

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

02 SEPTEMBER 2020

DAY 259



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Recording & Transcriptions

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TRANSCRIBERS:

B KLINE; Y KLIEM; V FAASEN; D STANIFORTH



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PROCEEDINGS RESUME ON 02 SEPTEMBER 2020

CHAIRPERSON: Good morning Mr Notshe, good morning everybody.

ADV NOTSHE SC: Good morning Chair.

CHAIRPERSON: Are we ready?

ADV NOTSHE SC: We are ready to start Chair.

CHAIRPERSON: Yes.

ADV NOTSHE SC: Chair before we start with today's – with the witness for today can we just do some
10 housekeeping exercise? In your – in your – in the bundle, BOSASA Bundle 1 Chair there was an issue on Monday about the transcript which starts on page 48 of that bundle which has a very small font up to page 56. I am instructed by the – by the record keepers that it has been now the – they have put copies with a bigger font which is instead of having pages in the small font they are bigger fonts. They say on – they say after page 56 Chair will find that there are pages starting with the blue sticker on – on the page.

CHAIRPERSON: You said point – page 48?

20 **ADV NOTSHE SC:** It starts from – the one does start from the old one which is starting from page 48 to page 56 and then the replacements will start after page 56.

CHAIRPERSON: Is it the same number of pages or is it more pages?

ADV NOTSHE SC: No there is more pages.

CHAIRPERSON: Yes.

ADV NOTSHE SC: Because as you will see that the – what was in this page were about four pages in each page.

CHAIRPERSON: Okay I think what – that is fine. What should be done is that it should be paginated because it is not paginated at the moment. And there are two ways of doing it. The one way involves taking out the pages with a small font.

ADV NOTSHE SC: Yes.

10 **CHAIRPERSON:** And replacing them with the ones with the right font and then paginating those. Another way is to keep the pages with the small font with the pagination that they have and then paginate these other ones with the right font as well but paginate them in such a way that you do not interfere with the next – the pagination of the next pages.

ADV NOTSHE SC: No fine. Chair...

CHAIRPERSON: But it seems to me that the best way is just to take out the wrong font and then what you can do
20 when you paginate the ones with the right font – so the ones with the right font would start from page 48; the first page and then when you reach page 56 which is where the – the last page of the small font then you could say for pages that come after page 56; 56.1, 56.1, .2, .3.

ADV NOTSHE SC: Yes.

CHAIRPERSON: So you do not interfere with the...

ADV NOTSHE SC: With the existing pages.

CHAIRPERSON: Ja.

ADV NOTSHE SC: Alright. Chair can I – can I suggest this? That the secretariat will deal with the paging fortunately this – this bundle will also feature in tomorrow's hearings. Before we start tomorrow's hearings and I will inform you what has been done and then – it will be corrected.

10 **CHAIRPERSON:** Um – well are you going to be referring to these pages today?

ADV NOTSHE SC: Today – no I will not do that.

CHAIRPERSON: You will not oh okay.

ADV NOTSHE SC: No.

CHAIRPERSON: So – so the pagination they can do then.

ADV NOTSHE SC: Yes.

CHAIRPERSON: Alright.

ADV NOTSHE SC: Chair the witness for today is also in respect of the BOSASA enquiry and the witness is Ms Gina
20 Pieters and she is the former secretary of Mr Angelo Agrizzi who has testified. Her testimony will be about the interaction she had in the form of arranging for presents for Ms Sandy Thomas and Ms Nomvula. Her evidence – her affidavit is on page – it is in Exhibit 29 and it starts from page 71 of the exhibit. Then there is – then with

attachments and it will go to page 17. She will testify about her arranging for the hampers and also arranging for the Get-Well cards for Ms Sandy Thomas. The witness is Ms Gina Pieters; she is here to testify.

CHAIRPERSON: Yes. Please administer the oath or affirmation.

REGISTRAR: Please state your full names for the record?

MS PIETERS: Gina Pieters.

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

MS PIETERS: No.

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

MS PIETERS: I do.

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

MS PIETERS: So help me God.

20 **CHAIRPERSON:** You may be seated Ms Pieters. Thank you.

ADV NOTSHE SC: Ms Pieters although I am asking you questions you are talking to the Chairperson so if – when you answer please look at him. And then if you can raise your voice with that, we can hear you.

MS PIETERS: Sure good morning.

ADV NOTSHE SC: Ms Pieters.

CHAIRPERSON: Good morning Ms Pieters.

ADV NOTSHE SC: Just can I – there is a file in front of you. That file it has got statements can you look at what is – put as number 29.

CHAIRPERSON: On a lighter note Mr Notshe this is one witness who appears quite happy to be here.

ADV NOTSHE SC: Chair from the beginning I could see
10 she is very, very happy.

CHAIRPERSON: Yes. Thank you for coming to testify.

ADV NOTSHE SC: She is – she is – unfortunately she was telling me the whole – she is from Randfontein.

CHAIRPERSON: Oh.

ADV NOTSHE SC: The whole of Randfontein as we speak is on standstill. Shops have closed to watch her testify.

CHAIRPERSON: Yes.

ADV NOTSHE SC: Ms Pieters again I ask you turn to page 72 of that and then keep your finger there on page 72 and
20 then go to – and then go to page ...

CHAIRPERSON: You have told her you are referring to the black numbers for page numbers.

ADV NOTSHE SC: Yes.

CHAIRPERSON: Okay.

ADV NOTSHE SC: And then go to page 78. There is a

signature there on that page above where it is Gina Pieters. Whose signature is that?

MS PIETERS: It is mine.

ADV NOTSHE SC: And you have looked at the document; do you confirm that this is your affidavit?

MS PIETERS: Yes I do.

ADV NOTSHE SC: Chair can this affidavit of the witness be admitted as Exhibit T29 in Bundle BOSASA 01?

CHAIRPERSON: The affidavit of Ms Gina Pieters
10 appearing at page 72 will be admitted and marked as Exhibit T29.

ADV NOTSHE SC: Yes. Ms Pieters you – you might – is it correct that you were the former professional assistant of Mr Agrizzi who has testified in this commission?

MS PIETERS: I was yes.

ADV NOTSHE SC: What were your duties when you were working for Mr Agrizzi?

MS PIETERS: Well everything that a PA does except take the children to school that was not in my duties.

20 **CHAIRPERSON:** Hm.

MS PIETERS: And then I also at – coordinated the bid offers – tenders – we submitted tenders.

CHAIRPERSON: Hm.

ADV NOTSHE SC: Now you – in your affidavit you have told – you have testified about preparing birthday hampers.

Can you tell the commission about that?

CHAIRPERSON: I mean before that do you confirm that – or rather from when to when were you Mr Agrizzi’s PA?

MS PIETERS: From May 2004 until February 2017.

CHAIRPERSON: Okay, alright thank you. Continue Mr Notshe.

ADV NOTSHE SC: And in your affidavit you – you deposed to the fact that you had prepared some birthday hampers. Can you tell the commission about that?

10 **MS PIETERS:** Yes it – at some point in my tenure to Mr Agrizzi I was requested to send hampers to Ms Nomvula Mokonyane and her PA; Sandy Thomas. I can however not recall the exact date but I do have evidence that it was from 2010 definitely. It could have been before that as well but I cannot locate any records to confirm that unfortunately.

ADV NOTSHE SC: How did you interact – how did you – did you interact directly with Mr Thomas or Ms Mokonyane?

20 **MS PIETERS:** Yes I was – Mr Agrizzi would ask me to send hampers and I get hold of Sandy Thomas to get hold of her physical address. I had to ask Ms Thomas where she would prefer the hampers to be sent to and if I can recall correctly, she asked me not to send it to the office and gave me a home address. Then there was – that was one occasion and then a few months later maybe a year

later I was asked to send hampers again. Thereafter I saved the detail. When something became a regular occurrence, I would save the details on my phone with an address and the telephone number so that it is easier to contact the person.

ADV NOTSHE SC: Now on page 73 of your affidavit – of the record and page 6 you refer to – there is an email that you sent. Can you tell the commission about that email?

10 **MS PIETERS:** Yes that was one year when I was late in sending the hamper. Let me just check.

ADV NOTSHE SC: Just to help is it correct that the email appears on page 83?

MS PIETERS: That is correct that is the one – the occasion where I had forgotten and I ordered the hampers late. It was after the birthdays.

CHAIRPERSON: Just – just tell me first who the email came from; to whom it was addressed; on what date it was and the time and then we read the email and then elaborate on it if you would like to?

20 **MS PIETERS:** So the email was from me to our procurement head Dudu Dube her assistant **Enesentia Maria [?]** and the other Procurement Head Arthur Hand where I asked them to please assist with the two ladies' hampers to the value of R1 500.00 each. One was addressed to Minister Nomvula and the other one to Sandy

Thomas and then I stated what they needed to write in the cards. Would you like me to read that?

CHAIRPERSON: Read that ja.

ADV NOTSHE SC: Just – ja.

CHAIRPERSON: Ja read that.

MS PIETERS: The one to Minister Nomvula was:

“Happy birthday may the Lord Bless you always. Regards Gavin.”

And the one to Sandy Thomas:

10 “Happy belated birthday may the Lord Bless you always. Regards Angelo.”

ADV NOTSHE SC: Now the...

CHAIRPERSON: And then read the rest of the email there?

MS PIETERS: And then I wrote:

“Please do not make any reference to BOSASA contact number for both parcels is Sandy Thomas.”

20 **CHAIRPERSON:** Ja you do not have to read the cell number.

MS PIETERS: Yes.

CHAIRPERSON: And then the last sentence.

MS PIETERS: And then I asked:

“If they can deliver this afternoon still it would be great otherwise not later than

close of business tomorrow please.”

CHAIRPERSON: Okay alright. Continue Mr Notshe.

ADV NOTSHE SC: Now let us just go to the – at the top of the email. You say it is Dudu Dube. Who was Dudu Dube?

MS PIETERS: Dudu Dube was the procurement Head of Department for procurement.

ADV NOTSHE SC: Where in BOSASA?

MS PIETERS: Yes.

ADV NOTSHE SC: And then **Enesentia Maria**?

10 **MS PIETERS:** She was the assistant.

ADV NOTSHE SC: And then Arthur Hand?

MS PIETERS: He was also Head of the Department.

ADV NOTSHE SC: So all these people were within BOSASA?

MS PIETERS: Yes.

ADV NOTSHE SC: I see. Now then you say in the email there is a – as a reference when you reading the message in the card it says:

20 “Happy birthday may the Lord Bless you
always. Regards Gavin.”

Who is Gavin?

MS PIETERS: That is Mr Gavin Watson.

ADV NOTSHE SC: I see. And then the one for Ms Thomas it says:

“Happy belated birthday may the Lord Bless

you always. Regards Angelo.”

Who is Angelo?

MS PIETERS: That is Angelo Agrizzi.

ADV NOTSHE SC: Now at the bottom there is in capital letters:

“Please do not make any reference to BOSASA.”

Why is that?

MS PIETERS: That is so that the...

10 **CHAIRPERSON:** And whose idea was it?

MS PIETERS: Mr Agrizzi used to ask me to do that when things were confidential and there was not to be any links made to BOSASA preferably.

CHAIRPERSON: Hm.

MS PIETERS: So that is why that he – he would have asked me to do that and that is why I put it there in Bold Capitals so that it could not implicate them – link them you know in an untoward manner to BOSASA.

20 **CHAIRPERSON:** Hm. So – so it was his – Mr Agrizzi’s instruction that you should make sure that when they do the cards they do not make any reference to BOSASA?

MS PIETERS: Yes.

CHAIRPERSON: Okay alright.

ADV NOTSHE SC: Now I see at the top I always struggle to read emails because they start with the latest.

MS PIETERS: Yes.

ADV NOTSHE SC: And with the earlier one and then the latest. The latest there is from **Enesentia Maria** at 11:14 and she sends this to **Kobella Porshoko**? Who is **Kobella**?

MS PIETERS: **Kobella** was also a stationery administrator in the procurement department.

ADV NOTSHE SC: And he says:

“Hi **Kobella** for your attention.”

So she was referring your email to **Kobella**?

10 **MS PIETERS:** Correct.

ADV NOTSHE SC: Yes. Now there was an issue as to whether these were received. Ms Thomas says she could not remember whether they were delivered at her home. Did you receive any – any report that this could not be delivered?

MS PIETERS: No I did not.

ADV NOTSHE SC: Now when you – when there is a – is there – when there is a problem about a request like this problems or a delivery or could not be delivered do you get
20 a report back from the people you have sent?

MS PIETERS: Yes and I would like to add that the supplier was very reliable at times when they could not locate the recipient, they would contact me. There was also weekend deliveries from time to time that the recipient was not available that they reported to me.

ADV NOTSHE SC: Now there is – there is also in your affidavit about a hamper that was sent to Ms Thomas and the email is on page 85 of the record. Can you take us.

CHAIRPERSON: Of Bundle BOSASA 01.

ADV NOTSHE SC: Of bundle...

CHAIRPERSON: BOSASA Bundle 01.

ADV NOTSHE SC: BOSASA Bundle 01.

CHAIRPERSON: Ja.

ADV NOTSHE SC: Page 85.

10 **CHAIRPERSON:** Hm.

ADV NOTSHE SC: The email where – who is it from?

MS PIETERS: It is from myself.

ADV NOTSHE SC: What – can you tell the commission about that email and how did it come about that you sent such an email?

CHAIRPERSON: Please read it first and then you can tell me more about it? Who it was to; who it was from; what date it was; what time and read the contents and then tell me how it came about?

20 **MS PIETERS:** The email was from myself on the 28 November at 10:31. It was to Dudu Dube and Arthur Hand I cc'd Jacques Van Zyl. The email read:

“Good day Arthur – Dudu and Arthur. I trust you are well. In **Enesentia's** absence I am not sure who to contact so sorry for bugging

you. Could you please kindly arrange for a ladies hamper of R700.00 to be delivered to Ms Sandy Thomas and the address is listed and a telephone. Please treat as VIP. Card was to read: Get Well soon card. Dear Sandy wishing you a speedy recovery and everything of the best. God Bless Angelo Agrizzi. If they can deliver today it will be great otherwise tomorrow morning please.

10 Thank you.”

CHAIRPERSON: How did it come about that you sent that email?

MS PIETERS: Mr Agrizzi called me and he said to me Sandy is not – she is in hospital please get hold of her and send her a parcel.

CHAIRPERSON: Hm okay.

ADV NOTSHE SC: And did you have any report that this could not be delivered or?

MS PIETERS: No.

20 **ADV NOTSHE SC:** There was a problem about it?

MS PIETERS: No.

ADV NOTSHE SC: Now there is also an email which is attached again to BOSASA Bundle 1 page 88. Can you – can you read that email and then explain to the commission how did it come about that you sent that email?

MS PIETERS: The email is also again from myself to **Enesentia** and **Magdel Wilson** on Thursday 23 September 2010 at 11:42. I read – I wrote:

“Dear **Enesentia** can you please arrange for the attached order for delivery on Saturday. Please note that the words on the card should be exactly as I have stated on the card and not address it from BOSASA Management only Angelo. Thank you.”

10 **ADV NOTSHE SC:** Now you refer there to attached order. Look at page – BOSASA Bundle 1 page 87 there is a – there is something there called Purchase Order what is that?

MS PIETERS: That is an official Purchase Order which we had to complete and when you ordering stuff so that it could be attached to the invoice in order that payments could be processed.

ADV NOTSHE SC: And I see there is a deliver address there. Whose address is that?

20 **MS PIETERS:** Ms Sandy Thomas.

ADV NOTSHE SC: And then in the middle of the Purchase Order details what is written there? Can you read it for the record?

MS PIETERS: I wrote:

“One ladies’ hamper containing primarily

chocolates and then also some nuts, dried fruit etcetera and a thank you card. And in inverted commas I wrote: “Dear Sandy your thoughtfulness is most appreciated. God Bless, Angelo.”

ADV NOTSHE SC: And who is Angelo you are referring to?

MS PIETERS: Angelo Agrizzi.

ADV NOTSHE SC: I see in your email on page 88 that you again state what you saw in the other email where you
10 say:

“Do not address it for BOSASA Management only Agrizzi.”

MS PIETERS: That is correct.

ADV NOTSHE SC: Was it again to follow instructions that you should not mention the name of BOSASA?

MS PIETERS: That is correct.

ADV NOTSHE SC: Now...

CHAIRPERSON: Did you have an understanding of why there seemed to have been an emphasis on the part of Mr
20 Agrizzi that when you sent these cards there should be no reference to BOSASA?

MS PIETERS: Yes, my understanding was that it was not to compromise the individuals being in the positions that they were.

CHAIRPERSON: Yes.

MS PIETERS: Of high profile.

CHAIRPERSON: Yes. Okay alright. Thank you. Mr Notshe.

ADV NOTSHE SC: Now – these hampers; birthday hampers was this one occasion or did it happen almost every year?

MS PIETERS: Yes it was a common occurrence because I had saved it on my cell phone and I had set reminders in my calendar to do it every year so that I would get a
10 reminder and then automatically send the order through to the procurement department.

CHAIRPERSON: Hm. But you think it – if you started sending these hampers and cards from around 2010?

MS PIETERS: That is correct.

CHAIRPERSON: Not before?

MS PIETERS: It is possible.

CHAIRPERSON: Or maybe one year before?

MS PIETERS: Yes.

CHAIRPERSON: But not many years before?

20 **MS PIETERS:** It is possible that I sent it before I just – I cannot...

CHAIRPERSON: Cannot remember. Yes.

MS PIETERS: Yes I cannot substantiate that at this stage.

CHAIRPERSON: Yes. Now from the time – from 2010 or whatever the time is when you started up to the time that

Mr Agrizzi left or you left I cannot – I do not know who left first. Do you know whether you sent these every year to Ms Mokonyane and to Ms Thomas or there may have been some years when you did not send?

MS PIETERS: Yes there may have been some years when I did not send or forget.

CHAIRPERSON: Yes.

MS PIETERS: As in the instance with 2015.

CHAIRPERSON: Yes.

10 **MS PIETERS:** When Mr Agrizzi contacted me and reminded me that I forgot.

CHAIRPERSON: Yes. Okay.

MS PIETERS: Yes.

CHAIRPERSON: Okay.

ADV NOTSHE SC: Did these hampers and these presents who paid for this?

MS PIETERS: Sorry?

ADV NOTSHE SC: Who paid for these hampers and presents?

20 **MS PIETERS:** BOSASA did.

ADV NOTSHE SC: I see. Now I see there was an incident where you – where you say you neglected to send the hampers to – you forgot to send hampers to Ms Thomas. Can you tell the commission about that?

MS PIETERS: Yes it was towards – well – it being the end

of the month I was rather busy at that stage with month end reports etcetera and that is how it came about that I was – had forgotten and Mr Agrizzi reminded me.

ADV NOTSHE SC: And then you sent the hamper?

MS PIETERS: Correct.

ADV NOTSHE SC: Chair this is the evidence of the witness and...

CHAIRPERSON: No thanks. On page 87 Ms Pieters the card that was to be sent to Ms Thomas was to read:

10 “Dear Sandy your thoughtfulness is most appreciated. God Bless Angelo.”

Now I know that that – or maybe I should not say I know. Who chose those words? Was it Mr Agrizzi or yourself?

MS PIETERS: Mr Agrizzi.

CHAIRPERSON: Do you by any chance know what the context was relating to him wanting to say to Ms Thomas:

“Your thoughtful is most appreciated.”

20 Do you understand if there had been some recent interaction between them in terms of which Mr Agrizzi thought Ms Thomas was somebody who was very thoughtful and so on? Do you happen to know that or is that something you do not know?

MS PIETERS: He did not tell me – it is.

CHAIRPERSON: Yes.

MS PIETERS: Obvious from the words that there was something done.

CHAIRPERSON: Something that had happened.

MS PIETERS: But I do not know what.

CHAIRPERSON: Ja. Okay. No that is alright. Now in terms of interactions between Ms Thomas and Mr Agrizzi do you know whether there was a lot of interaction in terms of telephone calls to each other at work? I am not talking about cell phones – at work land – using landline where –
10 did they interact regularly or as far as you know or not?

MS PIETERS: A lot of people phoned Mr Agrizzi directly on his phone.

CHAIRPERSON: Oh, directly on his phone; cell phone.

MS PIETERS: Yes. On his cell phone.

CHAIRPERSON: Yes.

MS PIETERS: So not many calls came through on the office line.

CHAIRPERSON: On the landline.

MS PIETERS: Yes.

20 **CHAIRPERSON:** Okay.

MS PIETERS: So I cannot say how much.

CHAIRPERSON: Yes.

MS PIETERS: But I know he was inundated with calls from a lot of people.

CHAIRPERSON: Ja okay alright. Would that apply also to

any calls that may have happened between Mr Agrizzi and Ms Mokonyane? In other words, you – you do not know because if there were any, they would have been to his cell phone and not the landline?

MS PIETERS: Yes they would have been to his cell phone.

CHAIRPERSON: Yes. Does that also apply in terms of any interactions – or you would not know any interactions between Ms Thomas and Mr Gavin Watson and Ms Mokonyane and Mr Gavin Watson you would not know
10 about those?

MS PIETERS: No I would not know.

CHAIRPERSON: Yes. Okay. Do you know anything about any groceries that BOSASA may have bought and have – and caused to be delivered to Ms Mokonyane's house? Do you know anything about that that Mr Agrizzi may have been involved in?

MS PIETERS: No that he would have dealt with Alistair Esau in the kitchen staff.

CHAIRPERSON: Yes you...

20 **MS PIETERS:** Directly.

CHAIRPERSON: You would not have been involved in that?

MS PIETERS: No I do not.

CHAIRPERSON: So you do not know anything about those?

MS PIETERS: I heard about things like that. I mean there is a lot of talk in the street yes.

CHAIRPERSON: Yes.

MS PIETERS: But...

CHAIRPERSON: But you never got involved?

MS PIETERS: It is possible that I did get documents to sign. A lot of things came to me to print.

CHAIRPERSON: Yes.

MS PIETERS: And I had to give it to Mr Agizzi to sign and
10 then take it to the accounts department.

CHAIRPERSON: Ja.

MS PIETERS: There was a lot I did not take a mental note of everything.

CHAIRPERSON: Yes.

MS PIETERS: And there was stuff that yes, I had to have signed and take it places.

CHAIRPERSON: Yes. Yes. So if you were involved in any way it would have been very limited involvement. It would not – you would not have been too involved in those
20 things?

MS PIETERS: Yes.

CHAIRPERSON: Yes okay. Alright. Anything arising?

ADV NOTSHE SC: No, no nothing Chair.

CHAIRPERSON: Okay.

ADV NOTSHE SC: Thank you.

CHAIRPERSON: Thank you very much Ms Pieters for coming to give evidence. You are now excused.

MS PIETERS: Thank you.

CHAIRPERSON: Okay alright.

ADV NOTSHE SC: Chair that is the witness for – from my side.

CHAIRPERSON: Yes okay. No that is fine.

ADV NOTSHE SC: And otherwise we...

CHAIRPERSON: I will adjourn before we start with the
10 next – witness for the day.

ADV NOTSHE SC: Thank you Chair.

CHAIRPERSON: We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Good morning, Ms Gcabashe. Good morning, everybody.

ADV GCABASHE SC: Good morning, Chairman.

CHAIRPERSON: Tell me, are we about to be ready?

ADV GCABASHE SC: Yes, I believe we can start Chairman
20 with the preliminary matters.

CHAIRPERSON: H'm.

ADV GCABASHE SC: Chairman, this morning we are leading the evidence of Ms Seipati Dhlamini.

CHAIRPERSON: I am sorry.

ADV GCABASHE SC: A little closer?

CHAIRPERSON: I do not know... they have moved the mic from where they normally have it to the other side and since this morning, I do not seem to hear people standing there in the way I have been hearing them. I do not know if it has got anything to do with the positioning.

ADV GCABASHE SC: Yes. Thank you, Chairman.

CHAIRPERSON: Yes. H'm. That is better.

ADV GCABASHE SC: Chairman, this morning's session deal with the evidence of Ms Seipati Dhlamini. She is the
10 former CFO, Chief Financial Officer of the Department of Agriculture and the Department of Agriculture and Rural Development in the Free State.

She is here to give evidence on the Vrede Integrated Dairy Project. I do not know if you want me to speak louder Chairman or if I am audible enough?

CHAIRPERSON: Ja-no, I can hear you. Ja.

ADV GCABASHE SC: Ms Dhlamini is ready to take the oath, Chairman. After that, I will deal with the bundles.

CHAIRPERSON: Yes, please administer the oath or
20 affirmation.

REGISTRAR: Please state your full names for the record.

WITNESS: Seipati Sylvia Dhlamini.

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

WITNESS: No.

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

WITNESS: Yes.

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

WITNESS: So help me God.

SEIPATI SYLVIA DHLAMINI: (d.s.s.)

10 **ADV GCABASHE SC:** Thank you. Thank you, Chairman.

CHAIRPERSON: Yes, you may proceed.

ADV GCABASHE SC: Chairman, Ms Dhlamini has made two statements. The first statement is contained in a new bundle that we have prepared for you overnight, Chairman which we have labelled Estina Bundle 01 and in Estina Bundle 01, you have Exhibit HH16. H for happy.

20 HH16 which contains the original affidavit submitted by Ms Dhlamini. We ask that that be admitted into the record as soon as she has confirmed the content and that she deposited to it.

The second exhibit Chairman is Exhibit HH16.1 which consists of the supplementary affidavit that we received yesterday with its annexures.

The supplementary affidavit – because the annexures are rather voluminous – is split into two files Chairman. So

as and when it becomes necessary, I will indicate when we are dealing with Estina Bundle 01 which is the first file which has both the original affidavit and the supplementary affidavit.

And then I will also indicate when we are dealing with Estina Bundle 02 which really just has the remainder of the annexures to the supplementary affidavit.

Mr Dhlamini, I hope I will be able to guide you through these documents. And if you do not understand where I am
10 taking you to, please you will indicate.

MS DHLAMINI: [No audible reply]

ADV GCABASHE SC: Chairman, the other thing I would like to point out to you is, that in terms of the new numbering that has been introduced into the Commission's records, we have numbering on the left-hand side of Estina Bundle 01 and 02 which we trust aligns with the new systems.

So in Estina Bundle 01, the numbering on the black... the black numbering runs from 01 through to page 415,
Chairman.

20 And then when we get to Exhibit HH16.1's annexures, which will be in Estina Bundle 02, again, that numbering Chairman will have the black numbering and the red numbering but we will try and stay with the black numbering and that starts again from 01 through to the end.

So each file has its own numbering Chairman but as we

go along, I will indicate what we are using.

CHAIRPERSON: Ja.

ADV GCABASHE SC: I prefer to stay with the black numbering Chair.

CHAIRPERSON: Ja, I think let us do that.

ADV GCABASHE SC: It seems to make a little bit more sense.

CHAIRPERSON: Ja, ja.

ADV GCABASHE SC: I am afraid the new area... I am not
10 used to this. It is rather crowded.

CHAIRPERSON: Yes.

ADV GCABASHE SC: So bear with me Chairman. I was used to the other building.

CHAIRPERSON: Yes-no, that is fine.

ADV GCABASHE SC: We had lots of space to move around.

CHAIRPERSON: Yes.

EXAMINATION BY ADV GCABASHE SC: Ms Dhlamini, can
you please pick up Exhibit HH16 which is your first affidavit.
20 You will find it in Estina Bundle 01. I know there are very
many files behind you because they are reference files and
related files but I will take you through what we need. So do
not worry too much about the numbered files we have here.

MS DHLAMINI: [No audible reply]

ADV GCABASHE SC: Chairman, before I forget. There are

also our reference bundles that we have included a couple additional documents to. I simply ask that the reference bundle as currently constituted be accepted and be admitted to the record.

CHAIRPERSON: Are those reference bundles that were not admitted previously?

ADV GCABASHE SC: They were Chairman.

CHAIRPERSON: Yes.

ADV GCABASHE SC: We have simple... in fact, we have
10 simple added one or two documents relating to the functions of a CFO to the last bundle.

CHAIRPERSON: Ja, ja. Well, if they were admitted, they will remain admitted. If there are new documents that, when that referred were not therefore part of what was admitted, those may have to be admitted separately and either be included in those bundles or put in separately but you can apply your mind during the break and so.

ADV GCABASHE SC: I shall do that Chairman.

CHAIRPERSON: Ja, ja.

20 **ADV GCABASHE SC:** The one new bundle that you do have is a bundle we thought we should prepare just out of an abundance of caution and we are calling it the Transcripts Bundle.

CHAIRPERSON: Oh, ja.

ADV GCABASHE SC: There are certain evidence that was

led that we... first with Ms Dhlamini. So we have tried to extract just excerpts from those particular transcripts because they are rather voluminous.

CHAIRPERSON: Ja.

ADV GCABASHE SC: We have put them in their own little file which we are calling the Transcripts Extracts File.

CHAIRPERSON: Ja.

ADV GCABASHE SC: Just for your ease of reference.

CHAIRPERSON: Yes.

10 **ADV GCABASHE SC:** And it contains all our transcripts here.

CHAIRPERSON: Yes, yes, yes.

ADV GCABASHE SC: So that will be a completely new file.

CHAIRPERSON: Yes.

ADV GCABASHE SC: That we think is likely to be used for both today and as you to deem fit to deal with the stream.

CHAIRPERSON: Yes. So that one, we might just to... we might just have it as a reference bundle or as a bundle but the idea might not be to admit the transcripts, I guess. It is
20 just that it should be available for questioning and so on.

ADV GCABASHE SC: That is correct, Chairman.

CHAIRPERSON: Ja. So we might just place on record that there is such a file. Ja.

ADV GCABASHE SC: Thank you. So I place on record that we do have a file with transcripts from various witnesses.

CHAIRPERSON: Yes.

ADV GCABASHE SC: That we have extracted and placed in that file so that we can show Ms Dhlamini where we are getting the propositions, we are putting to her from.

CHAIRPERSON: Yes. Do you have a name for it, like bundle what or reference file what or file what?

ADV GCABASHE SC: Chairman, it has been labelled Exhibit HH, Transcript Extract. HH is the Vrede Dairy File.

CHAIRPERSON: Yes.

10 **ADV GCABASHE SC:** For the HH file is the Vrede Dairy File.

CHAIRPERSON: Yes. Should we call it Bundle HH or what do you think? Because I say we do not intend that contents be admitted as an exhibit. It just for convenience.

ADV GCABASHE SC: I am very happy with that Chairman.

CHAIRPERSON: Ja. Let us call it just bundle ...[intervenes]

ADV GCABASHE SC: Bundle HH.

CHAIRPERSON: Ja.

20 **ADV GCABASHE SC:** Transcripts ...[intervenes]

CHAIRPERSON: Transcripts Extracts.

ADV GCABASHE SC: Extract.

CHAIRPERSON: Ja. Yes, okay alright.

ADV GCABASHE SC: Thank you, Chairman.

CHAIRPERSON: H'm?

ADV GCABASHE SC: Ms Dhlamini, I am back with you and I really just want you to confirm that both affidavits that you submitted are yours, that you have deposed to them, when you deposed to them, et cetera.

So I will take you through this very slowly. If you turn to page... and we are using the black numbers on the left-hand side, Ma'am.

So if you page to page 3. I will not call it 003, I will just call it page 3. It is the first page of your affidavit that you
10 submitted to the Commission which is dated the 17th of December. Is that your name that is reflected on that first page, page 3?

MS DHLAMINI: Yes, Chairperson.

ADV GCABASHE SC: Is this your affidavit, Ma'am?

MS DHLAMINI: Yes, Chairperson.

ADV GCABASHE SC: You are familiar with the contents thereof?

MS DHLAMINI: Yes, Chairperson.

ADV GCABASHE SC: If you look at page 35 of that
20 document Ms Dhlamini, there is a signature on that page. Is that your signature?

MS DHLAMINI: Yes, Chairperson that is my signature.

ADV GCABASHE SC: And I note that the date that is written there, it just simple says the 17th day of December. Will you confirm that it is 2019?

MS DHLAMINI: Yes, Chairperson that would be the 17th of December 2019.

ADV GCABASHE SC: Thank you very much, Ma'am. If we then look at the second statement that you submitted yesterday. That one you will find on page 42 of the same bundle. Again, that is your name on the page, on page 42?

