to repeat it I will but if you understand it is fine.

20 **MR SODI:** Chair, Mr Mpambani, as I have indicated on a number of occasions, did not conduct himself in accordance with the spirit of the JV. On a number of occasions and I have highlighted some of those occasions. So it is not improbable that he could have done something like this but in a way to conceal, you know, the intended

beneficiaries or the intended beneficiary or it could have been for himself, you know?

So – and again, it is illustrated and I am asking myself that with this last payment that was supposed to be split between the two entities which ultimately was not split, did he intend to use some of those funds to deal with the arrangement that he had? You know, it is a question that I ask myself, you know, that maybe this guy had his own arrangements which he did not disclose to me.

10 **CHAIRPERSON:** But, of course, if one looks at the spreadsheet, it is clear that he did not intend to conceal these other payments from you.

MR SODI: That is correct.

CHAIRPERSON: Can you see that?

MR SODI: Ja, I see that and ...[intervenes]

CHAIRPERSON: He did not intend to conceal these other payments to you. In other words, he is not ...[intervenes]

MR SODI: Well, the fact that he used initials, Chair, I am not sure whether – well, we agreed here and I think we
20 have admitted that it seemed as – or interpreted as concealing, you know, who the actual beneficiaries are supposed to be.

CHAIRPERSON: But that conceal is not necessarily conceal from you.

MR SODI: Yes.

CHAIRPERSON: Concealed from third parties.

MR SODI: Concealed from a third parties, ja, because if I had – as I said, if I had opened the spreadsheet ...[intervenes]

CHAIRPERSON: You have seen this.

MR SODI: I would have seen this and he would have been able to then give me answers.

CHAIRPERSON: And you would have asked him.

MR SODI: Otherwise asked ...[intervenes]

10 **CHAIRPERSON:** And he must have been prepared to tell you.

MR SODI: I am sure he would have, exactly.

CHAIRPERSON: So there could not have been an intention on his part to conceal the identity of those people, I would imagine, particularly because paying those people would be also reducing your profits that you would get, is it not, because if the costs are x, the two of you get 50% of what comes out. If the costs are higher than that, that eats into the amount that you will share between the
20 two of you.

MR SODI: Chair, I can safely state here that even if he had given me an explanation, those people would not have been paid from the JV account or from Blackhead. As to what could have happened with his share of the profit, that would have been his – you know, his own business and he

would have dealt with it, but definitely from my side I would said I would have wanted answers to say why would me make such large payments to these individuals? For what? Because, I mean, ultimately it is reducing our profit margin. I would not allow that, you know, it would not have happened, at all, even if I had asked him those questions.

CHAIRPERSON: Yes, Mr Pretorius?

ADV PRETORIUS SC: From that exchange, Mr Sodi, between you and the Chair, it seems to me that
10 interrogating that spreadsheet now, it would be reasonable to conclude that it contemplates illegitimate payments to people involved in the project.

MR SODI: I would agree with that version.

ADV PRETORIUS SC: Just to return to the payment of R600 000 to Mr Zulu and we know that the route that the payment took, to the motor dealer as deposit for a motor vehicle. That is all common cause.

MR SODI: Correct.

ADV PRETORIUS SC: The question that must concern the
20 Chair and the evidence leaders is how that alleged debt arose. Your – the explanation is from Mr Zulu and from yourself that money was owed by you to Mr Zulu, the amount of R600 000.

MR SODI: That is correct.

ADV PRETORIUS SC: Tell us how that debt arose please.

How did that debt arise?

MR SODI: Chair, I was asked this question and in the affidavit, I responded to that question and I said Mr Zulu owned a lounge in Pietermaritzburg and over a number of months I bought alcohol. A lot of it was ordered and delivered to my house in Durban, in Zimbali, specifically to replenish my bar. At the time Mr Zulu indicated to me that he does not have credit card facilities because I have been to the establishment a few times, I had a couple of drinks
10 and I would take most of it home and I would order this, you know, as I said, to replenish my bar at home.

In December of 2015 I had accumulated a bill of just over R600 000 and he called me and he said look, this is your bill that you accumulated – I knew more or less that my bill was around – and he said this is the amount, this the exact amount that you have accumulated, when are intending to pay? I said I have funds as we speak, I can pay immediately if you provide me with your banking detail and then he said look, I – thank you for that but I am
20 intending to purchase a motor vehicle at a certain dealership in Ballito and then he said rather than pay it to me please pay it directly to the dealership, I am going to use those funds as a down payment for the vehicle and I subsequently called the dealership and they gave me the banking details and I paid the 600 000. The balance – I

think it was about 604 000 that I had accumulated as a bill. The balance of the 4 000 was paid in cash at his establishment and that is really the – how this thing happened with the 600 000. So I was given a nominated account to pay into and, Chair, I did not see anything wrong with it because it was monies that were due to him and when he said pay it into this vehicle or into this you know establishment I did not see anything wrong with it, I paid it there.

10 **ADV PRETORIUS SC:** Well it was money due to the business that was owned ...[intervenes]

MR SODI: That is correct, it was money due to – fees at large.

ADV PRETORIUS SC: One thing that strikes one as rather strange is this question of order and delivery. How far is Zimbali from Pietermaritzburg?

MR SODI: Zimbali Chair maybe 100K's or something like that and I need to explain and you know why I would have ordered from Mr Zulu...[intervenes]

20 **CHAIRPERSON:** I think Zimbali might be – did you say about 100?

MR SODI: Ja, I am estimating about 100.

CHAIRPERSON: It is probably a bit more than a 100 because Pietermaritzburg to Durban is about 80 I think 86,85 kilometres and as I understand I think Mr Zulu said

his business is in the township so that would add I think on the kilometres because as I understand it you would have to go to town as before you go to the township up there. There might be routes that I do not know I am not sure but I think your route would go through town.

