

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

**26 AUGUST 2020**

**DAY 255**



**Gauteng Transcribers**  
Recording & Transcriptions

22 Woodlands Drive  
Irene Woods, Centurion  
TEL: 012 941 0587 FAX: 086 742 7088  
MOBILE: 066 513 1757  
[info@gautengtranscribers.co.za](mailto:info@gautengtranscribers.co.za)

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TRANSCRIBERS:

B KLINE; Y KLIEM; V FAASEN; D STANIFORTH



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**PROCEEDINGS RESUME ON 26 AUGUST 2020**

**CHAIRPERSON:** Good morning Ms Hofmeyr, good morning everybody.

**ADV HOFMEYR:** Good morning Chair.

**CHAIRPERSON:** Are we ready?

**ADV HOFMEYR:** We are indeed Chair.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** Chair there are a few just administrative matters if we could commence with them? Today we have  
10 the evidence of Mr Vuyisile Ndzeku who was originally scheduled to give evidence in February but we had run out of time then and so he is present today to give his evidence.

He has requested the assistance of an Isi-Xhosa interpreter today and so we have Mr Dunjwa here as our interpreter. I understand that he will need to take an oath prior to the commencement of the proceedings.

And then Mr Ndzeku's legal representatives did introduce themselves to you on the last occasion but I  
20 would ask that they just be permitted to place themselves on record and I understand there is one aspect they want to raise.

**CHAIRPERSON:** Yes okay let them just place themselves on record and they can do so from where they are. Just switch on the microphone so I can hear you. Yes.

**ADV ALLI:** Thank you Chair good morning. My name is Mr Y Alli I appear on behalf of Mr Ndzeke and JM Aviation. I am instructed by Mr [00:01:22] of A J Beyet [?] Attorneys. Chair there was just one issue we wish to raise this morning is the affidavit Mr Jules Aires of JM Aviation has filed an affidavit dealing with the issue of the ground power units for the EPU. So the request we wanted to make was that that affidavit be read into the record today. And I will explain why we want that to be done.

10 **ADV HOFMEYR:** Sorry Chair could I just interrupt I do apologise Mr Alli. I have just been informed that we are not picking up your voice. I think it might be because you are quite far from the microphone and given that Mr Alli is going to be addressing on an aspect, I thought it important just to make sure that we are picking up his voice.

**CHAIRPERSON:** Yes because we must – we must record. If – failing which maybe you can go to the podium they will sanitise so that we make sure we – we – what you say.

**ADV ALLI:** That is fine Chair I think I perhaps should just  
20 pitch my voice in this general direction rather.

**CHAIRPERSON:** Let us get indications if that is going to help. Maybe to be on the safe side I think just go to the podium.

**ADV ALLI:** Thank you Chair.

**CHAIRPERSON:** Yes.

**ADV ALLI:** So I was saying that dealing with the affidavit of Mr Jules Aires so it was our request that the request of JM Aviation – that the affidavit of Mr Jules Aires and the GPU aspect particularly be read into the record. I will explain the reason why we say that that is necessary is the issue of the GPU's has become an issue that is widely associated with JM Aviation but in fact if you read the affidavit of Mr Aires two things come through particularly Chair is the one that the entire hype that is created around  
10 the issue of the GPU's is actually a storm in a teacup. It is not really anything and the GPU's were in fact sold at the market related cost to SAA. Now I had occasion to discuss the issue of the affidavit with my learned friend before the commencement of these proceedings. And her position is that it will not be necessary to read the affidavit into the proceedings because it will be dealt with during the course of the day. We do not have an issue with that. If that is the position of the commission and the evidence leaders that is fine by us. But for – we- so we will hold over the  
20 request for so long as the salient facts that appear in the affidavit come through. If that is not the case at the end of the day or at the end of Mr Ndzeke's evidence we will then address Chair on that further.

**CHAIRPERSON:** Hm.

**ADV ALLI:** So that is the only issue we wish to raise for

the moment.

**CHAIRPERSON:** Hm.

**ADV ALLI:** Thank you Chair.

**CHAIRPERSON:** Ja, no, no that is fine. No I am sure that its contents will be dealt with in due course. I think that Ms Hofmeyr will indicate what her intentions are or plans are with regard to it. But there is no evidence that will not be taken into account and to the extent that it may be necessary to make sure that it is publicly known what the –  
10 what the deponent to that affidavit says that is usually taken care of either when the witness comes and gives evidence or when the evidence placed on the website of the commission for the public to see. And of course there could be an opportunity for somebody to indicate what the gist of that affidavit is. Okay?

**ADV ALLI:** Thank you Chair we appreciate that.

**CHAIRPERSON:** Okay alright.

**ADV HOFMEYR:** Chair if I could then request the swearing in of the interpreter and then we can proceed?

20 **CHAIRPERSON:** Yes. You have the interpreter's oath with you?

**ADV HOFMEYR:** I do indeed and we have given another copy to Mr Dunjwa.

**CHAIRPERSON:** Oh okay.

**ADV HOFMEYR:** So he also has that.

**CHAIRPERSON:** Okay alright. And then just administer that oath but it is not the one you normally do okay. But ask the – ask the preliminary questions that you normally ask but he will then read that oath. Now that oath is in English. Now the interpreter will have to interpret unless Mr Ndzeke's says for purposes of the oath he has no problem reading it in English and understanding it? Do we know if that is the position? Okay maybe what we will do is let it be interpreted just to be on the safe side. Ja okay.

10 The oath we are still doing now is for the interpreter actually not for Mr Ndzeke. I think I got confused. Ja. Okay. Do that Mr Registrar for the interpreter. I think maybe just remove your mask so that you can be recorded properly.

**REGISTRAR:** Please state your full names for the record.

**MR DUNJWA:** Zwelinzima Job Dunjwa.

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

**MR DUNJWA:** No.

20 **REGISTRAR:** Please read the oath as in front of you.

**CHAIRPERSON:** Well you have not asked him if he considers it binding on his conscience.

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

**MR DUNJWA:** Yes.

**REGISTRAR:** And then please read the read before you.

**MR DUNJWA:** I, the undersigned hereby state under oath I am proficient in English and Isi-Xhosa and am able to interpret, translate from English to Isi-Xhosa and visa versa.

I called on the – I called onto translate or interpret from Isi-Xhosa to English and from English to Isi-Xhosa in any proceedings of this commission.

I undertake to do so honestly and to the best of my  
10 knowledge and ability.

So help me God.

**REGISTRAR:** Please raise your right hand and say, so help me God.

**MR DUNJWA:** So help me God.

**CHAIRPERSON:** Okay thank you. Mr Interpreter I did look at documents that were supplied to the evidence leader relating your experience with regard to interpreting. How long have you been interpreting from English to Isi-Xhosa and Isi-Xhosa to English?

20 **MR DUNJWA:** It is for 21 years.

**CHAIRPERSON:** Sorry.

**MR DUNJWA:** 21 years.

**CHAIRPERSON:** 21?

**MR DUNJWA:** 21 years yes.

**CHAIRPERSON:** 21 years?



**MR DUNJWA:** Yes.

**CHAIRPERSON:** In the courts?

**MR DUNJWA:** In the courts yes.

**CHAIRPERSON:** Okay alright. Thank you. And then I guess we have to do the oath for Mr Ndzeke.

**ADV HOFMEYR:** Indeed Chair.

**CHAIRPERSON:** Ja. Okay. And Mr Interpreter you will interpret.

**REGISTRAR:** Please state your full names for the record?

10 **MR NDZEKU:** Vuyisile Ndzeke.

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

**MR NDZEKU:** No objection.

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

**MR NDZEKU:** Yes.

**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  
20 me God.

**MR NDZEKU:** Sworn in.

**CHAIRPERSON:** Thank you.

**ADV HOFMEYR:** Thank you Chair. Just before we get to commence with Mr Ndzeke's evidence I thought it might be useful just to orientate ourselves as to where we are in the

aviation in evidence because it has been interspersed with much else before the commission. Mr Ndzeke is a director and shareholder of the entity JM Aviation and you will recall Chair that in the February session of evidence that the aviation work stream presented JM Aviation was a company that had had various dealings with SAA and SAA Technical. And it is those matters which we wish to probe today.

When Mr Ndzeke was scheduled to give evidence  
10 on the last occasion in February, we had not yet received an affidavit or statement from him. We did however because he was in a sense squeezed out of the time in the schedule we did subsequent to that February evidence receive a document entitled affidavit albeit not signed or deposited to. Now that was of course explained on the basis of the limitations presented by the Covid situation at the time. We take no issue with that but I will certainly commence Mr Ndzeke's evidence by asking him to confirm its contents.

20 My learned friend has also indicated that we did also receive an affidavit from Mr Jules Aires and he has indicated already today Chair that that affidavit deals with amongst other things the GPU's the ground power units.

Chair I indicated to Mr Alli as he indicated to you  
Chair that there was no need to read that whole affidavit

into the record. It has been taken into account. I will direct you to it in the bundle that we will enter as an exhibit into the evidence today.

There will be occasions where I will make reference to it but Mr Ndzeke is here today to give evidence. It is his personal knowledge that I am probing and what he is quite clear about in his affidavit and he will correct me later if I am wrong in this characterisation is that he has fairly limited involvement in the operations of JM Aviation so I  
10 need to probe with him the things about which he does have personal knowledge.

Mr Aires's version is there. It is before the commission. It will be entered into today. I will refer to it once or twice I think but more than that I do not intend to do. But certainly, Mr Aires' version on the GPU's will have been placed before the commission and will be entered into the record today.

Chair if I could then suggest administratively in relation to the exhibit. The exhibit is Exhibit DD26 you will  
20 see.

**CHAIRPERSON:** A lot of things have been happening.

**ADV HOFMEYR:** So I have been.

**CHAIRPERSON:** Been happening.

**ADV HOFMEYR:** So I am approaching with caution at this point Chair.

**CHAIRPERSON:** There have been – things have been evolving.

**ADV HOFMEYR:** Yes.

**CHAIRPERSON:** What we have since been – since been doing of late is just to refer to the file as a bundle.

**ADV HOFMEYR:** Yes.

**CHAIRPERSON:** We give it a bundle name, bundle number and then say inside the file is not attached to an affidavit we will need to have an exhibit number of its own. So – so

10 we have been...

**ADV HOFMEYR:** Chair.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** We can facilitate that today.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** And I am greatly indebted to the team at the commission.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** Who have assisted me in facilitating that.

**CHAIRPERSON:** Yes, yes.

20 **ADV HOFMEYR:** What we have done is on the first page of the index if you open it in the larger file in front of you Chair that is the smaller one. You will see I think that they are more wise on these matters than I and so they assisted me in facilitating that. What you will see is that the index actually gives a number in the left hand column running

from number 1 to number 30.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** Those are all the documents in the two files before you to which reference will be made today.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** And so we have usefully been aided by what I will then use as the exhibit number.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** On the left hand side.

10 **CHAIRPERSON:** Yes.

**ADV HOFMEYR:** When I refer to them I will go back to the index and I will indicate that is Exhibit for example 6.

**CHAIRPERSON:** Ja.

**ADV HOFMEYR:** Okay.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR:** That – so I propose doing that the only important point for me though is the pagination because I had worked with the pagination for my referencing.

**CHAIRPERSON:** Yes. Yes.

20 **ADV HOFMEYR:** So Mr Ndzeku if I could just explain to you what we are envisaging and then Chair with your leave ask you to enter...

**CHAIRPERSON:** Ja. So basically, what you proposing is that the various items on the index.

**ADV HOFMEYR:** Yes.

**CHAIRPERSON:** Would be allocated – the exhibit numbers that coincide with the numbers on the left.

**ADV HOFMEYR:** Correct Chair.

**CHAIRPERSON:** So there will be Exhibit 1, Exhibit 2 up to whatever.

**ADV HOFMEYR:** Indeed.

**CHAIRPERSON:** Ja.

**ADV HOFMEYR:** Indeed.

**CHAIRPERSON:** So – and – and would the file be labelled  
10 as a bundle DD26?

**ADV HOFMEYR:** Yes I would suggest that.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** Because it follows the sequencing.

**CHAIRPERSON:** Yes, yes.

**ADV HOFMEYR:** So if we can do that, we will simply call the file Bundle DD26.

**CHAIRPERSON:** Hm. Okay.

**ADV HOFMEYR:** And then as I go to a particular document within those files.

20 **CHAIRPERSON:** Yes.

**ADV HOFMEYR:** They do span two files Chair.

**CHAIRPERSON:** Yes. Yes.

**ADV HOFMEYR:** But because we using individual numbers for the document that should not be a problem for us.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** I will indicate which number document we are.

**CHAIRPERSON:** Ja.

**ADV HOFMEYR:** Engaged with.

**CHAIRPERSON:** Ja no that is fine.

**ADV HOFMEYR:** So Mr Ndzeke just to orientate you there are two files in front of you. Those are the files that we have indicated for the record are comprised Bundle DD26. There is a first thicker file and a second thinner file but I  
10 will guide you to look at the top...

**CHAIRPERSON:** You might have to give him a chance to interpret.

**ADV HOFMEYR:** Apologies.

**CHAIRPERSON:** And be slower.

**MR NDZEKU:** No Chair it is okay let us go ahead because I can ...

**CHAIRPERSON:** Oh so far it is fine.

**MR NDZEKU:** If I have got a problem, I will say please ja.

**CHAIRPERSON:** Oh okay. Alright. Okay.

20 **ADV HOFMEYR:** Chair as I understand the request for the interpreter it was really at a point Mr Ndzeke please correct me if I am wrong.

**CHAIRPERSON:** When he gives evidence.

**ADV HOFMEYR:** If there is an aspect that you require assistance with you will ask. Is that correct?

**CHAIRPERSON:** Oh okay, okay. Does that apply to the evidence as well?

**ADV HOFMEYR:** Let us confirm. Mr Ndzeke in the evidence are you comfortable responding to be unless you require the assistance of the interpreter?

**MR NDZEKU:** Well that is exactly if I have got a problem I will ask him to help.

**CHAIRPERSON:** So – so but you will be happy to start?

**MR NDZEKU:** Yes.

10 **CHAIRPERSON:** Giving evidence in English whenever you have a problem then you will request an interpreter.

**MR NDZEKU:** Problem I will ask. Yes Chair thank you.

**CHAIRPERSON:** Oh okay alright. That is fine.

**ADV HOFMEYR:** Thank you Mr Ndzeke. As I was saying I will then direct you to page numbers on the documents which you will find in the top right hand corner. Are you comfortable with that? And Mr Ndzeke just for the record if you nod your answer does not get reflected on the record so please make sure to give a verbal answer t the  
20 questions.

**MR NDZEKU:** Okay.

**ADV HOFMEYR:** And maybe just a bit closer to the microphone if you would.

**CHAIRPERSON:** When you speak try and not be too far from it.



**MR NDZEKU:** Okay.

**CHAIRPERSON:** Okay. And when you start giving evidence most of the time look at me so I can understand you correctly – hear you properly. Yes but for now Ms Hofmeyr is explaining some procedural things.

**ADV HOFMEYR:** Thank you Chair.

**CHAIRPERSON:** Or are you done?

**ADV HOFMEYR:** The last one is just that – so the pagination number top right hand corner will direct you to  
10 the document. Then I will have it entered as an exhibit and then I will ask my questions in relation to it. Are you comfortable with that? And again if you could say yes loudly.

**CHAIRPERSON:** Okay. You will have to remember this. When you have to give an answer whether it is a yes or a no nodding is not good enough. You have got to say yes so that that is captured and is recorded. Okay alright. And you voice do raise your voice as well.

**MR NDZEKU:** Thank you Chair.

20 **CHAIRPERSON:** Okay alright thank you.

**ADV HOFMEYR:** Thank you Mr Ndzeke. Chair with your leave if I may then commence the evidence?

**CHAIRPERSON:** Yes you may.

**ADV HOFMEYR:** Thank you. Mr Ndzeke I would like to take you to the first document you will find in the big file in

front of you and you will find it after the index and it bears a page number 000.1 if you could get that in front of you please?

**MR NDZEKU:** The number – is the number 2 or what? Number 3?

**ADV HOFMEYR:** It is number 1.

**MR NDZEKU:** Number 1 okay.

**ADV HOFMEYR:** Do you have that document?

**MR NDZEKU:** Number 1 yes I do.

10 **ADV HOFMEYR:** And what is that document?

**MR NDZEKU:** Sorry?

**ADV HOFMEYR:** What is the document?

**MR NDZEKU:** Well it is an affidavit.

**ADV HOFMEYR:** I understand it to be your affidavit that you provided to the commission, is that correct?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** I would like you to go to the last page of that document if you would. You will see that at page 000.14 – 14. If you page to the last page of the affidavit  
20 you will find that at page 14. Just before Tab 2.

**MR NDZEKU:** Is that page 13 or what?

**ADV HOFMEYR:** Yes and then the next page is page 14. Do you have that?

**MR NDZEKU:** Yes I have got it yes.

**ADV HOFMEYR:** That bears your name but not your

signature, is that correct Mr Ndzeke?

**MR NDZEKU**: Yes.

**ADV HOFMEYR**: Have you considered the contents of this document?

**MR NDZEKU**: Well I do not have a signature here.

**ADV HOFMEYR**: Yes.

**MR NDZEKU**: I do not have my signature – I do not have it.

**ADV HOFMEYR**: Correct. Have you read this affidavit?

10 **MR NDZEKU**: I did no did not no.

**ADV HOFMEYR**: So you did not read this document.

**MR NDZEKU**: No.

**ADV HOFMEYR**: Before it was provided to the commission?

**MR NDZEKU**: No. First time.

**ADV HOFMEYR**: Mr Ndzeke this is a document a fourteen page document.

20 **MR NDZEKU**: No but – sorry Counsel you asking me a question. I read it I said no I did not. It is the first time now I am looking at it now.

**ADV HOFMEYR**: No I understand that thank you.

**MR NDZEKU**: Yes.

**ADV HOFMEYR**: Now I would like to follow up.

**MR NDZEKU**: Yes.

**ADV HOFMEYR**: After February and the evidence of the

commission.

**MR NDZEKU**: Yes.

**ADV HOFMEYR**: Your attorneys.

**MR NDZEKU**: Yes.

**ADV HOFMEYR**: Provided the commission with this 14 page document.

**MR NDZEKU**: Yes.

**ADV HOFMEYR**: And they said this 14 page document is your affidavit. It sets out your account of the story and the events relevant for the commission. And they explained that it could not be signed at the time and deposed to because of lockdown realities in the country. So that is why I asked whether you have read this document before today. Have you read the document before today?

**MR NDZEKU**: Before today – no I did not Counsel.

**CHAIRPERSON**: Do you know whether – do you mean you have never seen this document before?

**MR NDZEKU**: This one Chair is the first time I am looking at it now.

**CHAIRPERSON**: Is that so. Is there an unsigned affidavit that to your knowledge your attorneys prepared for you and supplied to the commission or is that something you do not know?

**MR NDZEKU**: Well maybe my advisors they can respond on that.

**CHAIRPERSON:** No, no.

**MR NDZEKU:** This is the first time ...

**CHAIRPERSON:** We want to know what you know. Do you know whether your attorneys did prepare.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** An unsigned affidavit.

**MR NDZEKU:** Yes Chair yes they did.

**CHAIRPERSON:** You know that?

**MR NDZEKU:** Yes they did yes.

10 **CHAIRPERSON:** Is the position – do you know whether they supplied an unsigned affidavit to the commission that they said would be your affidavit? Is that something you know, is that something you do not know?

**MR NDZEKU:** Well I can say...

**CHAIRPERSON:** I just want to know what you know.

**MR NDZEKU:** I can say that I do not know Chair.

**CHAIRPERSON:** You do not know. Is there is a statement that they discussed with you which they said they would supply to the commission.

20 **MR NDZEKU:** Yes we did have that discussion.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** Do you remember whether you did sign such a statement or you did not?

**MR NDZEKU:** Yes I did remember I did sign the statement.

**CHAIRPERSON:** You did sign the statement?

**MR NDZEKU:** Yes. That was – that time long time ago.

**CHAIRPERSON:** That – ja. Would that have been early this year?

**MR NDZEKU:** Early this year yes Chair.

**CHAIRPERSON:** Early this year.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** Okay alright. Is it possible that this unsigned affidavit is a document that if you were to go through you would remember as the document that was prepared on your behalf by your attorneys?

**MR NDZEKU:** Yes I think so Chair.

**CHAIRPERSON:** You may be able?

**MR NDZEKU:** May be able yes.

**CHAIRPERSON:** But you have not read it?

**MR NDZEKU:** No I did not.

**CHAIRPERSON:** Oh you have not read it of late?

**MR NDZEKU:** No I did not read it later Chair.

**CHAIRPERSON:** It is possible that when you read it you might remember that it is your affidavit?

**MR NDZEKU:** Well I think Sir this – they did actually – we did – we did have time and then to read and then they asked me to sign which is I did sign.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Yes. So I think let us just go ahead Chair it

must be okay.

Yes.

**MR NDZEKU**: Yes.

**CHAIRPERSON**: Okay Ms Hofmeyr.

**ADV HOFMEYR**: Thank you Chair. Mr Ndzeke can I ask you to go to page 1 of the affidavit in front of you? And you will find that at 000.1 the one that bears your name, do you see that?

**MR NDZEKU**: Page 1 yes.

10 **ADV HOFMEYR**: Yes. Could I ask you to take a moment and read this page and read the next page and the third page and just help us with whether this is a document you worked on with your attorneys and which reflects your version of events?

**ADV HOFMEYR**: Mr Ndzeke have you had an opportunity to look at the document? Does the document set out your account of the matters that the commission is interested in?

**MR NDZEKU**: It does yes Chair.

20 **ADV HOFMEYR**: It does. Are the statements in it true and correct?

**CHAIRPERSON**: I am sorry – I am sorry.

**ADV HOFMEYR**: Apologies.

**CHAIRPERSON**: Just – just indicate are you now able to say whether this document reflects your version of the

matters that you are going to testify about?

**MR NDZEKU**: Yes it does Chair. It does.

**CHAIRPERSON**: You remember it?

**MR NDZEKU**: Remember it yes.

**CHAIRPERSON**: Oh okay alright.

**ADV HOFMEYR**: That is a great relief Mr Ndzeke because  
todays' all the preparation for today has been based on  
this document which your attorneys sent through to the  
commission on the 27 March of this year indicating to us it  
10 was your version albeit not signed and deposed to yet and  
they said you would confirm it under oath today. So I am  
relieved that we have done that.

**MR NDZEKU**: Sorry Counsel this page 1 this version ...

**CHAIRPERSON**: Just raise your voice Mr Ndzeke.

**MR NDZEKU**: Did you send it to my attorneys? Do they  
know about it? This one?

**ADV HOFMEYR**: It is the version that they gave to us.

**MR NDZEKU**: Okay. No it is fine. Thank you.

**CHAIRPERSON**: Yes. Yes.

20 **ADV HOFMEYR**: Excellent.

**CHAIRPERSON**: Okay.

**ADV HOFMEYR**: And now you have looked at it and it is  
quite important Mr Ndzeke that you be comfortable with  
what is stated here.

**MR NDZEKU**: Thank you. Thank you.



**ADV HOFMEYR:** That what is stated here is true and correct is that the case? Please say yes.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** If you are nodding thank you.

**CHAIRPERSON:** Hm.

**ADV HOFMEYR:** And is there any correction that you want to make to anything in this fourteen page document?

**MR NDZEKU:** Well, let us... Counsel, can you just go ahead? And if I am not comfortable I will explain to that, I  
10 am not comfortable or maybe I do not remember, you know.

**CHAIRPERSON:** No, no. That is fine. The reason why counsel is saying that is that, she does not want to be unfair to you.

**MR NDZEKU:** Yes, yes. No, I understand, Chair.

**CHAIRPERSON:** She wants to make sure that you are comfortable ...[intervenes]

**MR NDZEKU:** Comfortable.

**CHAIRPERSON:** ...before we proceed.

**MR NDZEKU:** Okay.

20 **CHAIRPERSON:** Ja.

**ADV HOFMEYR SC:** And do...[intervenes]

**CHAIRPERSON:** I am just concerned about if he did not have a look at it since whatever time, whether he does not need to really look at it before we proceed. I do not know. What do you...?

**ADV HOFMEYR SC:** Chair, I am... mind... I am of a similar approach, Chair.

**CHAIRPERSON:** Yes, yes.

**ADV HOFMEYR SC:** Because it really is quite important.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR SC:** As I indicated. This came through in March.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR SC:** It has been the basis for investigation,  
10 the preparation for today.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR SC:** I would not want to proceed with Mr Ndzeke this morning unless he had an opportunity to go through it again and pick out any aspect that he says is inaccurate or not adequate in expressing his view.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR SC:** And maybe we take a 15-minute adjournment to facilitate that.

**CHAIRPERSON:** Ja, I think we should. So Mr Ndzeke, I am  
20 just concerned. We do not want to be unfair to you because you said you have not read it, I think, recently. So I am thinking that I should give you a chance, maybe 15-minutes just to go through it again before we ask questions.

**MR NDZEKU:** Sorry, Chair.

**CHAIRPERSON:** H'm?

**MR NDZEKU**: Everything is in this document.

**CHAIRPERSON**: You are comfortable?

**MR NDZEKU**: These are the things actually I have been on that route.

**CHAIRPERSON**: Yes.

**MR NDZEKU**: I do not have to look at it.

**CHAIRPERSON**: Oh, okay.

**MR NDZEKU**: If the counsel asks me questions ...[intervenes]

10 **CHAIRPERSON**: Yes.

**MR NDZEKU**: ...I can tell exactly what was happening.

**CHAIRPERSON**: Oh, excellent. Yes.

**MR NDZEKU**: So I am comfortable.

**CHAIRPERSON**: No, no, no. That is fine.

**MR NDZEKU**: The councillor also should be comfortable.

**CHAIRPERSON**: Yes, yes.

**MR NDZEKU**: But now Chair says to me: No, I want to give you 15-minutes that you must go and see it ...[intervenes]

**CHAIRPERSON**: Yes.

20 **MR NDZEKU**: ...with your lawyers and they must advise you.

**CHAIRPERSON**: Ja, ja.

**MR NDZEKU**: Chair, I have been on that route.

**CHAIRPERSON**: Yes.

**MR NDZEKU**: It is me.

**CHAIRPERSON:** You are fine?

**MR NDZEKU:** It is my story.

**CHAIRPERSON:** Okay. No ...[intervenes]

**MR NDZEKU:** I do not have a problem. I just want us to go ahead. I do not want to waste time.

**CHAIRPERSON:** Yes. No, no, no. That is fine. No, no. I am happy. I just did not want a situation where you, because you might not have had a look recently you have a problem with that.

10 **MR NDZEKU:** Yes, I did not look. I did not have time ...[intervenes]

**CHAIRPERSON:** But you know the story?

**MR NDZEKU:** And then, I know my story.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Please, do not be offended councillor if I do not look in this document, the file document.

**CHAIRPERSON:** Ja.

**MR NDZEKU:** The thing what is happening, it is my life. I know exactly what was happening.

20 **CHAIRPERSON:** Ja.

**MR NDZEKU:** If I do not... if you are saying to me: Please, look at number 2, 3. You can do that. You can ask me.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** I will tell you my story.

**CHAIRPERSON:** Yes. No, no, no. That is fine. That is

fine.

**MR NDZEKU**: Yes.

**CHAIRPERSON**: And if there is any question you do not understand, just ask counsel to repeat it.

**MR NDZEKU**: Yes.

**CHAIRPERSON**: And... ja.

**MR NDZEKU**: Thank you, Chair.

**CHAIRPERSON**: Okay.

**ADV HOFMEYR SC**: Chair, just one final comment so that I  
10 am assured that Mr Ndzeke and I are on the same page.

**CHAIRPERSON**: H'm, h'm.

**ADV HOFMEYR SC**: Mr Ndzeke, you have just confirmed the contents of this document as being true and correct under oath.

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: Right. That is quite an important thing because false statements knowingly given under oath, constitutes a crime. It is the crime of perjury. Are you aware of that?

20 **MR NDZEKU**: I am not aware but you are telling me now.

**ADV HOFMEYR SC**: Indeed.

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: And that is why I am just wanting to explain to you why I place significance on your confirmation that this document is a true and correct reflection of your

version. So let me give you an example. Chair, I am just doing this so that we can be sure that we absolutely on the same page.

**CHAIRPERSON:** Yes, yes.

**ADV HOFMEYR SC:** If you go to page 3 of the document in front of you Mr Ndzeke. You say there at paragraph 7:

“Insofar as the purchase and sale of JPU’s went, I have no personal knowledge of the actual transaction...”

10 Now you see, that is the statement given under oath now because you have confirmed it under oath. You say you have no personal knowledge of the actual transaction.

I want to explain to you. That is then your evidence before this Commission and if you felt uncomfortable with the way in which was framed, you should draw that our attention now.

**MR NDZEKU:** I am comfortable.

**ADV HOFMEYR SC:** You are comfortable?

**MR NDZEKU:** Yes.

20 **ADV HOFMEYR SC:** Excellent.

**CHAIRPERSON:** Okay, okay.

**ADV HOFMEYR SC:** Thank you, Chair.

**CHAIRPERSON:** Thank you.

**ADV HOFMEYR SC:** Then I am happy to proceed.

**CHAIRPERSON:** Yes, let us proceed.

**ADV HOFMEYR SC:** So Chair, if I can then request that the document we have been dealing with which is reflected in the index at the beginning of this file, DD26 as the affidavit of Mr Vuyisile Aaron Ndzeke unsigned, be entered as Exhibit 1 and we will work with it on that basis.

**CHAIRPERSON:** The unsigned affidavit of Mr Vuyisile Aaron Ndzeke appearing at page 1 of Bundle DD26 is admitted and will be marked as EXHIBIT 1.

**UNSIGNED AFFIDAVIT OF VUYISILE AARON NDZEKU IS**

10 **ADMITTED AND MARKED AS EXHIBIT 1**

**ADV HOFMEYR SC:** Thank you, Chair. Mr Ndzeke, just to get a little bit of background about you. If we may commence with that? Could you tell the Chairperson what qualifications you hold?

**MR NDZEKU:** None, Chair. No education.

**ADV HOFMEYR SC:** And what is your experience in the Aviation Industry?

**MR NDZEKU:** Well, Chair in 1989, I started Swissport. I am the founder of Swissport.

20 **CHAIRPERSON:** 1989?

**MR NDZEKU:** 1989, we choose VL Smarts Airport.

**CHAIRPERSON:** Yes, yes.

**MR NDZEKU:** That time, we must speak Afrikaans at the airport.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** That time, there was a company called Swift Ground Handling. Swift belonged to Lufthansa. Now we were there and they were on their way to go. In that airport, there were a lot of ground handling, they were there.

Myself and my team, we decided to bring these guys together. That time there was no black empowerment. We decided that at least let us work together with these guys. They have got experience.

My first partner it was Peter Kohl and Mike van der Walt  
10 and then a lot of guys, Afrikaner guys. We were working together there. We built this company called Zwelibanzi.

After Zwelibanzi, we decided that okay we did not have an experience of aviation, especially me. I am talking about me as a businessman.

If you do not have experience, you get people who knows. [speaking vernacular] people who know about the business. So what we did now, we decided to see them and then get the people together. The issue was the licence.

That time there was no African at ACSA. The first  
20 gentleman Dirk Ackerman and Barnard. I went to see them. I went to talk to them and I said to them: Is it possible that we can get an opportunity for us to work here?

Because that time the airport was very, very *deurmekaar* with my team. And he says: Do you guys have experience? We said yes. There was a company called Swift.



They had already two clients and then they also or they have some small GPU's there they had at the airport but they wanted to pull out. Only if maybe we can pay them R 2 million for their money.

Chair, I had roundabout R 50 000,00 at Trust Bank. That money, Trust Bank, how did I earn it? It is because I was selling dagga. I did not take money from nobody.

Now that reference, R 5 000,00 it makes them that at least they must give an opportunity that they can give us a  
10 loan of R 2 million to release those people.

Now we have got the company called Swift Ground Handling with these people. What we will have to do now, they have to get guys from overseas.

The first guys we got, it was Daluxolo. The second, it was Service Act. The third it was Swissport. Now all these guys, they are coming in. I am not going to mention people's names. I had partners. By that time I was not alone.

When these people came, they told us that: Listen, we are prepared to come onboard provided that we can get 51%.  
20 My partner said: No, no. We will have to go 70/30.

I do not understand exactly what is 70/30 and what, 51% and what. We agreed that they will bring in the funding. They will bring expertise. And then the company start.

Swissport was born that time in 1989 with only two airlines with 20 people. Swissport, it went all the way. No

problem. No corruption. No person is crying that they did this and this and this.

People that are working during difficult times because we wanted to work at Jan Smuts. They changed Jan Smuts Airport to O.R. Tambo. I have been there. Now what happened Chair.

The Swissport guys now, they decided that now they do not have the funding. And that funding, they need to actually to get money. Brian Joffe came onboard. He says: Listen, I  
10 will buy 51% of the company. 49%. Provided. And then I am coming onboard.

I decided, no instead of working with Brian Joffe, let us go and talk to other people, then they can give us funding. No corruption. Everybody was working.

Chair, this company started with only two people with only two airlines with 20 people. If it was not covered, Swissport employed 4 500 people. We did exactly 200 flights a day. 10 of June, 11 of July 2020, Swissport did exactly 1 500 a day. No corruption.

20 No one says: Can you do this and this and this? There was no such thing. So I have been in that company for a long time. I have been at that airport for a long time. So that is why I said, there is nothing here I can look because if counsel is asking me the questions, I can respond. I thank you.

**CHAIRPERSON:** Well, I just want to say that I think Mr Ndzeke is very fluent in English.

**ADV HOFMEYR SC:** In English.

**CHAIRPERSON:** Yes. [laughs]

**MR NDZEKU:** Quite right. I have got no problem. I will ask.

**CHAIRPERSON:** Ja.

**MR NDZEKU:** Thank you.

**CHAIRPERSON:** Okay, thank you.

10 **ADV HOFMEYR SC:** Thank you so much, Mr Ndzeke. Can I ask you to turn up the... in your file which we have indicated as Bundle DD26, tab 9. Would you go to tab 9 in the file and then find page 14 under that tab.

**MR NDZEKU:** Please, counsel ask me.

**ADV HOFMEYR SC:** I ...[intervenes]

**MR NDZEKU:** I do not want to look at anything, please. Because I do not understand.

**CHAIRPERSON:** I...[intervenes]

**MR NDZEKU:** If you can, counsel, I can respond.

20 **CHAIRPERSON:** Okay Mr Ndzeke. I was about to say, he did indicate earlier on... as I understood him, that you can ask him anything.

**ADV HOFMEYR SC:** Yes.

**MR NDZEKU:** Ja.

**ADV HOFMEYR SC:** No, indeed.

**CHAIRPERSON:** He will be able to answer.

**MR NDZEKU:** Answer, yes.

**CHAIRPERSON:** There maybe ...[intervenes]

**ADV HOFMEYR SC:** Chair...

**CHAIRPERSON:** ...situations where you need him to have a look.

**ADV HOFMEYR SC:** H'm. Yes, like now. I need him to confirm if it is his signature on a particular page.

**CHAIRPERSON:** Yes, yes.

10 **ADV HOFMEYR SC:** So I would like him to go to the document, bearing his signature. If you will turn up tab 9 and go to page 14?

**MR NDZEKU:** Is it... what is it? 9?

**ADV HOFMEYR SC:** 9.

**MR NDZEKU:** Okay.

**ADV HOFMEYR SC:** Thank you and go to page 14 of tab 9.

**MR NDZEKU:** Page 14, right?

**ADV HOFMEYR SC:** Yes, one four.

20 **CHAIRPERSON:** Why you are not using the red page numbers, Ms Hofmeyr?

**ADV HOFMEYR SC:** I am using the top... sorry, chair. Yours might be different to mine. It is DD26-Ban-014. Do you have that Chair?

**MR NDZEKU:** Is what...[intervenes]

**ADV HOFMEYR SC:** Under tab 9.

**MR NDZEKU:** It is ...[intervenes]

**CHAIRPERSON:** No. Ja, yours is different. Under tab 9, you have the first page after tab 9 is 30. DD26 ...[intervenes]

**CHAIRPERSON:** Oh. No, then your tabs are put in the wrong place.

**CHAIRPERSON:** You are looking at the big file, yes:

**ADV HOFMEYR SC:** I am Chair.

**CHAIRPERSON:** Yes.

10 **ADV HOFMEYR SC:** That is a concern but ...[intervenes]

**CHAIRPERSON:** The page number of the document at the bottom of the document is 5.

**ADV HOFMEYR SC:** Oh, I see what has happened. Okay. Thank you.

**MR NDZEKU:** Did you say DD26, page 9 or what is it?

**ADV HOFMEYR SC:** Apologies, Chair. It is actually my error.

**CHAIRPERSON:** Ja.

**ADV HOFMEYR SC:** If you could go to tab 6?

20 **CHAIRPERSON:** Okay.

**ADV HOFMEYR SC:** And in tab 6 you will find page 14 Chair. If I am wrong, then I must give up for today. [laughs]

**CHAIRPERSON:** [laughs]

**ADV HOFMEYR SC:** Because ...[intervenes]

**CHAIRPERSON:** Well, tab 6 is page 14. I have got.

**ADV HOFMEYR SC:** Excellent.

**CHAIRPERSON:** It says offer to purchase.

**ADV HOFMEYR SC:** Wonderful. Thank you, Chair. It was my error.

**CHAIRPERSON:** Yes. And Mr Ndzeke understands the tabs, hey?

**ADV HOFMEYR SC:** Yes.

**CHAIRPERSON:** Okay.

**MR NDZEKU:** Okay page 14, yes.

10 **ADV HOFMEYR SC:** Do you have that Mr Ndzeke?

**MR NDZEKU:** Yes, offer to purchase?

**ADV HOFMEYR SC:** Offer to purchase.

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** Correct.

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** This is the offer to purchase that was concluded between yourself and Ms Hlohlela.

**MR NDZEKU:** Yes.

20 **ADV HOFMEYR SC:** And then if you go over to page... at 22 in that same document?

**MR NDZEKU:** 22?

**ADV HOFMEYR SC:** Yes.

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** You do have that?

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** Thank you, Chair. That is the purpose I wanted to take him to the document for.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR SC:** Mr Ndzeke has confirmed that is his signature. Thank you.

**CHAIRPERSON:** Okay, okay.

**ADV HOFMEYR SC:** Thank you. Mr Ndzeke, can you put that to the side. I will be clear when I need you to go to documents. What I next would like to ask you is when did  
10 you become a shareholder of Swissport South Africa?

**MR NDZEKU:** I think when we started Swissport that was 1989. It was not 1999.

**ADV HOFMEYR SC:** Sorry, so it is 1989, was it?

**MR NDZEKU:** '89 or '99. Between those two.

**ADV HOFMEYR SC:** Or 1999?

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** So somewhere in that ten year period ...[intervenes]

**MR NDZEKU:** Yes.

20 **ADV HOFMEYR SC:** ...you became a shareholder?

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** And what... how many shares did you hold?

**CHAIRPERSON:** I am sorry, Ms Hofmeyr. It is a ten year difference between '89, 1989 and 1999.

**MR NDZEKU**: Okay let us ...[intervenes]

**CHAIRPERSON**: Was it after democracy? It might help you. Was it... did we have democracy when you became a shareholder or was it still ...[intervenes]

**MR NDZEKU**: I think... No, no. I think, Chair... sorry. I think it was 1998 or '98.

**CHAIRPERSON**: Oh, okay.

**ADV HOFMEYR SC**: Oh.

**MR NDZEKU**: I am sorry. Sorry, Counsel. Thank you,  
10 Chair.

**CHAIRPERSON**: Okay alright. Okay.

**ADV HOFMEYR SC**: So either 1998 or 1999?

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: And how many shares did you hold at that time?

**MR NDZEKU**: Well, when we started with my colleague, we had 49%.

**ADV HOFMEYR SC**: And did that change over time? Did you get more or less at any stage?

20 **MR NDZEKU**: Well, it was just two shares with no value because the company needed money. And if you are a shareholder you will have to put money in the company. So we had shares but it did not mean anything.

**ADV HOFMEYR SC**: Mr Ndzeke, my question was. Did you ever change your shareholding from 49%?



**MR NDZEKU:** Yes, they changed that.

**ADV HOFMEYR SC:** When was that?

**MR NDZEKU:** I do not remember.

**ADV HOFMEYR SC:** What was it changed to?

**MR NDZEKU:** Well, they changed it because when we have got 49 and then we could not put money. Chair, they decided that they will get people who can actually come onboard and bring investment. Now the question: It was changed to? I do not remember.

10 **CHAIRPERSON:** What counsel is asking is, what percentage in terms of shares did you own after the change, after you no longer had 49%?

**MR NDZEKU:** Well, I think Chair it was roundabout 15% if I remember.

**CHAIRPERSON:** About one five?

**MR NDZEKU:** 15. Ja, one five.

**CHAIRPERSON:** Okay alright.

**ADV HOFMEYR SC:** Sorry, Mr Ndzeke I missed that.

**MR NDZEKU:** One five.

20 **ADV HOFMEYR SC:** One five?

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** Thank you. And by 2015, what was your shareholding percentage?

**MR NDZEKU:** I do not remember councillor but it might be, it was the same or maybe it was less. Remember, we

supposed to put money Chair. You do not put money, your shares means nothing. Now the question: What was your percentage? I do not remember counsel.

**ADV HOFMEYR SC:** In twenty ...[intervenes]

**CHAIRPERSON:** But you would say, it is either, it remained as 15% or it decreased?

**MR NDZEKU:** It is maybe... I think it went less to roundabout 9%.

**CHAIRPERSON:** Yes. Yes, okay.

10 **MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** Okay it is helpful. Mr Ndzeke, I understand these are a few years ago. So if you need an answer to say it is somewhere between 9 and 15, that is absolutely fine.

**MR NDZEKU:** Okay.

**ADV HOFMEYR SC:** You must give answers that you are comfortable with.

**MR NDZEKU:** Okay.

20 **ADV HOFMEYR SC:** I am just trying to get a sense of by 2015, what proportion ownership did you have of Swissport? And I understand your answer to be somewhere between 9% and 15%.

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** Is that correct?

**MR NDZEKU:** That is correct, yes.

**ADV HOFMEYR SC:** Thank you. And when did you become a director of Swissport South Africa?

**MR NDZEKU:** When?

**ADV HOFMEYR SC:** When, yes.

**MR NDZEKU:** Well, I think I became a director of South Africa from the beginning.

**ADV HOFMEYR SC:** 1998/1999?

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** So you were a director throughout?

10 **MR NDZEKU:** All the way.

**ADV HOFMEYR SC:** And you were a director in 2015 and in 2016?

**MR NDZEKU:** All the way. Yes, councillor.

**ADV HOFMEYR SC:** Thank you. And when did you cease to be a director of Swissport? When did you stop being a director of Swissport South Africa?

**MR NDZEKU:** Well, I stopped this year.

**ADV HOFMEYR SC:** This year?

**MR NDZEKU:** Yes.

20 **ADV HOFMEYR SC:** Of which month?

**MR NDZEKU:** I think it was roundabout Jan.

**ADV HOFMEYR SC:** Okay.

**MR NDZEKU:** Jan, if it is not Feb.

**ADV HOFMEYR SC:** Jan or Feb?

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** Right. Just around the sort of the time that you were going to be giving evidence originally at the Commission?

**MR NDZEKU:** Well, I did not know anything about evidence.

**ADV HOFMEYR SC:** Yes.

**MR NDZEKU:** To be honest.

**ADV HOFMEYR SC:** Yes. Can you just remember? Did you seize to be a director before the February evidence at the Commission or after? Can you recall that?

10 **MR NDZEKU:** Councillor, I do not remember.

**ADV HOFMEYR SC:** Okay. And you are also a director JM Aviation South Africa? Is that correct?

**MR NDZEKU:** A hundred percent. Correct.

**ADV HOFMEYR SC:** And when did you become a director of JM Aviation South Africa?

**MR NDZEKU:** Well, again South Africa, I think if I am not wrong, it was 2015 if it was not earlier or later. But if we stick on the JM. JM International, I have been working with Ms Aires for the past 18-months before we formed JM South  
20 Africa.

**ADV HOFMEYR SC:** Yes. So let us just be clear there.

**MR NDZEKU:** Okay.

**ADV HOFMEYR SC:** Because they are two entities.

**MR NDZEKU:** Okay.

**ADV HOFMEYR SC:** Right?

**MR NDZEKU**: Okay.

**ADV HOFMEYR SC**: There is JM Aviation South Africa.

**MR NDZEKU**: And JM International, yes.

**ADV HOFMEYR SC**: And JM International.

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: Is that correct? Two entities?

**MR NDZEKU**: Yes, two entities. Yes.

**ADV HOFMEYR SC**: You became a director of JM Aviation South Africa in 2015.

10 **MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: Is that correct?

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: Were you ever a director of JM International?

**MR NDZEKU**: No, no. I was not.

**ADV HOFMEYR SC**: But you had dealings with them?

**MR NDZEKU**: Hundred percent. Working with them.

**ADV HOFMEYR SC**: And that is Mr Aires?

**MR NDZEKU**: Mr Aires, yes.

20 **ADV HOFMEYR SC**: Mr Aires is... is he a director of JM International?

**MR NDZEKU**: He is a director, yes.

**ADV HOFMEYR SC**: Thank you. You are also a shareholder of JM Aviation South Africa. Is that correct?

**MR NDZEKU**: Correct, yes.

**ADV HOFMEYR SC:** Now in January 2016, do you remember what your shareholding was?

**MR NDZEKU:** I do not remember. I think maybe it was... it was roundabout 25 or 15. I am not sure.

**ADV HOFMEYR SC:** I think it was 20 at the time.

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** I can take you to the document later.

**MR NDZEKU:** Thank you, yes.

**ADV HOFMEYR SC:** Has that changed at all your  
10 percentage shareholding in JM Aviation?

**MR NDZEKU:** Well, I do not remember. It may be changed. Because the person who is in charge of the books, the person who is in charge is Mr Aires. He is the found. He is the guy actually or he is the man who is in charge of the books. He knows exactly how things work.

**ADV HOFMEYR SC:** Okay books are on matter, Mr Ndzeke. I am now asking about your shareholding in the company.

**MR NDZEKU:** Councillor, the shares it belongs to the books. So if there are no books, there are no shares. Why I  
20 am saying this is because... why I saying this Chair. Mr Aires, he is the one who is in charge. Anything that has got to do with the books of the day, he is the man. So I do not remember what shares did I have on that side.

**CHAIRPERSON:** But Mr Ndzeke, knowing what shares you have or percentage of shares is quite important in a

...[intervenes]

**MR NDZEKU**: Well, I must say Chair, I do not remember. Maybe it was 20 or 10. I do not remember.

**CHAIRPERSON**: Yes, okay.

**ADV HOFMEYR SC**: And has it changed from what it was in January 2016?

**MR NDZEKU**: I do not know counsel.

**ADV HOFMEYR SC**: And ...[intervenes]

**CHAIRPERSON**: But if it changes, you would know, is it  
10 not? Because nobody can change it without your permission, is it not?

**MR NDZEKU**: Well, they do these things Chair.

**CHAIRPERSON**: Who is that?

**MR NDZEKU**: The people, they do it.

**CHAIRPERSON**: [laughs]

**MR NDZEKU**: There is... I must just admit I do not want to take your time.

**CHAIRPERSON**: Ja.

**MR NDZEKU**: In my journey, they changed my shares. You  
20 know, while I am still alive.

**CHAIRPERSON**: Ja, without your knowledge.

**MR NDZEKU**: Without my knowledge.

**CHAIRPERSON**: Yes.

**MR NDZEKU**: They even sell my shares without my knowledge.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** So if I say these things happen, they do happen.

**CHAIRPERSON:** But of course, you have to answer according to your own knowledge. So if, as far as you know, it has not changed, that is the answer you give.

**MR NDZEKU:** I think, let us say, it is still 20.

**CHAIRPERSON:** Ja.

**MR NDZEKU:** If I am not mistaken.

10 **CHAIRPERSON:** Ja. Ja, okay.

**ADV HOFMEYR SC:** Is Mr Aires someone you have a good relationship with, Mr Ndzeke?

**MR NDZEKU:** Very good. He is a very good man.

**ADV HOFMEYR SC:** He was also in the business, JM Aviation as a shareholder, was he not?

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** Yes.

**MR NDZEKU:** He is the founder. He is the founder of JM Aviation South Africa.

20 **ADV HOFMEYR SC:** He was a founder?

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** He was a 15% shareholder in January 2016. Is that correct?

**MR NDZEKU:** Correct, yes.

**ADV HOFMEYR SC:** And the other two shareholders in the



company, they are your daughters. Is that correct?

**MR NDZEKU**: My daughters.

**ADV HOFMEYR SC**: Yes.

**MR NDZEKU**: Ms Sokulu(?) and Natasha van Louw(?).

**ADV HOFMEYR SC**: Yes.

**MR NDZEKU**: Those are my daughters.

**ADV HOFMEYR SC**: And Ms Sokulu in January 2016 held 35% of the shares. Is that correct?

**MR NDZEKU**: Correct, yes.

10 **ADV HOFMEYR SC**: And Ms Van Louw held 30% of the shares. Is that correct?

**MR NDZEKU**: Correct, yes.

**ADV HOFMEYR SC**: So this company comprising your long-time friend. Correct? Mr Aires?

**MR NDZEKU**: Yes, yes, yes.

**ADV HOFMEYR SC**: And your two daughters, Ms Sokulu and Ms Van Louw, are those the people that might have changed your shareholding without you knowing about it in the company?

20 **MR NDZEKU**: No, the person who actually who is in charge are again of JM Aviation South Africa and JM International is Mr Aires. Councillor, JM Aviation, you need somebody who has got expertise.

We have got only one person who is in charge of this company is Mr Aires. Now if he goes back, he says: Did

they change my shares or my daughters or what?

Chair, Mr Aires asked: Listen, for us to be on the right track, we will have to actually have women onboard.

Now Natasha van Louw, she is my daughter. She was working for a certain company. Sokulu, she was also studying.

And I asked them, I said to them: Please, can you guys come onboard and then be part of this company? The reason why I asked is because Swissport, Peter Kohl, they  
10 asked that because on the board of Swissport, we did not have the women.

So they wanted actually to take my daughter, Sokulu to be part of this. And my daughter, Sokulu says: No, but I do not understand aviation. Now, they said: Please, we want you to come because we do not have a woman.

This is exactly how now we did bring my two daughters on this thing. They know nothing about aviation. They were never involved. Myself and Jules Aires, we started this JM Aviation.

20 **ADV HOFMEYR SC:** Thank you, Mr Ndzeke. Did you disclose to Swissport South Africa that you were a director of JM Aviation South Africa?

**MR NDZEKU:** Well, Swissport and JM Aviation, Mr Aires, they were doing business.

**ADV HOFMEYR SC:** Mr Ndzeke, my questions was not...

that was one answer to my question. My question was, did you disclose, you Mr Ndzeke, disclose to Swissport South Africa that you were a director of JM Aviation South Africa?