MS DHLAMINI: [No audible reply]

ADV GCABASHE SC: The black numbers.

MS DHLAMINI: Yes, Chairperson that is my name.

10 **ADV GCABASHE SC:** If you then go to page 56...

MS DHLAMINI: Yes?

ADV GCABASHE SC: Do you confirm that that is your signature?

MS DHLAMINI: Yes, Chairperson that is my signature.

ADV GCABASHE SC: Do you confirm that you have deposed to this and you are familiar with the contents of this affidavit?

MS DHLAMINI: Yes, Chair.

20 **ADV GCABASHE SC:** And that you included these annexures and the annexures that are annexed hereto?

MS DHLAMINI: Yes, Chair.

ADV GCABASHE SC: Thank you very much, Ma'am. If I can just give you a short road map...[intervenes]

CHAIRPERSON: You want me to admit it?

ADV GCABASHE SC: If you would, please Chairman. My

apologies. If you would admit Exhibit H ...[intervenes]

CHAIRPERSON: The first one, you want it to be admitted and marked as exhibit what? The one starting at page 3?

ADV GCABASHE SC: It is marked HH16, Chairman.

CHAIRPERSON: The affidavit of Ms Seipati Sylvia Dhlamini appearing at page 3 or starting at page 3 of Estina Bundle 01 is admitted and will be marked as Exhibit HH16.

AFFIDAVIT OF SEIPATI SYLVIA DHLAMINI AT PAGE 3 OF ESTINA BUNDLE 01 IS ADMITTED AND MARKED AS

10 **EXHIBIT HH16**

CHAIRPERSON: And then the second one?

ADV GCABASHE SC: And then the second one is HH16.1, Chairman and that is the one that starts at page 42.

CHAIRPERSON: The affidavit of Ms Seipati Sylvia Dhlamini starting at page 42 of Estina Bundle 01 is admitted and will be marked as Exhibit HH16.1.

AFFIDAVIT OF SEIPATI SYLVIA DHLAMINI AT PAGE 42 OF ESTINA BUNDLE 01 IS ADMITTED AND MARKED AS EXHIBIT HH16.1

20 **ADV GCABASHE SC:** Thank you, Chairman.

CHAIRPERSON: H'm. There is this other one that is separate. I do not want to deal with it now in terms of its admission or will that come later?

ADV GCABASHE SC: Chairman, that is the original one that we got a while ago.

CHAIRPERSON: It was admitted?

ADV GCABASHE SC: That is going to be admitted as HH15.

CHAIRPERSON: Oh, okay alright. Okay. Oh, is that this ...[intervenes]

ADV GCABASHE SC: So we have simply put it in a bigger file Chairman.

CHAIRPERSON: Oh ...[intervenes]

ADV GCABASHE SC: But you have the original one. We
10 have just put it there in case you had ...[intervenes]

CHAIRPERSON: Oh, it looks like ...[intervenes]

ADV GCABASHE SC: ...markings or questions.

CHAIRPERSON: Oh, okay. No, that is fine. It looks thinner but... okay.

ADV GCABASHE SC: It was. We were really happy with it until we go the second one.

CHAIRPERSON: [laughs]

ADV GCABASHE SC: Thank you, Chair.

CHAIRPERSON: Okay alright. H'm.

20 **ADV GCABASHE SC:** Ms Dhlamini, just to give you a sense and also the Chairman a sense of what we are dealing with today. You are the CFO and we are really going to try and focus on your role as a CFO, your responsibilities as the CFO and all relevant prescripts that you would have been aware of as the CFO.

Other witnesses have come to give evidence on a range of matters relating to the Dairy Project. We are really going to endeavour to try and keep our focus in relation to your evidence on your role as you supported the head of department, Ms Dhlamini. Are you happy with that?

MS DHLAMINI: I am happy Chair.

ADV GCABASHE SC: Can we start by finding out what your current occupation is?

MS DHLAMINI: Yes, Chair. Chair, I am currently working at
10 the Department of Cooperative Government and Traditional
Affairs in the Free State Province. The position I hold is of
an Executive Director-General which the position's
responsibilities in the main is to provide both interventions
through the municipalities.

And currently, I am acting as the CFO.... I have been seconded to the local municipality as the Acting CFO.

ADV GCABASHE SC: Thank you. When did you actually
join the Free State Government? I think it was in 2007?
Please assist us and just explain?

20 **MS DHLAMINI:** Yes, Chair I joined the Free State
Government in December 2007.

ADV GCABASHE SC: And what position did you hold
there?

MS DHLAMINI: When I joined the Fee State Government, I
ran it as the Chief Financial Officer, CFO for the department

of then was, Local Government and Housing.

CHAIRPERSON: Just pull the mic a bit closer to you.

MS DHLAMINI: Oh. Sorry. Sorry, Chair.

CHAIRPERSON: Ja, okay alright.

ADV GCABASHE SC: And who was the MEC of Housing and Local Government when you were there?

MS DHLAMINI: When I joined in 2007, the MEC was Mr McGregor.

ADV GCABASHE SC: And he was followed by?

10 **MS DHLAMINI:** Sorry, Chair?

ADV GCABASHE SC: And after him while you were still there?

MS DHLAMINI: Just repeat, Chair?

ADV GCABASHE SC: You... I ask only because I thought that Mr Zwane was MEC of that department at the time that you were there.

MS DHLAMINI: Oh.

ADV GCABASHE SC: If I am wrong, just correct me and give us the facts.

20 **MS DHLAMINI:** Oh, okay Chair. As I stated, in 2007, when I joined the department the MEC was Mr Mafereka. Mr Zwane joined the department in 2009 after the election. When the new government came in then Mr Mafereka did not come back but the MEC then became Mr Zwane. That was in 2009.

ADV GCABASHE SC: So you were serving in that department as the CFO?

MS DHLAMINI: I was serving in that department Chair as the CFO.

ADV GCABASHE SC: And Mr Zwane was the MEC of that department?

MS DHLAMINI: Mr Zwane was indeed the MEC for that department.

ADV GCABASHE SC: Thank you. I simple mention it
10 because I know we will come across Mr Zwane again in a few minutes time. So it is common cause that you were also the CFO of the Department of Agriculture and the Department of Agriculture and Rural Development?

MS DHLAMINI: Yes, Chair.

ADV GCABASHE SC: And that is where again Mr Zwane would have come within your orbit. Is that correct?

MS DHLAMINI: Yes, Mr Zwane then came. He also found me in the Department of Agriculture in 2011. I joined the department of... or I was transferred to the Department of
20 Local Government but by the time I get transferred it was now the Department of Local Governments and Traditional Affairs and Department of Human Settlements.

Then I was transferred in December 2010 to Agriculture and 2011 Mr Zwane was also appointed the MEC for that department, Agriculture and Rural Development.

ADV GCABASHE SC: So you arrived at Agriculture before Mr Zwane arrived there?

MS DHLAMINI: I arrived before Mr Zwane arrived.

ADV GCABASHE SC: Thank you. Very briefly, can you just tell the Chairman what your qualifications are? You are a CFO. What are the qualifications that you hold?

MS DHLAMINI: I have qualified in a BCom Degree. My major subjects are Accounting and Management Accounting. I further studied but could not complete with the Institute of
10 Management Accountants which is in the UK. I also studied at the University in Canada and I did a course which is equivalent to a masters in Investment Appraisal. Thank you, Chair.

ADV GCABASHE SC: Yes, thank you. So you are very qualified, quite frankly?

MS DHLAMINI: Yes, in terms of the requirements of the post of a Financial Officer, I am properly qualified.

ADV GCABASHE SC: And you have vast experience because of your service in this particular role?

20 **MS DHLAMINI:** Yes, I have vast experience in the service because I joined the government in 1996 and worked for the Provincial Treasury of the Free State. In 2007, I became the CFO in the Northern Cape Department of Treasury and I moved again from the same year as only March after December. December, I joined the Free State Government in

Local Government and Housing as the CFO.

ADV GCABASHE SC: So ...[intervenes]

MS DHLAMINI: My role as a CFO started in 2007.

ADV GCABASHE SC: So one can safely say that when it comes to understanding the legal framework that regulates and governs anything to do with procurement, you would know everything you need to know about that?

MS DHLAMINI: Yes, Chair.

ADV GCABASHE SC: Can I just ask you one question just
10 as an exercise really? The Premier of the Free State in the period that we are really just interested in, which is 2011 to 2015 or 2010 to 2015, was Mr Magashule.

MS DHLAMINI: Yes, it was Mr Magashule.

ADV GCABASHE SC: Did you work in his office at any point in time?

MS DHLAMINI: No, Chair.

ADV GCABASHE SC: Thank you. You were an Executive within the Management Committee of DARD. DARD being the Department of Agriculture and Rural Development.

20 **MS DHLAMINI:** Yes, I served as a CFO. I served in the Executive Management of that department.

ADV GCABASHE SC: And I just want to make it clear for the record that we will at some point going to refer to Exco. That reference already be to the Provincial and Legislature Executive Committee. Is that a totally different structure?

MS DHLAMINI: Yes, it is a totally different structure Chair but I am not sure if Chair you want to refer to Exco as for the legislature or Exco as the structure that is consistent of the Premier and the MEC's, all the MEC's? That is then different from the legislature.

ADV GCABASHE SC: For our purposes and just for clarity Ms Dhlamini, we are really referring to the first, where is the provincial legislature because we are going to be talking about the resolution that cabinet signed, the Exco Resolution
10 that dealt with Vrede.

And that really is our interest in making sure that on record there is no confusion between our reference to Exco and when we are talking about the Provincial Legislature headed by the Premier and your Executive Management Committee within the department which would have been headed by Mr Zwane as the Head of the Department.

CHAIRPERSON: I think there may be confusion there. The... as I understand the position, unless you said one thing while in your mind you had something else in mind.
20 The... there is the executive council of the province.

The executive council of the province is led or chaired by the premier and the other members of that council are the MEC's. Those are the only members of the executive council. So some people might call it Exco. I do not know.

But constitutionally that is the executive council of the

province. That is like the cabinet of the province. And then there is the provincial legislature.

Now again whether the provincial legislature would have its own Exco but I doubt that it would involve the premier or any MEC. H'm.

ADV GCABASHE SC: Chairman, in context, the relevance of this is related to the Exco minute that authorise the implementation of the Vrede Dairy Project. And that was a cabinet discussion.

10 **CHAIRPERSON:** So that is the executive council?

ADV GCABASHE SC: So that would the executive council of...

CHAIRPERSON: Ja, ja.

ADV GCABASHE SC: That is really what I was trying to clear up.

CHAIRPERSON: Oh, so when you refer to Exco, that is the structure you are referring to?

ADV GCABASHE SC: That is what we will be referring to.

CHAIRPERSON: Oh, okay.

20 **ADV GCABASHE SC:** I just did not want there to be confusion.

CHAIRPERSON: Yes. No, no, no. That is important. So I know also when you say Exco in this context, you are referring to the Provincial Executive Council.

ADV GCABASHE SC: I thank you for assisting in clearing

up this.

CHAIRPERSON: Yes, okay. No, that is fine.

ADV GCABASHE SC: Thank you, Chairman. Again, just I am really just probing your competency, your experience, et cetera at this point Ms Dhlamini. You were also a member of the Chief Financial Offices Forum which was convened and coordinated by the Provincial Accounting General, is that not correct?

MS DHLAMINI: That is correct, Chair.

10 **ADV GCABASHE SC:** Now, this is a forum that would have to facilitated the work that you did as CFO, all of your CFO's. Am I right?

MS DHLAMINI: Yes, that is correct.

ADV GCABASHE SC: And it also allowed you to ask and debate operational questions and issues that concerned you? You could debate the at this forum?

MS DHLAMINI: That is correct, Chair.

ADV GCABASHE SC: You were also able t have direct access to this forum to the Provincial Accounting General especially the black person may have queried a certain non-compliance by a department for instance your department?

20

MS DHLAMINI: That is correct, Chair.

ADV GCABASHE SC: Again, I am just putting on record what we understand you to have been familiar with at the time. I am correct in saying you were not a member of the

Provincial Treasury Committee, were you?

MS DHLAMINI: Will you repeat Chair?

ADV GCABASHE SC: You were not a member of the Provincial Treasury Committee which would have been part of the Provincial Treasury?

MS DHLAMINI: I was not, Chair.

ADV GCABASHE SC: Would you be invited to meetings of the Provincial Treasury Committee?

MS DHLAMINI: Yes, you would be invited at some point,
10 only when it dealt with budget matters. When you are invited to come and basically it would be the department that is invited to come and present the budget of the department to the committee. So you... I would go there as the CFO together with ...[intervenes]

ADV GCABASHE SC: The HOD, other [indistinct] 00.01 managers in the department. That is how I understand it.

MS DHLAMINI: Yes.

ADV GCABASHE SC: And the HOD would really lead the team and your job was to advise on financial and
20 budgetary matters that were supposed to be discussed at these meetings.

MS DHLAMINI: Yes, Chair.

ADV GCABASHE SC: Excellent. I am sure you will agree with me when I say to you that the most important functions of the CFO – and I know you have dealt with

some of those in your affidavit but I really am just trying to have a broad overview of who you were professionally and what your competencies were. I would like just to keep saying that. The most important functions as a CFO in a provincial department would include financial management, budget and expenditure control, rendering advice to management especially to the HOD and, of course, to other managers. Risk management, asset management, information systems management and ensuring that there

10 was full compliance with the financial legal prescripts including compliance with the SCM policy document.

MS DHLAMINI: That is correct, Chair. However, risk management and information management system were not part of my responsibility. Risk management is a separate unit that reports to the HOD and information systems report also - in our department it was reporting under corporate services.

ADV GCABASHE SC: I am comfortable with that. I just want to underscore the specific legislative prescripts or

20 provisions that would have assisted you in discharging your functions. So we know that first Section 217 of the Constitution and we really are dealing largely with procurement matters because the Vrede Dairy Project was about procurement largely or farmer support. So Section 217 you are happy was really the grounding provision that

you had to refer to.

MS DHLAMINI: I am happy, Chair.

ADV GCABASHE SC: And that would then cascade down to the PFMA which then would further cascade down to Treasury regulations and structure notes.

MS DHLAMINI: That is correct, Chair.

ADV GCABASHE SC: And is that not only you but every CFO was obliged to be familiar with all those provisions?

MS DHLAMINI: That is correct, Char.

10 **ADV GCABASHE SC:** I want to focus for a minute on Section 38 of the PFMA just for one minute because I want us to have a common understanding that the entire Section 38 was applicable to the functions that you discharged, am I correct?

MS DHLAMINI: If you look at the entire Section – can I refer, Chair?

ADV GCABASHE SC: Please.

MS DHLAMINI: Because it is confusing, sometimes it talks about part 2 of the PFMA.

20 **ADV GCABASHE SC:** I have a slightly newer copy of the PFMA than you do. I hope that our provisions are the same. I have one in my reference bundles but are you happy to use the one you are holding in your hand?

MS DHLAMINI: I think, Chair, they are still the same, it is just that they were not printed at the same printers.

CHAIRPERSON: Yes.

ADV GCABASHE SC: Let us proceed. So you have got Section 38(1) which runs from – (1) runs from (a) all the way down to (n) and then you have got (2), 38(2) which is particularly important in this particular investigation because it says that:

10 “An accounting officer may not commit a department, trading entity or Constitutional institution to any liability for which money has not been appropriated.”

You are comfortable that this applied to the work that you did. That was the question.

MS DHLAMINI: I am comfortable, Chair, that it applies. However, there are other elements in this section that they may not - certainly not be my core responsibility like you would release this, an internal audit which is separate to this, also risk management but in annexure it applies.

ADV GCABASHE SC: Yes. And then the other important one I think we should just agree on is that Section 44 and
20 45 of the PFMA would also have been relevant to the work that you did because 44 allowed the accounting officer, that is Mr Thabethe, as the HOD to delegate certain functions to you. So the financial functions would be delegated to you. Are you comfortable with that?

MS DHLAMINI: I am fine with that, Chair.

ADV GCABASHE SC: And then Section 45 actually tells you what your responsibilities would have been. Responsibilities of officials who have been delegated certain responsibilities. You are comfortable with that?

MS DHLAMINI: Basically, Section 45, Chairperson, talks to responsibilities of other officials and in this case, yes, I would also fall under other officials. I will explain that matter when we deal with the budget.

ADV GCABASHE SC: That is fine because what will be of particular importance when you get there – and I am happy we will deal with that later - would be 45(b) which says that those officials or that particular official is responsible for the effective, efficient, economical and transparent use of financial and other resources within that official's area of responsibility.

MS DHLAMINI: Yes, Chair.

ADV GCABASHE SC: So the broad proposition you have here. You have to say yes and not nod, hey, you must remember that. Then the last one which I think is also important – not as important as the others, but relevant, would be Section 66 and 68 of the PFMA because these say they would apply to any transaction that binds or may bind an institution and in essence Section 66 prohibits the department from entering into any transaction that binds or may bind the department unless such transaction is

authorised by the PFMA, so it has a tangential relevance to the circumstances under which you could bind the department. Can we proceed?

MS DHLAMINI: We can proceed, Chair.

ADV GCABASHE SC: We are briefly going to look at what different witnesses said they understood your responsibilities to be and this will relate to some of the testimony that has been given before this Commission.

The context really is that a material part of the
10 advice that you would have given, and you will explain as we go along, this is just giving context either, either in relation to the appointment of the implementing agents or the approval of proposals placed before HOD by Estina or any recommendations on any deviations from SCM policy or the approval of any agreement. Those are matters that you were involved in either directly or indirectly.

So the testimonies that I am going to be reading to you, the questions I will be asking you, will relate to what others thought your goal was.

20 **MS DHLAMINI:** Thank you, Chair.

ADV GCABASHE SC: Can we just start with looking at the SCM policy document which will be found at reference bundle A. So if you look at the bundles behind you.

MS DHLAMINI: Reference bundle A?

ADV GCABASHE SC: Reference bundle A and if you turn

to page 333, it is right at the end, should be right at the end. So this is the supply chain management policy documents which was signed by Mr Thabethe, as the HOD, on the 1 April 2012.

MS DHLAMINI: Chair, let me get to it.

CHAIRPERSON: Do the best you can to raise your voice so I can hear you, Ms Dhlamini. Did you say 333, Ms Gcabashe?

ADV GCABASHE SC: On the top right hand side,
10 Chairman, yes. Oh, it is because the reference I want to take her to, my apologies. My apologies to the Chairman and to you, Ma'am, the document itself starts at page 325 but I want to take you to page 333. Yes, that page, it starts ...[intervenes]

CHAIRPERSON: Oh, the relevant is 333?

ADV GCABASHE SC: Yes, it starts at 325.

CHAIRPERSON: Yes.

ADV GCABASHE SC: But the first page I want to take her to is page 333 of that document.

20 **CHAIRPERSON:** Okay.

ADV GCABASHE SC: Page 333, you are there?

MS DHLAMINI: I am there, Chair.

CHAIRPERSON: Ja, thank you.

ADV GCABASHE SC: And I know that you have dealt with this, especially in your first affidavit, Ma'am, but I really

just want to have an overview, I am not going to stop you from going –we are going to deal with your affidavit later – from going back to those particular areas you wanted to emphasise. But for current purposes, clause 2.1.4 on that page deals with the role of the accounting officer, that would be the HOD, and it says that:

“The HOD can do various things including sub-delegating powers and duties to the CFO and SCM practitioners to discharge SCM functions.”

10 You do not take issue with that?

MS DHLAMINI: I do not take issue with that.

ADV GCABASHE SC: If you go over the page to page 334, you get the role of the CFO, sub 2.2 deals with all of the things that were expected of you. Can you please just read those into the record because that is particularly important to this investigation.

MS DHLAMINI: Paragraph 2.2:

20 “Role of the Chief Financial Officer, ensuring that the department’s procurement processes are in line with the applicable legislation, ensuring that the department’s procurement policy is effectively implemented, ensure that officials implementing, applying and management the SCM policy are trained in accordance with the prescribed requirements, guiding and monitoring the supply

chain management unit in the operation, serves as a member of the Bid Adjudication Committee.”

ADV GCABASHE SC: Thank you, Ma’am.

MS DHLAMINI: Thank you, Chair.

ADV GCABASHE SC: In addition to that, you then have at 2.5 the delegation by the HOD which would be consistent with Section 44 of the PFMA and that they are referring to clause 2.6.1. I just point these out to you so that when we have the discussion about your role you these in mind what
10 this document says your role was.

If we go over the page to 335 we there see at clause 3.3:

“Procurement above the transaction value of 500 000”

Which speaks to competitive bids being invited for all procurement above 500 000. Now we have already said that you have to make sure that the prescripts of this document must be complied with and I know you will deal with the exceptional cases, I will not stop you, I am just
20 going through the general position.

Can we then go over the page, at clause 3.5.1 there is a provision that says that:

“Any reason for deviating from inviting competitive bids should be recorded and improved by the accounting officer.”

You are comfortable with that.

We then move on to page 349, Ma'am, 349 and at 349 you have got clause 2.19 which speaks to the appointment of consultants. To the extent that that may be relevant I just wanted to point it out to you because you may want to speak to us about who may or may not have been a consultant as opposed to an implementing agent when we get to that part.

We then move on to page 352 which speaks to
10 irregular expenditure and payments which is another critical element to the investigation we have been conducting. It is clause 3.4 and it spells out what irregular expenditure might be and again, of course, anything that does not fit with prescripts as set out in this document could constitute, might constitute irregular expenditure.

MS DHLAMINI: Alright.

ADV GCABASHE SC: I then you to page 356, I will not dwell on it, I simply point out that this part deals with ethical standards and then we go to the last page, which is
20 359, which is of particular importance which under Goals and Responsibilities. This is what Mr Thabethe put into this document, 359. It reads as follows:

“Responsibility for the implementation of this policy rests with the Chief Financial Officer with the assistance of the senior manager supply chain

management.”

You are happy that that is what is written here?

MS DHLAMINI: Yes.

ADV GCABASHE SC: Okay, that is going to become an important provision in relation to whether you were the custodian or not the custodian of this policy document.

CHAIRPERSON: Must we put that file away for now?

ADV GCABASHE SC: Just to the side for now, Chairman.

CHAIRPERSON: Okay.

10 **ADV GCABASHE SC:** Chairman, I do not know if you want to us to go just a little beyond quarter past or if you want us to take the short adjournment now and come back or you want us to ...[intervenes]

CHAIRPERSON: I am easy, I am easy. What is – from your side, do you want us to go up to half past and then take the tea break or should we take it now?

ADV GCABASHE SC: Chairman, we are going to the transcripts now so maybe we should just take a short adjournment.

20 **CHAIRPERSON:** Ja.

ADV GCABASHE SC: And go to the – we will need the transcripts possibly as we come back.

CHAIRPERSON: Ja, okay, we will take the tea adjournment, it is now quarter past, we will resume at half past. We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: You may proceed.

ADV GCABASHE SC: Thank you, Chairman. Chairman, you will need for the next couple of questions the bundle, the transcripts bundle. You will also need Mr Thabethe's first affidavit which can be found in the old EXHIBIT HH10(a).

CHAIRPERSON: Okay. Or what we can do, because I do
10 not have too many files here, as and when you refer to a particular one you will announce and you will give it to me.

ADV GCABASHE SC: Absolutely.

CHAIRPERSON: Ja.

ADV GCABASHE SC: Thank you, Chair.

CHAIRPERSON: Okay. For now, just I just deal – it is in bundle 01?

ADV GCABASHE SC: I think let us start with - if you could be handed Mr Thabethe's affidavit.

CHAIRPERSON: Okay.

20 **ADV GCABASHE SC:** Which is in HH10(a).

CHAIRPERSON: Ja.

ADV GCABASHE SC: And it is page – the black numbers, it would be page 9.

CHAIRPERSON: Okay.

ADV GCABASHE SC: Paragraph – I beg your pardon.

Chairman, I do beg your pardon, I do have three files here. It is page 13, MRT13, if it is Thabethe we are looking at, MRT13 at paragraph 37.4. MRT13. You have Mr Thabethe's affidavit there, Ma'am? H10(a)

MS DHLAMINI: I have it, Chair.

ADV GCABASHE SC: Thank you. What he says at page 13, paragraph 37.4 and 37.5 - essentially, I think aligns to what we have discussed on the responsibilities of a CFO, so – and you will confirm if this is correct. He says, for
10 instance, that:

“All payments which were made in respect of the Vrede Dairy Project including payments to Estina were authorised by the provincial treasury after having been duly verified by me and the department's Chief Financial Officer. The Chief Financial Officer had to verify and confirm the correctness of the invoices, had to do a tax clearance on the payee and had to manage the payments in accordance with the approved budget
20 before any payment would be made.”

Now that would fall squarely within the financial management portfolio that you would hold, am I correct?

MS DHLAMINI: Yes, Chair.

ADV GCABASHE SC: Then the following paragraph says – again, this is Mr Thabethe saying:

“I did not perform any function and did not take any decision in respect of the implementation and execution of the Vrede Dairy Project without having followed the prescribed departmental processes or without having first obtained the required approvals and authority from the MEC Agriculture and the Exco.”

Now here again, when he speaks to the prescribed departmental processes, you would be the person advising
10 him on how to comply with those, that is part of what you do. Yes or no?

MS DHLAMINI: Chairperson, I think for me this statement is too broad especially that when it refers to approvals and authority from the MECs and Exco. If it has to be confined to my responsibility then it will be confined within the confinement of the PFMA and the PFMA, solely the accounting, it is very clear, HOD is the accounting officer. So once you bring the MEC and Exco into the PFMA matters then you are starting to deal with issues of
20 interference.

So we have – Section – paragraph 37.5, I am not agreeing with I hundred percent. Yes, the processes of the department with regard to financial management issues, because there is a lot of processes, that is why I am saying, Chair, this statement is too broad, there is a lot of

processes that are happening.

For instance, when you deal with projects, it is a process. When you identify the project, it is process, which process the CFO might not be responsible for or might not even participate. Hence I am saying this statement is too broad and too big for me.

CHAIRPERSON: So what he is saying here, he refers to functions that he performed in respect of the implementation and execution of the Vrede Dairy Project
10 and he says there is no function and there is no decision he took in respect of the implementation and the execution of the Vrede Dairy Project, one, without having followed the prescribed departmental processes or to - without having obtained the required approvals and authority from the MEC Agriculture and the Exco.

Now you have made the point that the MEC and Exco, if I understood you correctly, ought not to be involved in the decision relating to the implementation of a project such as that. Did I understand you correctly?

20 **MS DHLAMINI:** Chair, that is not what I am saying. What I am saying is, with regard to all sectors of financial management which are within the confinement of the PFMA.

CHAIRPERSON: Ja.

MS DHLAMINI: That is the role of the accounting officer.

CHAIRPERSON: And are you saying that in regard to that role there is no approval required from the – required by the accounting officer from the MEC or from the executive council. Is that what you are saying, he must just do his job, or she must do her job?

MS DHLAMINI: Okay, what I mean, Chairperson, is yes, there might be other – I am aware of other processes whereby all the projects for instance before they can be implemented they would be approved by the Exco or the
10 MEC because we will then, with regard to the MEC, as we prepare the budget we will present the projects to the MEC. MEC will say it is okay and there is another process of the Exco and the Budget Lekgotla where in the Budget Lekgotla you will then present the project of the department, then the Exco would agree to that, it is part of the budget, the Budget Lekgotla.

What I meant here, especially I was preparing two processes. When HOD is saying:

20 I did not perform any function and did not take any decision in respect of the implementation and execution of the Vrede Dairy Project without having followed the prescribed departmental processes or...”

And then he said processes or:

“...without having first obtained the required

approval and authority from the MEC”

Yes, the latter part I agree with it and hence I am saying in terms of processes of the department, yes, he was following the processes of the department and I can only talk to those processes with regard to financial management and issues around that involves into the PFMA.

CHAIRPERSON: Oh, so you are saying you would limit your comment.

10 **MS DHLAMINI:** Yes.

CHAIRPERSON: To those processes.

MS DHLAMINI: Yes.

CHAIRPERSON: Anything outside of that you – well, you do not have – you do not have an issue with him saying he did not implement any decisions of this project without seeking the required approvals, authority of the MEC or Exco. You do not have a problem with that either. All you are saying is, the ones that you are definite about in terms of compliance are the ones relating to the financial
20 management processes.

MS DHLAMINI: That is exactly what I am saying, Chairperson.

CHAIRPERSON: Yes, okay. Now Ms Gcabashe’s question was whether in following – insofar as Mr Thabethe says in this paragraph that the functions he performed and the

decisions he made in regard to the implementation of this project, he followed the prescribed departmental processes. At least in regard to that, he was asking would he have complied or followed those processes on your advice and I understood her to be asking that. In other words, you were giving advice as to what should be done in regard to the processes on financial management, at least.

MS DHLAMINI: Chairperson, can you clarify that
10 question? Maybe I am missing something.

CHAIRPERSON: Okay, I think what you said is, with regard to financial management, processes relating to financial management, of this project, in the department, I understood you to say those, you can testify to those, that those were complied with.

MS DHLAMINI: That is what I am saying, Chairperson.

CHAIRPERSON: Yes. Now here he is saying he complied with those and as I understood Ms Gcabashe's question, it includes asking whether in complying with those, he was
20 acting on your advice or guidance or not?

MS DHLAMINI: Chairperson, in dealing with that matter, we will have to unpack them. As I said, processes, there are a lot of processes. Unless we unpack those processes that he is referring to ...[intervenes]

CHAIRPERSON: Oh, those processes.

MS DHLAMINI: ...then I can say with this process yes, he complied ...[intervenes]

CHAIRPERSON: You – okay, okay.

MS DHLAMINI: ...with my advice.

CHAIRPERSON: Okay.

MS DHLAMINI: That is what I meant.

CHAIRPERSON: So your answer would be, in regard to some processes it would have been with your guidance or advice but in regard to others, it might not have been with
10 your advice.

MS DHLAMINI: That is exactly what I want to say, Chairperson.

CHAIRPERSON: Okay, alright.

MS DHLAMINI: Of what I am saying.

CHAIRPERSON: Ms Gcabashe?

ADV GCABASHE SC: And we are going to unpack them because we are going to talk about the deviation memorandum, those submissions, where your signature appears under recommended, we are going to talk about
20 the agreement, again where your signature appears, and I know you say you signed as a witness, etcetera, etcetera. So you are correct when you say you are more comfortable in giving specific cases. We will be getting to those, I was really just trying to give you that broad overview before we deal specifically with deviations, for instance, and your

role in that. So we will get there and if you are comfortable, Chairman, there are examples that we will place before her.

CHAIRPERSON: Yes, no, no, that is fine but before you proceed can I clarify this one point? Ms Dhlamini, Mr Thabethe here says every function he performed as I understand it and the decision, he made in the implementation of the Vrede Dairy Project he, among other things, obtained required approvals and the authority from
10 the MEC and of course, Exco. Now on your understanding, in regard to a project like this, would not the approval that may be required from the MEC and maybe the executive council be limited to approving that the project – approving the project, as such, but when it comes to the various functions and decisions to be made in implementing it, would that not be left to the accounting officer and his management and the politicians would no longer be involved in that?

MS DHLAMINI: You are correct, Chairperson, that is how
20 it works.

CHAIRPERSON: Yes.

MS DHLAMINI: MEC, Exco, they approve the projects to say the department can implement this project, they not the budget – the financial implication of the project but when it comes to specifics in terms of implementing,

making the project to work, that is the HOD and his management.

CHAIRPERSON: So would it be correct then to say if this statement by Mr Thabethe is factually correct, then it would mean that the MEC and the executive council got involved in various implementation decisions in respect of which they should not be involved because that should be for the management and the accounting officers and not for the politicians? If this is correct, if this is what it means?

10 **MS DHLAMINI:** Yes, Chairperson, if this statement is correct, that is what it would mean.

CHAIRPERSON: Okay, alright.

ADV GCABASHE SC: Thank you, Chairman, and we will come back to this issue of the relationship between the executive, as in the MEC and the administrative staff, when we talk about the first payment of 30 million because in your affidavit you say MEC Zwane asked you to go and see the finance people about that payment.

20 So that is exactly the kind of example that the Chairman has in mind, when MEC instructs you to go and ask for money, that now he is delving into implementation, go and get money for this project. We will come back to it because it is a specific set of questions.