MR SODI: Ja.

CHAIRPERSON: So probably the distance certainly should not be less than 100 but could be more than 100 kilometres.

10 **MR SODI:** It is possible.

CHAIRPERSON: Ja.

MR SODI: It is possible but I may need to add that I go to that area Pietermaritzburg from time to time and my son goes to school in that area and his in boarding school. His been in that area since about 2015. So I go there from time to time for parent's meetings, for sport activities you know to go see my son and in most cases after having completed whatever it is business that I do at school I would drive past you know Mr Zulu's lounge.

20 Only a few occasions I have done that and as I said this was someone that I knew at a personal level. So going to his establishment was not unusual because it was going there to also see someone that I knew and you know we get there, we interact, we have one drink or two and in some cases I would have taken you know a lot of stock

with me okay to the house. And on a number of occasions like I said you know I took a lot of stock some stock and eventually the bill or the tab ran into that amount.

CHAIRPERSON: I think you said this was all in 2015, is that right?

MR SODI: This was in 2015, correct.

CHAIRPERSON: Over how long a period in 2015 would you say this happened the first transaction for instance maybe happened early in the year or all in the second half
10 of the year?

MR SODI: Chair I speaking under correction but this could have been over a period of about six months or so.

CHAIRPERSON: Over a period of over about six months?

MR SODI: Plus, minus ja I mean I...[intervenes]

CHAIRPERSON: Yes.

MR SODI: I admit that you know it is many years ago so I may not have a proper recollection as to exactly but it was over a period of time.

CHAIRPERSON: Ja.

20 **MR SODI:** It was not a once off thing.

CHAIRPERSON: Ja.

MR SODI: It was over a period of time.

CHAIRPERSON: Ja, are you able to say maybe it was on three or four or five occasions or once a month in six months, over six months?

MR SODI: Chair there would have been occasions maybe in one month maybe I have got two orders. Some month probably one but I think the establishment probably does have records that we can get and then we would not be speculating because I can be able to produce those records and say Mr Sodi you took so much of stock on this particular day. I am sure that they may be able to assist us...[intervenes]

CHAIRPERSON: Okay.

10 **MR SODI:** ...when it comes to that.

CHAIRPERSON: Okay, Mr Pretorius.

MR SODI: Ja.

ADV PRETORIUS SC: Well what is unusual at the very least is to place an order for the delivery of liquor from a business over a 100 kilometres away does not make much sense.

MR SODI: Well Chair this was a business owned by someone that I knew. So it was not just a business out of nowhere. It was owned by someone that I knew and so it
20 was for me also a way of seeing as being supportive to you know to support the business of someone that I knew you know call it acquaintance or friend.

So but also it is important to understand as I said that I would go and I went on a number of occasions after having done whatever business that I was doing at my

son's school. I would have gone past maybe had you know had something to eat, have a couple of drinks obviously I was mindful of the fact that I still had to drive about 100K's so I would not have taken you know many and but I would also listen let me take extra you know so that I can have it at my house and restock and replenish my bar as I said in Zimbali. So it was not...[intervenes]

CHAIRPERSON: Would there have been deliveries by TZ Lounge to your property in Zimbali or did they put the
10 liquor into your car each time?

MR SODI: It was always in my car; I always took the stuff with me.

CHAIRPERSON: In your car?

MR SODI: In my car, ja.

CHAIRPERSON: It was not delivered?

MR SODI: No it was not delivered.

CHAIRPERSON: By TZ Lounge?

MR SODI: No, no the stuff that I took with me on a number of occasions as I have indicated.

20 **CHAIRPERSON:** Yes, yes do you remember about what the minimum was that you took on anyone of the various occasions you took liquor with about how much or something there?

MR SODI: Chair I would not remember the exact details...
[intervenes]

CHAIRPERSON: I guess you never took anything less than a R100 000,00?

MR SODI: Chair I know I like my holy waters but ja I mean you know it could have been around their Chair; I do not remember exactly but it could have been around there you know those sort of prices but it was substantial.

CHAIRPERSON: And is the position that the only time you paid TZ Lounge for the liquor was when you paid the R600 000,00 prior to that you had not paid them anything?

10 **MR SODI:** No prior to that Chair there would have been payments but very small payments. Maybe I get there have something to eat you know, have you known one or two glasses of Scotch...[intervenes]

CHAIRPERSON: Ja not for something you take home?

MR SODI: Not for something that I take home. So those small amounts I would carry cash.

CHAIRPERSON: Ja, okay.

MR SODI: I mean you know...[intervenes]

CHAIRPERSON: But for what you took.

20 **MR SODI:** For what I took I certainly could not be carrying that amount of cash.

CHAIRPERSON: You only paid when you paid R600 000,00?

MR SODI: That is correct ja because it was large quantities and I would not take a risk of carrying that

amount of cash.

CHAIRPERSON: Ja.

MR SODI: More so because as I said you know definitely facilities at the time that I have been there were not functioning and so I would not have carried that amount of cash, so...[intervenes]

CHAIRPERSON: Yes.

MR SODI: Because of the large quantities I would have said listen you know put this in my boot and they would
10 record whatever it is that I have taken and the amounts and I take it with and that happened as I said on a number of occasions.

CHAIRPERSON: Mr Pretorius.

ADV PRETORIUS SC: I recall you saying that TZ Lounge delivered to your property in Zimbali and when the difficulty with that was pointed out I now understand you to say that each time you took it in your car.

MR SODI: Chair I recall that the stock was taken with me, I took the stock with me in my car.