**MR NDZEKU:** Well, councillor if you are asking me, to whom do I have it to disclose it? To the board or the CEO? Because now ...[intervenes]

**ADV HOFMEYR SC:** Mr Ndzeke ...[intervenes]

**MR NDZEKU:** ...the CEO of JM Aviation and Swissport, they have been doing deals for a long time. You know, that is  
10 the... I do not know. I did not because there was no need for me to tell everybody that I am the GM, I am... you know, I am the director of JM because we are doing business ...[intervenes]

**ADV HOFMEYR SC:** Thank you.

**MR NDZEKU:** ...with the company.

**ADV HOFMEYR SC:** Your answer is that you did not?

**MR NDZEKU:** Sorry?

**ADV HOFMEYR SC:** Your answer is, you did not/

**MR NDZEKU:** I did not.

20 **ADV HOFMEYR SC:** Thank you. Now in February 2015 when JM Aviation was started as a business, that is JM Aviation South Africa, who were the directors at that point when it was first started?

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** Who were they?

**MR NDZEKU**: Sorry?

**ADV HOFMEYR SC**: Who were the directors?

**MR NDZEKU**: When we started, I think it was... ja, it was myself and Jules, Mr Aires.

**ADV HOFMEYR SC**: And is it correct that in October 2015, you added your two daughters, Ms Sokulu and Mr Van Louw?

**MR NDZEKU**: I think so.

**ADV HOFMEYR SC**: Thank you.

**MR NDZEKU**: Yes.

10 **ADV HOFMEYR SC**: And let us just talk a bit about the business. How many employees does JM Aviation South Africa have?

**MR NDZEKU**: Well, I think the person again councillor who is in charge of JM Aviation is Mr Aires. As far as I remember, I think they have roundabout five or six. And then the JM, they decided to send these people abroad for training. I was not involved on that side.

**ADV HOFMEYR SC**: So you are a director of JM Aviation. Is that correct?

20 **MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: Do you know how many employees JM Aviation employs?

**MR NDZEKU**: I said, I think they were five or six.

**ADV HOFMEYR SC**: Right.

**MR NDZEKU**: I am not sure.

**ADV HOFMEYR SC:** But then you said they as though JM Aviation was something different from you, decided to send people overseas. Is that correct?

**MR NDZEKU:** What are you saying, councillor? Again? Can you repeat it?

**CHAIRPERSON:** She says you said a minute ago, they sent employees overseas.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** Who are you talking about, the they?

10 **MR NDZEKU:** Mr Aires. Mr Aires decided.

**CHAIRPERSON:** Mr Aires?

**MR NDZEKU:** Yes.

**CHAIRPERSON:** Okay.

**MR NDZEKU:** He decided that. He is going to send the people abroad Chair for training.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR SC:** And when was that?

**MR NDZEKU:** I do not remember councillor.

20 **ADV HOFMEYR SC:** A year ago, four years ago? No recollection?

**MR NDZEKU:** I maybe... it might be last year or two years ago. Something like that.

**ADV HOFMEYR SC:** Something like that?

**MR NDZEKU:** Yes, yes.

**ADV HOFMEYR SC:** Thank you. And who is Ms Hendricks?

**MR NDZEKU:** Who?

**ADV HOFMEYR SC:** Who is Ms Hendricks?

**MR NDZEKU:** Ms Hendricks is my wife.

**ADV HOFMEYR SC:** Your wife.

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** And was she also an employee of JM Aviation?

**MR NDZEKU:** Yes, she was.

**ADV HOFMEYR SC:** And in what role?

10 **MR NDZEKU:** Well, Mr Aires... as I said again, he was the CEO of the company. He was the one who was employing people. And I made it clear to him that I want my family to be part of this. I want my family to learn and then to work because they cannot sit at home without getting paid. That is the bottom line. I told him. So we agreed. He is the one actually that can tell you what exactly Ms Hendricks was doing.

**ADV HOFMEYR SC:** Okay let me just get clear. Was Ms Hendricks your wife before she started at JM Aviation?

20 **MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** She was?

**MR NDZEKU:** She was, yes.

**ADV HOFMEYR SC:** When were you married?

**MR NDZEKU:** I do not remember.

**ADV HOFMEYR SC:** You do not remember when you were

married?

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: Right. Do... so you do not celebrate an anniversary every year?

**MR NDZEKU**: I do not what?

**ADV HOFMEYR SC**: You do not celebrate an anniversary every year?

**MR NDZEKU**: Okay I am an African councillor. I do not do these things of anniversary and then... or for... you know,  
10 or... I do not know. I do not do it.

**ADV HOFMEYR SC**: Do you think you were married five years ago, ten years ago, one year ago?

**MR NDZEKU**: Ja, maybe it is roundabout three years.

**ADV HOFMEYR SC**: About three years?

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: If not two years?

**MR NDZEKU**: If it is not two years, three years. Yes.

**ADV HOFMEYR SC**: But not more than three years?

**MR NDZEKU**: Not more, yes.

20 **ADV HOFMEYR SC**: Then she was not your wife when she was employed at JM Aviation, was she?

**MR NDZEKU**: I do not remember at all. I do not remember. Mr Aires... I say it again, anything has got to do with JM Aviation, Jules has been there for 25-years. He has been working with SAT for 25-years. He is the man who knows

exactly what was happening.

**CHAIRPERSON:** Well, Mr Ndzeke. You do not mean, do you ...[intervenes]

**MR NDZEKU:** I do not...?

**CHAIRPERSON:** You do not mean that you do not know what job your wife does at Swissport, what position?

**MR NDZEKU:** Not at Swissport Chair. At JM Aviation.

**CHAIRPERSON:** At JM. I am sorry.

**MR NDZEKU:** Yes.

10 **CHAIRPERSON:** At JM. You do not mean that you do not know what position she holds, do you?

**MR NDZEKU:** I mean it Chair.

**CHAIRPERSON:** You do not know ...[intervenes]

**MR NDZEKU:** I do not know.

**CHAIRPERSON:** ...what job she does?

**MR NDZEKU:** I do not know because they were roundabout five, six people.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** The person, they used to go to the office.

20 Jules was there.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Jules sits with them and then they talk, they do what they do.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** I am honest, Chair. I do not know.



**CHAIRPERSON:** But did you never ask her what she does at JM?

**MR NDZEKU:** No, I did not. As long she was busy. She was busy and studying and working. For me it was good. Good enough.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Yes. That is the truth there, Chair.

**CHAIRPERSON:** And she never told you either.

**MR NDZEKU:** I never asked her, Asanda Mabuza, I did  
10 not ask.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** As long there – because she was working and same time study.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Because she used to study. I forgot what is the case but at Northcliff but she was studying and working.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR:** In 2016, where were the offices of JM  
20 Aviation?

**MR NDZEKU:** I think they were here in Sandton.

**ADV HOFMEYR:** In Sandton?

**MR NDZEKU:** Ja.

**ADV HOFMEYR:** Where are they now?

**MR NDZEKU:** They are still in Sandton.

**ADV HOFMEYR:** Yes, are they not at your premises?

**MR NDZEKU:** No.

**ADV HOFMEYR:** No. So the registered address for JM Aviation, it does not operate from your residential property.

**MR NDZEKU:** No, no, it does not.

**ADV HOFMEYR:** No.

**MR NDZEKU:** They were here, that is their offices

**ADV HOFMEYR:** You see “their” offices, do you frequent the offices, Mr Ndzeke?

10 **MR NDZEKU:** No, I do not.

**ADV HOFMEYR:** Do not. Have you ever?

**MR NDZEKU:** Well, let us just go back. I am shareholder of Swissport. I only attend the board meetings at Swissport. Again, I am a shareholder of JM Aviation, Jules is there as the CEO and the MD of the company, he will see to that everything is happening. The question, yes I did, here in Sandton at Webber Wentzel, I was in the office. I did, I was there.

**ADV HOFMEYR:** When was that?

20 **MR NDZEKU:** I do not remember but I think I went twice there.

**ADV HOFMEYR:** You went twice to the offices of JM Aviation.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Is that twice since it was started in

2015?

**MR NDZEKU**: Well, maybe – yes, I think so.

**ADV HOFMEYR**: You are not just a shareholder in JM Aviation, you are a director of JM Aviation, is that correct?

**MR NDZEKU**: Well, counsellor, let me repeat again. I can be a director or a shareholder, there is somebody who is in charge of this company who will see to that everything operate accordingly.

**ADV HOFMEYR**: Where did Mr Aires live, Mr Ndzeke?

10 **MR NDZEKU**: Sorry?

**ADV HOFMEYR**: Where did Mr Aires live?

**MR NDZEKU**: When?

**ADV HOFMEYR**: Where.

**CHAIRPERSON**: Where does he stay.

**MR NDZEKU**: He is in the US, California. Yes.

**ADV HOFMEYR**: So how was he running the day-to-day operations of JM Aviation South Africa in California?

**MR NDZEKU**: Well, it is very simple, he had people working. We had – he had people who are working for him.

20 Let me make an example of Swissport because I have been in Swissport for a long time. Swissport, shareholders Chair, of Swissport 51% and they are overseas. They are not here. They have people who are working. When we have got a board meeting the Chairman from Swissport is going to come and attend the board meeting and get

reports to the MD and to the manager. Mr Jules had people who are running the company. Those people, they use to go straight to SAT. I do not have an experience, I do not know what is SAAT, by the way, but Jules make a point that these things operate.

**ADV HOFMEYR:** A moment ago in your evidence you said the employees would go to the offices and meet with Mr Aires.

**MR NDZEKU:** Yes.

10 **ADV HOFMEYR:** Because he was running the employees, not you, is that correct?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** But he was in California, so how did they meet with him?

**MR NDZEKU:** No, no, no, no, no. Sorry, counsellor, I repeat, Jules is an ex-South African was born and bred in South Africa. I said, if maybe look at his status, born and bred in South Africa, is all the time here. Even he is not here, the company can still operate because he has got  
20 people on the ground who are working.

**ADV HOFMEYR:** Since when has he been living in California?

**MR NDZEKU:** Well, I do not know, but he has been there for a long time.

**ADV HOFMEYR:** H'm, he has, has he not?

**MR NDZEKU:** Ja.

**ADV HOFMEYR:** Yes. He was not available to come and give evidence in the Commission because he is located in California, correct?

**MR NDZEKU:** Well, I can say that last time we were not in this office, people of – Baker McKenzie, they were there, people of AAR, they were there. I remember he came to me, he says Mr Ndzeke, I am sorry, we were supposed actually be finishing with you but we cannot. All those  
10 people, they were there, even Jules Aires was also here.

I do not understand why Mr Kaplan did not actually make a point that at least they must see to that Jules is here. Even Peter Kohl himself, they were here. Now we are talking about something two, three years ago, these people they left, they were here. I had a meeting with Andrew and I explained to him, I say Andrew, these people are here, can you please explain to my why are you talking to me alone? Why you do not go to those people?

There he is sitting there, he could not say a word.  
20 Now I am sitting here now, Chair, I am talking for these people. Peter Kohl was in South Africa, Jules was in South Africa but this gentleman, Andrew, decided that he must interview, he must talk to me and he told me that he wants to see me.

I did not have a problem, I met him at Rosebank

Hotel. I wanted to know exactly, what is your position, what exactly are you doing? He is sitting there. Ask him that question. He told me that he is the investigator and I said can I tell you something? You do not understand. He says, I am an aviation specialist. I say you are not. If you were, there are people like Dudu Myeni, which is today, everybody is making a fool about them. These people, they fooled SAA dead.

There is a gentleman called Andrew Coleman, he  
10 took a lot of money off SAA. Nobody is saying anything about it and I asked them, I said do you know about it? Why all the time it seems that it is Africans who are doing something wrong? Now you are busy to me but he is asking – go ask Peter Kohl, go and ask what is his name now, Jules. He did not do it.

Now counsellor is asking me now that it suits them better now they are not here. It is the truth. I talked to him, I spoke to him.

**CHAIRPERSON:** Well ...[intervenes]

20 **MR NDZEKU:** I can say counsellor – now I can say, Chair, everything that counsellor has got, is getting from Mr Kapperman. I walked this road. That is why I do not have to look at this document. She can ask me anything, this is the road I walk.

Now if maybe I have done something wrong, Chair,

somebody stole today, please, by the law that person must be arrested. I am sitting here, I am very, very comfortable.

**CHAIRPERSON:** But I just wanted ...[intervenes]

**MR NDZEKU:** These partners of mine, Chair, they did add value. There is no way that they can work for free. There is no way that – but, let me just give the counsellor a chance.

**CHAIRPERSON:** What I just want to say to you that people do talk about Coleman Andrews from time to time, 10 certainly in phone-in programmes when they talk about the state of affairs at SAA, so – and ...[intervenes]

**MR NDZEKU:** Chair, when SAA ...[intervenes]

**CHAIRPERSON:** And I know that ...[intervenes]

**MR NDZEKU:** Chair, let me tell you, when Swissair bought a stake of 20% of SAA, I was there.

**CHAIRPERSON:** Ja. Yes.

**MR NDZEKU:** I helped [indistinct] **07.17**. [indistinct] - **07.18** was there. I have been in that airport for a long time, I was never, never accused of one cent or two cents 20 because I work for my money. So I do not know exactly where are we going now with these questions.

**CHAIRPERSON:** Okay, okay. No, no, that is fine. Ms Hofmeyr, continue.

**ADV HOFMEYR:** Thank you.

**CHAIRPERSON:** Mr Ndzeke, you will just answer the

questions.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** If you do not understand them you ask them to be repeated.

**MR NDZEKU:** Thank you, Chair. Yes.

**CHAIRPERSON:** Ja. Okay, Ms Hofmeyr.

**ADV ALLI:** Chair, forgive me, before you continue.

**CHAIRPERSON:** It is alright.

**ADV ALLI:** Just a preliminary aspect, we have been  
10 handed two bundles of documents this morning.

**CHAIRPERSON:** Yes.

**ADV ALLI:** We did not really receive advance notice of them nor have we had an opportunity for Mr Ndzeke to consider them also. So in that regard, perhaps could we ask for an adjournment of about half an hour just to go through those documents and consider them? There are several things which we say even the summons informing Mr Ndzeke of his appearance to bear the issues that would be traversed, do not in fact indicate the nature of these  
20 documents we have received today, so we would like that opportunity to just consider those documents. Sorry, sorry, I raise it at this point because I thought it was perhaps a convenient juncture in the manner in which the evidence was going.

**CHAIRPERSON:** Well, one would have thought that you



would have raised that earlier before the questioning started.

**ADV ALLI**: Yes, Chair ...[intervenes]

**CHAIRPERSON**: Now we are in the middle of the questioning.

**ADV ALLI**: Fair enough, Chair, these documents, these bundles were given to us after these proceedings commenced this morning.

**CHAIRPERSON**: Oh.

10 **ADV ALLI**: We did not get it in advance of its starting this morning.

**CHAIRPERSON**: Oh, Ms Hofmeyr?

**ADV HOFMEYR**: Yes, thank you, Chair. Chair, I had requested that there be a copy for the legal representatives of Mr Ndzeke this morning. The first lot came up, I understand there was delay on their copy and so that I immediately asked to be brought over.

20 Chair, the documents are the documents comprising Mr Ndzeke's affidavit, Mr Aires' affidavit and a series of other documents that we have compiled in the course of the investigations and as I have done previously, I propose to take Mr Ndzeke to pertinent documents in the course of his evidence. If he does not recall one, as we have done previously, he can take time and consider it, I have got absolutely no difficulty with that.

There was no request from the legal representatives of Mr Ndzeke to be provided with anything prior to today. They attended all of the hearings in February, were given files when that evidence was being led, as has been the approach today. I do apologise that it was not available as we commenced this morning, that was simply an error. Four copies were brought over but when the interpreter required a copy we had to provide him with a copy and so I requested the fifth copy to come and be given to the legal  
10 representatives. Chair, I do not have an objection  
...[intervenes]

**CHAIRPERSON:** How many documents are we talking about?

**ADV HOFMEYR:** It is the two files, Chair, that are before you.

**CHAIRPERSON:** The two files.

**ADV HOFMEYR:** Indeed. I do not have a difficulty with a 30 minute adjournment if they would like to take that. I do not regard it as necessary, most of these documents are  
20 documents that Mr Ndzeke saw in his previous bundle, which was provided to him on the last occasion when he was going to be testifying. There have been some additional documents added, which appear in the second file, and if they would like to take 30 minutes, I have no difficulty with that.

**MR NDZEKU:** Sorry, Chair?

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Sorry, I understand that my counsel other side also want to – it is the first time actually I also see these bundles but I am prepared to answer any question.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Because we cannot keep on postponing it.

**CHAIRPERSON:** Yes, yes.

**MR NDZEKU:** And then tomorrow they say I am not  
10 available.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** And then tomorrow I find myself I am in the news that I did this and this and this.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** I remember very well after I spoke to Andrew Kapperman(?) in Rosebank, two minutes later when I look, I was already on the news that I did this and this and this. I want us to finish this thing.

**CHAIRPERSON:** Yes.

20 **MR NDZEKU:** If there is something wrong about it, let us see exactly where do we go about it.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** If maybe I am guilty, let me found guilty, that is it.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Because I do not want this thing, Chair, this thing has been going on for a long time.

**CHAIRPERSON:** Ja, you want it to be finalised.

**MR NDZEKU:** Let us finalise it.

**CHAIRPERSON:** Okay, I think maybe as Ms Hofmeyr says, let us go through, if there are certain documents where Mr Ndzeke is uncomfortable, wants to have more time, we will give him that opportunity so that he can look at them. You understand that. So, in other words, as and  
10 when we come across a document on which he has got some difficulty and needs time, we will then deal with that at that time.

**ADV ALLI:** Chair, I understand, and I appreciate Mr Ndzeke's enthusiasm also but we are here as his legal representatives and in our assessment – we must make an assessment of what is in his interests and he will be given the opportunity throughout the course of today or as long as is necessary to answer whatever questions he has to but in the interim we would ask for – we are indebted to my  
20 learned friend for agreeing to a 30 minutes stand down. We would still make that request and Mr Ndzeke can thereafter continue answering the questions, whichever questions we have.

**CHAIRPERSON:** Well, are you going to – before tea break, are you going to reach any of the documents that

they might not have seen?

**ADV HOFMEYR:** No, I will not.

**CHAIRPERSON:** Yes, because then maybe when we take the tea adjournment then we can make it 30 minutes.

**ADV HOFMEYR:** Indeed, indeed.

**CHAIRPERSON:** Ja, okay.

**ADV HOFMEYR:** Chair and I will try and stop myself if there is one and come back to it.

**CHAIRPERSON:** Yes.

10 **ADV HOFMEYR:** Just so that we can use the time profitably and, Mr Ndzeke, I am indebted to you to wanting to proceed swiftly with the matters.

**CHAIRPERSON:** Yes. Okay, what we will do, Ms Hofmeyr says before the tea break she will not reach any of the documents that you are unaware of. So what I have in mind is that when we take the tea adjournment, instead of taking 15 minutes we can take 30 minutes and then you would get that chance.

**ADV ALLI:** Chair, thank you, that would be in order.

20 **CHAIRPERSON:** Ja. Okay, alright.

**ADV HOFMEYR:** Thank you, Chair. So, Mr Ndzeke, if I may just summarise where we are. As I understand it, you are not involved in the operations of JM Aviation, South Africa at all. Is that correct?

**MR NDZEKU:** JM Aviation and also Swissport as well.

**ADV HOFMEYR:** So the answer is yes, is it?

**MR NDZEKU:** Yes, I am not.

**ADV HOFMEYR:** Thank you. Mr Ndzeke, it is just helpful, if you give yes or no answers first. Then the record reflects and then feel free to add any explanation or description you want to.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Do you earn a salary from JM Aviations South Africa?

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

**ADV HOFMEYR:** You do?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** A monthly salary?

**MR NDZEKU:** It was a monthly, yes.

**ADV HOFMEYR:** So if you have nothing to do with its operations why do you draw a salary?

20 **MR NDZEKU:** Well, this is exactly – that is actually why I joined JM because I wanted to earn salary. It is exactly – we started the company. Counsellor, I cannot work for nothing.

**ADV HOFMEYR:** Yes, but I understood you to say you have nothing to do with its operations.

**MR NDZEKU:** No, no. No, no, I am shareholder, I am a director of the company, same as at Swissport. Same question you can ask me, do you earn a salary at

Swissport? Same question you can ask me, do you earn a salary at Swissport? Yes. How much money do you earn? I can tell you. How much money did I earn at JM Aviation, I can still tell you, yes, I did.

**CHAIRPERSON:** But do you – do you know whatever you earned per month is a salary as we all understand it or is there some arrangement in terms of which you get every month a portion of your annual dividend.

**MR NDZEKU:** Chair, thank you very much. You know, it  
10 was an arrangement at the time where JM Aviation, Jules, Mr Aires, was telling me that, SAAT they did not even get paid for the bus there, six months or seven months and then the money, he has got – the money that he got on the kitty is the money for other business which is how money I was getting, around about R35 000. How much money I was getting at Swissport, it was R35 000. Sometimes I can stay around about three, four months without getting money, sometimes – and then JM Aviation, you know actually AAR has been paid by SAAT and then AAR would  
20 also sit on top of the money, they do not want to pay. As I am talking to you now, we are in arbitration where AAR did not even pay JM Aviation for the past six – around about eleven months. So it has been going like this, Chair, so on the issue of payment, it is yes and no.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR:** So you earn a salary of about R35 000 a month.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** From JM Aviation South Africa, is that correct?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Do you receive other payments from JM Aviation South Africa?

**MR NDZEKU:** Well, counsellor, I am talking to you now,  
10 we are on the arbitration, we did not get - JM Aviation did not get paid by AAR. AAR, whenever we request money from them, they said they did not get money from SAAT . So now I do now I do not know now, sometimes yes, sometimes no. So, for me, it was not an issue that is why I decided let me just do my own business on the side where I know that if I have got R5, I have got R5, R10, I have got R10 because this money come today, this money does not come today.

**ADV HOFMEYR:** Do you get paid other amounts over and  
20 above your R35 000 salary a month from JM Aviation South Africa?

**MR NDZEKU:** Do I what?

**ADV HOFMEYR:** Do you get paid other amounts other than your R35 000 salary from JM Aviation South Africa?

**MR NDZEKU:** As I said, six months, nine months, AAR



does not pay. I am talking to you now, we are in the arbitration, they did not pay JM Aviation for eleven months. So sometime you find yourself, there is no money.

**ADV HOFMEYR:** No, Mr Ndzeke, that is not an answer to my question. Please answer just the question, do you receive payment ...[intervenes]

**MR NDZEKU:** Sometimes yes, sometimes no.

**ADV HOFMEYR:** Sometimes yes, sometimes not.

**MR NDZEKU:** Yes.

10 **ADV HOFMEYR:** Let us focus on the sometimes.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** What other payments have you received from JM Aviation over and above your salary of R35 000 a month?

**MR NDZEKU:** Right, we – Jules Aires, he bought actually the equipment from Swissport and then those are the dollies and the steps, he sold it to Mozambique, he sold it to one of these other African states. Whenever we make some money and he tell myself, I said listen, we did one,  
20 two, three, but we need to have some money. So out of that money sometimes he would give me the money around about 50 up to 100 000.

**ADV HOFMEYR:** Between 50 and 100 000?

**MR NDZEKU:** Some – ja, if the deal is good.

**ADV HOFMEYR:** Right and when was that sale to

Mozambique?

**MR NDZEKU:** I do not remember but it is not only Mozambique, we do it with African states and sometimes he does also the – we also – JM – when we decided that JM Aviation and JM South Africa that must be together and I said Jules, you can see that things are not good in South Africa. Please, whenever you stay on other side, please try to look after us her and he said I do not have a problem because he was doing it, he was making money on the  
10 side.

**ADV HOFMEYR:** Did you ever receive more than a 100 000 out of these transactions?

**MR NDZEKU:** Maybe, I do not remember, yes or no, I do not remember.

**ADV HOFMEYR:** You cannot remember whether you received more than a 100 000?

**MR NDZEKU:** Yes, I cannot remember.

**ADV HOFMEYR:** Could you have received as much as a million?

20 **MR NDZEKU:** From JM?

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** No.

**ADV HOFMEYR:** And did you receive any payments, Mr Ndzeke, from JM Aviation related to any of its dealings with Swissport South Africa?

**MR NDZEKU:** Did I receive what?

**ADV HOFMEYR:** Any payments from JM Aviation South Africa related to its dealings with Swissport South Africa?

**MR NDZEKU:** No.

**ADV HOFMEYR:** You indicated previously that you did not disclose to Swissport South Africa that you were a director of JM Aviation. Did you not worry that that would create a conflict of interest for you being a director of JM Aviation at the same time that you were a director of Swissport  
10 South Africa?

**MR NDZEKU:** No, I was not worried.

**ADV HOFMEYR:** You were not worried?

**MR NDZEKU:** No.

**ADV HOFMEYR:** So the fact that you are sitting as a director of one entity that might be concluding a contract with other entities in which you have a financial interests, you did not worry about that?

**MR NDZEKU:** I did not worry, because my board members and the CEO, they did not even worry about that.

20 **ADV HOFMEYR:** You did not recuse yourself from any of those meetings?

**MR NDZEKU:** I did not.

**ADV HOFMEYR:** You did not.

**MR NDZEKU:** I did what?

**ADV HOFMEYR:** You did not – I just did not hear your

...[intervenes]

**MR NDZEKU:** What, can you repeat again?

**ADV HOFMEYR:** I said you not recuse yourself from any of those meetings.

**MR NDZEKU:** Which meetings are those exactly?

**ADV HOFMEYR:** The meetings at Swissport South Africa when it was deciding whether to engage with JM Aviation South Africa.

**MR NDZEKU:** Counsellor, I must say it again, please,  
10 Chair. CEO of Swissport, Peter Kohl, is in charge of all the affairs of Swissport. Again, JM Aviation, Jules Aires, he is in charge of all the affairs of this company. I repeat again, Jules Aires has been working with SAAT for the past 25 years. Why I choose him as my partner, because he has got experience. If he is my partner and he is my partner and he see that there is nothing wrong here, I go with him, that is it, that is exactly why I decided, I decided that I am going to work with Jules.

**ADV HOFMEYR:** So you did not recuse yourself from any  
20 of those meetings.

**MR NDZEKU:** There was no meeting, I never actually attend any meeting between Jules and Peter.

**ADV HOFMEYR:** No, I am saying the general meetings at which Swissport South Africa decided to contract with JM Aviation, South Africa, you did not recuse yourself from

those meetings. No, could you just say no?

**MR NDZEKU:** I do not remember, I do not remember any discussion [indistinct – dropping voice]

**ADV HOFMEYR:** Thank you. Sorry, Mr Ndzeke, if you could just speak into the mic. Thank you so much.

**MR NDZEKU:** Ja, I do not remember, Chair.

**CHAIRPERSON:** Yes, you do not remember attending any meetings at Swissport where a decision was taken to contract with JM Aviation South Africa.

10 **MR NDZEKU:** No, I do not remember, Chair.

**CHAIRPERSON:** You do not remember.

**MR NDZEKU:** No.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR:** Were you aware of the GPU sale at the time it was taking place, the one involving the GPUs from SAA Technical?

20 **MR NDZEKU:** Counsellor, I will say it again, Peter Kohl, he is the CEO of Swissport. He is the CEO. Swissport, you have got MDs, you have got marketing. All those people are in charge on the ground. Jules Aires, he is the CEO and he has also got people, MDs, on the ...[intervenes]

**CHAIRPERSON:** I am sorry, Mr Ndzeke ...[intervenes]

**MR NDZEKU:** No, I did not.

**CHAIRPERSON:** Repeat the question.

**ADV HOFMEYR:** The question was, were you, Mr Ndzeke, aware?

**MR NDZEKU:** No.

**ADV HOFMEYR:** You were not?

**MR NDZEKU:** No.

**ADV HOFMEYR:** You were not aware.

**MR NDZEKU:** Not at all.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR:** Thank you and were you aware  
10 ...[intervenes]

**CHAIRPERSON:** Ja, we will make better progress, Mr Ndzeke, if you just answer the question.

**MR NDZEKU:** Okay, okay.

**ADV HOFMEYR:** If, having answered the question, you feel there is need to explain something.

**MR NDZEKU:** Okay, okay.

**CHAIRPERSON:** That is fine, ja.

**MR NDZEKU:** Okay.

**CHAIRPERSON:** Okay.

20 **ADV HOFMEYR:** Were you aware of the dealings between Swissport South Africa and SAA in late 2015 and early 2016 about the ground handling contract.

**MR NDZEKU:** No.

**ADV HOFMEYR:** And you took no part – I think you said this in your affidavit – in the negotiations around that

contract, is that right?

**MR NDZEKU:** Yes. No, was not part of it.

**CHAIRPERSON:** Is this when no means yes?

**ADV HOFMEYR:** It is, yes. So I think I had two negatives. Mr Ndzeke, is it correct that you played no role in the negotiations between Swissport and SAA?

**MR NDZEKU:** No role at all.

**ADV HOFMEYR:** No role at all. Thank you, thank you.

**CHAIRPERSON:** Okay.

10 **ADV HOFMEYR:** Now, Mr Ndzeke, I would like to move to a part in your evidence today where I am just going to get clarify on your extent of involvement with various people, okay? So I am going to go through a number of people. Again, not going to documents yet but just to get some background because it will help the rest of today's proceedings. Mr Ndzeke, do you know Ms Mbanjwa of L Mbanjwa Incorporated Attorneys?

**MR NDZEKU:** Yes, I know here, she was right here.

**ADV HOFMEYR:** Yes, did you know her before the  
20 February ...[intervenues]

**MR NDZEKU:** I remember her, she was here. She was here. I remember her, yes, I remember her.

**ADV HOFMEYR:** did you know her before the February evidence.

**MR NDZEKU:** Yes, I did, she is a lawyer yes.

**ADV HOFMEYR:** How do you know her?

**MR NDZEKU:** Well, I know a lot of attorneys, she is an African, there are a lot of attorneys I know.

**ADV HOFMEYR:** She was referred to in the sale agreement that you concluded with Ms Hlohlela, do you remember that?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Was she involved in drafting that agreement?

10 **MR NDZEKU:** Who?

**ADV HOFMEYR:** Ms Mbanjwa.

**MR NDZEKU:** I do not remember, I can say yes or no, but I was told that please go to Ms Mbanjwa's office and then if you want the land go and pay. It is exactly what I did.

**ADV HOFMEYR:** Who drafted that agreement, that sale agreement between you and Ms Hlohlela? Did you put it together or did Ms Hlohlela put it together?

**MR NDZEKU:** No, I did not put it together, no. I think Ms Hlohlela and Ms Mbanjwa, they put it together. I am not  
20 sure. Please, counsellor, I do not want to say yes or no, I am not sure.

**ADV HOFMEYR:** You do not know.

**MR NDZEKU:** Yes, I do not know.

**ADV HOFMEYR:** So was it just presented to you?

**MR NDZEKU:** Yes.



**ADV HOFMEYR:** Could Ms Memela have been involved in putting the agreement together? Remember, Ms Memela is Ms Hlohlela's daughter.

**MR NDZEKU:** Well, I cannot say that because Ms Mbanjwa, she is an attorney, she does her job. I do not think why Ms – this other lady to be involved, you know?

**ADV HOFMEYR:** Right. So to the best of your knowledge it would have been between Ms Mbanjwa and Ms Hlohlela and that the agreement that put together, is that correct?

10 **MR NDZEKU:** Correct, yes.

**ADV HOFMEYR:** Thank you. Did JM Aviation ever use Ms Mbanjwa for legal services?

**MR NDZEKU:** No, not [indistinct – dropping voice]

**ADV HOFMEYR:** Have you ever used yourself Ms Mbanjwa for legal services?

**MR NDZEKU:** Well, I only use Mbanjwa for payment for the ...[intervenes]

**ADV HOFMEYR:** On that sale agreement?

**MR NDZEKU:** On that, yes.

20 **ADV HOFMEYR:** Is that the sum total of your interactions with her?

**MR NDZEKU:** [indistinct – dropping voice] yes.

**ADV HOFMEYR:** Thank you. Now I would like to turn to Ms Memela.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Whose evidence you attended in February.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Whose evidence you attended in February.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** When was the first time that you met Ms Memela?

**MR NDZEKU:** Well, I think it must 2015, there was a –  
10 they actually decided to invite all the stakeholders, people  
of the airport, that was a time where I met her. I do not  
remember which date but I met her there.

**ADV HOFMEYR:** And you are right, she also said it was in  
2015 and she said around mid-2015, maybe May or June.  
Does that accord with your memory?

**MR NDZEKU:** Yes, I think so.

**ADV HOFMEYR:** Thank you. And you indicated in your  
affidavit that those supplier development workshops were  
an opportunity for people interested to get into aviation to  
20 meet with SAA representatives, is that correct?

**MR NDZEKU:** Well, not SAA alone because there were a  
lot of people there. It was not only SAA.

**ADV HOFMEYR:** Right.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Was it other possible suppliers?

**MR NDZEKU:** Other suppliers.

**ADV HOFMEYR:** Right.

**MR NDZEKU:** Yes, for ACCSA, for Jet Fuel, you know, everybody that was – it was not SAA alone.

**ADV HOFMEYR:** And you engaged with the procurement team of SAA when you were at those meetings, is that correct?

**MR NDZEKU:** When you say team, can you please explain?

10 **ADV HOFMEYR:** Well Ms Memela was the Head of Procurement, were you aware of that?

**MR NDZEKU:** I was not aware.

**ADV HOFMEYR:** You were not aware?

**MR NDZEKU:** No.

**ADV HOFMEYR:** So how was she introduced at those meetings?

**MR NDZEKU:** How was she?

**ADV HOFMEYR:** How as she introduced?

20 **MR NDZEKU:** Well she told me that she was from Ciskei and then she is from Transkei we started to started to give our language [speaking in vernacular] and then we started to laugh and I told her exactly what I am doing and then where I am going with my business.

And then she said it is a good thing that because the mother is got a land and then we can do – she can

introduce you to her mother, the mother is coming for the eyes and I said if maybe that I am come please you must let me know.

**ADV HOFMEYR:** So you – what role was she then playing at those workshops?

**MR NDZEKU:** Well counsellor I was there like anybody; I do not know exactly what role she was playing because I did not actually talk to her alone, I talked to a lot of people.

10 **ADV HOFMEYR:** Right so did you – you did not know she was related to SAA Technical at all?

**MR NDZEKU:** No, I did not ask her.

**ADV HOFMEYR:** You did not ask?

**MR NDZEKU:** No I did not ask that question.

**ADV HOFMEYR:** Did you ever come to learn that she was the Head of Procurement at SAA Technical?

**MR NDZEKU:** No.

**ADV HOFMEYR:** Never?

**MR NDZEKU:** You know counsellor maybe if I can ask  
20 Chair. Why is it so important for me to know that she was Head of Procurement?

**ADV HOFMEYR:** Mr Ndzeke it is not important at all I am trying to understand how much you know.

**MR NDZEKU:** Okay.

**ADV HOFMEYR:** And what the level of your interactions

were.

**MR NDZEKU:** I understand.

**ADV HOFMEYR:** Thank you. So all you need to just clarify for me is...[intervene]

**MR NDZEKU:** No I did not know that sorry counsellor.

**ADV HOFMEYR:** ...how well did you know various people; what dealings you have had with them that is all I am interested in at the moment.

**MR NDZEKU:** Thank you.

10 **ADV HOFMEYR:** Now you had that meeting at the workshop in mid-2015. Have you had other dealings with Ms Memela beyond that?

**CHAIRPERSON:** Sorry your answer was too soft.

**MR NDZEKU:** No Chair, no dealings.

**CHAIRPERSON:** No, okay.

**MR NDZEKU:** Sorry Chair.

**ADV HOFMEYR:** So there was that one meeting in mid-2015 did you not have other meetings with her related to the purchase of her mother's property?

20 **MR NDZEKU:** Well she did actually tell me that the mother is coming and she would like to introduce me. You know counsellor it was not a meeting that day it was somewhere a hello and how are you and then this exactly is happening and then let us meet again and then we meet. For me it was not a meeting it was just introduction.

**ADV HOFMEYR:** Right.

**MR NDZEKU:** And then the meeting now we had when the mother came for the eyes and then the mother start to explain to me and then that was the second meeting I had Chair.

**ADV HOFMEYR:** Super so can I just be clear. There is the one meeting at the workshop, right?

**MR NDZEKU:** It was introduction to say hello and how are you.

10 **ADV HOFMEYR:** That's was an introduction but you spoke to her about your business interest.

**CHAIRPERSON:** Oh shall we call it an encounter?

**ADV HOFMEYR:** An encounter yes.

**CHAIRPERSON:** The one encounter you had with Ms Memela at the workshop.

**MR NDZEKU:** Okay, an encounter yes.

**CHAIRPERSON:** Encounter, okay.

**ADV HOFMEYR:** And in that encounter you discussed your business interest. Is that correct?

20 **MR NDZEKU:** Yes, I did no when she told me that she is from Ciskei...[intervene]

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** ...and I told her that I am in Lesotho and in Swaziland, this is exactly what I am doing and she said listen we would like to come on board but at least you must

say exactly what is happening. My mother is coming and then let us have another round.

**ADV HOFMEYR:** Okay can I go back a moment you said you said to her you doing things in Lesotho and Swaziland. What were those things?

**MR NDZEKU:** Well I think it is here I did send you that, it is the - how do you call it?

**ADV HOFMEYR:** Cannabinoid API's?

**MR NDZEKU:** What is this thing? It is a cannabis  
10 structure.

**ADV HOFMEYR:** Growing cannabis?

**MR NDZEKU:** Yes, it is here.

**ADV HOFMEYR:** No I will find it for you in a moment Mr Ndzeku.

**MR NDZEKU:** I did yes.

**ADV HOFMEYR:** You have indeed sent it through.

**MR NDZEKU:** Yes, it is there.

**ADV HOFMEYR:** So when you met with her in mid-2015 did you explain to her that you were growing cannabis in  
20 Lesotho and Swaziland?

**MR NDZEKU:** 100% I did.

**ADV HOFMEYR:** And you indicated to her that you had an interest in doing that in South Africa, is that correct?

**MR NDZEKU:** Not in South Africa in – where she stays in her country, ja in that homeland yes.

**ADV HOFMEYR:** Right in the Eastern Cape now?

**MR NDZEKU:** Eastern Cape, yes.

**ADV HOFMEYR:** I understand.

**CHAIRPERSON:** Mr Ndzeke you are in that homeland.

**MR NDZEKU:** I am sorry.

**CHAIRPERSON:** We do not have homelands anymore.

**MR NDZEKU:** That is what it is sorry yes.

**CHAIRPERSON:** Okay, alright.

**MR NDZEKU:** Sorry Chair it was his hometown you know  
10 because she is Mpondo. So Mpondo they do this thing of  
cannabis on a very big scale.

**CHAIRPERSON:** Yes, okay.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** And were you – you sent through that  
document about the cannabis growing did that relate to  
what you were interested in, in 2015?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** And that document relates to a company  
called Medigrow?

20 **MR NDZEKU:** Yes.

**ADV HOFMEYR:** Was that the company you were dealing  
with it at the time?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** And right – so we went from the  
encounter and you have helped me with what you



discussed there. Then you said was there then a time when you met her with Ms Hlohlela, is that correct?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** And when about was that?

**MR NDZEKU:** I do not remember but during that time.

**ADV HOFMEYR:** During that time in 2015 still is that right?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** And did you meet Ms Hlohlela once or  
10 twice?

**MR NDZEKU:** I remember I think I met her once, twice I met her here and I also met her at her home.

**ADV HOFMEYR:** At her home?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Okay so you met her once in Johannesburg. Is that right?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** And what was the purpose of that meeting?

20 **MR NDZEKU:** Well she is the one who owns the land. This lady Memela she was introducing me to this lady Hlohlela.

**ADV HOFMEYR:** Her mother?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** And at no point in all of this do you

become aware that Ms Memela is the Head of Procurement at SAA Technical?

**MR NDZEKU:** No I did not, I am focusing on what I am doing at the moment. I did not know what exactly she was doing on the other side.

**ADV HOFMEYR:** Okay so there was once a meeting with Ms Hlohlela and Ms Memela in Johannesburg. Correct?

**MR NDZEKU:** If I remember correctly, yes.

**ADV HOFMEYR:** And then you say there was a second  
10 meeting with Ms Hlohlela at her home. Is that correct?

**MR NDZEKU:** Yes if I remember correctly, yes.

**ADV HOFMEYR:** Okay where is her home?

**MR NDZEKU:** Sorry.

**ADV HOFMEYR:** Where is Ms Hlohlela's home?

**MR NDZEKU:** In the same place where I bought the land.

**ADV HOFMEYR:** Where is that?

**MR NDZEKU:** Okay it is there; it is right there.

**CHAIRPERSON:** I am sorry; I am sorry counsel is asking  
20 where Ms Hlohlela's home is located. Where about in the country is it?

**MR NDZEKU:** The small town the small homeland they call it Mbizana. It is a very, very small village.

**CHAIRPERSON:** Mbizana?

**MR NDZEKU:** Yes. Mbizana.

**CHAIRPERSON:** It is in Mbizana?

**MR NDZEKU:** Yes.

**CHAIRPERSON:** In this Eastern Cape?

**MR NDZEKU:** They call it where she stays in that small place they call it Mbizana.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Yes, Chair it is like you have got Morningside and you have Sandton?

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Ja you call it that side in the place.

10 **CHAIRPERSON:** Okay.

**ADV HOFMEYR:** And can I just get the spelling right that is M.B.I.Z.A.N.A.

**MR NDZEKU:** Mbizana, yes.

**ADV HOFMEYR:** Is that right?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Okay. So did you travel down to the Eastern Cape to meet with her?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Okay, how did you travel?

20 **MR NDZEKU:** Well I travelled by car.

**ADV HOFMEYR:** Car?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** And when about was this meeting?

**MR NDZEKU:** Sorry?

**ADV HOFMEYR:** When was this meeting?

**MR NDZEKU:** I do not remember.

**ADV HOFMEYR:** Okay let us try and locate us in time because we have got some events that will help us.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** You have the workshop with SAA in mid-2015. We think May or June 2015

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Okay you signed the sale agreement in November of 2015.

10 **MR NDZEKU:** Yes.

**ADV HOFMEYR:** So was it somewhere between mid-2015 and late 2015?

**MR NDZEKU:** I think it was sorry Chair I think it was during that time if I remember correctly it was during that time.

**CHAIRPERSON:** Somewhere between the workshop at SAA and the date of the signing of the purchase agreement, somewhere in between?

20 **MR NDZEKU:** Well I do not know the purchase of, when you talk about purchase agreement. Which purchase is this?

**ADV HOFMEYR:** For the land that you bought from Ms Hlohlela.

**MR NDZEKU:** I think it was during that time, I do not remember it during that time.

**CHAIRPERSON:** In between?

**MR NDZEKU:** Yes.

**CHAIRPERSON:** Okay.

**MR NDZEKU:** Yes, during that time.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR:** Was it before or was it after you signed the agreement Mr Ndzeke?

**MR NDZEKU:** Counsellor I do not remember it was after or before I do not remember, I do not recall it.

10 **CHAIRPERSON:** Will my understanding based on your answer to my question was that it happened before because unless I misunderstood something. The workshop at SAA...[intervene]

**ADV HOFMEYR:** No sorry Chair we had the meeting at the workshop.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Then after that.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** And then we had a...[intervene]

20 **CHAIRPERSON:** A meeting in Mbizana.

**MR NDZEKU:** A meeting yes.

**MR NDZEKU:** Yes a further meeting and then after the meeting.

**CHAIRPERSON:** Before the signing?

**MR NDZEKU:** Before the signing, yes.

**CHAIRPERSON:** Yes, okay.

**MR NDZEKU:** Before the signing.

**CHAIRPERSON:** Okay so and the meeting in Mbizana would it have been about like a month after the workshop, two months or are you not able to say?

**MR NDZEKU:** Well I do not remember Chair but for me...[intervene]

**CHAIRPERSON:** Not too far from.

**MR NDZEKU:** During that time, yes.

10 **CHAIRPERSON:** Okay, alright.

**ADV HOFMEYR:** Right so we were at the point where you were – if you will just give me a moment. We were at the point where you drove down to the Eastern Cape to meet with Ms Hlohlela.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** And what happened in that interaction with Ms Hlohlela, what did you discuss?

**MR NDZEKU:** Well...[intervene]

20 **CHAIRPERSON:** Maybe let us start with did you meet with her only or was it just the two of you?

**MR NDZEKU:** No it was not the two of us there were also other people because he has also got a chief.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Yes he call the chief and then we started to sit down and then she introduced me.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** And then she started explain to them and she told me that anything they do here they will have to do through the chief.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Because what I wanted to know now and then I wanted to know about the title deeds.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** And wanted to know to have the papers.

10 **CHAIRPERSON:** Yes.

**MR NDZEKU:** And then the chief says listen this is exactly what we are doing here and then if [speaking in vernacular] we did cut this thing.

**CHAIRPERSON:** Ja.

**MR NDZEKU:** [speaking in vernacular]. You can explain.

**CHAIRPERSON:** Switch on your mic Mr Interpreter and move your mask because we will not hear.

**MR NDZEKU:** If a chief cuts you piece of land and allocates you a plot of land the chief...[intervene]

20 **CHAIRPERSON:** Allocates you a plot of land.

**MR NDZEKU:** A plot of land, yes.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** The chief becomes responsible for that plot of land.

**ADV HOFMEYR:** And that is chief Sigcau is that right?

**MR NDZEKU:** Chief?

**ADV HOFMEYR:** Chief Sigcau?

**MR NDZEKU:** Sigcau yes.

**ADV HOFMEYR:** Sigcau sorry.

**CHAIRPERSON:** Yes, that is S.I.G.C.A.U.

**MR NDZEKU:** I think so.

**ADV HOFMEYR:** Chair I asked Mr Dunjwa's help his morning with the pronunciation but I seem not to have perfected it.

10 **MR NDZEKU:** No, no it is fine.

**CHAIRPERSON:** But is it S.I.G.C.A.U?

**ADV HOFMEYR:** It is exactly.

**CHAIRPERSON:** Sigcau.

**ADV HOFMEYR:** Sigcau.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** Sigcau, yes.

**ADV HOFMEYR:** Sigcau, so that was chief Sigcau because he is the Nkhosi in the area. Is that correct?

**MR NDZEKU:** Yes Nkhosi yes.

20 **ADV HOFMEYR:** Right so you met with her and you met with chief Sigcau and others. Is that correct?

**MR NDZEKU:** Others, yes.

**CHAIRPERSON:** Did you yourself bring anybody from with your side with you to the meeting or it was just only yourself?



**MR NDZEKU:** No, no I had my uncle.

**CHAIRPERSON:** You had your uncle.

**MR NDZEKU:** Yes, and then his from Cape Town.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Ja, now at the moment his sick his in hospital in the hospital

**CHAIRPERSON:** Yes.

**MR NDZEKU:** His got kidneys.

**CHAIRPERSON:** Okay.

10 **MR NDZEKU:** Yes, now I think let us go together because he was helping me.

**CHAIRPERSON:** Okay.

**MR NDZEKU:** On this journey, yes.

**ADV HOFMEYR:** And was Ms Memela there?

**CHAIRPERSON:** Chair sorry.

**ADV ALLI:** I think my learned friend is now moving onto the terrain that covers documents that we have not seen before. So I think perhaps maybe this should be an opportune time to take this...[intervene]

20 **CHAIRPERSON:** Well she has not referred to documents as yet.

**ADV ALLI:** Not quite but an area that is covered by evidence in documents relating to the area of questioning.

**CHAIRPERSON:** Ms Hofmeyr?

**ADV HOFMEYR:** Chair I have not referred to document.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** I am simply seeking to understand from Mr Ndzeke about his meeting, who was there. I think Mr Ndzeke is fully capable of telling us about his interactions. I suggest we proceed I will not refer to a document until the break.

**CHAIRPERSON:** She will not and we will get to the tea break just now.

**ADV ALLI:** Chair if I may it is, I think it is perhaps  
10 oversimplifying by my learned friend to say if she is not referred to a document. It is correct that she has not referred to a document but the purpose of the documents is of course it has the ability to impact upon the rights of Mr Ndzeke.

So while she may not refer to a document the documents that have been deduced directly bring to bear on the testimony that he gives now. So we would then ask Chair is that...

**CHAIRPERSON:** We will accept that at this stage she has  
20 been dealing with who was at the meeting and what was discussed at the meeting.

**ADV ALLI:** Yes.

**CHAIRPERSON:** And from what I hear Mr Ndzeke does not feel that he does not have the answers for who was at the meeting that is very factual.

**ADV ALLI:** Well Chair but for this is that I understand then remember Chair we had to sit with one ear and listen to this evidence and with the other ear page through this bundle of documents because it was only given to us after the evidence began this morning.

**CHAIRPERSON:** Yes.

**ADV ALLI:** So in that bundle of documents there is an affidavit which I think is by the Nkhosi who has been referred to now.

10 **CHAIRPERSON:** Yes.

**ADV ALLI:** Now you have been asked Mr Ndzeke has been asked questions on this interaction with the Nkhosi whilst we have not had an opportunity to consider that affidavit properly.

So I think there must be also a level of respect, a respect for us and for the rights of Mr Ndzeke. It is discourteous to have given us these documents after the proceedings commenced. We could have read it ahead of time and been prepared even if it was ten minutes.

20 **CHAIRPERSON:** Yes.

**ADV ALLI:** Even if it was ten minutes before the proceedings started this morning that would have been sufficient but to hand to us after the evidence starts, we say is disrespectful.

**CHAIRPERSON:** Yes, but in so far as he is giving

evidence about the meeting his able to give the evidence as he recalls the position. If later on it transpires that at certain document refreshes his memory differently he will be able to say so. You understand?

**ADV ALLI:** I do understand.

**CHAIRPERSON:** Yes so and you will get a chance to re-examine and if he gave an answer based on his memory but a certain document refreshes his memory, he will be able to deal with that yes.

10 **ADV ALLI:** Yes so really the Chair the request is this Chair we are eight minutes away from the adjournment that is all, we are eight minutes away.

**CHAIRPERSON:** We are twenty minutes away.

**ADV ALLI:** Sorry...[intervene]

**CHAIRPERSON:** Quarter past, yes.

**ADV ALLI:** But I presume because we had the early start at nine.

**CHAIRPERSON:** Ja.

**ADV ALLI:** We will take it at 11 o'clock.

20 **CHAIRPERSON:** Ja.

**ADV ALLI:** It is fair enough Chair I will monitor the way that it goes and if we feel we need to raise a further objection then we will do so, thank you.

**CHAIRPERSON:** Yes of course we can take a tea break at 11:00 and then resume at half past. So maybe let us use

the next seven minutes and then we will take an early tea break at 11:00 and then take 30 minutes.

**ADV ALLI:** Thank you.

**ADV HOFMEYR:** Thank you.

**CHAIRPERSON:** Yes, okay alright.

**ADV HOFMEYR:** Thank you Chair we will see how far we can get by then. So you were telling us more about this meeting Mr Ndzeke. You were there, you there with your brother. I think I asked was Ms Memela there and sorry I  
10 did not catch your answer. Was Ms Memela at the meeting?

**MR NDZEKU:** No she was not.

**ADV HOFMEYR:** No she was not.

**MR NDZEKU:** No she was not.

**ADV HOFMEYR:** Chief Sigcau was there and were there other representatives of the traditional council with him?

**MR NDZEKU:** Well I do not know but I saw these people the Nkhosi and other people Mapagati[?] the chief and then – I do not know what was actually...[intervene]

20 **CHAIRPERSON:** The chief brought certain people with him?

**MR NDZEKU:** Ja, he did bring roundabout two or three, four men.

**CHAIRPERSON:** What positions they hold you do not know.

**MR NDZEKU:** I did not ask.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR:** And what was discussed?

**MR NDZEKU:** Well counsellor it was the issue of the land; this land I am buying from this lady. This lady she introduced me to the chief and said this is the chief, the chief his in charge of everything on this side. So I was happy to meet the chief. Then after that they decide that they wanted to take me straight to the land and next to the  
10 river and then where I saw and then I was very happy.