I just want to foreshadow it so that you know that I will be linking the Chairman's question with that example

where the MEC actually told you to go to Treasury and get the first 30 million. Are you happy with that?

MS DHLAMINI: Oh, okay, Chairperson.

ADV GCABASHE SC: I just want to come back very briefly again to Mr Thabethe's reliance on you as the CFO and if you look at the transcripts bundle, the thin little transcripts bundle at page 20. There is a discussion that he was having with the Chairman and as I was probing him where he actually said – and it is page 20, it only one
10 number there, it is written in red, where he actually says at line – from about line 13, he says he cannot be a super human being, not when he has an expert on his team – I am paraphrasing - , such as the CFO. I am simply showing you where I get it from and here he was essentially saying that he relies on you when it come to taking judgment calls that relate to finance. That is the essence of what he says in this part of the transcript. I am simply consolidating what he has said in the affidavit, he had a debate with the Chairman and here he says that you are in a better
20 position to understand what, for instance, Treasury would want, what the auditor general would want and this is correct, it must be correct, that he would rely on you for this financial advice.

MS DHLAMINI: Yes, it is correct, Chairperson, he could rely on me but as we deal with these issues, I would show

that there is instances where he did not rely on me hence I will emphasise the fact that he could but not always that he relied on me.

ADV GCABASHE SC: Okay. Again, I am going to come back to this because here we were talking about the monthly and quarterly reports that were submitted. I know you want to deal with them, you have dealt with them in your supplementary affidavit. Please bear this in mind that his view was as he interrogated the month-end quarterly reports submitted by Estina you were an important source of guidance to him because you are financially astute. We will come to that when you deal with your supplementary affidavit.

I then briefly want to take you to page 23 of the same transcript bundle and Dr Masiteng, we also asked him about the competencies that a CFO would have and there you have from line 10 or from line 6 really where he summarises that:

“An accounting officer should appoint a CFO with relevant experience...”

Etcetera, etcetera.

“...to manage, interpret, analyse information, working capital, assets.”

Etcetera. I do not know if you want to read it but it really confirms what we have been dealing with all along, what

your competencies ought to have been. Are you comfortable that he confirms that or would you like to read it?

MS DHLAMINI: I am comfortable, Chair.

ADV GCABASHE SC: Then I want to very briefly just to – so I do not have to necessarily come back to this bundle too soon – take you to page 72 of the same bundle and there we have the testimony of Mr Dumisani Cele, page 72, from about line 9 to about 14 where he specifically says
10 that you, the CFO, are the custodian of the SCM policy, it is one of the prescripts, one of the policy documents that you would be giving advice on and again, this links into the advice you are giving to the HOD and, of course, to other managers as well.

You have disputed this in your affidavit that you are the custodian of the SCM policy, so maybe you want to explain what you meant when you said you are not the custodian and to assist you, you deal with this in your first affidavit under the – black numbers, page 9 going through
20 to page 11 of that document and because this is your explanation I think it is correct for us to place it on record that this is how you viewed your role now that you know what Dr Masiteng, what Mr Thabethe and Mr Cele believes your role was.

So if you are at your paragraph 7.1, 7.2 – are you

there, Ms Dhlamini?

MS DHLAMINI: Yes, yes, Chair.

ADV GCABASHE SC: Thank you. I just want to give you the opportunity to explain to the Chairman, you do not have to read it but just to explain to the Chairman why your view was that you are not a custodian of the SCM policy.

MS DHLAMINI: Thank you, Chair. Chairperson, generally the policies of the department, the custodian is the HOD because the HOD is the one who approves the policies.
10 However, those policies might impact on different managers or different responsibilities and with that regard, that is where they are being implemented.

Hence is not in the policy, the supply chain management policy as Advocate Leah has illustrated, I think it is almost the last page of the policy, it says the implementation is the responsibility of the CFO and assisted supply chain management.

That is where I am coming to in this when I say - I am not the custodian but I am the implementer of this
20 policy and furthermore, I said even other managers implement this policy because Section 45 of the PFMA gives responsibility – assigns responsibility to other officials and that other officials will be inclusive of me also which then I would explain to Chairperson why I am saying because in terms of other officials, where do I sit? I sit

whereby I approve roles in the department, I run a unit, which is my primary responsibility to ensure that the activities of that unit are happening which is financial management in general, I have done, I have my budget. Section 45 of the PFMA applies to me in that regard.

And then I have these other roles that I am – this other cap that I am wearing which is in terms of the Treasury regulations which says I must assist the accounting officer in terms of his responsibility.

10 So when you read Section 45 of the PFMA it talks about other managers also implementing efficient, effective and transparent financial management and that is inclusive of supply chain when you implement it. Hence I am saying, yes, the implementation, the monitoring of this policy would fall under – as a guidance would be under the CFO but it does not necessarily mean I assume exclusive responsibility because those who budgets in terms of Section 45 of the PFMA, as and when they implement that, they ought to know this policy, they ought to be able to
20 implement this policy and I think it is even in the policy where it says as a – I think it is part of my responsibility, I ought to assist and train those who implement this policy and that has happen.

That is what I meant, Chairperson, when I said I do not assume exclusive responsibility of this policy and I am

not the custodian.

CHAIRPERSON: Well, when I say that distinction you sought to make, I was not sure what the point was that you sought to make because you made the point clear that part of your responsibilities as CFO was to see to it that the SCM policy is implemented properly, as I understood, is that right?

MS DHLAMINI: That is right, Chair.

CHAIRPERSON: Yes, so in the context of what we are
10 dealing with, one of the issues is whether that policy was properly implemented. You have to establish what the policy is, you have to look at what happened and then say did what happen – did what happened comply with the policy when it was implemented.

So it seems to me that if you are responsible for the proper implementation of the policy, that is the important part, so I was not sure what the point is about being or not being a custodian but from what you are saying, it seems that all you are saying is the person who must approve
20 policies for the department is the accounting officer and that is the person you call the custodian. Is that right?

MS DHLAMINI: That is correct, Chairperson.

CHAIRPERSON: Yes, yes, but as far as implementation, you readily accept that it was your responsibility to ensure that there was proper implementation of the SCM policy.

MS DHLAMINI: That is correct, Chairperson.

CHAIRPERSON: Yes and you make the point that there was responsibility on other people to ensure that there was compliance as well but in the end I think at the top of – below the accounting it was you.

MS DHLAMINI: That is correct, Chairperson.

CHAIRPERSON: Okay, alright.

ADV GCABASHE SC: Yes, thank you, Chairman. And in your affidavit at paragraph 7.6 you essentially say in
10 different language exactly what the Chairman is saying because you say here that any document with financial implications, those submissions have to come to the CFO for recommendation.

So again, when they come to the CFO for recommendation, your task is to make sure that the policies of the organisation, certainly the supply chain management policy and then the legal prescripts had been complied with. That is what part of making a recommendation would entail.

20 **MS DHLAMINI:** That is correct, Chairperson, especially when it deals with issues of financial management.

ADV GCABASHE SC: Yes.

MS DHLAMINI: That is correct.

ADV GCABASHE SC: Absolutely. Chairperson, I believe that we now have a base from which we can move on to the

next area.

And the next area we are moving to, Ms Dhlamini, really deals with what we, the legal team, call a top down initiation of this Vrede Dairy Project.

We are aware that the project itself, Mohuma Mobung, initiation started in 2010. That is correct, is it not?

MS DHLAMINI: It started in 2011.

ADV GCABASHE SC: No, no, Ms Dhlamini, it started in
10 2010 because the idea was conceived by the MEC, MEC Zwane, in 2010 on our records.

MS DHLAMINI: Let me – Chairperson, let me explain it ...[intervenes]

ADV GCABASHE SC: My apologies, Ma'am, in 2011.

MS DHLAMINI: Yes.

ADV GCABASHE SC: 2011.

ADV GCABASHE SC: Page 11. I am going to ...[intervenes]

CHAIRPERSON: Yes, it is page 11.

20 **ADV GCABASHE SC:** Yes. No, no, no. I am with you. Because when we had Ms Rockman, she spoke about a presentation of September 2011 that spoke to the Mohuma Mobung concept. So I immediately agree with the 2011. Can we tick that one, 2011?

MS DHLAMINI: Yes, Chairperson. Let us... it started in

2011.

ADV GCABASHE SC: And the important element to this is, it was conceived by the MEC. At the time it was MEC Zwane. Is this correct?

MS DHLAMINI: That is correct, Chairperson.

ADV GCABASHE SC: And one of the projects within Mohuma Mobung was the Vrede Dairy Project?

MS DHLAMINI: That is correct, Chairperson.

ADV GCABASHE SC: Along with a range of others,
10 piggery, hatcheries, a range of other projects?

MS DHLAMINI: That is correct, Chairperson.

ADV GCABASHE SC: There was no budget from your perspective as a finance person, no budget for the Vrede Dairy Project as a project in the 2011/2012 financial year? You probably budgeted for it from 2012 onwards and correct me if I am wrong.

MS DHLAMINI: Yes, Chairperson in 2011/2012, we did not have any budget for Vrede Dairy.

ADV GCABASHE SC: Yes. Now, Vrede Dairy went all... I
20 beg your pardon. The budgetary period would have been from April 2011 to March 2012?

MS DHLAMINI: Can you repeat that Chair?

ADV GCABASHE SC: The period, the financial year.

MS DHLAMINI: Yes?

ADV GCABASHE SC: April to March, every year. April to

March.

MS DHLAMINI: Yes, Chairperson our financial year runs from April to March.

ADV GCABASHE SC: So come March 2012, you had no specific budget for the dairy project?

CHAIRPERSON: End of the 2011/2012 financial year, in other words. By the end of the 20911/2012 financial year, you were using the budget that you had prepared much earlier which did not include the Vrede Dairy Project.

10 **MS DHLAMINI:** Yes, for the year 2011/2012 that March ...[intervenes]

CHAIRPERSON: Ja.

MS DHLAMINI: ...we did not have a budget for Vrede Dairy.

CHAIRPERSON: Ja.

ADV GCABASHE SC: Thank you. That is what I understand Chair.

MS DHLAMINI: But in the meantime, in that period, MEC Zwane went out to Vrede to speak to the people of Vrede, Thembalihle Township about this project. You know about
20 that?

ADV GCABASHE SC: In... in the year 2011/2012?

MS DHLAMINI: Correct, Ma'am.

ADV GCABASHE SC: Chair, I was not aware. I am not aware that he was talking to people about it in that particular year.

CHAIRPERSON: Okay.

ADV GCABASHE SC: I say this because Mr Thabethe's evidence was that certainly by June 2012 when the first agreement was signed, he had already accompanied MEC Zwane to Vrede to speak to beneficiaries, to invite beneficiaries to the project.

So I know that definitely by June, on Mr Thabethe's evidence, some work had been done in just at least talking to people about this project. You were not part of any of those discussions?

MS DHLAMINI: Chairperson, I was not part of those discussions.

ADV GCABASHE SC: What we also know and disputed, if you have facts on which you can dispute this, is that when Mr Thabethe arrived in August of 2011, he is the one who did the desktop study on an integrated dairy project. Would you know about this?

MS DHLAMINI: I would not have known Chairperson for the simple reason that he would not report to me on the work the does. He rather report to the MEC on the work that he does.

ADV GCABASHE SC: No problem. Do not forget, the context here is, this was a top-down initiation of project, not a bottom-up initiation of a project. This is why I am giving you a perspective and these are facts that are on record.

Mr Thabethe also gave evidence that in March he went

to Indian to go and speak with Paras because he thought they would make a good strategic partner.

So already in February/March, he was travelling to India to go and speak to Paras. Did you know about that trip?

MS DHLAMINI: I was aware of that trip of the HOD to India.

ADV GCABASHE SC: Are you also aware that he did not take a single official from the district services with him on that trip?

MS DHLAMINI: I am aware Chairperson that he went alone.

10 **ADV GCABASHE SC:** You did not go alone. He went with Mr Narayana.

MS DHLAMINI: Okay Chairperson, I wanted to say from the department. When I say alone, I meant to say from the department ...[intervenues]

CHAIRPERSON: Yes. Ja, he was the only one from the department.

MS DHLAMINI: He was the only one from the department.

CHAIRPERSON: Yes, okay.

20 **ADV GCABASHE SC:** And the motivation you gave to the premier in a submission/memorandum that was given to the Premier, I think it is dated the 28th of February 2012, was that there were three dairy projects that he was looking into, Qwaqwa, Lesotho and Vrede.

And there was R 17 million budget that was available to deal with feasibility studies, et cetera to kick-start these

dairy projects.

I am simple summarising what he said to the premier which enabled the premier to sign off on him going to Indian to go and explore the dairy farm option with Paras.

I do not know if you are aware of that particular memorandum and the quantum or the amount of R 17 million that he mentioned or that the MEC mentioned in that particular memorandum?

MS DHLAMINI: Chairperson, I was not... I am not aware of
10 the memorandum that went to the premier. And also, as the CFO, I was not aware of the R 17 million.

Maybe it would help me if I can be given the details to say, was he saying the R 17 million was in the 2011/2012 financial year or the R 17 million was in the 2012/2013 financial year?

That would help me if... then I would know if we had that budget or not if I had the specific of which financial year is, he referring to.

ADV GCABASHE SC: We will come back to that because
20 you are going to take us through the various allocations from your supplementary affidavit. You have annexed various financial documents.

For current purposes, the proposition is simple this that what was told the premier was there is money that we want to spend on dairy farming, dairy projects.

At that time, they had free mind and this was part of the motivation for him to go to India to go and explore the possibility of this dairy project.

That is really the essence of what I am putting to you. Are you happy with that?

MS DHLAMINI: I hear you Chairperson. I am not aware of the R 17 million.

ADV GCABASHE SC: That is fine. The other important element is that in his affidavit to this Commission, Mr Zwane
10 confirmed that he suggested that Mr Narayana accompany Mr Thabethe because of the local cultural issues that might arise in India.

Again, the only issue I bring to your attention is, nobody from District Services was involved in going to look for a strategic partner for the Vrede Dairy Project.

MS DHLAMINI: Yes, Chair I am aware of that.

CHAIRPERSON: Would you have expected that Mr Thabethe would have taken with him some or other official or officials from the department when he went on such a trip?
20 Would that be in your expectation that he would bring one or more official s with him?

MS DHLAMINI: To be honest Chairperson I would not... I did not know at what point do they this... a decision is taken to say, there is a trip that goes overseas and these are the officials that have been... that are being taken.

I was not aware of the criteria because sometimes the limit of the number of people who undertook outside of the... we call it outside of the country trip, will also be... if... will also be determined if we have the budget we can carry... we can carry all those people. So I would not have known the criteria that is used.

CHAIRPERSON: H'm. Okay alright.

ADV GCABASHE SC: Thank you. Then my question I suppose is, seeing the MEC, MEC Zwane was so involved in
10 initiating and promoting this project, my question to you is, is it usual for a MEC to get this engaged in promoting a particular project? Because it is associated with him. His home was Vrede. He went to look for beneficiaries, et cetera, et cetera.

MS DHLAMINI: Chairperson, the MEC would promote all the projects that they approved, that are part of our budget. As to this change at which you would to do that, I guess it is up to him but all the projects he would own them up, all of them.

20 **ADV GCABASHE SC:** Maybe I should pose the question differently. It is in the initiation. Is it usual for an MEC to initiate and then champion a project in the same manner in which the Vrede Dairy Project was initiated by MEC Zwane and championed by him?

MS DHLAMINI: No, not as far as I know.

CHAIRPERSON: And maybe a follow-up question would be. During the time that Mr Zwane was MEC of Agriculture and you were the CFO of that department, is there any other project that was... that he initiated in the same way as he initiated this one?

In other words, as Ms Gcabashe says, a top-down approach where the initiation comes from the MEC and he then appears, as opposed to a project that comes from the officials, management and his approval is sought if that is
10 necessary.

MS DHLAMINI: Maybe Chairperson, to give context to this from where I am sitting, I would say initiating dairy as a project, I cannot confirm to say it was initiated by MEC Zwane, the project Vrede Dairy under Mohuma-Mobung.

But Mohuma-Mobung as a strategy and within the framework within the department was initiated by MEC Zwane.

CHAIRPERSON: Okay, okay.

MS DHLAMINI: Exco, the specifics of the project, that
20 followed within that Mohuma-Mobung Concept. Who initiated it, I cannot really say.

CHAIRPERSON: Yes.

MS DHLAMINI: But when Advocate Leah was talking about top-down and to an extent and then I agree. It is when he was saying Mr Thabethe is the one who started to do a

desktop.

CHAIRPERSON: Ja.

MS DHLAMINI: And advocate saying, if I heard him, I heard her correctly, is saying, Mr Thabethe said that in his affidavit.

CHAIRPERSON: Ja.

MS DHLAMINI: Then I would take it that, yes he started that project.

CHAIRPERSON: Okay maybe ...[intervenes]

10 **MS DHLAMINI:** The Vrede Dairy project.

CHAIRPERSON: Yes. Okay maybe I misunderstood Ms Gcabashe. I thought she was talking about what was initiated by the MEC Zwane but maybe accept Vrede Dairy Project whether she may have been talking about the strategy. Yes.

ADV GCABASHE SC: No, Chairman you did not understand me. The Mohuma-Mobung Concept was indeed conceived by MEC Zwane. I think we have made common cause on that.

CHAIRPERSON: H'm. H'm. Ja.

20 **ADV GCABASHE SC:** And then we moved on from that to say the Vrede Dairy Project, judging by the conduct – I am now explaining my question – judging by the conduct of the MEC, it was championed, this specific project was championed by him.

He went out to Vrede. We have that testimony on

record. To go and look for beneficiaries, to talk to beneficiaries, et cetera, et cetera.

If we even take the instruction, he gave you, he involved himself personally in making sure that this project moved forward if I can use that word very broad Chair.

CHAIRPERSON: H'm.

MS DHLAMINI: In that context, I understand.

CHAIRPERSON: You... and you accept?

MS DHLAMINI: I accept.

10 **CHAIRPERSON:** Okay alright.

ADV GCABASHE SC: In fact... because this is such a central issue. I think we can agree that would normally happen and I am not saying always happen but normally happen.

Is if District Services, which is in charge of farmer support, would bring a project and it would be cascaded up until it eventually gets to the HOD. That is what normally happens. Is that not correct?

MS DHLAMINI: That is correct, Chairperson.

20 **ADV GCABASHE SC:** Yes. In this instance, Dr Takisi Masiteng who was the Chief Director at the time at District Services, says in his transcript. I will not go to it. We do not need to go the transcript each time, Chairman but the reference is there if we need to check on the validity of the proposition.

He says that he did not know about Mr Thabethe going to India. He had nothing to do with the appointment of Estina as an implementing agent for the Vrede Dairy Project.

And the first time he really got involved with this project was when he had returned from China and was asked to prepare, what we have come to call the second deviation submission. Would you agree with that?

MS DHLAMINI: Chairperson, number one, I would not know why Dr Masiteng would say he did not know that HOD went
10 to Indian but what I expect him to know is HOD was not around in the department because...

I just cannot remember when he came because once he is not there, somebody is appointed to act as an HOD.

So. And I cannot remember who was appointed to act as an HOD at that particular point in time, so we would know that HOD is not there. Maybe yes, he is right, he did not know the specifics of the trip that HOD undertook.

Secondly, on the issue of whether Dr Masiteng knew about this project or not. I also do not understand why he
20 said so because the record will show as at the time when we conclude the budget for 2012/2013 financial-year, Vrede Dairy was there in the list of projects.

And our policy would show that it says the District Services during the plan when the budget is planned, District Services will provide the CFO with the list of projects.

So part of that list that was provided and ultimately approved and became part of our budget for 2012/2013. Vrede Dairy was there with only a budget of R 9 million.

So I would not know from which angle did Dr Masiteng said he was not aware of the project. What I am aware is that he was no there when Estina / Paras came to make a presentation which changed the whole shape of the project.

When you have only R 9 million budget, then it grew up to 570 budget of which 342 was required from the
10 department.

In that presentation, yes he is right, he was not there but honestly to say he did not know about Vrede Dairy Project at all, I do not know why he said so.

CHAIRPERSON: So clearly your expectation is that he would have known?

MS DHLAMINI: Because the list that comes into the budget is provided to the CFO when the CFO prepares the budget by District Services.

CHAIRPERSON: Yes.

20 **MS DHLAMINI:** And besides that. Those projects – because they were funded by the conditional funds which is ...[indistinct] and grant. [00:19:24] and Dr Masiteng was the account manager.

He is the one who would go to the national and present that. He is the one who would go to what we call National

Assessment of Panel, who would look at those projects that we want to fund with the grant and approved them.

So I would have expected him to have said: I used Vrede Dairy at the time when it had only R 9 million because it was part of our projects.

CHAIRPERSON: H'm. Okay.

ADV GCABASHE SC: Can I make sure that the Chairman understands this fact, Ma'am? And this is what Dr Masiteng says. Just to go to the CASP example. He went to ask for
10 money for the Vrede Dairy Project in January of 2013.

So he does not deny his involvement as of the time of the deviation memo going forward because the deviation memo is a 2012 document.

What he says he was not part of was the development, anything to do with the development of this project up to the time that he signed that memo on the 26th, I think, of May 2012.

So I just do not want us to confuse issues. He did go to CASP to ask for money for the Vrede Dairy Project in
20 January 2013. That is clear evidence that is on record. Both from him and from Ms Mayisa. We are talking about these early stages where this project was being developed.

And with District Services was not involved in trying to deal with how this project should develop, should evolve, who should be involved, which implementing agent should be

appointed, et cetera, et cetera.

That is what we are dealing with. Those where the decisions that were taken is a different level.

MS DHLAMINI: Okay, Chairperson. What I was saying Chairperson. Advocate Leah is talking about Dr Masiteng went National in January 2013. That is when we are dealing with the planning and the preparation of the budget for the 2013/2014 financial-year which will start the 1st of April. But what I explained is, in that year of '12/'13 which is the year

10 ...[intervenes]

CHAIRPERSON: Of 2012/2013 financial-year?

MS DHLAMINI: 2012/2013, Chairperson.

CHAIRPERSON: Yes.

MS DHLAMINI: Which is the year, the financial year that in January of that financial year, he went and present this. But, however, I am saying, already at the beginning of 2012/2013 financial year Vrede Dairy was part of the project.

Maybe he did not know but I am saying the list that is to be provided to the CFO. When the CFO implement and
20 prepare the budget, it comes from National.

Maybe he could explain how the Vrede Dairy Project for that particular year with a budget of R 9 million found itself in the budget, in the list of the projects.

Because the 2013 presentation that he went and asked for is after Vrede Dairy has already been up scaled to be

another project. That is when he presented the project and he got R 53 million.

CHAIRPERSON: So ...[intervenes]

MS DHLAMINI: And that R 53 million would be implemented or take and used in the financial year 2013/2014.

CHAIRPERSON: So are you saying from early in 2012 or rather for the best part of 2012 calendar year which falls within the 2012/2013 financial-year for that period there is a lot of activity that happened with regard to the Vrede Dairy
10 Project.

And you are saying that part of what happened were preparations that would inform the budgeting for the 2013/2014 financial-year.

And you are saying that some of the information that would come to you ultimately as the CFO for budgeting purposes would have been prepared by his unit or his section and that would have included references to this project.

And you are surprised how that information it could have
20 found its way to you without him knowing about this project. Is that what you are saying?

MS DHLAMINI: That is exactly what I am saying, Chairperson.

CHAIRPERSON: Yes.

MS DHLAMINI: Hence I was trying to explain Chairperson

to say, probably what Dr Masiteng did not... was not part of, which I agree he was not there ...[intervenes]

CHAIRPERSON: At the presentation.

MS DHLAMINI: Is when the presentation was done. And that presentation is the one that necessitated this project to ultimately to be up scaled as another project but as a small project.

Maybe let me use that word even if it is not the correct word. As a small project with only R 9 million budget. It was
10 in the budget. It was appropriated.

And it went through District Services. It was under the budget of District Services. So hence I am saying, I do not know why he would say he was not aware of the...[intervenes]

CHAIRPERSON: Of the project.

MS DHLAMINI: ...of it. But I would accept if he said... I am not saying I am not accepting what he said but I would rather say I can say yes if you are saying when it became a mega project, I was not there. There I am saying he was not there.

20 **CHAIRPERSON:** H'm. H'm. Okay. Ms Gcabashe.

ADV GCABASHE SC: I will simply give you a quick example of the first deviation you know that somebody else find because he was acting. Masiteng was not part of that. He did not know about that.

So that is a quick example of an instance where a

document came from his unit that he knew nothing about. I really just to give you that context. That is the first example.

The second being. This is why I wanted us to be clear. Your financial year start in April. We will be dealing in a few minutes with that first document that came from Estina which was an April 2012 document.

So the documentation that was being prepared around the Vrede Dairy Project was documentation that was sitting at a high level. It was not sitting at the District Services
10 level.

MS DHLAMINI: Chairperson, yes I... in that regard, yes I agree because even the presentation was started from the HOD. So the notion that says it was driven from the top, I think it is correct.

CHAIRPERSON: Okay.

ADV GCABASHE SC: Last issue on this aspect. District Services is essential to the registration of beneficiaries. Is that not correct?

MS DHLAMINI: Yes, Chairperson.

20 **ADV GCABASHE SC:** I just wanted us to tick that box that District Services would be essential to the registration of beneficiaries. Let us talk about implementing agents because that is a very important topic.

So I am moving away from the top-down bottom-up issue to a different issue. This Commission has heard various, so

to speak, to implementing agents.

I really want to be brief because we have quite a bit of evidence on this but I think it is fair for you to give us your understanding of two things.

One, when did you start using implementing agents? First question. I will break on my question. So when did you start using implementing agents?

MS DHLAMINI: We started using implementing agents in 20... in the financial year 2011/2012.

10 **ADV GCABASHE SC:** Right.

MS DHLAMINI: That is when we started implementing agents. Because in 2011/2012 financial-year, I said I was transferred to Agriculture in 2010 which is the financial-year 2010/2011 and then we got audited.

And one of the issues which was a burning issue was issues of asset management especially those assets that will be sitting in the farmers. So the problem here Chairperson was before then the grant were classified as goods and services or capital expenditure.

20 The grant were classified as such and you procure... say you procure a tractor for a farmer. Because you procure it under capital expenditure of the department that tractor must get into the asset register of the department.

Now you come the time of the audit. This tractor is sitting in the asset register of the department but this tractor

is not in the department. This tractor is somewhere in QwaQwa and it has a bar code and it has been working for years or for months when as you want to verify the completeness of your assets register completeness is you can find all the assets that you have listed. You want to check that. All the assets you have listed in your asset register they are all there. Now you must check that. Then he said oh there is this tractor; I want to see it; I want to verify it and then you take the Auditor General to QwaQwa
10 and see here is the farm.

Sometimes you get to that farm they say no it has been leased to another farm. You go to that farm. Ultimately you find it. The problem now is after you have found it now that bar code is no longer there because it is a small thing. Now you cannot see it anymore.

Now as you saying but you cannot convince that this is the tractor. Yes I can see the tractor. The only thing that will convince him is when he sees the bar code. That the bar code in the asset register correlates with the bar code on
20 the tractor. But that bar code is no longer there. So that is where the problems started.

Then in – in that particular year then the Accounting Officer then was Dr Mohae took a decision to say we would rather use implementing agent and that in the financial year also where we went to Treasury and explained this that I am

explaining to the Chairperson around the complexities in managing the assets that would be in the asset register of the Department that does it somewhere in the farmers. And that is where we started to change the classification of – the classification of goods and service of the grant from being goods and services to being transfer payments which is transfer payments to farmers. Because if you – the conditions of the – the grant are saying they are for the farmers it is for summer support so they are not intended for
 10 the use of the Department.

They are not intended – even those assets are not intended to be the assets of the Department. They are intended rightly so to go to the farmers because the money used is supposed to support the farmer to buy cattle, to buy fodder, to buy feed, to buy all those things. So that in 2011 Chair 2011/2012 financial year where we started to use the implementing agents.

ADV GCABASHE SC: Is it correct however that an implementing agent has no role in the absence of the
 20 beneficiary? Mr Thabethe liked to call them the farmers. So it is the same term – farmer/beneficiary is that correct?

MS DHLAMINI: Ja no the implementing agent has no role in – in the beneficiaries. Their goal is only to assist us implement those projects like let us say we want to – we want to put up a chicken house he will help us to build that.

So basically, they do not really have a role in. Unless I do not understand whether it is in identifying or – or what – what does that mean Chairperson?

ADV GCABASHE SC: No what I wanted to understand from you is the only reason you bring in an implementing agent is so that they can do something that is going to benefit the farmer. Is that clearer?

MS DHLAMINI: Can you repeat that Chair.

ADV GCABASHE SC: The reason you bring an
10 implementing agent to do work that the department should be doing is so that the beneficiary; the farmer can benefit from whatever this implementing agent is doing. Am I right?

MS DHLAMINI: Whether we use the implanting agent – maybe let me ask – answer it that way. Whether we use the implementing agent or not implementing agent Chairperson the farmer would still benefit because whatever product that you come up with whether you buying cattle with that part and it is for a particular farm they will ultimately go to that particular farm.

20 **CHAIRPERSON:** I think – I think maybe Ms Gcabashe is looking for what I am looking for too and maybe you have explained it but maybe I just did not hear it or understand it properly. What was the justification or the department to say let us bring in implement – an implementation or implementing agent? What was the justification? What was

the motivation? I know you told me about the issue of the code and the tractor in QwaQwa or whatever but if that is – was the justification please repeat it? If that was just one example but the justification was broader just tell me?

MS DHLAMINI: Oh I – thank you Chairperson I think now I understand that. What is needed here is the justification. The justification – one of the just – or one of the reasons was the other problem that we are faced with is the issue around – was the issue around fruitless and wasteful
 10 expenditure. Was the issue about irregular – irregular expenditure? Because I remember definitely at that particular year when I arrived District [00:06:05] would be the one who source your – your – who source the quotations when they buy those things. Sometimes you – will come that time that the AG is going to audit some of this – some of this either – some of this goods and services would have not been delivered would say there is – I remember there was one particular project where it was said they bought some machines for those beneficiaries to do some salt – it was a
 20 salt project. They were going to manufacture a salt. But at the end of the day they did not receive those. So those are some of the reasons why a decision was taken to say we going to – going forward use the implementing agents and they would then be held accountable with all the expenditure. But the farmers still benefit.

CHAIRPERSON: So – so what gave rise to the idea of using an implementation agent was that there were challenges with regard to managing fruitless and wasteful expenditure. Is that right on the part of the department when before they came up with this idea of implementation agents?

MS DHLAMINI: I am sorry Chair to explain Chair that is correct Chair.

CHAIRPERSON: That was correct?

MS DHLAMINI: Yes.

10 **CHAIRPERSON:** Now precisely what was the problem? Why was it difficult to manage and control and prevent fruitless and wasteful expenditure before you had implementation agents? Why was it a problem – a difficulty?

MS DHLAMINI: The problem Chairperson was these projects are implemented at different – we are five districts in the province. They were implemented all over in all those districts and you find that one district have a lot of projects and the – the officials sitting in those districts would be the ones who would implement – would be the one who would
20 source – would be the one who sourced quotations as and when they procure.

So it was really a very cumbersome process. Because now you start to lose track of this – this expenditures of the processes if the processes was really properly followed. And at that time when AG comes then he

picks up all these things to say but in this case these people have received – they did not receive three quotations or – there might be – there was a whole lot of issues
Chairperson.

CHAIRPERSON: Is the position that officials of the department in different parts of the province were not able to ensure that either there was no fruitless and wasteful expenditure or that if there was fruitless and wasteful expenditure it remained within acceptable levels? Is that
10 what the problem was?

MS DHLAMINI: That is correct Chairperson.

CHAIRPERSON: Yes.

MS DHLAMINI: And the other problem was in this instances the very same officials they procure they even receive the goods and services before they go to the farmer. It is them who signs the receipts to say these goods and services being cattle or whatever have been delivered. So basically, what happens is they start a process and finish the process. So there was an issue around what we call segregation of –
20 segregation of duties.

CHAIRPERSON: Hm. But would those officials have received proper training for managing fruitless and wasteful expenditure? Or was the problem that they were not properly trained to deal with – or to manage fruitless and wasteful expenditure?