20 **ADV PRETORIUS SC:** Alright that is not a delivery that is a purchase. But you say this would have happened over a period six months or less.

MR SODI: Again, I do not want to be you know...[intervenes]

CHAIRPERSON: You saying more or less.

MR SODI: I say more or less, ja.

ADV PRETORIUS SC: And you say more or less once or twice a month?

MR SODI: No I am saying that there were certain months where you know I may have taken two.

ADV PRETORIUS SC: But otherwise once?

MR SODI: Otherwise it would be maybe once.

ADV PRETORIUS SC: So that means that on any one trip from Pietermaritzburg to Zimbali you would have carried
10 between R80 000,00 and a R100 000,00 worth of liquor.

MR SODI: That is absolutely correct Chair, yes that is correct.

ADV PRETORIUS SC: Extraordinary, anyway I have taken a few deliveries recently...[intervenes]

MR SODI: It is extraordinary.

CHAIRPERSON: Okay let him say I think he wants to qualify something.

MR SODI: I do not want to say this in a manner that is going to sound you know arrogant but you know there are
20 certain types of alcohol which are pricey. You know I have recently and as recent as I think two weeks ago bought six bottles of champagne which I do not consume all the time but I put them for special occasions especially birthdays and stuff like that and I paid, it was between four and R5 000,00 per bottle.

But as I said this happens once in a while it is not something that happens all the time but I did that because for example I know a birthday is coming so I would acquire you know four, five and in this case, I bought six bottles. I paid over R50 000,00 just for six bottles.

So the point I am trying to illustrate and as I am saying Chair I do not want it to come out in a boastful or arrogant manner. It is to say there are certain types of alcohol that you pay exorbitant prices and also I am an
10 avid collector of whiskies. You know I collect not to consume but it is just you know once in awhile when for instance maybe there is a celebration or something you know then you open one bottle. But it happen that you know you get some of this bottles that are pricey but otherwise on a normal day Chair on every other day I will have a glass of – or a bottle of wine that I buy from Woolworths for R90,00 or a R150,00 you know on a normal occasion. But you do get you know certain types of alcohol where you pay a lot of money.

20 **CHAIRPERSON:** Would there be certain types of liquor that would, that are kind of popular with you that would have been included in those – I do not want to say deliveries because you have now said you took these yourself.

MR SODI: Ja.

CHAIRPERSON: But whenever you took them, I assume they would have been certain types that are common and would be found on each time you did those trips.

MR SODI: Ja, so Chair there would have been substantial amount of champagne. There would have been whiskies such as your Johnny Walker and Bells from your red up to your blue. And it is important that I illustrate this point Chair that you know I network a lot and I entertain a lot. So it often happens you know that when you entertaining
10 someone comes, the Chair might come and say Mr Sodi I prefer a Johnny Walker gold or a Johnny Walker blue that is what I prefer and I would have to cater for that you know. Someone might come and say no, no I am happy with a Castle Lite or a Heineken you know so it is just to cater for different types of people. Sometimes it does not mean that it should be consumed but it is there you know for occasions or days when someone is there and you know and they want it.

CHAIRPERSON: Mr Pretorius.

20 **ADV PRETORIUS SC:** Just for the record Mr Zulu when he gave evidence, he said there were times he delivered alcohol to you as well.

MR SODI: I do not recall that, that Sir I mean these as I said I do not want to sound evasive but these are things that happened in 2015 we are in 2020 now. So you know

memories fade over time but I can certainly say that I bought most of – I bought the alcohol myself. You know there was probably one or two occasions where he would have visited me but you know maybe he would have his bottle, that he gets, that he comes to the house with and he will have that bottle, you know, because maybe he prefer that, you know what I'm saying, but I don't recall him bringing a delivery, you know to the house.

ADV PRETORIUS SC: It does seem that initially you
10 used the word delivery, you then said no every time it was you taking it away from the premises, now you're saying there might have been times when he did deliver.

MR SODI: No, no I am saying that I do not recall any deliveries Chair.

CHAIRPERSON: Mmm.

MR SODI: I recall taking the items myself and driving with in the boot of my car to my residence. That is what I recall.

CHAIRPERSON: Mmm.

20 **ADV PRETORIUS SC:** Let's deal – if I may go on Chair.

CHAIRPERSON: Onto another topic?

ADV PRETORIUS SC: Yes.

CHAIRPERSON: Okay, before you do that part of what strikes me as rather odd Mr Sodi in regard to this issue of the debt to Mr Zulu that the payment of this large amount

of 600 000 is – is not paid into his account, is not paid into the business account, but it is paid to a third party so it would wind up here in his account, it wound up here in his business account, and then we are told that you were owing him R604 000, you paid R600 000 into a third party's account and then when it comes to the payment of this R4 000 that remains outstanding after that it is also not paid into his account, it is paid to him in cash. It is like all the time that nothing must go into his account.

10 **MR SODI:** Chair it was paid in cash because at that time there were no credit card facilities, so the only other method of payment would have been either a transfer or cash but here we're talking about R4 000 which was outstanding, which I had with me in cash and I thought instead of transferring R4 000 why don't I just pay it in cash and that's what happened, but if it was a large amount then I probably would have said look I don't have the cash, you know let me transfer it, but it was a small amount, and I am saying it with the greatest of humility
20 that you know we are in a country where there's a lot of poverty and so forth so someone sitting at home listening to me saying that R4 000 was a small amount might take an offence to that but I am saying in relation to carrying the cash with me it was not that substantial.