**ADV HOFMEYR:** So they took you to the land next to the river, is that correct?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** And that is the Umzimvubu River, is that correct?

**MR NDZEKU:** Umzimvubu, yes.

**ADV HOFMEYR:** Which side of the river is the land on the west or the east?

**MR NDZEKU:** Well I do not know I am sorry.

20 **CHAIRPERSON:** Well it must be difficult to explain.

**MR NDZEKU:** I do not know east or west as I am sitting here but I was there and I was very happy and then that is what I can say.

**ADV HOFMEYR:** Is it on the Ntabankulu side of the river?

**MR NDZEKU:** Sorry?

**ADV HOFMEYR:** Is the land on the Ntabankulu side of the river?

**MR NDZEKU:** Side of what?

**CHAIRPERSON:** Ntabankulu.

**MR NDZEKU:** Yes, yes.

**ADV HOFMEYR:** It is on the Ntabankulu side.

**MR NDZEKU:** Well it was the first time I also went there and I did not know if it is Ntabankulu, [speaking in vernacular] I do not know.

10 **ADV HOFMEYR:** Can I have the translation please Mr Interpreter.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** I said it was the first time for me to go there and then I do not know maybe it was the small table or maybe the bigger one, you know the way they are calling it.

**CHAIRPERSON:** He said Ms Hofmeyr he did not know whether it was Ntabankulu or Ntaban'ning'ning now Ntaban'ning'ning is the opposite of Ntabankulu.

20 **ADV HOFMEYR:** Ntabankulu yes I understand.

**CHAIRPERSON:** Yes, it may be small.

**ADV HOFMEYR:** I understand.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** But you know the town of Ntabankulu, do you?

**MR NDZEKU:** Well it was the first time I was there.

**ADV HOFMEYR:** Right.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** But you confident that the land was on the Ntabankulu side of the Mzimvubu River?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Thank you and what was the extent of the land?

**MR NDZEKU:** What was what?

10 **ADV HOFMEYR:** What was the extent, how much land?

**CHAIRPERSON:** What was the size of the land?

**MR NDZEKU:** I think it was roundabout 100 or 200 I do not remember to be honest, you know.

**CHAIRPERSON:** 200 what, square meters or?

**MR NDZEKU:** [speaking in vernacular] or maybe 200 square meters.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Or a thousand by some but it was - I did not write it down.

20 **CHAIRPERSON:** Okay.

**MR NDZEKU:** But I did actually write it down at my notes.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Ja, I do not have it now.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR:** You do not have those notes now?



**MR NDZEKU:** No, I do not have it.

**ADV HOFMEYR:** And then there was an affidavit that Ms Hlohlela prepared. Do you remember that affidavit?

**MR NDZEKU:** Can you please try to expand.

**ADV HOFMEYR:** Of course, I could take you to it if you would like.

**MR NDZEKU:** Please, thank you.

**ADV HOFMEYR:** It is in Tab 6 where we were earlier and it is at page 24.

10 **MR NDZEKU:** Page?

**ADV HOFMEYR:** 24.

**MR NDZEKU:** Where is it what?

**ADV HOFMEYR:** Tab 6.

**MR NDZEKU:** 6?

**ADV HOFMEYR:** Yes and then if you find page 24 in Tab 6.

**MR NDZEKU:** Yes, page 24 I have got it here.

**ADV HOFMEYR:** Do you remember...[intervene]

20 **MR NDZEKU:** No, no wag n' bietjie no, no it is page 14 here I am wrong now.

**ADV HOFMEYR:** Sorry 24. It is after the last page of the sale agreement.

**CHAIRPERSON:** Are you able to find it Mr Ndzeke? Are you able to find it, page 24?

**MR NDZEKU:** I am at page 21 now, did you say page what

– 24?

**ADV HOFMEYR:** 24.

**CHAIRPERSON:** 24, yes.

**MR NDZEKU:** The last page or what is it then? Ja page 24 yes I can see it here.

**ADV HOFMEYR:** Chair I did go to a document but it is a document that Mr Ndzeke provided to the Commission.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** So that is the affidavit from Ms Hlohlela,  
10 do you recall that?

**MR NDZEKU:** What are you saying now counsellor, what about this?

**ADV HOFMEYR:** Do you remember that document?

**MR NDZEKU:** This document?

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** Yes, I think so.

**ADV HOFMEYR:** Thank you. Mr Ndzeke, Ms Kwinana, Ms Yakhe Kwinana...[intervene]

**MR NDZEKU:** Yes.

20 **ADV HOFMEYR:** Your affidavit before the Commission indicates that you only got to know her in the last three years or so. Is that correct?

**MR NDZEKU:** Last three years?

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** Did I say that?

**ADV HOFMEYR:** You did, yes. I can take you to it if you would like but feel free to clarify if that is incorrect. When did you first get you know Ms Yakhe Kwinana?

**MR NDZEKU:** Well I was advised when I am doing the payment that I must use actually Ms Kwinana's name there you know. They said please because I think Kwinana and Ms Memela they bought the land which is the land have got nothing to do with me but they said if you pay it you Ms Mbanjwa please use Ms Kwinana as a reference.

10 **ADV HOFMEYR:** Okay that is using her as a reference but I understood your affidavit to say you have got to know her in the last three years Ms Kwinana. Is that correct?

**MR NDZEKU:** Well not to say – it also depends counsellor when you say know her. What is – what do you mean by saying know her?

**ADV HOFMEYR:** I am not sure that is the word you used in your affidavit.

**MR NDZEKU:** I am what?

20 **ADV HOFMEYR:** Those were the words that you used in your affidavit.

**MR NDZEKU:** Well I think maybe my – my friend did that the other one actually they were helping me.

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** He will have to explain to me what was the meaning of that.

**ADV HOFMEYR:** Okay maybe you can explain now. What is your relationship with Ms Kwinana?

**MR NDZEKU:** No relationship at all.

**ADV HOFMEYR:** When did you first meet her?

**MR NDZEKU:** Well there was no need for me to meet her.

**CHAIRPERSON:** When did you...[intervened]

**MR NDZEKU:** I never met her.

**CHAIRPERSON:** When did you have your first encounter with her?

10 **MR NDZEKU:** Well Chair I never, I do not remember meeting you know her there.

**CHAIRPERSON:** Would it be about three years ago, two years ago, five years ago, what is your estimate?

**MR NDZEKU:** I think it must be roundabout seven, eight years ago.

**CHAIRPERSON:** About seven or eight years ago.

**MR NDZEKU:** Nine years ago, because Mr Goniwe he introduced me, the late Mr Goniwe – rest in peace - he introduced me to Ms...[intervene]

20 **CHAIRPERSON:** Ms Kwinana.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** Oh.

**MR NDZEKU:** Yes, that long time ago.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR:** And what is – you said you do not have

a relationship with her.

**MR NDZEKU:** No.

**ADV HOFMEYR:** Have you never met her face to face?

**MR NDZEKU:** Well as I said the late gentleman he introduced me that was eight, nine years ago.

**ADV HOFMEYR:** And was that in a social setting?

**MR NDZEKU:** No I think they were just; it was an ANC meeting where everybody was there.

**ADV HOFMEYR:** Okay.

10 **MR NDZEKU:** You know the main guy here it was Mr Goniwe himself, Ms Kwinana she was there you know.

**ADV HOFMEYR:** Right.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** And other than that have you met with her personally?

**MR NDZEKU:** I do not remember.

**ADV HOFMEYR:** Do you remember in 2016 while that Swissport ground handling contract was being negotiated having any dealings with her?

20 **MR NDZEKU:** Well I remember very well at that time myself and Peter Cole and other gentleman we went to SAP, SAA, I was called by that time. I do not remember who was there but I saw there were people they were sitting.

**ADV HOFMEYR:** Is that when you signed the agreement?

**MR NDZEKU:** No we did not sign an agreement. There was no agreement signed.

**CHAIRPERSON:** I promised that we would take the tea break at 11:00. I think let us take the tea break it is 11:03 and then we will resume let me make it 11:35. So we will take the adjournment and we will come back at 11:35. We adjourn.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

10 **CHAIRPERSON:** Okay let us continue.

**ADV HOFMEYR:** Thank you Chair. Chair just before the break Mr Ndzeke we were dealing with Ms Yake Kwinana and the extent of your interactions with her and I would just like to get clear on a few aspects there. You said you remembered a particular meeting in 2016 that you attended at SAA where she was present, is that correct?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** And you said you...

20 **CHAIRPERSON:** Please switch on your microphone Mr Ndzeke. Switch on your microphone. Yes.

**ADV HOFMEYR:** And I understood you to say she was present at that meeting, is that correct?

**MR NDZEKU:** No I did not say she was present. I said we went in that meeting there were three – four people and two ladies. I did not even know Yake by that time.

**ADV HOFMEYR:** You did not know her by that time?

**MR NDZEKU:** Ja.

**ADV HOFMEYR:** Okay. So it could have been her but it might not have been her, is that your evidence?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Right. And you said you attended with another gentleman who were the people at that meeting?

**MR NDZEKU:** Well from – you mean from Swissport?

**ADV HOFMEYR:** Well generally who was at the meeting? I  
10 think you mentioned Mr Kohl is that correct?

**MR NDZEKU:** Ja I think it was Bob Gurr.

**ADV HOFMEYR:** Bob Gurr right.

**MR NDZEKU:** Yes. And then Peter Kohl.

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** Lester Peter

**ADV HOFMEYR:** Right.

**MR NDZEKU:** And then also – there was also another gentleman which is – was introduced Peter Kohl introduced me to this gentleman as one of the empowerment of – a new  
20 guy in [00:01:29]. I just forgot his name. His name was Peter something like that?

**ADV HOFMEYR:** Peter something.

**MR NDZEKU:** He was also there in the meeting.

**ADV HOFMEYR:** Was that the first time you had met this person named Peter?

**MR NDZEKU:** No it was not.

**ADV HOFMEYR:** Okay when had you met him before?

**MR NDZEKU:** I – Peter called and he introduced me to Peter and then again, I remember very well myself and Willie Holloway – Willie Holloway was a Swissport CEO and then he also introduced me to this young man. They know each other – this Peter – other guy.

**ADV HOFMEYR:** Okay sorry we are going to need to go a little bit slower there. So you attend this meeting at SAA.

10 **MR NDZEKU:** Yes.

**ADV HOFMEYR:** Right. You are there with Mr Kohl, correct?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** And Mr Bob Kerr – Gurr?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Correct?

**MR NDZEKU:** Yes.

20 **ADV HOFMEYR:** At that meeting you are introduced to another gentleman you recall with the name of Peter is that correct?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Okay. What I then asked is did you know Mr Peter before that meeting?

**MR NDZEKU:** Yes I think I did meet him.

**ADV HOFMEYR:** You had met him?



**MR NDZEKU**: Yes I did.

**ADV HOFMEYR**: Where had you met him?

**MR NDZEKU**: I think I met him at Swissport office because Peter phoned me, he told me that there are two actually gentlemen he wants me to meet and then I – it was actually this Peter and also another one. These are part of the empowerment they wanted to use for Swissport.

**ADV HOFMEYR**: I see. And did you know Mr Peter socially?

**MR NDZEKU**: Well I cannot say yes, no because the last  
10 time I met Peter it was myself and Peter – and Willie Holloway we attended actually the soccer together – socially no.

**ADV HOFMEYR**: So you attended a soccer game with him, is that correct?

**MR NDZEKU**: Correct yes.

**ADV HOFMEYR**: Did you see the photo of that in the bundle in the break?

**MR NDZEKU**: No I have got the photo by the way myself and Peter Holloway.

20 **ADV HOFMEYR**: Yes.

**MR NDZEKU**: I did not see it – is it here?

**ADV HOFMEYR**: Yes.

**MR NDZEKU**: Okay.

**ADV HOFMEYR**: Which soccer game was it?

**MR NDZEKU**: It was the 2010.

**ADV HOFMEYR:** 2010?

**MR NDZEKU:** Ja World Cup.

**ADV HOFMEYR:** Soccer World Cup?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** So you met with Mr Peter – well you had attended the 2010 Soccer World Cup with Mr Peter, is that correct?

**MR NDZEKU:** The person introduced me that time to Peter it was Willie Holloway the CEO of Swissport. He – we find him  
10 there and then we got the tickets – we were together in the game.

**ADV HOFMEYR:** Right. Then jump to 2016 when you have your meeting at SAA and Mr Peter is introduced to you again. Did you have interactions with him between the Soccer World Cup in 2020 and the meeting at SAA in February 2016?

**CHAIRPERSON:** 2010 you said 2020.

**ADV HOFMEYR:** Apologies 2010.

**MR NDZEKU:** No, no after 2010 and then he came again to  
20 Swissport. I think there was an issue where the SAA they were introducing this thing of 30% of black empowerment and then they say Swissport must have another empowerment and then Peter came with another people also – they were around two, three empowerment who came to Swissport which is the CEO of Swissport did introduce me to

these people not only to Peter.

**ADV HOFMEYR:** And it was through Swissport that you then met him again, is that correct?

**MR NDZEKU:** Yes correct yes.

**ADV HOFMEYR:** And then is the next time you interact with him at the February 2016 meeting with SAA, is that correct?

**MR NDZEKU:** Yes if I remember correctly yes.

**ADV HOFMEYR:** Right and at that meeting Ms Kwinana may have been there she may not have been there you did not  
10 know her at the time, is that correct?

**MR NDZEKU:** Well there were two ladies there and then another gentlemen and the meeting did not take time. It was well a few minutes and then we left.

**ADV HOFMEYR:** But you were not able to identify Ms Kwinana as one of those two ladies, correct?

**MR NDZEKU:** Well I could, I could say yes she was there – another lady as well – there were two people yes.

**ADV HOFMEYR:** Because your evidence a moment ago was that you did not know if Ms Kwinana was at that meeting.  
20 What is your evidence now Mr Ndzeke?

**MR NDZEKU:** Well I do not remember. I could identify – there were two ladies. I do not – you know – there was nothing for me to say this is Kwinana or this is not Kwinana because I was invited by – by Peter Kohl they say let us attend the meeting. There are issues of Swissport. So we

went there.

**CHAIRPERSON**: By that time, you knew Ms Kwinana or you did not know her as yet?

**MR NDZEKU**: Well as I say Chair I was introduced to Ms Kwinana by the late [00:06:07].

**CHAIRPERSON**: It was eight years – nine years ago.

**MR NDZEKU**: Yes. And after that I started to know her.

**CHAIRPERSON**: Yes.

**MR NDZEKU**: Yes. We started – I started to know her  
10 because Willie Holloway the Swissport CEO of Swissport I think I think I was dealing with them.

**CHAIRPERSON**: Hm.

**MR NDZEKU**: Yes.

**CHAIRPERSON**: So – so if she was at this meeting there is no way you would not have recognised her, is that right?

**MR NDZEKU**: I think she was in the meeting Chair.

**CHAIRPERSON**: You think she was in the meeting?

**MR NDZEKU**: Yes I think it was – yes.

**CHAIRPERSON**: Okay alright.

20 **ADV HOFMEYR**: And your role at this meeting Mr Ndzeke? What was your role?

**MR NDZEKU**: Well I was invited as part of Swissport.

**ADV HOFMEYR**: I understand your affidavit to have said you paid no role in the negotiations of that contract, is that correct?

**MR NDZEKU**: Correct yes.

**ADV HOFMEYR**: And you just listened, is that correct?

**MR NDZEKU**: Only few – there was only a few minutes we were there with Peter Kohl. We did not even time and then they told us to go.

**ADV HOFMEYR**: Hm. You would have been aware as a consequence that the Swissport agreement this one with SAA was a very important one for Swissport, was it not?

**MR NDZEKU**: Can you repeat again Counsellor?

10 **ADV HOFMEYR**: Were you aware that this agreement between Swissport and SAA was a very important agreement for Swissport?

**MR NDZEKU**: Well they did not have another ground handling Swissport was the only one.

**ADV HOFMEYR**: Hm. It – well no I am saying for Swissport the agreement with SAA was very important, correct?

**MR NDZEKU**: Correct yes.

**ADV HOFMEYR**: Yes. It comprised about 70% of Swissport's business in South Africa, is that correct?

20 **MR NDZEKU**: Well I am not – I do not know because I am not sitting in the – on the papers – on their – on the company.

**CHAIRPERSON**: But are you able to say it ...

**MR NDZEKU**: Well Chair SAA was not the only client of SAA.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Before SAA Swissport had other clients.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Before SAA there was a company called – was doing a ground handling called Apron Service then after that was also another. Swissport was big business with other. I cannot say it was 70% because why...

**CHAIRPERSON:** But are you able to say it constituted or it would constitute a substantial amount of business?

10 **MR NDZEKU:** Well I can say that it was part of the client yes.

**CHAIRPERSON:** Yes okay.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** And just to return to Ms Kwinana as I understand it you see her at this meeting on the – I think it was the 10 February 2016 did you have other interactions with her over the course of 2016?

**MR NDZEKU:** I think so yes Ma'am. Ja we did talk.

**ADV HOFMEYR:** You did talk. What about?

20 **MR NDZEKU:** Well we were busy talking I do not know what it was about but we were busy talking. I do not remember but we were talking.

**ADV HOFMEYR:** She was the Head of – she was the Chair of the board of SAA Technical at the time and she was also a non-executive member of SAA and you were a director of

Swissport would it not have been improper for you to be engaging with her and talking to her while big agreements were being concluded?

**MR NDZEKU:** Well Counsellor another actually made by me may I just add earlier – or maybe ask you? When it comes to the issues of – of engaging on the ground handling or the contract I am not part of that.

**MR NDZEKU:** No but...

**MR NDZEKU:** Peter – they are there. There are people at  
10 Swissport who are doing that not me.

**ADV HOFMEYR:** I understand that Mr Ndzeke.

**MR NDZEKU:** I can talk actually – I can talk to Kwinana I can talk to Dudu I can talk to anybody. I am not part of the team who are doing the job.

**ADV HOFMEYR:** Mr Ndzeke...

**MR NDZEKU:** And I can also not influence that at least they must say yes or no because I am far away from those things.

**ADV HOFMEYR:** Mr Ndzeke were you a director of Swissport in 2016?

20 **MR NDZEKU:** From – for a long time.

**ADV HOFMEYR:** Were you a director of JM Aviation South Africa in 2016?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Was JM Aviation South Africa and Swissport both trying to get contracts from SAA over the

period of 2016?

**MR NDZEKU**: Yes.

**ADV HOFMEYR**: Sorry yes I think your voice just dropped there.

**MR NDZEKU**: What are you saying again Counsellor?

**ADV HOFMEYR**: I said was JM Aviation and Swissport South Africa trying to get contracts with SAA in 2016?

**MR NDZEKU**: Well you say Swissport was trying but Swissport was handling SAA. I am confused now you say  
10 they were trying. They were then with SAA.

**ADV HOFMEYR**: They did not have a contract.

**MR NDZEKU**: I do not know that – I did not know that. Sorry.

**ADV HOFMEYR**: They did not have a contract with SAA.

**MR NDZEKU**: I did not know that – they did not have a contract.

**ADV HOFMEYR**: That was not discussed at the meeting on the 10 February 2016 that you attended?

**MR NDZEKU**: Well as I said that meeting did not only take  
20 ten minutes then we left. They did not say nothing. Peter Kohl was there with the papers and after that we left. I think this other gentleman was there he was supposed actually to be helping Peter Kohl because him and Peter Kohl they attended a meeting in Durban of the empowerment. I was not part of that.



**ADV HOFMEYR:** Mr Ndzeke is it your evidence before this commission that on the 10 February 2016 meeting between Swissport and SAA the contract for ground handling services by Swissport was not discussed?

**MR NDZEKU:** I do not remember.

**ADV HOFMEYR:** Hm. And...

**CHAIRPERSON:** What was the purpose of that meeting?

**MR NDZEKU:** Peter Kohl.

**CHAIRPERSON:** As you understood it.

10 **MR NDZEKU:** As I understand Peter Kohl told me that there was a meeting which is – it must be attended and please he want me to come. And Bob is part of marketing of Swissport. We left we went straight there. We found another two gentlemen I think another one was there Lester Peter something like that a very big gentleman who was sitting there. And a person was talking it was Peter Kohl.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** If I remember very clearly, I think Swissport they were trying to talk to them but I was not – I was not  
20 invited that at least I must be part of that.

**CHAIRPERSON:** Yes but did you ask before you went to the meeting what the meeting was about?

**MR NDZEKU:** Chair as a person who is working when they see you say come – you go to a meeting – he has got an agenda – you just come. That is exactly what I did.

**CHAIRPERSON**: So you did see an agenda?

**MR NDZEKU**: I did not see an agenda no.

**CHAIRPERSON**: You did or you did not?

**MR NDZEKU**: I did not.

**CHAIRPERSON**: So when the meeting started somebody must have said what the meeting was about?

**MR NDZEKU**: Well a person was busy trying to talk. It was Peter Kohl.

**CHAIRPERSON**: Ja.

10 **MR NDZEKU**: Myself and Bob Gurr we standing there. I repeat again Chair it only takes two, three minutes and then we were out.

**CHAIRPERSON**: Why did it take such a short time?

**MR NDZEKU**: Well I think maybe Peter Kohl did not have document they wanted. It is exactly my understanding because they wanted some few document from him which is he did not have.

**CHAIRPERSON**: Are you therefore saying there was nothing of substance that was discussed at that meeting?

20 **MR NDZEKU**: Well the way I look at it they wanted some document from Peter.

**CHAIRPERSON**: Ja.

**MR NDZEKU**: He did not have. That is why we left very quick. I do not know maybe after that.

**CHAIRPERSON**: Ja.

**MR NDZEKU:** Did they have another meeting but the time I was there I did not see any.

**CHAIRPERSON:** But did they ask him for documents as you recall or you are not sure about that?

**MR NDZEKU:** They did yes.

**CHAIRPERSON:** They did?

**MR NDZEKU:** Yes.

**CHAIRPERSON:** And he did not have them at hand?

**MR NDZEKU:** They were – he did not have them.

10 **CHAIRPERSON:** There were some documents but there were some that he did not have?

**MR NDZEKU:** Chair I do not remember but he did not have that document they wanted.

**CHAIRPERSON:** Yes oh okay.

**MR NDZEKU:** Yes. I think the mere fact that...

**CHAIRPERSON:** And that was the reason for the meeting.

**MR NDZEKU:** The mere fact Chair we did not sit in the meeting to discuss it is because he was not – he did not have document.

20 **CHAIRPERSON:** Yes. And the absence of those documents that they were looking for was the reason why the meeting took such a short time?

**MR NDZEKU:** I think that was the reason.

**CHAIRPERSON:** Yes okay.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** Ms Hofmeyr.

**ADV HOFMEYR:** Mr Ndzeke the document that Ms Kwinana demanded from Mr Kohl at that meeting was a signed contract that would have given 30% of the revenues for the ground handling contract that was going to earn Swissport R1.5 billion and Mr Kohl said he did not have the signed contract because Swissport could not conclude that deal. Does that refresh your memory?

**MR NDZEKU:** Well they did not tell me anything about that.

10 **ADV HOFMEYR:** You were in the meeting Mr Ndzeke.

**MR NDZEKU:** No, no, no I did not – they did not tell me anything about that. They never actually talk about that.

**ADV HOFMEYR:** No Mr Ndzeke let me be clear about the evidence.

**MR NDZEKU:** No, no Counsellor let me explain to you. Peter Kohl is in charge. Peter Kohl and Bob Gurr, they are the people actually who are doing the marketing on the issues of SAA.

20 **CHAIRPERSON:** Yes Mr Ndzeke yes, no, no you have told us that quite a number of times.

**MR NDZEKU:** Times yes.

**CHAIRPERSON:** Ja. What Counsel is asking for is nothing more than your own knowledge. If you do not know you say you do not know.

**MR NDZEKU:** I do not know.

**CHAIRPERSON:** If you do know you say you do know.

**MR NDZEKU:** No I do not know.

**CHAIRPERSON:** But if you say you do not know and Counsel does not accept that she might probe further okay.

**MR NDZEKU:** Okay.

**CHAIRPERSON:** Okay. Ms Hofmeyr just...

**MR NDZEKU:** Counsellor I do not know.

**CHAIRPERSON:** Ja.

**ADV HOFMEYR:** You do not know?

10 **MR NDZEKU:** Yes.

**ADV HOFMEYR:** So again I just need to clarify. You were present at a meeting at which Ms Kwinana asked for the signed contract from Swissport and Mr Kohl said he does not have it because they cannot agree to the terms. Do you remember that?

**MR NDZEKU:** I do not remember that.

**ADV HOFMEYR:** You do not remember that. Do you remember Ms Kwinana at that meeting saying that they were going to terminate the existing relationship with Swissport  
20 because it would not sign the agreement?

**MR NDZEKU:** Well you know what Counsellor as I said before the meeting did not even take five minutes and then we were gone.

**ADV HOFMEYR:** Do you remember...

**MR NDZEKU:** Peter – no, no Peter Kohl was the man

actually who was talking. The reason for the meeting we went there I did not even know because I was not involved.

**CHAIRPERSON:** Hang on Mr Ndzeke. You did say you want us to finish.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** Yes. The one way to make sure we finish is to just answer the question that is being put to you.

**MR NDZEKU:** Okay.

**CHAIRPERSON:** So Ms Hofmeyr just put that question  
10 again.

**ADV HOFMEYR:** Indeed. Do you remember...

**CHAIRPERSON:** And then you answer it.

**ADV HOFMEYR:** That Ms Kwinana said to Swissport at that meeting that SAA was terminating its existing contract with Swissport because it would not sign the contract?

**MR NDZEKU:** He was talking to Peter Kohl.

**ADV HOFMEYR:** You remember her saying that?

**MR NDZEKU:** I do not remember that.

**ADV HOFMEYR:** Right. And then you had a series – you tell  
20 me that you did interact with Ms Kwinana outside of that meeting at the time, is that correct?

**MR NDZEKU:** At that time?

**ADV HOFMEYR:** Hm.

**MR NDZEKU:** No.

**ADV HOFMEYR:** No not at that time?

**MR NDZEKU**: No I did long time ago not that time.

**ADV HOFMEYR**: Not that time? So in 2016 you were not communicating with her other than at that meeting?

**MR NDZEKU**: Well we did talk. You know we – we talk we phone each other.

**CHAIRPERSON**: Hm.

**MR NDZEKU**: And then the reason why actually I wanted to understand from her it was about this young man Peter – Peter I forgot what his surname from [00:17:06] Park I do not  
10 know the company which is they were telling me that they have to attend the meetings with 30%. I said can you please explain to me who is this guy? I did talk to her in order to find out about this young gentleman.

**ADV HOFMEYR**: Is the young gentleman Daluxolo Peter?

**MR NDZEKU**: Exactly Xolo yes.

**ADV HOFMEYR**: Right.

**MR NDZEKU**: Mr Xolo yes.

**ADV HOFMEYR**: Right because there are two Peters we are going to be talking about today Chair.

20 **MR NDZEKU**: Thank you very much.

**ADV HOFMEYR**: So I want us to be clear.

**CHAIRPERSON**: Okay.

**ADV HOFMEYR**: There is Daluxolo Peter and there is Lester Peter.

**MR NDZEKU**: Xolo Peter, Xolo Peter.

**ADV HOFMEYR:** Right. So the person who was present at the meeting the gentleman who you were introduced to who you attended the 2010 World Cup with is Daluxolo.

**MR NDZEKU:** It is Daluxolo.

**ADV HOFMEYR:** Peter correct?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Right. Now you have this meeting on the 10 February 2016 at which you do not recall Ms Kwinana saying we are severing ties with Swissport because you will not sign an agreement that gives 30% of your revenues to our nominated company. And then you chat to her on the phone around that time. Is that correct?

**MR NDZEKU:** Well the reason why I was talking to Ms Kwinana it was about Xolo.

**ADV HOFMEYR:** Right.

**MR NDZEKU:** Xolo he was a new BEE he was introduced. He introduced himself that he was in the meeting between Ms Kwinana and Dudu on that issue of 30%. So I said talk to Peter – to Peter Kohl. Peter Kohl is the CEO. So everything was happening on that 30%. Even Peter Kohl he flew actually to Durban with Xolo this gentleman. I was not even there.

**ADV HOFMEYR:** So you were talking to Ms Kwinana then about the deal, were you not? Because if Mr Daluxolo Peter was going to be the empowerment partner then you were



talking about the very deal that was the subject matter of the discussion.

**MR NDZEKU**: No we were talking – we were talking about the empowerment because they wanted Swissport must have 30% shares. It must have 30% empowerment not about the deal.

**ADV HOFMEYR**: No.

**MR NDZEKU**: The deal actually belongs to Peter Kohl. Peter Kohl is the CEO.

10 **ADV HOFMEYR**: No Mr Ndzeke let us go through this slowly.

**MR NDZEKU**: Yes.

**ADV HOFMEYR**: SAA was engaging with Swissport towards the end of 2015 about the new ground handling contract for five years. Correct?

**MR NDZEKU**: Can you just stop there. Before that who was handling actually SAA?

**ADV HOFMEYR**: Mr Ndzeke it will be helpful if you just answer the questions.

20 **CHAIRPERSON**: Ja hang on – hang on Mr Ndzeke. Mr Ndzeke. Please just answer the question. The question is whether you confirm that towards the end of 2015 SAA was engaging with Swissport about a new ground handling contract. Do you confirm that that was the position or are you not able to confirm?

**MR NDZEKU:** I cannot confirm because Peter Kohl was doing his own thing in his corner with Bob Gurr.

**CHAIRPERSON:** Hm.

**MR NDZEKU:** Whenever they have got meetings Chair they are on their way they talk. And then when they need a black face they say come let us go. Which is I was that person. Whenever they go to the meeting and then I must be part of the meeting. Do I have the agenda Chair? No I do not have.

**CHAIRPERSON:** Hm. Okay.

10 **ADV HOFMEYR:** It was a component of that new contract that SAA was seeking to conclude with Swissport that Swissport gives 30% of its revenues under that contract to a nominated empowerment company. Were you aware of that?

**MR NDZEKU:** Can you say it again Counsellor?

**ADV HOFMEYR:** Yes. It was a part of that ground handling contract the new one that was going to be concluded between SAA and Swissport that Swissport would be required to give 30% of its revenues to a nominated empowerment company. Were you aware of that?

20 **MR NDZEKU:** Well they did discuss that.

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** Now on the board yes they did.

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** Which is they were not happy about that.

**ADV HOFMEYR:** Hm.

**CHAIRPERSON:** And they is Swissport?

**MR NDZEKU:** Sorry?

**CHAIRPERSON:** Who was not happy about that?

**MR NDZEKU:** Swissport – Swissport board they were not happy about that.

**CHAIRPERSON:** Yes. Yes.

**MR NDZEKU:** They said no.

**CHAIRPERSON:** Okay.

**MR NDZEKU:** They are not going to do it.

10 **CHAIRPERSON:** Ja okay.

**ADV HOFMEYR:** And Mr Daluxolo Peter was there as the possible empowerment partner, is that correct

**MR NDZEKU:** Of – yes of the new – of yes.

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** Of that 30% yes.

**ADV HOFMEYR:** Yes. So then after that meeting you have told us in your evidence today you phoned Ms Kwinana to talk to her about the empowerment partner, correct?

**MR NDZEKU:** Yes.

20 **ADV HOFMEYR:** Yes. So you were talking to her.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** About the very contract that was on the table to be concluded between Swissport and SAA, correct?

**MR NDZEKU:** Well I do not know because that was Peter's job Counsellor of the contract. I mean empowerment.

Whenever Peter Kohl is bringing empowerment, he always call me that if we can we discuss this – this is exactly. The issue of the contract by the way it is because – the CEO is the one who is in charge of it.

**CHAIRPERSON:** But why were you then talking to Ms Kwinana about the empowerment partner?

**MR NDZEKU:** Very good because they – this young gentleman he told Peter Kohl that Peter Kohl for them to do business Chair they will have to have 30% shares of  
10 Swissport.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** And then Peter Kohl said no we cannot because we have got empowerment.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Then he started to introduce this young man to me he says listen this is the person we must work with.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** And Peter Kohl flew from Johannesburg and this young man straight to Durban to another meeting of  
20 empowerment which is what was happening there. I think Ms Kwinana was here and Dudu was there. It was also road show of empowerment. I was not part of that.

**CHAIRPERSON:** Yes. No. But my question is quite a few times you have emphasised that Peter Kohl was the one who was dealing with...

**MR NDZEKU**: Yes empowerment yes.

**CHAIRPERSON**: I think operations and so on and you were not involved. And my question is why were you then phoning Ms Kwinana about this empowerment partner? Why were you not leaving that Peter Kohl to do?

**MR NDZEKU**: No, no because Peter Kohl he asked me to do that because this young man told Peter Kohl that he will be going actually to Durban. He wants me and him to go to Durban and Peter Kohl because he was told by Ms Myeni  
10 and Ms Kwinana. So that is why now I was talking to Ms Kwinana about this young man about this 30% because one of the company the budget – budgeted ACSA they also had this problem. So I just wanted to find out Chair.

**CHAIRPERSON**: So you did get involved in operational matters when – sometimes?

**MR NDZEKU**: Sometimes yes.

**CHAIRPERSON**: Yes. Ms Hofmeyr.

**ADV HOFMEYR**: How many times did you speak to her about it?

20 **MR NDZEKU**: About what Chair?

**ADV HOFMEYR**: The empowerment partner?

**MR NDZEKU**: I think many times.

**ADV HOFMEYR**: Many?

**MR NDZEKU**: Ja.

**ADV HOFMEYR**: Why would there be a need for many

conversations about the empowerment partner Mr Ndzeke?

**MR NDZEKU:** Well I did not see anything wrong because this young man is here, he wants to – he wants to get a job. So Peter Kohl is asking me do I really give him a job? I said, why are you asking me? Because he wanted to be employed. So the person who – he is always mentioning Ms Kwinana so I said okay let me ask Kwinana what is her story? I do not see anything wrong if I was talking to her.

**ADV HOFMEYR:** No indeed Mr Ndzeke but that is a one  
10 topic, one conversation type of engagement I put it to you. Why did you need many engagements about the empowerment partner?

**MR NDZEKU:** I do not know. I decided to call her because this gentleman was here. He wanted to get the job. He wanted to be part of this and Peter was asking me, do we give him a job or what do we do? You know.

**ADV HOFMEYR:** So tell me...

**CHAIRPERSON:** When you phoned Ms Kwinana for the first  
20 time about the BEE partner what did you want to find out from her about the BEE partner empowerment partner?

**MR NDZEKU:** Well first time I called Ms Kwinana this young man was there. Daluxolo can you please explain me exactly what is happening? He says but Husisi and Dudu they are saying I must be part of this. So I said how can you be part of this when Swissport has got empowerment? You know

Chair it was – it was just a long story with Daluxolo which is – it was not only him alone. So that is why I was asking Ms Kwinana if she must explain to us exactly what is happening. And I said I think Peter he must actually be the one who is talking to Ms Kwinana not me. Because Daluxolo is all the time with – with Peter Kohl.

**CHAIRPERSON:** Did the empowerment partner say to you...

**MR NDZEKU:** They are not happy.

**CHAIRPERSON:** Ms Kwinana had said he should be part of  
10 this. Is that what he said to you?

**MR NDZEKU:** Daluxolo yes he did say that.

**CHAIRPERSON:** That is what he said to you. And did he refer to Ms Kwinana as Usisi?

**MR NDZEKU:** Yes he did.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Actually, it was not Ms Kwinana alone it was also Ms Myeni both of them.

**CHAIRPERSON:** Oh did he refer to each one of them as Usisi?

20 **MR NDZEKU:** Usisi yes both of them yes.

**CHAIRPERSON:** Yes. Sisi is sister.

**ADV HOFMEYR:** Indeed, thank you Chair.

**CHAIRPERSON:** Okay. So what he was saying to you was Usisi whether that was Ms Myeni or Ms Kwinana said I must be part of this.

**MR NDZEKU**: Of this yes.

**CHAIRPERSON**: And that is why you then decided you should speak to Ms Kwinana.

**MR NDZEKU**: And find out exactly how do we involve the young man. Because at the moment Swissport they are saying Chair they have got an empowerment.

**CHAIRPERSON**: And your question basically was Swissport has got an empowerment component how does Swissport bring in this new person? That was your question?

10 **MR NDZEKU**: Yes.

**CHAIRPERSON**: And what did Ms Kwinana say to you when you asked her this question?

**MR NDZEKU**: Then she says – Ms Kwinana says Peter Kohl they must decide because I think there was also issue of the equipment because ACSA they were supposed to buy brand new equipment.

**CHAIRPERSON**: Hm.

20 **MR NDZEKU**: Not actually Swissport. Because Swissport they can only have five years. After five years they will have actually renewed the equipment. So now this – this BEE partner of 30% I think Peter wanted to put them there. You know. It was a long story Chair so I did not even know exactly how to start it. You know.

**CHAIRPERSON**: Okay. Ms Hofmeyr.

**ADV HOFMEYR**: So you were chiefly involved in the



negotiations about the empowerment aspect of the contract,  
were you not Mr Ndzeke?

**MR NDZEKU**: Sorry?

**ADV HOFMEYR**: You were involved?

**MR NDZEKU**: Well ...

**ADV HOFMEYR**: In the empowerment aspects of the  
contract.

**MR NDZEKU**: By – well Peter Kohl...

**ADV HOFMEYR**: For Swissport and SAA, correct?

10 **MR NDZEKU**: When Peter Kohl asked me to be involved and  
he asked me to help yes.

**ADV HOFMEYR**: Yes. How many times did he ask you to be  
involved?

**MR NDZEKU**: I think many times.

**ADV HOFMEYR**: Many times?

**MR NDZEKU**: Because it was not only the – this  
empowerment they were dealing with also other  
empowerment.

**ADV HOFMEYR**: Hm. Mr Ndzeke before the break that we  
20 have just had today ...[intervenes]

**MR NDZEKU**: Yes.

**ADV HOFMEYR**: Your version before this commission is that  
you had no involvement at all in the negotiations between  
Swissport and SAA for this contract. Do you recall that?

**MR NDZEKU**: Well it also depend Chair when he says

involvement. You know I did not understand. You know as I said that Chair Peter Kohl is the one actually who is involved – who is in charge of the contract. When he says I did not – I was not involved myself I did not understand. You know but Peter Kohl as I said he is the one who is in charge of the contract.

**ADV HOFMEYR:** No Mr Ndzeke your evidence this morning and I was very clear to get it from you and in your affidavit is that you played no role in the negotiations for this contract.

10 After the break you have confirmed that you played a key role in the negotiations for this contract because of its empowerment aspect.

**MR NDZEKU:** Well...

**ADV HOFMEYR:** Your version today has changed Mr Ndzeke.

**MR NDZEKU:** I do not know now when you say key role what is the meaning of that?

**CHAIRPERSON:** Hang on Mr Ndzeke you must wait for Counsel to finish and then you can respond.

20 **ADV HOFMEYR:** I put it to you that your version over the course of the evidence today has changed Mr Ndzeke. Do you accept that?

**MR NDZEKU:** Well maybe I did not understand you. Even now I do not understand when you say key role what is the meaning of that?

**ADV HOFMEYR:** It means that you had repeated conversations on your phone with Ms Kwinana around the time that this deal was being concluded and you have told us in your evidence a moment ago that that was to discuss the empowerment aspect of the deal.

**MR NDZEKU:** Well I did not know that when I speak to Ms Kwinana it was a problem.

**CHAIRPERSON:** I see in paragraph 13 of your affidavit – unsigned affidavit at page 4 you say:

10            “I did not have any involvement in the negotiations.”

And then paragraph 14.

“After conclusion of the negotiations and a written agreement having been prepared, I was asked by Peter Kohl to accompany him to the meeting to sign the agreement on Swissport’s behalf together with him which I duly did.”

And then 15

20            “This I gather was because I was a black director of Swissport and because the centrality of black economic empowerment to the deal.”

So one certainly gets the impression from what you say here that you were only – you were not involved in the

negotiations and you were only called in for purposes of the signing of the agreement. That is the impression I get from this.

**MR NDZEKU**: Well Chair.

**CHAIRPERSON**: Hm.

**MR NDZEKU**: Let me say it again. Peter Kohl is the man who is in charge of the company. He was the one who was busy talking about the contract. I did not know that the contract expired but whenever there is problems, he is going  
10 to talk to the directors of the company which is in part with the directors and other guys. Then he is going to ask help. For me I do not know what exactly went wrong for me talking to Ms Kwinana or maybe by talking to Ms Kwinana it makes me to – it makes us to get the contract for Peter.

**CHAIRPERSON**: It is from your affidavit. You are saying in the affidavit you were not involved in the negotiations. You accept that?

**MR NDZEKU**: I do.

**CHAIRPERSON**: Yes. And that you were called in at the  
20 time of the signing of the agreement. That is what the paragraph 14 says.

**ADV HOFMEYR SC**: H'm. Let me try and be a little bit slower because I think in fairness to you, I jumped ahead with my questions. JM Aviation played no role at all in the ground handling contract between Swissport and SAA, did it?

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: Yes, it did not play any role, correct?

**MR NDZEKU**: [No audible reply]

**ADV HOFMEYR SC**: Just say yes, please. You nodded and the record will not reflect that.

**MR NDZEKU**: [laughs]

**CHAIRPERSON**: You do not understand? I want you to confirm that... she wants you to confirm that your answer was yes.

10 **MR NDZEKU**: What are you saying again? [laughs]

**CHAIRPERSON**: The question was, you were asked whether to confirm whether JM played any role in the contract between Swissport and SAA.

**MR NDZEKU**: Well, I said no.

**CHAIRPERSON**: Ja, okay.

**MR NDZEKU**: I said no.

**CHAIRPERSON**: H'm.

20 **ADV HOFMEYR SC**: Thank you. Now, what I understand your evidence to be a few moments ago is that Swissport instructed you, JM Aviation to pay R 20 million to Jammicron because Jammicron was going to be the empowerment partner in the ground handling contract. Is that correct?

**MR NDZEKU**: Yes, correct.

**ADV HOFMEYR SC**: Yes. Why would Swissport need to put the money through JM Aviation first to get it to Jammicron if

JM Aviation had nothing to do with the ground handling contract?

**MR NDZEKU**: That is a good question, councillor. It must be asked to Peter Kohl, the one who actually paid the money.

**ADV HOFMEYR SC**: No, why did you not ask him at the time?

**MR NDZEKU**: Well, I did not ask him.

**CHAIRPERSON**: Well, R 20 million is a lot of money, is it  
10 not?

**MR NDZEKU**: It is. It is, Chairman.

**CHAIRPERSON**: Yes.

**MR NDZEKU**: It is coming from Swissport, it is coming from the CEO.

**CHAIRPERSON**: So did Swissport give JM Aviation the R 20 million and said: Pass it on?

**MR NDZEKU**: Let me just say it again, Chairman. Swissport, they did deals with JM Aviation, not only with SAA but with other companies as well. Now when this Jammicron  
20 came onboard, was supposed to be paid.

I am not also going to say about other companies because this was not the first company Swissport did. Remember Chair, this money come from Swissport. It is their money. As CEO, you must make a decision.

**CHAIRPERSON**: Ja.

**MR NDZEKU:** If you feed the board about that it is okay. So now they asked me. They said: Can you...? Actually, they spoke to Jules because Jules actually is their senior.

They explained to him and Jules says: I do not see any problem. Because if maybe me as the... I will say Peter has put money, I would not know exactly how to pay back because I am not involved on signing the cheques and not.

But if Jules agreed that it must be done and it was done. Why the Swissport do it... did it? I do not know councillor.  
10 But Swissport and JM Aviation and Jules, they have got a very, very good relationship in business.

**ADV HOFMEYR SC:** Mr Ndzeke, do you want to know why Swissport paid that money into your account according to Swissport?

**MR NDZEKU:** Please explain to me. I want to know.

**ADV HOFMEYR SC:** There was a contract concluded between Swissport and JM Aviation related to the GSC Workshops. You are aware of that, are you not?

**MR NDZEKU:** The what?

20 **ADV HOFMEYR SC:** There was a contract between Swissport and JM Aviation related to the Swissport's GSC Workshops. Correct?

**MR NDZEKU:** Well, I think Jules was involved on that. I do not know if he knows anything about it. Jules was involved and so Peter Kohl.

**ADV HOFMEYR SC:** Yes, but you do know about it because you have dealt with it in your affidavit in response to the documents summons you received, did you not?

**MR NDZEKU:** Well, when it comes to my attention, when I started to see these are the things I am supposed to respond, then I started asking him. And I think, I said: Jules, you are the one who actually did this. Can you please explain? And I think he did also give his affidavit. Because I was not involved at all there.

10 **ADV HOFMEYR SC:** So in 2016, you did not know that your company, JM Aviation, had concluded a Service Level Agreement with Swissport to deal with the GSC Workshops. Is that your evidence?

**MR NDZEKU:** To deal with?

**ADV HOFMEYR SC:** The GSC Workshops.

**MR NDZEKU:** Well, Jules, again, he was the one who was involved.

**ADV HOFMEYR SC:** No, my question is. Did you have any knowledge of it in 2016?

20 **MR NDZEKU:** I do not remember, councillor. Sorry, I do not remember.

**ADV HOFMEYR SC:** So you may have had knowledge and you do not recall or you did not have knowledge?

**MR NDZEKU:** I did not have... I do not remember to be honest. I cannot say yes or no. I cannot remember.



**CHAIRPERSON:** Well, were there any contracts that... are there any contracts that JM Aviation concluded with, whether SAA or Swissport or any entity, that you remember?

**MR NDZEKU:** Well, there were a few which is with Jules. A few contracts, contract with Swissport.

**CHAIRPERSON:** H'm.

**MR NDZEKU:** Which is he was the one which was involved.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Jules was a senior, also doing the marketing  
10 with Peter.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR SC:** You see, Mr Ndzeke. Swissport said it paid that money that ended up with R 20 million going to Jammicron because of the Service Level Agreement it had entered into between JM Aviation and itself for consulting services on the GSC Workshops that was going to be performed over a year, from the 1<sup>st</sup> of April 2016 to the 31<sup>st</sup> of March 2017. Are you telling me, you have no knowledge of that contract at all?

20 **MR NDZEKU:** That is exactly what he says. It is exactly what it says in this affidavit?

**ADV HOFMEYR SC:** Yes.

**MR NDZEKU:** Well, maybe if he said, he is paid. Maybe it is true. I do not have knowledge of that.

**ADV HOFMEYR SC:** No knowledge of this consultancy

contract?

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** For which JM Aviation received R 28.5 million from Swissport. You were not aware of that?

**MR NDZEKU:** Well, if they are talking about the money, that is why I said Jules was involved in that.

**ADV HOFMEYR SC:** Mr Ndzeke, let us go a little bit slower. So you have no knowledge of the contract that was signed by JM Aviation with Swissport for R 28.5 million to do  
10 consulting services on the GSC Workshops?

**MR NDZEKU:** Councillor... I am sorry, Chair. I am not involved in day-to-day operation.

**CHAIRPERSON:** Yes, Mr Ndzeke but ...[intervenes]

**MR NDZEKU:** So Swissport and the company, Chair.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Swissport, it has got a CEO, it has got an... it has got a marketing. I am not part of that. The same as JM Aviation. Now if the councillor says to me, I was not aware. If I was not aware, the people then doing their job and  
20 maybe they did not tell me. Maybe they did tell me. I forgot.

**CHAIRPERSON:** But Mr Ndzeke, my impression is that these were not small amounts. This was not business for small amounts.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** Certainly not for the size of the company,

the company of the size of JM Aviation as I understand it which might not be correct.

And I would have expected that even if you were not involved in the actual conclusion of the negotiation of the contract, you would know that your company has a contract worth R 28.5 million with another company.

At least that you would have known and what it is for. I would expect you to know at least that part.

**MR NDZEKU**: Yes, Chair. When... if people are working,  
10 they are doing what they doing, then sometimes they tell you something. They do tell you... well, they did tell me. Maybe they did tell me.

**CHAIRPERSON**: But there ought to be reports from the management as well about what is happening in the company so that you have an idea what is happening in the company even if you are not involved in the daily operations.

You get to know if the company seems to be doing well or what the future of the company is because it has just got business, a contract for R 28 million.

20 It means for the next two, three years maybe the situation of the company will not be bad. One would expect you to know those things.

**MR NDZEKU**: Well, Chair. JM Aviation, that money did not belong to JM Aviation. It went to Swissport. Swissport paid JM Aviation. Please pay that company.

**CHAIRPERSON:** No ...[intervenes]

**MR NDZEKU:** We did not.

**CHAIRPERSON:** The R 28 million, not the R 20 million, the contract that Ms Hofmeyr refers to, that JM Aviation got a contract for R 28 million as I understand the position.

So I am saying, how could you not at least know about such a development because I do not understand JM Aviation to have been such a big company that R 28 million would be like small change, you know?

10 So I expect that it would be important news that even if you are not involve in the day-to-day operations of the company, you would get to know that my company got a contract from so and so which is worth about R 28 million. This is what my company would be doing.

**MR NDZEKU:** It is fair, Chair. It is right by saying that. But you can councillor explain to me now? When you say JM Aviation, they signed a contract. Which contract are we talking about?

**ADV HOFMEYR SC:** We are talking about the contract for  
20 the R 28.5 million that Swissport paid JM Aviation.

**MR NDZEKU:** Yes?

**ADV HOFMEYR SC:** That is the one I am talking about.

**MR NDZEKU:** Swissport paid JM Aviation?

**ADV HOFMEYR SC:** Yes.

**MR NDZEKU:** Yes, and then that other... for the

consultants. That is exactly what Peter Kohl says. Please, Chair. I do not want to say no. This was Peter Kohl's call. I am sorry. I cannot help you there.

**ADV HOFMEYR SC:** H'm.

**MR NDZEKU:** I am sorry. I cannot.

**ADV HOFMEYR SC:** I would like to return to the Chair's concern about such a substantial amount of money coming into the business and you having now knowledge about it.

**CHAIRPERSON:** H'm.

10 **ADV HOFMEYR SC:** Mr Ndzeke, do you know what the bank balance of JM Aviation was before it received the R 28.5 million from Swissport?

**MR NDZEKU:** No, I do not know.

**ADV HOFMEYR SC:** NO. I will tell you, it was R 1 000,00.

**MR NDZEKU:** It was a R 1 000,00?

**ADV HOFMEYR SC:** Ja. So the bank balance went from R 1 000,00 to R 28.5 million... R28 501 000,00 after the Swissport injection of R 28.5 million. Is that not something that came to your attention at all?

20 **MR NDZEKU:** Well, the persons involved in the money, it is Jules.

**ADV HOFMEYR SC:** No, the person involved in the money is your daughter is Ms Sokulu. She is the only person with signing powers at the bank.

**MR NDZEKU:** She report actually through to Jules.

**ADV HOFMEYR SC:** Jules?

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** So she never told you: Father, we have now got R 28.5 million in our bank account?

**MR NDZEKU:** Councillor, that money it was not for JM.

**ADV HOFMEYR SC:** H'm.

**MR NDZEKU:** You are... Councillor, say yourself the account had exactly R 1 000,00. And from nowhere it went to exactly to 28.

10 **ADV HOFMEYR SC:** Let me tell you what JM Aviation contractually agreed to do for that R 28.5 million, okay?