MS DHLAMINI: Chairperson I cannot say why it cannot – it was not properly managed. And I also cannot say they were not properly trained because let us take for instance the issue of fruitless and wasteful expenditure. It is a simple thing.

CHAIRPERSON: Hm.

MS DHLAMINI: When they – when I buy ten pants and the service provider brings ten pants.

CHAIRPERSON: Hm.

10 **MS DHLAMINI:** And I signed off to say – or brings an invoice.

CHAIRPERSON: Hm.

MS DHLAMINI: That says I have delivered ten pants I should have ensured that ten pants were delivered.

CHAIRPERSON: Hm.

MS DHLAMINI: Not that at the time when AG comes AG says ja but you – you paid for ten pants, you signed for the invoice but your ten pants are not there.

CHAIRPERSON: Hm.

20 **MS DHLAMINI:** It is a simple thing.

CHAIRPERSON: Hm.

MS DHLAMINI: Or you would expect anybody to know about it.

CHAIRPERSON: Hm.

MS DHLAMINI: And to be able to manage it.

CHAIRPERSON: Hm. You see I am concerned about the justification or motivation for using implementing – implementing or implementation agents simply because as I understand it the implementation agents would charge for their – for their services, would they not?

MS DHLAMINI: That is correct Chairperson.

CHAIRPERSON: And therefore, if you use your own officials then you do not pay for extra services. You use the money that otherwise you are now going to use to pay
10 implementation agents you use it for other projects. So – but – but you accept what do you say you do not know why the officials were not – were failing to manage fruitless and wasteful expenditure properly and you cannot say they were not trained to deal with that. And you say actually it is a simple thing it is just making sure that if you buy X number of items make sure that you receive X number and you keep proper records of that and you make sure the items are there. Is that right?

MS DHLAMINI: That is correct Chairperson.

20 **CHAIRPERSON:** Yes. So – but the – the benefit that the department saw in using implementation agents to overcome fruitless and wasteful expenditure that the officials could not manage. What was the benefit? How – how was that going to be controlled better if you do it this way?

MS DHLAMINI: I think the benefit Chairperson yes we then

did not have fruitless expenditure, we did not have irregular expenditure. We also have the quality also of – of the products that we getting especially with regard to the infrastructure was better than what we were getting when we were using our own – our own officials. Because even if our own officials the issue was probably – because you still use – you still use contractors. You still appoint somebody to come and do – and do the work.

CHAIRPERSON: The [00:13:45] gets them moved.

10 **MS DHLAMINI:** Yes I think the issue also goes to monitoring that with our own officials also monitoring was not really – was not really good. But with the comings in of the implementing agent monitoring became better. They would still have – it did not do away hundred percent with the challenges.

CHAIRPERSON: Hm.

MS DHLAMINI: But we could get a better – better products.

CHAIRPERSON: So what do you say to somebody who says therefore this idea of implementation agents was brought up
20 because management – the management of the department failed to do their job namely ensure that the officials in the various parts of the province did their job themselves in terms of making sure that fruitless and wasteful expenditure was managed properly. What do you say to that criticism?

MS DHLAMINI: I would agree with that criticism

Chairperson.

CHAIRPERSON: Hm.

MS DHLAMINI: Because that is the criticism you will also find in the – in the auditing – in our audit reports.

CHAIRPERSON: Yes. Yes okay.

ADV GCABASHE SC: Thank you – thank you Chairman. A couple of issues arising from the questions the Chairman has asked you and the one is the conclusion that one easily comes to on the explanation that you have given is that
10 using implementing agents allowed the department to abdicate its responsibility to keep an eye on the

1. How government monies were being spent.
2. What assets government actually had at the end of the day?
3. Whether it was getting value for money from the projects that the implementing agents were taking care of.

What is your comment?

MS DHLAMINI: My comment Chair would say no the
20 department did not adjudicate its – its responsibility. Hence I said challenges were – challenges are there and they are still there. But monitoring was happening though not at the speed at which it was supposed to. So to say the department we are abdicate if the correct wording with its responsibility I would say – I would say not really. Not

really.

ADV GCABASHE SC: Okay we move on to one or two issues.

CHAIRPERSON: Oh before – before you do that Ms Gcabashe I want to follow up on your question. But once there was an implementation agent or implementing agent I keep on forgetting what you call them.

ADV GCABASHE SC: They call them implementing agents.

CHAIRPERSON: Implementing agents.

10 **ADV GCABASHE SC:** Yes Chairman.

CHAIRPERSON: Once you had an implementing agent you as the officials; the management of the department you were monitoring the implementing agent and not the officials of the department in the various parts of the country you were expecting the implementing agent to be the one that would do your job as management of – of monitoring those officials, is that not so?

MS DHLAMINI: No the implementing agents Chair would implement the projects and officials in the department will
20 monitor the work of the implementing agent. They will get reports. They would go and check the projects. That the projects are in accordance with the specifications that were given to the implementing agent. So monitoring as I said monitoring was still there.

Probably what might have improved it is the service

providers that the implementing agent would then use in implementing those projects. They would have delivered the tar product. Because now – okay let me explain it this way. When you use an implementing agent say you want to put up a boiler house the implementing agent will appoint a – the contractor who will build the – and if – the responsibility of that implementing agent to make sure that the boiler house is built in terms of the specifications, your quality and everything and the work of the department is to get the reports, monitor the implementing agent, get the reports from the implementing agents and if they are not happy interact with the implementing agents with those reports.

CHAIRPERSON: No that is part of what I do not understand. You see where is my legal background? If you put me in an IT sector where I have no knowledge of anything but maybe I am the Chairperson of the Board or whatever I might say we need or I need somebody with the IT expertise and experience who will monitor these people who are – or this company that is providing IT services to my company because without the expertise I would not know when they do something wrong. I would not know when they – their work is below the acceptable standard so I need somebody who knows what is to be expected from an IT company that is doing A, B, C, D. Okay. And they must advise me. Now with you you are the Department of Agriculture. The person

– the people who are in the management of the department a lot of them are supposed to be people who are knowledgeable on agriculture. Okay. Now you are supposed to implement and monitor the projects that you do. They fall within your sector. Okay. Now I am talking about management not about you in particular. Okay. Because you might not have the agricultural expertise. You have the financial expertise but the HOD has got the agricultural expertise and so on. Now this is a job that you can do as
10 management or this is the job you are supposed to be able to do and to monitor and implement but you go and look for somebody else to come and do essentially your job as management of the department. Why? And you are going to pay more money but you are being paid to do exactly that job as management; why are you doing that?

MS DHLAMINI: Chair I hear what you are saying and I accept what you are saying.

CHAIRPERSON: Okay.

ADV GCABASHE SC: Thank you Chair if we might just go
20 on just a little longer if you do not mind; just into a little bit of the lunch hour? If that is in order?

CHAIRPERSON: Okay what is your suggestion?

ADV GCABASHE SC: Can I have another ten minutes?

CHAIRPERSON: Ja okay.

ADV GCABASHE SC: Thank you.

CHAIRPERSON: Okay.

ADV GCABASHE SC: Because I just want to finish this implementing agents section.

CHAIRPERSON: Yes.

ADV GCABASHE SC: If you do not mind?

CHAIRPERSON: Alright okay.

ADV GCABASHE SC: Thank you. Ma'am you see the difficulty as the Chairman points out but just in terms of what I have heard of the other testimonies of witnesses is this.

10 You – you abdicate your authority because what the implementing agent then does is appoint the sub-contractors that they prefer to appoint. It does not mean that those sub-contractors are going to be compliant with our BEE legislation our preferential policy framework, documentation etcetera. You as the Department say we are not the implementing agent it is the implementing agent who has sub-contracted. And that is why I say you abdicate the responsibility conferred on you in legislation to make sure that certain transformative steps take place even within the
20 agricultural industry.

MS DHLAMINI: Chairperson I hear that and I accept that.

ADV GCABASHE SC: I will give you a very quick example on the Estina Project because we will not go into too much detail we have done that already. Very many of the people that were brought to work in this country came from India.

Whether it was from Mr Prasad or Mr Yathabo [?] the consultants who prepared that – there is a R5 million feasibility study we have heard about that was prepared by people who are not South African. So a lot of the money we may find time later on to go through this – a lot of the money that you were paying to Estina actually went to consultants who were coming from everywhere else but South Africa. You accept that? I am talking about Estina and the Vrede Dairy Project.

10 **MS DHLAMINI:** Chairperson because I did not see who was implementation and monitoring of that project was not my responsibility and I did not have the – I did not see those but I take it that Advocate has checked and I – I accepted it.

ADV GCABASHE SC: In fact those facts are in the accounts that you would have looked at – the quarterly and monthly accounts and some of the invoices that would have been presented to you I presume so that you could authorise certain payments. But you are correct this is fact that we have on record. Can I ask you this related question? What
20 is the difference between an implementing agent and the managing agent and I ask because Estina was appointed as an implementing agent and the managing agent?

MS DHLAMINI: Chairperson I clearly cannot – cannot answer.

CHAIRPERSON: Yes.

MS DHLAMINI: Ja.

ADV GCABASHE SC: But you will agree there is a distinction between the two?

MS DHLAMINI: I think there should be but...

CHAIRPERSON: She might not know.

MS DHLAMINI: I do not really have the – I do not really have the definitions of the two unless the definitions of the two just to be put before me.

ADV GCABASHE SC: Again, it comes back to what you
10 were paying people to do. And when I say you, I mean the department. What the department was paying people to do. So Estina is one example where they were appointed both as an implementing agent and a managing agent. The FDC Free State Development Corporation is another example. They went – they were appointed – they were charging a ten percent management fee for the work they were doing. At the same time, they were getting capital amounts to implement the Vrede Dairy Project. You understand what I am saying?

20 **MS DHLAMINI:** I understand Chair.

CHAIRPERSON: Hm.

ADV GCABASHE SC: So for instance, so for the FDC the management fee would be ten percent. I am not sure whether you can quantify even if you look at the document Estina submitted how much was paid to them for managing

the project. It may be something you want to look at when we look at the – at the quarterly reports that you – your appendage to your supplementary affidavit.

MS DHLAMINI: What did?

ADV GCABASHE SC: The reason this becomes such an important issue and it is something the Chairman has traversed with other witnesses it is because of the manner in which you then paid implementing agents. You paid them by way of transfers. Transfer payments rather than paying them
10 in terms of any of the other lines of expenditure. I am correct you paid by way of transfer payments.

MS DHLAMINI: That is correct Chairperson.

ADV GCABASHE SC: And the transfer payment is a payment you take the payment you pay it directly to the implementing agent because it is a – most of those transfer payments came from conditional grants.

MS DHLAMINI: That is correct Chairperson.

ADV GCABASHE SC: And the difficulty we have had at this commission is in how you monitored where that money was
20 going to. What that money was doing for you? That is where the nub of the problem is. Because you transfer, you have not gone through a competitive bid. What are they – is the money being used for? It is in [00:27:09] purpose as the PFMA puts it. There our difficult lies.

MS DHLAMINI: I will explain to you Chairperson.

Chairperson when the implementing agent is appointed, the contract signed part of that contract – they are given projects to say you are given these ten projects to implement. Right. Now the department monitoring and implementation unit they will have to ensure that the money that was transferred was spent on those ten projects that were given to these particular implementing agents.

ADV GCABASHE SC: You see Ms Dhlamini the difficulty with your explanation is it is very general. You know that
10 with Estina and were paid before they rendered any services.
Fact.

MS DHLAMINI: Fact Chairperson.

ADV GCABASHE SC: And I am not just talking about the first R30 million that was supposed to deal with those first preliminary studies. I am talking about even the second amount which came to a total sum of R84 million. Even that money they were paid and you do not have a proper accounting of where that money was spent.

MS DHLAMINI: Okay Chairperson let me explain this.
20 Because if the transfer payment – let us start with the first – let us use this Estina or Vrede Dairy. You pay the first R30 million that R30 million the first R30 million they were – they were deliverables attached to it to say Estina when you get this money these are the following things that you must do which was phase 1 of the project which it was attached as

Annexure to the contract. And the nature of transfer payments you transfer the money; it gets used and then it gets to be accounted after that. That is how a transfer – transfer payments works.

ADV GCABASHE SC: In fact, because you deal with those monthly and quarterly accounts in your supplementary affidavit, I want us to unpack what you are saying when we get there. We will do that immediately after lunch. And I will tell you what the context will be just for you to reflect on. Mr
10 Thabethe of course as the HOD was – he was asked also – the questions around this. He took us to the agreement and to annexure A of the agreement which set out the milestones. He signed off on those having been achieved in circumstances where we established at this commission that most of them had not been achieved, so you are giving people money for what they say they have done when in fact had anybody gone to check and I would again say I would like to think the CFO does not sign off on anything until she has checked that these services have been
20 rendered.

So the difficult is with nobody monitoring exactly where this money was going and what its intended purpose was public funds were being spent in a manner that you had not anticipated. Turn to Chairperson.

MS DHLAMINI: Chairperson I hear what Advocate is

saying, firstly Advocate is telling me that the HOD himself signed and say this much has been achieved. As the CFO I think I have already explained at the beginning to say I am literally having two caps, I run the unit, that is financial management, I have my budget that I manage, and I have this other advisory role to the accounting office, so each and every manager, or ...[indistinct] manager have the budget, the person who is supposed to sign on that budget is the owner of the budget, in this case I would not have
10 known why those milestones were signed off by the HOD, because I would have expected those milestones to have been signed off by the District Services in particular the District Director, so I would not know why he signed for it, and any other service or any other invoice or any other report that would come of any other expenditure that would happen under Vrede Dairy would have been signed off by the District Services because that is the program that manages that expenditure, every CFO I manage my own budget, my own little budget which mainly I use it for
20 stationary, travelling of my officials, so that is how it works and even the council policy is very specific in those areas to say who is supposed to do what, otherwise if the CFO starts to do that then you're starting to manage other people's budgets and they may not be held accountable in terms of Section 45 of the PFMA.

CHAIRPERSON: But in principle if when a certain document is brought to you and it has got the HOD's signature but you know that it is supposed to also have other signatures, isn't the position that you will say but where – why is so and so's signature not here, would that be what you would ask to say, this document is supposed to have been signed by three people, now it has got one signature, so in principle you would want to enquire would you not?

10 **MS DHLAMINI:** Chairperson I did not enquire because overall accounting officer the budget belongs to the accounting office overall, so even if I have my own little budget if he feels that Madam CFO I want to take say one million from your budget and I am going to use it he can do that, because it is his budget, he has just given me that but at the end of the day that budget belongs to him as an accounting officer.

CHAIRPERSON: Okay.

20 **ADV GCABASHE SC:** Chairman I think when we come back, we will then look at those, first we are going to look at the agreement and the milestones and what Mr Thabethe signed off on, that is one area we are going to look at. The second area we are going to look at is the monthly and quarterly reports which you have annexed, which we had in any event in our bundle and the payments that were made

to Estina in terms of those reports, that comes to that monitoring function and your approval of the payments, that's the second issue.

The third issue we are going to deal with will be the R30million, the first R30million that you asked the Provincial Treasury to pay in on the 15th of June and the basis on which you asked for that. Those are three important areas that I think we will cover after lunch, that are important to the role that you discharged the CFO.

10 Chairman maybe we should then take the lunch adjournment and ...[intervenes]

CHAIRPERSON: Yes, no that's fine, just before we do that Ms Dhlamini I am going back to a question that you and I discussed earlier on. It seems to me that the justification and the motivation for using implementation agents certainly in regard to this project was not that the department did not have the expertise or people who could implement the project. It seems that it was simply that the department or people within the department who were
20 supposed to implement the project or projects such as these, because of problems that may have arisen before, no longer had confidence that they could do that properly and therefore thought they should bring in implementing agents to do what actually was a job for which they were being paid.

Is that a fair proposition?

MS DHLAMINI: Chairperson that fair proposition – that proposition is fair with regard to other projects, probably Vrede Dairy also but with regard to Vrede Dairy there were other elements Chairperson, you might be aware from documents that one of the things it was said is Vrede Dairy is also going to invest in that project, they are going to be an investor in that project whereby the department is going to put up a dairy parlour, which is where you will milk and
10 they would put up a processing plant which is where you would do your butter, your cheese and all those things, so it was likely not the same as others, so I think that's where the complication came with regard to Vrede Dairy.

CHAIRPERSON: But in so far as Estina's role was the implementation of the project that was something that could have been done by the officials even if PARAS/Estina was going to invest in the project, is that right?

MS DHLAMINI: Yes, and – yes Chairperson, however also the magnitude of the project I think necessitated the skills
20 that really highly qualified officials or people who have managed that, and looking at the – looking at the background that were given around PARAS especially to say it is the largest dairy in India, you stated that the skill that they are having is far above the skills that our officials are having and also with regard to the processing plant

that they were going to put up, but I am mindful
Chairperson that yes our officials could still have done it.

CHAIRPERSON: But when you give the answer that you
have given me and you say the skills required for the
recommendation of this project were higher or much higher
than the skills that officials of the department had are you
saying that on the basis of a clear knowledge of skills the
department's officials, relevant officials had or are you just
saying that when you look at the project and you think we
10 didn't have officials who had these required skills.

In other words, are you saying that having applied
your mind to what skills the officials in the department,
relevant officials had?

MS DHLAMINI: Chairperson I am saying this in
comparison to what we are told what is PARAS, how long
they have been in the business, and ja if I compare that
skill with what the department was having I presumed that
they might have better skills than what we had.

CHAIRPERSON: Yes so in other words your answer is
20 when you give me that answer it is not based on you
having applied your mind to the skills that the relevant
officials of the department had, you look at what was said
about PARAS and you say probably they had better skills.

MS DHLAMINI: Correct Chair.

CHAIRPERSON: Mmm, okay, alright.

ADV GCABASHE SC: Chairman if I might just ask Ms Dhlamini to reflect on this aspect arising from what you said, we traversed this with other witnesses.

CHAIRPERSON: Yes.

ADV GCABASHE SC: We had VKB expert, we have VKB expertise in the country and there are other organisations, agricultural entities that do the kind of work that PARAS was invited to come and do. There is also the issue of whether Parlamat, DairyBelle, some of these other dairy
10 producers were invited, we have traversed that, and here I am just dealing with the skills issue that you raised and the Chairman raises in the context of officials but I am raising it in the context of using local people as opposed to bringing expertise from outside.

So that's just something to reflect on, we will touch on it very shortly and then I would like you also just to when you talk about Estina being a big investor I will be showing you a document that says just before the first 30million was paid into their account they had R16 in their
20 bank, R16 and some cents in their bank. This all goes back to what you were supposed to interrogate at every level of this project as the CFO, not as the HOD, as the CFO, and these are the kinds of examples that I will be placing before you after lunch.

Chair I just wanted to get that context.

CHAIRPERSON: Yes thank you, we are going to take the lunch adjournment, the time is twenty past one, we will resume at twenty past two.

We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay, let us continue. But before we continue. Let us talk about some practicalities. I do not
10 know what your own assessment is Ms Gcabashe, whether we will finish it by four or not, but I want to talk about a situation where four o'clock we are not done. I just want to indicate that from my side I would be available to sit beyond four o'clock and want to check whether everybody is fine with that.

ADV GCABASHE SC: Chairman, all of us including Ms Dhlamini's legal team will be available.

CHAIRPERSON: Yes, yes.

ADV GCABASHE SC: Ms Dhlamini, you are able, are you
20 not?

MS DHLAMINI: I am available, Chair.

CHAIRPERSON: Yes, okay. Thank you.

ADV GCABASHE SC: Thank you, Chairman. Chairman, I thought that - because this is an important part of Ms Dhlamini's evidence - we should go to her Exhibit HH16.1.

Ms Dhlamini, page 15. And talk about your role in verifying the payments for the Vrede Dairy Project.

MS DHLAMINI: Which page, Chair?

ADV GCABASHE SC: One... I beg your pardon. It is page 53. The black numbers. You are correct to ask. Page 53 of the black numbers, Estina 01.

MS DHLAMINI: [No audible reply]

ADV GCABASHE SC: Estina 01.

CHAIRPERSON: Estina Bundle 01?

10 **ADV GCABASHE SC:** 01.

CHAIRPERSON: Okay.

ADV GCABASHE SC: Page 53.

CHAIRPERSON: And page one five?

ADV GCABASHE SC: No, sir. It is 53.

CHAIRPERSON: Five three?

ADV GCABASHE SC: Five three.

CHAIRPERSON: Okay. Thank you.

20 **ADV GCABASHE SC:** Now just as a quick bit of background to this section. I had a range of questions but I actually do not think it is necessary to go through all of them, Ms Dhlamini. You confirm that you attended a presentation by Estina on the project?

MS DHLAMINI: Yes, Chair I confirm.

ADV GCABASHE SC: So you learnt all about that project at that presentation?

MS DHLAMINI: Yes, Chairperson.

ADV GCABASHE SC: Had you heard about it before that about Estina's involvement? Let me be specific, before that.

MS DHLAMINI: No, Chairperson.

ADV GCABASHE SC: Good. What was the expectation? What were you supposed to do with the information you were given on that day?

MS DHLAMINI: Chairperson, on that particular day nothing was expected of me because after the presentation the
10 decision was... the economists must go and look at that presentation which I presume would have had their problems. So it was referred to the economists to have a look at it.

ADV GCABASHE SC: Were any particular documents given to you on that day?

MS DHLAMINI: Chairperson, I really cannot remember. What I remember, the presentation was a PowerPoint presentation.

ADV GCABASHE SC: Were you expected to interrogate the
20 two gentlemen who were making the presentation at all? So by way of example where they will bring in an investment of R 224 million? Were you expected to engage them on that?

MS DHLAMINI: I was not expected Chairperson. I was just invited to the meeting to come and listen to the presentation.

ADV GCABASHE SC: And then, were you also not

expected to ask about a feasibility study, a business plan or any of those particular milestones at that meeting?

MS DHLAMINI: As far as I know, I was not expected.

ADV GCABASHE SC: Last one on this aspect. This is just to give context on how you analysed the submissions on invoices. The last one relates to... they, of course, have a memorandum of understanding that they have signed on the 11th of April 2012. It is a memorandum of understanding between Estina and Paras. Do you know about that
10 memorandum of understanding?

MS DHLAMINI: I... yes, it was mentioned in the presentation that there is a memorandum of understanding. I got to know the actual documents when the submission came to me because there was reference to that and in ascertaining that, I did ask for that memorandum.

ADV GCABASHE SC: So you took this information and simply held onto it after you left that meeting on the 15th of Ma 2012?

MS DHLAMINI: You say, I took it and...?

20 **ADV GCABASHE SC:** The information and just held onto it essentially.

MS DHLAMINI: Ja, I listened to the presentation. I held on the information and ja. Until the submission came. That is when then I looked at it in more details.

ADV GCABASHE SC: That submission, is that the one on

page 59 of your bundle, the same bundle, Estina 01, page 59? Is that the submission you are referring to?

MS DHLAMINI: Page...?

ADV GCABASHE SC: Five nine.

MS DHLAMINI: That is the submission, Chair.

ADV GCABASHE SC: And what exactly were you expected to do here, Ma'am?

MS DHLAMINI: Chairperson, as I have already alluded to, that every submission in the department that has got a
10 financial implication will be send to the CFO. You will find the CFO signature in all the submissions.

As long as there is a financial implication where the department would have to spend money, you would find the signature of the CFO.

So basically, with regards to this submission, I would then... I was expected to confirm the availability of the budget. That is in the main. To deal with the financial implication thereof.

CHAIRPERSON: Would you, when a document or a project
20 that has got financial implications or a document that talks about something that has got financial implications that gets brought to you, when it comes to you, are you expected to simple indicate whether there is budget available?

Or are you supposed to go beyond that including, yes there may be budget but this is not the way to use money?

You are wasteful. You will be wasting money if you do it this way, for example.

MS DHLAMINI: It depends. Chairperson, it depends on the kind of submission what you are expected to do. Let us take for instance a submission where we are appointing officials, first appointments.

That submission has got financial implications. All what I am expected to do is to confirm that the budget is there. That is what my signature is as a recommendation talks to.

10 **CHAIRPERSON:** H'm. H'm. But would you, for example... so from your answer, it seems that you are saying it depends on the document. Sometimes all you would be required is to indicate whether there is a budget and nothing more.

But there may be another situation where the document is presented to you, requires you to do more than just to simply say, there is budget.

Including saying, although there is budget but you will be wasteful if you use this budget for this. Am I right to understand your evidence in that way?

20 **MS DHLAMINI:** That is not really what is required of the CFO Chairperson. Because as I have indicated that Section 45 of PFMA gives a responsibility to different programme managers when they are implementing their budget for them to know better what they want to use their budget for.

CHAIRPERSON: So are you saying, as CFO it does not fall

within your responsibility when a document is presented to you that has got financial implications to say, but if you use this budget in this way or for this purpose you will actually be using taxpayers money not properly or effectively or efficiently?

MS DHLAMINI: When you put it that way Chairperson, yes. One of the things you check as the CFO, is this money the way it is being supposed to be used? Is it according to how it is has been appropriated? Is it according to the intended
10 purpose? You would also look at those things.

CHAIRPERSON: H'm. Okay.

MS DHLAMINI: Yes, Chairperson.

CHAIRPERSON: Okay alright.

ADV GCABASHE SC: Thank you, Chair. If you then look at page 61 where your signature appears.

MS DHLAMINI: [No audible reply]

ADV GCABASHE SC: Are you telling the Chairman, this Commission, that what you were approving were the financial implications of this project? Or what you are recommending,
20 in fact, is a recommendation from you, was what is written above your signature? One:

1. It is recommended that the project is granted to accept the proposal from Estina with regard to Vrede Dairy Integrated Project.

The first thing you are recommending.

2. You are recommending approval that the department enter into a partnership with Estina to implement the integrated dairy project in Vrede.

I just want to be clear about what you are recommending for approval here.

MS DHLAMINI: Thank you, Chairperson. Chairperson, in the main, I focused on the first bullet point where it says: “Accept the proposal from Estina with regards to the Vrede Dairy Project”.

10 And the proposal in the main seeks to say they are going to... they seek to partner with the department. They seek to invest in the Vrede Dairy but, however, it gave figures to say, this is the budget that would be implemented.

So if you accept this proposal it means you are saying there is that budget that the three... I think it was 300 and not... No, I think it was R 342 million VAT inclusive. That will be required from the department in totality.

20 But with regard to this particular submission, what was required immediately was the R 30 million. So I looked at both the financial implications in totality and for the purpose of this particular submission.

And I recorded that Chairperson, at the time when this submission or when this proposal was brought to the department, Vrede Dairy was budgeted only R 9 million.

So clearly, yes, the R 342 million was not there. The

R 30 million was not there. So what I did before I signed this submission, I went to the HOD.

I discussed with the HOD the financial implications in a way that I am advising him of the financial implication of this. And indicating to him that the department does not have this... of this project, has not been budgeted to that amount of money. It only has R 9 million.

And the answer I got from the HOD is, he will be prioritising the budget in order to accommodate this project
10 and I accepted it.

Before I accepted it, what I did, I checked. If he is saying he is going to reprioritise, firstly, I need to check. Does the department over the MTEF period, which is a period of three years, does it even have that kind of budget? If he reprioritise, will it be able to accommodate this project?

And when I checked the budget that was available, I realised, yes it is possible if he reprioritise. It will be able to... he will be able to accommodate this project.

And furthermore, with regard to the R 30 million. I also
20 said in this financial year we do not have that R 30 million. We only have R 9 million. And the same answer was to say he is going to... there will be a reprioritisation of the budget.

ADV GCABASHE SC: Okay and ...[intervenes]

MS DHLAMINI: And to this effect, Chairperson. In my affidavit, I have attached a document that shows that the

budget was indeed reprioritised and it... then this project was able to be accommodated.

ADV GCABASHE SC: Can I raise two issues from your answer?

MS DHLAMINI: Yes, Chair.

ADV GCABASHE SC: The first one is. If you look at bullet point A which is... or the first one, which you say is the first one which you focused on: "...accept the proposal from Estina with regard to Vrede Dairy Integrated Project."

10 Were you not committing the department to providing funds that you had not appropriated or that you had not tried to provide for as required by Section 38(2) of the PMFA?

Is this what you were discussing with the Head of Department, that you were now looking at a three year period, you were being asked to provide R 342 million, you had not made any provision for that at all? Why were you approving that first bullet point?

MS DHLAMINI: Okay, Chairperson, as I have already indicated, that I have asked the HOD and the HOD said I
20 will reprioritise. In reprioritising means he will take money from either other projects and fund this project. Now that is in the first financial year.

The second and the third financial year, my role now is to ensure that this project is budgeted for and we are not going to – the department is not going to

reprioritise any further and as I said, I looked at the budget that was available over the MTEF, if it will be able to accommodate the reprioritisation that HOD is talking about and I was satisfied that it will be able to accommodate it.

ADV GCABASHE SC: Please take us the document you say is in this bundle that shows that that reprioritisation was possible. Is it the one on page 316?

MS DHLAMINI: I will tell you now-now, Chairperson. I want to go to the specific budget voted that will be able –
10 which will be easy to understand, Chairperson, hence I am struggling a bit to get there. That will be page 143 of my – of you call it HH16.1.

ADV GCABASHE SC: That is the black number you are reading, nè?

MS DHLAMINI: That is the black number I am reading, Estina 01143.

ADV GCABASHE SC: Yes, that says annexure S5.

MS DHLAMINI: That is the document.

ADV GCABASHE SC: Yes and then over the page?

20 **MS DHLAMINI:** Oh, let us go to page 147 that says four receipts and financing. 4.1, Summary of receipts, the following sources of funding are used for the vote. If you go to that particular paragraph, Chair, you would realise that that is conditional grants. There is a line that says equitable share.

CHAIRPERSON: Yes?

MS DHLAMINI: Just on the equitable share, the department had 360 – okay, you have column one, two, three, four, five, six, I want to Chairperson to focus on the last three columns of that table.

CHAIRPERSON: Yes, under midterm estimates.

MS DHLAMINI: Under summary of ...[intervenes]

CHAIRPERSON: Medium term estimates.

MS DHLAMINI: Yes, under medium term estimates.

10 **CHAIRPERSON:** Ja?

MS DHLAMINI: We are on 2012/2013, that is when the project started.

CHAIRPERSON: Ja.

MS DHLAMINI: Under the equitable share alone the department had 360 for 2012/2013. '13/'14 363 million. I am not reading the entire – I am just...

CHAIRPERSON: Ja, you are rounding off.

20 **MS DHLAMINI:** I am rounding off and '14/'15 the department had 358. Just only on the equitable share but I am not going to focus on the equitable share, Chair, I am going to focus on the conditional grants.

CHAIRPERSON: Yes.

MS DHLAMINI: Because those were the funds ...[intervenes]

CHAIRPERSON: The figures here are in millions, hey?

MS DHLAMINI: Chair?

CHAIRPERSON: The figures here are they in millions?

MS DHLAMINI: They are in millions.

CHAIRPERSON: Ja, okay.

MS DHLAMINI: Yes ...[intervenes]

ADV GCABASHE SC: Can I ask you just to pause while you are at the equitable share, Ma'am, because we are then saying that those three sets of figures for 2012/2013, 2013/2014, 2014/2015 represented the equitable share that
10 would be given to Agriculture for all projects, for everything under Agriculture. Please correct me if I am wrong.

MS DHLAMINI: Yes, the equitable share, Chairperson, is for all – in the main it is for the running of the department. Yes, you might have some monies that might go to the projects but in the main we would use it for compensation of employee and the running costs of the department.

ADV GCABASHE SC: That is correct, so you really could not rely on those amounts for one dairy project and I
20 accept that you are comfortable with that proposition because you were about to take us to the other sources of money.

The point I really make is that it is very important for the record to reflect that the amounts you have just given to the Chairman represented all the money that the

department would have had at its disposal to do the work it is enjoined to do for those financial years. That is an important point. Proceed, Ma'am?

CHAIRPERSON: I take you accept that proposition?

MS DHLAMINI: I accept the proposition but I want to clarify further, Chairperson.

CHAIRPERSON: Ja, okay, alright.

MS DHLAMINI: By saying in that equitable share you would find compensation of employee when you classify it
10 down and you will find goods and services. The portion of goods and services, even there HOD could still tap on that portion. The part that he could not touch is the part that would have talked to – the part that was talking to compensation of employees. That he could not touch but the other

CHAIRPERSON: Portion.