CHAIRPERSON: Well what also seems – what would

seem to be unusual to me is that – well I have never seen Mr Zulu’s business, TZ Lounge, I don’t know how it is, but is it the type of business where the owners can afford to allow such a large amount of money to be owed to it, without saying hey you must pay, we are not a big business, to us R20 000 is a lot of money, it ended up being owed R600 000 over six months.

MR SODI: Chair I certainly wouldn’t know the turnover of the business or how busy they are but I can certainly
10 speak to the number of occasions that I was there. It was very busy and if the number of patrons or people that one would find in an establishment like that if one could make a correlation between that and the sort of revenue that you could make I would conclude that based on my observation, at least on the number of occasions that I was there, it was a very busy place, but I wouldn’t know how much they were making, but it was certainly quite busy you know, and I presume that it was a successful business based on that.

20 **CHAIRPERSON:** Okay, Mr Pretorius?

ADV PRETORIUS SC: I understood you to say that at the time you paid the R4 000 there were no credit card facilities at TZ Lounge? I didn’t understand you to say that, you said that.

MR SODI: Look on the day that I paid, on a number of

occasions when I was there credit card facilities were not functioning and that is what was confirmed to me. The balance of R4 000 that I paid, I don't remember if I asked are they now functioning, is your credit card facility now functioning or is it still not functioning. I had the cash with me and I simply just paid, but I can't say on that specific day that you know the facilities were working or not working, but I had the cash with me which as I said was not a substantial amount of money and I used that to settle
10 the outstanding balance Chair that I had to pay.

ADV PRETORIUS SC: You said, and your statement was clear, you said there were no credit card facilities and you paid in cash.

MR SODI: Chair I am qualifying my statement, I say on the number of occasions that I was there, there were no credit card facilities, I am not changing that statement, but what I am saying as well is on the day that I paid the balance of the R4 000 I cannot recall if there were – I don't remember if I asked them whether those credit card
20 facilities were not there or not there, I don't remember that, but I had the cash with me and I paid the cash, the R4 000, and that is what I am saying.

ADV PRETORIUS SC: Well all I am pointing out to you is that your evidence has changed in the last five minutes, but be that as it may ...[intervenes]

CHAIRPERSON: Just one second Mr Pretorius, please don't forget the point you want to make.

ADV PRETORIUS SC: Ja.

CHAIRPERSON: I understood Mr Pretorius earlier on to be saying your previous evidence, I don't know whether in an affidavit or here, was that – or last time – was that you did not pay when you took the liquor on the days that you took it, because TZ Lounge did not have credit facilities and I understood you just a minute ago to be confirming
10 that that actually was the position, what you don't know is whether on the day you paid the R4 000 whether that was still the case.

MR SODI: Absolutely correct Chair.

CHAIRPERSON: So on all the days when you took liquor you know that there were no credit facilities, it is only in regard to the day you paid the R4 000 that you are not sure.

MR SODI: That is absolutely correct Chair, I mean on those days where I took the liquor, large quantities of
20 liquor, I always carry my wallet with me, I always carry my credit card with me.

CHAIRPERSON: Ja.

MR SODI: And I can safely confirm that had they had those facilities, credit card facilities, I would not have run a deal at all, I would simply paid you know paid with my

credit card, so we would not have had this scenario that we are dealing with now where there is a tab of over R600 000 which ended up you know with me getting a nominated account to say pay, it would not have happened at all.

CHAIRPERSON: Okay.

ADV PRETORIUS SC: Perhaps this is not an issue to take up much more of our time Mr Sodi but do I understand you correctly now to say that had there been credit card facilities at the time that you visited TZ Lounge you would
10 have paid by credit card?

MR SODI: That is precisely what I am saying here.

ADV PRETORIUS SC: Because as I understand Mr Zulu's evidence he said there were credit card facilities there, he didn't specify the time, but we can establish that independently.

MR SODI: That's fine.

ADV PRETORIUS SC: Let's just deal if we may with Mr Mokhesi and the arrangements entered into with him. We know, and I do not believe it can be in dispute, that you
20 paid an amount of 660 – was it, let me just get the exact amount R660 000 to a trust.

MR SODI: It was R650 000 to – not to a trust but it was paid into the lawyers' account that were registering the property that we ...[intervenes]

CHAIRPERSON: That is a law firm's account.

MR SODI: Correct.

CHAIRPERSON: You say it was paid into a law firm's account?

MR SODI: Ja, that is correct.

CHAIRPERSON: Those would have been the conveyancers?

MR SODI: I think those are the conveyancers ja.

CHAIRPERSON: Okay.

ADV PRETORIUS SC: In any event the money went
10 towards the purchase of a property?

MR SODI: That is correct Chair.

ADV PRETORIUS SC: The property was purchased as I understand your evidence, as an investment in property jointly between yourself and Mr Mokhesi through his trust?

MR SODI: Chair that is correct, I – let me just give context to this, I – when we started implementing the project I obviously got to know the HOD, we met on a few occasions and on one occasion I can remember particularly we spoke about, just about everything including business
20 and our personal lives and what I do and so forth, so he was aware that I apart from the consulting engineering space I mentioned that I am into property, I am a property investor, both commercial and residential but I also remember vividly that I mentioned to him that I was looking at acquiring a property, a smallholding, a small farm in

Parys, in the town of Parys, so he was aware about my background when it come to that, and in around April or March somewhere between March and April of 2015 we had another chat and he said to me look I am – there is a new development in the State that is being launched and his question was is this something that you would look at from an investments point of view, because I am looking at investing, but I am also looking at a partner who can invest with me, and I asked him for the details of where this
10 development was. He gave me the details, I looked at it, I mean I consider myself to be fairly knowledgeable, to some extent when it comes to property, so I did my research, and I thought no this could be a potentially profitable investment, he is able to raise a portion towards the acquisition of that property, which was about a million Rand and I raised the balance of R650 000 and he said this would be done, so his investment will be through the trust, the Lekuma Family Trust, so he gave me those details because we subsequently had to get a contract
20 signed between Blackhead Consulting as well as Lekuma Family Trust.