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** Because that was set out in the detailed service agreement that JM Aviation concluded with Swissport South Africa. It was your daughter, Mr Sokulu who signed this agreement, Mr Ndzeke. Let us talk about what JM Aviation committed to do for that R 28.5 million. Would you like me to take you to the docket?

**MR NDZEKU:** Yes, I will be happy. Yes.

20 **ADV HOFMEYR SC:** The document sets out the services. You will find it in Bundle DD26 as we have called it.

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** And you will find it... sorry, let me just find my index Chair if I may?

**CHAIRPERSON:** [No audible reply]

**ADV HOFMEYR SC:** Right, it is Item 14 Chair and it ...[intervenes]

**CHAIRPERSON:** Under what tab?

**ADV HOFMEYR SC:** It should be tab 14.

**CHAIRPERSON:** Tab 14?

**ADV HOFMEYR SC:** Yes.

**CHAIRPERSON:** Okay.

**MR NDZEKU:** What is the number? What is...?

**CHAIRPERSON:** Tab 14.

10 **ADV HOFMEYR SC:** One four.

**MR NDZEKU:** Number 14?

**ADV HOFMEYR SC:** Tab 14. Let us first go to tab 14.

**MR NDZEKU:** Ja. Okay, take me through that. Okay.

**ADV HOFMEYR SC:** And it starts at page 235. Chair, do you have that?

**CHAIRPERSON:** Yes, I have got it.

**ADV HOFMEYR SC:** Thank you. And if you go to the services, you will find them commencing ...[intervenes]

20 **CHAIRPERSON:** Maybe we... maybe just for the record, we confirm that the document at page 235 under tab 14 is a service agreement between Swissport South Africa (Pty) Limited and JM Aviation South Africa (Pty) Limited. Am I on the right page?

**ADV HOFMEYR SC:** Indeed Chair.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR SC:** Thank you so much. So just to go over just to confirm the signatories. If you go to page 265.

**MR NDZEKU:** [No audible reply]

**ADV HOFMEYR SC:** Mr Ndzeke, do you have that?

**MR NDZEKU:** No, but I am listening.

**ADV HOFMEYR SC:** You are listening?

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** You are happy to just listen?

**MR NDZEKU:** Yes.

10 **CHAIRPERSON:** Did you say 265?

**ADV HOFMEYR SC:** Yes, that is the first of the signature pages.

**CHAIRPERSON:** Okay. That is now under tab 15, né?

**ADV HOFMEYR SC:** H'm.

**CHAIRPERSON:** Is that right?

**ADV HOFMEYR SC:** [No audible reply]

**CHAIRPERSON:** Okay.

**ADV HOFMEYR SC:** Sorry, we were in tab 14 Chair. So it is the last two pages under tab 14.

20 **CHAIRPERSON:** Hang on one second. My 265 is under tab 15.

**ADV HOFMEYR SC:** Oh, sorry. Yes ...[intervenes]

**CHAIRPERSON:** Ja, the last page under two ...[intervenes]

**ADV HOFMEYR SC:** There is an amendment to the agreement. I have given you the wrong page. Please go to



page 263.

**CHAIRPERSON**: Okay alright. 263.

**ADV HOFMEYR SC**: Mr Ndzeke, I would like you to have it in front of you, if you would? Because you need to confirm a signature there.

**MR NDZEKU**: It is page what, 16?

**ADV HOFMEYR SC**: 263.

**MR NDZEKU**: Okay number 16?

**ADV HOFMEYR SC**: Under tab 14, one four.

10 **MR NDZEKU**: Okay. Page what?

**ADV HOFMEYR SC**: 263.

**MR NDZEKU**: Okay, this is... it says agreement, okay.

**CHAIRPERSON**: Under tab 14, page 263.

**MR NDZEKU**: 2-6, here. Yes, I got.

**ADV HOFMEYR SC**: So there is two signatures on that page. The company is Swissport and I can just read there, Peter Kohl appears to be the signatory.

**MR NDZEKU**: Ja, I think 263, hey?

20 **ADV HOFMEYR SC**: Yes. And then you will see under service provider, there is a signature and that person signs as being duly authorised for and behalf of JM Aviation South Africa (Pty) Limited.

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: Do you recognise that signature?

**MR NDZEKU**: Yes, I do.

**ADV HOFMEYR SC:** And that is the signature of your daughter, Ms Sokulu?

**MR NDZEKU:** Hundred percent, yes.

**ADV HOFMEYR SC:** Correct?

**MR NDZEKU:** Yes, it is.

**ADV HOFMEYR SC:** Yes, it is. Now let us look at what services JM Aviation undertook to give and provide to Swissport for the R 28.5 million they earn from this contract.

**MR NDZEKU:** What page? Page what?

10 **ADV HOFMEYR SC:** 245, please.

**MR NDZEKU:** [No audible reply]

**ADV HOFMEYR SC:** You have it, Mr Ndzeke?

**MR NDZEKU:** Ja, I do.

**ADV HOFMEYR SC:** You will see Clause 7 there towards the bottom, it says undertaking?

**MR NDZEKU:** Undertaking?

**ADV HOFMEYR SC:** Yes. And it says the service provider. Just for your convenience, that is JM Aviation under this agreement.

20 "The service provider undertakes to provide the following services to the company..."

And the company is Swissport.

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** I am going to read quite swiftly. It does not need to be read into the record but just to get a

flavour of the services.

**MR NDZEKU**: Ja, ja.

**ADV HOFMEYR SC**: Right. JM Aviation is going to...

“7.1: restructure the company’s workshops throughout South Africa with the aim to improve maintenance processes and procedures so as to optimise the company’s GSCs support services and achieve cost advantages.”

Over the page, it says:

10 “This consist of but is not limited to setting up professional inventory control systems and processes, interface inventory control and finance department, spare part management with the aim to limit GSC downtime and service failures resulting in penalties from the company’s customers, valuation of all existing inventory and assistance with the sale of obsolete and surplus equipment and parts...”

I am going to be briefer now:

20 “Complete the valuation of all existing GSC in connection with the company’s project to refinance, concept materially improve the service ability of the existing equipment, establishment of KPI’s based maintenance processes, review of existing equipment and spare parts procurement processes, providing an optimise supply chain management plan

...[intervenes]

**MR NDZEKU**: Sorry. Sorry, councillor.

**ADV HOFMEYR SC**: Yes?

**MR NDZEKU**: This one Chair, I understand but Mr Aires, he did actually send... he did send actually... how do you call it? He did send his affidavit on this one. He did explain that. He was in charge of this one.

**ADV HOFMEYR SC**: No, he did not speak to this agreement in his affidavit.

10 **MR NDZEKU**: Do you guys do not have it there?

**CHAIRPERSON**: Yes, yes. No, Mr Ndzeke just wait for the question.

**MR NDZEKU**: Okay.

**CHAIRPERSON**: Ms Hofmeyr is just alerting you to what ...[intervenes]

**MR NDZEKU**: The service provider ...[intervenes]

**CHAIRPERSON**: ...the services that JM Aviation undertook to provide to Swissport.

**MR NDZEKU**: Yes, Swissport.

20 **CHAIRPERSON**: Ja.

**MR NDZEKU**: Okay.

**CHAIRPERSON**: For the amount of R 28.5 million.

**MR NDZEKU**: Okay.

**ADV HOFMEYR SC**: They were going to do a fleet management plan. They were going to do an introduction of

quality insurance and a control concept.

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: They were going to enhance integration and coordinate between ramp and workshop functions. There was going to be, over the page at 247, assistance with the sale of retired equipment to African countries or overseas.

Assessment of viable local financing options for new and replacement GSC and other related advisory services  
10 requested by the company.

**MR NDZEKU**: What are page are you now, councillor?

**ADV HOFMEYR SC**: I was at 274. That is the end of the undertakings of the ...[intervenes]

**MR NDZEKU**: Page 247, okay.

**ADV HOFMEYR SC**: ...service provider which is JM Aviation. So Swissport says that it concluded this deal with JM Aviation because it was to procure all of those detailed services and that is why it paid R 28.5 million for.

And your daughter signed as authorised to conclude this  
20 agreement on behalf of JM Aviation.

Is it still your evidence that you had absolutely no knowledge of this agreement at the time?

**MR NDZEKU**: I am saying again. Jules Aires, he was the one who was talking to the CEO of Swissport. Jules as the CEO of JM Aviation and Peter Kohl.

They were the ones actually who did this agreement because Jules is the one who actually got experience of all this, you know.

He did actually say in his affidavit that he and Peter Kohl they had a meeting, they busy talking about this. You ask me if I have any knowledge about this?

Maybe Jules did tell me about it and then maybe he did not tell me but I remember very well that Jules had a lot of meetings with Peter Kohl.

10 **ADV HOFMEYR SC:** Mr Ndzeke, please try and recall. Did Mr Aires tell you about this agreement or not?

**MR NDZEKU:** I cannot hear you?

**ADV HOFMEYR SC:** Did Mr Aires tell you about this agreement or not in 2016?

**MR NDZEKU:** What about 2016 there Chair?

**ADV HOFMEYR SC:** Did mister ...[intervenes]

**CHAIRPERSON:** The question is whether Mr Aires did you tell about this agreement in 2016?

**MR NDZEKU:** I think he did.

20 **CHAIRPERSON:** Okay.

**MR NDZEKU:** I think so, yes.

**ADV HOFMEYR SC:** And then when Mr Kohl told you to take R 20 million of the revenue that was due to JM Aviation for this contract and give it to Jammicron, why did you not say but the R 28.5 million is for all the services that JM

Aviation is going to be providing to your company?

**MR NDZEKU:** Well, I could not say that because he was talking to Jules. It was the CEO of JM Aviation and Swissport. This is exactly the agreement they had. I cannot reply on that one.

**CHAIRPERSON:** But did you get to know at that time that Swissport was saying, you JM Aviation must take R 20 million out of the R 28.5 million that it was getting or was going to get from Swissport and pay it to somebody  
10 else? Did you get to know that at that stage?

**MR NDZEKU:** Chair, it is very simple. I was told by Peter Kohl.

**CHAIRPERSON:** Ja.

**MR NDZEKU:** They are going to pay exactly R 28.5 million or R 20 million. And I said: *Wag 'n bietjie*. You pay Swissport South Africa (Pty) Limited and JM Aviation South Africa (Pty) Limited in this account, tax must be paid.

And then the tax arrangement was made. Now what Jules and Peter Kohl talk about, I do not know. But I think  
20 what is the councillor is saying here about this agreement arrangement. I think I remember, Jules did tell him about it.

**CHAIRPERSON:** H'm.

**MR NDZEKU:** Yes, he did mention it.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** But now the question: Why did you take the

money and you give it to the next...? That was the instruction.

**CHAIRPERSON:** That was...?

**MR NDZEKU:** The instruction from Peter Kohl.

**CHAIRPERSON:** But it is JM's money.

**ADV HOFMEYR SC:** Yes.

**MR NDZEKU:** No, it was ...[intervenes]

**CHAIRPERSON:** For services that JM has undertaken to provide.

10 **MR NDZEKU:** Well, when they told me, they told me that: Please, we want to put this money into your account. Please pay that. It is exactly what happened Chair.

**CHAIRPERSON:** But are you saying that when the money came into JM Aviation, you did not know that money related for ...[intervenes]

**MR NDZEKU:** For the services.

**CHAIRPERSON:** ...related to this services?

20 **MR NDZEKU:** Now, the person now who was dealing, again Chair, with the CEO of Swissport, it was Jules. I did not know anything. But I remember when Peter Kohl says there is money to be paid. That money must be paid. So as far as I know, I did not ask anything because Jules and Peter Kohl were busy talking. Maybe I am saw the wrong things Chair. I do not know.

**CHAIRPERSON:**



**MR NDZEKU:**

**CHAIRPERSON:** Yes.

**MR NDZEKU:** But as far as I know, Jules and Peter Kohl were the people who actually were doing...busy doing this.

**CHAIRPERSON:** Ms Hofmeyr.

**ADV HOFMEYR SC:** Mr Ndzeke, what was Ms van Louw's involvement in the JM Aviation business at this time, March of 2016?

**MR NDZEKU:** Well, she was also the BEE lady because  
10 they needed.

**ADV HOFMEYR SC:** They needed a woman to be a director?

**MR NDZEKU:** Yes. Ja, they needed. Yes.

**ADV HOFMEYR SC:** Because she was actually overseas at the time. Is that correct?

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** Yes.

**MR NDZEKU:** No, no. She was not. She was working here.

**ADV HOFMEYR SC:** She was working here?

20 **MR NDZEKU:** Ja, she was not overseas. She was here.

**ADV HOFMEYR SC:** Who went overseas, which of your daughters?

**MR NDZEKU:** Well, the people who went overseas, these are the people actually was sent by ...[intervenes]

**ADV HOFMEYR SC:** No, no. I understood that at a point,

either Ms Sokulu or Ms Van Louw was overseas.

**MR NDZEKU**: No, no, no.

**ADV HOFMEYR SC**: Am I wrong on that?

**MR NDZEKU**: One of my daughters, she works overseas.

**ADV HOFMEYR SC**: Works overseas?

**MR NDZEKU**: She works there. She has got nothing to do with the... she was never involved in this.

**ADV HOFMEYR SC**: Oh, I see.

**MR NDZEKU**: I am sorry, Chair. She was never involved on  
10 this.

**ADV HOFMEYR SC**: So Ms Van Louw was working in another job at the time. Is that correct?

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: Okay. Was she involved in the day-to-day running of JM Aviation?

**MR NDZEKU**: Well, the same as... no, no, no. She was not. She was part of the empowerment.

**ADV HOFMEYR SC**: Right.

**MR NDZEKU**: You know.

20 **ADV HOFMEYR SC**: So she was there to comprise 65% shareholding in the hands of women. Is that right?

**MR NDZEKU**: At the same when Jules, he is here, they always, when she has got time, they call her that she must participate because Jules wanted actually to train her that she must leave the job and then she must join us.

**ADV HOFMEYR SC:** So when your daughter, Ms Sokulu was authorised to conclude to this agreement, the R 28.5 million agreement.

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** Who did she obtain that authorisation from?

**MR NDZEKU:** Where did she obtain?

**ADV HOFMEYR SC:** The authorisation from to conclude this agreement?

10 **MR NDZEKU:** Well, from Mr Aires, Jules.

**ADV HOFMEYR SC:** And are you aware that the requirement under the memorandum of corporation of your company is that there must be a majority of directors who make decisions in relation to the company?

**MR NDZEKU:** It is very true, councillor. But if you are the majority of the company, you do not have funding, your majority means nothing. It means zero.

**ADV HOFMEYR SC:** No, it is a different point. They before directors at the time that this agreement was concluded. It  
20 was yourself your two daughters and Mr Aires.

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** Right . You need a majority in the decision-making of the board of directors of your company in order to take material decisions on this one.

**MR NDZEKU:** I entirely understand counsellor.

**ADV HOFMEYR SC:** Right.

**MR NDZEKU:** I understand.

**ADV HOFMEYR SC:** So I'm asking who authorised Ms Sokulu to conclude this agreement? If you to this point have said it was a dealing between Mr Aires and Ms Sokulu, you needed another director to authorise this agreement . Who was that?

**MR NDZEKU:** Sorry, Chair. I think it... Mr Jules is the founder and he put money in the company. the Buck stops  
10 with him. He was the one who actually said this must be done.

**CHAIRPERSON:** No ...[intervenes]

**MR NDZEKU:** I understand that by the law you must have but it didn't happen.

**ADV HOFMEYR SC:** It didn't happen?

**MR NDZEKU:** Yes.

**CHAIRPERSON:** Oh okay.

**ADV HOFMEYR SC:** Alright. And you said he put money in the company? But money that he put in the company of JM  
20 Aviation?

**MR NDZEKU:** Who?

**ADV HOFMEYR SC:** Mr Aires.

**MR NDZEKU:** Well, I think when he started... they actually they put to the board on Swissport Straight to Mozambique at the airport. under the equipment, they were going again

to Angola. He was funding it. It was SAA. Swissport, they couldn't actually give us without anything which they used to pay.

**ADV HOFMEYR SC:** And when was that?

**MR NDZEKU:** Must have been about two to three years ago.

**ADV HOFMEYR SC:** Ja.

**MR NDZEKU:** Before actually ...[intervenes]

**ADV HOFMEYR SC:** Not...[intervenes]

10 **MR NDZEKU:** Ja.

**ADV HOFMEYR SC:** It was not at this stage of March of 2016?

**MR NDZEKU:** Not at... ja.

**ADV HOFMEYR SC:** Because in March of 2016, there was only R 1 000,00 in the bank account.

**MR NDZEKU:** Ja, look it is ...[intervenes]

**ADV HOFMEYR SC:** So I was going to ask you if he contributed ...[intervenes]

20 **MR NDZEKU:** Actually, the funding... that funding did not come to JM Aviation. It came straight to JM International.

**ADV HOFMEYR SC:** Thank you, Chair. I know we are at the lunch adjournment.

**CHAIRPERSON:** Yes, we need to take the lunch adjournment. We will resume at two o'clock. We adjourn.

**INQUIRY ADJOURNS:**

**INQUIRY RESUMES**

**CHAIRPERSON:** Okay, let us continue.

**ADV HOFMEYR:** Thank you, Chair. Mr Ndzeke, we were actually still in the part of my questions where I wanted to establish your knowledge and interactions with certain people and there is one person I had not got to yet and that is Mr Mbuleli Kolisi. You know Mr Kolisi? No, you do not know him.

**CHAIRPERSON:** Are you moving away from that  
10 agreement or you are coming back to it?

**ADV HOFMEYR:** No, I will return to it momentarily, Chair.

**CHAIRPERSON:** Okay, alright.

**ADV HOFMEYR:** So keep it available if I can suggest that.

**CHAIRPERSON:** Ja, okay, alright.

**ADV HOFMEYR:** I just remembered I had forgotten to ask about Mr Kolisi.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR:** So I was checking with Mr Ndzeke  
20 whether he knows Mr Mbuleli Kolisi.

**MR NDZEKU:** No, I do not know him.

**ADV HOFMEYR:** And you know his firm of attorneys, B M Kolisi Attorneys?

**MR NDZEKU:** No.

**ADV HOFMEYR:** No. And are you aware whether JM

Aviation was ever doing dealings with Mr Kolisi's attorneys' firm?

**MR NDZEKU:** Well, I do not know, about my partner chose but as far as I know, I do not know him, no. Eric Josi(?) did.

**ADV HOFMEYR:** Okay.

**MR NDZEKU:** Ja.

**ADV HOFMEYR:** So what was going on in JM Aviation in March of 2016 just before it got this R28.5 million contract  
10 with Swissport, was it doing other work?

**MR NDZEKU:** Can you repeat again, counsellor?

**ADV HOFMEYR:** In March 2016.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Was when JM Aviation secured the contract with Swissport for 28.5 million. You will recall that, right? And I asked you what other work the business was doing at that time.

**MR NDZEKU:** Well, I do not know, Jules was the one actually who was – was talking to the CEO.

20 **ADV HOFMEYR:** Mr Ndzeke, is it – apologies, Chair.

**CHAIRPERSON:** Mr Ndzeke, you do not know what JM Aviation was busy with before it got such a big contract?

**MR NDZEKU:** Which contract? Which contract, Chair, are we talking about?

**CHAIRPERSON:** The Swissport contract for 28.5 million.

The question was, before JM Aviation got this contract from Swissport for 28.5 million.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** What other work was it busy with?

**MR NDZEKU:** Well, as I said to counsellor, that JM did buy some equipment from Swissport where we sold it to Mozambique. JM also buys some equipment to Swissport, we sell it there to Angola. Those are the dealings that Jules was doing with the CEO of Swissport.

10 **CHAIRPERSON:** But was there any other work not involving Swissport that JM Aviation was busy with before it got this contract from Swissport?

**MR NDZEKU:** Well ...[intervenes]

**CHAIRPERSON:** How was it earning any income or how – what business was it busy with?

**MR NDZEKU:** Well, as I said, Chair, JM Aviation – JM International Aviation has been 25 years experience with aviation. So now the CEO of JM Aviation is a founder of JM South Africa. Any deal he used to do is to look after  
20 this small baby of JM Aviation. Now if you are asking me did we do any deal without the one of Angola, without the ones, I do not remember.

**CHAIRPERSON:** So is the position that all you know is that prior to JM Aviation getting this big contract from Swissport, the only work that you know that it was involved



in was – did you say selling some equipment to Angola?

**MR NDZEKU**: These African states, yes, where Swissport is involved.

**CHAIRPERSON**: Yes.

**MR NDZEKU**: Swissport is in Tanzania, it is in Nairobi, we used to do exchange of dollies.

**CHAIRPERSON**: Yes.

**MR NDZEKU**: And then that is exactly what Jules was doing.

10 **CHAIRPERSON**: Yes but all of that was connected with Swissport.

**MR NDZEKU**: Swissport and JM International, yes.

**CHAIRPERSON**: JM International.

**MR NDZEKU**: International, yes.

**CHAIRPERSON**: Would the position be that you do not know of any other work that JM Aviation South Africa was doing, that did not involve Swissport and did not involve JM Aviation International.

**MR NDZEKU**: I do not remember, Chair.

20 **CHAIRPERSON**: You do not know of any?

**MR NDZEKU**: I do not know, I do not remember.

**CHAIRPERSON**: Okay.

**ADV HOFMEYR**: Thank you, Chair, I would just like to get the timing right here because I had asked previously when you mentioned that equipment that was sold in

Mozambique and Angola, I said can you remember when and I understand your evidence, Mr Ndzeke, to be you could not remember quite when.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Is that correct?

**MR NDZEKU:** Correct, yes.

**ADV HOFMEYR:** I can tell you that it is unlikely to be before March 2016 when the Swissport agreement was concluded with JM Aviation South Africa because there is  
10 absolutely nothing happening in the bank accounts of JM Aviation South Africa until there is the Swissport arrangement, do you accept that?

**MR NDZEKU:** I accept, yes.

**ADV HOFMEYR:** Thank you. Mr Kolisi ...[intervenes]

**CHAIRPERSON:** I am sorry, you accept that to have been the position for how long prior to the Swissport contract?

**MR NDZEKU:** Well, the counsellor, he talk about 1 000.

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** The money was in the account of JM.

20 **ADV HOFMEYR:** Correct.

**MR NDZEKU:** And all of a sudden there was 28 million, is it not, hey?

**ADV HOFMEYR:** That is exactly right, Mr Ndzeke.

**MR NDZEKU:** Yes, it is correct, yes. So ...[intervenes]

**ADV HOFMEYR:** But the – sorry.

**CHAIRPERSON:** Ja, but what I am asking, she put it to you that she understands you to be saying that prior to JM Aviation South Africa getting this contract from Swissport there was nothing, now work that you know of that JM Aviation was doing other than selling some equipment to Angola and Mozambique.

**MR NDZEKU:** I think ...[intervenes]

**CHAIRPERSON:** So my question was, how far back do we go when you know that to have been the position? Is that  
10 as long as you can remember or is that the previous two years, the previous one year. In other words, is the position that since it came into contact with Swissport and with JM Aviation International, JM Aviation South Africa has only done work that is connected with these two companies and nothing else, as far as you know?

**MR NDZEKU:** I can say, yes.

**CHAIRPERSON:** That is how you understand the position.

**MR NDZEKU:** Ja, I think so, Chair.

**CHAIRPERSON:** Okay.

20 **ADV HOFMEYR:** Chair, I am sorry to belabour the point but I do just need to get one point of clarify. I do not understand the equipment sales to Mozambique and Angola.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** To have preceded March 2016.

**CHAIRPERSON:** Yes, yes.

**ADV HOFMEYR:** They did not happen before March 2016.

**CHAIRPERSON:** Yes, yes.

**ADV HOFMEYR:** Because we would have seen some movement in the bank accounts of JM Aviation South Africa.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** Related to those equipment sales.

**CHAIRPERSON:** Yes, okay.

10 **ADV HOFMEYR:** And I asked Mr Ndzeke to confirm that.

**CHAIRPERSON:** To clarify.

**ADV HOFMEYR:** And I understood him to say he did confirm that, is that correct, Mr Ndzeke?

**MR NDZEKU:** Well, the equipment was sold to these African states, I think it was before 2016.

**ADV HOFMEYR:** If it was before 2016 then it would have been JM International during this time, is that correct?

**MR NDZEKU:** Yes, JM International.

20 **ADV HOFMEYR:** Thank you, now we are clear, there are two entities, right?

**CHAIRPERSON:** Oh. The selling of equipment to what you referred to as the African states was by JM ...[intervenes]

**MR NDZEKU:** JM International.

**CHAIRPERSON:** Aviation International, not South Africa.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR:** Thank you, no, that does clarify things.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR:** You said you did not know Mr Kolisi, Mr Ndzeke. Have you followed in the media that Mr Kolisi was found dead in his office at the end of July – well, this year, a month ago?

**MR NDZEKU:** Well, I must just tell you that, counsellor, I  
10 know, I do not know these things. You know, there was no need for me to know because, you know, I did not have an interest on his business, I am not a person actually who read about media, you know, I am only looking to things concerning me, you know? If maybe this gentleman who died, maybe I had issues with him, I will say yes, yes, yes, I know but I did not know anything about it.

**ADV HOFMEYR:** No, I understand and my only question was, did you pick that up in the media and I understand your evidence to be that you were not aware of it, is that  
20 right? If you will say yes?

**CHAIRPERSON:** The answer is yes.

**MR NDZEKU:** Yes, yes.

**ADV HOFMEYR:** Thank you, thank you.

**CHAIRPERSON:** Ja, okay.

**ADV HOFMEYR:** Right, then I would like to more just to

an issue of timing. You see, Mr Ndzeke, you will remember there was that meeting on the 10 February 2016 that you attended at SAA where the ground handling contract between SAA and Swissport was discussed. You recall that?

**MR NDZEKU:** Yes, I remember, yes.

**ADV HOFMEYR:** Thank you. And then what happened – and I understand evidence earlier to be you played a listening role in that meeting, correct?

10 **MR NDZEKU:** Correct.

**ADV HOFMEYR:** You were not part of the negotiations, is that correct?

**MR NDZEKU:** Correct, yes.

**ADV HOFMEYR:** But you did have conversations telephonically with Ms Kwinana on either side of that meeting about the empowerment partner for this deal, is that correct?

**MR NDZEKU:** Correct.

**ADV HOFMEYR:** Now, Mr Bob Gurr, who mentioned was  
20 in attendance at that meeting did a minute of the meeting, do you remember that?

**MR NDZEKU:** No, I do not remember, I did not even see.

**ADV HOFMEYR:** Because he ...[intervenes]

**MR NDZEKU:** And I remember he was standing there, I did not even see that, was talking minutes.

**ADV HOFMEYR:** He recorded you in the minutes as having played a role in the meeting. Do you dispute that?

**MR NDZEKU:** Yes, I do.

**ADV HOFMEYR:** You do.

**MR NDZEKU:** Ja.

**ADV HOFMEYR:** He went so far as to quote what you said. Can I take you to what he quoted you as having said?

**MR NDZEKU:** Please, yes.

10 **ADV HOFMEYR:** Chair, we need to go to the bundle of Ms Memela's evidence which I have asked to have available to you today and it is in DD25A. So, Mr Ndzeke, if you look behind you, you will see three more files and one of those is labelled DD25A. Would you take that out?

**MR NDZEKU:** Ja, DD25A, yes.

**ADV HOFMEYR:** And in that bundle if you will go to page 309.

**MR NDZEKU:** 309.

**ADV HOFMEYR:** Yes.

20 **CHAIRPERSON:** 309, have you got it?

**ADV HOFMEYR:** It is in DD25A, that looks too small to be 25A. It is Ms Memela's evidence and it is page 309. Chair, there seems to be a problem with your bundle A having reached the hearing. Could I maybe request that we ask use the interpreter's copy maybe so that you can

have it in front of you?

**CHAIRPERSON:** There were about four files that were ready to be taken here, what happened, are they – are you sure they are not here? How did that happen? How could that happen? I do not want – let us have a look.

**ADV HOFMEYR:** Thank you, Chair.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR:** Just to orientate us and for your benefit, Mr Ndzeke, these were the bundles that were admitted into  
10 evidence when Ms Memela was testifying.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** And you criticised our investigator Mr Kurtland(?) earlier in your evidence for not having followed up after his first meeting with you with Mr Kohl and ...[intervenes]

**MR NDZEKU:** I did not criticise him, it was - I did not criticise him, it was not him.

**CHAIRPERSON:** Hang on, hang on, Mr Ndzeke, let counsel finish first.

20 **MR NDZEKU:** Okay.

**ADV HOFMEYR:** You criticised him for not having followed up with Mr Kohl or Mr Aires.

**MR NDZEKU:** Okay, yes.

**ADV HOFMEYR:** About the dealings. Well, we in fact obtained an entire affidavit from Mr Kohl as part of our



investigations, it was already presented in Ms Memela's evidence and the document you are looking at is an attachment to Mr Kohl's affidavit and it is a meeting note that Mr Bob Gurr put together of that meeting on the 10 February and the part that I want to draw your attention to is over the page at page 310.

**MR NDZEKU:** 310, yes.

**ADV HOFMEYR:** This was the meeting at which you were – you have now confirmed in your evidence you were in  
10 attendance. If you look at the third bullet ...[intervenes]

**CHAIRPERSON:** I am sorry, I just want to – you wanted to make the point that you did not criticise him. Or you – no, I just wanted to make sure if you wanted to make that point. You made that point but if you are fine, that is fine.

**MR NDZEKU:** No, I am fine.

**CHAIRPERSON:** Okay, alright.

**ADV HOFMEYR:** At page 310, the third bullet from the bottom is a bullet that reads:

“At this stage VN urged PK...”

20 I understand that to be Peter Kohl and VN to be yourself and he quote you, according to this note.

“...to get the deal finalised.”

Do you recall saying that at the meeting?

**MR NDZEKU:** No, I do not remember.

**ADV HOFMEYR:** Could you have said it?

**MR NDZEKU:** Sorry?

**ADV HOFMEYR:** Could you have said it?

**MR NDZEKU:** Right?

**CHAIRPERSON:** In other words, is it possible that you said it but you cannot remember?

**MR NDZEKU:** I do not think I did say that, I did not say that.

**ADV HOFMEYR:** So he just made up a quote about what your words were at the meeting.

10 **MR NDZEKU:** I do not know.

“At this stage VN urged PK to get the deal finalised.”

I did not say that. I do not remember.

**ADV HOFMEYR:** Thank you. Right, so that happened on the 10 February and as I explained to you earlier, what meeting concluded with Ms Kwinana telling everyone assembled that SAA was going to terminate its relationship, its existing relationship with Swissport. And then things went quiet between Swissport and SAA. We  
20 have learnt that from Mr Kohl’s affidavit, right? But then an agreement was struck and an agreement was struck on the 15 March 2016, that is the day on which you went and witness the ground handling agreement concluded between SAA and Swissport. Do you remember that?

**MR NDZEKU:** This is the day me and Peter Kohl and Bob

Gurr and Daluxolo, we were – this is the day the deal was struck?

**ADV HOFMEYR:** No, so let me be clear, just to make it entirely clarified in everyone’s mind. There is a meeting on the 10 February, that is where we looked at Mr Bob Gurr’s meeting notes, right?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** That is 10 February and as we have the evidence of Mr Kohl previously admitted in this  
10 Commission, that ends with Ms Kwinana saying you are not willing to sign the agreement you were given to give away 30% to a nominated BEE company, we are terminating our relationship with Swissport. That is what happened on the 10 February.

**MR NDZEKU:** Okay.

**ADV HOFMEYR:** Right. Then a month later, the 15 March, just more than a month later, SAA and Swissport find each other and they sign the ground handling contract, the one that is for five years for more than R1.5 billion and  
20 that agreement you were a witness to. Do you recall that?

**MR NDZEKU:** Well, maybe I was called? You know, if maybe can – you know, I was called by Peter Kohl as a CEO. Maybe I did went, maybe I did witness, maybe.

**ADV HOFMEYR:** You did witness it, you confirmed that in your own affidavit before the Commission, so unless you

want me to take you there to see your signature  
...[intervenes]

**MR NDZEKU:** No, no, it is fine, counsellor, let us see.

**ADV HOFMEYR:** I do not think it is disputed, right. So  
what I am trying to get at is the timing.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Because 10 February the deal is off, the  
relationship is terminated. I said to you earlier did you  
know how important the agreement between Swissport and  
10 SAA was to Swissport South Africa's operations and I  
understand your evidence to be yes, it was an important  
contract. Did I have you correct?

**MR NDZEKU:** Well, first of all I said it was not the only  
client we had and that the Chair explained to me and I said  
yes, it is – it was important.

**ADV HOFMEYR:** Did you know that Swissport South  
Africa faced liquidation if it did not secure an agreement  
with SAA?

**MR NDZEKU:** No, I did not know that.

20 **ADV HOFMEYR:** You did not know that. You were a  
director and shareholder of the company and you did not  
know that.

**MR NDZEKU:** Well, I was not the only director.

**ADV HOFMEYR:** No, but I am asking about your  
knowledge. You did not know that they were facing

liquidation?

**MR NDZEKU:** No, they did not. No, no, they did not tell me.

**ADV HOFMEYR:** And then 15 March they find each other. So it is that timeframe that I am interested in and what happened in the middle ...[intervenes]

**MR NDZEKU:** Sorry, counsellor.

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** You know at the meeting between Peter  
10 Kohl and Bob Gurr there is a commercial lady there, Mary Mamabula(?), station manager, and myself as the board of director.

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** Whenever Peter Kohl, he does everything, he used to take Bob Gurr and this lady. He – they never been worried, these are the people. I remember very well Mary, She was all the time there because she is station manager, she knows exactly what is happening on the ground. Whenever board meeting, Mary Mamabula, she  
20 must give the – you know, the report to the board.

**ADV HOFMEYR:** Thank you. Between those two dates, the 10 February and the 15 March, it is on the 2 March that Swissport concludes that service level agreement with JM Aviation.

**MR NDZEKU:** Can I put this one now?

**ADV HOFMEYR:** You can, thank you, Mr Ndzeke.

**MR NDZEKU:** Thank you very much. Yes, I am listening.

**ADV HOFMEYR:** Right. So it is between 10 February and 15 March that Swissport and JM Aviation conclude that service level agreement that we looked at earlier to basically rework their entire GSC workshop. Do you recall that?

**MR NDZEKU:** Well, Jules was involved. Jules – I do not recall because Jules and Peter Kohl...

10 **ADV HOFMEYR:** Yes.

**MR NDZEKU:** They were people actually were talking about the GSC.

**ADV HOFMEYR:** But you do remember one very specific aspect of it which was Mr Kohl's instruction to you that R20 million of the money that JM Aviation had received must be paid to Jamicron, is that correct?

**MR NDZEKU:** Hundred percent, I did. The reason why it was about the issue of SARS, I did not want to find ourselves we have got a problem with SARS where money  
20 does not belong to us.

**ADV HOFMEYR:** Yes, SARS is a separate matter, I just want to talk about the JM Aviation payment to Jamicron. When Mr Kohl contacted you and said you must pay the 20 million to Jamicron, what explanation did he give you for making that payment?

**MR NDZEKU:** When Daluxolo came to Swissport as an empowerment of 30% they wanted actually to do a business with Swissport and it was not Daluxolo alone, there were a few people that were there, so now after Peter Kohl introduced me to Daluxolo, it is actually – I think Daluxolo, the company is Jamicron, this is exactly where they decided that my daughter must be part of it. Now the question, did he explain to me what is this money for?

10 **ADV HOFMEYR:** Yes, I am asking what he told you when he gave you the instruction.

**CHAIRPERSON:** In other words, what – why did you say you needed to pay that money to ...[intervenes]

**ADV HOFMEYR:** Jamicron.

**CHAIRPERSON:** Ja.

**MR NDZEKU:** Swissport, the way he was explaining to me, Swissport, they were supposed to buy the buses.

**CHAIRPERSON:** Was supposed to?

20 **MR NDZEKU:** The bus in the terminal there, the bus taking people around.

**CHAIRPERSON:** Ja, ja.

**MR NDZEKU:** They will have to do that deal with empowerment.

**CHAIRPERSON:** H'm.

**MR NDZEKU:** So now if they are not doing that deal with

empowerment, they are not going to get a good price. So Daluxolo was there as an empowerment who can actually assist Peter Kohl. It is exactly what I was told, Chair.

**ADV HOFMEYR:** You see, what troubles me about that is Jamicron did not end up being part of the ground handling contract that was concluded.

**MR NDZEKU:** What are you saying now, counsellor?

**ADV HOFMEYR:** You told me that – you told the Chair a moment ago that the reason that Mr Kohl gave you for  
10 paying R20 million to Jamicron is that Jamicron was going to help with the buses that they needed to purchase for the ground handling contract that had been concluded, is that correct?

**MR NDZEKU:** Counsellor, first of all, when Jamicron came on board it was the issue of 30%. They were talking that they want to be part of Swissport and for 30% and then same time they are prepared to help Swissport with any, any actually inventory which is they want to buy as an empowerment. So Peter Kohl says this is exactly the right  
20 group which is we can work with and there was also another group.

**CHAIRPERSON:** Yes, but counsel's question to you is if this group, this company ...[intervenes]

**MR NDZEKU:** Jamicron?

**CHAIRPERSON:** Ja, was going to be an empowerment



partner for Swissport how come they never became an empowerment partner or even for Swissport even after this amount of money that you were instructed to pay to them?

**MR NDZEKU:** Well, Chair, as I said before, the BO(?) Swissport they refused, they said they cannot have them on board.

**ADV HOFMEYR:** Yes, it can be.

**MR NDZEKU:** They can be part of the bus, they can bring another business but they cannot be part of Swissport, that  
10 is why they decided to have their own company. Not Swissport because they wanted to be part of Swissport and then Swissport guys they said no, thank you, we cannot. Bring your company.

**CHAIRPERSON:** Is that what the position was before the instruction to pay money to them?

**MR NDZEKU:** That was the position because before the money was paid to them they wanted 30% of Swissport, it is exactly what I was told.

**CHAIRPERSON:** And Swissport said no.

20 **MR NDZEKU:** They said no, they cannot. They must have their own company which is this exactly, was Jamicron.

**CHAIRPERSON:** So when Swissport said JM Aviation must pay them the 20 million was it, at least on your understanding, on the basis that they would have their own separate company?

**MR NDZEKU:** On my understanding, yes, Chair.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR:** .Yes, but in response to the 30% set aside arrangement that had been refused by Swissport, is that correct?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Yes, the problem with that, Mr Ndzeke, is that Jamicron plays no role at all, it is not a subcontractor, it is not a contracting party under the  
10 ground handling agreement that the whole debate about the 30% set aside was focused on.

**MR NDZEKU:** Is that your view, counsellor, or maybe – I do not know, because why did Peter Kohl, as a CEO of company had a meeting with this guy and then pay them that money if ...[intervenes]

**ADV HOFMEYR:** That is exactly the question.

**MR NDZEKU:** If they did not actually give him the service?

**ADV HOFMEYR:** That is exactly the question.

20 **MR NDZEKU:** Ja.

**ADV HOFMEYR:** And it is a question that we put to Mr Daluxolo Peter.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Who has provided an affidavit to this Commission.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** And his explanation is that Mr Kohl had – Mr Kohl did not instruct the 20 million to be paid to Jamicron. Mr Peter’s version before this Commission – and Chair, I will take you there in a moment but if I could just summarise, is that you, Mr Ndzeke, were the mastermind behind this entire arrangement, that you put Jamicron together, that you put your daughter in there with Mr Peter and that you facilitated the R20 million payment.

10 Is Mr Peter lying?

**MR NDZEKU:** Well, I will be happy if maybe I was part of that because when Daluxolo was getting the money I told him, I said please do not forget me, you must also give me something.

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** Which is a – he just disappear.

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** So now how can I be a mastermind of something which I am not getting anything.

20 **ADV HOFMEYR:** Ja, you did get something, you got R2.5 million, Mr Ndzeke.

**MR NDZEKU:** No.

**ADV HOFMEYR:** Would you like me to take you to the bank statements that show you got R2.5 million?

**MR NDZEKU:** Yes please.

**ADV HOFMEYR:** Out of the R28.5 million that Swissport paid you.

**MR NDZEKU:** Paid me for this deal?

**ADV HOFMEYR:** Yes. Right.

**MR NDZEKU:** Did they pay me on this – the issue of Daluxolo or it was separate?

**ADV HOFMEYR:** Mr Ndzeke, I will take you there in a moment, but I understand your evidence to be, you did have a conversation with Mr Peter in which you said you  
10 would like to get a cut of the deal, correct?

**MR NDZEKU:** No, no, when I paid him, I said please, do not forget me. I told him, it was the truth. He as paid and I give him the money, I said please, Mshegasi(?), please remember me. And he disappeared.

**CHAIRPERSON:** Which meant that you wanted a part of that money?

**MR NDZEKU:** That is the truth because I did not understand why I must give him the money and then  
...[intervenenes]

20 **CHAIRPERSON:** And you get nothing.

**MR NDZEKU:** Me, I am just a carrier, Chair.

**CHAIRPERSON:** Ja.

**MR NDZEKU:** I said, my friend, it does not work like that because I am not getting anything from Swissport, you are telling me that I must pay you and Daluxolo said I will see

you. He was gone.

**ADV HOFMEYR:** I did not understand the – I did not hear the word that you used there, I understood you to be saying you are just somebody through who money is passed, a carrier.

**CHAIRPERSON:** A carrier, he said he is a carrier.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** You are just a carrier, right?

**MR NDZEKU:** Ja.

10 **ADV HOFMEYR:** So you said to him how can I just be a carrier, I must get something out of this deal, correct?

**MR NDZEKU:** That is what I told him.

**ADV HOFMEYR:** Yes, so why were you ...[intervenes]

**MR NDZEKU:** After was paid, he got the money, Swissport said pay and I pay and after that I say is everything okay? He says thank you very much. I say listen, please, do not forget me. And he started to tell me about – I do not know, there was a cop, I do not what cop saying, I forgot, I just decided to leave him.

20 **CHAIRPERSON:** But he forgot you?

**MR NDZEKU:** He decided to tell me about another police, there was a chief of police was involved and then he was gone.

**ADV HOFMEYR:** And if you were just a carrier, Mr Ndzeke, why were you worried about VAT liability to

SARS?

**MR NDZEKU:** Why what?

**ADV HOFMEYR:** Why were you worried about VAT liability to SARS?

**MR NDZEKU:** But it is normal, if you are doing business, at the end of the day and then this is exactly what Jules says, you must pay VAT, you must pay SARS.

**ADV HOFMEYR:** Did Jules say it or did you say that you must pay SARS?

10 **MR NDZEKU:** Jules is a South African, counsellor, he knows the laws and the rules of South Africa. So he is the man who is in charge of JM. He always said please, everybody does things, let us do things by the book. I believe him, I think that he is a good man.

**ADV HOFMEYR:** You do not pay VAT when you are just a carrier for money. Are you aware of that?

**MR NDZEKU:** Well, what I said – no, no, no, no, counsellor, please. When this money was paid in my account I told them, the CEO. I say CEO, please, let us  
20 make a point that the SARS is paid. That is it. So other issues, I do not know, I do not remember.

**CHAIRPERSON:** Why did Swissport not pay them directly? Why did they have to pay money to you, to your account?

**MR NDZEKU:** It is a good question, that is exactly what I

asked Peter. Peter says we do not know them, they know you.

**CHAIRPERSON:** He said?

**MR NDZEKU:** He says we do not know these people we know you, that is why we want your daughter to part of Jamicron.. My daughter never even knew anything about Peter or maybe about Jamicron. Peter suggested that she must be part of that because ...[intervenes]

**CHAIRPERSON:** But you were not going to be – you were  
10 going to have nothing to do with their partnership with Swissport, is it not, as JM Aviation, it was a matter between the two of them, was it not?

**MR NDZEKU:** Peter suggested that she must be part of that because ...[intervenes]

**CHAIRPERSON:** But you were not going to be – you were going to have nothing to do with their partnership with Swissport isn't it, as JM Aviation? It was a matter between the two of them was it not?

**MR NDZEKU:** Chair, they put up a good picture, when  
20 Swissport was in the corner, buying busses, they said we can do this and this and this, JM can do this and this and this so when Peter Cole, as the CEO of the company was convinced, I didn't say anything, I just wanted to see that at least the job is done.

**ADV HOFMEYR:** Mr Ndzeke, I put it to you that this is a

completely improbable story that you are now telling this Commission. You are saying to this Commission that Mr Cole said to you that you must pay Jamicron R20million because they don't know Jamicron, is that your evidence?

**MR NDZEKU:** Well I don't know counsellor, what do you want me to say because...[intervenes].

**ADV HOFMEYR:** If that is your evidence...[intervenes].

**MR NDZEKU:** Counsellor, first of all, that R20million was not my money it was Swissport's money...[intervenes].

10 **CHAIRPERSON:** Why are you accepting it, why is Swissport not paying the people they want to pay? Do you know these people yourself?

**MR NDZEKU:** Chair, I know Peter Cole, I know company they asked me, they said, we must do this.

**CHAIRPERSON:** But you didn't know Mr Peter, well did you?

**MR NDZEKU:** No but Peter Cole told me that there's this thing we'll be doing.

20 **CHAIRPERSON:** No...[African language] You didn't know him very well, did you?

**MR NDZEKU:** No, I didn't know him very well.

**CHAIRPERSON:** So why didn't you say to Swissport, but I also don't know them, pay them directly?

**MR NDZEKU:** Well they asked me to do, which is, I did it Chair maybe it was my mistake, it was done.



**ADV HOFMEYR:** You see Mr Peter's version – Mr Daluxolo Peter's version, Mr Ndzeke is that, as I said, you were the master mind behind all of this and once he received the R20million into his Jamicron bank account you told him what to do with the R20million, do you deny that?

**MR NDZEKU:** I do deny it.

**ADV HOFMEYR:** He says, you told him, over three days to withdraw R500 000 in cash so that he could meet with Mr Kolisi, the Mr Kolisi whom you've said previously in  
10 your evidence, you did not know, and hand over tranches of R500 000 totalling R5million, is he lying when he gives that evidence in an affidavit before the Commission?

**MR NDZEKU:** Well, counsellor in front of the Commissioner I'll be happy if he says, I asked him to draw R500 000 to give it to me, not to Kolisi because I don't even know that other gentleman.

**ADV HOFMEYR:** Right.

**MR NDZEKU:** Why should I control R20million is in his account, I don't have the power?

20 **ADV HOFMEYR:** Right, and...[intervenes].

**MR NDZEKU:** But when he got that money, I told him, I said please don't forget me. Now, people he paid on the way, I know nothing about it.

**CHAIRPERSON:** But you wanted to get something out of it...[intervenes].

**MR NDZEKU:** Of course, Chair, I told him, I said, my friend, don't forget me.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Because I was a carrier, Chair, this is the truth, this is exactly what happened, I don't want to change the words [African language] please I'm a carrier, don't forget me, and he was gone. So how can I be a mastermind of money that doesn't belong to me?

**ADV HOFMEYR:** And your version is, you didn't get  
10 anything out of this deal, is that correct?

**MR NDZEKU:** That's exactly what I'm saying.

**ADV HOFMEYR:** And he also, in fairness, I must put it to you, he says, he took R5million for himself of the R20million, does that...[intervenes].

**MR NDZEKU:** He took R5million for himself.

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Does that accord with your understanding?

20 **MR NDZEKU:** No, I don't know it's the first time I'm hearing it.

**ADV HOFMEYR:** And then R10million, he was instructed by you to pay to BM Kolisi Attorneys, do you deny that?

**MR NDZEKU:** I deny that.

**ADV HOFMEYR:** Deny that, and you deny the remaining

R5million that was withdrawn in cash and handed over to Mr Kolisi's representatives over three days...[intervenes].

**MR NDZEKU**: I deny it 100% counsellor.

**ADV HOFMEYR**: And you got no money out of that money from Swissport, correct?

**MR NDZEKU**: Nothing.

**ADV HOFMEYR**: Right, let's go to the bank statements, if we may and you will find them in your bundle which we've numbered DD26.

10 **MR NDZEKU**: DD26?

**ADV HOFMEYR**: Yes.

**CHAIRPERSON**: Yes.

**MR NDZEKU**: Yes, I'm here DD26 yes, is it 219 or what?

**ADV HOFMEYR**: And you will find it, let me tell you, Chair we may have to enter another Exhibit, if I haven't got there yet. Yes, you'll find it under tab 9 and its page 45 we might actually start at page 44, do you have that Mr Ndzeke?

**MR NDZEKU**: Yes, I've got 44 yes.

20 **ADV HOFMEYR**: Thank you. That is the bank records of JM Aviation South Africa at First National Bank, do you see that?

**MR NDZEKU**: Yes, I do.

**ADV HOFMEYR**: And if you go over the page to page 45, you'll see where I got my point, earlier, from. You'll see

that this starts, this bank record starts on the 22<sup>nd</sup> of March, right?

**MR NDZEKU**: Yes.

**ADV HOFMEYR**: And that's 2016, Chair, just for your benefit and you'll see the opening account had R1000 in it, that's the point I made earlier about there being R1000 in the account before you got the payment. You'll see the third line down, there, is a payment on the 23<sup>rd</sup> of March if you go across to description, you'll see Swissport, do you  
10 see that, fourth line down?

**MR NDZEKU**: All the way down?

**ADV HOFMEYR**: Yes, so there's three entries on the 22<sup>nd</sup> of March and then there's the first entry on the 23<sup>rd</sup> of March, that's the fourth line, do you have that?

**MR NDZEKU**: The fourth line is R28 500 000.

**ADV HOFMEYR**: Yes, exactly now if you go to the left of that you'll see under the description it says Swissport, do you see that?

**MR NDZEKU**: I can see Jamicron...[intervenes].

20 **ADV HOFMEYR**: No just above Jamicron...[intervenes].

**MR NDZEKU**: Yes, I see it twenty eight, Swissport yes I can see it.

**ADV HOFMEYR**: Yes okay, sorry, so now we're on the same page, Chair have you found the fourth line?

**CHAIRPERSON**: Ja.

**ADV HOFMEYR:** Super, so you'll see, 22<sup>nd</sup> of March there's R1000 – sorry there do seem to be two other credits I missed of R200 and R200 – sorry those were debits, so R1000 then they took R200 out and R200 out on the 22<sup>nd</sup> so the balance was R600 and then on the 23<sup>rd</sup> of March, Swissport pays the R28.5million into JM Aviation's account, do you see that?

**MR NDZEKU:** Swissport, yes Chair.

**ADV HOFMEYR:** Yes and then the next line is the  
10 R20million that gets paid out to Jamicron, do you see that?

**MR NDZEKU:** Yes I can see that Chair.

**ADV HOFMEYR:** Yes, and then the next line says BM Kolisi, do you see that?

**MR NDZEKU:** Yes, I can see that, B Kolisi yes.

**ADV HOFMEYR:** That's the BM Kolisi whom you don't know and whom JM Aviation had no dealings with, correct?

**MR NDZEKU:** Yes

**ADV HOFMEYR:** And then there's a line after that, that says agreement 2316...[intervenes].

20 **MR NDZEKU:** Sorry counsellor, this thing of B Kolisi where does it come from, does it come from JM or does it come from Swissport?

**ADV HOFMEYR:** No, so what happens, let me just explain. The Swissport money comes in on the 23<sup>rd</sup> of March, that's where you see R28.5million – that's

R28million...[intervenes].

**MR NDZEKU:** No, no I can see that, sorry Chair, I can see that yes.

**ADV HOFMEYR:** No, I just want to make clear that's a credit, okay...[intervenes].

**CHAIRPERSON:** So, it's money coming in.

**ADV HOFMEYR:** Now, what you see after that is the money that goes out of the account. So, the first bit of money that goes out of the account is the R20million that  
10 went to Jamicron, do you see that?