MS DHLAMINI: Portions, he could also tap into that.

CHAIRPERSON: Yes, oaky.

ADV GCABASHE SC: Can I add the rider in that case that
20 what you would also have to be careful about is your own SCM policy which, of course, cascades down from the Treasury regulations especially 16A, that any procurement over 500 000 must go out on a competitive bid.

So if you were looking at this money, knowing full well you had not gone out on a competitive bid, not by the

26 May, anyway - you did not at all but that is further point – you had to be aware that as you were discussing the issue with the HOD, this money, if you were going to tap into it, must be used in compliance with all the legal prescripts including the supply chain management policy document. They are real constraints, you cannot just spend money, you had to do it in a specific way.

MS DHLAMINI: Thank you, Chairperson. If ...[intervenes]

CHAIRPERSON: Okay, I just want to know, are you
10 accepting the proposition, are you not accepting or you are accepting with an explanation? I just want to know so that as we move forward, I know what your attitude is to what Ms Gcabashe has put to you.

MS DHLAMINI: Okay, Chair, I am accepting with a further explanation.

CHAIRPERSON: Okay.

MS DHLAMINI: Let us say for instance HOD decided to say from goods and services I am going to take 10 million and I am going to take it to Vrede Dairy, that would then
20 mean he is changing the classification because Vrede Dairy is being appropriated under transfer payment. Now we will be increasing the transfer payment and if you increase transfer payment you would then go to Treasury for approval or you will wait for the Adjustment Appropriation Act because now it is a new Act, after the

main Appropriation Act.

So you could still do that but there would be those two conditions to be met. Either you will wait for the Adjustment Appropriation Act or he goes to Treasury and ask to increase the transfer payment and now when it gets into Vrede Dairy now, you would then apply the prescripts that applies to transfer payment because it would have now been reclassified into transfer payment.

CHAIRPERSON: Okay.

10 **ADV GCABASHE SC:** Continue, Ma'am.

CHAIRPERSON: Yes.

ADV GCABASHE SC: You were going to go to the next source of funding.

CHAIRPERSON: The next source of funding, Chairperson, was the conditional grants and these conditional grants that we have, CASP, Ilima/Letsema, mainly CASP and Ilima/Letsema and Land Care. Those were the grants that were meant for farmers, that were for the purpose of support to the farmers, that were for the purpose of
20 support to the farmers.

So even in that – and those conditional grants had 194 million, 206 million and 212 million over a period of three years which clearly exceeds on that note alone, clearly exceeds the 300 million – 342 million that is required.

ADV GCABASHE SC: Again, can I ask you to reflect on this proposition. Those conditional grants you had to go and motivate for, I am correct?

MS DHLAMINI: Correct, Chair.

ADV GCABASHE SC: Those conditional grants would tell you how much you can actually take and use on a specific project. By way of example, how much you can give to Vrede Dairy Project, am I correct?

MS DHLAMINI: You are correct, Chair, but let me explain
10 it a bit to say they would not say how much you can. Rather, I would be comfortable to say how much would have been budgeted on those conditional grants for a project because there is no specific formula that says if you come with Vrede Dairy this is how much you can take.

That would come from the business plan that would have been prepared by our planning section in the department to say the department wants to do Vrede Dairy and when they do their estimates we have all – they will have the information what does it entail in the Vrede Dairy
20 and they would then say this is the amount of money that would be needed. So that would that be the amount that would have been budgeted for projects and approved.

ADV GCABASHE SC: Can I again just get clarify from you because we know as a fact that when Dr Masiteng went to CASP to make the presentation for money, the CASP

grant that was approved was for 53 point something million. That is a far cry from the 206 that – I beg your pardon, from the 140, that is the line item here under 2013/'14.

The simple proposition is, you may wish for one thing but you would get something different.

MS DHLAMINI: Yes, Chairperson, Advocate is right. However, we are talking – I thought we are going to start with 2012/2013 because '13/'14, when you go there, there
10 is another Appropriation Act for '13/'14 which will then show yes, at the point when we were dealing with the planning and the budget process from CASP, 53 million was approved for this project but the 114 was budgeted, then I was going to indicate when I go to the next appropriation where the 60 million came from in the that particular year.

Chair would remember at the start I said for the first year, when the project starts, 2012/2013, that is where the reprioritisation happened but for '13/'14 and '14/'15 the
20 budget was there, it was budgeted for fully.

ADV GCABASHE SC: If we go back to where you wanted to be Ms Dhlamini which is 2012/2013 what you have to remember is, the document that we're interrogating is the approval document, you signed that on the 26th of May 2012. You are already in the new financial year

2012/2013, you are approving a project that says you need to find R340million there's no feasibility study, no business plan you have not even signed an agreement yet with Estina, are you saying that despite those constraints you were comfortable with saying to – in your discussion with the HOD, saying to him, I think this is doable irrespective of the fact that our base documents that we need are nowhere in sight, we just don't have them?

MS DHLAMINI: Thank you Chairperson, to start with you
10 would not have signed – the first thing you must accept, if the proposal comes, you must first accept the proposal before you can sign an agreement, secondly, on the issue of the feasibility study, part of the project money, when you plan the project, the total funding of that project would include costs for your feasibility study and cost for your impact assessment EIA, Environmental Impact Assessment. So – and there would be other costs that are preliminary costs, even before you put – if it's a structure that you're going to put up, even before you put up that structure, you
20 would have incurred those costs, so they form part of the costs of the project?

ADV GCABASHE SC: But ma'am it is also correct that as you would be looking at those costs at this stage of the proposal stage, because we are currently looking at proposal through to what you thought would come

available, that's really what we are discussing.

MS DHLAMINI: Yes.

ADV GCABASHE SC: In the budget, even as you're looking at that proposal there were no – there was no detail that you were familiar with, with regard to how much the feasibility study would cost, what exactly they would be doing, all of the types of detail that, essentially led to that agreement of the 5th of June 2012 being found to be invalid. I don't really want to focus on that right now; all
10 I'm saying is that the same issues would have arisen had you discussed this proposal with the State Law Advisors as you discussed it with Mr Thabethe.

MS DHLAMINI: Thank you Chair. Chair, you would only know about those details after you have commissioned the project. When the project has started, because the first thing, when it has started and you have transferred – you have made the first transfer payment, they would use that money for feasibility study, they would use that money for Environmental Impact Assessment and the like and the
20 like. Hence the final contract that was signed had that Annexure A that would say as a first phase of this project the following should be done. So that R30million would be used for that and it's basically an estimate, it does not necessarily mean it will – those things will, exactly cost that or – they can be ore, they can be less it's just an

estimate that you are saying, as a start of this project this is how much I'm transferring so that you can begin with your – the feasibility study and all that.

ADV GCABASHE SC: Please continue, Ms Dhlamini, you were taking us through the rest of these figures.

MS DHLAMINI: And then I was saying, Chairperson, if you look at that, because that where I was saying, I looked at this budget to check as to – over the period of three years does this budget cover, can it cover, if HOD
10 prioritises, can it cover the R342million and I was satisfied that it can do that, hence I then – after my discussion with him, I then signed the submission and I further said, Chairperson, now is the first day 2012/2013 that will be the prioritisation but going into 2013/2014, 2014/2015 I must make sure that we are no longer going to do the prioritisation but the budget is there the project is funded properly, during the budget process each one must make himself clear to say, this is how much I'm going to give for Vrede Dairy.

20 **CHAIRPERSON:** Help me with something here. I would have thought that before there is approval that the department goes into a partnership with Estina, in regard to this project, the feasibility study would have preceded that stage so that if the feasibility study revealed that this project would not be viable then he would not enter into

the partnership – the department would not enter into any partnership with Estina and that you would only enter into a partnership with Estina after the study had revealed that this project would be viable?

MS DHLAMINI: Ideally, Chairperson, it would have happened that way but like I said at the beginning to say, Vrede Dairy was already in the budget, it was already in the books with a budget of R9million. So, I did not have the specifics as to what was the intention of the R9million,
10 I don't have those specifics, those specifics would be with the Project Managers or the District Directors.

CHAIRPERSON: It just seems strange to me that you and the HOD approve that the department should enter into a partnership with Estina for a specific project in circumstances where, as I see it, you haven't done the right homework and for me the right homework includes a feasibility study to say, will this project be viable, you understand where I'm coming from?

MS DHLAMINI: I understand where you are coming from
20 and I accept that Chairperson but as far as I can know, all the projects that were started, part of the first monies that would be spent on issues like feasibility study. I'm not thinking of any project where it was in the budget and there was the feasibility study before the budget was put aside because it's part of the planning, you plan to say, I'll

put this much and you know that you might – one of the things it's feasibility study that you'd do, Environmental Impact Study and all those things.

CHAIRPERSON: Hmm, Ms Gcabashe.

ADV GCABASHE SC: Thank you Chairman. I don't know if there is anything else you want to point out in respect of the provision you believed would be available?

MS DHLAMINI: No there's nothing more I want to – that I want to point out Chairperson.

10 **ADV GCABASHE SC:** Okay so we're back to – we were just sketching the background factors that you were aware of at the time that you then had to start making these particular payments. Let's go to that because we'll then come back to deal with the very first payment of R30million but take me to the payments that you had wanted to indicate. I don't know if that's the one that starts at flag number 13 which is at page 312, is that where you want us to go to?

MS DHLAMINI: I'm going to tell you.

20 **ADV GCABASHE SC:** Unless you want to look at your affidavit ma'am, which is, again page 53 and just go through, in summary what you say here, it's up to you, I just want you to explain your role in verifying the payments, whether you do it by way of a narrative, which is what you've got in your paragraph 12 or whether you want

to actually indicate on the Annexures you've put in here, we are in your hands.

MS DHLAMINI: Chair, I prefer to go to the Annexure, I'll explain it better that way.

ADV GCABASHE SC: And that's Annexure number?

MS DHLAMINI: That's Annexure S13.

ADV GCABASHE SC: Yes, and S13, Chairman, you will find – it starts at page – Estina 01, 312 the actual figures start on the following page, 313. We are in your hands
10 ma'am.

CHAIRPERSON: Thank you.

MS DHLAMINI: Thank you Chairperson. Chairperson if you go to page – lets skip page 313, basically it's – it's just our records, let's also skip page 314, because it's just a record. If you go to page 315, that's the actual payment – it's written there, sundry payment advice that's the actual payment that needs to be approved when a payment is done. The person would realise from that page that there's no signature – those three signatures, none of them is my
20 signature. You have the first signature, its A C Meyer, the second signature, which had been verified, is S M K Schalkwyk and the last signature is for Mr Thabethe as the HOD who has authorised the payment. This takes me back to two things that I've already...[intervenes].

CHAIRPERSON: I'm sorry – oh this is the payment of the

R30million – no R30 000 what is it?

ADV GCABASHE SC: R30million Chairman.

CHAIRPERSON: Yes, okay.

MS DHLAMINI: Yes, this is the payment of R30million.

CHAIRPERSON: Yes.

ADV GCABASHE SC: And just for clarity, this is the first R30million that you paid in – it eventually was paid in July of 2012 even though it was requested in June of 2012?

MS DHLAMINI: That's right, that's right Chair.

10 **ADV GCABASHE SC:** And this is the R30million, if I recall correctly, from what you said before lunch, this is the R30million that was supposed to cover the preliminary exercises, feasibility study etcetera, etcetera, all the ones that are on Annexure A of the agreement?

MS DHLAMINI: That's correct Chair.

CHAIRPERSON: You mentioned that you...[intervenes].

MS DHLAMINI: So, I was saying, Chairperson, this then takes me back to two things that I've spoken about. Section 45 of the PFMA which gives responsibility to other
20 officials in the department that would then give – what gives effect to that in the budget is, every Programme Manager – the budget is divided into programmes, so those programmes has got Programme Managers, mainly the Programme Mangers would be the Executive Management. In this case this budget would have sat under programme,

Farmer Support Development which the Programme Manager is Dr Masiteng. So, on this particular day Dr Masiteng was not there, Mr van Schalkwyk was acting so hence he signed there as the person who verified and checked the payment.

ADV GCABASHE SC: Did you speak with Mr van Schalkwyk about why he was approving this payment, before you recommended it onto the HOD?

MS DHLAMINI: Chairperson, I didn't speak to Mr van
10 Schalkwyk because this particular payment did not come to me and – because the person who compiled this particular payment was Ms Alta Meyer who was, I think by then was acting District Director Thabo Mofutsanyane and then from there it went to the HOD and HOD authorised it. The only time it came to my attention is when it came with the certificate that I needed to sign to go to Treasury. Now I'm going to talk very technical things. When you make a payment...[intervenes].

CHAIRPERSON: I'm sorry before you do that, I just want
20 to ask this question but you must tell me if it's a question that will be explained as you go along, okay. You mentioned that – you make mention of the fact that your signature doesn't appear here in this document, is there a particular significance to that, or not really?

MS DHLAMINI: The reason why I'm showing that my

signature does not appear here, is because – hence I said it gives effect to Section 45 of the PFMA where the Manager, manages his or her own budget. So, this is the budget of the District Services, they managed the budget they don't really have to ask me how they use their budget.

CHAIRPERSON: Okay.

MS DHLAMINI: So, it was not necessarily a requirement that it must come to me and I will explain why others came to me.

10 **CHAIRPERSON:** Okay.

MS DHLAMINI: The second thing that I wanted to show, which is what Advocate Gcabashe talked about at the beginning when we were starting – when we were referring to, I think the task of Mr Thabethe and Dr Masiteng were Dr Thabethe said he was relying on me and at that point I made a comment to say, not always because he could sign this payment without coming to me.

ADV GCABASHE SC: Can you then explain, and I know I'm jumping issues a little bit but I know you are able to –
20 because this is what you did, you can explain it. Can you then explain why it is that you then went to treasury to ask for this payment, was it because you were the only person who could sign that certificate?

MS DHLAMINI: Okay, let me explain that, that the Chairperson stopped me at. When you make a payment in

the Department, any payment that is above R1million, it must go via Treasury, any payment that is less than a million – I think a million and above, it goes to Treasury less than a million, that's what we call, interface. You capture it into our financial system, it automatically interfaces with the bank and the bank will pay automatically the intended beneficiary but any payment that is a million and above, it will then go to the Provincial Treasury. There's what we call BCT, it's Bus Credit

10 Transfer, that's why I was saying, Chairperson, I'm going to talk to technical things now that might not, maybe make sense to you. So, there's that document that would come, when the payment is above – is a million and above, that document would come from this – the system generated forms or documents that would come. That would need the signature of the signatories, each and every bank account, it has got signatories – there's officials are designated to be signatories, that would need that but except that there's also a certificate that the CFO must sign. That certificate

20 goes to Treasury, together with that payment, together with supporting documents so that Treasury can instruct the bank directly, that's what we call direct transfer. Treasury could then instruct the bank to say, transfer this money into this particular intended bank, beneficiary payee's account. The certificate that I sign, as the CFO

Chairperson, would be found on Estina 01, 328, it's an example of that certificate but any payment that comes – this particular certificate does not relate to this payment *per se* but all the payments that are above one million – a million and above would come with a certificate.

CHAIRPERSON: Where is that certificate again 31..?

ADV GCABASHE SC: 328.

MS DHLAMINI: 328.

ADV GCABASHE SC: Estina 01, 328.

10 **CHAIRPERSON:** Okay I just want to, just see – yes you may continue.

ADV GCABASHE SC: And if you check that certificate, is that certificate payment confirmation.

20 “It is hereby confirmed and certified that the payment listed above were duly authorised by mandated officials in the department. The payments are for expenditure, in checking up on this with the vote of the Department, that's in terms of the Appropriation Act offsetting this payment will not result in unauthorised expenditure for the Department. The expenditure was accurately and correctly allocated and classified under correct budget allocation. Payments against earmarked funding and conditional grants where relevant for expenditure incurred under specific purpose for

which the funds were appropriated for”.

Basically this is what I confer, and this is what I was trying to explain, that my duty, when the submission is there, has got financial implications it's to ensure there is a budget – it's to ensure that you – by approving this expenditure you are not going to cause unauthorised expenditure, it's not going to exceed the budget and it's allocate properly in the system. Meaning you are not paying against – say you budgeted a laptop but you are
10 paying for the pen, you are not paying a pen against a laptop, that is what we call, allocated properly in the system. So those are the things that we need in finance but we deal with these issues after the payment advice has gone through and authorised as such and that process will always and always starts with the budget owner, thank you Chair. Furthermore, Chair if you go to...[intervenes].

CHAIRPERSON: I'm sorry the budget owner would, in effect, in terms of the programme be the same as the Programme Manager, in the case of a programme, a
20 particular programme?

ADV GCABASHE SC: Yes, by programme I mean the ...[intervenes].

CHAIRPERSON: The project.

MS DHLAMINI: Not the project.

CHAIRPERSON: Or unit.

MS DHLAMINI: I've made example to say the budget is divided into programmes and then we have a programme called, Farmer Support and Development.

CHAIRPERSON: Okay.

MS DHLAMINI: And the budget Manager or the Programme Manager, the correct wording to use is Programme Manager.

CHAIRPERSON: Oh.

MS DHLAMINI: The Programme Manager for that
10 particular budget is Dr Masiteng, which means that budget falls under District Services but below Dr Masiteng, also, there's a further ...[intervenes].

CHAIRPERSON: Official.

MS DHLAMINI: Officials, your Senior Management, so in District Services you'll – when you get into the system, you'll find that there's a budget for Thabo Mofutsanyane, the responsible official for that budget is the District Director but Dr Masiteng plays and overall – plays and overall role on that budget. If you come to my unit, which
20 is Financial Management, you're going to see the budget for Supply Chain Management. The responsible official for that budget is the Senior Manager Supply Chain, that's how the budget is configured but I play an overall responsibility for that particular budget.

CHAIRPERSON: And the budget owner would be who?

MS DHLAMINI: The budget – that’s why I’m saying the budget owner becomes...[intervenes].

ADV GCABASHE SC: You refer to budget owner as well.

MS DHLAMINI: The budget owner will be the Director Supply Chain Management because my office, also, as the CFO has its own budget.

CHAIRPERSON: Okay.

MS DHLAMINI: Dr Masiteng’s office also has its own budget.

10 **CHAIRPERSON:** Okay, alright, thank you.

ADV GCABASHE SC: So ma’am what you’ve been explaining to us is the line of responsibility for compiling, submitting approvals for payments and where you fitted in to that particular payment, it did not fit at all, it had nothing to do with you, your signature is nowhere there, am I correct?

MS DHLAMINI: Yes, that’s what I was explaining.

ADV GCABASHE SC: In relation to that particular payment?

20 **MS DHLAMINI:** In relation to this particular payment.

ADV GCABASHE SC: And you know that we’re going to come back to it when we deal with the Anna Fourie issue, we won’t deal with it now because what we were trying to get to, step by step, is – I have it here as – those monthly and quarterly reports that you have Annexed, because the

question really, was, when these payments were made to Estina, what invoices were submitted to you, or what proof that services had been rendered were submitted to you prior to your signing off on any payment to them, that's really where we are. So, I think we should go to – back to 13 where we were, flag 13 page 313 is where the documentation starts and you said we can ignore that for now and we will and I'm actually going to ask you then to look at specifically the account I want you to look at will
10 under flag 14 of the reports, under flag 14 which starts at 335 and if you go over the documentation there, what I really am interested in are the figures that are part of the August 2012 to September 2013 cash flow report and projections page 341 is the front page of that report and they are telling us here that these projections cover the period 2012 – August 2012 to March 2013 in relation to the application of funds and then projection – cash flow for the period...[intervenes].

CHAIRPERSON: I'm sorry Ms Gcabashe, I think
20 somehow, I have lost the page numbers, I am at 341 because I thought you said ...[intervenes].

ADV GCABASHE SC: Estina 01, page 341 Mohuma Mobung Vrede Dairy Project, Estina 01, 341.

CHAIRPERSON: Yes.

ADV GCABASHE SC: its report number 1, if you look

below the picture, Chairman.

CHAIRPERSON: Ja.

ADV GCABASHE SC: You've got cash flow report and projections.

CHAIRPERSON: Ja.

ADV GCABASHE SC: August 2012 to September 2013, I was simply reading that introductory little paragraph.

CHAIRPERSON: Oh okay.

ADV GCABASHE SC: You are with me Ms Dhlamini?

10 **MS DHLAMINI:** I'm with you Chairperson.

ADV GCABASHE SC: Now the reason you have Annexed these documents is to say to the Commission, you had regard to these documents?

MS DHLAMINI: Thank you Chairperson. Chairperson before we deal with this matter if it's acceptable then I first refer the Chairperson to the transfer payment policy so that when I say certain things, Chairperson, understands where I'm coming from.

CHAIRPERSON: Okay, is that fine Ms Gcabashe?

20 **ADV GCABASHE SC:** That's fine, no problem.

CHAIRPERSON: Okay, let's do that.

MS DHLAMINI: Okay, let me check where is that.

ADV GCABASHE SC: It will be flag 11.

MS DHLAMINI: Flag 11?

ADV GCABASHE SC: Flag 11 and I found this document

quite interesting Ms Dhlamini its not one that we had been favoured with as the Commission so I did have a look at it, a very quick look at it. I found that it seeks to be consistent, of course, with the Treasury regulations, I'm correct, I'm at page 299, you'll tell me if you want to start it at the beginning but I thought page 299 sets out what we've actually talked about already. Treasury regulation 8.4 and it's – particular 8.4.1, 8.4.2, 8.4.3 and 8.4.4 I don't think you want to start here, or you want to go somewhere
 10 else? This particular section gives us a background to what your obligations are.

MS DHLAMINI: Thank you Chairperson. Chairperson I'm going to move straight to where Advocate is leading me to but before I move to that, I need to read paragraph 1 of this policy which is page – Estina 01, 298.

CHAIRPERSON: 298, yes.

MS DHLAMINI: Paragraph 1, introduction:

20 “In particular the official must take effective and appropriate steps to prevent within that official's area of responsibility any unauthorised irregular, fruitless and wasteful expenditure and any under collection of having to.”

That is the opening paragraph. We go to – yes where Advocate Leah was leading me to which is page Estina

01 300. Paragraph 6. – Paragraph 8.6.1.

“Any provincial accounting officer transferring a grant from the Provincial Revenue Fund to a Municipality in accordance with assignment in terms of Section 156.4 of the Constitution 1996 Act number 108 of 1996 or a delegation – a delegation in terms of Section 238 of the Constitution 1996 other than an agency payment in terms of Section 238 of the Constitution must comply with the relevant provision of the annual division of revenue. Local Government, Municipal, Finance Management Act and Section 9 and 10 of the Municipal systems and other relevant.”

That is the – the – it is where you leading me.

ADV GCABASHE SC: No, I was not.

MS DHLAMINI: Or I got lost.

ADV GCABASHE SC: I was on the page before that. But let us just quickly interrogate this.

MS DHLAMINI: Oh you are on page...

ADV GCABASHE SC: Is this where you want to be because I think you – you...

MS DHLAMINI: No I was going to move straight to – I was going to move straight to the responsibilities of the objective

of the policy and straight to the – the – I was going to move straight to Paragraph 4.

ADV GCABASHE SC: Paragraph 4 on page?

MS DHLAMINI: That is page – same page Estina 01 300.

ADV GCABASHE SC: Let us do that; let us go to where you want to be.

MS DHLAMINI: Let us start first with the objective of the policy.

10 “The purpose of this document is to provide a policy framework for all responsible officials who have a formal administrative duty to manage transfer payments that are made to external entities.”

ADV GCABASHE SC: Now the definition of external entities includes a party such as Estina.

CHAIRPERSON: Yes.

ADV GCABASHE SC: Am I correct? Thank you.

MS DHLAMINI: Thank you.

ADV GCABASHE SC: Continue.

20 **MS DHLAMINI:**

“This policy is applicable to all gifts, donation and sponsorship as defined in 2 above and as such is applicable to all departmental officials. The scope the provision of this policy shall apply to all departmental officials and duly appointed programs/sub-program and responsibility

management.”

So that program and sub-program is program managers and sub- program managers. In this case Chairperson program manager would be Dr Masiteng a district director will be a sub-program manager.

“And responsibility management who are responsible for the management of transfer payment to external entity.”

I will skip that accounting policies there at 5.1. I will
10 move to 5.2.

ADV GCABASHE SC: Those are the responsibilities ...

MS DHLAMINI: No let us ...

ADV GCABASHE SC: Transfer payments.

MS DHLAMINI: Let us skip the 5.2.

ADV GCABASHE SC: Because those are aligned really to
8.4.1.

MS DHLAMINI: Yes.

ADV GCABASHE SC: What is written here.

MS DHLAMINI: Yes.

20 **ADV GCABASHE SC:** Under 5.2 is exactly what 8.4
Treasury Regulation 8.4.1.

MS DHLAMINI: Yes that is what it says.

ADV GCABASHE SC: That is correct.

MS DHLAMINI: So I will skip.

ADV GCABASHE SC: And we dealt with that this morning.

MS DHLAMINI: I will skip that now.

ADV GCABASHE SC: So you want really to look at 5.3 over the page. Page 301. I certainly have an interest in that because the CFO is mentioned there.

MS DHLAMINI: Oh where the CFO is mentioned.

ADV GCABASHE SC: Yes 5.3.

MS DHLAMINI:

10 “Annual allocation of transfer payments. The program manager or district director shall provide the CFO with a detailed listing of the proposed receipts of transfer payments for the following financial year during the budget planning. This list shall be supported by relevant business plan.”

By this receipt of transfer basically it is the project. The projects Chairperson.

20 “In cases where the transfers are not budgeted for in terms of the budget process but rather to be implemented in the current financial year Treasury approval is required to increase transfers and subsidies and the program manager and the relevant district director will be responsible for the monitoring of the use of the funds in terms of Paragraph 5.1.1 of this policy.”

ADV GCABASHE SC: Then 5.5.2 is also particularly relevant to your tasks.

MS DHLAMINI: Yes.

ADV GCABASHE SC: At the bottom of that page.

MS DHLAMINI:

10 “In terms of Treasury Regulation 5.1.3 the CFO shall ensure that the budget submission includes appropriate supporting information in respect of institution and public entities receiving this – ja it is supposed to say receiving transfer payments on that vote.”

ADV GCABASHE SC: Yes. CFO and then you – if I – when I looked at it I thought over the page 5.6 was relevant. I do not know if you find it equally relevant to your task?

MS DHLAMINI: Sorry Chairperson, where are you?

ADV GCABASHE SC: I am on page 302 and really the one that I thought was particularly relevant is the one that reads:

20 “The department must comply with the following requirements prior to effecting payment to a qualifying institution.”

And at B well first this says Treasury Regulation 8.4.1 and 8.4.2 should have been complied with and then it goes on to say at B.

MS DHLAMINI: Okay.

ADV GCABASHE SC:

“The relevant approval has been obtained from Provincial Treasury in cases where a new transfer has been introduced.”

So you are quite right. This is a comprehensive transfer policy document. Is this the point you are making?

MS DHLAMINI: Yes.

ADV GCABASHE SC: This is the document that guides the work you do as you effect transfers?

MS DHLAMINI: Yes Chairperson.

10 **ADV GCABASHE SC:** And you are saying that you acted in terms of this particular document?

MS DHLAMINI: Yes Chairperson.

ADV GCABASHE SC: Please show us now how you did that if we go back to Item 13 if that is – if you are ready to go back to 13?

MS DHLAMINI: Yes let us go back to ...

ADV GCABASHE SC: Item 13.

MS DHLAMINI: Okay before I go to that Chairperson let us read under 5.6.

20 **ADV GCABASHE SC:** Yes Ma'am.

MS DHLAMINI: Let us read Paragraph D.

“The responsible manager authorising the payment shall ensure that appropriate supporting information has been obtained to satisfy himself/herself that transfer payment

is valid, the amount is correct, all conditions and objectives have been met. The contract agreement duly signed by all relevant parties and attached to the payment documents. The qualification institution aware of the statutory department institution as respect of the previous financial year subsistence.”

Here they are talking why – if it is in case of Municipalities or of – or schools. Maybe before I go there.

10 **ADV GCABASHE SC**: You want to look at...

MS DHLAMINI: You go to Rules and Responsibilities.

ADV GCABASHE SC: Yes.

MS DHLAMINI: It says there:

“Rules and Responsibilities that the policies adhered to. Responsibility accounting officer, program manager, sub-program manager, district directors and chief financial officer ensure compliance to the contract or agreement. Program manager and relevant district director.”

20

ADV GCABASHE SC: Do not go away. You want to read the very last paragraph on that page which is relevant again to you directly.

MS DHLAMINI: Okay.

“In preparing the annual report of the

department a Chief Financial Officer shall include information on transfer payment per organisation for the entire financial year as well as a report on compliance with Section 38 day of the PFMA.”

ADV GCABASHE SC: Thank you Ma'am.

MS DHLAMINI: Then we can go back Chairperson.

ADV GCABASHE SC: To black number 13 which we will find on page 313.

10 **MS DHLAMINI:** We were on black – we are on black number 13.

ADV GCABASHE SC: Black 13 yes. Because you are now – in fact we are going to 14 my apologies because the page I really want to take you to concertina our discussion. We had started at page 341 so that is Estina 01 page 341.

MS DHLAMINI: 341.

ADV GCABASHE SC: And – and my question to you at the time was, did you have regard to this report at any point in time?

20 **CHAIRPERSON:** This is report 1 of the Mohuma Mobung Vrede Dairy Project?

ADV GCABASHE SC: This is labelled as Report 1 but Chairman it deals with cash flow report and projections and it deals with the period August 2012 to September 2013.

CHAIRPERSON: Which would be a twelve month period?

ADV GCABASHE SC: Which would be a twelve month period but yes there are some others that we...

CHAIRPERSON: Oh no actually I think my – my arithmetic is wrong. It would be thirteen months or twelve months would end in July I think. Am I wrong?

ADV GCABASHE SC: I think we are going to agree with you Chairman whether you are right or wrong. We are agreeing with you whether you are right or wrong. No Chairman but it is ...

10 **CHAIRPERSON:** It says August 2012 to September 2013 that cannot be twelve months. I was wrong.

ADV GCABASHE SC: No, ja but I was just saying that for purposes of where I am going to Chairman.

CHAIRPERSON: Ja.

ADV GCABASHE SC: It is not particularly material because she is very...

CHAIRPERSON: Yes.

ADV GCABASHE SC: For the record it is Chair.

CHAIRPERSON: Ja.

20 **ADV GCABASHE SC:** But for her purposes Ms Dhlamini she knows what we are looking at.

CHAIRPERSON: Yes. No that is fine.

ADV GCABASHE SC: Ja. You okay Ms Dhlamini? And so the question again third time did you have regard to this report?

MS DHLAMINI: What is the question Chairperson?

ADV GCABASHE SC: Did you have regard to this report?

You have annexed it so there must be a good reason that you put it in here.

MS DHLAMINI: Yes I – I have looked at this report.

ADV GCABASHE SC: At what point?

MS DHLAMINI: At the point when I was signing – you would realise that on page 01 339.

ADV GCABASHE SC: Yes.

10 **MS DHLAMINI:** There is a sundry payment.

ADV GCABASHE SC: Advise of R34 – to R34million.

MS DHLAMINI: Of the R34million.

ADV GCABASHE SC: Yes.

MS DHLAMINI: Which the sundry payment was compiled by Doctor Masiteng.

ADV GCABASHE SC: Yes.

MS DHLAMINI: Rightly so as the Program Manager.

ADV GCABASHE SC: Yes. Correct.

20 **MS DHLAMINI:** And because it was – it was compiled by Doctor Masiteng as a Program Manager hence it came to me as the CFO to verify it. Because now it is being compiled at a higher level. If it was compiled by Alta Meyer Doctor Masiteng would have – would have checked it and verify it. So it came to me to check and verify and that checking and verifying includes the things that I have indicated Chair when

I was reading – when I was – when I was indicating the certificate. It is in line with that certificate that I sent to Treasury. But also it is to make sure that there is this budget, the budget is there. How the budget works Chairperson. This pro – in this instances we want to pay R34million. Vrede Dairy was budgeted that is – it has 114 in this particular – in this particular year.