That was signed, the money from my side was paid into the account of the conveyancing attorneys and the property was acquired by the Lekuma Family Trust. The terms of the commercial transactions as I said were

reduced in writing, I have got a copy of that, but this Chair is a perfectly legitimate and above-board transaction or commercial transactions that we entered into. It was – it was done as I said immediately – not long after the project was completed and you know – so – but when the question was posed to me about this transaction and I could understand that when one looks at it from a distance but also for me in hindsight that it could be perceived to be you know – it could be perceived to be problematic. But it was something that was documented it was recorded in our books 10 as an investment in our financial books it was recorded there. The transfer was made from Blackhead Consulting so it was not concealed at all. So – and that is what happened. If – if this was meant to be some kind of an underhanded payment Chair, we would not have done it the way we did it. We would not have recorded this in our financial records. We would not have paid and left any paper trail. We would not have done these contracts that we did. So it was a perfectly legitimate above-board commercial transaction 20 which we entered into with the trust.

ADV PRETORIUS SC: Well we have the agreement between Blackhead Consulting Pty Limited and a Lekemo family trust which we know for all intents and purposes is Mr Mokhesi's trust. You quite correct it looks perfectly legitimate and proper but if there was an illegitimate payment this is a

perfect disguise.

MR SODI: Well it could be a disguise but this was not the case in this particular transaction Chair it was not the case.

CHAIRPERSON: Where is it again? I...

ADV PRETORIUS SC: It is FS1, 189. You see if I may just Chair while you doing that?

CHAIRPERSON: Yes you may continue. But ...

ADV PRETORIUS SC: I do not understand your logic. If it...

CHAIRPERSON: I am sorry. It is 89 the page not 189?

10 **ADV PRETORIUS SC**: Ja Free State 1 page 89.

CHAIRPERSON: Ja, no I was going to page 189.

ADV PRETORIUS SC: I apologise.

CHAIRPERSON: Okay alright continue.

ADV PRETORIUS SC: Yes just the logic of your last answer. If it was an illegitimate payment one would not want to make it look illegitimate. One would want to make it look legitimate and this is the perfect way of making it look legitimate. You create a trust and you enter into an agreement and it looks like a joint investment.

20 **MR SODI**: Chair if one had an intention of making an illegitimate or corrupt payment, I would have done it differently.

CHAIRPERSON: How would you have done it?

MR SODI: About a week ago we had evidence being led in this commission about the famous place in Saxonwold and

how those sort of transactions happen. I would have done it in that manner Chair. If it was – if it was illegitimate and improper that is how I would have done it. It would have been ...

CHAIRPERSON: But that evidence related to a situation where one the face of it at least the people who are implicated are yet to give evidence and bring their side of the story but on the face of it seems that there was an intention – there was an – there was no intention that it
10 should be seen by anybody outside of the people involved. If – so you have one way of concealing namely nobody must see what happened. Another way of concealing is people must see what happened namely that some payment was made but they must not see – they must not recognise that it was an illegitimate payment therefore in order to do that put up an agreement that may seem legitimate. That is another way of concealing.

MR SODI: Ja I – I take that Chair. You know apart from and this is what I am saying. Apart from the – the contract I
20 would not have left a paper trail like that. I would not have done that.

CHAIRPERSON: Of course...

MR SODI: Because – ja.

CHAIRPERSON: Of course you could say – you could allow paper trail to be there if you were confident that anybody

who saw the paper trail would not be able to see that it was something illegitimate. Everything would look legitimate.

MR SODI: So I am – I am saying in my case.

CHAIRPERSON: Ja okay.

MR SODI: You know if I had to do it I would be a little bit more creative and I would do it in such a manner that Chair it would not be found.

CHAIRPERSON: Hm.

MR SODI: And it will never be picked up.

10 **CHAIRPERSON**: Hm.

MR SODI: That is what I would have done. I would not have gone to an extent of even getting it recorded in our books or financial books to say there is an investment here you know. I would not have done that because it would not have been an investment it would have been an improper benefit due to someone for an improper relationship.

ADV PRETORIUS SC: Well Mr Sodi on your evidence you are not an expert in this field so...

MR SODI: I am not. I am not ja.

20 **CHAIRPERSON**: Well I wanted to say you – you speak with conviction that you would have done a better job.

MR SODI: I would have tried to do a much better job Chair.

CHAIRPERSON: Okay.

ADV PRETORIUS SC: I have a while to go DCJ so if you have no other arrangements we can continue?

CHAIRPERSON: Well if you – if we should stop now, I am – we can stop but if you want to ...

ADV PRETORIUS SC: Perhaps I should just deal with another two issues and then it would still be possible for the remainder to be dealt with in writing.

CHAIRPERSON: Yes.

ADV PRETORIUS SC: So perhaps I should finish to avoid...

CHAIRPERSON: Or maybe if you go further let us not go beyond fifteen minutes.

10 **ADV PRETORIUS SC:** Let me see how far I can get in fifteen minutes.

CHAIRPERSON: Because he is going to come back anyway. Ja. Ja. Okay.

ADV PRETORIUS SC: Okay thank you Chair.

CHAIRPERSON: Okay.

ADV PRETORIUS SC: The ...

CHAIRPERSON: Is that fine Mr Sodi?

MR SODI: Ja he must just keep his questions short Chair then we can deal with them.

20 **CHAIRPERSON:** You do not like his questions.