**MR NDZEKU:** I do see that yes.

**ADV HOFMEYR:** Okay that's the one that you and Mr Peter have a dispute about, why it was paid to Jamicron.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** The next one is R2.5million, of the R28.5million received from Swissport is on the same day paid to BM Kolisi, do you see that?

**MR NDZEKU:** I can see that, now my question, where it was coming from, Swissport or from JM?

20 **ADV HOFMEYR:** No it's the Swissport – so Swissport comes in, it's the JM Aviation bank account and JM Aviation pays it out to BM Kolisi, okay, the BM Kolisi with whom you have no dealings at all and then there's another payment out, do you see that, it's called agreement 2316?

**MR NDZEKU:** Yes, of 2.5, yes I see that?

**ADV HOFMEYR:** Yes, and that's an amount of R2.5million, correct?

**MR NDZEKU:** A hundred percent yes.

**ADV HOFMEYR:** Do you know who that was paid to?

**MR NDZEKU:** This agreement?

**ADV HOFMEYR:** Yes

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Yes, who was it paid to?

**MR NDZEKU:** I don't know.

10 **ADV HOFMEYR:** It was paid to you Mr Ndzeke.

**MR NDZEKU:** This 2.5?

**ADV HOFMEYR:** Ja.

**MR NDZEKU:** What was paid for, it was not paid to JM, it was paid to me?

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** Okay that's good, I'm happy, it's good if I did get some money, Swissport gave me some money.

**ADV HOFMEYR:** Yes, your evidence earlier was that you got nothing.

20 **MR NDZEKU:** No, no but it's fine, if then you're saying they paid me that 2.5, I don't understand, what was that money for?

**ADV HOFMEYR:** I don't either, could you enlighten us?

**CHAIRPERSON:** This is money from your company to you

**ADV HOFMEYR:** After they received the Swissport

R28.5million.

**MR NDZEKU:** No, Chair, this company never gave me R2.5million, JM never gave me that money, maybe this money stayed with JM.

**ADV HOFMEYR:** No, no it went into your bank account, Mr Ndzeke.

**MR NDZEKU:** Do we have it here.

**ADV HOFMEYR:** Yes, we do, would you like me to take you to it?

10 **MR NDZEKU:** Please, yes.

**ADV HOFMEYR:** Do you actually have no recollection, Mr Ndzeke, of receiving R2.5million on the 23<sup>rd</sup> of March 2016, as you sit here today?

**MR NDZEKU:** I must tell you that I was thinking that this money for the company.

**ADV HOFMEYR:** What was the money for the company?

**MR NDZEKU:** Maybe this R2.5million was for JM, I didn't know that it was mine.

20 **CHAIRPERSON:** And – no, but Mr Ndzeke, if the money – if an amount of R2.5million was transferred or deposited into your account, is there any chance you would not know about that?

**MR NDZEKU:** Well, Chair, I'll have to know about it, it's a long time, in my mind I was also thinking that this money was for the company.



**CHAIRPERSON:** Now, is...[intervenes].

**MR NDZEKU:** Now the counsellor says, no this money came to my account.

**ADV HOFMEYR:** Yes, is R2.5million small change for you?

**MR NDZEKU:** No, Chair, it's a lot of money.

**ADV HOFMEYR:** So – it's a lot of money, so how could you forget if that amount came in to your account?

**MR NDZEKU:** But okay, let's agree now that it did  
10 because when was it, what year was this again counsellor?

**CHAIRPERSON:** 2016, March but counsel was going to take you to, I think, your bank statement, ja to show this R2.5million went into your account.

**MR NDZEKU:** If you can take me to my bank statement.

**ADV HOFMEYR:** Yes, it's just about the credibility of your evidence, Mr Ndzeke and in fairness, I must put it to you, because for the entire period prior to this point in your evidence, you have clearly said you did not receive any payment associated with this...[intervenes].

20 **MR NDZEKU:** Well I did say that, it's true.

**ADV HOFMEYR:** You did.

**MR NDZEKU:** Yes, I did.

**ADV HOFMEYR:** And the facts are, as they're presented to you now, you received as much as R2.5million. So, your evidence earlier was false, do you accept that?

**MR NDZEKU:** It was not false, I think maybe, I didn't remember.

**ADV HOFMEYR:** No, that is not your evidence, Mr Ndzeke you were clear, you did not say, I don't remember.

**MR NDZEKU:** Don't force me that I must say...[intervenes].

**CHAIRPERSON:** Let's go to it.

**MR NDZEKU:** I'm saying to you, I don't remember.

**CHAIRPERSON:** Okay, let's go to his bank account, or his  
10 statement.

**MR NDZEKU:** Yes, what number was it?

**ADV HOFMEYR:** It is item 10, Chair, so you'll find it under tab 10, it's the bank statement of Mr Ndzeke for March 2016.

**MR NDZEKU:** What is it...[intervenes].

**ADV HOFMEYR:** Under tab 10, and you'll find it commences at page 198.

**MR NDZEKU:** Okay let's go back, I don't see 10 here, I can see, only 9 – oh here's 10, right at the back, okay we  
20 are here.

**ADV HOFMEYR:** That is money on call account of yours, Mr Ndzeke and it's a bank statement for the period 31 December 2015 to 31 March 2016, do you see that.

**MR NDZEKU:** Let's see now, is it the first page?

**ADV HOFMEYR:** No, you'll find the payment – I'm just

explaining to you the period that the statement covers, it covers from the end of 2015 till the end of March 2016 and if you go over the page to page 199...[intervenes].

**MR NDZEKU:** Yes, I'm at page 199 yes.

**ADV HOFMEYR:** You'll see – and I do just want to spend a moment at page 198 because it relates to a point that the Chair made earlier. The money in this account is always sitting somewhere below R500 000 it drops down, at a point, right down to R31 000 and then just before you get  
10 the R2.5million payment, it's at about R150 000 and then you get – midway down, if you go to the date of the 23<sup>rd</sup> of March, if you look on the left-hand side there's a column with the dates, on page 199.

**MR NDZEKU:** I can see that – I can see that R2.5million here.

**ADV HOFMEYR:** It has the same reference that we looked at in the JM Aviation bank account, agreement 2316 and you'll see your account was credited with R2.5million.

**MR NDZEKU:** Yes, I can see that yes.

20 **ADV HOFMEYR:** Is your evidence that you didn't know about that at the time, is that right?

**CHAIRPERSON:** Well, maybe let's start with this, do you now accept that there was an amount of R2.5million that was paid by JM Aviation into your account, do you now accept that?

**MR NDZEKU:** I do.

**CHAIRPERSON:** Okay.

**MR NDZEKU:** I do but Chair, I was thinking this money is going to the company.

**CHAIRPERSON:** Sorry?

**MR NDZEKU:** I was thinking this money was going to the company.

**CHAIRPERSON:** It's going to the company?

**MR NDZEKU:** To JM Aviation company. Now JM Aviation  
10 is paying me.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Now JM Aviation is paying me this money to my account.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** So, that's exactly what happened, I don't know how.

**ADV HOFMEYR:** Why were you paid R2.5million?

**MR NDZEKU:** Why I was paid?

**CHAIRPERSON:** Why did JM pay you that amount?

20 **MR NDZEKU:** Well, maybe it was an agreement between myself and JM because this R2.5million, by the way, if it was paid to me as I remember, it was myself – between myself and Jules.

**CHAIRPERSON:** What do you remember?

**MR NDZEKU:** I said, Chair, if this R2.5million was paid as

it's here, I did actually declare it to my partner, Jules, because where does this money come from its coming from Swissport, it's coming also from JM Aviation which is – we are both partners. So, now, what was this money for, I can see that it says it was agreement, agreement for what, I don't remember. It is a lot of money, as you said Chair, I can't say it was small money it is but it was 2016, it was long time.

**ADV HOFMEYR:** Mr Ndzeke, your evidence a moment ago  
10 was that you were not aware of the payment until we showed it to you, do you remember that?

**MR NDZEKU:** What did I say?

**ADV HOFMEYR:** You said you were not aware of the payment until we showed it...[intervenues].

**MR NDZEKU:** I said I don't remember yes.

**ADV HOFMEYR:** Then you said, a moment ago, that at the time you would have declared it to Mr Aires, how can you declare a payment that you weren't aware of?

**MR NDZEKU:** Well, I said, if maybe, I was paid this  
20 money by JM, which is Aires supposed to know about it, you know, there's nothing – my daughter Khosi can do things without JM, let's agree that this money was paid into my account, the R2.5million which it – it's a long time, I know that it's a lot of money, I don't know what was ...[indistinct 47.08] I don't know exactly ...[indistinct

47.09].

**CHAIRPERSON:** Well, Mr Ndzeke, you have accepted now that JM paid an amount of R2.5million into your account...[intervenes].

**MR NDZEKU:** It is there in the account, Chair, yes.

**CHAIRPERSON:** And as I understand the position, you also accept that, that money came from the money that Swissport had paid into JM, is that correct.

**MR NDZEKU:** That's exactly what's happening, yes.

10 **CHAIRPERSON:** Yes, you have accepted, also that for you this was not small change, this was a lot of money.

**MR NDZEKU:** It was a lot of money, yes Chair.

**CHAIRPERSON:** Yes, you became aware – did you become aware of this amount around the time that it was paid into your account?

**MR NDZEKU:** You know Chair, to be honest, I didn't even – I was a little bit busy.

**CHAIRPERSON:** Hmm?

**MR NDZEKU:** I was just – I was too busy Chair, I didn't  
20 ...[intervenes].

**CHAIRPERSON:** Are you saying you did not become aware roundabout the time when this amount came into your account, that such a lot of money...[intervenes].

**MR NDZEKU:** I don't remember Chair.

**CHAIRPERSON:** You don't remember whether you

became aware?

**MR NDZEKU:** Yes, I don't.

**CHAIRPERSON:** Do you know, whether, at any stage after it had come into your account, between then and today, are you able to say whether you have ever become aware of that amount having come in to your account?

**MR NDZEKU:** Well, I must say that from today as the counsellor is reminding me, is telling me what exactly happened, you know, I start to understand this money  
10 came to my account.

**CHAIRPERSON:** So are you saying that, from that time, March 2016 when this money came into your account up to today, until counsel talked about it, you were not aware that your company had paid you – had paid R2.5million into your account?

**MR NDZEKU:** Well, you know Chair, to be honest and I said I did not I was not aware which is – it is true, what exactly have I done from that R2.5million where did it go? So, let me agree and say, counsellor it was in my account  
20 as you are showing me, it's there.

**CHAIRPERSON:** Yes, but are you saying between that date in March when this amount was paid into your account and today, you were not aware that your company paid R2.5million into your account?

**MR NDZEKU:** I can say that Chair.

**CHAIRPERSON:** You were not aware?

**MR NDZEKU:** Yes.

**CHAIRPERSON:** You only became aware now, is that right?

**MR NDZEKU:** I think so.

**CHAIRPERSON:** And your partner never told you that the company had paid R2.5million into your account, Mr Aires?

**MR NDZEKU:** No, he didn't tell me but the only he told me, it was the money we were supposed to pay for the  
10 other equipment from another company...[intervenes].

**CHAIRPERSON:** So, the short answer is that Mr Aires did not tell you that the company paid you?

**MR NDZEKU:** Chair, I'm sorry, I don't remember, I don't want to put myself in a corner where I find ...[intervenes].

**CHAIRPERSON:** Yes, you don't remember whether he told you or not?

**MR NDZEKU:** I don't remember yes.

**CHAIRPERSON:** Did your daughter never tell you that the company had paid R2.5million into your account?

20 **MR NDZEKU:** I can't remember Chair.

**CHAIRPERSON:** You don't remember, is it possible that they told you but you have forgotten?

**MR NDZEKU:** Maybe Chair, maybe they told me.

**CHAIRPERSON:** Yes, and throughout this period you checked your balances in your account, have you been



checking your balance?

**MR NDZEKU**: Yes, I do.

**CHAIRPERSON**: And still you didn't see that there was such a lot of money that came into your account?

**MR NDZEKU**: But, Chair, it was 2016 or when was it?

**ADV HOFMEYR**: March 2016.

**CHAIRPERSON**: It was 2016, yes.

**MR NDZEKU**: 2016, well I do, but it keeps on going down because...[intervenes].

10 **CHAIRPERSON**: Ja but...[intervenes].

**MR NDZEKU**: Swissport, the also pay me sometimes, the dividend you know.

**CHAIRPERSON**: But after it came in, the balance in your account that you had for quite some time, after that, was very different from the balance that you had, had before this money came in, isn't it?

**MR NDZEKU**: Yes.

**CHAIRPERSON**: Therefore, if you didn't know about this money having come in you would have said, but why do I  
20 have such a big balance and you would have wanted to find out, isn't it?

**MR NDZEKU**: Yes, yes.

**CHAIRPERSON**: So, didn't you do that?

**MR NDZEKU**: No, I didn't do it.

**CHAIRPERSON**: But you saw that the balance was big?

**MR NDZEKU:** The only time I remember the balance was big, it was the R20million the money I paid to that gentleman and when I say...[intervenes].

**CHAIRPERSON:** But the R20million was not in your account, was it?

**MR NDZEKU:** No, it was in the JM account.

**CHAIRPERSON:** No, I'm talking about your account.

**MR NDZEKU:** No, I understand.

**CHAIRPERSON:** So, you saw there was a big balance in  
10 your statement but you didn't ask anybody about it?

**MR NDZEKU:** I must tell you that I don't remember very well.

**CHAIRPERSON:** Yes but what is it that you don't remember, is it that you didn't see – you don't remember you saw that there was a big balance in your account or what you don't remember is, whether you asked anybody after you saw the big balance?

**MR NDZEKU:** Well I did not remember asking anybody about the amount of money.

20 **CHAIRPERSON:** Yes.

**MR NDZEKU:** And then I think the money was in my account and then that's it, I think I spoke to my partner about it, if I remember very well.

**CHAIRPERSON:** You spoke to him?

**MR NDZEKU:** No, I think so, I don't remember Chair

because it was long time.

**CHAIRPERSON:** But you would agree with me, would you not, that if, in your, if you look at your bank statement and you see a very big amount, compared to what you expect.

**MR NDZEKU:** Expect yes.

**CHAIRPERSON:** You'd want to find out where does this money come from.

**MR NDZEKU:** Hundred percent Chair.

**CHAIRPERSON:** You wouldn't just keep quiet about it.

10 **MR NDZEKU:** Yes, yes.

**CHAIRPERSON:** So you must have asked Mr Aires about it and he must have told you something?

**MR NDZEKU:** If I remember, Chair, I don't remember discussing with him, to be honest, I don't...[intervenes].

**CHAIRPERSON:** But that would be strange, wouldn't you agree with me, that somebody sees...[intervenes].

**MR NDZEKU:** It is very strange, it is very strange, it's exactly what happened, yes. Maybe we did discuss it but I don't remember.

20 **CHAIRPERSON:** That you would look at your bank statement and see that suddenly you have a large amount of money, you don't even – you don't want to find out where it came from but you do use it because you used it, did you not?

**MR NDZEKU:** Well, Chair, I must tell you that I trust Mr

Aires very much, he's a good man and I think maybe we did discuss it?

**CHAIRPERSON:** Huh?

**MR NDZEKU:** Maybe we did discuss about...[intervenes].

**CHAIRPERSON:** Yes, but you don't know.

**MR NDZEKU:** Ja I don't know.

**CHAIRPERSON:** Yes, Ms Hofmeyr?

**ADV HOFMEYR:** Mr Ndzeke, I'd like you to go back to that page of the JM Aviation bank statement, where we saw  
10 the R28.5million come in, you'll find that in Bundle DD26 and you'll find it at page 45.

**MR NDZEKU:** What was it – it was 10 hey?

**ADV HOFMEYR:** Yes, it was under tab 9, under tab 9 and if you go to page 45.

**MR NDZEKU:** Page 45 hey?

**ADV HOFMEYR:** Yes, you'll recall that we looked at those varied payments out of the JM Aviation account after the money was receive from Swissport. There was the Jamicron one first, the R20million and then there was  
20 another R2.5million paid to BM Kolisi, do you have that in front of you?

**MR NDZEKU:** Ja I can see that.

**ADV HOFMEYR:** Yes, that's the BM Kolisi that you said JM Aviation had no dealings with at the time, correct?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Right, so despite no dealings at all, JM Aviation paid R2.5million to BM Kolisi, and it has a reference there, Pete 0000.1/16, do you see that?

**MR NDZEKU:** Is it...[intervenes].

**ADV HOFMEYR:** It's under...[intervenes].

**MR NDZEKU:** It's under 2.5?

**ADV HOFMEYR:** No next to 2.5.

**CHAIRPERSON:** Under the heading, opening account.

**ADV HOFMEYR:** Can you see opening account in the top  
10 line?

**CHAIRPERSON:** Then you go down.

**MR NDZEKU:** Yes, I can see that.

**ADV HOFMEYR:** And you see, written there – let me just explain to you what that column is. That's the column where a description is given to an account by the person who's doing the payment.

**MR NDZEKU:** Payment ja.

**ADV HOFMEYR:** Okay, so you'll see when Jamicron was paid the description was JM Aviation South Africa, do you  
20 see that, that's the description. If you take Jamicron and you go to the right of Jamicron.

**MR NDZEKU:** It says Jamicron it was 20 an then it was ...[intervenes].

**ADV HOFMEYR:** Yes, but between those two there's a description Mr Ndzeke, I'm looking at the description.

**MR NDZEKU:** Ja I can see that...[intervenes].

**ADV HOFMEYR:** Okay, you got that?

**MR NDZEKU:** Ja Peter.

**ADV HOFMEYR:** Yes good, okay, you said Peter, right, what's actually written here is Pete 0000.1/16.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Peter, do you think it was supposed to refer to Peter?

**MR NDZEKU:** It was what?

10 **ADV HOFMEYR:** Was it supposed to refer to Peter, because it just says Pete there?

**MR NDZEKU:** I can see it's Pete ja, I don't know whether it's Peter.

**ADV HOFMEYR:** Yes, it might be Peter.

**MR NDZEKU:** Ja but there it's written – no it's written Pete.

**ADV HOFMEYR:** Correct.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Do you know what that payment was for?

20 **MR NDZEKU:** Where it's coming from, it's coming from BM Kolisi.

**ADV HOFMEYR:** No, it's a separate payment that JM Aviation made to Pete – sorry, sorry the payment that – I do apologise, I myself got confused to BM Kolisi but the reference on it, the way its described is Pete. It's coming

from JM Aviation pays BM Kolisi R2.5million, you see that?

**MR NDZEKU:** This Pete, does it come from Peter Cole or what?

**ADV HOFMEYR:** Well that's what I'm interested in your help with, do you know what that refers to?

**MR NDZEKU:** Sorry counsellor, I really don't know how to tell you on this one.

**ADV HOFMEYR:** Can you help me with the representative from SAA who was at the meeting on the 10<sup>th</sup> of February  
10 2016, the Head of Procurement at the time at SAA, do you remember his name?

**MR NDZEKU:** The gentleman who was there?

**ADV HOFMEYR:** Hmm.

**MR NDZEKU:** I think it was another big guy, Peter Lester...[intervenes].

**ADV HOFMEYR:** Lester Peter yes.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Could that have been referring to him?

**MR NDZEKU:** I don't know counsellor, I don't know, why  
20 should JM Aviation pay him?

**ADV HOFMEYR:** That's my question for you, Mr Ndzeke, why would JM Aviation be paying Lester Peter?

**CHAIRPERSON:** You can tell us because you – JM Aviation is your company.

**MR NDZEKU:** Chair it's – this is music to me, I must tell

you that when it comes to the finance people who work at SAAT, the person had long relationship with these people, it was Mr Aires, and if maybe they decided to pay out of JM Aviation, that gentleman, you know, I don't know.

**CHAIRPERSON:** So, people in your company pay a lot of people millions of rands and you don't know anything about it?

**MR NDZEKU:** No, no Chair, in the company the person who's in charge of the finance, and like I said, this  
10 company it was a small company as the counsel had said, this account had exactly R1000 when we opened it. From nowhere it exactly ran about at 2.8, roundabout 28million. Mr Aires he was in charge.

**CHAIRPERSON:** But the fact that it is a small company and not a big company supports the proposition that you ought to know. If you are dealing with a big company and there are many directors, shareholders, there are thousands of employees as an individual you might not find it easy to know a lot of things because the company is big.

20 **MR NDZEKU:** Yes.

**CHAIRPERSON:** If it is small.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** It is much more easier to know what is going on.

**MR NDZEKU:** Well it is much more easier to know when –



when you are involved on the finance also in the marketing.  
I was not involved.

**CHAIRPERSON:** But can people in a company – in your company be paying monies out and you do not – millions and you do not anything.

**MR NDZEKU:** Chair – Chair I am sorry to disappoint you. Jules Aires is the founder of this company. He was in charge while doing the marketing. He is the one actually who did everything. That is the bottom line. That is all I can say.

10 **CHAIRPERSON:** But – but I am afraid Mr Ndzeke if what you seem to convey to me about what you knew about your company.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** JM Aviation is true namely you knew very little. Because that is what you are telling me.

**MR NDZEKU:** Yes very true.

**CHAIRPERSON:** Then I am afraid if that is true the position must be that Mr Aires and whoever could just so to speak steal this company away from you. Or you could wake up  
20 one morning and find that there is no money. All the money has been taken out and you do not know about it.

**MR NDZEKU:** Well I cannot say that he can steal the company away from me because he invested in the company and then he was actually the one who was bring business in the company.

**CHAIRPERSON:** But you could easily find that you have nothing left out of the company because you – you were not paying attention.

**MR NDZEKU:** Chair it is the truth.

**CHAIRPERSON:** You were not paying attention if your version is correct that you knew so little. You are not paying attention to anything. You are leaving everything to him. He could pay people millions of Rands and you left everything to him. You do not even seem to have been interested to say,  
10 why is this money – why is so and so being paid this money? You are just leaving things to him.

**MR NDZEKU:** Chair it is the truth. First of all the founder – the founder of JM Aviation their purpose of JM Aviation South Africa it was to deal with airlines. He has got – he has got 25 years' experience on that side. I do not have. So now he invested money and he says can you please give me a chance let me run with that. So I did.

**CHAIRPERSON:** Ms Hofmeyr.

**ADV HOFMEYR:** Mr Ndzeku you will remember it is only Ms  
20 Sokhulu your daughter who can authorise these payments.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Yes. So this is not all Mr Aires. Your daughter Ms Sokhulu authorised the payment of R2.5 million to BM Kolisi with the reference Pete.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** 00001/16.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Did she ever speak to you about why she was making that payment?

**MR NDZEKU:** Well she – I do not remember. I do not recall talking about that.

**ADV HOFMEYR:** Hm. And she was not involved in the business at all was she? She did not want to be involved. She was busy studying as I understood your evidence,  
10 correct?

**MR NDZEKU:** Well she did not but Jules was involved.

**ADV HOFMEYR:** I understand Jules was involved but she had to press the button on the bank account when she was on internet banking to say take R2.5 million out of my father, my sister and my company and give it to BM Kolisi. Do you not think at some point she asked about why she was being told to do that?

**MR NDZEKU:** Well I believe in my partner Jules. If Jules says Khosi must pay the – press the button and he is the one  
20 actually who is bringing the business and he is also investing. I did not ask anything.

**CHAIRPERSON:** I am sorry come on Mr Ndzeke.

**ADV HOFMEYR:** And if that...

**CHAIRPERSON:** Come on, come on.

**MR NDZEKU:** Chair it is the truth.

**CHAIRPERSON:** Come on, come on. This is your daughter.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** You are – you were there when JM was started?

**MR NDZEKU:** Started yes. I am the one actually who invited my daughter.

**CHAIRPERSON:** You are the – and you tell me that Mr Aires would not tell you about this money. Your daughter would not tell you about this money. They would all be paying  
10 these monies out without you knowing?

**MR NDZEKU:** No – you know Chair this has come – maybe my daughter told me, maybe Jules told me. I do not remember.

**CHAIRPERSON:** But it cannot be Mr Ndzeke it cannot be that all the time you are going to say maybe this, maybe that. You know something, tell me what you know.

**MR NDZEKU:** Chair what I know I do not remember. That is the bottom line.

**CHAIRPERSON:** You do not remember whether Mr Aires told  
20 you about this – the money that was paid to you R2.5 million. You do not remember whether he told you about the money that was paid to Mr Kolisi.

**MR NDZEKU:** To Kolisi.

**CHAIRPERSON:** You do not remember whether your daughter told you about any of these monies.

**MR NDZEKU:** No nothing. Chair I regret I am sorry to disappoint you. Very, very sorry. Jules he has been involved for 25 years he knows everybody there. When we formed JM Aviation I was happy with him. If maybe he wanted to run the company down because he was the one actually who was doing the marketing. He was the one who was bringing the money. If he gave my daughter instruction that he must pay and my daughter did...

**CHAIRPERSON:** And your daughter would never tell you?

10 **MR NDZEKU:** Sorry.

**CHAIRPERSON:** Your daughter would not say, dad maybe Mr Aires is up to something here. I am – he has instructed me to pay some money and I do not know anything about it.

**MR NDZEKU:** If the father never put anything – if the father does not bring business, I really do not think it is important that I must know. I do not add any value – JM Aviation. Jules.

**CHAIRPERSON:** Ms Hofmeyr.

20 **MR NDZEKU:** Because he is the one actually who knows everything. He is an expert on that side.

**ADV HOFMEYR:** If you had been told at the time that this R2.5 million was going to benefit Mr Lester Peter the head of procurement at SAA at the time would you have been worried about that?

**MR NDZEKU:** Of course, I would – I want to know exactly

why are we paying because...

**ADV HOFMEYR:** Exactly.

**MR NDZEKU:** In my thinking you do not pay something. Why should they pay? Why ask me – we must pay?

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** Why I say that – Swissport was not paying – why we?

**ADV HOFMEYR:** Well it is worse than that Mr Ndzeke.

**MR NDZEKU:** Okay.

10 **ADV HOFMEYR:** I would like your comment on this. Mr Lester Peter.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Is sitting in SAA as the procurement officer.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** He has just concluded an agreement that is going to benefit Swissport and JM Aviation for R1.5 billion.

**MR NDZEKU:** Yes.

20 **ADV HOFMEYR:** If you pay Mr Lester Peter R2.5 million or some portion of that then you have engaged in corruption Mr Ndzeke because you have paid the decision maker who decided to give your company a lucrative deal.

**MR NDZEKU:** Well you know.

**ADV HOFMEYR:** Do you accept that?

**MR NDZEKU:** Well you know the Chair he said something.

He said to me why would you not tell Peter Kohl that to pay direct to those people? That is exactly what the Chair says. You know and the Chair was right, why? You did not say Peter pay. I am not paying you must pay.

**ADV HOFMEYR:** Is your evidence it was to hide corruption?

**MR NDZEKU:** Sorry.

**ADV HOFMEYR:** Is it your evidence that they were using JM Aviation to hide corruption?

**MR NDZEKU:** No I do not say – I do not know. It is not  
10 corruption. I do not say that because I do not know. During that time when these people they were working I did not say – you know there was no money exchanged from – who paid actually JM is it – who paid that R2.5 to Lester? Is it JM?

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** I do not know about it I am sorry Chair to disappoint you. I am very sorry to say that. I do not know that. Maybe my partner can explain better.

**ADV HOFMEYR:** Or your daughter who facilitated the payment.

20 **MR NDZEKU:** You know what my daughter get instructions from Jules and then Jules is the owner of the company. He is the one actually put the money and he is the one actually who is doing the marketing.

**ADV HOFMEYR:** He did not put any money in Mr Ndzeke. We confirm that. He did not put any money into this

company.

**MR NDZEKU**: Let us go back again. When we started about JM International where we used to do things outside.

**ADV HOFMEYR**: Yes JM – I am talking about JM Aviation South Africa Mr Ndzeke.

**MR NDZEKU**: Okay.

**ADV HOFMEYR**: Mr Aires made no financial contribution to it at this stage. Let us move to what happened with this R2.5 million that there is...

10 **CHAIRPERSON**: Just before that. Just before that. Mr Ndzeke how does it come about that if Mr Aires wields the power that you want me to believe wields – or he wield – sorry wielded in the company because from what you have said he instructed you – he would instruct you. And if he instructed you you do what he said you must do. He would instruct your daughter too. And if on your evidence if he instructed your daughter your daughter would do whatever he instructed her to do. Why is it then that he allowed a situation where it was your daughter who had the sole  
20 signing powers if I understand Ms Hofmeyr correctly – if he – if he does not have the signing powers the signing powers are with your daughter why does he not keep the signing powers to himself?

**MR NDZEKU**: Mr Aires?

**CHAIRPERSON**: Hm.



**MR NDZEKU:** Right. Between – between JM and JM Aviation and JM International when they started Mr Aires told me that they have got an account in Standard Bank. Exactly what he told – I do not know maybe it is Standard Bank or maybe it is FNB the account they have got. Which account is ...

**ADV HOFMEYR:** This one is the FNB account.

**MR NDZEKU:** FNB okay. He told me that they have got an account in Standard Bank. They opened an account in  
10 Standard Bank. There are two signatures. It is himself and my daughter. The reason why they are bringing my daughter on board it is because the company must have women.

**CHAIRPERSON:** Because the company was?

**MR NDZEKU:** Must have women on board.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** And then again if she is alone it is not going work. We must actually bring another woman. Then I say you know what Jules I do not know who can we bring but I think I have got another daughter. Now the bottom line how  
20 come did she sign? For me when anything Jules said we must do we did it because he was the one actually who was in charge.

**CHAIRPERSON:** So Mr Aires is one person.

**MR NDZEKU:** One person yes.

**CHAIRPERSON:** But the Ndzeke family are three is it not?

Yourself, your daughter and your wife is it not?

**MR NDZEKU**: Yes.

**CHAIRPERSON**: Yes.

**MR NDZEKU**: But I can say...

**CHAIRPERSON**: But he...

**MR NDZEKU**: Ja one. Jules is one, I am one. Because these people they could not come if it was not me.

**CHAIRPERSON**: If?

**MR NDZEKU**: We are two. It is myself and Aires.

10 **CHAIRPERSON**: Yes.

**MR NDZEKU**: Because these people you are talking about Chair they could not come if I did not invite. If Jules he did not say that I must invite them.

**CHAIRPERSON**: Yes but he said and they are there now.

**MR NDZEKU**: Yes.

**CHAIRPERSON**: Okay. So the Ndzeke family they are three people.

**MR NDZEKU**: Yes.

**CHAIRPERSON**: Mr Aires is just one person. But he rules.

20 **MR NDZEKU**: Hundred percent. Hundred percent.

**CHAIRPERSON**: And...

**MR NDZEKU**: He has got experience.

**CHAIRPERSON**: And when...

**MR NDZEKU**: He has got experience for 25 years in aviation.

**CHAIRPERSON:** And when the Ndzeke family is alone without him they do not even discuss monies that come in and go out.

**MR NDZEKU:** But you know Chair you must discuss money coming in and out when you understand the business. Jules is a man actually who has been in this business for a long time.

**CHAIRPERSON:** Hm.

**MR NDZEKU:** I have been with Swissport for a long time on  
10 their aviation. On the ground handling. I know nothing about most of the things then. I was a worker. I can still say that maybe I was also worker to Jules. He saw me as a worker.

**CHAIRPERSON:** Hm.

**MR NDZEKU:** I am sitting here today and then Counsellor is asking me those questions.

**CHAIRPERSON:** Hm.

**MR NDZEKU:** Which is I cannot even respond.

**CHAIRPERSON:** Hm.

20 **MR NDZEKU:** How can you have so lot of money in your account and you do not know about it. That means to you it was small money. No it was. It was a big money. But did I know anything about it? Did he tell me? Maybe yes, maybe no. I do not remember Chair.

**CHAIRPERSON:** Ms Hofmeyr.

**ADV HOFMEYR:** I just want to conclude on where that R2.5 million that was paid with the reference P it went to. Because all that we have seen so far is that it was paid to a firm of attorneys with whom JM Aviation had no dealings at the time. That has been your evidence Mr Ndzeku.

**MR NDZEKU:** In my thinking yes.

**ADV HOFMEYR:** Yes your knowledge I understand that.

**MR NDZEKU:** Not the Chair's.

**ADV HOFMEYR:** Yes. Okay so let us go back to the  
10 chronology. It was on the 15 March that SAA and Swissport finally signed the ground handling contract. You were a witness on that agreement as was Mr Lester Peter. Okay I am just reminding you of these facts. 15 March. Well what we are interested in following that...

**MR NDZEKU:** Sorry – sorry Counsellor.

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** What is happening now Peter is the CEO of the company. He has got – he has got papers. He has got agreement where he ask me can you please come and I  
20 come.

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** He says, I need you to put your signature here. You know.

**ADV HOFMEYR:** No Mr Ndzeku there is no question. Do not worry I was just orientating you.

**CHAIRPERSON:** Okay, okay.

**MR NDZEKU:** In time. That that had happened on the 15 March 2016.

**MR NDZEKU:** Okay.

**ADV HOFMEYR:** Okay. The next day the 16 March 2016 Mr Lester Peter went to buy two cars. Were you aware of that?

**MR NDZEKU:** No I was not.

**ADV HOFMEYR:** You were not. Well I can tell you and I will take you to the documents. He engaged with an outfit called  
10 Cars for Africa. That was the next day the 16 March.

**MR NDZEKU:** The next day yes yes.

**ADV HOFMEYR:** Yes. And he wanted to buy two sports cars.

**MR NDZEKU:** Ja.

**ADV HOFMEYR:** He was interested in an Aston Martin Coupe and a BMW 4M Coupe. Again, do you have no knowledge of these facts?

**MR NDZEKU:** Nothing. Nothing.

**ADV HOFMEYR:** Nothing. Nothing. And he asked for a  
20 quote and it came in at about R1.7 million and then he asked for a few frills including personalised number plates for the two cars and that took the invoice a little bit above R1.7 million. That was around the 16 March. Right. Then on the 23 March Swissport South Africa paid R28.5 million into JM Aviation's account. You saw that, correct?

**MR NDZEKU:** Yes I did. Yes I did see that.

**ADV HOFMEYR:** Yes. The same day R20 million goes to [00:15:24] R2.5 million goes to you and R2.5 million goes to BM Kolisi Attorneys. Right.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** It only cleared in BM Kolisi Attorney's account on the 30 March. We went back and looked at the calendar Chair it was because of a public holiday and a weekend. So it comes into BM Kolisi's account on the 30  
10 March and guess who paid for Mr Lester Peter's cars on the 31 March? BM Kolisi Attorneys. Those are the facts that our investigation has unearthed. Is your evidence today that you have no knowledge at all of those facts?

**MR NDZEKU:** Well I am sorry to disappoint Counsel I do not know anything about that. But did the monies there in the account – the money was paid but where it went, who paid it I do not know. I am sorry. I am sorry Chair but it is the fact.

**ADV HOFMEYR:** It would be very concerning would it not if JM Aviation from money from Swissport paid for two cars for  
20 Mr Lester Peter would it not be concerning Mr Ndzeke?

**MR NDZEKU:** Well if – if I knew that it is going to be paid for cars and things I do not know definitely I would be concerned.

**ADV HOFMEYR:** You see I will go back to Mr Daluxolo Peter's evidence.

**MR NDZEKU**: Yes.

**ADV HOFMEYR**: He not only describes you as the Mastermind behind all of these payments but he says that his role – his role at that meeting on the 10 February 2016 where he was present with you was to facilitate the Swissport SAA ground handling contract, do you dispute that?

**MR NDZEKU**: Well he – he was talking to Peter Kohl.

**ADV HOFMEYR**: Not to you?

10 **MR NDZEKU**: No.

**ADV HOFMEYR**: He did not talk to at all?

**MR NDZEKU**: No, no. Let me ...

**ADV HOFMEYR**: But you were talking about...

**MR NDZEKU**: No, no let me – let me just put it here Counsel. As I said before I met him Daluxolo at 2010 and after that Peter Kohl called me then he introduced to him and after that he told me that they want to do the business of the busses and then they think that this is a good empowerment and please he want us to work with this gentleman. And  
20 after that he called me again for another – another empowerment. So now I do not know where do I have power when Peter called me. Paid R20 million and I must tell Mr Daluxolo pay 5 or 10 and 15. I did say that when he was paid that money please do not forget me. That is exactly what I said because he was – he was gone and he was

happy. I cannot control him. I was not supposed actually to do anything about it because it was a deal between himself and Peter Kohl the CEO.

**ADV HOFMEYR:** But you were talking to Ms Kwinana about him were you not?

**MR NDZEKU:** About the 30% of the empowerment which is SAA and SAT and then the actual ACSA they opposed to all the people of airport. It was not only Swissport. It was only the budget – budget they had also the same problem.

10 **ADV HOFMEYR:** No I un...

**MR NDZEKU:** Which is Peter Kohl also decided – Peter Kohl decided also to go to Durban with the very same gentleman the one who says I was the Mastermind. If I was a mastermind why I did not go to Durban with him and Peter Kohl? I was supposed to be there.

**ADV HOFMEYR:** No Mr Ndzeke. Mr Peter's evidence is that he was brought in to facilitate that deal.

**MR NDZEKU:** Yes.

20 **ADV HOFMEYR:** He did so and so he got a cut. He got to keep R5 million of the R20 million that was paid to his company. Do you dispute that?

**MR NDZEKU:** Well I do not know that. I am sorry. I cannot ...

**ADV HOFMEYR:** I would like Chair then to move to the purchase of the property that Mr Ndzeke made that was Ms



Hlohela's property.

**MR NDZEKU**: Yes.

**CHAIRPERSON**: Yes.

**ADV HOFMEYR**: And Ms Hlohela just to orientate ourselves is the mother of Ms Memela.

**MR NDZEKU**: Yes.

**ADV HOFMEYR**: Who was the head of procurement at SAA Technical at the time.

**CHAIRPERSON**: Must we keep this bundle in front of us or  
10 are we moving to another one?

**ADV HOFMEYR**: Chair no you can keep that bundle thank you.

**CHAIRPERSON**: Okay.

**ADV HOFMEYR**: So just a few more details about that sale Mr Ndzeke. We saw the agreement the sale agreement earlier this morning. You confirmed your signature on it. Do you recall that?

**MR NDZEKU**: Yes.

**ADV HOFMEYR**: Right. Did you read the sale agreement  
20 before you signed it?

**MR NDZEKU**: I think so I think I did yes.

**ADV HOFMEYR**: It would be prudent to do so would it not? You would want to have read what you were signing.

**MR NDZEKU**: Yes.

**ADV HOFMEYR**: Your commitment to it, is that correct?

**MR NDZEKU**: Yes.

**ADV HOFMEYR**: And can you help me with...

**CHAIRPERSON**: I am sorry. That is a yes hey?

**MR NDZEKU**: Yes, yes Chair.

**CHAIRPERSON**: Ja okay. I did not think it was loud enough to be captured ja.

**MR NDZEKU**: Sorry Chair.

**CHAIRPERSON**: Ja okay.

**ADV HOFMEYR**: And who signed first Ms Hlohela or  
10 yourself?

**MR NDZEKU**: Who what?

**ADV HOFMEYR**: Who signed the agreement first Ms Hlohela or you?

**MR NDZEKU**: I think it was Ms Hlohela.

**ADV HOFMEYR**: Ms Hlohela.

**MR NDZEKU**: Ja I think so ja.

**ADV HOFMEYR**: And then how did you get the agreement from her? I am just trying to understand the logistics.

**MR NDZEKU**: Well when I – when I first met her this lady  
20 here because I met her Nonsasa at that time.

**ADV HOFMEYR**: That is Ms Memela.

**MR NDZEKU**: Ms Memela and after that she told me that the mother is [01:20:53] with the eyes and then I was introduced to the mother. And after that I went to see the mother and we started to talk about what we were talking and I said to

her, it – I would like actually to go – to go and see exactly what is happening. Because we got this venture of the other business in Maseru which is we wanted actually to do in Swaziland also in Transkei which I show the brochure of the company.

**ADV HOFMEYR:** That is – you showed her the brochure?

**MR NDZEKU:** Yes I did.

**ADV HOFMEYR:** Right.

**MR NDZEKU:** So now I said this is exactly what we want to  
10 do. And after that they said okay we have got actually the land it is next to the river. And I said I would like to see it. And then I took my uncle and then the one who is in hospital. I said come let us drive. And then we went there. When we arrived there and then I found this lady. I do not remember the date and when but the lady – the same lady I saw her she was there. They were around about two, three, four gentlemen who introduced themselves.

**CHAIRPERSON:** Remember you are telling me that story Mr Ndzeke.

20 **MR NDZEKU:** Sorry.

**CHAIRPERSON:** Remember I am the one who is....

**MR NDZEKU:** Sorry Chair I am sorry Chair.

**CHAIRPERSON:** Ja.

**MR NDZEKU:** So now when we went...

**CHAIRPERSON:** So when you looking that way I cannot get

to hear everything

**MR NDZEKU**: Sorry Chair.

**CHAIRPERSON**: Ja.

**MR NDZEKU**: So now when we arrived there and then we find this lady was there and she introduced me to these people – to these Chief. Another one it was a Chief Sigcau. I do not know maybe it was Chief Sigcau or what and then we decided to sit. I did not say – I did not say to her listen please man please give me your number or maybe tell me  
10 exactly what. No, no I just listened to them. Because by that time I did not pay anything. There is no money exchanging hands. And then when I was told that the person who is charge is the Chief. This gentleman he say is the Chief. Another one he says I am – we are not in charge of that land so I was a little bit confused. Why this one say this and this one. I say to her listen what exactly is happening here? Are we doing it or maybe we are not doing it? If you are not owning the land it is not yours, we do not have to do this. I know let the boy take you there to the river he must  
20 show you. So they show me a land where it is the same size as the soccer stadium. You know it could be maybe somebody's land or maybe it could that land. And I said okay if this is the land and then the Chief also he agree on this and then I will trust you Ms Hlohela and then that at least when the time comes we can actually do the deal. And

after that I left. I came here. Now the question now who signed first? After that I actually wanted the paper for the land. I did not get the land.

**CHAIRPERSON:** So do you remember who signed first or do you not remember?

**MR NDZEKU:** I do not remember but I do not remember it is me or her but I do not remember but I ...

**ADV HOFMEYR:** She – she signed on the 1 November 2015. Did you sign around that time?

10 **MR NDZEKU:** Oh the lady?

**ADV HOFMEYR:** Yes Ms Hlohela.

**MR NDZEKU:** So now...

**ADV HOFMEYR:** No Mr Ndzeke my question is did you sign around that time November 2015?

**MR NDZEKU:** I think so. I do not remember.

**ADV HOFMEYR:** But it would have to have been around that time because you paid for the property in 2016 about May 2016. Do you recall that?

**MR NDZEKU:** Ja somewhere there yes.

20 **ADV HOFMEYR:** Okay so was your meeting with her at the land before November 2015?

**MR NDZEKU:** I think it was before.

**ADV HOFMEYR:** Well it would have to be before would it not? Because as I understand your evidence you went to see the land before you concluded the deal. Is that correct?

**MR NDZEKU**: I think so yes.

**ADV HOFMEYR**: Well is it?

**MR NDZEKU**: I do not remember but I think so.

**ADV HOFMEYR**: Would you have seen the land only after you concluded the deal?

**MR NDZEKU**: No but when they told me about the land I wanted to see the land. I said let me see it.

**ADV HOFMEYR**: Yes so you went to see it.

**CHAIRPERSON**: I am sorry. I am sorry I do not hear that.

10 **MR NDZEKU**: Sorry, sorry Chair.

**CHAIRPERSON**: When they told you about the land what, what, what?

**MR NDZEKU**: I wanted actually to go and see it.

**CHAIRPERSON**: You wanted to go and see it?

**MR NDZEKU**: Ja see the land and then I took my good uncle. The one actually [01:25:09].

**CHAIRPERSON**: So you made sure you saw the land before you could conclude the deal?

**MR NDZEKU**: I think so Chair.

20 **CHAIRPERSON**: Yes.

**MR NDZEKU**: I think so.

**CHAIRPERSON**: Okay.

**MR NDZEKU**: But we actually myself and my uncle we have got this company from Lesotho which is they are doing what they are doing and then we also went to talk to them and

then they said they need property in Swaziland, they need property there. Then we said listen we would like actually to – because...

**MR NDZEKU**: Yes, no, no that is fine. The question was simply whether you saw the land first before you concluded the deal?

**MR NDZEKU**: I think so.

**CHAIRPERSON**: And one would expect that because what would be the point of seeing it after you had concluded the  
10 deal.

**MR NDZEKU**: I think that is – I think I went down there before we concluded it Chair.

**ADV HOFMEYR**: Can you be clear. Did you see the land before you paid the money?

**MR NDZEKU**: Sorry?

**ADV HOFMEYR**: Did you see the land before you paid the money?

**MR NDZEKU**: I think I did see the land before I paid the money if I remember very well.

20 **CHAIRPERSON**: And you would agree that it would not help to pay the money and see the land after?

**MR NDZEKU**: Sorry what are you saying Chair.

**CHAIRPERSON**: Would you agree that it would not serve any purpose

**MR NDZEKU**: To pay the money

**CHAIRPERSON:** To pay first and see the land after?

**MR NDZEKU:** Hundred percent Chair.

**CHAIRPERSON:** Hm.

**ADV HOFMEYR:** Hm. And one of the points you made earlier is when you met with Ms Hlohela on that day that you went and saw the land you did actually show her the – the memorandum about the cannabis growing, is that correct that you have provided to the commission?

**MR NDZEKU:** Yes, yes.

10 **ADV HOFMEYR:** Yes. How did you show her a document that was only generated in November 2018?

**MR NDZEKU:** What did I what?

**ADV HOFMEYR:** In 2015. How did you show her a document that was only generated, made, put together in November 2018 when you met with her in 2015?

**MR NDZEKU:** The question did I show her this document?

**ADV HOFMEYR:** No you already told us.

**CHAIRPERSON:** The question is this. That document that you say you showed her did not exist at the time that you  
20 say you showed her because it was only generated or put together in 2018. What do you say to that?

**MR NDZEKU:** Well I do not remember Chair maybe I did show her maybe I did not show it because this was my project. I was actually rushing with this project. Maybe I did not show but maybe I did not show her but this is the project



actually I wanted to do.

**CHAIRPERSON**: Ms Hofmeyr.

**ADV HOFMEYR**: Mr Ndzeke just to be clear your evidence twice today.

**MR NDZEKU**: Yes.

**ADV HOFMEYR**: Because I have made a note of it was that when you met with her in 2015 you showed her this memorandum. You have just been told that the memorandum was only created in November 2018 and now you are  
10 changing your version.

**MR NDZEKU**: Sorry, sorry Chair. Maybe I do not remember. Sorry. Maybe I do not remember.

**CHAIRPERSON**: I mean what is it that you do not remember now?

**MR NDZEKU**: No what I am saying now if maybe did I show her – did I sign or before or maybe did I show the document.

**CHAIRPERSON**: No. Mr Ndzeke you said earlier on that you showed Ms Hlohela that document the memorandum. Now we know that the meeting that were talking about when  
20 you said you showed her was in 2015.

**MR NDZEKU**: I do not remember. I do not know Chair did I show her or I did not.

**CHAIRPERSON**: Hang on, hang on.

**MR NDZEKU**: Yes.

**CHAIRPERSON**: Just listen. You said that when you met

her Ms Hlohela you showed her that – this – that document memorandum. And we know that the meeting with her that you are talking about.

**MR NDZEKU**: Sorry Chair when you talk about memorandum I am talking about the memorandum of agreement of the land or...

**ADV HOFMEYR**: No the memorandum for your cannabis growing.

**MR NDZEKU**: No, No I was thinking that we were talking  
10 about memorandum of understanding on this...

**ADV HOFMEYR**: No Mr Ndzeke you did not because you did not have the memorandum of agreement either when you met with Ms Hlohela.

**MR NDZEKU**: I am sorry Ma'am I did not understand. I am sorry.

**CHAIRPERSON**: Okay. Let us take it step by step. The document relating to cannabis.

**MR NDZEKU**: Yes.

**CHAIRPERSON**: Did you show it to her that is Ms Hlohela  
20 when you met with her in 2015?

**MR NDZEKU**: No I did not. I did not have it by that time.

**CHAIRPERSON**: You did not have it by then?

**MR NDZEKU**: No.

**CHAIRPERSON**: So you did not show it to her.

**MR NDZEKU**: No. No I did not.

**CHAIRPERSON:** Did you not earlier say you did show it to her?

**MR NDZEKU:** I think I made a mistake.

**CHAIRPERSON:** You think you made a mistake?

**MR NDZEKU:** Yes.

**CHAIRPERSON:** Now you are sure that you did not show it to her?

**MR NDZEKU:** Yes.

**CHAIRPERSON:** Ms Hofmeyr.

10 **ADV HOFMEYR SC:** It is a brochure from Medigro.

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** Your evidence earlier was that you were engaging with them about the Cannabis growing. Is that correct?

**MR NDZEKU:** Hundred percent.

**ADV HOFMEYR SC:** And you were engaging with them at the time you that you were thinking about buying this property. Is that correct?

**MR NDZEKU:** Correct, yes.

20 **ADV HOFMEYR SC:** And that was in 2015, correct?

**MR NDZEKU:** Correct.

**ADV HOFMEYR SC:** Who is the CEO of Medigro?

**MR NDZEKU:** Well, I did not meet the CEO. I met the marketing guy. He is name is Thabo.

**ADV HOFMEYR SC:** His name is?

**MR NDZEKU**: Thabo.

**ADV HOFMEYR SC**: Thabo.

**MR NDZEKU**: Thabo Mokwena, yes.

**ADV HOFMEYR SC**: Thabo. When did you meet him?

**MR NDZEKU**: I think during... around that time.

**ADV HOFMEYR SC**: H'm.

**MR NDZEKU**: Ja, I do not remember but ...[intervenens]

**ADV HOFMEYR SC**: When you got the memorandum?

**MR NDZEKU**: When I have got... when we started to talk.

10 Ja, Thabo Mokwena, he is the one who actually who came in.

**ADV HOFMEYR SC**: He is the one who gave you it, right?

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: [Dip in audio recording] ...Mokwena about this possible Cannabis growing.

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: And then he gave you this memorandum, correct?

**MR NDZEKU**: He gave me this, the brochure.

**ADV HOFMEYR SC**: The brochure?

20 **MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: Let us call it the brochure.

**MR NDZEKU**: Okay.

**ADV HOFMEYR SC**: So that we do not get confused with the memorandum of agreement.

**MR NDZEKU**: Ja, I am with you, yes.

**ADV HOFMEYR SC:** I agree. Let us call it the brochure. So he is the person you dealt with? You did not deal with the CEO?

**MR NDZEKU:** No, I did not.

**ADV HOFMEYR SC:** And do you remember where you met him when he gave you the memorandum... the brochure? Apologies.

**MR NDZEKU:** Well, I met him in Sandton.

**ADV HOFMEYR SC:** H'm. H'm. Because we have  
10 contacted Medigro since we have received your document, the brochure.

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** Chair, just to inform you how it plays out. We have asked Mr Ndzeke through a summons to provide us any and all documents related to his intended plans for the land that he purchased. And he provided us with this brochure.

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** And he has confirmed with us, he had  
20 engagements with Medigro. He is now corrected his previous evidence when he said he gave it to Ms Hlohlela. He is now saying he did not give it to Ms Hlohlela. But you did have a meeting where you got this, right, from Mr Mokwena, correct?