ADV GCABASHE SC: No, no, this is the payment that you had requested in June – oh sorry it says here the 5 July
 10 2012. I am reading up here. 2012. It was requested in 2012. It was paid in 2013 but it was requested in 2012 and the reason it was requested in 2012 is because it is – it was for the period 2012/2013. That was the first R114million that Estina was expecting to get from the department. So this R34.9 million – R34 950 000.00 was part of that R84 000,00 that was broken up into three tranches. Tell me if I am losing you but I think you and I are on the same page on this payment.

MS DHLAMINI: Okay I hear you Chairperson what you are
 20 explaining you are explaining in terms of Estina’s report.

ADV GCABASHE SC: Yes. Well two things. I wanted to understand whether you had read the Estina Report and interrogated it? You brought us to this payment to say well number 1 they were asking me to make this payment. That is why you brought us here. And I was then saying to you,

yes this is a payment that was part of the R84million that had not been budgeted for for the period 2012/2013. This R84 million plus the R30million that you paid on the 9 July 2012 would have made up the total. The 84 plus the 30 would have made up the total 114.

MS DHLAMINI: That is correct Chairperson.

ADV GCABASHE SC: So you are being asked and just the last little link is this R34 950,00 was only paid in April of 2013 after the 2012/2013 financial year had ended.

10 **MS DHLAMINI:** That is correct Chairperson.

ADV GCABASHE SC: Okay but you were starting to provide for it here by way of this particular sundry payment advice?

MS DHLAMINI: That is correct Chairperson.

ADV GCABASHE SC: Lastly can you explain to the Chairman why this becomes a sundry payment advice and why it is not a more detailed payment advice so that we know exactly where this money is going to and what it is going to do? Whether it is going to serve at its intended purpose to quote 38.2 of the PFMA?

20 **MS DHLAMINI:** Chairperson it is a difficult question I am not sure how I am going to explain it because this sundry payment advice is the form that – that is used in the department when you make a payment. Maybe if Advocate can rephrase the question.

CHAIRPERSON: Well it may be that she is putting that

question because what is in her mind about the meaning of sundry is the same as what is in my mind namely it is like there are funds that are for specific purposes or items and what is left when you have allocated funds for certain items whatever is left is for sundry. That is what is in my mind. It might not be correct. It is like the residue if you know what I mean. It is like when you have allocated funds to all the important items and there is still money left that is for sundry. I must be very wrong.

10 **MS DHLAMINI:** Thank you – thank you Chairperson. I hear what the Chairperson say so I am going to clarify. I am going to try to get clarity from Advocate Leah here to say...

CHAIRPERSON: But – but maybe to be fair because it was Ms Gcabashe's question she might be able to say no actually that is not what is in her mind. So I might be leading you astray with that clarification. Ms Gcabashe.

ADV GCABASHE SC: Chairman I fully – you and I were on the same page in relation to that. But I think to explain it in a little more detail to Ms Dhlamini. If you look – so you have
20 got to the top it is written Sundry Payment Advice. And then immediately below that you have got Transfer Payment for Vrede Dairy Project. What we are interested in as a commission is in finding out whether you as the CFO who informed yourself about this payment knew where this money was going to so that you could tick and say good this money

is going to where it was intended to go to do the work it was intended to do. That is why – what you do in government.

MS DHLAMINI: No Chairperson in terms of how Advocate Leah is putting it I would say yes because when you go to the budget, when you go to the – yes when you go to our budget schedule B5 of our budget you would find that it says Vrede Dairy and if you go into the system itself where it is captured it is captured as – as Vrede Dairy. So money is – was being paid for the purpose of the Vrede Dairy Project.

10 That is how it is in the system. That is how it is budgeted for.

ADV GCABASHE SC: So this is one of those areas where if the Chairman would like to make a recommendation on how these payments are labelled one of things we are going to be doing as the commission is making recommendations arising from the evidence we have collected from various witnesses. So maybe this is too general. Maybe one of the recommendations we should be making is that there should be a clearer note on what this payment is for; where it is
20 going to so that there is a link between the payment and the intention of the funder. I do not know what your view would be on that? Whether we should not make a recommendation that this is too unclear – opaque is the word I want to use.

MS DHLAMINI: Specifically Chair what you want to say is you want to see this payment saying you paying R34 million;

R2 million is for the tractor; R3 million is for the cattle. Is it?

ADV GCABASHE SC: Not necessarily but if you are saying that this is to purchase agricultural machinery.

MS DHLAMINI: Implements yes.

ADV GCABASHE SC: Implements but at least we know that this is intended to do just that. It is not supposed to go and buy wheat or maize it is going for implements. But if you then go further Ma'am and you go to page 344 and say to me, I can show you where this money was going to because
10 there are a lot of numbers on this page and this is the supporting document I relied on. Maybe that is the complete answer to my question. So if you then look at – you see what you have on page 342, 343 is a summary. A narrative what happened to the monies. I am interested in 344 which sets out the actual figures.

MS DHLAMINI: Thank you Chairperson. Basically that is what it means to say this money that we are paying it will be – because if you look at this report it shows the source of funding, the funding that came, the money that was paid and
20 how the money was used. So basically, it answers the question that Advocate Leah was asking to say she wishes that the payment advice would be specific like in this case so that we can be able to tick the box to say you paid this much, this much is used. I understand.

ADV GCABASHE SC: We traversed this document with Mr

Thabethe and this is where he was saying he relied on you and your expertise. In that sense and the sense of your expertise. The difficulty with this document and the others reflect the same flaw right through. So I am not going to go to them we have dealt with this with Mr Thabethe. But I simply want to point out to you that if you say you interrogated this document first we said to Mr Thabethe the opening balance zero. Is there any significance at all if you look at August 2012 to March 2013 where you opening
10 balance is there any significance at all to the fact that there was zero – there is nothing entered there under opening balance. Can you assist us in understanding that?

MS DHLAMINI: The significance – okay this cash flow is a cash flow and cash flow projections. It shows the budget of the – it shows the budget of the – what do you call this? The budget of the project. At the beginning the project does not have any money.

ADV GCABASHE SC: But that is not correct. That is not correct because if you then go down to that R30 million
20 which is grant due from DARD for 2012 you see that number?

MS DHLAMINI: Yes. Yes Chairperson.

ADV GCABASHE SC: That is the same R20 million that has a history that you went to ask for on the 15 June 2012 and did not get. That was eventually paid on the 9 July 2012 and

that was given therefore to Estina. So that grant due from DARD for 2012 R30 million was paid to them by the department. So that R30 million should be sitting up at the top if there had not used it at all. Are you with me?

MS DHLAMINI: Hundred percent Chairperson. It would have been – I think the way the report is written that is what is misleading in the explaining the opening balance. This opening balance the way I have interpreted it – it at the beginning of the project but you are right Chairperson.

10 However – however if we saying it is the first – or let us take it because this report starts August. The 1 August we had already paid the R30 million right. So what was supposed to have been shown is to say the R30 million came on – came in July. You would have opened in July with zero. You have received R30 million and then you spent the R30 million. After spending the R30 million in July in August how much was left? That much that was left was the one that was supposed to have appeared there as an opening balance. You are right Chairperson.

20 **ADV GCABASHE SC:** But you realised that at the time you were interrogating the document not just today?

MS DHLAMINI: Can you say it louder Chairperson?

ADV GCABASHE SC: What you are explaining to me where we agreed it is something that you yourself realised when you looked at this document in 2012/2013. It is not

something you are only realising now that we are discussing it today.

MS DHLAMINI: No I realised that but the other – but the other thing that I considered is to say this report starts 2012. There are figures that was supposed to have shown 20 – for July 2012 which does not appear here.

ADV GCABASHE SC: In fact, if I can take you to – to my bundle which really speaks to some of the numbers you have here and break down some of the numbers for you. It might
10 be of some assistance to the Chairman. Before I do that though I just want to – to find out when you look at application of funds – so again sundry creditors you have R499 000.00 confirmed purchase orders. Did you interrogate what that R89 million was buying? Was it your duty to do so?

MS DHLAMINI: It was not my duty Chairperson to ask those questions. Those questions were supposed to be asked by the Project Manager. As I have already indicated or the policy has clearly stated that they are the ones who monitor
20 this transfers. They are the ones who were supposed to get those details.

ADV GCABASHE SC: When we then look at the tractors that were bought I had really just look at them at the cumulative amount for 2012/2013 R12 million. Mr Basson told this commission that there were tractors that had been

purchased by the department and he could not understand why R12 million if this is what was spent was being spent on tractors when there were tractors in Vrede that had been bought by the department. The question is, would you interrogate that? Would you check on what the department had provided just before the implementing agent arrived and then say to the implementing agent, now do not forget we have already provided 50 tractors. We have already provided etcetera, etcetera. So when you start preparing
10 your accounts take into account the fact that we have already given you certain things.

MS DHLAMINI: That would have been what the Program Managers or the District Directors were supposed to have done not the CFO.

ADV GCABASHE SC: Not the CFO's responsibility?

MS DHLAMINI: It is not the CFO's responsibility.

ADV GCABASHE SC: Can we very briefly because I – I believe that we have sufficient information on some of that. But I just want to very briefly take you to our Reference
20 Bundle D. Reference Bundle D.

MS DHLAMINI: Is this one that is put here?

ADV GCABASHE SC: Ah-ha. Which – it has the same reports and if you just go to page 1 – page 1403 Reference Bundle D. Here we have a breakdown.

MS DHLAMINI: Chair what page Chairperson?

ADV GCABASHE SC: 1403.

MS DHLAMINI: Oh okay.

ADV GCABASHE SC: So here we have a break.

CHAIRPERSON: We looking at the red numbers now they are no black numbers here?

ADV GCABASHE SC: Ja they are the only ones that are there. These are old Reference Bundles Chairman.

CHAIRPERSON: Okay.

ADV GCABASHE SC: Page 1403. If we look at the top
10 again you know that opening balance where they – they did not make an entry. Can I just say that this is a quarterly progress report just to be clear so that I am not confusing you. If you look at page 1397 you see the title “Quarterly Progress Report September 2012”. But you will find that some of the figures are similar and I am really just focusing on that R30m million.

CHAIRPERSON: Huh-uh.

ADV GCABASHE SC: So that R30 million is there again grant received from DARD R30 million. Total R30 million in
20 July is that what that is. And that is correct because they got that money from you in July.

MS DHLAMINI: That is correct Chairperson.

ADV GCABASHE SC: Then they reserve that for parlour equipment R29million of that. You see that?

MS DHLAMINI: I see that, Chairperson.

ADV GCABASHE SC: The reason I want to know whether you would have interrogated any of these figures is because Mr Thabethe told us that the first R 30 million – and I think you agreed with him in your evidence before lunch – your understanding was that it was supposed to pay for the feasibility study and all those preliminary studies and documents and business plans that had to be prepared.

Here you find that the R 29 million of the R 30 million, R 29 million is put aside for *pale* equipment. You would not have known about that? You think it is District Services who
10 should have interrogated that?

MS DHLAMINI: I would not know about that, Chairperson. District Services was supposed to know about it. However, the reports that are attached in my affidavits are the reports that I got via District Services. So what I am not sure of is whether they have seen this particular report because I am also seeing it for the first time.

ADV GCABASHE SC: I have no difficulty with you seeing it for the first time now Ma'am because we are talking about
20 the same R 30 million that you say you are familiar with from your document.

MS DHLAMINI: Yes.

ADV GCABASHE SC: That is why I actually focused on that because I know at least you are familiar with that first R 30 million.

MS DHLAMINI: Yes.

ADV GCABASHE SC: Not only with the request but with the payment of that first R 30 million.

MS DHLAMINI: Yes.

ADV GCABASHE SC: So you... and I am sure you what then is said to have happened to that first R 30 million that you thought was going to be for those preliminary exercises. What I understand from you evidence in any event, is that you are saying the bulk of the interrogation of these
10 accounts rested on the shoulders of District Services. Am I correct?

MS DHLAMINI: That is correct, Chairperson.

ADV GCABASHE SC: And the only time that you would be involved in interrogating any of these is if District Services brought that issue to your attention? I am summarising what I understand you to say.

MS DHLAMINI: That is correct, Chairperson.

ADV GCABASHE SC: Now, I think we will then leave it at that Chairman, unless there are questions you want to raise.
20 We have dealt with a lot of this material with some of the other witnesses.

CHAIRPERSON: H'm.

ADV GCABASHE SC: I just want to, again for the sake of completeness, the same reference bundle actually with... Ms Dhlamini, I had promised you that I would show Estina's

bank account and the R 16,98 that was reflected in that bank account. So if you go to page... same bundle, Bundle D, page 1453.

MS DHLAMINI: 1453...

ADV GCABASHE SC: And this is really just so that I can close on this matter, 1453. And it is just to say to you that when we looked at this, the transfer of that R 30 million on the 9th of July was a significant amount that went into this account because on the 4th of July, just above that, the
10 amount there in the account was R 16.98.

And the only reason we raise the issue is to say, would this have been a significant issue for you to interrogate, considering that you were thinking of giving Estina R 340 million of government's money to use? One.

Two, you knew that you were transferring this money directly into Estina's account. Would you have been something that would have worried you had you seen this?

MS DHLAMINI: Chairperson, these are some of the things that I have said. Because this is a project and it was
20 implemented... it was not money by myself. So...[intervenes]

CHAIRPERSON: Okay, please face this side. This is quite important. I want to hear.

MS DHLAMINI: Oh. Okay, Chairperson. What I am saying is, because I was not the manager of this project, I would not have known the distance. And as I said, the policies were

very clear, we are supposed to manage this project. Thank you, Chair.

ADV GCABASHE SC: And then it is just again to tidy up to the loop. I had promised you that I would show...[intervenes]

CHAIRPERSON: But before you do that it would be part of the responsibility of a CFO of a government department in a situation such as this to ask the question: This entity that you people want us to... want the department to have a partnership with, have you done homework about it?

10 What... who are the type of people? Who are the people who own it? What is their background? What is this entity involved in?

If we put in... if we give it X million rand today, are we not going to wake up tomorrow and find that it is liquidated? I would have thought that that is part of interrogation that a CFO must direct his or her mind to. Is that not correct?

MS DHLAMINI: Thank you. Thank you, Chairperson. Chairperson, when this project was done, we... in hindsight you must still remember that, yes there was a top of Paras
20 here, a huge company.

And obviously you would - because HOD went and meet with this people - you would take it that that due diligence has been done already. So hence I could not prove those questions.

CHAIRPERSON: Okay is your answer therefore that: Yes,

that is the kind of interrogation one would expect from a CFO of a department?

MS DHLAMINI: But not... yes, but not to an extent that you would also ask to say ...[intervenes] ‘

CHAIRPERSON: No, let me say this. Let me say this. At this stage, I am just talking general, okay? Then we can talk specific. If you say: Yes, that is the kind of interrogation that one would normally expect from the CFO of a department.

10 And then we can say: In this case, did you do it? You say: No, I did not do it. Or yes, I did it. If you did not do it, you say: These are the reasons why I did not do it.

So I think at a general level is the kind of interrogation that would be expected from the CFO. Is that right?

MS DHLAMINI: Ja. Thank you, Chairperson. Indeed, that is what... because you also have to understand the entity that you are dealing with.

CHAIRPERSON: Yes.

MS DHLAMINI: So you would ask those questions.

20 **CHAIRPERSON:** Yes. In this case, you did not ask those questions.

MS DHLAMINI: In this case I did not.

CHAIRPERSON: And what are the reasons why you did not ask the questions?

MS DHLAMINI: The reasons why I did not ask Chairperson,

because from where I was sitting, we... my focus was more on Paras because it was a company that was said to be the one that is going to provide the technical.

Even this project, they are the ones who are going to invest. So where I was sitting, we are dealing with Paras and Estina.

So hence I could not really ask those questions. Let alone that HOD had already met with those people. So I took it that that due diligence has been done.

10 **CHAIRPERSON:** But is it not correct that the HOD did not have anything concrete about the... about Paras other than maybe this maybe reputation into that it is a very big dairy company in India?

There was nothing concrete that he had that he showed you about this Paras. It was just general talk. It is a very big dairy company in the world, in India and nothing more.

MS DHLAMINI: Chairperson, I find it difficult to answer that question because he went there physically. So probably... hence I took his words to say this is what happened.
20 Because he went there. He saw this Paras.

CHAIRPERSON: Yes, but remember, if it is your responsibility as the CFO to make sure that if you are going to use taxpayer's money as a department to... when you are going to give it to a certain entity, certain homework must be done. You must satisfy yourself that that homework has

been done, is it not?

Otherwise, you must say: I am sorry. As CFO I cannot approve this until this homework has been done. If you are satisfied, you will have to do it without my signature. I am not satisfied. And I am the CFO.

MS DHLAMINI: Chairperson, what I was satisfied with is basically the coming in of Paras. That made me comfortable in this whole project.

CHAIRPERSON: But my question is, what was there that
10 was concrete about Paras that was placed before you? Or is the position not that you just had this general talk that it is a big company. It is a dairy company in India.

It is number one or number two or number 3 in the world in terms of dairy production. But in terms of exactly who they were, who runs them, what their situation is. You did not have anything, did you?

MS DHLAMINI: I did not, Chairperson.

CHAIRPERSON: So you did not have anything about them. You did not have anything about Estina. And yet, you are
20 happy to approve a project that would involve the department in such a lot of money.

MS DHLAMINI: Maybe the other thing that we need to correct Chairperson is that I did not approve the project.

CHAIRPERSON: Well, maybe let us not... maybe saying approve the project might be inaccurate. But is the position

not that no money would have been used - maybe a above a certain amount, I am not sure – would have been used for this project without the CFO of the department saying yes this can be done?

MS DHLAMINI: No, this project would still have been done Chairperson without me saying yes it can be done. Like I said, my... in the main, my role is to deal with issues of the budget. It would still have been done.

CHAIRPERSON: Yes, but in that case, if you did not... if
10 you did not go along. If you thought that this was a reckless way of spending taxpayers money and you did not want to attach your signature to it, if it could be done, it would be done without you being involved. The HOD would have to take full responsibility. He would not be able to say: I did this with full guidance from the CFO.

MS DHLAMINI: Chairperson, HOD still has the power to overrule me.

CHAIRPERSON: Yes.

MS DHLAMINI: Hence I have indicated even to say there is
20 in instances where he has done that.

CHAIRPERSON: Yes. But in this case, he did not overrule you. You had no problem with being ...[intervenes]

MS DHLAMINI: The only ...[intervenes]

CHAIRPERSON: ...a party to it.

MS DHLAMINI: Sorry, Chairperson. The only thing that I

am saying that I did not do is maybe asking those pertinent questions that the Chairperson is putting to me to say you ought to have say: Give me something concrete. That is the only thing I did not do.

CHAIRPERSON: H'm.

MS DHLAMINI: Yes, Chairperson.

CHAIRPERSON: Yes, okay. Ms Gcabashe.

ADV GCABASHE SC: Thank you, Chairman. Ma'am, I then just want to... I made the comment before lunch that one of
10 your responsibilities is to make sure that our BEE policies and our PPFA, Preferential Policy Framework Act, all of those pieces of legislation are complied with. If you will go on the same Bundle D go to page 1375.

MS DHLAMINI: Page?

ADV GCABASHE SC: 1375. And as you keep your finger there, if you also then go to 1379.2. Just keep both pages. The simple point I have made to you before lunch ...[intervenes]

CHAIRPERSON: Sorry, Ms Gcabashe. Did you say you
20 must start at 1375?

ADV GCABASHE SC: 1375, sir.

CHAIRPERSON: Right. And then also what page?

ADV GCABASHE SC: And then we also look at 1379. That is 1379.2.

CHAIRPERSON: Okay alright.

ADV GCABASHE SC: And the simple point I made to you is that a lot of the money that you gave to Estina actually went to companies that were not South African companies. So at 1375, you have a \$5 million invoice that is for:

- drawing up and presenting a comprehensive feasibility study,
- developing the project report and templates and systems to ensure compliance by the contractors,
- developing and implement systems to manage the entire project cycle,
- disbursement for professional fees.

\$5 million dollars. In anybody's world it is a lot of money to pay to consultants when we have our own local people who could have done this work. VKB happens to be the example I gave you earlier on.

So that is the first one I want to point you to. Same point, if you look at 1379.2. You have the timesheet of some very learned sounding people. A few doctors here, et cetera. "Project deliverable. Project feasibility study."

So what I have assume is that that \$5 million Dollars US paid these people. Now I am very sure that none of them were South African.

MS DHLAMINI: [supressed laughing]

ADV GCABASHE SC: So again a lot of money going out of the country where the expertise that they had, I am very

sure, we could have found in the country.

So as the Chairman put it earlier, had officials being doing this work, we would not be paying \$5 million US Dollars for a feasibility study. I do not know if you have any comment at all on this particular aspect?

MS DHLAMINI: I do not have a comment, Chairperson.

ADV GCABASHE SC: I had also said to you earlier on that there was that memo to the premier that had the R 17 million budget item on it. And you wanted to believe it was budget.

10 You just wanted clarity on what the R 17 million represented. You will find that at page, same bundle, 1323. And that will be at paragraph 2.3 which reads... Are you at 1323?

MS DHLAMINI: [No audible reply]

ADV GCABASHE SC: It is a memo, a copy of, to the premier, the Honourable E S Magashule, Free State Provincial Government. Are you there?

MS DHLAMINI: [No audible reply]

ADV GCABASHE SC: Have you got the document?

CHAIRPERSON: I am sorry, Ms Gcabashe.

20 **ADV GCABASHE SC:** Yes, sir?

CHAIRPERSON: Okay the page number was not clear.

ADV GCABASHE SC: Legible?

CHAIRPERSON: I think I am there. Ja.

ADV GCABASHE SC: Are you there, Ms Dhlamini?

MS DHLAMINI: I am here, Chairperson..

ADV GCABASHE SC: At paragraph 2.3. This is what I wanted to clarify because you asked the question. It reads that:

10 “The allocated budget of R 17 million for the completion of three dairy plants would only be sufficient to cover the initiation phases of the project. Hence there is a need for a strategic partner to partner with the department for the completion of the project within the specified period comprehensively cover the value chain in terms of markets, further inputs and other unintended occurrences...”

So I was just pointing out that it says here the allocated budget of R 17 million. I hope that satisfies your question. You wanted to know what the R 17 million mean.

CHAIRPERSON: I am sorry. Just repeat your question.

ADV GCABASHE SC: Look, she... Ms Dhlamini had asked for me to explain what the R 17 million represented.

CHAIRPERSON: Oh, okay.

20 **ADV GCABASHE SC:** So I am pointing out that it is an allocated budget.

MS DHLAMINI: Chairperson, I was not aware of this budget.

ADV GCABASHE SC: Yes, and in nowhere in this documentation is this budget reflected either. As you

correctly say, it was R 9 million and then another R 3 million for Vrede. At most, there was about R 12.5 to R 13 million for the Vrede, the little bit of Vrede Dairy Projects, the different parts in the financial year 2011/2012.

MS DHLAMINI: That will be '12/'13.

ADV GCABASHE SC: '12/'13?

MS DHLAMINI: Yes.

ADV GCABASHE SC: My apologies. You are correct. It was 2011/2012 there was nothing. '12/'13. Next there were
10 would have been R 13 million. So you know nothing about the R 17 million having been budgeted for?

MS DHLAMINI: Yes, Chairperson.

ADV GCABASHE SC: Thanks. That helps to clear that one up. Then I think we should very briefly deal with that deviation. That deviation that has created so many questions from everybody.

You had... annexed to your documents, the approval which we have dealt with. By the deviation memo that we are interested in now is on page 1349 and it runs up to 1352
20 of the same reference Bundle D.

MS DHLAMINI: Can you repeat the pages Chair?

ADV GCABASHE SC: 1349 and the second page, the signature page is 1352.

MS DHLAMINI: [No audible reply]

ADV GCABASHE SC: Now this is the deviation memo and I

will just quickly summarise. That doctor Masiteng said he was asked by the HOD, Mr Thabethe to prepare. The approval that you had referred the Chairman to earlier on that you signed off on the 26th of May, had not included a deviation.

So this is the first document that includes a proposal that you deviate from your supply chain management processes.

The question for you Ma'am is. What did you understand that you were recommending when you signed this document and the signature? Your signature, you will find on page 1352.

MS DHLAMINI: [No audible reply]

ADV GCABASHE SC: So this is the recommendation.

“It is recommended that approval is granted by the Head of the Department to:

1. Accept the proposal from Estina Paras with regards to the establishment of integrated dairy in Vrede.

That is similar to the approval document that you had signed upon.

2. Enter into a memorandum of agreement with Estina Paras to implement the dairy project in Vrede.

That is a new one.

3. To deviate from the normal supply chain management processes and procedure and appoint Estina Paras to implement establish the integrated dairy in Vrede.

I just want you to help us understand your role. Was it a broad or narrow role? Take us through that please, Ma'am.

MS DHLAMINI: Chairperson, as I have indicated that every submission that has got a financial implication will come to the CFO. I had already dealt with the financial implication of
10 this project. I wish not to repeat it if the Chairperson agrees.

I will only deal with the deviation part of this project especially, it is also my role to ensure compliance in terms of the supply chain management policing through supply chain management.

So in looking this deviation where it will be saying or where the purpose is to deviate from the normal supply chain management processes and procedure to appoint Estina Paras to implement.

20 One of the things when you deal with the deviation, you deal with deviation in terms of Treasury Regulation ...[intervenes]

ADV GCABASHE SC: 16A.

MS DHLAMINI: 16(4) ...[intervenes]

ADV GCABASHE SC: Capital A.

MS DHLAMINI: I think 16(4)(a) right in conjunction with supply chain management policy. I am aware Chairperson there was Circular 6 of 2006... 7 and 8 or 6 and 7. I cannot remember.

ADV GCABASHE SC: I think it is 2008 if my memory serves me well.

MS DHLAMINI: I think it is 7 and 8. 6 or 7 and 8. Yes, Chairperson. Both three, they talk to how you handle the deviation. It says when the... I wish to ...[intervenes]

10 **CHAIRPERSON:** If you want to have a look at the relevant document, you... feel free.

MS DHLAMINI: I wish to read, Chairperson if I can be provided, if I can be assisted? There is a Treasury Regulation ...[intervenes]

CHAIRPERSON: Ja, okay.

MS DHLAMINI: ...in one of these documents. I do not have it with me.

CHAIRPERSON: Yes, I think... counsel will assist you.

20 **ADV GCABASHE SC:** So you are looking for the practice note?

MS DHLAMINI: No, the practice note Chair will still talk the same language as the Treasury regulation as the policy. What I wanted to read into record is that paragraph of the Treasury Regulation.

CHAIRPERSON: Are you saying that if Ms Gcabashe has

got the Treasury Note, the wording would be the same?

MS DHLAMINI: The wording would be the same.

CHAIRPERSON: So you do not mind reading the Treasury Note?

MS DHLAMINI: Yes, if the Treasury Note... that Treasury ...[intervenes]

CHAIRPERSON: Note with the information.

MS DHLAMINI: ...which refers to in the note.

CHAIRPERSON: Ja.

10 **MS DHLAMINI:** The wording would be the same. I can still read from it.

CHAIRPERSON: Yes, okay.

MS DHLAMINI: Thank you, Chair.

ADV GCABASHE SC: If I may just ask for a two minutes' indulgence Chair to find it?

CHAIRPERSON: Ja, okay. Okay. I think counsel for... is giving assistance. Or not really?

ADV GCABASHE SC: While Advocate Molefe finds it for us, maybe I can ask you one or two questions and we will come
20 back to that. All I want to know really is, did you read the submission closely before you signed it?

MS DHLAMINI: I did read it Chairperson.

ADV GCABASHE SC: You did?

MS DHLAMINI: I did, Chairperson.

ADV GCABASHE SC: And did you try and find out – I am

using one example right now – for instance about the land in Vrede? Now the Phumelela Municipality only signed off on the land lease in December of 2012. We are here in the period May/June 2012.

So it is one thing for the department to have identified land. There was no certainty that you were going to get that land.

Are those the kind of questions you would be asking of the Chief Director or anybody else? Are you gentlemen sure
10 that this things is going to work because we will get this land?

MS DHLAMINI: I would not have asked those questions, Chairperson. As I said, I would have look at the financial implication of this submission. I would also look at the reasons why they want to deviate.

ADV GCABASHE SC: And then the other one would, of course, be Paras. Because of you look at the memorandum of understanding between Estina and Paras. Paras was very clear that there was not going to be partnership, it was not
20 going to be a JB. They were coming in as a sub-contractor.

They were happy to work on the Vrede Dairy Farm Project but as a sub-contractor. Is that what you understood Paras's role to be when you were signing off on this, that they will be brought in as sub-contractors?

MS DHLAMINI: To be honest Chairperson, I asked for the

memorandum. I looked at it but I did not go into all the details of that memorandum but I have seen that there was that memorandum.

CHAIRPERSON: Well, when you are supposed to recommend or approve such issues with such financial implications, why do you not go into details in reading such a memorandum?

MS DHLAMINI: Chairperson, it is because what I am looking at is the financial implication for the department,
10 what the department would spend on this project. But I must say maybe on hindsight I was supposed to go into deeper details of that memoranda which I did not do.

ADV GCABASHE SC: So you were looking for Treasury Regulation 8 or were you looking for Treasury Regulation 16?

MS DHLAMINI: 16, Chairperson.

ADV GCABASHE SC: 16. It is in the legislation bundle, Chairman, but because it is a legislation bundle it is not numbered, it has not got page numbers.

20 **CHAIRPERSON:** Well, I think you do not have to give it to me, if somebody will read aloud that will be enough.

ADV GCABASHE SC: I can. Can I give it to ...[intervenes]

CHAIRPERSON: To the witness, ja.

ADV GCABASHE SC: To the witness.

CHAIRPERSON: That is fine.

ADV GCABASHE SC: Is that the document you are looking for?

MS DHLAMINI: Yes, Chairperson.

ADV GCABASHE SC: So 16 reads:

“Public, private partnerships.”

Is that correct?

MS DHLAMINI: No, it is 16A 6.4, it deals with supply chain management.

10 **ADV GCABASHE SC:** This one, I have got it here, I will find it. You are looking at 16A?

MS DHLAMINI: Ja, we are looking at 16A which deals with supply chain management.

ADV GCABASHE SC: I have it, yes.

MS DHLAMINI: I am going to read 16A 6.4:

20 “If in a specific case it is impractical to invite competitive bids the accounting officer or accounting authority may procure the required goods or services by other means provided that the reasons for deviating from inviting competitive bids must be recorded and approved by the accounting officer or accounting authority.”

I have appended my signature on the signature – on this submission on the basis of this particular clause in the Treasury Regulation.

ADV GCABASHE SC: But can I ask you to pause just there? The HOD had not approved it yet, the accounting officer had not approved it yet. The accounting officer was waiting for recommendation from you.

MS DHLAMINI: Can you repeat your question, I did not get it?

ADV GCABASHE SC: The accounting officer had not approved it yet. The accounting officer was waiting for a recommendation from yourself.

10 **MS DHLAMINI:** I am saying, Chairperson, I have signed the recommendation on the basis of this particular section of the Treasury Regulation.

ADV GCABASHE SC: And what I am saying to you, Ma'am, is this says where it is approved by the accounting officer. At your level, at the point at which you are recommending, he has not or she has not as yet approved it but you are applying your mind as the CFO to whether or not the HOD should approve it. So the fact is you look at, are very different because you are making a
20 recommendation and if the HOD then approves it then the HOD can rely on this provision, maybe.

MS DHLAMINI: Oh, I – thank you, Chairperson, I think I understand that my – simply the advocate is saying my signature came before the HOD's signature.

CHAIRPERSON: Yes.

MS DHLAMINI: True. That is true, Chairperson.

ADV GCABASHE SC: And with that your consideration of relevant and material facts relating to this deviation came before the HOD made up his mind finally. Technically, anyway, that is how I see it.

MS DHLAMINI: Yes, Chairperson.

ADV GCABASHE SC: Which brings us back to – I will use the Chairperson’s word, justification. What was then your justification because you cannot rely on 16A 6.4.

10 **MS DHLAMINI:** As I have already even alluded in my first affidavit, when I looked at this approval and this deviation. Honestly, I was looking from the point of view of Estina Paras arrangement. I am mindful of what the Chairperson has questioned me to say but you did not have concrete information. With that in mind, but I am saying my main interest was with the investment that Paras was going to bring in the Vrede Dairy in the Free State and also – yes, in the main it was because of the investment that was said to say they are going to invest into that project and if that

20 project could have materialised the way it was intended, I was also looking at the opportunities that if that project get off, get implemented, there will be issues of job creation for the community of Vrede and Vrede, it is a very rural area and there is no issues of – or job opportunities, there is not a lot of job opportunities in that area, in that town.