ADV PRETORIUS SC: If we add up the words Mr Sodi, I am not sure who would win.

MR SODI: Okay.

CHAIRPERSON: Well – but were you moving to another topic Mr Pretorius?

ADV PRETORIUS SC: Yes Chair.

CHAIRPERSON: Well I want to ask Mr Sodi something about this. Mr Sodi for me this transaction involving this property it looks very strange. As I understand the position on your own version you and Mr Mokhesi agreed to go into a business venture involving a property as an investment as you see it and there is rent to be paid for I think what seven years – six years – seven years, is that right?

MR SODI: Ja. So the...

10 **CHAIRPERSON:** At least initially.

MR SODI: Ja so we agreed that we will – because these are long term properties really – a long time investments. So we agree that it should be kept to seven years. As I said it was a new development so my knowledge is that you know it is a new development give it a number of years. When it is almost fully developed that is when you can sort of start realising the upside. So it was the seven year was actually my suggestion to Mr Mokhesi. And I said look I suggest we leave it for seven years because I anticipate that in year six
20 or year seven this area would be developed and I think then we stand a better chance of realising a better upside on the sale of the property. But the management of the property itself in terms of rental and so forth was left to the – to the family trust. But in the agreement, it was very specific how you know that was going to be deal with when it came to

sharing the spoils if one – let me put it that way.

CHAIRPERSON: Yes. But the property is registered in the name of the family trust.

MR SODI: Correct.

CHAIRPERSON: It is therefore owned by the family trust.

MR SODI: That is correct.

CHAIRPERSON: You do not own it yourself?

MR SODI: I do not own it.

CHAIRPERSON: You are not the joint owner in – legally.

10 **MR SODI**: That is correct Chair. That is correct Chair.

CHAIRPERSON: You have some agreement with – with Mr Mokhesi on your version.

MR SODI: That is correct.

CHAIRPERSON: That is very strange to me. If the two of you are embarking on a joint business why do you not create an entity in which you both have whether it is 50% share each or whatever you agree upon and that entity then owns the property. Then you know you have the same rights into the property as he does. Why do you not do that?

20 **MR SODI**: Chair how we looked at this transaction was I had available R650 000.00 in my account. He did not have the balance of the purchase price. So he had to go raise a bond. He said he had already spoken to his bankers and he qualifies or rather the – he will stand surety on the trust for that amount which is R1 million. So for me it was – it was

easy because and I did not want to complicate matters because then he would go raise the bond for that amount. He will stand surety. I am not involved there but what covers me in the event of anything is the contract that we have, that we had signed. But also, I did not see it as you know as something that for me, I would want to stay in for the longest of time. The duration of seven years as I said was agreed upon because I thought that is a realistic period in which you can be able to realise the upside. But I did not want to own
10 that property at all.

CHAIRPERSON: Well that is strange for me Mr Sodi. You were looking at a property in which that would give you some returns in the future. An investment which would give you some returns in the future. You agree to an arrangement in terms of which the exclusive owner of this property is somebody else. You are not there legally.

MR SODI: Correct.

CHAIRPERSON: That property as I understand the position if the trust was sued by somebody and they have to attach
20 property they could attach that property. Is it not?

MR SODI: That is correct Chair.

CHAIRPERSON: Now a business person like you how does he agree to that kind of thing? That is what I – I am struggling with. You – you put your investment in the name of some entity you are not involved in terms of ownership

some entity is fully exclusively the owner and you are fine with that. That does not seem to be something I would expect from certainly a business person that you seem to be.

MR SODI: Chair I – this was not the only property where I had that kind of arrangement for instance. But I have always relied on the fact that the contract had to be in place you know between the transacting parties so that if anything happens, I am able to produce the contract and say listen I am entitled to whatever share of this property. So if anyone
10 had to go there and attach it for whatever reason the contract that I have signed and again you know I am not a legal person and you know but my view is that the contract that I have signed is enough for me to be able to recoup whatever that will be due to me. And that was the basis on which this was done. It was also not a size – it was not a sizeable property. It was not a big property for me where I would have said listen there is too much expect – the risk is too much for me not to be involved. You know so I did not see any sort of risk in that apart you know as I said apart
20 from the fact that you know I had made sure that the contract was in place. So I did not see any risk in that at all. It was very clear, very specific, we invested in this for a period of this amount and this is what is going to happen.

CHAIRPERSON: Hm.

MR SODI: But certainly, with regard to you know some of

the properties that I have invested in I would have taken a different approach because the amounts are substantial in some of those properties. So I am sure I would have taken a different approach you know just to make sure that you know one is covered at all costs because of the exposure. You know as business people always obviously weigh the risk, we look at exposure; we look at the upside and those kinds of things. So certainly, in this case I did not have a problem at all and I just felt that the contract was enough for me to
10 cover me in the event of anything happening.

CHAIRPERSON: Hm. So the picture that emerges is that at least with two government officials who had some important role to play in regard to the Asbestos Project namely Mr Zulu and Mr Mokhesi with each one of them you have some arrangement that has got some strange features at least for me. With regard to Mr Zulu this large payment of R600 000.00 for liquor and then with regard to Mr Mokhesi an arrangement in terms of which the property is bought that you regard as property in which you are investing but it is
20 completely in the name of Mr Mokhesi's family trust. And I think you say in your affidavit the question of the rand was something you would see in seven years when the property has to be sold. So those – with each one of them there seems to be something quite unusual to me. You may wish to say something or you may be able to say you accept that

there are some unusual features but that is how it happened?

MR SODI: Chair if I had to be in your position, I would probably have the same views.

CHAIRPERSON: Yes.

MR SODI: And maybe look at it that way.