**MR NDZEKU:** Yes, I did.

**ADV HOFMEYR SC:** Right. You see, the problem I have with that is that the meeting with Mr Mokwena also happened in 2018 because this document that he gave you, only existed in 2018. So how could you have had dealings with Medigro back in 2015 when the document and Mr Mokwena's interactions only happened in 2018?

**MR NDZEKU:** Well, Chair I did not even look at the date. I did not know whether it was 2018 or in 2016. When we started to speak about this project with Mr Mokwena, we did  
10 not talk about date.

**ADV HOFMEYR SC:** So Mr Ndzeke, is your evidence before this Commission that you get confused between something happening in 2016 and something happening in 2018?

**MR NDZEKU:** No, I am just talking about the meeting because you are saying, you contacted... Did I meet the CEO? I said no. You met the marketing? I said no. You said, who did you meet? I said, I met Thabo. Thabo Mokwena.

**ADV HOFMEYR SC:** Yes. H'm.

20 **MR NDZEKU:** Thabo Mokwena, he told me that, he starts with the company. Now when and where and what time and what date, I do not remember.

**ADV HOFMEYR SC:** I understand but it has to be later than November 2018 because the brochure is... its front page says that it was created in November 2018. So your

interactions with Mr Mokwena when he handed you this brochure, happened probably at the end of 2018.

**MR NDZEKU**: Something, yes. Something like that.

**ADV HOFMEYR SC**: Yes. My problem with your evidence Mr Ndzeke, is you tell us and the Commission that when you were dealing with Ms Hlohlela in 2015, you were embarked with Medigro on a project but you were not Mr Ndzeke.

**MR NDZEKU**: No, no, no. But... please, councillor. I did actually ask the Commissioner that it was a mistake because  
10 I was thinking that maybe... because I did not. Now I am telling you that I did not. I am telling you exactly what happened. Did I meet the CEO? Did I meet...? No, I did not. So I do not remember the date. But I did not actually show the lady the brochure. I did not.

**ADV HOFMEYR SC**: And in 2015, you had no engagements with Medigro at all, did you?

**MR NDZEKU**: No, I did not.

**ADV HOFMEYR SC**: No? So you did not have any plans with them for Cannabis growing, did you?

20 **MR NDZEKU**: Well, in Swaziland, yes. Not with the company. In Swaziland, yes.

**ADV HOFMEYR SC**: No, I am asking you about Medigro.

**MR NDZEKU**: In Swaziland in Manzini. There is a place where they are doing it. And also, in Lesotho on a very small scale which is, they actually want to work with. Not

only with this company but another company which is this, exactly the business I was doing for many years.

**ADV HOFMEYR SC:** But Mr Ndzeke, you got a summons from this Commission.

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** That said: Please provide us with any documents related to the agricultural product that you wanted to farm when you concluded the deal in 2015. And you provided us with this brochure.

10 **MR NDZEKU:** Well ...[intervenues]

**ADV HOFMEYR SC:** Not the brochure of another company with whom you were looking at Cannabis dealing. This brochure.

**MR NDZEKU:** But councillor, I can throw that to my advisor because these are the people... Chair, they were actually receiving all the information. When I got something, I took to them. And I said: Gentlemen, how do we go about this? And then if anything, it is here.

20 They are supposed to actually explain how did they come to that. But they only advising me on the man actually in the ground who does these things, you know.

**CHAIRPERSON:** Well, your attorneys could advise you on the law.

**MR NDZEKU:** On the law, yes.

**CHAIRPERSON:** But they would not tell you what happened



because they were not there. They would hear from you what happened and how you came to purchase the land.

**MR NDZEKU**: Yes.

**CHAIRPERSON**: So in terms of facts ...[intervenes]

**MR NDZEKU**: Yes, yes.

**CHAIRPERSON**: ...you are the one who knows what the facts were, what happened. Now, counsel is saying to you there is something wrong with your version.

**MR NDZEKU**: With my version?

10 **CHAIRPERSON**: Ja.

**MR NDZEKU**: Yes.

**CHAIRPERSON**: As to why you were interested in the property, in the land, that you wanted to buy from Ms Hlohlela.

**MR NDZEKU**: Yes.

**CHAIRPERSON**: Because your version is that it was connected with your interest in Cannabis based on your interaction with the company that gave you... that gave that document.

20 **MR NDZEKU**: Yes.

**CHAIRPERSON**: But she is saying, but at that time this document did not exist.

**MR NDZEKU**: It did not exist, yes.

**CHAIRPERSON**: And if I understand correctly. You had not interacted with Mr Mokwena at that time. So it cannot be

that that was the reason why you were interested in the land.  
Ms Hofmeyr must tell me if I misunderstand.

**ADV HOFMEYR SC:** No, indeed Chair.

**MR NDZEKU:** No, no. I understand clearly but I did not meet Mr Mokwena by that time.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** But the business of Cannabis has been there.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Not only in Lesotho, in Swaziland. And then  
10 I had also a group of people, like my friends, who wanted actually a space in Lesotho. As I have said, in Swaziland and also where there is a river. For me Chair, I do not see anything wrong with that.

**CHAIRPERSON:** Yes. Ms Hofmeyr.

**ADV HOFMEYR SC:** Mr Ndzeke, in your affidavit before the Commission, you said that prior to the evidence of Ms Mamela of February of this year, you did not know that the money that you paid for this land of her mother's was going to be used to buy her a property. Do you remember saying  
20 that in your affidavit?

**MR NDZEKU:** Yes, I said that. Yes.

**ADV HOFMEYR SC:** So you had no knowledge until February this year that Ms Mamela was going to use the money to purchase a property. Is that right?

**MR NDZEKU:** Right.

**ADV HOFMEYR SC:** You are sure about that?

**MR NDZEKU:** I am very sure about that.

**ADV HOFMEYR SC:** Let us go to the agreement if we can. The offer to purchase. You will find that under tab 6 at page 14. One four.

**MR NDZEKU:** Page 6?

**ADV HOFMEYR SC:** Tab 6 and then it is page 14. It is where it starts.

**MR NDZEKU:** Yes, I am here.

10 **ADV HOFMEYR SC:** You remember that sale agreement?

**MR NDZEKU:** [No audible reply]

**ADV HOFMEYR SC:** That is the sale agreement that you confirm in your evidence earlier you read, correct?

**MR NDZEKU:** [No audible reply]

**ADV HOFMEYR SC:** Oh, you will find your signature, just to help you, at page 22.

**MR NDZEKU:** Page 23?

**ADV HOFMEYR SC:** 23 is Ms Hlohlela's signature and at page 22 is yours.

20 **MR NDZEKU:** Yes, I can see it.

**ADV HOFMEYR SC:** Do you have it?

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** Yes. This agreement told you that the money was going to be used by Ms Mamela to purchase the property, Mr Ndzeke.

**MR NDZEKU**: This agreement says that?

**ADV HOFMEYR SC**: Yes.

**CHAIRPERSON**: I am sorry. Just repeat the question, Ms Hofmeyr.

**ADV HOFMEYR SC**: I said that the agreement tells Mr Ndzeke that Ms Mamela was going to use the money to purchase her property.

**CHAIRPERSON**: Okay.

**MR NDZEKU**: Now let me just read it again.

10 **ADV HOFMEYR SC**: H'm.

**MR NDZEKU**: Where does he say that? Can you just ...[intervenes]

**ADV HOFMEYR SC**: At page 15, Clause 3.1.

**MR NDZEKU**: Okay, offer to purchase... Is exactly what is he saying, yes. I can see it here.

**ADV HOFMEYR SC**: Yes. Your evidence a moment ago, was that until you heard Ms Mamela in February of 2020, say that the money was going to be used to purchase a property, you had no knowledge of that.

20 **MR NDZEKU**: I did not have...?

**ADV HOFMEYR SC**: Any knowledge of that.

**MR NDZEKU**: Well, I just said that I did not know that. But he is going to purchase a property. I did not know that. But I can see it, yes.

**ADV HOFMEYR SC**: But is in the agreement that you

signed and that you told us you read.

**MR NDZEKU:** I can see here. I can see.

**ADV HOFMEYR SC:** So you did conclude an agreement to buy land from Ms Mamela's mother knowing that the money would go to help Ms Mamela buy a property, correct?

**MR NDZEKU:** No, I did not know that, councillor.

**ADV HOFMEYR SC:** But it is in the agreement.

**MR NDZEKU:** But I can see that now. I can see the agreement says that here but I did not know it.

10 **ADV HOFMEYR SC:** So did you read the agreement and not understand what it meant?

**MR NDZEKU:** I think so. I must be honest with you. I did not actually... I can see here now the agreement.

**CHAIRPERSON:** But Mr Ndzeke, an agreement to buy land is a very serious and a very important agreement.

**MR NDZEKU:** To buy...?

**CHAIRPERSON:** To buy land.

**MR NDZEKU:** Yes.

20 **CHAIRPERSON:** Is a very serious and important agreement.

**MR NDZEKU:** It is.

**CHAIRPERSON:** And you are going to pay a lot of money for the land.

**MR NDZEKU:** Yes, to purchase. Yes.

**CHAIRPERSON:** And this was not a very long agreement as

I see it. It is about four pages.

**MR NDZEKU**: But Chair, I did not get any papers.

**CHAIRPERSON**: I am saying, it seems to me that this is not a very long agreement.

**MR NDZEKU**: yes.

**CHAIRPERSON**: It seems to be about four pages or thereabout or maybe it is eight or six. You mean you did not read the agreement?

**MR NDZEKU**: So you say councillor after we paid that  
10 money, I did not know that Ms Mamela is going to buy the house. Is that what you are saying?

**CHAIRPERSON**: No, no, no. I am asking you the question at the moment. Are you saying you did not read this agreement before you signed it?

**MR NDZEKU**: I think so. I do not... I do not think I really read it properly. Sorry, Chair.

**CHAIRPERSON**: You did not read it properly?

**MR NDZEKU**: Yes.

**CHAIRPERSON**: But you did read it?

20 **MR NDZEKU**: [No audible reply]

**CHAIRPERSON**: Or can you not remember?

**MR NDZEKU**: I do not remember Chair.

**CHAIRPERSON**: You do not remember whether you read it or not?

**MR NDZEKU**: Let me just take a look again. Did you say it

is at what page again?

**CHAIRPERSON:** It is on page one five. That is 15.

**MR NDZEKU:** 145?

**CHAIRPERSON:** No, no. 15, under tab 6. It starts at page 14.

**MR NDZEKU:** Page 14, hey?

**CHAIRPERSON:** It starts at page 14.

**ADV HOFMEYR SC:** Mr Ndzeke, why are you not in tab 6?  
If you go to tab 6 ...[intervenes]

10 **MR NDZEKU:** Tab 6. Yes, okay thank you very much.

**ADV HOFMEYR SC:** Yes, then you will find page 14.

**MR NDZEKU:** Okay then...

**CHAIRPERSON:** Have you got it, offer to purchase?

**MR NDZEKU:** Tell me, this ends at page 12 councillor?

**ADV HOFMEYR SC:** Correct.

**CHAIRPERSON:** Proceed to page 14, hey?

**ADV HOFMEYR SC:** Go to page 14, one four.

**MR NDZEKU:** Okay.

20 **CHAIRPERSON:** Registrar, I am just going to assist Mr Ndzeke.

**MR NDZEKU:** No, I think I am okay. Thank you, Chair.

**CHAIRPERSON:** Have you found it?

**MR NDZEKU:** Yes, I have found it. Yes.

**CHAIRPERSON:** Okay. Under tab 6, page 14. That is where it starts. And then page 15 is where you... the

introduction.

**MR NDZEKU**: Two what? I am at 12... 26-12 now.

**CHAIRPERSON**: H'm?

**MR NDZEKU**: Is it 26-12?

**CHAIRPERSON**: No, no, no. You must be at 15, page 15.

The top page on Clause 1 is introduction. Have you got that?

**MR NDZEKU**: On page 14 here.

**ADV HOFMEYR SC**: And then if you turn over the page

10 ...[intervenes]

**MR NDZEKU**: Offer to purchase, yes.

**CHAIRPERSON**: Offer to purchase, you have got that?

**MR NDZEKU**: Ja, I have got that.

**CHAIRPERSON**: Okay the next page is page 15.

**MR NDZEKU**: Page 15...

**CHAIRPERSON**: Can you see page 15?

**MR NDZEKU**: Yes, I can see that here.

**CHAIRPERSON**: Yes. Now... so what is your final

evidence? Is it that you signed this agreement without

20 reading it or is that you read it but you did not read it properly?

**MR NDZEKU**: Well, I did initially but I did not actually read it properly.

**CHAIRPERSON**: You did what?

**MR NDZEKU**: Yes, in my mind I was really thinking that...



but I can see there is a one point five, there is 90-days, you know.

**CHAIRPERSON:** Two point 5?

**MR NDZEKU:** Ja, at 2.5.

**CHAIRPERSON:** Okay Ms Hofmeyr, take it from there.

**ADV HOFMEYR SC:** Thank you, Chair. Mr Ndzeke, you gave an account of your meeting with Ms Hlohlela just now in your evidence that was different to the account that you gave of that meeting earlier this morning in your evidence.

10 **MR NDZEKU:** Can you repeat again, councillor?

**ADV HOFMEYR SC:** Yes. When you told us just now about the meeting with Ms Hlohlela that you had when you asked to go and see the property ...[intervenes]

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** ...your description of that meeting was quite different to the description that you gave of that meeting when you were being questioned before the tea-break this morning. Do you realise that?

20 **MR NDZEKU:** What was...? I do not remember that it was very different.

**ADV HOFMEYR SC:** Because when you gave evidence first this morning before the tea-break ...[intervenes]

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** ...you appear that you met with Chief Sigcau that you spoke to him about the traditional processes

that you spoke about the fact that you wanted to purchase the land, that there was confirmation that Ms Hlohlela had land to sell. Do you remember that evidence?

**MR NDZEKU**: No, councillor. Ms Hlohlela she was there. She was actually the one who introduced me to these people. Sorry, Chair.

**ADV HOFMEYR SC**: Yes, I did ...[intervenes]

**CHAIRPERSON**: Yes.

**MR NDZEKU**: Ms Hlohlela she was there.

10 **CHAIRPERSON**: Yes. No, no, no.

**MR NDZEKU**: She introduced me to those people.

**CHAIRPERSON**: No, no, no. Listen carefully to the question.

**MR NDZEKU**: Yes.

**CHAIRPERSON**: Counsel is talking about what you told me ...[intervenes]

**MR NDZEKU**: Yes.

**CHAIRPERSON**: ...before tea-break about that meeting.

**MR NDZEKU**: Yes.

20 **CHAIRPERSON**: That is the meeting involving yourself, Ms Hlohlela, Chief Sigcau and other people that he brought to the meeting.

**MR NDZEKU**: Yes.

**CHAIRPERSON**: She is now going to tell you what you said in the morning about that meeting and what you have just

said now and point out to you what is different.

**MR NDZEKU**: Okay.

**ADV HOFMEYR SC**: Because your version most recently is that you are not sure whether it was Chief Sigcau or not. Is that right?

**MR NDZEKU**: Well, he was introduced to me as Chief Sigcau by this lady.

**ADV HOFMEYR SC**: And whereas this morning, you said you discussed the traditional processes for you acquiring the  
10 land. You now say, as I understand it, you did not have that discussion. Is that right?

**MR NDZEKU**: Well, I... sorry, councillor. The person... again, let me repeat. Who introduced me to these people it was that lady.

**ADV HOFMEYR SC**: No, I understand.

**MR NDZEKU**: She is the one actually who was leading, who was talking. I could not really talk to these people. I do not know maybe they are chief or maybe they are not chief but she was the one who was introducing me to them.

20 **ADV HOFMEYR SC**: Mr Ndzeke, who introduced you is not where I am focussing at the moment.

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: I am focussing on your version this morning to the Chairperson about what happened in that meeting.

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** Then we had a tea-break.

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** And now you have a different version. Your version. You said this morning you met, you discussed the traditional processes, you confirmed that she was the owner of the land, Chief Sigcau was there.

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** And presided over that meeting. Now I  
10 understand your evidence to be, there was some uncertainty about whether it was Chief Sigcau but I understand you to say that that is how he was introduced to you. But now you say, you did not discuss the traditional processes. Is that right?

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** You did not discuss them?

**MR NDZEKU:** Sorry, what were you saying? I did not or did I...?

**ADV HOFMEYR SC:** You did not discuss the traditional  
20 processes, correct?

**MR NDZEKU:** Well, the gentlemen who were there, they did.

**ADV HOFMEYR SC:** Who did?

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** Right. And did you confirm that Ms

Hlohlela was the owner of the land because you said this morning that you did.

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: I understood you just now to say, you were not sure whether she was the owner.

**MR NDZEKU**: No, that is exactly what she said. She says own the land. I am still sticking to the same thing I said this morning. I do not change anything.

**CHAIRPERSON**: Well, I seem to remember that you said in  
10 the morning, she said the chief owns the land, is the owner of the land. Did I misunderstand you?

**MR NDZEKU**: No... Sorry, Chair. You know, to be honest, when she started to tell me about what is happening and then there were those four gentlemen that were there, and then you would listen to them.

**CHAIRPERSON**: Just repeat.

**MR NDZEKU**: She introduced them ...[intervenes]

**CHAIRPERSON**: Just repeat that last sentence. I did not hear.

20 **MR NDZEKU**: I said there were four gentlemen that were there. There were the two of us and then she introduced me to these gentlemen. And as we were listening to this gentlemen and then my interest, it was about the land.

And then she says to me this is the chief. Anything we do, we do it through the chief.

These are the four gentlemen. I think they were in charge of the whole place, you know. I wanted actually to the paperwork, to get the title deeds.

**CHAIRPERSON:** Did I misunderstand your evidence this morning when I thought you said Ms Hlohlela said to you the chief is the owner of the land? Did I misunderstand your evidence

**MR NDZEKU:** You know but when we started Chair, the way to drive to the... and then if you do not own the land, you  
10 know, why should I talk to the chief? If I may? I remember very well. She said she owns the land, she is the owner. But the person in charge of the land is the chief.

**CHAIRPERSON:** Yes, but that is what I want to find out. If I misunderstood your evidence, I want you to correct me. But if I understood it correctly, I want you to confirm.

**MR NDZEKU:** Ja.

**CHAIRPERSON:** So is my... was my understanding incorrect that you said she said the chief was the owner of the land? Did I misunderstand your evidence?

20 **MR NDZEKU:** Well, I do not recall but it seems that she told me that Ms Hlohlela, she owns the land.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** And the chief is in charge of everything around it but she owns the land.

**CHAIRPERSON:** So I must have misunderstood your

evidence?

**MR NDZEKU**: Well, I do not know, maybe. I can say that  
Chair ...[intervenes]

**CHAIRPERSON**: No, I am not trying to trick you in  
anything.

**MR NDZEKU**: No, no, no. There is no trick.

**CHAIRPERSON**: I just want to make sure ...[intervenes]

**MR NDZEKU**: It is the truth there Chair.

**CHAIRPERSON**: Yes.

10 **MR NDZEKU**: About exactly what happened.

**CHAIRPERSON**: Yes, okay. Ms Hofmeyr.

**ADV HOFMEYR SC**: Thank you. So when you were  
introduced to Chief Sigcau on the basis that he administers  
the area of where the land that you were purchasing falls?

**MR NDZEKU**: What are you saying?

**ADV HOFMEYR SC**: Were you introduced to Chief Sigcau  
...[intervenes]

**MR NDZEKU**: Yes.

20 **ADV HOFMEYR SC**: On the understanding that he  
administers the land over which you were purchasing the  
property?

**MR NDZEKU**: I think so.

**ADV HOFMEYR SC**: Yes. And did you discuss with him the  
process that you needed to go through in order to purchase  
that land?

**MR NDZEKU**: The chief?

**ADV HOFMEYR SC**: Yes.

**MR NDZEKU**: Well, he explained to me that anything that has got to do here, it must via the chief. But I said to the chief, I remember very well: I am here because of this lady, Ms Hlohlela.

And then if maybe I as an investor, as the person who is in charge of the land, wants to be p

art of the land and then we can get to the paperwork.

10 That is all that I was interested in. At least let me get to business and get the paperwork. And then after that, they can actually... we can discuss other issues.

**CHAIRPERSON**: Okay I am sorry. I was going to ask you but maybe you are coming to it now. I understood you in the morning to have also expressed an interest to say getting the title deed.

**MR NDZEKU**: Well, they said there are no title deeds.

**CHAIRPERSON**: You asked?

**MR NDZEKU**: Yes, because they might think, I thinking that  
20 you will have to have the title deed.

**CHAIRPERSON**: Yes.

**MR NDZEKU**: Ja, absolutely.

**CHAIRPERSON**: But they said there are no title deeds?

**MR NDZEKU**: No title deeds but there are papers.

**CHAIRPERSON**: Yes.



**MR NDZEKU:** There are papers. There are papers that they can arrange that I can have.

**CHAIRPERSON:** And what was your understanding of what those papers would proof?

**MR NDZEKU:** Well, my understanding... because when this other gentleman was telling me he was with other people. They have got farms here. And then those people were given a certain agreement which is other agreement, it binds.

10 So I said to myself: Okay, if this is an agreement, we can have... I will have to discuss it again with Ms Hlohlela. But I did not know that when I go there.

I have been meeting the chief. I was thinking that she was going to say: Okay, I introduce you to these people and then this is the paperwork. Let us take it from here. And then we go forward. But it was not like that.

**CHAIRPERSON:** Once they told you that there was no title deed that you would get, then you must have known that she could not be the owner of the land in the sense in which you  
20 know ownership of land to be?

**MR NDZEKU:** Chair, they said there are no title deeds but they will give me the paperwork

**CHAIRPERSON:** Yes.

**MR NDZEKU:** So that erf because they are calling it the Erf T and F1 and F what, what. That is what they told me.

**CHAIRPERSON:** But in terms of what your knowledge, proof of ownership of land is through a title deed, is it not?

**MR NDZEKU:** Ja, it is important yes.

**CHAIRPERSON:** So what I am putting to you is. Once you were told that you will not get a title deed, you must have known that she could not be the owner ...[intervenes]

**MR NDZEKU:** The owner.

**CHAIRPERSON:** ...in a way in which you know it.

**MR NDZEKU:** In the way... yes.

10 **CHAIRPERSON:** Yes, okay.

**ADV HOFMEYR SC:** And you mentioned ago that they were talking about erven. Is that right?

**MR NDZEKU:** The what?

**ADV HOFMEYR SC:** They were talking about erfs. Different erfs or erven of land. Is that correct?

**MR NDZEKU:** Yes, yes.

**ADV HOFMEYR SC:** And is that how ...[intervenes]

20 **MR NDZEKU:** Which is they are not using that. Ja, they are using a certain word, you know. But I am the one who was actually thinking about the... it is the way it is supposed to be done.

**ADV HOFMEYR SC:** H'm. H'm.

**CHAIRPERSON:** Oh ...[intervenes]

**ADV HOFMEYR SC:** And that paper... Sorry, Chair.

**CHAIRPERSON:** Okay. So when you talk about erfs, it is

your language ...[intervenes]

**MR NDZEKU**: My language Chair.

**CHAIRPERSON**: ...that you were reflecting onto what they were saying?

**MR NDZEKU**: Yes.

**CHAIRPERSON**: Oh, okay.

**ADV HOFMEYR SC**: And could you give us the way that they described it? How did they identify the land that you are interested in if it is not by an erf?

10 **MR NDZEKU**: Ja.

**ADV HOFMEYR SC**: You see, we know because that is something that is...[intervenes]

**CHAIRPERSON**: A demarcation.

**ADV HOFMEYR SC**: ...there is an extent identified for and demarcation. How was the land identified?

**CHAIRPERSON**: Even if it is in isiXhosa, you can just say what words they used to refer to the plot or the piece of land.

20 **MR NDZEKU**: Well, you know in the place called ...[indistinct] next to the river, they took me there.

**CHAIRPERSON**: Ja.

**MR NDZEKU**: And then they started to show me that this land belongs to and this land belongs to another gentleman, this land it belongs to this lady, Ms Hlohlela.

**CHAIRPERSON**: They were showing you plots of land?

**MR NDZEKU**: Yes, the plots of land. Yes.

**CHAIRPERSON**: Okay.

**MR NDZEKU**: Which I was interested next to the river. I said, if it is next to the river I will be very happy.

**CHAIRPERSON**: Yes.

**MR NDZEKU**: Because we need water.

**CHAIRPERSON**: Okay.

**ADV HOFMEYR SC**: And you were meeting Ms Hlohlela, as I understood your evidence earlier, in Mbenzane. Is that  
10 right?

**MR NDZEKU**: Sorry.

**ADV HOFMEYR SC**: You met with Ms Hlohlela in Mbenzane. That was your evidence.

**MR NDZEKU**: It is Imbeni(?) but that is not the place called Mbenzane(?). That is exactly what he says. But the city is Imbeni or something like that.

**CHAIRPERSON**: Was that in... did you go to her house?

**MR NDZEKU**: Yes, yes. Yes, I was in her house.

**CHAIRPERSON**: You met her at her house?

20 **MR NDZEKU**: Yes. Somewhere in the rural area.

**CHAIRPERSON**: In the rural area?

**MR NDZEKU**: Yes, in rural areas. Yes.

**CHAIRPERSON**: Yes. And when you had the meeting with her and the local chief and the other people, was it in the chief's house or in her house?

**MR NDZEKU**: In her house.

**CHAIRPERSON**: So the chief came to her house?

**MR NDZEKU**: This gentleman... these four gentlemen, they came to her house.

**CHAIRPERSON**: Okay.

**MR NDZEKU**: Yes.

**CHAIRPERSON**: Okay.

**ADV HOFMEYR SC**: With the chief?

**MR NDZEKU**: Well, four gentlemen, they came to her  
10 house. Yes, I can say. Because I am not from there. I do  
not know maybe it is Chief Sigcau or who, you know but  
...[intervenes]

**CHAIRPERSON**: But one of them was said to be the local  
chief?

**MR NDZEKU**: The chief. Chief, yes.

**CHAIRPERSON**: And he was referred to as Chief Sigcau as  
you understood it?

**MR NDZEKU**: Yes.

**CHAIRPERSON**: Okay.

20 **ADV HOFMEYR SC**: And how did you then identify how  
much land you were getting for this deal, Mr Ndzeke? Was it  
one square metre, a hectare? How did you know how much  
land you were getting?

**MR NDZEKU**: Well, I can say it is the same size of the  
rugby stadium. Maybe times two. It is exactly the way I

looked at it. I do not know maybe how many hectares but that is how I looked at it.

**ADV HOFMEYR SC:** So why did you not agreement set out how much land you were buying?

**MR NDZEKU:** Why the agreement...?

**ADV HOFMEYR SC:** Not identify how much land you were buying?

**MR NDZEKU:** Well, remember when I was there, I did not get any paperwork. I was expecting to get title deeds. I did  
10 not get anything. So now they said to me you will be getting paper. We will tell exactly how it goes.

At the same time, Ms Hlohlela told me that he would like to go and meet my daughter because she is a lawyer. She will arrange everything. So I was happy. I saw the land. And then I did not get any paperwork. And then when I came back and then to see the lady and she told me that the papers – they are busy preparing for the papers, but we need to do the payment which is – I said to myself, okay, we will have to – that is the mother actually, she did  
20 not say I must do it, the mother said please, you go and see Ms Mbanjwa, attorney, go and talk to her and then she will be the one who is going to prepare the papers, please do the payment. It is exactly what I did, Chair.

**ADV HOFMEYR:** So let me just get that right because it quite important, Mr Ndzeke. So Ms Hlohlela told you to go

and see Ms Mbanjwa, is that right?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** So did Ms Mbanjwa put the agreement together?

**MR NDZEKU:** I think so, yes.

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** I am not sure ...[intervenes]

**ADV HOFMEYR:** Did you collect it from Ms Mbanjwa?

**MR NDZEKU:** No, when I came from there, I went straight  
10 to Ms Mbanjwa, and I told her that this is the situation and  
Ms Mbanjwa said she also spoke to Ms Hlohlela and then  
there is payment supposed to be made and at the same  
time I will be getting the document from Ms Hlohlela.

**ADV HOFMEYR:** Right.

**MR NDZEKU:** Which is – what was also a very real  
rushing, that at least I must do the payment if I am  
interested which is, I did a payment to Ms Mbanjwa.

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** My thinking, if maybe you are doing the  
20 payment in the attorney, the attorney keeps that money in  
trust until such time the deal is done, that was my thinking,  
Chair.

**ADV HOFMEYR:** But the deal was done back in 2015,  
remember, and you only did the payment in May 2016, so  
the deal was done, you had signed it and then, as I

understand it, you paid in May 2016, is that right?

**MR NDZEKU:** Well, if you say the deal was done 2015 maybe it was just negotiation.

**ADV HOFMEYR:** No, it was signed by Ms Hlohlela.

**MR NDZEKU:** Oh, signed. I do not remember, sorry.

**CHAIRPERSON:** You accept that.

**MR NDZEKU:** Okay, yes, yes.

**ADV HOFMEYR:** So somewhere between mid-2015 when you met Ms Memela at the workshop and 1 November 2015  
10 when the agreement was signed you went to the land and you also interacted with Ms Mbanjwa, is that correct?

**MR NDZEKU:** After I came back.

**ADV HOFMEYR:** Yes, after you came back.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** She put the agreement together, she drafted it and that is the agreement that you signed, correct?

**MR NDZEKU:** Correct, yes.

**ADV HOFMEYR:** Now you said at that meeting that the  
20 Chief was present and Ms Hlohlela was there, it was confirmed for you there were not title deeds but you were told there would be other paperwork that you had received, correct?

**MR NDZEKU:** What are you saying now again, that...?

**ADV HOFMEYR:** You were told at that meeting there was



not a title deed for the property.

**MR NDZEKU:** Yes, yes, hundred percent, yes.

**ADV HOFMEYR:** But you would be given other paperwork  
I think you said.

**MR NDZEKU:** I will be getting other papers from Ms  
Mbanjwa, yes.

**ADV HOFMEYR:** Yes. Did you ever get any other  
papers?

**MR NDZEKU:** I am sorry to say, I did not get any paper  
10 but I did do the payment.

**CHAIRPERSON:** Who were you told would give you the  
other papers?

**MR NDZEKU:** Ms Hlohlela told me that please, I must go  
to Ms Mbanjwa.

**CHAIRPERSON:** And she would give you the papers?

**MR NDZEKU:** And then she would give me the papers.  
What was it that I did not understand that she says to me  
please use Ms Kwinana as a reference. I did not  
understand because this deal got nothing to do with Ms  
20 Kwinana, I am here with Ms Mbanjwa but you are telling me  
that please use Ms Kwinana reference and then when I  
come to Ms Mbanjwa and say Ms Mbanjwa, Ms Hlohlela  
said this money must be paid in your account, I hope that it  
will be keeping trust, she says of course but you will have  
to use this reference of Ms Kwinana.

So I wanted to know why because for me it did not make sense. They said there was a – I think there was an arrangement, a deal between Ms Memela and Ms Kwinana but I did not want to know because I am here to do this deal and I know that the money I am paying it is safe, it is in the hands of the attorney.

**ADV HOFMEYR:** Now there was one document that you did receive in addition to the sale agreement. It was an affidavit from Ms Hlohlela. Do you remember that? It is  
10 the one I showed you earlier and, Mr Ndzeke, let me help you remember, it is in the file in front of you, that is DD26 at tab 6.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** And then you must just go to page 24.

**MR NDZEKU:** You said the tab what, tab 6?

**ADV HOFMEYR:** Tab 6. And then you must find page 24.

**MR NDZEKU:** Well, 26A. This says 26, 26, I do not see.

**ADV HOFMEYR:** And then page 24, Mr Ndzeke.

**MR NDZEKU:** Page 24?

20 **ADV HOFMEYR:** Yes. Do you have that?

**MR NDZEKU:** I have got DD26.

**ADV HOFMEYR:** Yes and then it says VAN and then it should 024, I am looking for 24 under tab 6.

**MR NDZEKU:** Okay, 23, yes. Ms Hlohlela...?

**ADV HOFMEYR:** Yes, this is an affidavit that you

provided to the Commission which you said accompanied the sale agreement. Do you recall that?

**MR NDZEKU:** You mean the page 24?

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** You have seen this document before?

**MR NDZEKU:** Well, I think I did see it, yes.

**ADV HOFMEYR:** Yes. It has Ms Hlohlela's name at the top:

10 "I, Nonsapo Georgina Hlohlela..."

It goes on to give some details about her and then if you go down to what is written in handwritten there, she says there:

"I hereby sell immovable property to Mr Vuyisile Ndzeku. The land is fully owned by me and I inherited from my parents Mr and Mrs Sholani."

**MR NDZEKU:** Yes.

**ADV HOFMEYR:**

20 "The land is situated at Mpindweni next to the Umzimvubu River in Tabankulu."

**MR NDZEKU:** Yes.

**ADV HOFMEYR:**

"The price of the land will be fully stated in the offer to purchase upon signing of the offer to purchase between myself and Mr Vuyo Ndzeku. All

the rights and risks to this property will be transferred to Mr Ndzeke.”

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** And then there is a signature.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Did you read this affidavit when you got it at the time?

**MR NDZEKU:** This one?

**ADV HOFMEYR:** Yes.

10 **MR NDZEKU:** That is a good question. I do not remember, I do not remember.

**ADV HOFMEYR:** But, Mr Ndzeke, your evidence a moment ago was you understood why you wanted title deeds and you were told you did not have title deeds so then you wanted to get some other papers to confirm what you were buying. This is the only other paper you were given, was it not? So why would you not have read it?

**MR NDZEKU:** Well, this one actually does not have my signature.

20 **ADV HOFMEYR:** No but it is the only evidence that Ms Hlohlela can sell you anything that you were given

**MR NDZEKU:** Ms Hlohlela here at number 23, EXHIBIT 23, and she is Hlohlela Nomsapo and then I was also given actually a page 22 by Ms Mbanjwa where I did the initial.

**CHAIRPERSON:** Mr Ndzeke, the document at page 24.

**MR NDZEKU:** Ja, let us focus on that one, page 24.

**CHAIRPERSON:** That is Ms Hlohlela's declaration. The question was, when you received this document did you read it?

**MR NDZEKU:** Well, you know what, Chair, I did not.

**CHAIRPERSON:** You did not?

**MR NDZEKU:** I do not know.

**CHAIRPERSON:** Did you read it ...[intervenes]

**MR NDZEKU:** Because I was supposed to get this  
10 document from Ms Mbanjwa, as an attorney, but I am  
reading it here now from the files.

**CHAIRPERSON:** You say you were supposed to get it  
from her.

**MR NDZEKU:** From her.

**CHAIRPERSON:** Why do you say you were supposed to  
get it from her?

**MR NDZEKU:** Because I was told that she is the one who  
would be dealing with this paper of Ms Hlohlela.

**CHAIRPERSON:** Yes but you did get it from you, did you  
20 not?

**MR NDZEKU:** This one?

**CHAIRPERSON:** Uh huh.

**MR NDZEKU:** No, I did not get it.

**ADV HOFMEYR:** I think you did, Mr Ndzeke, because you  
provided it to the Commission.

**MR NDZEKU:** Where did I – can you please explain? Can I just ask my representative because – please Chair, there are things I do not understand.

**CHAIRPERSON:** No, he cannot assist you. Have you not seen this document before?

**MR NDZEKU:** Well, when the counsellor says I did actually provide this document to the Commission, that is why I am asking my team that.

**CHAIRPERSON:** Yes but did you – are you saying you  
10 have never seen it before today?

**MR NDZEKU:** Well, I am sorry to say this, Chair, it seems that it is the first time I have seen this document, if I remember very well.

**CHAIRPERSON:** Are you sure about that?

**MR NDZEKU:** I am not sure but I am thinking because I do not remember.

**CHAIRPERSON:** Did you – to your knowledge, did you ever receive from whoever a document signed by Ms Hlohlela in which she said she was selling immovable  
20 property to you and that the land is fully owned by her and that she inherited the land from her parents?

**MR NDZEKU:** Well, that document, Chair, sorry, I was supposed to get it from Ms Mbanjwa.

**CHAIRPERSON:** But you say you have never received such a document?

**MR NDZEKU:** I did not receive it yet.

**CHAIRPERSON:** Making that description?

**MR NDZEKU:** Yes.

**CHAIRPERSON:** And saying that the land that she was selling to you is situated at Mpindweni.

**MR NDZEKU:** Mpindweni, yes.

**CHAIRPERSON:** Next to the Umzimvubu River in Tabankulu.

**MR NDZEKU:** Yes.

10 **CHAIRPERSON:** You have never received such a document from anybody?

**MR NDZEKU:** Not now, no, nothing yet.

**CHAIRPERSON:** And ...[intervenes]

**MR NDZEKU:** Maybe my – I am sorry, Chair, I am thinking to get – because I paid that money on the trust of Ms Mbanjwa, I was expecting actually to get something like title deeds, which they told me that I am not going to get any title deeds. Maybe I am confused there, I do not know, you know, I did not receive anything.

20 **CHAIRPERSON:** Okay. Ms Hofmeyr?

**ADV HOFMEYR:** Your affidavit before this Commission says that you were given that affidavit by Ms Memela.

**MR NDZEKU:** Which one, this one?

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** That is my affidavit.

**ADV HOFMEYR:** That is your affidavit, the affidavit that you confirmed this morning, Mr Ndzeke. In your affidavit before this Commission you say Ms Memela gave you that affidavit and the Commission received that affidavit when your legal representatives gave it to the Commission.

**MR NDZEKU:** I think my legal representative is supposed to explain to me.

**CHAIRPERSON:** Let us go to his affidavit.

**ADV HOFMEYR:** Certainly.

10 **CHAIRPERSON:** Just one second. Yes?

**ADV ALLI:** Chair, exactly that, I just wanted to suggest that Mr Ndzeke be taken through his affidavit in response to ...[intervenes]

**CHAIRPERSON:** To it, ja. Ja, let us go to his affidavit where he deals with it.

**ADV HOFMEYR:** So he actually deals with this in his main affidavit which is the one that appears right at the front of that file, DD26.

**MR NDZEKU:** DD26?

20 **ADV HOFMEYR:** Yes. And if you go there to page 000.12. Point 12. It is right at the beginning of the file, Mr Ndzeke, it is under tab 1.

**CHAIRPERSON:** Yes, your affidavit is the first ...[intervenes]

**ADV HOFMEYR:** Document.



**CHAIRPERSON:** Document.

**MR NDZEKU:** Okay, 001, what is it?

**ADV HOFMEYR:** Yes.

**CHAIRPERSON:** That is where it starts.

**MR NDZEKU:** Yes, affidavit.

**ADV HOFMEYR:** And if you go to page 12.

Mpindweni next to the Umzimvubu River in Tabankulu.

**CHAIRPERSON:** That is page 12, paragraph 55 that deals with ...[intervenes]

10 **MR NDZEKU:** Is that DD26?

**ADV HOFMEYR:** Yes and you are at page 12?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** And you will see at paragraph 55, just for the record and your benefit, Mr Ndzeke, I will read it into the record. It is your affidavit, so you say:

“I then entered into an agreement to purchase the property.”

That is the property from Ms Hlohlela.

**MR NDZEKU:** Yes.

20 **ADV HOFMEYR:**

“I have already submitted the documents to the Commissioned person and to the sale which included the offer to purchase. Adv Memela subsequently gave me an affidavit from her mother which I also made over to the Commission.”

And then you continue:

The land is situated on tribal land and there is no title deed issued for it. I am the true and lawful owner of the land.”

**MR NDZEKU**: Just a little bit slower please?

**ADV HOFMEYR**: Sorry.

**ADV ALLI**: Sorry, Chair, if I may?

**CHAIRPERSON**: Sorry?

**ADV ALLI**: Yes, my apologies, that is my recollection,  
10 there was a prior summons issued to Mr Ndzeke which was, I think, earlier this year and he filed an affidavit in answer to that and that is the one I was suggesting perhaps that my learned friend take him to.

**CHAIRPERSON**: Okay, would that clarify this more than this, this paragraph 55?

**ADV ALLI**: Well, let hear from...

**CHAIRPERSON**: Ja, let us hear about this first and if there is still an issue after we can take it from there. Do you see – have you had a chance to read paragraph 55 of  
20 your affidavit at page 12?

**MR NDZEKU**: At page 12, yes.

**CHAIRPERSON**: Yes, have you had a change to read that paragraph?

**MR NDZEKU**: He says paragraph...?

**CHAIRPERSON**: 55, the second paragraph on the page.

**MR NDZEKU:** Yes, I can see that.

**CHAIRPERSON:** Have you had a chance to look at it? Ms Hofmeyr did read the whole ...[intervenes]

**MR NDZEKU:** I am just reading.

**CHAIRPERSON:** Ja, just read it quietly.

**MR NDZEKU:** Well, it is here but what is written there, I do not know, I am sorry about that. It is written and then ...[intervenes]

**CHAIRPERSON:** Is your memory refreshed now?

10 **MR NDZEKU:** On this one I do not remember but it is here. As Ms Hofmeyr, it was my affidavit.

**CHAIRPERSON:** What is it that you do not remember? Is that ...[intervenes]

**MR NDZEKU:** I do not remember, submitting, Chair.

**CHAIRPERSON:** Hang on, hang on, no, no, no, hang on? What you do not remember, is it your receiving Ms Hlohlela's affidavit from Ms Memela or is it this paragraph that you do not remember – you do not remember saying this to your lawyers who drafted the affidavit?

20 **MR NDZEKU:** Well, first of all, I do not remember. I am sorry saying this.

**CHAIRPERSON:** You do not remember?

**MR NDZEKU:** I do not remember this paragraph.

**CHAIRPERSON:** You do not remember saying what is written in this paragraph?

**MR NDZEKU:** No, no, because I did not get any document.

**CHAIRPERSON:** You never got that document?

**MR NDZEKU:** No, I did not.

**ADV HOFMEYR:** Mr Ndzeke, then how did your lawyers get the document?

**MR NDZEKU:** Sorry?

**ADV HOFMEYR:** You did not get the document, how did you lawyers get the document to give the document to the  
10 Commission?

**MR NDZEKU:** Well, I think maybe they can just explain because they are here. I do not remember.

**CHAIRPERSON:** Well, but you ...[intervenes]

**MR NDZEKU:** Maybe they can help me.

**CHAIRPERSON:** You are their client.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** They get instructions from you, they are here – you remember earlier on I said they cannot tell you the facts, you know the facts, you know what happened,  
20 they can advise on the law. Now how ...[intervenes]

**MR NDZEKU:** You know, Chair – Chair, it says here I enter into agreement, purchase the property. I have already submitted the document of the Commissioner on the sale which included the offer to purchase. I did not get offer to purchase, as that letter(?) says. So I did not get

it, so I do not know ...[intervenes]

**CHAIRPERSON:** Yu did not get even the offer to purchase?

**ADV HOFMEYR:** No, Mr Ndzeke, you confirmed you signed the offer to purchase. You confirmed that you read it. You confirmed not ...[intervenes]

**MR NDZEKU:** Ja, did I confirm that I did?

**ADV HOFMEYR:** Yes.

**CHAIRPERSON:** Yes.

10 **MR NDZEKU:** Okay, can you ...[intervenes]

**ADV HOFMEYR:** Chair, I do note when - time flies when you are having fun, so to speak, it is now twenty past four.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** I know that you did say that you would be available to sit a bit later and we did notify all of the attendees today that that would be the case.

**ADV HOFMEYR:** I am very eager to conclude, if we could.

**CHAIRPERSON:** Yes.

20 **ADV HOFMEYR:** But I wonder if a break now would be appropriate.

**CHAIRPERSON:** Yes, let me check with the legal team for Mr Ndzeke. Is it fine if we proceed and see – how much time do you think you need to finish?

**ADV HOFMEYR:** Chair, I imagine I will finish in an hour. What I am going to propose to do is be swifter now.

**CHAIRPERSON:** Ja.

**ADV HOFMEYR:** We have got through a lot of the background.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** I am simply going to put certain aspects to Mr Ndzeke for his comment.

**CHAIRPERSON:** Ja, ja.

**ADV HOFMEYR:** So I think an hour.

**CHAIRPERSON:** Yes. Would you be able to – shall we  
10 continue for an hour subject to a short adjournment now?

**ADV ALLI:** Yes, Chair, I think Mr Ndzeke needs the adjournment also.

**CHAIRPERSON:** Yes.

**ADV ALLI:** Ten minute adjournment then we can – we would like to go quickly as well.

**CHAIRPERSON:** Yes, okay, alright. We will take – I am sure Mr Ndzeke is happy to hear we will try and finish. He wants to finish.

**MR NDZEKU:** I want to finish, thank you very much,  
20 Chair.

**CHAIRPERSON:** Ja, we are going to take a short adjournment. It is twenty one minutes past. We will take and adjournment and resume at twenty five to five and then we will go on until we finish. We adjourn.

**ADV HOFMEYR:** Thank you, Chair.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Okay, let us continue.

**ADV HOFMEYR:** Thank you, Chair. Mr Ndzeke, I am going to endeavour speed things up a little bit because I know we have reached the end of the day and I know that you are eager to have this evidence behind you.

What I would like to indicate to you at this point is that the Commission has obtained from Chief Sigcau and  
10 the Chief says he has never ever met you. He has not met with you, he has not discussed the sale of this land by Ms Hlohlela with you, it is a very detailed affidavit and I can take you to it, if we need to.

So he says, that meeting that you have told us about today did not happen. What is your response to that?

**MR NDZEKU:** Well, ...[intervenes]

**CHAIRPERSON:** Switch on your mic. Switch on your mic, ja.

20 **MR NDZEKU:** Well, the same Chief who is saying he never met me, there is one of investigating officer who went to see them, an African one, I do not know what is his name. He started to ask them a lot of questions. After that they told me that they do not want anything to do with the Commission.

Somebody left here and he went there. They gave me the gentleman's name, I do not what his name and they went, he asked questions about the signature, about the sign, they said gentlemen, anything that has got to do with Zondo Commission, we do not want to know. We do not know those people. We do not want to know them. It is exactly what they told me.

Who told me, by the way, is Themba. Themba told me that we had visitors. We do not have money to go to  
10 Zondo Commission, we do not want to be on the news. That is all I can say that.

**ADV HOFMEYR:** Sorry, I need to understand who these people are. Sorry, Chair, unless – who from the Commission spoke to who and who spoke to you, can you please help us there?

**MR NDZEKU:** I repeat, one of the guys from Mpindweni, his name is Themba, Themba Njoka told me that one of the Commission investigator officers, an African chap, was there. He started to ask them all the questions and he  
20 says, Mr Ndzeke, we want to tell you, we do not want to be famous. Anything that has got to do with Commission, we do not want to know. So please, we do not know you. We do not want to talk to you and I say I understand.

**CHAIRPERSON:** What do you say about the fact that the local Chief there has deposed to an affidavit and said it is



not true that he was ever in a meeting with you?

**MR NDZEKU:** Well, what I am saying now, Chair, when Themba Njoka told me this and I knew that maybe the Chief does not – I met – I do not even know, maybe the gentlemen he was a Chief or what but I was there, I met the people, that is why Themba told me that this is the situation, there is investigation and the people from the Commission they were there, so please, Mr Ndzeke, we do not want to be famous, that is all. Now you are asking me  
10 what do I say about that? I do not know, Chair. Maybe they do not want to know anything about this.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR:** So is your evidence that Chief Sigcau has lied in his affidavit that he has placed before this Commission?

**MR NDZEKU:** Well, I cannot say he lied but when I got – first of all, Chair, the gentlemen I met – I do not know maybe it is Chief Sigcau or maybe it is another man because I am not from that place but I was introduced to  
20 the man and this man is the Chief. So when they are saying this guy is the Chief, I must believe, you see? That is the bottom line. I can say if maybe he was not or maybe he was or maybe I am saying he is lying or maybe he is not lying, I do not know, Chair.

**ADV HOFMEYR:** He goes on and he says the traditional

structures have had no dealings at all with you or Ms Hlohlela. He also say that Ms Hlohlela has no land in Mpindweni area which she could ever have sold to you. Are you aware of all of that, that that is version, Mr Ndzeke?

**MR NDZEKU:** Well when, again, Themba told me that this is the situation, nobody wants to know anything about me and then not about Ms Hlohlela but they told me that anything is coming with the Commission, they want to be  
10 far away.

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** Now I do not know what to say, counsellor on that.

**CHAIRPERSON:** Well, I must say, Mr Ndzeke, one of the features that I found strange with regard to what you said about that meeting is that you said the meeting involving the local chief was at Ms Hlohlela's house.

**MR NDZEKU:** House, yes. Yes.

**CHAIRPERSON:** Now I have grown up in rural areas, I  
20 know the – our people in rural areas under Chiefs live ...[intervenes]

**MR NDZEKU:** The protocol, I understand as well.

**CHAIRPERSON:** If you need to talk to the Chief you are the one who must go to the Chief's place, it is not the Chief who must come to you.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** So if I need to – I need the Chief to be involved in a matter that I am discussing with you, I will take you to the Chief in his house, I will not call the Chief to come to my house so that we can meet him in my house. That is not unusual – that is unusual.

**MR NDZEKU:** Well, it is true but today you find that even the politicians, they go knock and knock to people's house when they are looking for a vote. What relationship did he  
10 had with Ms Hlohlela, I do not know, but I was told.

**CHAIRPERSON:** Ja.

**MR NDZEKU:** But, as an African, I know that. They were supposed to take me to the Chief.

**CHAIRPERSON:** To the Chief, ja.

**MR NDZEKU:** Not the Chief comes.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** And then, again, they ask you did you bring anything for the Chief, [indistinct] 06.40 or maybe anything, is exactly the proper call. But it was not like  
20 that.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** I understand, Chair, where you come from, yes.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR:** Mr Ndzeke, I want to put one last point

to you on this – and Chair, just for the record, I do not suggest we go there but Chief Sigcau’s affidavit is at page 238 under tab 19 and if we could just enter that into the record, it is the affidavit deposed to by Chief Sigcau and it is number 19.

**MR NDZEKU**: What is it, tab ...[intervenes]

**ADV HOFMEYR**: Right at the end of that file, Mr Ndzeku.

**MR NDZEKU**: What tab?

**ADV HOFMEYR**: Tab 19, one nine.

10 **MR NDZEKU**: Okay.

**ADV HOFMEYR**: But what I do want to just put to you in fairness, Mr Ndzeku, is that ...[intervenes]

**MR NDZEKU**: Just wait, you said number...?

**ADV HOFMEYR**: Tab 19 right at the end and it starts at page 283.

**MR NDZEKU**: 282?

**ADV HOFMEYR**: 283.

**MR NDZEKU**: 283, okay.

**ADV HOFMEYR**: You have that?

20 **MR NDZEKU**: Well, I am learning today, I never knew that I could sit here and – 283, hey?

**ADV HOFMEYR**: Yes.

**MR NDZEKU**: Yes, I have got it here.

**ADV HOFMEYR**: Mr Ndzeku, it is an affidavit comprising eight pages and what I want to put to you is, this is a very

detailed affidavit. The Chief went to extensive lengths in assisting the Commission in putting this together. He describes Ms Hlohlela, he describes the Sholani family from which she comes. He describes who she married and where that family is located.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** He goes through the records of the traditional council.