CHAIRPERSON: Well ...[intervenes]

MS DHLAMINI: So I look at those things and ...[intervenes]

CHAIRPERSON: Well, I do not understand your answer, Ms Dhlamini. or your explanation of your decision because, as I understand it, we are looking at whether this was a case where deviation should have been recommended, is that right?

MS DHLAMINI: That is right, Chairperson.

10 **CHAIRPERSON:** Yes. Now whether a company is going to bring investment and whatever, is it of any relevance to the question whether what you have before justifies deviation?

MS DHLAMINI: Okay, Chairperson, maybe let me answer it directly because what I was trying to explain is, it says if it is not practical to invite bids, the reasons should be recorded why you are deviating. So I am saying with regard to the reasons that were recorded here, I looked at the explanation of the job opportunities that the Vrede
20 Dairy Project is going to bring in that area, I looked at the issue of the investment that Paras was going to bring and because Paras was coming with an investment, for me it makes it not practical to subject somebody who is going to invest into a bidding process.

CHAIRPERSON: Ms Dhlamini, are you sure that is the

answer you are giving me?

MS DHLAMINI: Yes, that is the answer that I am giving you, Chairperson, to say I was specifically concerned with the investment that Paras was going to bring and looking at that to say the submission says Paras is going to invest and for me it is not practical to subject that to bidding process.

CHAIRPERSON: Hang on, Ms Dhlamini, I am not looking at that provision in front of me, so I am relying on what you
10 read. As I understand it, it says if it is not practical, I assume to do an open tender, is that correct? In effect that is what it means. Then you may deviate.

MS DHLAMINI: Yes, if it is not practical.

CHAIRPERSON: Can I have a look at that provision please so that I do not mislead you.

ADV GCABASHE SC: Chairman, the quickest way simply to give you my PFMA.

CHAIRPERSON: Okay, that is fine, that is fine.

ADV GCABASHE SC: Are we talking about 16A, 6.4?

20 **CHAIRPERSON:** The one that she red.

ADV GCABASHE SC: The one that you are relying on.

MS DHLAMINI: Yes, 16A, 6.4.

ADV GCABASHE SC: Thanks for the indulgence, Chairman.

CHAIRPERSON: Thank you. 16A.6 deals with

procurement of goods and service and 16A.6. 6 says:

“If in a specific case it is impractical to invite competitive bids, the accounting officer or accounting authority may procure the required goods or services by other means provided that the reasons for deviating from inviting competitive bids must be recorded and approved by the accounting officer or accounting authority.”

Do you agree with me that what this provision says is that
10 you may, as an accounting authority, accounting officer,
deviate from inviting competitive bids if it is impractical to
invite competitive bids? Do you accept that that is what it
means?

MS DHLAMINI: Yes, Chairperson.

CHAIRPERSON: Yes. Now what is your understanding of what it means to say it is impractical to invite competitive bids?

MS DHLAMINI: I am saying from my understanding of what made this to be practical is the fact that
20 ...[intervenues]

CHAIRPERSON: What made it to be...?

MS DHLAMINI: Impractical, not practical.

CHAIRPERSON: Ja.

MS DHLAMINI: Not practical, is the fact that Paras was going to – it is said that Paras was going to invest 200

Ma'am in this project. So what I am saying, Chairperson, I found it not practical from the point where I was sitting to say how do I subject and investment to a bidding process, maybe there is a way I would learn but at that point in time I found it not practical.

CHAIRPERSON: Ms Dhlamini, impractical it cannot physically be done or it cannot – it is difficult to do and what this is talking about is inviting – it is impractical to invite other people to put in bids. Now you could have said
10 we are going to invite other people, other entities to put in their bids and Para/Estina will put in their bids. If it turns out that it is – their bid is the best bid then that is fine, there was nothing impractical about inviting other bids here.

You could send out a notice and say this is what we want to do, all those entities who think they come in and do this, they must put in their bids and Paras and Estina could feel free to also put in their bid. There was nothing impractical, I do not understand your answer.

20 **MS DHLAMINI:** Chairperson, maybe I am coming from the background that says already through the consultations on Mohuma Mobung, HOD had indicated that at some point this concept was bounced with other entities in the country of presenting Mohuma Mobung as a strategy. So in getting the funding for different projects, Vrede Dairy being one of

those. Surely the entities will be those who are in dairy business like your Parmalat, your Nestle and the indication from the HOD was he has already made that presentation and nobody shown interest hence he went outside the country to go and look for the investment. Really, I looked at this division from that point of view that HOD went all over, all out, to go to outside the country to get investment because he could not get that investment in this country.

CHAIRPERSON: But coming back to whether it was
10 impractical to invite other entities to put in their bids, do you not accept that there was nothing impractical about that?

MS DHLAMINI: That is why I am saying, Chairperson, I was looking at the point of just an investment, somebody has already – is already saying I am going to invest, so from the point of view where I am sitting, is if I – let us say you invite those, this person might say but I have already volunteered to do that, he might not even have interest any longer.

20 **CHAIRPERSON:** But you ...[intervenes]

MS DHLAMINI: That is how I look – that is from the angle that I looked at.

CHAIRPERSON: But, Ms Dhlamini, you tell them here we do things according to the law and the law says we must invite competitive bids unless it is impractical to invite

them. I find nothing impractical in this case to invite competitive bids and you, Paras and Estina, are free to put in your bid as well.

MS DHLAMINI: You invite, Chairperson, competitive bidding, bids, when you acquire a service.

CHAIRPERSON: Now you are going to something else and we will go to that, I am talking about whether it was impractical to invite competitive bids, that is what we are dealing with now. Are you still insisting that it was
10 impractical to invite competitive bids in this case?

MS DHLAMINI: I looked at it as being impractical, Chairperson, as I said that because I was looking at the investment part of it, nothing else.

CHAIRPERSON: Okay. Do you accept my understanding of what impractical means?

MS DHLAMINI: No, I understand, I understand, the Chairperson's...

CHAIRPERSON: Is it your understanding as well or do you have a different understanding of the word impractical?

20 **MS DHLAMINI:** It is also my understanding that when you say something is impractical it means it is not practical to can invite the bids.

CHAIRPERSON: Yes, yes. Now let us take it step-by-step, is there anything that could have prevented the department from issuing whatever documents it had to

issue to invite competitive bids. Practically, is there anything that would have prevented them from doing that?

MS DHLAMINI: No, there is nothing that could have prevented the department to do that.

CHAIRPERSON: Yes and if the department had done that then if nobody showed interest except Paras and Estina then you would have complied with the law because you would have invited bids and only Paras and Estina showed interest, is that right?

10 **MS DHLAMINI:** That is right, Chairperson.

CHAIRPERSON: But if other entities put in their bids within the time that you would have stipulated, including Paras, then those bids would be adjudicated and if Paras and Estina won, so be it, is it not?

MS DHLAMINI: That is so, Chairperson.

CHAIRPERSON: So given that you accept that the things that the department would have to do in order to invite competitive bids could have been done and whoever was interested could have put in bids. Do you still say it was
20 impractical for the department to invite competitive bids.

MS DHLAMINI: Okay, it was not impractical for the department to can do that.

CHAIRPERSON: Yes.

MS DHLAMINI: But I am saying in these particular instances the company Paras has already shown interest

and that is company that HOD wanted to deal with that he has already sourced the investment form. So I am saying when I was looking at the submission with the background that they give to say because there is already an interest shown in this regard. That is what made me to accept this deviation.

CHAIRPERSON: But you are not saying to me, are you, that if a particular entity has already shown interest then it is permissible to deviate from inviting competitive bids.

10 That is not what you are saying or is it what you are saying?

MS DHLAMINI: Ja, that is not what I was saying. I am not saying it is permissible but ...[intervenes]

CHAIRPERSON: So what is the relevance of that part of your evidence, why are you telling me that in the context of me wanting to find out whether there was proper justification for deviation in terms of this provision because that is the provision you referred us to, to say you acted in terms of this probably.

20 **MS DHLAMINI:** Chairperson, as I said to say yes, I hear your explanation of the impracticality, the deviation – that how you explain it, but I am saying that is how I viewed it, to say there was already a company that is here that want to invest and I looked at the prospects of the investments, what is it that it is going to bring and I then realised that

on this basis there is reasons that are recorded why HOD is deviating from the SCM processes.

CHAIRPERSON: So tell me if I misunderstand your evidence, but what you are saying is, your approach or your understanding was that you allowed or the department was allowed to deviate from inviting competitive bids where there was an entity that had already shown interest. That is what I understand you to be saying. Is my understanding correct?

10 **MS DHLAMINI:** Yes, Chairperson, shown interest to invest.

CHAIRPERSON: Yes, to invest. You accept that that is not in the clause that you said you rely on?

MS DHLAMINI: Yes, Chairperson.

CHAIRPERSON: It was your own thing.

MS DHLAMINI: Yes.

CHAIRPERSON: Okay, alright.

ADV GCABASHE SC: Thank you, Chairperson, I will just pick up on one last issue but I think it is a point that you
20 have conceded in your concluding paragraphs of your first affidavit where you agree, Ms Dhlamini, that you ought to have informed the Provincial Treasury and the Auditor-General within 10 days of the deviation, that you had in fact deviated. You concede that you – I think the word you used here is you erred in not doing that. You confirm that

that is your view, that you should have informed those particular parties.

MS DHLAMINI: That I conceded, Chairperson. No, we did not do it.

ADV GCABASHE SC: And you ought to have done so.

MS DHLAMINI: We ought to have done it.

CHAIRPERSON: And why did you not do it?

MS DHLAMINI: Chairperson, it is one of things that becomes an oversight in the processes. As I have already
10 alluded to, that in finance, in the unit that I had, you had supply chain management and you have another unit. So this would have been reported by that unit and most of those reports where you report, they necessarily not come to me because there is format in which they are reported. So not always that – maybe I have taken it for granted that it has been reported, like any other deviation. Hence, I am saying it is one of those oversight things that would be part of one stop when you are ensuring that something should happen.

20 **CHAIRPERSON:** But you – I take it that you would accept a responsibility for the fact that there was no compliance with that part because it was part of your responsibilities, as I understand the position, to ensure that there was proper implementation of supply chain management policies.

MS DHLAMINI: Can you repeat your question, Chairperson?

CHAIRPERSON: Do you accept the responsibility for not checking that that approval from Treasury was obtained because it was your responsibility as CFO to make sure that the SCM policy of the department was properly implemented.

ADV GCABASHE SC: In this case, Chairperson, it is not a matter of getting an approval to Treasury, it is a matter of reporting that there is this incident in the department where we have deviated, so you place on records and you even give the record – it is not necessarily that you are seeking the approval of the Treasury, it is part of the things that you must report that has happened.

CHAIRPERSON: So but you take responsibility for the fact that that was not done?

MS DHLAMINI: No, I am taking the full responsibility that it was not done, Chairperson.

CHAIRPERSON: Yes, okay.

20 **ADV GCABASHE SC:** And you realise that it is – one could interpret that as the project then, the money spent on the project, being irregular, fruitless and wasteful or irregular expenditure because you did not follow all the steps you were asked to follow in terms of the prescripts. Would that be irregular expenditure?

MS DHLAMINI: No, this element would not cause irregular expenditure, Chair.

ADV GCABASHE SC: Why not, Ma'am?

MS DHLAMINI: Because it is not – what causes irregular expenditure is it you contract in a particular law, that reporting within 10 days, it is not in any law.

ADV GCABASHE SC: It is in the practice notes. You would agree with me?

MS DHLAMINI: [inaudible – speaking simultaneously]

10 **ADV GCABASHE SC:** In fact it is practice - National Treasury practice note 6 of 2007 and 2008.

MS DHLAMINI: That is correct, Chairperson, but it has to be reported under noncompliance not a contravention – contravening any particular law because the law we mean the Act that would have been gone through the parliament. That is what gives rise to irregular expenditure but the reporting issues, they are just to be reported under noncompliance, they do not cause irregular expenditure.

20 **ADV GCABASHE SC:** That is fine, we will be taking a view when we make our submissions but it is good to hear your view on whether it would or not constitute irregular expenditure.

CHAIRPERSON: I am sorry ...[intervenes]

MS DHLAMINI: Maybe I need to – maybe I need...

CHAIRPERSON: Ja, continue?

MS DHLAMINI: Maybe I need to indicate, Chairperson, that this matter of irregular expenditure, noncompliance, it was discussed at length in one of our CFO forum, to that extent, it is just that I do not have that document with me. To that extent we were given guidelines from National Treasury especially when you are dealing with financial statements to say what do you regard as noncompliance, what do you regard as contravention of the Act, of the law, which would give rise to irregular expenditure.

10 So I am confidently talking about this matter because there was guidelines in that regard.

CHAIRPERSON: Well, I would imagine that there is a reason why there is a provision or requirement that you should notify Treasury and if you do not notify Treasury you are in breach of that provision of the note but it seems that what you are saying is, if you are in breach of that provision of the note, that does not influence the expenditure to be irregular, what influences the expenditure to be irregular is if you are in breach of
20 something of a higher legal status, then the Treasury note, namely maybe a regulation or an Act of Parliament or maybe you are even saying as long as what you have breached is not an Act of Parliament, if it is a regulation, if it is a Treasury note, that does not affect – that will not make the expenditure to be irregular. Is that what you are

saying?

MS DHLAMINI: Yes, Chairperson.

CHAIRPERSON: Ja, Well, I guess the legal attorney, we will look at that.

ADV GCABASHE SC: We will make submissions on that, Chair.

CHAIRPERSON: Ja, ja.

ADV GCABASHE SC: Chairman, unless you have any other questions, I would like to move on to the next section
10 which is my penultimate section.

CHAIRPERSON: No, that is fine. There is one which I think we should deal with but maybe that you plan to deal with it later. Ms Dhlamini earlier on seemed to want to deal with it, namely the question whether what they were doing in terms of – was it the implementing agent issue? Whether that was getting services, obtaining services? Maybe I should ask. You remember you have made the point in your affidavit that when Mr Thabethe came to you with the first contract which talked about services you said
20 no, you did not go along and when he came back with another one which I think said partnership or something like that, you had no problem, you remember that?

ADV GCABASHE SC: Yes, Chairperson.

CHAIRPERSON: Ms Gcabashe is that something you want to deal with later, that justification or whatever that she

wants to...[intervenes].

ADV GCABASHE SC: Yes, it arises in a very narrow sense, Chairman, when we deal with the agreements that were signed. Ms Dhlamini has talked about three agreements and as you point out, we know of two but that area is part of what I was going to explore under the Anna Fourie interaction.

CHAIRPERSON: Yes.

ADV GCABASHE SC: And the basis on which they
10 thought, they had a valid agreement

CHAIRPERSON: I'm quite happy that we deal with it later but I was just concerned whether – unless I've misunderstood something in her affidavit, Ms Dhlamini, why you were going to this provision that we have just dealt with, if you thought that this transaction did not involve the procurement of goods and services or is there something I misunderstood about what you were saying?

MS DHLAMINI: That's exactly what I said, Chairperson, to say, basically the arrangement between Estina and –
20 Estina Paras and the Department was really a partnership agreement where we are putting up a dairy and the Department provides the dairy parlour and Estina provides the processing plant. That's how I viewed it, that's why I was saying to the Chairperson, I approved this division on that basis that it deals with investment and opportunities

that the investment would come with

CHAIRPERSON: But my question is, why go to that provision that, as I understand it, deals with goods and services, obtaining goods and services if it's got nothing to do with obtaining goods...[intervenes].

MS DHLAMINI: I realise that I caused confusion by going to that particular practice note Chairperson.

CHAIRPERSON: I'm sorry?

MS DHLAMINI: Not practice note, Treasury regulation.

10 **CHAIRPERSON:** I'm sorry just start that sentence fresh, there's something I missed.

MS DHLAMINI: I'm saying, Chairperson, I realised that by talking to that Treasury regulation, yes, I caused a confusion, when my view on the submission was on the issues around the investment and the partnership between the Department and Estina Paras.

CHAIRPERSON: But you had raised this view much earlier that when this proposal was brought to you, isn't it, or do I misunderstand you? This was in, what is the date
20 for this, it looks like there's no date for this proposal of deviation.

ADV GCABASHE SC: The first one was the 26th of May, Chairman, 2012. That's the first one that did not have the deviation then the next one, I think, is the 5th of June 2012.

CHAIRPERSON: The one we're looking at is at 1349, that's the one we were looking at.

ADV GCABASHE SC: The one that has the deviation in it.

CHAIRPERSON: Yes.

ADV GCABASHE SC: That's the one of June 2012.

CHAIRPERSON: Yes, did it come before those contracts that Mr Thabethe gave you?

ADV GCABASHE SC: It came...[intervenes].

CHAIRPERSON: Or it came after?

10 **ADV GCABASHE SC:** In fact, the first contract, according to Ms Dhlamini's affidavit was signed on the 5th of June.

CHAIRPERSON: Yes.

ADV GCABASHE SC: Then the second contract was signed on the 5th of June and the 7th of June, according to her and you correct me if I'm wrong. Then the third one, Chairman, is the 5th of July, the one we had always thought was there and that's the one that's operative right now, was the second contract, so that's really the third one, according to her records which is the 5th of July.

20 **CHAIRPERSON:** Yes, in terms of sequence where would this proposal fit in terms of those dates, in terms of those contracts Ms Dhlamini are you able to say, did it come before the contracts or it came after, this proposal for deviation?

MS DHLAMINI: This particular proposal for deviation

came after two contracts.

CHAIRPERSON: Yes.

MS DHLAMINI: There was – and the last contract, which is the contract that was implemented, that came after this particular deviation was – or this particular submission was approved.

CHAIRPERSON: Yes, so it came at a time when you had already formed a view that we are not here dealing with obtaining goods and services?

10 **MS DHLAMINI:** That was my understanding, Chairperson, of – from the presentation, from the proposal that was presented to me, that was my understanding that we are not dealing with acquiring goods and services, hence when the first submission – the first contract came, where he asked me to witness it, I looked at the heading, even before I could get into the details, I looked at it and it said, provision for services. I then said to him, if you're dealing with provision, we must be clear, what is it that needs to happen. If we are dealing with provision of services here,
20 then you must advertise a tender. Then – in any case, actually that contract was already signed, so HOD was presenting it to me as part of, I think, management, so that I know that there's that contract also but I couldn't accept that because what – let me not say I couldn't accept, what I said to him, I said, HOD if you are acquiring services

here as the heading says, then you must advertise a tender. Then he went back and he came back two days or a day or so later with the one that talks to partnership, which that one, that talks to partnership then was talking, really, to the first submission that was approved.

CHAIRPERSON: So what I don't understand is, having taken the view that we are not, in regard to this project, acquiring goods or services, therefore, Supply Chain Management policy doesn't apply. How it comes about,
10 that, when this proposal is brought to you, you don't adopt that attitude, you go to a provision that deals with Supply Chain Management, acquiring goods and services and you look at that provision that we've dealt with and you say, this is the clause I'm using.

MS DHLAMINI: That's why I'm saying, Chairperson, maybe I shouldn't have referred to that submission – to that particular paragraph that deals with deviation because that has always been my attitude towards this project that, it's not the acquisition of goods and services, this matter of
20 deviation came with – came as an advice from the State Law Advisors after reading all those contracts that we are having. Hence, I think in Dr Masiteng's affidavit or either transcripts, he also explained this thing. There was the first submission that was written by him which did not have the deviation paragraph by then, because there was that

advice from the State Law Advisors, through the HOD and I was in that meeting also, where they said there should be that deviation submission that HOD must approve that's why HOD then said to Dr Masiteng, Dr Masiteng must include that deviation paragraph in the proposal and the recommendation.

CHAIRPERSON: Is my understanding correct, that you can't explain how you applied a provision relating to obtaining goods and services in regard to a project in
10 respect of which you had taken a clear position that it did not involve acquiring goods and services, you are not able to explain, how it came about that you applied that provision, is that right?

MS DHLAMINI: To an extent, yes, Chairperson but I think again, where this provision applies and if you look at the Supply Chain Management policy and even that circular that I referred to, the impracticality part of it, it would then say e.g. I think that is where I was coming to, to say, for example if you say it's impractical for example it should be
20 like, its emergency or it's a sole providing and all those but my argument has been, it say, for example, which means the list is not closed, the list is open there might be other things that necessitate that you deviate and in this case, for me, what necessitated us to deviate is the element of the investment that Paras was bringing in this project.

CHAIRPERSON: Well, it may be well that the two most senior – well, maybe I'm wrong, CFO – is CFO at DGG level?

MS DHLAMINI: Yes, Chairperson, it depends.

CHAIRPERSON: Yes.

MS DHLAMINI: But I'm at a DG – I was at a DGG level.

CHAIRPERSON: You were at a DGG level, I mean, the two most senior – two of the most senior officials of the Department don't appear to have been applying their minds properly in this case, Mr Thabethe and yourself in terms of
10 some of the issues that one would expect you to be able to explain very clearly. The explanation you give here, seems to have some difficulties.

MS DHLAMINI: Chairperson, obviously I have applied your mind in this submission.

CHAIRPERSON: You applied your mind?

MS DHLAMINI: Yes Chairperson.

CHAIRPERSON: Yes, maybe we should take a short break, I see we are at four minutes past five. Let's talk
20 about how far we are still going to go, I'm still able to sit further, what's your estimate of how much time we need?

ADV GCABASHE SC: Chairman we have just two principle issues to cover from the affidavit of Ms Dhlamini, the one is – MEC Zwane asking her to go and ask for the R34million and the other is really her interaction with Ms

Fourie and tied to that of course was the State Law Advisor's criticism of the agreement that she calls the partnership agreement that they were then given. Those are the principle issues, the other matters, Chairman, are matters that we have traversed with other witnesses. I would take thirty to forty-five minutes...[intervenes].

CHAIRPERSON: Should be enough at least at the latest 6 o'clock we should be done?

ADV GCABASHE SC: I believe so Chairman, then I think
10 my colleague would just like to cross-examine, beg your pardon, to re-examine.

CHAIRPERSON: Ja, no, no...[intervenes].

ADV GCABASHE SC: On one or two matters but...[intervenes].

CHAIRPERSON: Yes, that's fine we can still go on until, let's say about quarter to six, 6 o'clock, is that right, okay, Ms Dhlamini is that fine?

MS DHLAMINI: That's fine Chairperson.

CHAIRPERSON: Okay, alright, we're at five past five, I'm
20 sorry let's take about 15 minutes, let's come back at twenty past five, we adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Let us proceed.

ADV GCABASHE SC: Chairman if I might just deal with

the ...[intervenes]

CHAIRPERSON: May I return your...[intervenes]

ADV GCABASHE SC: Yes please Chairman.

CHAIRPERSON: Before you send me an invoice for it.

ADV GCABASHE SC: Thank you very much. Ms Dhlamini I think we should just tidy up your paragraph 9 onwards in the original affidavit of December 2019. You will find that at Estina 01, page 18 and there you relate the events of the 15th of June. Could you please just very briefly walk
10 us through what happened then and you...[intervene]

CHAIRPERSON: Sorry.

ADV GCABASHE SC: Chairman.

CHAIRPERSON: I think my registrar was not listening to you Estina Bundle 01.

ADV GCABASHE SC: Bundle 01 and it is page 18, Estina 01 page 18 it is paragraph 9 of Ms Dhlamini's original affidavit.

CHAIRPERSON: Counsel for Ms Dhlamini do you have an estimate of how much time you might need for re-
20 examination? Just switch on the mic.

ADV H KOOVERJIE: Chair I do not think I will be longer than ten minutes.

CHAIRPERSON: Okay, alright thank you.

ADV GCABASHE SC: Thank you Chair can we proceed?

CHAIRPERSON: Yes.

ADV GCABASHE SC: Ms Dhlamini you were going to explain what happened on the 15th of June and you know of course because you got the Rule 33 notice in relation to Ms Anna Fourie's testimony that she says that you are the person who came to ask for the R30million to be paid to Estina on that particular day. Please just explain your version of that day to the Chairman?

MS DHLAMINI: Thank you Chairperson. Chairperson on the 15th of June 2012 in the afternoon I think it was after 2
10 o'clock I received a call from MEC Zwane who was the MEC for Agriculture and Rural Developments in the department and he asked me or he instructed me to go to a meeting to meet MEC Mohae who was the MEC for the Provincial Treasury.

ADV GCABASHE SC: Can I ask you just to pause there please Ms Dhlamini. Was it usual for MEC Zwane to phone you and give you an instruction to go and speak to another MEC?

MS DHLAMINI: It was for the first time that happened.

20 **ADV GCABASHE SC:** Please continue.

MS DHLAMINI: Chairperson we – my office was 30 kilometres outside the town Bloemfontein and where MEC Mohae was he was in town and I was still in the office because it was on a Friday, it was still a working day. So I left my office and I think I arrived at the hotel Anta Boga

because MEC did indicate that MEC Mohae is at Anta Boga Hotel.

So I arrived at the hotel and on my arrival at the hotel I cannot remember who I asked but I asked – I indicated that I was looking for MEC Mohae and I was taken to a room in the same hotel.

Upon my arrival in that room I found a MEC Mohae, I found the then HOD for – we use to call him CEO for Treasury Mr Gomongwe. There was Ms Fourie in the room,
10 there was also Mr Mabisha in the room.

ADV GCABASHE SC: Before you proceed just clarify this did MEC Zwane tell you what you were going to discuss with MEC Mohae?

MS DHLAMINI: Yes, he just said it is regarding the payment for Vrede Dairy.

ADV GCABASHE SC: Was that it, no further explanation?

MS DHLAMINI: There was no further explanation.

ADV GCABASHE SC: You had no idea that you were going there to try and secure the payment of R30million on
20 that day?

MS DHLAMINI: I have no idea that I was going to secure but maybe let me explain first to say when he said it is with regard to the payment to Vrede Dairy who I knew we had already made a payment to Vrede Dairy.

ADV GCABASHE SC: No, no you had not made a

payment – unless I have misunderstood your affidavit. You had made a payment request not a payment but if I have got it wrong please correct me Ms Dhlamini.

MS DHLAMINI: Let me correct you Chair let me correct advocate here. Advocate when I say we had already made a payment when we say payment it is when it has already been processed in the department approved, captured in the system.

You have all those documents that I indicated
10 earlier on because remember when we were dealing with the payment, the certificate, ABCT.

Then that means payments is done in the department but there is still another leg which is the leg that I did explain to say if it is million and over it will have to go to Treasury to finalise that payment.

ADV GCABASHE SC: But surely that is processing the payment it cannot be called the making of a payment.

MS DHLAMINI: Okay let me argue...[intervene]

CHAIRPERSON: All you had done is you had done your
20 part of the processing of the payment.

MS DHLAMINI: That is correct Chairperson.

CHAIRPERSON: Yes, okay.

MS DHLAMINI: I agree with you.

ADV GCABASHE SC: And let us just finish that last bit of, had you been directly involved in preparing the

documentation that was necessary to process that payment through Provincial Treasury?

MS DHLAMINI: The only paper that I have signed is the certificate but that certificate when it comes to me because I need to confirm certain activities, certain things. It comes as a package of the whole payment.

ADV GCABASHE SC: And do you read that entire package?

MS DHLAMINI: Yes, you will have to go through that
10 entire package to check that the things that you are confirming like the supporting documents is properly authorised. You have to read the entire package before you sign that certificate.

ADV GCABASHE SC: Do you keep a copy for your records?

MS DHLAMINI: I was not keeping copy for my records Chair because I had a finance unit so after I have signed it I would then take it to the finance unit which will then take it back to Treasury.

20 **ADV GCABASHE SC:** So even in the finance unit you would not keep a copy of what you were sending through to Treasury?

MS DHLAMINI: No they would keep that copy.

ADV GCABASHE SC: They would in your finance unit make a copy and keep it and then send the original through

to Provincial Treasury?

MS DHLAMINI: That is correct Chairperson or otherwise I stand to be corrected in this fact whether we keep the originals and we send the copies to Treasury but either way it is either we left with the copy but the whole package would have been sent to Treasury.

ADV GCABASHE SC: And all of this would be done without the HOD Mr Thabethe being involved at all?

MS DHLAMINI: After he has approved the payment yes all
10 those things of course that you see in the system would have been done outside the HOD.

ADV GCABASHE SC: Please continue so you then found MEC Mohae and other officials at the hotel.

MS DHLAMINI: Yes, I then found MEC Mohae and other officials at the hotel and MEC Mohae then indicated to all the officials that they are there including myself that he had a discussion with MEC Zwane.

I may not say the exact words of how he put it but he indicated that there was a discussion between him and
20 MEC Zwane where a payment that was supposed to have been made for Vrede Dairy has not been made.

So the reason why I was – then he asked me do I know anything of that I said yes I am aware and the reason why it has not been paid it is because at the time when we processed that payment in the department we have not

made a requisition, we did not have enough cash. We had a budget but we did not have enough cash in the bank and normally the process would be at the point when you are confronted with that situation you write a submission to Treasury when you send it together with those documents that you requested that they increase your cash in your bank account. Which means the bank account of the department.

That we had done I think by Wednesday I had
10 already received the response from Treasury that they do not have sufficient cash they cannot assist the department to finalise that payment.

Then I left it there I informed the HOD that that payment could not be finalised because there is no cash we will have to wait until the department have – when they submit the next Treasury requisition for the following week, then we would wait for that. Then we will make provision in that, well in that – I think it is even the next month because we were submitting on a monthly basis.

20 **ADV GCABASHE SC:** Can you just help me understand this please. Had you budgeted for that R30million that you were requesting and if so where were you getting it from or were you planning on finding some other means of collecting that money? Just clarify that one point.

MS DHLAMINI: I cannot remember – I am not sure if

Chairperson would remember when we were dealing with the R30million I have indicated that reprioritisation was made. When we had only R9million reprioritisation was made and then R21million was found and the budget was then allocated properly, it was taken from other projects into that particular project.

ADV GCABASHE SC: So the R21million came from other projects?

MS DHLAMINI: Other projects.

10 **ADV GCABASHE SC:** Under Mohuma Mobung.

MS DHLAMINI: Under - you know Chairperson it is difficult to say under Mohuma Mobung because there were other projects, let me say yes.

CHAIRPERSON: There were other projects under the department...[intervene]

MS DHLAMINI: Because actually what I want to say is we had a list of projects...[intervene]

CHAIRPERSON: Hang on, hang on Ms Dhlamini we cannot all talk at the same time.

20 **MS DHLAMINI:** Oh we had a list of projects in terms of Table B5 of the budget which was part of the projects. So mostly the projects that fell under Mohuma Mobung were high impact projects but you had other projects small projects. So moneys were taken from those projects and we take them to Vrede Dairy that is what we call

reprioritisation.

CHAIRPERSON: I had not understood you earlier to say reprioritisation happened before the R30million was paid. I have not understood you to be saying that but is that what you are saying now?

MS DHLAMINI: That is what I am saying because if that reprioritisation did not happen before the system would not have processed that budget.

CHAIRPERSON: Yes, okay.

10 **MS DHLAMINI:** And even where myself as the CFO I would have caused unauthorised expenditure.

CHAIRPERSON: Okay, no that is alright.

ADV GCABASHE SC: But again, can you explain to the Chairman how the R30million that you had budgeted for could be converted into cash because you are now asking for a cash cheque on the version of Ms Anna Fourie?

MS DHLAMINI: It would be converted into cash not a cheque cash but a transfer from a bank account, the department's bank account into Estina's bank account,
20 which is the intended payment. The payment was for Estina.

CHAIRPERSON: But I think Ms Gcabashe's question is before you can transfer money from your accounts as the department into Estina's accounts there must be cash in the account.

MS DHLAMINI: Yes, there must be cash that is the cash that I said we have made a submission to Treasury when we were sending, those payments – those documents that we have processed that accompanied that payment. We have made a request; we call it cash requisition. In this case we were requesting them to increase our cash so that the cash in our bank can be able to accommodate that particular transaction.

ADV GCABASHE SC: Now when had you indicated to
10 them that you would require this cash to be in your bank and when you say your bank you mean in the departments bank so that the department could then do the transfer.