CHAIRPERSON: Yes. Yes.

MR SODI: So ...

CHAIRPERSON: You understand?

10 **MR SODI**: I understand where you are coming from.

CHAIRPERSON: Ja. Okay.

ADV PRETORIUS SC: Well the – Chair asked you a question about the structure or the agreement between Blackhead and the family trust and perhaps it should be pointed out that your consideration that you were protected by this agreement is limited and must be qualified. You only had rights against a family trust if something went wrong. You had no rights in the property in which you supposedly invented or invested rather.

20 **MR SODI**: Chair that could be the case. As I said I am fortunately not a legal person.

CHAIRPERSON: Ja.

MR SODI: So I – and if I consult with someone to assist me with a contract who is trained in such matters, I would believe that if they say this is a...

CHAIRPERSON: Was this agreement drawn up by a lawyer or just by yourselves?

MR SODI: It was drawn by ourselves but if I remember I think we – I specifically consulted – and I cannot remember with whom this is long time ago. But I checked – I checked you know if the agreement was okay and I think the answer that I got was that it looks fine.

CHAIRPERSON: You recall whether it was done in your office?

10 **ADV PRETORIUS SC:** Who drafted it?

CHAIRPERSON: Or in Mr Mokhesi's office?

MR SODI: Chair I cannot remember where it was drafted.

CHAIRPERSON: Yes.

MR SODI: But we would have shared it both of us looked at it before we signed it.

CHAIRPERSON: Yes.

MR SODI: Ja.

CHAIRPERSON: Okay.

20 **ADV PRETORIUS SC:** But from this arrangement it seems that you want to go into a joint investment in the property with Mr Mokhesi. You then enter into an agreement with the trust. You have no rights in the property. You only have rights against the trust not even against Mr Mokhesi. The only person to have benefited from this arrangement and substantially benefitted was Mr Mokhesi. He had the better

part of the deal.

MR SODI: Well Chair that – as I said the – I was quite happy with the contract that we drafted. I was quite happy with the upside that we anticipated to get from the property you know because like I said I saw it as a potentially good investment and in as far as the advice relating to what – how I would be covered in the event if anything happened I was confident that I was given proper advice. So you know it could be that maybe upon interrogation when one looks at
10 the contract you say well you know maybe it could have included this clause or it could have been amended in this particular fashion. But we are having right now the benefit of hindsight to look at things you know in the past to say this could have done, this could have been happened this way. You know and you know it is a benefit that we have now. You know that we could have done things differently perhaps. Perhaps we could have specified in the contract as well that you know I have got something on the property as opposed to just the trust.

20 **ADV PRETORIUS SC**: Well let us look...

CHAIRPERSON: Well you contemplated that there would be rental paid.

MR SODI: Yes. Correct.

CHAIRPERSON: Prior to it being sold in seven years' time from that time as I understand one of your affidavits or the

contract. The property was going to be sold after some years, is that right?

MR SODI: Ja so we had planned to keep it for a period of seven years.

CHAIRPERSON: Yes.

MR SODI: And we had planned that upon the sale of the property.

CHAIRPERSON: In seven years' time?

MR SODI: In seven years' time we would look at the value.

10 **CHAIRPERSON**: Ja.

MR SODI: Obviously that would be shared proportionately whatever amount that we sell for it and then also we would take into account the rental income that would have been added. So that will be taken into account in calculating ultimately what gets to be shared between the two parties.

CHAIRPERSON: Hm. Is there somebody occupying the property at the moment?

MR SODI: Mr Mokhesi is occupying the property as far as...

20 **CHAIRPERSON**: He is occupying it. Has he been occupying the property since the property was acquired?

MR SODI: Ever since correct ja.

CHAIRPERSON: Is he paying rent?

MR SODI: He is – so there is rental which would be taken into account on the sale of the property not right now. So that was the agreement that that would be taken into account

after seven years when we sell the property. So that – and there is – you will see that there is a clause there that says that 65 – 65 000 per annum which is what we specified in the contract which would be a portion of the rental income that would be payable to Blackhead Consulting.

CHAIRPERSON: So the payment of any rental would happen annually or would only happen at the end of the seven years?

MR SODI: Upon the sale at the end of seven – upon the
10 sale of the property.

CHAIRPERSON: Yes. So rent would be accumulated.

MR SODI: It would be accumulated.

CHAIRPERSON: For – yes. So it would not be paid into any account? Is there...

MR SODI: No so it should be accumulated per annum.

CHAIRPERSON: Per annum.

MR SODI: For a period of seven years.

CHAIRPERSON: Yes.

MR SODI: And it will be taken into account when we do the
20 split.

CHAIRPERSON: Yes.

MR SODI: Ja.

CHAIRPERSON: Okay. Mr Pretorius.

ADV PRETORIUS SC: Well we have the agreement here and it is easy to answer those questions. Clause 2.5 says:

“Lekemo shall be entitled to rent the property
to whomever it so desires.”

It does not have to rent the property but it may.

MR SODI: It may ja.

ADV PRETORIUS SC: If it rents the property those rentals
are taken into account upon disposal of the property in
seven years' time.

MR SODI: That is correct.

ADV PRETORIUS SC: But in the meanwhile, Lekemo can
10 keep the rent?

MR SODI: That is correct.

ADV PRETORIUS SC: And if it is not rented out Mr Mokhesi
himself can stay there?

MR SODI: That is correct.

ADV PRETORIUS SC: There is no provision for him to pay
rent in the seven years.

MR SODI: That is correct, that is correct.

ADV PRETORIUS SC: Nor is there any notional rent that he
must pay on disposal of the property. So he benefits. He is
20 living rent free.