**MR NDZEKU:** Yes.

10 **ADV HOFMEYR:** He talks about how land is dealt with in the area. He goes into detail about the processes that have to be followed and then he concludes and says he has never met with you, the traditional council has never been approached about the sale of this land. Ms Hlohlela in fact had no land in the Mpindweni area in which she could have concluded any agreement at all and he concludes by saying the most that he has ever authorised for use of land in his area is the matter of hundreds of rands.

20 **MR NDZEKU:** Yes.

**ADV HOFMEYR:** He has never known of R2.5 million acquisition of land in his area and I want to put it to you that your explanation of the Chief's affidavit is that you were contacted by Mr Themba Njoka.

**MR NDZEKU:** Themba Njoka, yes.

**ADV HOFMEYR:** Who said to you we do not want to have anything to do with the Commission.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Well, I will put it to you that Chief Sigcau's affidavit is not the affidavit of a man who wants to have nothing to do with this Commission, he has gone to extensive lengths and in great detail to explain what happens in his area of administration.

**MR NDZEKU:** Yes.

10 **ADV HOFMEYR:** Do you have a comment on that?

**CHAIRPERSON:** In other words, the affidavit that he has provided to the Commission seems to reflect a person who wants to be as helpful to the Commission as possible.

**MR NDZEKU:** Yes. Yes, yes.

**CHAIRPERSON:** Rather than somebody who wants to disassociate himself from the Commission.

**MR NDZEKU:** I can see here, Chair.

**CHAIRPERSON:** Ja, what do you say?

20 **MR NDZEKU:** I can see it is well written. Well, counsellor, as I said, I was there, I was introduced and then as I was introduced to this gentleman and then after that they told me that there is a person from Zondo Commission went there, they want to – this gentleman, he cannot say that, the way I look at it, he wants to help, this is the truth and again, Chair, as you are saying, you do not

call the Chief, you go to the Chief. It is a fact.

So I am a little bit confused exactly what happened that day. Maybe I am wrong or maybe it was not the Chief, I do not know what to say.

**ADV HOFMEYR:** Mr Ndzeke, I am going to put it to you that nothing happened on that day, that there was no meeting at all and I am going to take you through further evidence which I am going to submit to you in due course for your comment, shows that there was no meeting that  
10 you had and I would like to start that with the affidavit of Ms Buckley.

**MR NDZEKU:** Ms?

**ADV HOFMEYR:** Buckley.

**CHAIRPERSON:** Maybe before that, Ms Hofmeyr, with regard to this land, what did you say again was the reason why you were interested in it?

**MR NDZEKU:** Chair, we actually wanted to do the same thing there grow, in Lesotho is doing, the company grow here.

20 **CHAIRPERSON:** You wanted to grow cannabis?

**MR NDZEKU:** Yes, the cannabis yes, is exactly what we wanted to do on that land.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Which it actually suits us because it is not far from the river.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** But when you talk about the price as the counsellor said really in the land you don't get more than R100 or maybe R200 you know.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** You know, why should we pay the money you know, we want to do exactly what, that was the project.

**CHAIRPERSON:** You have already said that when you were told that there would be no title deed you accepted  
10 that. What that meant was that, there would be no ownership as you know, do you remember that, the kind of ownership of land that you know is one that is represented by a title deed.

**MR NDZEKU:** Title deeds, yes Chair.

**CHAIRPERSON:** Yes, now were you ever told what right you would have in the land if you were not going to be the owner of the land as you know ownership of land?

**MR NDZEKU:** Well, as a person who's not from that place, the gentleman told that I will have to involve people  
20 who are from that area, I cannot be alone, I'll have to work with them. I go back again, when I left there, as the counsellor says, I want to tell you that, there was no meeting, never meeting take place I was told that I must go straight to Ms Mbanjwa, I'll be getting the papers there but when I arrived there to Ms Mbanjwa, again I was told that I



must do the payment. Now something I forgot again, when we left here we went to the tea break, the counsellor was asking me about – I forgot what she was asking me, and I said, I don't remember but when I was outside and I could remember this document that Ms Memela Nontsasa, gave me this document...[intervenes].

**CHAIRPERSON:** The affidavit?

**MR NDZEKU:** Yes, affidavit because I said to counsellor, no I don't remember but now...[intervenes].

10 **CHAIRPERSON:** Now you remember it?

**MR NDZEKU:** It comes back that she gave me the document in front of that lady but to the question...[intervenes].

**CHAIRPERSON:** In front of which lady?

**MR NDZEKU:** In front of Ms Mbanjwa, you know, because I was actually to get...[intervenes].

**CHAIRPERSON:** Who gave it to you?

**MR NDZEKU:** It's Ms Memela.

**CHAIRPERSON:** Ms Memela?

20 **MR NDZEKU:** Yes.

**CHAIRPERSON:** Gave it to you in front of Ms Mbanjwa?

**MR NDZEKU:** Yes.

**CHAIRPERSON:** It was not Ms Mbanjwa who gave it to you?

**MR NDZEKU:** I think that was the affidavit – no, no it was

Ms Memela, if I remember very well.

**CHAIRPERSON:** Okay, alright.

**MR NDZEKU:** But you know it was in February, you know I don't remember very well.

**CHAIRPERSON:** Now, what were you told, the papers that you would get from Ms Mbanjwa, would be saying, they would be proof of what?

**MR NDZEKU:** It would be proof of owning that piece of land which it's got, actually, the numbers, they said it must  
10 be J or maybe F, that's exactly what they told me but I cannot be involved I'll have to involve the local people but in the title deeds, it's going to be the company.

**CHAIRPERSON:** Were you told that those papers would be proof of your ownership of the land, is that what you were told?

**MR NDZEKU:** That's exactly what I was told.

**CHAIRPERSON:** And who told you that?

**MR NDZEKU:** Ms Hlohlela.

**CHAIRPERSON:** Ms Hlohlela?

20 **MR NDZEKU:** Yes.

**CHAIRPERSON:** Did she tell you what those papers are called that would give you ownership or she just referred to papers?

**MR NDZEKU:** No, no, she says these papers they'll be proof of the ownership but the person who can actually

prepare the document it is Ms Mbanjwa, as an attorney.

**CHAIRPERSON:** Yes, yes, so you were made to believe that Ms Mbanjwa would give you documents that would make you owner of the land?

**MR NDZEKU:** Of the land yes.

**CHAIRPERSON:** Yes, and now, is the only document that you've got the one that you say that you got from Ms Memela, that affidavit?

**MR NDZEKU:** Affidavit yes but I didn't have a problem  
10 Chair, because the money is in the trust of the lawyer, the money...[intervenes].

**CHAIRPERSON:** Yes, no we'll come to that.

**MR NDZEKU:** This is exactly what I was thinking.

**CHAIRPERSON:** We'll come to that. So, that's the only document you've got and you didn't get it from Ms Mbanjwa, you got it from Ms Memela?

**MR NDZEKU:** Yes, I think so, if I remember very well yes.

**CHAIRPERSON:** You never got any document from Ms Mbanjwa?

20 **MR NDZEKU:** No, I don't remember.

**CHAIRPERSON:** You did not?

**MR NDZEKU:** No, I don't remember.

**CHAIRPERSON:** You don't remember?

**MR NDZEKU:** I don't remember yes.

**CHAIRPERSON:** Yes, now obviously the document that

you got, namely, the affidavit from – by Ms Hlohlela [16.57], have I got the surname wrong there.

**ADV HOFMEYR:** Hlohlela yes.

**CHAIRPERSON:** Obviously when you got that document you would have wanted to scrutinise it to see whether it gave you the ownership of the land that you were told it would give you, isn't it?

**MR NDZEKU:** Yes.

**CHAIRPERSON:** Did you scrutinise it?

10 **MR NDZEKU:** Well, what I did, I think I did actually discuss it with my lawyers.

**CHAIRPERSON:** Yes, yes soon after getting it?

**MR NDZEKU:** After they gave – I did discuss it with them and then they look at it and then their advice is for me to go again to Ms Mbanjwa, the one actually who's got the money, you know, because I'm expecting to get the papers...[intervenes].

**CHAIRPERSON:** Hang on, before you went to your lawyers, when you scrutinised it, did you believe that it  
20 gave you ownership of the land or not?

**MR NDZEKU:** Well, Chair to be honest, it was not.

**CHAIRPERSON:** It was not?

**MR NDZEKU:** It was not.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** In my thinking I needed something like a

title deed but it was not something like that it did say J – they did, actually tell me the name of the size, yes.

**CHAIRPERSON:** Yes, and after you had scrutinised it, and you're not satisfied with it, you went to your lawyers?

**MR NDZEKU:** Well, I cannot say I'm not satisfied because what we did, I was still expecting more papers from Ms Mbanjwa.

**CHAIRPERSON:** You were still expecting more?

**MR NDZEKU:** More papers yes.

10 **CHAIRPERSON:** Oh, okay.

**MR NDZEKU:** Yes, because the madam says to me, listen, she's there to fix everything, she's talking to us.

**CHAIRPERSON:** So, you had no problem with this affidavit?

**MR NDZEKU:** I did not have because I believed that I was getting more papers.

**CHAIRPERSON:** Yes, you were still expecting more papers.

**MR NDZEKU:** Yes.

20 **CHAIRPERSON:** And you did not get any papers, did you ask for papers from Ms Mbanjwa?

**MR NDZEKU:** Well, I asked Ms Memela, that I'm still waiting for the papers...[intervenues].

**CHAIRPERSON:** But you had not been told to – that you'd get the papers from Memela, isn't it? You had been told

you will get them from... [indistinct 19.14].

**MR NDZEKU:** Why I'm asking her because, she's the one, actually, who gave me that other one.

**CHAIRPERSON:** Yes, but you never asked Ms Mbanjwa, is that right?

**MR NDZEKU:** Well, I did not.

**CHAIRPERSON:** You did not?

**MR NDZEKU:** If I remember, I did not, I was waiting that, at least she must call me because she said  
10 she...[intervenes].

**CHAIRPERSON:** When you asked Ms Memela, did you specifically say to her, the document you have given me doesn't give me ownership of the land, where are the papers that give me ownership of the land, did you say that?

**MR NDZEKU:** Well, I did say that Chair, and...[intervenes].

**CHAIRPERSON:** And what did she say?

**MR NDZEKU:** And she says to me, Ms Mbanjwa, is the  
20 one, actually, who's going to...[intervenes].

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** And this would have been 2016, when would that have been?

**MR NDZEKU:** I don't recall Chair.

**CHAIRPERSON:** But...[intervenes].

**MR NDZEKU:** During that time yes.

**CHAIRPERSON:** Probably 2016 because you were in the meeting in the Eastern Cape – it was the end of 2015.

**MR NDZEKU:** Yes, I think so, yes.

**CHAIRPERSON:** Right, so it would have been, either 2015 or 2016.

**MR NDZEKU:** Somewhere there Chair.

**CHAIRPERSON:** Yes, and how long did you wait for these  
10 other papers or are you still waiting?

**MR NDZEKU:** I'm still waiting, as I'm sitting here Chair.

**CHAIRPERSON:** It's 2020 now, Mr Ndzeke.

**MR NDZEKU:** I'm still waiting Chair.

**CHAIRPERSON:** You are still waiting for papers?

**MR NDZEKU:** Yes.

**CHAIRPERSON:** From Ms Mbanjwa?

**MR NDZEKU:** Yes, I'm still waiting.

**CHAIRPERSON:** And yet you have never gone to her?

**MR NDZEKU:** No, I didn't get anything yet.

20 **CHAIRPERSON:** But you've never gone to her.

**MR NDZEKU:** No, no, Chair, she told me she is going to give me a call.

**CHAIRPERSON:** Huh?

**MR NDZEKU:** She phoned me, she told me she was going to phone me, she said, please I'll give you a call or maybe

I'll liaise with your attorneys.

**CHAIRPERSON:** And she was telling you in 2016?

**MR NDZEKU:** Sorry?

**CHAIRPERSON:** She was telling you this in 2016?

**MR NDZEKU:** Well, not 2016 again, I met her again, same time she was here again with Ms Memela...[intervenes].

**CHAIRPERSON:** Here at the Commission?

**MR NDZEKU:** Yes, at the Commission.

**CHAIRPERSON:** Ja.

10 **MR NDZEKU:** And I asked her, listen we are talking now, I don't have any papers, she says, listen we are still waiting I'll give you a call.

**CHAIRPERSON:** And where did you meet her on this occasion when she was giving evidence, did you come to the Commission yourself or?

**MR NDZEKU:** I was here the whole week with them.

**CHAIRPERSON:** Oh, you were here.

**MR NDZEKU:** The whole week and then...[intervenes].

20 **CHAIRPERSON:** Oh, so you asked her, where are my papers?

**MR NDZEKU:** Yes, and then the counsellor came to me and said, listen Mr Ndzeku I'm sorry...[intervenes].

**CHAIRPERSON:** And what did she say?

**MR NDZEKU:** I was here the whole week.

**CHAIRPERSON:** And what did she say?



**MR NDZEKU:** She said to me, she's still working on the papers.

**CHAIRPERSON:** Ms Mbanjwa?

**MR NDZEKU:** Yes.

**CHAIRPERSON:** So, you have been waiting for about four years for...[intervenes].

**MR NDZEKU:** For the papers yes.

**CHAIRPERSON:** For the papers?

**MR NDZEKU:** Yes.

10 **CHAIRPERSON:** And have you ever gone back to the land and see whether nobody is using it?

**MR NDZEKU:** Well, Chair, let me repeat again about this gentleman who phoned me, Mr Joko and then there's nobody that wants to use the land because people they don't have any funding, they're looking for jobs. So, my question to him now, if you guys, you are saying, you don't want anything to do, what is happening now, he says, listen we are looking for the job, he's talking about the land. Chair, in the homeland if the land is there, the land  
20 is there, nobody's going to buy the land because people they don't have funding.

**CHAIRPERSON:** And now, did you – did you ask Ms Mbanjwa when she was giving evidence here, whether she was still keeping the money you paid into – in her trust account?

**MR NDZEKU:** No, I did not ask her that, I'm still waiting for the papers.

**CHAIRPERSON:** But did you ask her whether your money is still safe?

**MR NDZEKU:** No Chair, I did not ask.

**CHAIRPERSON:** You didn't ask?

**MR NDZEKU:** I'm asking Ms Mbanjwa...[indistinct 22.50] our agreement, please I am here now that at least, can we finalise because I'm still waiting and she says, no, no, no  
10 I'll call your lawyers and then she did actually introduced herself to the lawyers and then I'm still waiting Chair.

**CHAIRPERSON:** Ms Hofmeyr?

**MR NDZEKU:** As far as I'm thinking my money it's safe because it's in the trust...[intervenes].

**ADV HOFMEYR:** No, Mr Ndzeke it can't be in the trust account because the agreement tells you it's going to be paid out to Ms Memela for her property.

**MR NDZEKU:** I can't – what are you saying?

**ADV HOFMEYR:** I said to you, you can't have formed the  
20 view that it was in the trust account because your own sale agreement says that the money is going to be paid out to purchase a property for Ms Memela.

**MR NDZEKU:** Well, I saw that, this is exactly what the Chair was asking me, did you read it and I said, I don't know this to be honest...[intervenes].

**ADV HOFMEYR:** So, your version, first, was that you read it and then your version, is now, that you did not read it or you did not read it properly?

**MR NDZEKU:** I did not read it properly.

**ADV HOFMEYR:** Right, so you signed an agreement in November of 2015 that you didn't read properly, is that correct? [intervenues].

**CHAIRPERSON:** Involving R2.5million.

**ADV HOFMEYR:** Could you say yes, just for the record.

10 **MR NDZEKU:** Yes.

**ADV HOFMEYR:** And then you paid R2.5million in May of 2016.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Without having received the papers that would confirm that you had any title to that land, correct?

**MR NDZEKU:** Correct.

20 **ADV HOFMEYR:** Right, Chair, if I may move to Ms Buckley. Ms Buckley is a handwriting expert, she has been consulted by the Commission, she was shown a series of signatures from Ms Hlohlela.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Numerous signatures of Ms Hlohlela's over time when she'd applied for SASSA grants when she had opened bank accounts and then she was provided with the two documents related to this sale, the agreement, that

there is her signature and the affidavit that bears her signature and she was asked to do a handwriting analysis. That affidavit was provided to Mr Ndzeke in advance of today because it was expert evidence and we gave Mr Ndzeke an opportunity to dispute the evidence of Ms Buckley. Mr Ndzeke your attorneys informed us you did not intend to dispute the evidence of Ms Buckley, you have accordingly produced no contrary expert evidence and so we informed your lawyers about a week or two ago that it  
10 would be presented to the Commission as uncontested evidence. So, Mr Ndzeke were you surprised to learn, Ms Buckley's conclusion, Chair, I haven't got there because it's so clear in my own mind...[intervenes].

**CHAIRPERSON:** I was about to say, you must tell him what it says.

**ADV HOFMEYR:** So, I'm going to tell you what her conclusion was. Her method is to call the two signatures on the agreement and the affidavit that Mr Ndzeke provided to the Commission as the questioned signatures, she's  
20 questioning their authenticity right and she compares it to all of the other signatures that we've obtained from records of home affairs and SASSA etcetera and she says she concludes that they are not Ms Hlohlela's signature, the genuine signatures have consistency over time, I think we went over a period of about 20 years of Ms Hlohlela's

signatures. She says the signatures that appear on the sale agreement and the affidavit, related to this property purchase in the Eastern Cape are not the signatures of Ms Hlohlela. Mr Ndzeke did you see that affidavit and consider it before today?

**MR NDZEKU:** Where's that page again?

**ADV HOFMEYR:** I can tell you where it is, now Chair, we're going to move to a new item, Chair, and you'll actually find it in the second file, now you need to go to  
10 DD26, the second file.

**MR NDZEKU:** DD26?

**ADV HOFMEYR:** Yes, and its tab...[intervenes].

**CHAIRPERSON:** The smaller file?

**ADV HOFMEYR:** The smaller file exactly, Mr Ndzeke it will be the smaller file.

**MR NDZEKU:** Oh, the smaller one, okay.

**ADV HOFMEYR:** Yes, and the fist tab there is tab 20, you'll see it's an affidavit of Lourika Buckley, the forensic document examiner and it starts at page 292, do you have  
20 that?

**MR NDZEKU:** Ja I've got 292 yes.

**ADV HOFMEYR:** Now that's the affidavit that was provided to your attorneys in which we understand from your attorneys you said you did not dispute. Did you read this affidavit Mr Ndzeke?

**MR NDZEKU:** I did not.

**ADV HOFMEYR:** You did not?

**MR NDZEKU:** Did they send it to my attorneys?

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** Ja I did not.

**ADV HOFMEYR:** You did not?

**MR NDZEKU:** No.

**ADV HOFMEYR:** But you don't dispute...[intervenes].

**CHAIRPERSON:** Are you sure about that?

10 **MR NDZEKU:** I'm very sure Chair, it's the first time, actually, I'm seeing this.

**CHAIRPERSON:** You have quite often said you are not – you can't remember, today you have said that a number of times, is it possible that you can't remember that you saw this affidavit?

**MR NDZEKU:** No Chair.

**CHAIRPERSON:** You did not see it?

**MR NDZEKU:** I didn't see it.

**CHAIRPERSON:** You did see it?

20 **MR NDZEKU:** I did not.

**CHAIRPERSON:** You did not, okay.

**ADV HOFMEYR:** I'm quite concerned Mr Ndzeke, your attorneys – your legal representatives can only act on instructions from you right. They communicated to the Commission that you did not intend to furnish any affidavit

to dispute Ms Buckley's affidavit, how could they possibly have given that information to the Commission unless they discussed Ms Buckley's affidavit with you and got your attitude to it?

**MR NDZEKU:** Well I'm happy they are here, maybe you can ask them because...[intervenes].

**CHAIRPERSON:** Maybe – let me ask this question, do you remember your attorneys or your counsel saying to you, there's an affidavit by a handwriting expert who has  
10 deposed to an affidavit who says that, after comparing the signature that is said to be that of Ms Hlohlela, in the offer to purchase and in the affidavit that you got from Ms Memela...[intervenes].

**MR NDZEKU:** I don't remember.

**CHAIRPERSON:** And other signatures of hers, the expert has come to the conclusion that the signature on the affidavit and the signature on the offer to purchase is not that of Ms Hlohlela, do you remember them saying anything like that to you?

20 **MR NDZEKU:** No, nothing, it's the first time I'm seeing this document.

**CHAIRPERSON:** Ja, but I'm asking a different question, I'm asking whether – let's assume they did not give you the affidavit to read but maybe they did say to you, the Commission has given us an affidavit by a handwriting

expert and they told you what the handwriting expert says and maybe they said to you, in our opinion there is no basis to dispute this, do you remember them saying anything along those lines maybe?

**MR NDZEKU:** Well I don't remember very well.

**CHAIRPERSON:** But you certainly say you are seeing this affidavit...[intervenues].

**MR NDZEKU:** For the first time yes.

**CHAIRPERSON:** For the first time?

10 **MR NDZEKU:** This is the first time I'm seeing this affidavit of Ms Buckley, you know the first time.

**CHAIRPERSON:** Okay, Ms Hofmeyr?

**ADV HOFMEYR:** So, you, learn today then, Mr Ndzeke, that the signature on the sale agreement and the affidavit of Ms Hlohlela, is a forgery?

**MR NDZEKU:** I know today, as you are saying to me.

**ADV HOFMEYR:** Yes, you didn't know that before today, is that correct?

**MR NDZEKU:** No, I didn't know.

20 **ADV HOFMEYR:** Despite the fact that your legal representatives communicated your attitude to this affidavit to the Commission, is that correct?

**MR NDZEKU:** Correct, yes.

**ADV HOFMEYR:** Do they act without your instructions then, Mr Ndzeke?



**MR NDZEKU:** Sorry?

**ADV HOFMEYR:** Did they act without your instructions?

**CHAIRPERSON:** Maybe, without instructions, is too legal.

**ADV HOFMEYR:** Right, did they decide of their own accord.

**CHAIRPERSON:** In other words, to the extent that they told the Commission that you will not be disputing what is written in this affidavit, were they just acting on their own without having discussed that with you?

10 **MR NDZEKU:** Well I don't remember, actually, discussing with them, they are here.

**CHAIRPERSON:** Okay.

**MR NDZEKU:** I don't remember discussing it with them.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR:** Okay, so you learn today that it's a forgery and does that concern you Mr Ndzeke?

**MR NDZEKU:** It does, it does yes.

**ADV HOFMEYR:** Because then it's not a genuine agreement is it?

20 **MR NDZEKU:** It is not.

**ADV HOFMEYR:** It's not, let's go to the affidavit that you did receive, according to your version, around 2015 or 2016, remember that's the affidavit of Ms Hlohlela that's a forgery, we've now established...[intervenes].

**MR NDZEKU:** In the same DD26?

**ADV HOFMEYR:** Yes, and you'll find it in the other file, the big file DD26, again under tab 6.

**MR NDZEKU:** On the?

**ADV HOFMEYR:** Under tab 6.

**MR NDZEKU:** 6 ja.

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** What is the...[intervenes].

**ADV HOFMEYR:** And its page 24 you'll find the affidavit.

**MR NDZEKU:** You'll find the 026 and then 26 hey?

10 **ADV HOFMEYR:** 24.

**MR NDZEKU:** 24?

**ADV HOFMEYR:** Yes, do you have it Mr Ndzeke.

**MR NDZEKU:** Did you say 22 or 24?

**ADV HOFMEYR:** 24.

**MR NDZEKU:** Yes, I can see.

**ADV HOFMEYR:** Do you have it?

**MR NDZEKU:** Yes, page 24 yes.

**ADV HOFMEYR:** Now, you've given us various versions about this affidavit over the course of the day. I  
20 understand your most recent version after the break of 10 minutes a little while ago that you now do remember that you were given this affidavit back in 2015 or 2016, correct, and you told the Chair, how that happened was, Ms Memela handed it over to you and Ms Mbanjwa was there, do you recall that?

**MR NDZEKU:** I think so yes, I recall yes.

**ADV HOFMEYR:** Yes, so you have a clear memory of that do you?

**MR NDZEKU:** I think so yes.

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** Thank you.

**ADV HOFMEYR:** Now did you read this affidavit when you were given it?

**MR NDZEKU:** A good question, I did not.

10 **ADV HOFMEYR:** You did not?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** So here you are, you're going to buy land for...[intervenes].

**CHAIRPERSON:** But you said you scrutinised it Mr Ndzeke, when I asked you.

**MR NDZEKU:** No, this one of 23, page 24?

**CHAIRPERSON:** Yes.

**MR NDZEKU:** No, I didn't say I scrutinised it Chair, I didn't say that.

20 **CHAIRPERSON:** Are you saying you did not say that?

**MR NDZEKU:** No, what I said Chair, when counsellor was asking me, is it the first time you see this document because she asked me...[intervenes].

**CHAIRPERSON:** No, no, no Mr Ndzeke, I asked you the question, you remember you said – and it's not so long

ago, you said you received this from Ms Memela.

**MR NDZEKU:** Yes, I did yes, this is the same...[intervenes].

**CHAIRPERSON:** Hang on, hang on.

**MR NDZEKU:** Okay.

**CHAIRPERSON:** After we had, had a break you said during the break you remembered.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** That you did receive it from Ms Memela.

10 **MR NDZEKU:** Yes.

**CHAIRPERSON:** I even asked you whether you did not receive it from Ms Mbanjwa and you said, no you received it from Ms Memela.

**MR NDZEKU:** Yes, I remember very well Chair.

**CHAIRPERSON:** In the presence of Ms Mbanjwa.

**MR NDZEKU:** Yes, yes.

**CHAIRPERSON:** And then I asked you – then you said you took it to your lawyers, I said before you took it to your lawyers, you must have scrutinised it, did you scrutinise it,  
20 you said to me yes.

**MR NDZEKU:** Yes, I did read it.

**CHAIRPERSON:** I even – I said to you, you were not satisfied with it, you corrected me, you said, no it was not that you were not satisfied with it, you said you were satisfied with it because you were still expecting more

papers.

**MR NDZEKU:** Yes, it's very true, I remember yes.

**CHAIRPERSON:** Ja, but now you have just said you did not read it but you also said you did...[intervenes].

**MR NDZEKU:** Sorry Chair, my mind is – it's been a long day.

**CHAIRPERSON:** Ja, okay so what is the final position, did you read it or did you not read it?

**MR NDZEKU:** No, I did read it Chair.

10 **CHAIRPERSON:** You did read it, okay, Ms Hofmeyr?

**ADV HOFMEYR:** You would have seen there in the second line, the handwritten second line where a description is given about the land, the person who wrote this, who's not Ms Hlohlela, because we've established that through the handwriting expert...[intervenes].

**MR NDZEKU:** The person who read this is not Ms Hlohlela?

**ADV HOFMEYR:** No, the handwriting experts already resolved that for us. The person who wrote this, in the  
20 second line there where the handwriting appears said,

“The land is fully owned by me, that's Ms Hlohlela, and I inherited it from my parents, Mr and Mrs Sholane”,

Not let's just stop there. When you read that, didn't you react because as I understand your evidence,

previously, it had been made clear to you in your alleged meeting with Chief Sigcau that she did not own land, this was tribal land.

**MR NDZEKU:** Well when she says, she owns the land and then she inherited, it's land from her family, I was thinking that it's her land.

**ADV HOFMEYR:** No, but you've just been told, she didn't own it, so why did you not react, you were about to pay R2.5million for a property, that at a meeting with the chief,  
10 you were told she didn't own and now you're being told she does?

**CHAIRPERSON:** There may be a lot of confusion about what happened in that meeting, if that meeting did take place. You will remember, Ms Hofmeyr, that at some stage you put something to him on your recollection of his evidence that suggested that he was told, I think, and I may be wrong now, that Ms Hlohlela owned the land and I said to him, my recollection is that he said Mr Hlohlela said to him, the chief owned the land and then he said, that is  
20 Mr Ndzeke, he was told that Ms Hlohlela owned the land...[intervenes].

**ADV HOFMEYR:** Oh, I did not pick that up Chair, maybe we can just clarify that.

**CHAIRPERSON:** Ja.

**ADV HOFMEYR:** Thank you. So, was your understanding

that she did own the land?

**MR NDZEKU:** Yes, I did ja.

**ADV HOFMEYR:** Yes, then why...[intervenes].

**CHAIRPERSON:** But there will be no title deeds.

**MR NDZEKU:** There will be no title deeds no.

**ADV HOFMEYR:** Then why were you engaging with the traditional authorities?

**MR NDZEKU:** Well, when I went there, to Ms Hlohlela, she's the one actually who decided to bring those.

10 **ADV HOFMEYR:** Did you notice anything else about this affidavit when you got it, Mr Ndzeke, I know that, that's something of a leading question but won't you just tell us, what's the date on which it was commissioned, you'll find that at the bottom of the page?

**MR NDZEKU:** Well something was not – I don't understand it seems that they were – I'm scratching somewhere there, you know...[intervenes].

**ADV HOFMEYR:** But right at the bottom of the page there's a date under the Commissioner of Oaths signature,  
20 can you tell us what date that is?

**MR NDZEKU:** I can see the date here.

**ADV HOFMEYR:** Yes, 2015/09/22, do you see that?

**MR NDZEKU:** I can see that, yes.

**ADV HOFMEYR:** So that's the 22<sup>nd</sup> of September 2015.

**MR NDZEKU:** Yes

**ADV HOFMEYR:** There's another date on that page, it's the date that is in the typed section of the document above the signature of the Commissioner of Oaths, can you tell us what that date is?

**MR NDZEKU:** Well this is...[intervenes].

**CHAIRPERSON:** The year.

**MR NDZEKU:** The year?

**CHAIRPERSON:** Hmm.

**MR NDZEKU:** It's 2015/05/09/22

10 **ADV HOFMEYR:** Yes, and above that, there's another date.

**MR NDZEKU:** It's the same of the stamp.

**ADV HOFMEYR:** Yes, it is the same as the stamp but it's different to the other date on the page and that's the date that's in the typed section of the affidavit above the signature of the Commissioner of Oaths, can you see that?

**CHAIRPERSON:** You see under Hlohlela, under the signature of Ms Hlohlela, then you have got a certificate of the Commissioner of Oaths which say...[intervenes].

20 **MR NDZEKU:** Well, thank you Chair, but I don't see the date, I can see only 2019.

**ADV HOFMEYR:** Thank you, that's all I wanted.

**CHAIRPERSON:** Yes, that's what he wants ja.

**MR NDZEKU:** I didn't see because...[intervenes].

**CHAIRPERSON:** That's why I said the year, to help you.



**MR NDZEKU:** Yes.

**CHAIRPERSON:** Ja.

**ADV HOFMEYR:** Did that catch your attention when you were looking at this affidavit in 2015, scrutinising it, according to your evidence?

**MR NDZEKU:** I did not?

**ADV HOFMEYR:** You did not pick that up?

**MR NDZEKU:** I did not.

**ADV HOFMEYR:** No, well it caught our attention as the  
10 Commission, so – my tireless investigators who sit here  
and do this day in and day out engaged with the station  
Commissioner at Mount Frere Police Station because you'll  
see it's a stamp from the Mount Frere Police Station and  
asked how it could be possible that an affidavit deposed to  
in September of 2015...[intervenes].

**MR NDZEKU:** Sorry counsellor, is this stamp from  
community service, you said it's from Mount Frere?

**ADV HOFMEYR:** Yes, you will see just below the date it  
says Mount Frere.

20 **MR NDZEKU:** Oh yes I can see yes, yes.

**ADV HOFMEYR:** Okay. It is the South African Police  
Service in Mount Frere.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** So the commission engaged with the  
Station Commissioner and tried to understand how there

could be an affidavit generated in September of 2015.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** That would bear a date in this – in the typed section of the affidavit of 2019. Chair those affidavits from the various members of the station in Mount Frere have been provided. Chair I would like to just give you those references. They actually appear after the affidavit of Ms Buckley that we were just dealing with. Chair I do not suggest we go there in the interest of time just for the  
10 record's purposes there are two affidavits and they appear as items 22 and item 23. They are the affidavit of the Station Commissioner himself Ms Mhlamanzana and then – sorry Ms Mhlamanzana and then a second affidavit from a Captain in the same police service Mr Sandla. Now in the interest of...

**CHAIRPERSON:** Just give the spelling of those surnames?

**ADV HOFMEYR:** Sure.

**CHAIRPERSON:** For the benefit of the transcribers.

**ADV HOFMEYR:** Mhlamanzana is M-h-l-a-m-a-n-z-a-n-a and  
20 the affidavit of Mr Sandla is S-a-n-d-l-a.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR:** Chair again in the interest of time I am going to summarise.

**CHAIRPERSON:** Hm.

**ADV HOFMEYR:** The essence of their evidence is the

following. This affidavit that was provided to Mr Ndzeke is a standard form affidavit that the police station has put together.

**CHAIRPERSON:** Hm.

**ADV HOFMEYR:** They even give us the template copy as an annexure.

**CHAIRPERSON:** Huh-uh.

**ADV HOFMEYR:** They say that it is changed every year to bear the date for the year.

10 **CHAIRPERSON:** Hm.

**ADV HOFMEYR:** It is accessible on a particular computer two computers in a particular area of the police station but then lots of copies of it are made – hard copies and they are put in the police station and they are put in the community service area for the use of the general public when they come in.

**MR NDZEKU:** Hm.

**ADV HOFMEYR:** They say on occasion the year can be wrong that 2019 for example and that happens when at the  
20 beginning of a new year you have some old ones from the last year and rather than printing the new ones you use the old ones and then they scratch out 2019 and they put in hand 2020.

**CHAIRPERSON:** Hm.

**ADV HOFMEYR:** But the evidence from the Station

Commissioner is that in 2015 it is impossible.

**CHAIRPERSON:** Ja.

**ADV HOFMEYR:** That there was a document that was used that bore the date of 2019 from the Mount Frere police stations.

**CHAIRPERSON:** Hm.

**ADV HOFMEYR:** Mr Ndzeke that suggested this affidavit was forged in 2019 does it not?

**MR NDZEKU:** Well Counsellor I also ask Ms Memela  
10 because I could see there are things they are scratched here. I did not understand why these things are scratched. I also asked about the 2019 because I was also confused why there is 2015 – 2019 and I was told that this is an error. It happened they did not have stamps you know. That is exactly what happened.

**ADV HOFMEYR:** Mr Ndzeke your evidence a moment ago.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Was that you did not pick up this date discrepancy. Now you are telling the commission...

20 **MR NDZEKU:** Well....

**ADV HOFMEYR:** That you picked it up and that you spoke to Ms Memela about it.

**MR NDZEKU:** No, no but...

**ADV HOFMEYR:** Mr Ndzeke...

**CHAIRPERSON:** No, no but...

**ADV HOFMEYR:** Your evidence before this commission is dishonest.

**MR NDZEKU:** But Counsellor. Counsellor I do not know what you want me to say? Do you want me to – you know what this is exactly the only time I am sitting and reading these things.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** I did not actually see the errors but now you are telling me about these things. Did I see it, did I read it.  
10 Chair did you ask me did you scrutinise it? I say I did. But those dates I did not even look at it.

**CHAIRPERSON:** Yes but you just said you did get confused about it and you did ask and you were told it was an error.

**MR NDZEKU:** After. After I see this.

**CHAIRPERSON:** When? When?

**MR NDZEKU:** I think that was last time we were here. I did not understand. I said to myself there is something is not right here.

**CHAIRPERSON:** So prior to today you were aware of this  
20 date of 2019?

**MR NDZEKU:** Prior to?

**CHAIRPERSON:** Prior to today.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** You had picked up that what is written here is 2019?

**MR NDZEKU:** Well I can see here Chair. It is really confusing. Maybe when we started actually, she wanted to know my background of education and I said to Chair zero. Now there are things I read, there are things I actually keep, there are things I do not keep. So I do not know what went wrong but I can see the stamp in Mount Frere. I can see the date as she told me. So these other issues I do not know what to say Chair.

**CHAIRPERSON:** Okay. But my question is did you just say  
10 prior to today sometime back.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** If you go back whatever it was.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** You did notice that the year written here is  
2019?

**MR NDZEKU:** I did.

**CHAIRPERSON:** Or are you noticing for the first time today?

**MR NDZEKU:** Not – I do not – Not for the first time but I  
20 actually I spoke to Mr Memela about that. The only thing it  
was this funny things on the side on the paper I did not  
understand what was happening.

**CHAIRPERSON:** Hang on. Hang on. Let us talk about 2019  
only for now.

**MR NDZEKU:** 2019 yes.

**CHAIRPERSON:** So you did notice some time ago that the

year written on this affidavit is 2019?

**MR NDZEKU**: Yes.

**CHAIRPERSON**: How long ago was that? Was it when Ms Memela was giving evidence here?

**MR NDZEKU**: I think during that time.

**CHAIRPERSON**: During that time?

**MR NDZEKU**: Yes.

**CHAIRPERSON**: During the week that you were here?

**MR NDZEKU**: Yes during that week.

10 **CHAIRPERSON**: Okay. Was – is that something you picked up on your own or is it because it was referred to during her questioning by Ms Hofmeyr?

**MR NDZEKU**: I think I picked up when Ms Hofmeyr was asking me the time.

**CHAIRPERSON**: You picked up?

**MR NDZEKU**: Yes.

**CHAIRPERSON**: And you asked her?

**MR NDZEKU**: Yes.

**CHAIRPERSON**: And what did she say?

20 **MR NDZEKU**: She says no it was just an error especially in the homeland sometimes they do not have stamps. Anything it's here it is okay it is fine.

**CHAIRPERSON**: Yes. Well I do not have a recollection of this aspect being dealt with in...

**ADV HOFMEYR**: It was not Chair.

**CHAIRPERSON:** In questioning.

**ADV HOFMEYR:** Not at all.

**CHAIRPERSON:** By – of Ms Memela by Ms Hofmeyr.

**MR NDZEKU:** You did not ask about it?

**ADV HOFMEYR:** No.

**MR NDZEKU:** Okay. So I think ...

**CHAIRPERSON:** So did you pick it up at all then because if you say you picked it up because it was mentioned and I am saying I have no recollection of it being mentioned and Ms Hofmeyr who was questioning Ms Memela says no it was not then you could not have heard it from us.

**MR NDZEKU:** Well Chair the time Ms Mbanjwa was here I did ask about the papers.

**CHAIRPERSON:** Ms Mbanjwa or Ms Memela who did you ask?

**MR NDZEKU:** No it was Ms Mbanjwa. She was representing Ms Memela here.

**CHAIRPERSON:** Ja.

**MR NDZEKU:** Yes.

20 **CHAIRPERSON:** But did you ask Ms Mbanjwa or did you ask Ms Memela about this year? About this 2019?

**MR NDZEKU:** No, no I do not – actually I spoke to Ms Memela about this and then she says it is an error. When did I ask I do not remember but I did ask about this.

**CHAIRPERSON:** Ms Hofmeyr.



**ADV HOFMEYR:** Thank you Chair. The last point just to indicate that Ms – Mr Sandla in his affidavit makes it very clear in case there was any effort to still try and claw back to this affidavit being actually deposed to in 2015 that the Commissioner of Oaths indicated there Mr Nkumbuzi was off duty from 6am on the 22 September 2015 when this was allegedly deposed to in front of him. And more than that he had been out on patrol for the shift preceding that. So the chances Chair we will argue in due course that this affidavit  
10 was actually procured in 2015 are extremely slim.

**CHAIRPERSON:** Well do you accept Mr Ndzeke that that certificate of the Commissioner of Oaths where 2019 is written?

**MR NDZEKU:** This one here?

**CHAIRPERSON:** Ja.

**MR NDZEKU:** No.

**CHAIRPERSON:** Do you ...

**MR NDZEKU:** No.

**CHAIRPERSON:** No, no I have not finished my question.

20 **MR NDZEKU:** Okay yes Chair.

**CHAIRPERSON:** Do you accept that that what is written there is that the deponent to the affidavit in this case Ms Hlohela swore to this affidavit in that year. So forget – if you forget about the stamp the police station stamp that writing there do you accept that it means that Ms Hlohela the

deponent appeared before the Commissioner of Oaths in 2019?

**MR NDZEKU**: Mr Hlohela – Ms Hlohela did Chair.

**CHAIRPERSON**: Ja the deponent to the affidavit?

**MR NDZEKU**: Can you just repeat Chair.

**CHAIRPERSON**: You see the – the – what is written there says:

“Certify that the deponent has acknowledged that he or she knows and understands the contents of this declaration  
10 which was sworn to before me and the declarant’s signature  
armed print mark was placed before me thereon in my  
presence on [there is a space] 2019.”

So I am just asking you whether you accept that that writing if you read it means that the deponent to the affidavit took the oath before the Commissioner of Oaths in 2019?

**MR NDZEKU**: No I do not.

**CHAIRPERSON**: You do not accept that that is what it means?

**MR NDZEKU**: I do not – I do not. I am still confused I do  
20 not.

**CHAIRPERSON**: You are confused okay.

**MR NDZEKU**: Ja.

**CHAIRPERSON**: Okay I will just tell you. That is what it means you know but what Ms Hofmeyr was saying to you in part is that that is strange that it should talk about 2019

when the stamp of the police station says 22 September 2015 and the purported Commissioner of Oaths put the date 22 September 2015 and what he is saying to you is this has to be forgery.

**MR NDZEKU**: This – this document?

**CHAIRPERSON**: This document. It has to be fraud because there is no way that a document such as this would bear the date of 2019 when it was done in 2015. It is understandable if the document was signed in 2015 maybe early in January  
10 and it bears the date of 2014 when you have just moved from one year to the next. But it is impossible for it to bear 2019 when it was – when the – it was done in 2015. It cannot be. That is what she is saying. Do you accept that?

**MR NDZEKU**: I will accept that.

**CHAIRPERSON**: Yes.

**MR NDZEKU**: Especially when she went through to Ms Buckley.

**CHAIRPERSON**: Yes.

**MR NDZEKU**: Where they did try to locate her.

20 **CHAIRPERSON**: Yes.

**MR NDZEKU**: I accept.

**CHAIRPERSON**: Yes.

**MR NDZEKU**: Both of them.

**CHAIRPERSON**: So we – at least you accept and it seems to me quite clear that this was forged and you accept that?

Is that a yes?

**MR NDZEKU**: Sorry Chair.

**CHAIRPERSON**: Is that a yes?

**MR NDZEKU**: What you say Chair can you repeat.

**CHAIRPERSON**: Oh that this affidavit was forged, you accept that?

**MR NDZEKU**: I accept it they were yes.

**CHAIRPERSON**: Yes okay.

**ADV HOFMEYR**: Do you accept that it was forged in 2019?

10 **MR NDZEKU**: Well I would not know the date but when I looked at it.

**CHAIRPERSON**: Sorry.

**MR NDZEKU**: The way I look at it it was forged.

**CHAIRPERSON**: Yes.

**ADV HOFMEYR**: Thank you.

**ADV ALLI**: Chair forgive me if I may?

**CHAIRPERSON**: Yes.

**ADV ALLI**: I think Mr Ndzeke has made the concession he can there beyond that I am not sure.

20 **CHAIRPERSON**: I am sorry just raise your voice.

**ADV ALLI**: My apologies. Mr Ndzeke has made a concession about the affidavit that it is forged in his view. Now I am not sure how much more he can talk about when it was forged, the year in which it was forged or any of those things. I do not think the suggestion has been that he was

responsible for the forgery of this document.

**CHAIRPERSON:** Well I do not know how far Ms Hofmeyr will go but it is legitimate to look at. If he accepts that it was forged when is that likely to have happened? I think that is legitimate.

**ADV ALLI:** Yes but Chair.

**CHAIRPERSON:** Hm.

**ADV ALLI:** That is precisely the problem is that we moving away from the Terms of Reference. This is speculative. If  
10 he says yes he thinks it was in 2019 how does that prove.

**CHAIRPERSON:** No, no it is important. Go ahead Ms Hofmeyr.

**ADV HOFMEYR:** Thank you Chair.

**ADV ALLI:** As the Chair pleases.

**ADV HOFMEYR:** Do you accept that it was forged in 2019?

**MR NDZEKU:** Well I can accept.

**ADV HOFMEYR:** Thank you.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Mr Ndzeke if that is so then I would like to  
20 take you back to the offer to purchase. Remember the one that you signed. The one that precedes that in the file. Just flick back a few pages to page 14 under Tab 6.

**MR NDZEKU:** The same – the same...

**ADV HOFMEYR:** The same file.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** You are under Tab 6 and it is page 14.

**MR NDZEKU:** We say 6 hey?

**ADV HOFMEYR:** Yes.

**CHAIRPERSON:** Page 12.

**ADV HOFMEYR:** Tab 6 page 14 Chair.

**CHAIRPERSON:** Oh I am sorry page 14 under Tab 6?

**ADV HOFMEYR:** Yes. Yes correct.

**MR NDZEKU:** Tab 6 and then page 14?

**ADV HOFMEYR:** Yes.

10 **CHAIRPERSON:** Page 14 Offer to Purchase.

**ADV HOFMEYR:** Hm indeed. That is the agreement that you signed, correct?

**MR NDZEKU:** Yes I did Offer to Purchase obviously yes.

**ADV HOFMEYR:** The difficulty you see Mr Ndzeke is that if the affidavit was forged in 2019 it is not clear how you signed this agreement in 2015. Did you not...

**MR NDZEKU:** Is this agreement 2015?

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** Wait, wait where is it now?

20 **ADV HOFMEYR:** Did you sign this agreement in 2019 then?

**MR NDZEKU:** Counsel.

**CHAIRPERSON:** Well let us start by...

**MR NDZEKU:** Where is the date?

**CHAIRPERSON:** I am sorry, I am sorry. I think Ms Hofmeyr we will start by placing on record that there is no date given

on the document as to when it was signed.

**ADV HOFMEYR:** There is it is just not where Mr Ndzeke signs it is over the page where Ms Hlohela signs.

**CHAIRPERSON:** Oh is that so.

**ADV HOFMEYR:** So I will take you there. We did deal with this previously.

**CHAIRPERSON:** Oh okay. Okay.

**ADV HOFMEYR:** But I am very happy to go there again at this point.

10 **CHAIRPERSON:** Oh okay.

**ADV HOFMEYR:** If you go to page 23.

**CHAIRPERSON:** Okay no I did not see that.

**MR NDZEKU:** Page 23?

**ADV HOFMEYR:** Yes 23 you will see Ms Hlohela signed it on the 1 November 2015. Chair I must stop myself of course we have established that this is not Ms Hlohela's signature so I am going to have to say purportedly signed.

**CHAIRPERSON:** Purportedly.

**CHAIRPERSON:** Ja.

20 **MR NDZEKU:** So we are on 23 yes.

**ADV HOFMEYR:** On the 1 November 2015 do you see that date there?

**MR NDZEKU:** Yes. I can see here.

**ADV HOFMEYR:** Yes. Now the difficulty I have is that the affidavit that accompanies this agreement we have

established was forged in 2019 so I am putting to you how could the – an agreement linked to that affidavit have been concluded in 2015 if the affidavit to which it refers and I will take you to that clause now was only produced in 2019?

**MR NDZEKU:** Well sorry Chair. The offer to purchase as the Counsellor said I was given actually by Ms Memela and then I did not even look at the date. There is my signature there at pages 1 and then there is also other witnesses but I did not actually look at the date I just signed.

10 **ADV HOFMEYR:** Yes. Did you sign it in 2015 or in 2019 Mr Ndzeke?

**MR NDZEKU:** If I recollect it was not 2015 it must be 2019.

**ADV HOFMEYR:** Yes. Can I tell you why else it must have been 2019 Mr Ndzeke.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Remember Ms Mbanjwa prepared this agreement for you, do you recall that?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Yes. She is a lawyer correct?

20 **MR NDZEKU:** Yes.

**ADV HOFMEYR:** Do you know what an arbitration clause is in an agreement?

**MR NDZEKU:** The what?

**ADV HOFMEYR:** An arbitration clause?

**MR NDZEKU:** No.



**ADV HOFMEYR:** No. Let me tell you what it is. It is a clause in this agreement that if there is a dispute between the parties.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Then they refer their dispute to arbitration. Have you – have you come across those clauses before?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Hm.

**MR NDZEKU:** We actually busy now with AR on that matter  
10 at the moment.

**ADV HOFMEYR:** Right. Right.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** So what is noteworthy about this arbitration clause and you will find it at page 19 Mr Ndzeke.

**MR NDZEKU:** Page 19 okay it is 18 here. Yes, yes page 19.

**ADV HOFMEYR:** You will see at the bottom there there is clause 18 of the arbitration agreement.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Yes. I will just take you through it. There  
20 is no need to read. You see what happens with arbitration clauses is that when there is a dispute you go to arbitration and the parties appoint they choose who the arbitrator is but if they cannot agree then somebody else is given the role of appointing the arbitrator.

**MR NDZEKU:** Yes.

**ADV HOFMEYR**: Okay. And the one that caught my eye in particular when I was going through this agreement was what would happen at clause 18.3.3 of the agreement which is over the page at page 20.

**MR NDZEKU**: Where are we going? To page 20 or 18?

**ADV HOFMEYR SC**: Page 20. And you need Clause 18.3.3.

**MR NDZEKU**: Okay, page... I am at page 20 now at Clause 18.

10 **ADV HOFMEYR SC**: Point 3 point 3.

**MR NDZEKU**: Yes, I am here.

**ADV HOFMEYR SC**: And I will explain to you why that caught my eye. You see, what Clause 18.3.3. caters for is a dispute between the parties about any other matter.

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: It is not an accounting matter, it is not a matter that can go to the estate agent's board. It is any other matter, right?

**MR NDZEKU**: Yes.

20 **ADV HOFMEYR SC**: And then the arbitration proceedings are going to be conducted by a practicing advocate or attorney with at least ten years' experience.

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: If agreed upon by the parties.

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC:** And then it says:

“Failing agreement nominated by the chairperson for the time being of a legal practise counsel.?”

Do you see that?

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** You were not aware of that clause before today, were you?

**MR NDZEKU:** I was not.

**ADV HOFMEYR SC:** Ms Mbawanzwa(?) was responsible for  
10 putting this agree together, correct?

**MR NDZEKU:** Correct, yes.

**ADV HOFMEYR SC:** Ms Mbawanzwa then would probably know that the Legal Practice Council was not established until October of 2018. So Mr Ndzeke, I suggest to you that this is another reason that this agreement did not come to exist in 2015.

**MR NDZEKU:** Can you repeat again?

**ADV HOFMEYR SC:** Not in 2105 ...[intervenes]

**MR NDZEKU:** What are you saying?

20 **ADV HOFMEYR SC:** Yes. This agreement did not come into existence, you did not sign it in 2015.

**MR NDZEKU:** Yes, I did... I did tell you that, 2019.

**ADV HOFMEYR SC:** Yes, not in 2016, not in 2017, not in 2018. But you have now confirmed under oath that you signed it in 2019.

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: Correct?

**MR NDZEKU**: Correct, yes.

**ADV HOFMEYR SC**: Yes. That ...[intervenes]

**CHAIRPERSON**: But maybe just to complete the point because basically what Ms Hofmeyr is saying. An agreement concluded in 2015 could not have referred to Legal Practise Council because at that time, there was no such body. Okay?

10 **MR NDZEKU**: Thank you, Chair.

**ADV HOFMEYR SC**: Ja, okay. So it has to be that the document was prepared after that body had come into existence.

**MR NDZEKU**: Okay.

**ADV HOFMEYR SC**: Mr Ndzeke, in fairness to you. We will argue in due course that this whole agreement is a fraud. Do you accept that?

**MR NDZEKU**: I accept, yes.

20 **ADV HOFMEYR SC**: H'm. Why did you perpetrate a fraud in 2019?

**MR NDZEKU**: Why did I...?

**ADV HOFMEYR SC**: Why did you take part in a fraud in 2019?

**MR NDZEKU**: Well, I did not know that it was a fraud.

**ADV HOFMEYR SC**: No, you did because it was purporting

to be an agreement you concluded in 2015 when you have now in fairness to you admitted to this Commission that you only signed it in 2019. That means you were party to a fraud.

**MR NDZEKU**: Well, I must tell the truth. I do not know how you are going to take it. This is the truth. I did not know that I was committing a crime. That is the truth.

**CHAIRPERSON**: But Mr Ndzeke, if you signed this agreement in 2019 ...[intervenes]

10 **MR NDZEKU**: Yes.

**CHAIRPERSON**: I mean, you have made the payment for this land, when? 2016/2015?

**ADV HOFMEYR SC**: May 2016.

**CHAIRPERSON**: May 2016?

**MR NDZEKU**: Yes, Chair. Yes.

**CHAIRPERSON**: It would mean that you paid R 2,5 million at a time when there was no agreement because there was no agreement until both parties signed and you say you only signed in 2019.

20 **MR NDZEKU**: Well, Chair ...[intervenes]

**CHAIRPERSON**: How could you have done that?

**MR NDZEKU**: Chair, I did feel actually comfortable when it was with the attorneys, Ms Mbawanzwa. The one who was supposed to prepare the document. The one actually, the money was paid to. And then I also advised my lawyers

about this issue. As a businessman I did not see anything wrong.

**CHAIRPERSON:** No, you knew on your own version that to buy the land that you say you wanted to buy, there had be an agreement.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** And that that agreement was to be in writing, is it not?

**MR NDZEKU:** In writing, yes.

10 **CHAIRPERSON:** Now, on your own version an agreement in writing only comes about in 2019 because you do not get to sign the agreement until 2019. How do you justify paying somebody R 2,5 million even before there can be a written agreement that you are expecting should happen?

**MR NDZEKU:** Well, Chair my thinking, I was not paying her, I was paying the lawyer and...

**CHAIRPERSON:** H'm?

**MR NDZEKU:** I was paying the lawyer. The money was supposed to stay in a trust.

20 **ADV HOFMEYR SC:** Mr Ndzeke ...[intervenes]

**CHAIRPERSON:** Yes.

**MR NDZEKU:** With interest.

**CHAIRPERSON:** Yes, but you are... there is supposed to be an agreement first.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** Then you pay. Because you are supposed to pay in accordance with the agreement.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** You accept that?

**MR NDZEKU:** I agree with you Chair.

**CHAIRPERSON:** Yes. So what you did is change that you paid not a small amount, a substantial amount even before you could see an agreement and have it signed. You accept that that has changed?

10 **MR NDZEKU:** I accept that, yes.

**CHAIRPERSON:** You accept that?

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** Thank you. Chair, I would like to take it one step further. Mr Ndzeke, I put it to you there was no agreement about nay land whatsoever in 2015 or 2016.

What there was, was a payment of R 2,5 million to benefit Ms Mamela who was the Head of Procurement at SAA Technical and it was the last R 2,5 million out of the R 28.5 million that was paid by Swissport to JM Aviation. Do  
20 you have a response to that?

**MR NDZEKU:** Well, I am still confused. How can Ms Mamela help Swiss Port?

**ADV HOFMEYR SC:** No, she could help JM Aviation.

**MR NDZEKU:** Well, I was not part of JM Aviation.

**ADV HOFMEYR SC:** JM Aviation? You were a director of

JM Aviation in 2015 and 2016.

**MR NDZEKU**: Let us go back again. When came here they did a deal with SAAT. I was not even there.

**ADV HOFMEYR SC**: Let me explain to you how she benefited JM Aviation.

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: She agreed to sell to your daughter, Ms Sokulu, GPUs, 12 GPUs for R 3 million ...[intervenes]

**MR NDZEKU**: Not to my daughter ...[intervenes]

10 **ADV HOFMEYR SC**: ...on the same day ...[intervenes]

**MR NDZEKU**: ...to JM Aviation.

**ADV HOFMEYR SC**: ON the same day ...[intervenes]

**MR NDZEKU**: The JM Aviation... the person ...[intervenes]

**ADV HOFMEYR SC**: To JM Aviation on ...[intervenes]

**CHAIRPERSON**: Hang on Mr Ndzeku. Let counsel finish, then you can respond.

**MR NDZEKU**: Yes.

20 **ADV HOFMEYR SC**: On the same day JM Aviation bought Swissport South Africa R 9 million for those same GPUs. In a day, JM Aviation made the difference, R 6 million. That is how Ms Mamela benefited JM Aviation.

**MR NDZEKU**: Well ...[intervenes]

**ADV HOFMEYR SC**: Do you have a comment on that?

**MR NDZEKU**: Well, I do not know that. Maybe the person who did the deal with Swissport, it was Mr Aires. I do not



know how he did he benefit. I do not know. I am sorry. I do not know how.

**ADV HOFMEYR SC:** Do you want me to tell you what happened to with that R 6 million?

**MR NDZEKU:** Yes, please.

**ADV HOFMEYR SC:** Yes. It ended up with Yake Kwinana, the non-executive member of the Board of SAA.

**MR NDZEKU:** Yes.

10 **ADV HOFMEYR SC:** And the Chair of SAA Technical at the time.

**MR NDZEKU:** Yes. How did ...[intervenes]

**ADV HOFMEYR SC:** R 4.3 million of that R 6 million ended up with Ms Kwinana.

**MR NDZEKU:** Who paid that R 6 million?

**ADV HOFMEYR SC:** JM Aviation. Sorry, apologies. Let me go there. I am jumping ahead of myself. Mr Ndzeke, you paid it. So let me go explain to you how you paid it Ms Kwinana. Right. We need to look at your dealings with Zano Spark.

20 **MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** Yes. What is Zano Spark?

**MR NDZEKU:** Please, can you explain to me again?

**ADV HOFMEYR SC:** What is Zano Spark?

**MR NDZEKU:** Who is the actual people of Zano Spark?

**ADV HOFMEYR SC:** Yes.

**MR NDZEKU:** It is Dan Xlolo(?) or who is this? I do not remember.

**ADV HOFMEYR SC:** You do not remember?

**MR NDZEKU:** No, I do not remember.

**ADV HOFMEYR SC:** Well, your affidavit says that you do remember, that is Ms Koniwe(?).

**MR NDZEKU:** Yes. Ja.

**ADV HOFMEYR SC:** Is the daughter of Ms Kwinana. Is that correct?

10 **MR NDZEKU:** Yes, that is exactly the forex. Yes, yes. I know very well.

**ADV HOFMEYR SC:** Yes. So tell me about Zano Spark in your dealings with Zano Spark and Ms Koniwe?

**MR NDZEKU:** Well, Chair... Sorry, I look either side. Sorry, Chair. Ms Koniwe, we... they were selling a Bitcoin Forex and I decided that maybe with my money I am getting from JM, let me invest it which is I invested in the forex.

Now how does the forex work? You know, you buy and sell, you buy and sell. It is exactly what I did. I did not  
20 know that money was going to Ms Kwinana. I am still actually in charge of that money even to today.

**ADV HOFMEYR SC:** Let us go through it. So I understand your affidavit to have indicated in your evidence now to be that Ms Koniwe who is Ms Yakhe Kwinana's daughter approached you in 2016. Is that correct?

**MR NDZEKU**: Yes, correct. Yes.

**ADV HOFMEYR SC**: And she said to you, she was engaged in the business of forex trading.

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: Is that correct?

**MR NDZEKU**: I do not remember 2016, I think maybe during that time.

**ADV HOFMEYR SC**: H'm. No, your affidavit says 2016 and you started to make the payments in 2016. So can we take  
10 2016?

**MR NDZEKU**: [No audible reply]

**ADV HOFMEYR SC**: Please say yes just for the record.

**MR NDZEKU**: Well, Chair I must say yes or no. I do not remember but I know that I did deal with this lady, Koniwe.

**ADV HOFMEYR SC**: Right. And she told you that her company was involved in forex trading. Is that correct?

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: Yes. And you wanted to hedge against the falling Rand, according to your affidavit. Is that correct?

20 **MR NDZEKU**: No, I do not know. Where did you get that councillor? Is that in my affidavit?

**ADV HOFMEYR SC**: Yes.

**MR NDZEKU**: What page is that again?

**ADV HOFMEYR SC**: Let us go there. So if you will take the big file in front of you, DD26?

**MR NDZEKU**: What is it?

**ADV HOFMEYR SC**: DD26. It is the first tab.

**MR NDZEKU**: The first tab?

**ADV HOFMEYR SC**: Yes.

**MR NDZEKU**: Okay.

**ADV HOFMEYR SC**: And you will find it at page 13, one  
three.

**MR NDZEKU**: Number 28 or 20? 26?

**ADV HOFMEYR SC**: Mr Ndzeke, so you are in... under the  
10 first tab.

**MR NDZEKU**: Firs tab?

**ADV HOFMEYR SC**: Yes, please.

**MR NDZEKU**: Okay.

**CHAIRPERSON**: Tab number 3.

**MR NDZEKU**: Tab number ...[intervenes]

**ADV HOFMEYR SC**: Oh, sorry. Tab 1.

**CHAIRPERSON**: Tab number 1?

**ADV HOFMEYR SC**: Yes, first tab.

**CHAIRPERSON**: Okay.

20 **MR NDZEKU**: Tab 1?

**CHAIRPERSON**: Page 13?

**ADV HOFMEYR SC**: Page 13, correct Chair.

**CHAIRPERSON**: Okay.

**ADV HOFMEYR SC**: Apologies.

**CHAIRPERSON**: Okay.

**MR NDZEKU:** Right, I have got it here. Thank you. I see it.

**ADV HOFMEYR SC:** Right. So this is your affidavit Mr Ndzeke to the Commission. And if you pick it up at paragraph 62, you say there:

10   “Lumka (that is Ms Koniwe’s first name) got in touch with me during 2016 and advised me that she was engaged in the business of forex trade for which her entity had a trading account.”

  At paragraph 63 you say ...[intervenes]

**MR NDZEKU:** Sorry counsel, the number... it is page 13?

**ADV HOFMEYR SC:** Page 13.

**MR NDZEKU:** And then we go to paragraph?

**ADV HOFMEYR SC:** Paragraph 62.

**MR NDZEKU:** Okay we go to number 14 where I am supposed to sign?

**CHAIRPERSON:** No, paragraph 62 at page 13.

**MR NDZEKU:** DD26?

20   **ADV HOFMEYR SC:** Yes, yes. No, you are at the right page. You wanted to go over the page to 14.

**MR NDZEKU:** At 14 and then I went over the page.

**ADV HOFMEYR SC:** Yes.

**MR NDZEKU:** Yes, and then... yes, I am looking at this.

**CHAIRPERSON:** 62, paragraph 62 on page 13.

**MR NDZEKU**: No, it is page...

**CHAIRPERSON**: Page 13 is the red number.

**MR NDZEKU**: And then DD26?

**CHAIRPERSON**: No, no, no.

**ADV HOFMEYR SC**: Yes, it is DD26. It is the name of the bundle.

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: Right. Then you are at page 13.

**MR NDZEKU**: Paragraph 13.

10 **CHAIRPERSON**: Page 13.

**ADV HOFMEYR SC**: And we want you to go to paragraph 62.

**CHAIRPERSON**: On page 13.

**MR NDZEKU**: Page 62?

**ADV HOFMEYR SC**: No, on the same page Mr Ndzeke.

**CHAIRPERSON**: 13. Have you got page 13?

**MR NDZEKU**: [No audible reply]

**CHAIRPERSON**: Have you got page 13?

**MR NDZEKU**: Yes, I am at point... page 13.

20 **CHAIRPERSON**: Okay count the paragraphs, 1, 2, 3, 4. Paragraph number 4 is paragraph 62.

**MR NDZEKU**: Yes, yes.

**CHAIRPERSON**: Okay.

**ADV HOFMEYR SC**: And I will read to you what is reflected there, your affidavit. You say:

“Lumka got in touch with me during 2016 and advised me that she was engaged in the business of forex trade for which her entity had a trading account.”

Paragraph 63:

“The investment was appealing, giving that it provided a hedge against the falling Rand...”

That is what I have just quoted to you, Mr Ndzeke in the evidence.

10 **MR NDZEKU**: Yes, yes.

**ADV HOFMEYR SC**: And you seem to have a difficulty with that being the reason that you invested in Zano Spark.

**MR NDZEKU**: No, sorry counsel. Now I can see now. Sorry. No.

**ADV HOFMEYR SC**: No, that is fine.

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: So you get approached by Ms Kwinana’s daughter in 2016. She says to you her business is involved in forex trading and as I understand it you wanted  
20 to invest in forex trading.

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: Is that correct?

**MR NDZEKU**: Correct, yes.

**ADV HOFMEYR SC**: And you wanted to do that to hedge against the depreciating Rand. Is that correct?

**MR NDZEKU**: Correct, yes.

**ADV HOFMEYR SC**: What do you know about forex trading Mr Ndzeke?

**MR NDZEKU**: What do I know?

**ADV HOFMEYR SC**: What do you know about it? How does it take place?

**MR NDZEKU**: You know like any businessperson. If you do not know something, trading is straight.

**ADV HOFMEYR SC**: Trading ...[intervenes]

10 **CHAIRPERSON**: I am sorry. I did not hear.

**MR NDZEKU**: Sorry, Chair.

**CHAIRPERSON**: What is the answer to that question?

**MR NDZEKU**: No, she asked me what do I know about forex trading?

**CHAIRPERSON**: Yes.

**MR NDZEKU**: And I said, trading is trading. And then trading... what exactly what they are doing, is buying and selling in the market, on the stock market. It is exactly... any businessman, they know about the trading.

20 She asked me what do I know about forex? Then I said I am a businessman. And I wanted actually... she can still ask me the same question, what do I know about Bitcoin? Then I have to learn because I am a businessman.

**CHAIRPERSON**: Yes, Ms Hofmeyr.

**ADV HOFMEYR SC**: What currency was the trading going



to take place in?

**MR NDZEKU**: Sorry? What?

**ADV HOFMEYR SC**: What currency was the trading going to take place in?

**MR NDZEKU**: Well, that time I do not remember. That was a long time ago. But my investment is secured.

**ADV HOFMEYR SC**: It is secured?

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: Right. What sort of updates do you  
10 get on your investment?

**MR NDZEKU**: What sort of...?

**ADV HOFMEYR SC**: Updates?

**MR NDZEKU**: Well, you know Commissioner... Chair, this is my business. This is my private. If I put money, then I am getting one rand or maybe two rands. It is my business. As far as I know this was my money. I did not take it from nobody. So I do not know why now the counsel she is asking me that question.

**CHAIRPERSON**: Well, her question is simple. Do you  
20 get... or rather, what updates do you get on your investment? Do you get any reports that tell you how your investment is doing?

**MR NDZEKU**: Well, let me just make an example on the trade because you go as the stock market and then sometimes they tell you and sometimes they do not tell you.

**CHAIRPERSON:** No, the question is. Maybe let us start with this question.

**MR NDZEKU:** Yes.

**CHAIRPERSON:** Do you get any updates or reports on how your investment is performing?

**MR NDZEKU:** I can say Chair, after a year, they give you a report.

**CHAIRPERSON:** So you do get reports every year?

**MR NDZEKU:** After a year, yes.

10 **CHAIRPERSON:** Or once a year?

**MR NDZEKU:** Once a year, yes.

**CHAIRPERSON:** Okay. And the reports are in writing?

**MR NDZEKU:** Well, not in writing because now today, they do not use... we use actually the email.

**CHAIRPERSON:** Emails?

**MR NDZEKU:** Ja, same email. Then you ...[intervenes]

**CHAIRPERSON:** Ja, you get the by email.

**MR NDZEKU:** If I have got an investment at ABSA, they tell me... they tell me on the email.

20 **CHAIRPERSON:** Ja, so you get emails?

**MR NDZEKU:** Yes.

**CHAIRPERSON:** Okay. Ms Hofmeyr.

**ADV HOFMEYR SC:** And would that include investment statements updating you on how your investment is doing? How it has grown? How it has dropped?

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: Yes. And you get those annually, do you?

**MR NDZEKU**: Annually, yes.

**ADV HOFMEYR SC**: Right. And you receive via email, I understand it?

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC**: Do you also get updates, payment advises? Do they ever pay the money back to you?

10 **MR NDZEKU**: Well, let us just go back. The investment, as I recall it, it was for five years. If you do an investment and you agree with to them. You say, I have got one million rand here and then I want to... instead of you guys pay me every months, and then I want to get this money after five years.

It is up to me. So I am not getting anything at the moment. The agreement is that I will be getting my investment, my profit after five years.

20 **ADV HOFMEYR SC**: And in those investment statements that you received, was it showing that you were doing well or poorly?

**MR NDZEKU**: Well, again, sometimes we do well, sometimes we do not well.

**ADV HOFMEYR SC**: And you saw all of that in the investment statements you receive yearly. Is that right?

**MR NDZEKU**: Yes.

**ADV HOFMEYR SC:** Yes, Mr Ndzeke, you have deposed to an affidavit that has been submitted to the Commission when we asked you for the documents that we have just been talking about.

**MR NDZEKU:** Yes.

**ADV HOFMEYR SC:** Do you remember what you said in that affidavit?

**MR NDZEKU:** Please remind me?

**ADV HOFMEYR SC:** You said you have never received any  
10 investment statements.

**MR NDZEKU:** Well, at the moment, as I said to the Chair, they always send me the email. Not actually my email. Now I really know. I will have to... this is exactly what I was discussing with my lawyers. I did not know that it was maybe needed here. I was thinking that maybe the Chair wanted to know that ...[intervenes]

**CHAIRPERSON:** Well, Mr Ndzeke...

**MR NDZEKU:** Yes.

**CHAIRPERSON:** The question is whether you remember  
20 that in your affidavit you said you do not receive any statements relating to this investment.

**MR NDZEKU:** I do not remember, Chair.

**CHAIRPERSON:** You do not remember?

**MR NDZEKU:** Yes.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR:** You went further, you said you have no documents that you are able to provide to the Commission about this investment.

**MR NDZEKU:** Well, maybe my lawyers, they advise me to say that.

**ADV HOFMEYR:** No, Mr Ndzeke, it cannot always be the lawyers, this is your version on an affidavit to this Commission. You said there were no investment statements.

10           Today you have changed that version and you have told us about annual statements that tell you that you are sometimes doing well and sometimes doing badly on the forex market.

**MR NDZEKU:** Counsellor, can I ask you, why are you shouting at me?

**ADV HOFMEYR:** I am not, Mr Ndzeke.

**MR NDZEKU:** I do not like your tone.

**ADV HOFMEYR:** Mr Ndzeke ...[intervenes]

**MR NDZEKU:** No, no, please I do not like your tone.

20           **ADV HOFMEYR:** It has been a long day.

**MR NDZEKU:** I am not – no, really, Chair, I really do not like the way she is talking to me. If you are forcing me to agree what you are saying, do not scream at me.

**CHAIRPERSON:** Okay, Mr ...[intervenes]

**MR NDZEKU:** I do not like that.

**CHAIRPERSON:** Okay, Mr Ndzeke. Okay, let us take it step-by-step. Is the position that you do receive statements telling you how the investment is performing?

**MR NDZEKU:** Well, I can say, Chair, yes.

**CHAIRPERSON:** You do. Okay. Do you remember or do you not remember whether in your affidavit you said you do not receive such statements? Do you remember or do not remember?

**MR NDZEKU:** I do not remember, Chair.

10 **CHAIRPERSON:** Okay, Ms Hofmeyr, do you want to refer to ...[intervenes]

**ADV HOFMEYR:** I think my learned friend wants to say something.

**ADV ALLI:** Chair, forgive me, I have got another engagement at 6.30 p.m.

**CHAIRPERSON:** Oh, okay.

**ADV ALLI:** Yes, I do.

**CHAIRPERSON:** Yes.

20 **ADV ALLI:** We had agreed to sit late which we understood would be – end at 5.30. We are have now got at six o'clock.

**CHAIRPERSON:** Yes. What is the latest you would like to get out of here?

**ADV ALLI:** Chair, if my learned friend – as she is, so are we anxious to go through this today. If my learned friend

could conclude within the next 15 minutes.

**CHAIRPERSON:** Ja, then you would be okay.

**ADV ALLI:** Yes.

**CHAIRPERSON:** How is that...?

**ADV HOFMEYR:** I will do my absolute best, Chair.

**CHAIRPERSON:** Yes, okay.

**ADV HOFMEYR:** Thank you.

**CHAIRPERSON:** Alright, okay.

**ADV HOFMEYR:** I wanted – I asked you earlier what you  
10 understand to happen with forex trading.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Right, and you said you are  
businessman, you understand trading, is that correct?

**MR NDZEKU:** Yes, yes.

**ADV HOFMEYR:** Do you know that trading in forex is a  
regulated industry?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Yes. So did you check with Zano Spark  
when Ms Goniwe approached whether it had the requisite  
20 licences to be trading in forex?

**MR NDZEKU:** Well, they did actually send me the – they  
did tell me the company, they said there is the company.

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** This is exactly where you will be paying.

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** Not to her name. This is exactly what I did. Ja, they did say to me this is the company, if you are investing, you are investing in this company not to us, they did show me that.

**ADV HOFMEYR:** And did you check whether that company was licensed to engage in forex trading?

**MR NDZEKU:** I did check that company not to say it was licensed, I just wanted to check that if maybe this money disappear will I get it back which is the company was  
10 there. About the licence, I did not check.

**ADV HOFMEYR:** So how did you check about the company, what did you ask for?

**MR NDZEKU:** Well, if they give me the – if she told me the account number and this is the people, this is the company you are dealing with and I just decided that okay, let me just phone these people and find out exactly before I do any payment, does it exist, which it was, it was there.

**ADV HOFMEYR:** Did you discover in those inquiries that the company had been created in February 2016?

20 **MR NDZEKU:** No, I did not know that.

**ADV HOFMEYR:** And did you establish that the two directors were Ms Goniwe and Ms Kwinana?

**MR NDZEKU:** No, I did not know that.

**ADV HOFMEYR:** And you did not make any inquiries about whether it was licensed, is that correct?



**MR NDZEKU:** No, I did not.

**ADV HOFMEYR:** So do you learn today for the first time when I tell you that Zano Spark has no – it is neither an authorised dealer with the Reserve Bank to trade in forex not does it have any licence with the FSCA, that is the Financial Services Conduct Authority, to engage in the provision of financial services related to trading?

**MR NDZEKU:** Well, I did not know that but the only thing I can tell you, Chair, the money I paid, it is safe and if I  
10 want to get that money back, I will get it back same as my thinking with Ms Mbanjwa, when I want to pay that money it was going on the trust. If maybe that money is supposed to go back it must come back. That is exactly my thinking.

Now, as a businessman, maybe the counsel is going to ask me, if you put that money, you are not actually expecting to get interest. Yes, I do. But instead of losing, I would rather not get an interest, let me get my money back. That is all I can say.

**ADV HOFMEYR:** So this was your investment.

20 **MR NDZEKU:** Yes.

**ADV HOFMEYR:** And you were going to put it with Zano Spark and nothing put you on guard that this would be anything other than a legitimate investment, is that right?

**MR NDZEKU:** Nothing what?

**CHAIRPERSON:** Nothing was – you did not pick up

anything that suggested that there might be a problem with investing in this company.

**MR NDZEKU:** No, nothing, Chair.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR:** And now you have learnt that Zano Spark does not have any licences to conduct trading. So any trading that it was doing would be unlawful. Does that cause you concern?

**MR NDZEKU:** Well, it is the first time I am hearing this.

10 **MR NDZEKU:** The first time here is some concern, the first time I am hearing this now.

**ADV HOFMEYR:** I said to you, Mr Ndzeke, that I was going to show you how the R6 million that JM Aviation ended up benefiting Ms Kwinana, so I would like to take you to that and it is through your Zano Spark investments.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Let us go, if we can, to the file, the big file, DD26.

**MR NDZEKU:** DD26?

20 **ADV HOFMEYR:** Yes. And we need to go to page 49 which is under tab 9. Please go to tab 9.

**MR NDZEKU:** Tab 9, yes.

**ADV HOFMEYR:** And then find page 49.

**CHAIRPERSON:** Tab 9, Ms Hofmeyr.

**ADV HOFMEYR:** Tab 9, page 49, correct, Chair.

**CHAIRPERSON:** Oh. Tab 9.

**MR NDZEKU:** Yes, tab 49. D26.

**CHAIRPERSON:** Ja, page 49.

**ADV HOFMEYR:** Are you under tab 9, Mr Ndzeke, it should be a bank statement in front of you. Tab 9, yes, I think that is right, from what I can see and it is a bank statement, is that right?

**MR NDZEKU:** Yes a bank statement, yes.

**ADV HOFMEYR:** Right. So this is the bank statement of  
10 JM Aviation. We have moved a little bit further on in 2016,  
Chair and Mr Ndzeke, we are now in about the month of  
June, right?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** And you will see halfway down the entries on that page there is a big credit that JM Aviation receives from Swissport South Africa. Do you see that, of R9.849 600. So let me just get the – for the record.

**CHAIRPERSON:** On what date?

**ADV HOFMEYR:** Chair is it on the 24 June.

20 **CHAIRPERSON:** Okay, Swissport.

**MR NDZEKU:** I cannot see the [indistinct – dropping voice]

**ADV HOFMEYR:** Do you have it, Chair, it is midway down.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** Where is it, page 49?

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** Yes.

**CHAIRPERSON:** You know the bank statement  
...[intervenes]

**MR NDZEKU:** And is it page 2 or page 1? Is it page 49?

**CHAIRPERSON:** Page 49.

**ADV HOFMEYR:** No, it is the first 49. Thank you, Mr  
Ndzeke.

**MR NDZEKU:** Okay.

10 **ADV HOFMEYR:** So if you go halfway down there to the  
date of the 24 June, you will see that Swissport South  
Africa pays R9 849 600 to JM Aviation. Do you see that?

**MR NDZEKU:** I do not see that here. I can see on the  
7<sup>th</sup>.

**CHAIRPERSON:** Move up a bit. Move three lines up and  
then you see R9 849, can you see that?

**MR NDZEKU:** Well, on my right hand side, Chair, or...?

**ADV HOFMEYR:** Yes, in the amounts column.

**CHAIRPERSON:** Ja, in the amount column.

20 **ADV HOFMEYR:** Maybe it will speed things up if one of  
my learned friends would not mind just directing Mr Ndzeke  
to it or if the registrar could.

**CHAIRPERSON:** Yes. Maybe let us try. You are on the  
right page, it is 49 on the right number, is that correct?

**MR NDZEKU:** 49 [inaudible – speaking simultaneously]

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** No, Mr Ndzeke, I have just ...[intervenes]

**CHAIRPERSON:** No, not 49.1, just 49.

**ADV HOFMEYR:** If you go back a page we will be fine. Thank you. Yes.

**CHAIRPERSON:** Ja, 49.

**ADV HOFMEYR:** I you go back page, that is page 49. Do you have that? Mr Bhayat can assist you.

10 **MR NDZEKU:** This is 49, yes, I have got it here.

**CHAIRPERSON:** Okay. Can you see somewhere in the middle of that, you will see Swissport SA and then you will see R9 849 ...[intervenes]

**MR NDZEKU:** 600, yes. I can see it, yes.

**CHAIRPERSON:** You can see that, okay. Yes.

**ADV HOFMEYR:** Just before we go there, can I just ask, did you have any discussions with your wife about your investing in the forex trade?

**MR NDZEKU:** Did I have discussion with her?

20 **ADV HOFMEYR:** Yes.

**MR NDZEKU:** I think I did.

**ADV HOFMEYR:** You did.

**MR NDZEKU:** If I remember, yes.

**ADV HOFMEYR:** Did she invest or did you just invest?

**MR NDZEKU:** Well, I think I also asked her that, if maybe

she can also invest.

**ADV HOFMEYR:** She can also invest?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** So her money?

**CHAIRPERSON:** Yes, your voice is going down.

**MR NDZEKU:** Sorry, Chair, sorry. Yes, Chair, I did ask her that she can invest.

**CHAIRPERSON:** Ja, okay.

**ADV HOFMEYR:** Was she going to be investing her  
10 money?

**MR NDZEKU:** No, it was my money.

**ADV HOFMEYR:** Your money?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** So she was going to be investing your money in Zano Spark.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Why would she need to invest your money if you were also investing your money?

**MR NDZEKU:** Well, I do not see anything wrong, if maybe  
20 there was a good business sense or maybe there was good returns.

**ADV HOFMEYR:** No but I understand that if she is investing her own money why would she be needed to invest your money?

**MR NDZEKU:** Why she did?

**ADV HOFMEYR:** Yes, why would you have her invest your money instead of you investing it yourself?

**MR NDZEKU:** Sorry, counsellor, I do not see anything wrong that if maybe I want my wife to invest her money where she – where we can get returns, I did not see anything wrong in that.

**ADV HOFMEYR:** Mr Ndzeke ...[intervenes]

**MR NDZEKU:** Maybe to you it was wrong but to me it was not.

10 **ADV HOFMEYR:** I am just trying to understand from you. You were approached by Ms Goniwe.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** You wanted to invest in forex trading.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Why get your wife to invest your money in the forex trading?

**MR NDZEKU:** Well, I am sorry, it happened and that is exactly the decision I took.

20 **ADV HOFMEYR:** Okay. So Swissport South Africa paid R9.8 million or thereabouts on the 24 June to JM Aviation, correct?

**MR NDZEKU:** Let me just see there. 9,4 yes.

**ADV HOFMEYR:** Yes. And that was for the GPUs that they bought from JM Aviation. We have had evidence about that previously. Those are the GPUs that JM

Aviation paid just 3 million to SAA Technical for.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Right. So that money comes into the account. What you will notice, Mr Ndzeke, is the account of JM Aviation is depleted before that. You see before that amount came in it was only sitting at R89 834. Do you see that?

**MR NDZEKU:** Let me go back again. Where is that, after ...[intervenes]

10 **ADV HOFMEYR:** It is in the line above.

**MR NDZEKU:** Out of the 9 804 there was a balance of what, of...?

**CHAIRPERSON:** Just before the 9 million came in the balance appears to have been 89 834.

**MR NDZEKU:** Yes, I can see that.

**CHAIRPERSON:** You can see that, okay.

**MR NDZEKU:** Yes.

20 **ADV HOFMEYR:** You see because by the 24 June that 28.5 million that you had received from Swissport South Africa had been reduced. 20 million had gone to Jamicron, 2.5 million had gone to you, 2.5 million had gone to Mr Kolisi and ended up buying the cars for Mr Lester Peter and 2.5 million had been paid the previous month to Ms Memela.

**MR NDZEKU:** No, no, no, no, counsellor. This 20 million,



it went to Jamicron, what is it, Jamicron?

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** It went, it did not come back to us.

**ADV HOFMEYR:** No, no, indeed, so I am ...[intervenes]

**MR NDZEKU:** That money, wait, *wag 'n bietjie*, that money, it was paid to JM and JM paid that money to Daluxolo and then it did not come back.

**ADV HOFMEYR:** No, indeed, that is what I am explaining, Mr Ndzeke, I am just showing how ...[intervenes]

10 **MR NDZEKU:** You say it did.

**ADV HOFMEYR:** I said all the money went out. I might have said something incorrectly.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** But I was trying to emphasis – just takes a little bit of time. Okay, let us go back. 23 March JM Aviation gets 28.5 million from Swissport, right?

**MR NDZEKU:** For what, for GPUs.

**ADV HOFMEYR:** No, this might not be a profitable line, Chair, let me just proceed. All that we need to look at for  
20 the moment is that 9.8 million came into the JM Aviation account.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** On the 24 June from Swissport for the GPUs, right.

**MR NDZEKU:** Okay.

**ADV HOFMEYR:** If you go a little bit further down that page, you will see on the 29 June there is a R2.5 million that goes out. Do you see that?

**MR NDZEKU:** Yes I can see it, it goes to Hendricks, yes.

**ADV HOFMEYR:** Yes, it goes to Hendricks. That is your wife, is that correct?

**MR NDZEKU:** A hundred percent, yes.

**ADV HOFMEYR:** Ja. Why was your wife being paid R2.5 million by the company?

10 **MR NDZEKU:** No, that was my money. As I said, that was my money. That is the money I got from the company and then I decided to do the investment and I decided that let me actually – my wife must do the investment on her name, but it is my money.

**ADV HOFMEYR:** So ...[intervenes]

**MR NDZEKU:** I do not see anything wrong in that.

**ADV HOFMEYR:** So you - JM Aviation paid 2.5 million to your wife on the 29 June, is that correct?

**MR NDZEKU:** Correct, yes.

20 **ADV HOFMEYR:** Right. Why was she entitled to that money?

**MR NDZEKU:** As I said again, Chair, that money, it was my money, I decided that my wife must do the investment on her name.

**ADV HOFMEYR:** Did you discuss this payment of 2.5

million to your wife with any of your other directors?

**MR NDZEKU:** I discussed it with Jules, he did not have a problem. He is my partner.

**ADV HOFMEYR:** Do you know what Ms Hendricks then did with that 2.5 million?

**MR NDZEKU:** As I said, Ms Hendricks, that money we invested. We invested that money.

**ADV HOFMEYR:** With Zano Spark?

**MR NDZEKU:** Not with Zano Spark, I do not see Zano  
10 Spark here.

**ADV HOFMEYR:** No, where was she going to invest that then?

**MR NDZEKU:** But when you say Zano Spark, I do not see Zano Spark but as far as I remember, Zano Spark, the money I invested in Zano Spark, it was around about 7 million, 6 million.

**ADV HOFMEYR:** I am asking about this payment, you said you discussed with your co-directors that you pay your wife R2.5million of the R9.8million that had been received from  
20 Swissport.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** And you said she was going to do it for an investment.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** An investment where?

**MR NDZEKU:** Well it was one of the company which we decided to do the investment of the Bitcoins, we decided to do that.

**ADV HOFMEYR:** So it was a Bitcoin investment not a Zano...[intervene]

**MR NDZEKU:** Yes, if I remember very clearly because I do not know maybe it did, we put it to Zano Spark or maybe we put it to Bitcoin but we did that investment.

**ADV HOFMEYR:** Okay so the bank statement showed you  
10 paid it to Zano Spark, right?

**MR NDZEKU:** We paid it to Zano Spark?

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** I paid R7million and then she paid exactly a R2million. The money we paid to Zano Spark it was R9million.

**ADV HOFMEYR:** No Mr Ndzeke your 7.5 includes this 2.5 as I understand that.

**MR NDZEKU:** Oh it includes this one maybe you are right, maybe you are right.

20 **ADV HOFMEYR:** So why did you have to pay it to Ms Hendricks for her to pay it to Zano Spark, why do you not just pay it to Zano Spark?

**MR NDZEKU:** Well it happened counsellor this is exactly my decision that time I decided to do it and it was done.

**ADV HOFMEYR:** I am asking for an explanation Mr

Ndzeku and in fairness to you I must explain why.

**MR NDZEKU:** Sorry I cannot explain this is my decision I do Chair it was done by that time.

**ADV HOFMEYR:** You see sometimes people route money throughout entities or other persons because they do not want it to be traced back to them. Could that have been what was going on here?

**MR NDZEKU:** Well sorry Chair if the money is in the bank it has got a trace. We are sitting here we are talking about  
10 2.5, this money was paid from Swissport and we decided that my wife must – there is no other way that you can dodge it. I decided that my wife and myself we must do the investment that is a decision I took that time.

**ADV HOFMEYR:** Mr Ndzeku a person who is just looking at this bank statement does not know that Ms Hendricks is your wife. Do they?

**MR NDZEKU:** She does - they do not?

**ADV HOFMEYR:** They do not know that Ms Hendricks is your wife, do they?

20 **MR NDZEKU:** Sorry Chair well if a person look at that and then he does not think that is not my wife well then it is that person's problem but I am saying she is my wife.

**ADV HOFMEYR:** No but my...[intervene]

**CHAIRPERSON:** Okay one second, we have gone past 18:15.

**ADV ALLI:** Chair I do not know how much longer my learned friend would be, we did make an early start and we did say we will sit late.

**CHAIRPERSON:** Ja.

**ADV ALLI:** So we would appreciate some time as well so I just do not know how much longer my learned friend will be.

**CHAIRPERSON:** Yes, Ms Hofmeyr did say she would try and I accept that she has been trying. I guess she is  
10 trying to strike a balance between trying to finish and still do justice to the issues.

**ADV HOFMEYR:** Chair the one way to do it might be without going to the bank statements just to put to Mr Ndzeke what the flow of funds looks like. To explain to him where they end up and then to put some final concluding aspects to him.

**CHAIRPERSON:** As long as you are satisfied that that would do justice to the issues.

**ADV HOFMEYR:** I think it will.

20 **CHAIRPERSON:** And of course this might be unusual but I do not know whether if you to pressed for time whether it is an option or you intending to remain if Ms Hofmeyr is not going to be too long I do not know whether that is an option it is not usual I am just checking.

**ADV ALLI:** Chair I am happy with Ms Hofmeyr suggestion

and I will second it, thank you.

**CHAIRPERSON:** Yes, okay.

**ADV HOFMEYR:** Thank you so much and I am really am indebted Mr Alli thank you very much. I did abandon one whole line of questioning because I knew that the timing was not on our side.

**CHAIRPERSON:** Ja.

**ADV HOFMEYR:** So Mr Ndzeke let me try and summarise if you want me to take you to a document at any point I  
10 will.

**MR NDZEKU:** Please summarise thank you.

**ADV HOFMEYR:** Right. R9.8million comes in from Swissport it gets paid to your wife a few days later of R2.5million. Your wife then pays it into Zano Spark I think it was two days later, right. Then there are – we want to look at what happens with the Zano Spark use of that money, right and we go to the Zano Spark bank statements. Chair for the record those are in DD26 at page 392 but I do not suggest we go there because by agreement with  
20 everyone I am going to summarise it okay. Now remember Zano Spark was created as a company in February 2016 you will recall that I told you that earlier and you said you were not aware that it has been created in 2016.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Again, those records are within the

bundle. So it has an opening balance as an entity of R501,37 before it receives the payment from your wife on the 1<sup>st</sup> of July 2016 of R2.5million, okay. And then your wife paid another amount on the 28<sup>th</sup> of July 2016 she paid R600 000,00 to Zano Spark.

Then I will give you the reference at page 397 of bundle DT26 there was then a direct payment from JM Aviation to Zano Spark on the 30<sup>th</sup> of August 2016 of R605 000,00. And then the final payment of which we are in  
10 relation to which we interested you will find at page 399 of Exhibit DD26 that is another R600 000,00 from JM Aviation to Zano Spark on the 21<sup>st</sup> of September 2016.

Now during that whole time nothing else of any note is happening in the Zano Spark bank account. It is just repeatedly between July and September of 2016 gets these payments from JM Aviation directly or from your wife. On the 23<sup>rd</sup> of September 2016 Zano Spark pays that total it is a total of about R4.3million from its one account to its other account. The other account is a business account  
20 and that depletes the balance in the account that you and your wife were paying into to about R834,00. There is no trading that is happening in relation to that money. It comes in and it goes out within two months.

There is a movement between the two accounts and then it goes out to be paid Ms Yakhe Kwinana. Are these



all facts that you have no knowledge of Mr Ndzeke?

**MR NDZEKU:** Well I must just say on that sorry Chair I do not have facts but if Swissport decided actually to pay money in JM Aviation I did not see anything wrong. If Swissport paid that money and then myself and my partner and then we decided to use the money the way, we wanted to use it I do not see anything wrong.

**ADV HOFMEYR:** And now that you know it ended up benefiting Ms Yakhe Kwinana is that a concern for you?

10 **MR NDZEKU:** Well I did not know that it benefited Ms Kwinana this is the first time I am hearing this.

**ADV HOFMEYR:** No I am asking you today when you hear it for the first time does it concern you?

**MR NDZEKU:** Well I do not really think it can concern because I do not know what value can she really add in me or maybe in Swissport or maybe in JM Aviation, it does not concern me.

**ADV HOFMEYR:** Well she played a very critical role because she was on the board of SAA Technical when SAA  
20 Technical decided to give your joint venture with AAR the components contract...[intervene]

**MR NDZEKU:** Thank you very much can you just stop their counsellor I want to make it a point that JM Aviation came late in this thing of AAR. Lufthansa was there and then Air France was there, JM Aviation we just started

yesterday and if you can really look Chair JM Aviation it is just a small company started yesterday if you look we did not even have actually any...[intervene]

**CHAIRPERSON:** Yes, but when it started is neither here nor there. The question that counsel is putting to you is should it not be a concern to you that Ms Kwinana who played an important role in relation to the contracts ends up getting some money that comes from JM Aviation.

**MR NDZEKU:** Well Chair I did not even know that she was  
10 involved.

**CHAIRPERSON:** Yes but if it is true that that is what has happened will that be a concern to you?

**MR NDZEKU:** Yes.

**CHAIRPERSON:** Yes?

**MR NDZEKU:** Yes.

**CHAIRPERSON:** Yes it would be?

**MR NDZEKU:** Yes it would be.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR:** And she received the payment a month  
20 after she left SAA Technical, did you know that?

**MR NDZEKU:** She what?

**ADV HOFMEYR:** She received the payment a month after she left SAA Technical, did you know that?

**MR NDZEKU:** I did not know when she actually left the company sorry about that.

**ADV HOFMEYR:** Okay, he left in August 2016 and she received the payment on the 23<sup>rd</sup> of September 2016.

**MR NDZEKU:** From JM or from?

**ADV HOFMEYR:** Well through Zano Spark, well JM through your wife, through Zano Spark to Ms Kwinana.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Mr Ndzeke were you present at the hearings of the Commission for Ms Sambo's evidence?

**MR NDZEKU:** Yes, I did listen.

10 **ADV HOFMEYR:** Do you remember Ms Sambo's evidence was that Ms Kwinana had a meeting with the AAR representatives including Ms Jackson and she said that Ms Kwinana had said that before she left SAA and SAA Technical she wanted to get her hands on some money. Do you remember that being her evidence?

**MR NDZEKU:** No.

**ADV HOFMEYR:** No, and is it your evidence that this payment to Ms Kwinana has no bearing on that evidence?

**MR NDZEKU:** Well I said no.

20 **ADV HOFMEYR:** Thank you. Mr Ndzeke you mentioned your concern about tax compliance earlier.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Remember the R28.5million that you received from Swissport.

**MR NDZEKU:** Swissport, yes.

**ADV HOFMEYR:** You were concerned to ensure that your tax affairs were in good order. Is that correct?

**MR NDZEKU:** The company tax?

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** Because I was...[intervene]

**ADV HOFMEYR:** Apologies the company tax. Did you follow up on whether tax was appropriately paid?

**MR NDZEKU:** No, I did not.

**ADV HOFMEYR:** No, because the facts are no tax has  
10 been paid to SARS in relation to that R28.5million that you received from JM Aviation.

**MR NDZEKU:** How much money was 28 it was not paid.

**ADV HOFMEYR:** So of the R28.5 million the VAT portion of that is R3.5million.

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** You were concerned to make sure that SARS got everything that it was due. Correct?

**MR NDZEKU:** Correct, yes.

**ADV HOFMEYR:** Yes, there was never a payment to SARS  
20 for that amount. Are you aware of that?

**MR NDZEKU:** No I am not aware of that.

**ADV HOFMEYR:** So that is an outstanding liability that JM Aviation has to SARS. Correct?

**MR NDZEKU:** Correct, yes.

**ADV HOFMEYR:** Will you be following up about that?

**MR NDZEKU:** Definitely, thank you for advising.

**ADV HOFMEYR:** And please let us know how that goes and please also if you could ask your attorneys to send through to us tomorrow the investment statements that you received from Zano Spark annually that you said you previously forgot about it but you have now confirmed that you have.

**MR NDZEKU:** I am sorry counsellor I cannot do it like yesterday they way you, you know I would have to look.

10 **ADV HOFMEYR:** Would a week be sufficient?

**MR NDZEKU:** Yes.

**ADV HOFMEYR:** Excellent.

**MR NDZEKU:** Sorry Chair.

**CHAIRPERSON:** No, no that is fine. Within a week you think you be able to...[intervene]

**MR NDZEKU:** No, no not in a week Chair and then you know in this Covid and then you know everybody they are all over.

20 **CHAIRPERSON:** How much time do you think will be reasonable?

**MR NDZEKU:** Well I will have to phone the office and talk to them.

**CHAIRPERSON:** Ja.

**ADV HOFMEYR:** And tell them this is exactly...[intervene]

**CHAIRPERSON:** Shall we say you do your best to let the

Commission have it within ten days and if that time is not enough you will ask your attorneys to let us know by when it can be sent.

**MR NDZEKU:** What exactly are you looking for?

**CHAIRPERSON:** The statements that you said...[intervened]

**ADV HOFMEYR:** That were emailed.

**CHAIRPERSON:** We are receiving in relation to the investment.

10 **MR NDZEKU:** Investment?

**CHAIRPERSON:** Yes.

**MR NDZEKU:** I will have to try to get that.

**ADV HOFMEYR:** Yes no just your evidence previously was you received them via email. So it should not be too difficult it seems to Mr Ndzeke to ask for those emails to be printed.

**MR NDZEKU:** But counsellor can you please give me a chance.

**ADV HOFMEYR:** Of course ten days.

20 **MR NDZEKU:** Do not pressurise me now.

**ADV HOFMEYR:** No, no.

**MR NDZEKU:** You want things now like yesterday you want it. I will have to talk to my people please give me a break M'am.

**CHAIRPERSON:** No, no Mr Ndzeke you remember I

said...[intervene]

**MR NDZEKU:** No, no but she – but I understand what I said...[intervene]

**CHAIRPERSON:** We said ten days if there is a problem...[intervene]

**MR NDZEKU:** Let me talk to my lawyers and then talk to my people and then they will definitely contact me.

**CHAIRPERSON:** No that is fine.

**MR NDZEKU:** Thank you.

10 **ADV HOFMEYR:** Chair then just in conclusion it is fair that I put certain propositions to Mr Ndzeke because they will form the basis of the submissions that we will make to the Commission in due course.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** And it is to offer you an opportunity Mr Ndzeke to comment on what I say will be our submissions in due course. Mr Ndzeke we will submit to the Chair in due course that you have been a dishonest witness. That you have changed your version on numerous occasions  
20 today. Do you have a response to that?

**MR NDZEKU:** Well I said no I did not if I did not remember something, I did not remember. It does not mean that if you do not remember you are dishonest. If you remember you remember if you do not, you do not.

**ADV HOFMEYR:** It will be our submission in due course

that you were involved in a corrupt scheme that enabled you and yourself and your company to benefit from deals with SAA and SAA Technical. Do you have a response to that?

**MR NDZEKU:** I said no we are giving a service there was no corruption there was no nothing stolen the company did business with those people. If there was something wrong there they were supposed to stop at something wrong, I said no there was no corruption.

10 If there was a corruption counsellor in four days' time, in five days' time they are suppose – we are not supposed to sit and talk about it. We are talking about something that happened three, four years ago, why now? Why this thing they did not stop it that time?

**ADV HOFMEYR:** And the corruption was facilitated through kickback payments first to Mr Lester Peter so that he could buy two cars. Your comment on that?

**MR NDZEKU:** I do not know about that.

20 **ADV HOFMEYR:** Secondly to Ms Memela so that she could purchase a property in Bedfordview. Your comment on that?

**MR NDZEKU:** I do not know about that.

**ADV HOFMEYR:** And thirdly to Ms Kwinana who got R4.3million the month after she left SAA Technical. Your comment on that?



**MR NDZEKU:** I know nothing about it, I do not know.

**ADV HOFMEYR:** Chair those are the questions that I have for Mr Ndzeke.

**CHAIRPERSON:** If of course Mr Ndzeke on the consideration of all the evidence I were to conclude that there was no meeting that took place in the Eastern Cape...[intervene]

**MR NDZEKU:** Mpindweni.

**CHAIRPERSON:** Ja, I was looking for the name of the  
10 place, yes then that he would also have been party to saying something happened that did not happen. You accept that?

**MR NDZEKU:** I understand that ja.

**CHAIRPERSON:** Yes but you stand on your version that the meeting did take place.

**MR NDZEKU:** Yes it did yes.

**CHAIRPERSON:** And in so far as the offer to purchase may have been a forgery you say you were not involved in that?

20 **MR NDZEKU:** Well the way counsellor they got that Ms Barkley or something like that.

**CHAIRPERSON:** Yes.

**MR NDZEKU:** For me I accept because it does not...[intervene]

**CHAIRPERSON:** Yes.

**MR NDZEKU:** I accept all the papers and all of that.

**CHAIRPERSON:** Okay. No thank you very much I do not know whether you wish to re-examine or not really or whether you wish to come back some other time to re-examine?

**ADV ALLI:** No, no Chair, we've that is fine.

**CHAIRPERSON:** You are fine?

**ADV ALLI:** No we have our position, we do not intend to re-examine.

10 **CHAIRPERSON:** Yes.

**ADV ALLI:** Thank you.

**CHAIRPERSON:** Okay no that is fine. Thank you very much Mr Ndzeke for coming to give evidence. It has been a long day. You are excused now and thank you to your legal team for all the cooperation as well. We are done for now and should a need arise and it does not look like it will arise but should it arise or further questions to be put to you arrangements will be made.

**MR NDZEKU:** Thank you.

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

**CHAIRPERSON:** Okay.

**ADV ALLI:** Thank you.

**MR NDZEKU:** Do I take my files or do they stay here?

**CHAIRPERSON:** I think you - if they are yours you can take them. Ms Hofmeyr will tell you.

**MR NDZEKU:** Ms Hofmeyr all these files are my name can I have them?

**ADV HOFMEYR:** I have got no difficulty with you taking the witness file. You know can I say sorry.

**CHAIRPERSON:** Ja.

**ADV HOFMEYR:** I know that the document management team has a difficulty with the files being taken.

**CHAIRPERSON:** Ja.

**ADV HOFMEYR:** But electronically we would be able to  
10 provide you through your attorneys with a copy.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** Could I ask that we do that rather I am just anxious about the hard copy being taken.

**MR NDZEKU:** But my attorney say he did not get the document and you just gave them the document when we came here. That is why I said can I have them, do you understand?

**ADV HOFMEYR:** Mr Ndzeke all I am saying is the document management team...[intervene]

20 **MR NDZEKU:** So it is no.

**ADV HOFMEYR:** No, no Mr Ndzeke I am saying we can email you an electronic copy of the full file.

**MR NDZEKU:** No I believe in reading I like to read.

**ADV HOFMEYR:** Yes.

**MR NDZEKU:** This was a good lesson of the school today.

**ADV HOFMEYR:** I will take the blame with the document management team.

**MR NDZEKU:** So thank you very much.

**ADV HOFMEYR:** You may take it with pleasure, thank you.

**MR NDZEKU:** Thank you very much, thank you Chair.

**CHAIRPERSON:** Thank you Mr Ndzeke. Tomorrow I will hear two or three witnesses whose evidence will relate to the evidence of Mr Sundaram's evidence last year about  
10 ANN7, that is the evidence I will hear tomorrow. But for now I think we will adjourn.

**ADV HOFMEYR:** Thank you Chair and thank you for the indulgence of sitting so late.

**CHAIRPERSON:** Yes no, no we appreciate everybody's cooperation. On this work stream are we left with about two or three witnesses?

**ADV HOFMEYR:** Correct Chair.

**CHAIRPERSON:** Yes, okay alright. We adjourn.

**INQUIRY ADJOURNS TO 27 AUGUST 2020**