MR SODI: It is – the rental as I said Chair would be taken
into account. We specify the amount that is due to
Blackhead Consulting per annum. But that will only be due
upon the sale of the property which would be in seven years'
time as we stipulated. So even if he lived in the property for

those years and not paid rent at the end of the day in seven years' time that would have been taken into account to say listen this is the amount that we agreed and it is specified in the contract, it is there. But it is 65 000 per annum. So it would be taken into account when we doing the calculations. So we – so we cannot say it was rent free because it was going to be taken into account in the end when we were doing the split.

ADV PRETORIUS SC: I am afraid Mr Sodi that is not what
10 the agreement says. The agreement says in paragraph 2.7:

“The property shall be sold by mutual agreement between the parties. If the property is not sold within seven years from the date of signature of the agreement then Lekemo shall pay Blackhead 650 000 its initial investment, its proportion share of the rental income less any expenses incurred for the maintenance of the property and an amount equal to R65 000.00 per annum in
20 respect of the notional capital appreciation of the property.”

So it was contemplated that the value of the property would increase over the seven years.

MR SODI: It was contemplated yes.

ADV PRETORIUS SC: So Mr Mokhesi could quite happily

live rent free for seven years and then at the end of the transaction at the end of the seven year period pay the amount specified in 2.7 out of the sale of the property – proceeds of the sale of the property. That is a benefit.

MR SODI: Well the – Chair the – the split would have to be determined according to the formula that we agreed and what it means is that what should be payable to Blackhead Consulting will include what would have been the rent which we specific as being R65 000.00 per annum plus whatever
10 upside. So if we were to sell the property for say R2.5 million we would have minus the 16 – 1650 from 2.5 million and proportionally split that amount between the two entities plus the rental income that would have been derived.

ADV PRETORIUS SC: Sadly, that is not what the agreement says Mr Sodi. It says the R65 000.00 is in respect of the notional capital appreciation of the property. If the property is not sold the property stays in the trust then what happens is you get your R650 000.00 back, a proportionate share of the rental income if there is rental income and you get an
20 amount of R65 000.00 to cover the capital increase of the property. But you do not have that because you are not selling it. If you sell the property then you get your initial investment, you get the share –

MR SODI: Ja.

ADV PRETORIUS SC: And then you get any rental income

which is shared between the parties. That is what this agreement says. But it is not necessary to go into that fine detail.

MR SODI: Ja.

MR SODI: And our differing understanding of what the terms are Mr Sodi.

MR SODI: Okay.

ADV PRETORIUS SC: Save to say that Mr Mokhesi ultimately can live there rent free and account only in seven
10 years' time.

MR SODI: Well he would live there Chair rent free for those years but ultimately, he is going to have to pay in retrospect after seven years.

ADV PRETORIUS SC: And ...

MR SODI: So for the first...

ADV PRETORIUS SC: Ja sorry – I am sorry to interrupt and he could do that out of the capital appreciation.

MR SODI: He will do that – the capital appreciation Chair it is going to be split between the two entities. So I would
20 have received my capital appreciation in proportionate – in proportion to what I would have invested okay and then he would have had his own capital appreciation and he could have based on his appreciation then paid for whatever that is due to me. But it does not mean that you know it would have been rent free because it would be taken into account at that

point. But for the first years yes you know one can look at it that way. But ultimately when we exit the deal the transaction he would have had to pay for the – for the rental. So it would not have been rent free in that sense.

ADV PRETORIUS SC: For seven years it would have been rent free.

MR SODI: For seven years.

ADV PRETORIUS SC: And you would have to pay...

MR SODI: But ultimately – yes.

10 **ADV PRETORIUS SC:** Out of the profits of the deal. He benefitted. Obviously, it was a beneficial contract. You saying you did not...

CHAIRPERSON: Because you do not really normally get that do you?

MR SODI: You do not normally get?

CHAIRPERSON: Get that kind of arrangement with – if you are leasing a property.

MR SODI: Ja I think in this case it would be different Chair because like I said he – there is a bond that he had raised
20 so he is serving the bond with the financial institution. As far as I am concerned, he is still serving that bond. So – so it is – so I cannot say that he is staying there rent free because there is bond that he is servicing. And of course, that was taken into account you know that you know. He is going to have to service that bond and only after seven

years that is how we are going to be doing the split it is on the basis of the – of the agreement that we have signed. So there are monies that are payable by Mr Mokhesi on a monthly basis towards the servicing of the bonds and the maintenance of the property and the rates and taxes and so forth. So that is why I am finding it difficult to admit that he is staying there rent free in that context.

CHAIRPERSON: But of course you are having this arrangement with this person who made it possible for
10 Blackhead to get this project because he approved the adjustment of the business plan, is that right?

MR SODI: Correct Sir.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: Chair it is almost half past six I do have some questions but perhaps they are better left for another day.

CHAIRPERSON: I think that is fine. We have ended up staying much longer than we had agreed but I think that we – we – this will be helpful because next time you come back Mr
20 Sodi it will be possible to take a much shorter time to keep you in that – on that seat for a shorter time than otherwise would have been the case. So we are going to adjourn now Mr Sodi but arrangements will still be made after the investigation that must still happen in which you have unequivocally given your undertaking to cooperate. After

that has been done an arrangement will be made for –
another date will be determined for you to come back to
finish your evidence. You understand?

MR SODI: I understand Chair.

CHAIRPERSON: Yes okay. And thank you to – for
everyone's cooperation, your legal team also for staying until
this time. Mr Pretorius and your team. We are then going to
adjourn for the day. Tomorrow we will have a sitting
involving other witnesses and we will start at normal time
10 namely ten o'clock. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS TO 20 AUGUST 2020