MS DHLAMINI: Yes, I mean the bank account of the department.

ADV GCABASHE SC: When did you ask them to make sure it would be available in the department's bank account?

MS DHLAMINI: Hence I said Chairperson we made the request. The request was not approved and when the
20 request was not approved Treasury could not process that payment because there was no cash in the bank.

ADV GCABASHE SC: The question though is what did you say to them when you requisitioned the cash? Did you say to them we would like that cash to be in our bank account on or before the 15th of June 2012? I do not know

I am asking the question.

MS DHLAMINI: No you would not say that Chairperson because the payment was done on a Monday. We got the other documents that accompanied that payments on a Tuesday then we sent them to Treasury that is when we ask for cash requisition. That cash if it is approved it would have been made available on a Thursday because on a Thursday that is the day that Treasury process all those payments that are above a million.

10 **CHAIRPERSON:** So what you are saying is when you send to Treasury various documents which I take to have included the certificate of confirmation that you signed.

MS DHLAMINI: Yes, Chairperson.

CHAIRPERSON: When you send those documents included in those documents was a request from your department to Treasury to say in order for this payment to go through, we request you to give us more cash into our account. Is that right?

MS DHLAMINI: That is correct Chairperson.

20 **CHAIRPERSON:** And you appreciated that if Treasury did not approve then there would be no payment.

MS DHLAMINI: I appreciated that Chairperson.

CHAIRPERSON: Yes, okay.

ADV GCABASHE SC: And in asking for that cash did you explain to Treasury that they should take that money from

budget item X which is where you say you had hoped to find this money. Did they know where it would come from?

MS DHLAMINI: Chairperson it is a different process all together it does not deal with the budget what advocate is talking about is the budget. The cash must come from – maybe I must, I should have explained that how the configuration of the bank account of provinces. There is what we call the revenue fund, that is where all the monies that came from National Treasury even from national departments your conditional grants, they all get into the revenue fund of the department of the...[intervene]

ADV GCABASHE SC: Of the province.

MS DHLAMINI: Of the province which is administered by...[intervene]

CHAIRPERSON: Treasury.

MS DHLAMINI: The Treasury. For you to spend your budget you need cash. You would have your own bank account which we call PMG account. The department will have that but it does not necessarily mean when you have R500million budget it is already a cash in your bank. For you to access your cash you will need to give Treasury your cash projections.

How are you going to need that on a monthly basis but you would indicate it on a weekly basis. Say week 1, I need R5million, week 2, I need - of a particular month. For

the whole month maybe, I need R30million that is what happens.

So it has got nothing to do with the budget and where the budget would come that process is the process that happens in a department and by the time the documents goes to Treasury that process is concluded hence the payment could be processed within the department.

ADV GCABASHE SC: We will continue because we know
10 that when Ms Fourie was here, she explained that there is a process even in requisitioning for cash and your correct cash then would normally be paid out on Thursdays. She went through that in her evidence.

But she also went on to say that when you arrived there was of course a discussion, you had to go to the Treasury offices and when she checked you required the payment of R30million, cash of R30million in the provincial revenue account there was only 5 or R6million and she then told you that they did not have any cash in that
20 revenue account. Is this correct?

MS DHLAMINI: That is not correct Chairperson because it was not in Ms Fourie's responsibility. All this documents and the cash requisition went to another unit in Treasury that we call assets and liability. Which is the unit that was, the head – Mr Mabisha was the head because the official

there has resigned.

So it was not in Ms Fourie's responsibility so she would not have told me unless she would have asked the officials in assets and liabilities specifically cash management if there is money in the bank account. If the revenue fund has money but as I have indicated they had already indicated to me that there is not sufficient cash that they can transfer into the account of the department which I accepted and appreciated.

10 Although I did not ask how much because it was not of my interest to know how much they still have that would be uncalled for, for me to ask them how much do you have. No, I accepted the fact that they explained to me that the cash is not there and maybe Chairperson I need also to indicate that in my career I did work in that unit in the Provincial Treasury of Limpopo.

So I knew exactly when they say the cash is not there, I knew exactly what it would take for them to have that cash in the revenue fund so that they can transfer into
20 the PMG account of the department. Hence, I accepted when they told me that they do not have cash.

ADV GCABASHE SC: So who exactly told you that there was no cash?

MS DHLAMINI: Chairperson I may not be able to answer that question now because it is something that is written.

You made that submission in writing and it goes through the channels but when it comes back sometimes it does not even come directly to the CFO it would come to the unit in finance and they would inform me as the CFO those officials who works with me, who works under me, who process the payments. They would have told me that Treasury has replied and indicated that there is no cash.

ADV GCABASHE SC: So Ms Dhlamini why were you meeting Mr Mohae, why were you talking at all to Ms Anna
10 Fourie and the other officials?

MS DHLAMINI: Chairperson as I have indicated I was sent by MEC Zwane to go to the meeting. So and he just said it is connection with the Vrede Dairy payment. So I went to the meeting to listen what is it that – what MEC has discussed with MEC Mohae.

CHAIRPERSON: Oh you had already been told, you were already aware that Treasury said that there was no cash at the time when MEC Zwane asked you to go to that meeting?

20 **MS DHLAMINI:** That is correct Chairperson.

CHAIRPERSON: Oh okay.

ADV GCABASHE SC: And so you then did what?

MS DHLAMINI: Then I arrived at the meeting, then MEC Mohae explained why I am there it is as a result of his discussion and MEC Zwane's discussion. Then MEC

Mohae asked me around the issues of the budget and do we have a budget for this.

There was a couple of things I may not remember them from the top of my head and I explained everything. Whatever that he asked me I answered and he then said to the officials is there any other thing that you want to ask the CFO, nobody asked me anything. And then he further says CEO is there any reason why you cannot assist the department, right.

10 I have already explained even to him why Treasury could not process that payment that they have indicated to us as a department that they do not have the cash in the bank. But he then asked the CEO if there is anything – if they cannot still not assist the department.

That is where Ms Fourie came in. I do not know what was in her mind. She then said to CEO, CEO we can look at this matter provided we go to the office, the CFO signs a certificate that confirms that there is a budget and all those things.

20 But I have already signed that certificate that says this payment would not post unauthorised expenditure. By saying it will not post unauthorised expenditure it means the budget is there but she insisted, she indicated let me not say she insisted, she indicated that she would want to develop the certificate that I must sign.

On that basis then the CEO said CFO, Ms Fourie, Mr Mabisha go back to the office and deal with this matter. By the time we left Anta Boga Chairperson it was already I am sure like 4 o'clock after four or just before four around that time because by the time we get to the offices there was nobody. People have knocked off because in the provincial government we knock at 4 o'clock. Myself and Anna Fourie, Ms Fourie may her soul rest in peace. Myself and her we went to her office and Mr Mabisha] went to his
10 office where Ms Fourie said go to the office and get all those documents that CFO has already brought here.

We sat in Ms Fourie's office waiting for Mr Mabisha to come with the documents. Mr Mabisha did not pitch up Chairperson. After a long time, I said and Ms Fourie is also not developing the certificate that I would not even know what was really was – what was going to be the content because it was her who was going to develop that certificate.

So we sat in her office she is not developing the
20 certificate, we waiting for Mr Mabisha, Mr Mabisha is not coming. After some time and it is substantial time Chairperson, I then said to Ms Fourie I think that Mr Mabisha is not coming but honestly it is Friday and I have other things, I am leaving because indeed I had already packed my bag I was going to go home.

I was on the N1; my office was on the N1 so from there 4 o'clock I was going to go home so I had to come back to town. So when Mr Mabisha is not coming fourth, I decided to say I am leaving because I still have my other things and then I left. I did not even have a handbag Chairperson when I went there if my memory serves me well I just went as I was.

ADV GCABASHE SC: Now I must say Ms Dhlamini that the version that Ms Fourie gave to the commission is
10 consistent with the version that she gave to the police investigators when this particular matter came up for hearing in relation I think to the NDPP case.

All I am saying to you essentially is she has given two consistent versions of what happened on that day and I suppose my question to you is are you saying that we should accept your version because both versions that she gave one much earlier than the one she gave here last year are incorrect.

MS DHLAMINI: Chairperson I would say Ms Fourie did not
20 give – Ms Fourie did not give constant versions because if she had given constant versions in the ENS report, I went through the ENS report with my legal team, she started where I have started, where she indicated that MEC Zwane said I went to the meeting and then we met with MEC Mohae, but at the commission she did not say that.

I also went through the transcripts because that was not in her – in her affidavit. He said it in his interaction with the commission. She did not start that – that – she is not that pro – she did not start that process at the point where we met with the MEC. Which is one of the things that made me a little bit angry with her to say, why was she not telling the entire truth of what has happened? Because she – she displayed me as this bully or this powerful person who came to the meeting and take them out of the meeting. That is how
10 she displayed this whole matter at this commission. And certain things that she talked about that I requested the R5 million; I said – or they offered me to give me R5 million cheque and I said I do not want it it is R30 million or nothing. There is no such a thing Chairperson. It is even not possible. You can call any CFO we will tell you it is not possible to even get – it is not even easy to get a cheque of R10.00. So honestly, I do not know where she got all those things. And like I am saying I went there knowing exactly that the unit that this we have cashed has already indicated
20 that there is no cash. So if you know and we are sent back to the office I was still surprised what they are going to do. So – but like I am saying I would not know how much they have in their bank account. So I – I do not agree with what she said at this commission.

ADV GCABASHE SC: If I might just say that I – I have here

statement that she made in 2017 which is the statement she made to the police which she then spoke to when she came to the commission. And in that statement, she does say something you dispute in your affidavit that at the office you produced the contract between the Free State Department of Agriculture and Estina as well as a payment document request from Free State Department of Agriculture for an amount of R30 million. The documents were assessed and certain questions were asked to the CFO which some of those questions were related to the contract produced by the CFO. She was unable to answer satisfactorily. You are saying this is incorrect?

MS DHLAMINI: This is so much incorrect Chairperson because by the time I went to the meeting the documents I did not come carrying documents. The documents were already in Treasury. I had already known that there is no money. So it is not correct. If she had got hold of those documents she might have requested it from the unit that was dealing with cash. She did not get those documents from me. And hence we could not me and her could not do anything on that particular Friday because we are waiting for Mr Mabija to bring the documents. Thank you Chair.

ADV GCABASHE SC: Anyway that – that deals with your version of what happened on that day and I have put the version of Ms Anna Fourie to you. Can I just wrap this up by

asking? You then say that you briefed Mr Zwane on the outcome of that meeting, is that correct?

MS DHLAMINI: Yes I did Chair.

ADV GCABASHE SC: Why did you brief Mr Zwane and not the HOD?

MS DHLAMINI: I was not briefing Mr Zwane I was giving feedback because he has sent me. Common cause said if you send somebody somewhere to do something he must give feedback. It was on those basis that – that was on
10 those basis that I have given him the feedback because I was sent by him not the HOD. The HOD was already aware. At the time when Treasury indicated to us Chairperson, I am sorry Chairperson by addressing Advocate. At the time when Treasury responded to us to say there will not be cash, I immediately informed the HOD that this payment would not go through.

ADV GCABASHE SC: You see your report gives one the impression that Mr Zwane was getting involved in the implementation of the Vrede Dairy Project. And yet in his
20 affidavit he disavows or he says he had nothing to do with the implementation of the Vrede Dairy Project. Would you agree however that where he instructs you to go and make sure that money is paid or to go and try and secure funds to be paid to Estina he is now stepping out of his political MEC arena and stepping into the administration – into operational

matters that deal with implementing the project?

MS DHLAMINI: Chairperson I – I do not know whether I should answer that question to say he was – he was getting into implementation. But does the facts that happened.

CHAIRPERSON: Yes okay. Well maybe you want to ask this question? You would be aware would you not be of whether the political head of the department namely the MEC can get involved in operational matters as opposed to being involved in policy formulation and such matters? Would you know
10 whether he can come in – in the department and say, and start getting involved in basically operational matters?

MS DHLAMINI: Chairperson it – it will depend at what level. But like in this case he is saying go to the meeting. That he can do.

CHAIRPERSON: Hm. I am sorry what did you say?

MS DHLAMINI: I am saying in this case he sent me to a meeting.

CHAIRPERSON: Huh-uh.

MS DHLAMINI: And I am not sure if that is regarded as part
20 of operational because the meeting was between him and the other political – political head.

CHAIRPERSON: Ja no but the question is at a general level at this stage according to your knowledge is an MEC supposed to be involved in the operational matters of the department?

MS DHLAMINI: No.

CHAIRPERSON: Or is that something you do not know?

MS DHLAMINI: No he is not supposed to except giving strategic direction.

CHAIRPERSON: Yes.

MS DHLAMINI: And a political direction.

CHAIRPERSON: Yes. Okay alright.

MS DHLAMINI: Thank you Chair.

ADV GCABASHE SC: Then there are just one or two small
10 little issues I want to raise with you. You know Mr Cele
when he was here gave evidence and I know it is in the ENS
investigation report as well that when he came to see you at
your offices as part of that investigation team you warned
him and said he should be careful in the Free State. He will
be killed. And in Sotho something along the lines that
[African language] or something along those lines. Do you
recall saying that to him? Warning him really. It sounded
like a friendly warning.

MS DHLAMINI: Chairperson I do not remember saying that
20 to Mr Cele and I would say I am – I would not even have said
that. If I said that I would have said it in English because
since I have been engaging with Mr Cele I was of the
impression that he does not even understand the Sotho so it
was impossible that I would give him a warning in the
language that he would not understand. Thank you.

CHAIRPERSON: So are you saying you do not remember giving him that warning if it was a warning or are you saying you do remember that you never gave him such a warning and therefore you deny his evidence that you gave him that warning?

MS DHLAMINI: I deny his evidence. No I cannot deny his evidence because it is his evidence. But my version of the story is I did not warn Mr Cele of any Basotho [African language]. I have not said that.

10 **CHAIRPERSON:** Did you say it in English?

MS DHLAMINI: I did not say it in English. I did not say it in Sesotho. I did not warn – I did not even give any warning to Mr Cele. The only thing that I know I have said to Mr Cele – Mr Cele came to me with a letter from National Treasury that was informing the department written to the Accounting Officer informing the department of the investigation just going to – that National Treasury is intending to do. All what I said to him I said – he gave me – I said okay I can accept the copy but you must know the protocol. You must go to the
20 HOD. That is all – the only thing I said to him is to say, take this thing to the HOD.

CHAIRPERSON: Hm. So you saying Mr Cele just made this evidence up that this is what you told him?

MS DHLAMINI: I do not know where he got it Chairperson. I did not say it.

CHAIRPERSON: Hm. Ms Gcabashe.

ADV GCABASHE SC: Thank you Chairman. I also then want you to confirm that when – you have referred to the first agreement with Estina – service agreement or provision of services. You have referred to the second agreement which you yourself call a partnership agreement. I – I will – the Chairman has dealt with the first one can I just say in respect of the second one – you accept that the state law advisors were given a copy of the second agreement? Anna
10 Fourie’s evidence was that they got it from Provincial Treasury and that that agreement was found to be invalid. You accept that? There are two propositions so make sure you want to accept both.

MS DHLAMINI: I accept that Chairperson that after the state law advisors engaged with the second affidavit they then advised the department that it is not – or they – I cannot remember whether they said it is not valid but they then proposed to assist drafting a better affidavit because...

ADV GCABASHE SC: Agreement.

20 **MS DHLAMINI:** Agreement yes agreement – agreement Chairperson because their even – their main – main concern was the first one was not even really looking after the interest of the department. Which I accepted because there are better positions the legal people who can do that.

ADV GCABASHE SC: You had not come to that conclusion

prior to the state law advisors telling you that?

MS DHLAMINI: Honestly speaking I have not come to that conclusion at that point in time.

ADV GCABASHE SC: And just for the record Mr Venter gave evidence here and he said they had not seen the first agreement or the second agreement before the 18 June 2012. You would accept that?

MS DHLAMINI: That is correct.

ADV GCABASHE SC: Then the last item I think I want to
10 ask you about is the following. You know when – when Ms Mchiza was here she told us that when this – the bad press around the Vrede Dairy Farm came through the media one of things they did was go to the Dairy Farm go and visit. Did you ever go representing the department to go and find out what it was that people were complaining about? Whether there was something the department needs to do about this contract, this agreement you had with Estina?

MS DHLAMINI: Chairperson on my own I had not gone to the Vrede Dairy and the reason being I think it is because of
20 the kind of – the volume of the work that I was dealing with. Because if my memory serves me well when these things came, we were busy with the adjustment budget. We were busy with the [00:44:55] hearings. There were a couple of things that CFO had to deal – had to deal with so on my own I did not have time at that point to go to Vrede Dairy.

ADV GCABASHE SC: The – in the evidence of Ms Rockman as well she explained that Provincial Treasury also got very worried when all this bad press about the Vrede Dairy operations became topical. They too took more than one visit to go and establish what monies were in fact being used for the right reasons. Again it is another unit that took the trouble of going to the Dairy Farm to try and find out if government's money was being spent for the intended purpose. You confirm that you did not do – do that?

10 **MS DHLAMINI:** Chairperson I confirm that I did not do that due to the volume of my work.

ADV GCABASHE SC: Ms Dhlamini those are the principle issues that we as evidence leaders had wanted to raise with you. There may be other matters you want to bring to the attention of the Chairman because in your paragraph 13 on page – Estina 01 page 56 you say that you are aware that there may be other aspects which you have not dealt with in your affidavit of course and you will address the commission on those aspects to the extent that you have knowledge of

20 those aspects. This is just an opportunity to – we are giving to you in case there are important matters that you would have preferred to raise here that you do in fact want to raise.

MS DHLAMINI: Thank you Chairperson. The only aspect that I may not have dealt with is even if I did not go to Vrede Dairy at that point in time when there was all those articles –

media articles and all that but subsequent to that I did go to Vrede Dairy with the delegation from National Treasury. I did go to Vrede Dairy accompanying our MEC – MEC Mamiki Qabathe then when he has just joined the department when she was taking a trip through all the projects. So all what I am saying is even if I did not go at that point in time but at a particular point in time, I did went to the Vrede Dairy and see the project.

ADV GCABASHE SC: The – the issue is you are aware that
10 the beneficiaries who were supposed to benefit from this project have not had any value at all from even that indirect association with the Dairy Project you are aware of that?

MS DHLAMINI: I am aware of that Chairperson that they have not benefited yes.

ADV GCABASHE SC: And you are aware of the fact that when you started working on this particular project and you brought in an implementing agent the idea was that there would be beneficiaries who would benefit?

MS DHLAMINI: Yes Chairperson.

20 **ADV GCABASHE SC:** But not one cent of the monies that government has spent on this project has benefited any of those people who are on those beneficiary lists?

MS DHLAMINI: Chairperson the reason that I am saying I am aware they have not benefited because at that point when I leave the department the project has not come to its

logical conclusion. And I can only suspect that after the project would have been precluded – completed properly they would then have started to reap the benefit.

CHAIRPERSON: When did you leave the department?

MS DHLAMINI: I left the department in 2015.

CHAIRPERSON: Yes. Would you not have continued to be aware even if not in detail about what was happening in your previous department about a project that you were so involved in?

10 **MS DHLAMINI:** Chairperson I really did not follow up to say how – after Estina pulled out of the project I did not – or really – I am not aware how would the department is intending to bring back the beneficiary. But I still believe that at the ultimate end when they have got it right it is going to be handed over to the beneficiaries. Because it cannot be owned by – it cannot be owned by the – by the department.

CHAIRPERSON: Let us go back to that issue that you had raised about Estina or about implementing agents when you said that – when you involve an implementing agent that is
20 not obtaining services or obtaining good. You remember that issue? Do you remember that issue?

MS DHLAMINI: Yes Chairperson.

CHAIRPERSON: Okay. Just so that we are on the same page. As I understood you you were saying where the department would involve an implementing agent there is no

need to involve the Supply Chain Management Policy because the department is not offering goods or services, is that right? Was my understanding of what you – of the point you were making correct?

MS DHLAMINI: No Chairperson there is implementing agents that we appointed through a proper process of Supply Chain where we advertised the tenders.

CHAIRPERSON: Yes, yes.

MS DHLAMINI: But in this particular project with regards to
10 Estina, hence I have been emphasising the fact that from the point of view and my understanding of this project, this project was not supposed to be a relationship of an implementing agent but was supposed to be a partnership between the department and Paras Estina in putting up the dairy, the Vrede Dairy.

CHAIRPERSON: Okay let me make sure I understand. You are saying that where the department brings in an implementing agent, that does not exempt the department from complying from its supply chain management policy. Is
20 that right?

MS DHLAMINI: That is what I am saying, Chairperson.

CHAIRPERSON: Yes. In this case, I thought that is what you were saying. So what are you saying as to why supply chain management policy was not applicable as far as you are concerned?

MS DHLAMINI: In this case it is because Chairperson, this partner, this arrangement was supposed to be a partnership arrangement because they were going to invest money and we are going to put up... they are going to put up the processing plant and we are going up to put the dairy parlour.

CHAIRPERSON: H'm?

MS DHLAMINI: So it really was a partnership agreement than an implementing agent.

10 **CHAIRPERSON:** But if I recall correctly from what Ms Gcabashe was saying earlier on, was Estina not appointed as an implementing agent?

MS DHLAMINI: That is what the contract say but Chairperson you will remember that I had referred to the first contract that HOD brought to me which the contract then said they require... it was saying provision of service which I advised him to say if it is a provision of service it becomes... it must be a tender process.

20 And I am still saying, even now that I did not look at the arrangement as Estina providing service to the department I saw it as a partnership. Yes.

CHAIRPERSON: Yes, but the ultimate contract that was signed ...[intervenes]

MS DHLAMINI: The ultimate contract that was signed said implementing agent and HOD, sign it as is.

CHAIRPERSON: Yes. And ...[intervenes]

MS DHLAMINI: And that is despite that I have already warned him or advised him of the ... with the first contract.

CHAIRPERSON: But before it was signed, you said it is... you went along with the contract, is not it, when the last contract was brought? You had no problems with it.

MS DHLAMINI: Unfortunately, he brought it to me already signed.

CHAIRPERSON: Yes, but that would not have prevented
10 you from saying: But I see this is a... you are appointing this entity as an implementing agent that still brings in the supply chain management policy. Even if he had signed, you could still state that position to say it is wrong. If you are appointing them as implementing agents, then the supply chain management policy applies.

MS DHLAMINI: Chairperson, you will remember I referred
to two submissions that Dr Masiteng did which the first one did not have a clause of deviation which that clause really seeks to... that clause really seeks to address that
20 implementing agent part of it.

And HOD refused to take that and then they insisted on the second one that has got the deviation. But I have been very clear in myself that I do not see this thing as an implementing agent thing. I see it as a partnership agreement.

CHAIRPERSON: Yes, but my questions is. When the last contract was brought to you by the HOD and you realised that it referred to Estina being appointed as an implementing agent, one would have expected you to say but HOD, I have already told you that as far as I am concerned, you cannot appoint Estina as an implementing agent without following the supply chain management policy.

As far as I am concerned, it is a partnership. Therefore, if you are going to do this, you must know you are doing it
10 on your own part. As far as I am concerned, the contract should not be appointing Estina as an implementing agent.

MS DHLAMINI: Chairperson, I did not follow that matter. I did not have that matter further because I had already spoken to HOD about that matter and made myself very clear from the onset.

CHAIRPERSON: H'm. Anything further?

ADV GCABASHE SC: No, Chairman. Thank you very much.

CHAIRPERSON: Nothing. Yes. Counsel for Ms Dhlamini,
20 do you want to re-examine? They will sanitise the podium before you do so.

ADV HARSHILA KOOVERJIE: Good afternoon, Chair.

CHAIRPERSON: Good afternoon.

ADV HARSHILA KOOVERJIE: Chair, I just want to place my name on record.

CHAIRPERSON: Yes, please. Actually, I remember. I think long afterwards started that we should have allowed you to place yourselves on record in the morning.

ADV HARSHILA KOOVERJIE: No. Thank you, Chair. It is Harshila Kooverjie and I am here together with my two junior, Mr Makhlash. Sorry, Chair I just have a problem with pronunciation.

CHAIRPERSON: Okay alright.

ADV HARSHILA KOOVERJIE: Chair, firstly before we start,
10 we would like to on behalf of Ms Dhlamini, thank you for your indulgence so that we could be here today and that she could assist the Commission properly prepared.

CHAIRPERSON: Yes.

ADV HARSHILA KOOVERJIE: She also, in order to expedite my questions to her which are very limited, they concern only the supplementary affidavit.

CHAIRPERSON: Yes.

ADV HARSHILA KOOVERJIE: I would like to ask the evidence team just to help me with the paginated pages
20 ...[intervenes]

CHAIRPERSON: Oh.

ADV HARSHILA KOOVERJIE: ...because I do not have your paginated pages.

CHAIRPERSON: Oh, okay.

ADV HARSHILA KOOVERJIE: So when I refer to an

annexure for a section of the affidavit, they can... it will be for ease of reference to immediately go there.

CHAIRPERSON: Yes, okay alright. I think somebody in the legal team, when you indicate what paragraph or whatever, then they will indicate what page of the paginated bundle that would be.

RE-EXAMINATION BY ADV HARSHILA KOOVERJIE: Thank you, Chair. Ms Dhlamini, I am just going to touch a little bit on your role in the context of this project. And in that
10 regard, I would like to touch a little bit on the budget and then on the payments.

I think you have covered all the other aspects. And if there is anything else you would like raise in addition to that, I think you may do that.

But this purpose of this exercise is just to clarify some of the issues that you have explained to the Chair or that some of the questions that have been asked by the evidence leader.

I think the first document I want to refer you to is
20 Annexure S13 which is the submission. The submission to accept the proposal from Estina with regard to the Vrede Integrated Dairy Project. Page 313.

No. Sorry, Chair. Actually, the submission that is attached to S13, it is I think six pages towards... from the end. Sorry, I do apologise. It is not the first page.

CHAIRPERSON: Is that the one at page 318?

ADV HARSHILA KOOVERJIE: Yes.

CHAIRPERSON: It is written Chief Director District Services?

ADV HARSHILA KOOVERJIE: Yes.

CHAIRPERSON: Yes. Dated 26 May 2012.

ADV HARSHILA KOOVERJIE: Yes. And Chair, I think it is... is it Exhibit HH16? It is in the bundle. The affidavit is H.

10 **CHAIRPERSON:** If you tell me the date of the submission. It is 26... the one I am looking at is 26 May 2012 and it starts with subject to accept the proposal from Estina.

ADV HARSHILA KOOVERJIE: Yes, Chair. That is the one. And I see your pledges... can I give you the last three digits? It is page 280 in red or do you want the one in black?

CHAIRPERSON: No, the black one. 318.

ADV HARSHILA KOOVERJIE: 318. Yes, Chair.

CHAIRPERSON: Yes.

20 **ADV HARSHILA KOOVERJIE:** Ms Dhlamini, yes I just want to ask you general questions around this specifically. You had already in your testimony... I just want her to find the document, Chair.

CHAIRPERSON: Yes. It is page 318 of Estina Bundle 01.

MS DHLAMINI: I have got it Chair.

CHAIRPERSON: Okay.

ADV HARSHILA KOOVERJIE: This concerns the issue of the budget which you have already raised and it is the 2012/2013 aspect for the reprioritisation. This was a submission in that regard. Is that correct?

MS DHLAMINI: That is correct.

ADV HARSHILA KOOVERJIE: Ms Dhlamini, you have also mentioned that this was a budget that was managed by the Chief Director District Services. Is that correct?

MS DHLAMINI: That is correct, Chairperson.

10 **ADV HARSHILA KOOVERJIE:** You can look at the Chair when you answer.

MS DHLAMINI: [laughs]

CHAIRPERSON: [laughs]

ADV HARSHILA KOOVERJIE: Ms Dhlamini, the question that I actually wanted to get around you is. Did you prepare the submission or were you part of preparing the submission?

MS DHLAMINI: I did not prepare the submission. I was not part of the preparation of the submission.

20 **ADV HARSHILA KOOVERJIE:** You, however, recommended it?

MS DHLAMINI: I, however, recommended it, Chairperson.

ADV HARSHILA KOOVERJIE: Yes. Now when it came to the actual shifting of the grant funds, were you part of... or were you... or did you compile the shifting of the grant

funds? Because if we look at page 321 Chair.

CHAIRPERSON: Yes?

ADV HARSHILA KOOVERJIE: Can you explain this document, Ms Dhlamini.

MS DHLAMINI: I have the document, Chair.

CHAIRPERSON: Yes.

MS DHLAMINI: I was not part of this reprioritisation. This document was not prepared by me.

ADV HARSHILA KOOVERJIE: What is this document, Ms
10 Dhlamini?

MS DHLAMINI: It is a request for the shift of grant funds. It was prepared by the Chief Director itself. It was prepared in the Chief Director itself.

ADV HARSHILA KOOVERJIE: So it is the responsibility of the Chief Director to prepare the shifting of the budget?

MS DHLAMINI: Yes, Chairperson because it is their budget. That is what... they manage it.

ADV HARSHILA KOOVERJIE: And there was also a reprioritisation of the funds which is not attached to this
20 document. You said in your earlier testimony that the HOD said that he will reprioritise the budget.

MS DHLAMINI: That is correct, Chairperson. There was another document that was sent to Treasury where the projects were reprioritised. I was also not part of that reprioritisation.

ADV HARSHILA KOOVERJIE: So what was your role Ms Dhlamini then in respect of this submission in recommending it?

MS DHLAMINI: My role really is to look at, as I said, the financial implications and my recommendation would basically talk to issues of whether the budget would be there or the budget would not be there.

And as HOD said, I will reprioritise, as I have explained Chair, whether indeed the department would be able with the reprioritisation, would be able to carry this project.

ADV HARSHILA KOOVERJIE: Now Ms Dhlamini, just in order to understand the context within which you had prepared... with which you had a hand in the budget. I would like to just refer you to the transfer policy which is on... I will get the relevant document and then I will refer back to the Chair and yourself to the document.

MS DHLAMINI: [No audible reply]

ADV HARSHILA KOOVERJIE: Yes, it starts at page 296.

CHAIRPERSON: Yes?

20 **ADV HARSHILA KOOVERJIE:** Ms Dhlamini, in your affidavit as well... that is on page 296. In your affidavit you said your role is secondary insofar as the monitoring of the project was concerned. Now if we have regard to... Chair, I just want to get my passage.

CHAIRPERSON: [No audible reply]

ADV HARSHILA KOOVERJIE: If we regard to page 302. Ms Dhlamini, can you perhaps read Clause 5.5.5 and explain what you understand by that? And your explanation should explain also to the Chair why you say your role was secondary.

MS DHLAMINI: Clause 5.5.5 of the transfer payment... policy for transfer payment.

10 “The responsibility for the monitoring of the contract or agreement is the programme manager and the relevant District Director...”

What I understand by this Chairperson is, for instance this contract that we had with Estina, it would be monitored and managed by the programme manager and the relevant District Director which is the District Director in Thabo Mofutsanyana District because that is where the project was.

CHAIRPERSON: Monitoring in its context would mean after the contract has been concluded the monitoring would relate to the implementation of the contract. Is that right?

MS DHLAMINI: That is correct, Chairperson.

20 **CHAIRPERSON:** Okay.

ADV HARSHILA KOOVERJIE: Now Ms Dhlamini, we are going to touch on the payment aspect and I think that is set out below on the same page under paragraph C and D. I would like you to maybe just read that, not into the record or explain to the Chair what you understand by C and D and the

role of you and the role of the programme manager.

MS DHLAMINI: The department... okay, it says here.

“The department must comply with the following requirements prior to effecting payments to a qualifying institutions.

C says that:

“The relevant programme manager has authorised the payment thereof in terms of the appropriate allocation and according to financial delegation.

10 D says that:

“The responsible manager authorising the payment:

- Shall ensure that appropriate supporting information has been contained to satisfy himself or herself,

- That the transfer payment is valid, the amount is correct,

- The condition and objective have been met,

- The contract or agreement duly signed by all relevant parties and attached to the payment documents.

20

- The qualification institution is aware of the statutory and departmental criteria.

- The institution has respect of the previous financial years assistance, complied with the statutory and departmental requirements.”

These two paragraphs Chairperson, they seek to say the programme manager ought to have talked to the entity where the money has been transferred and make them aware of certain things, certain of the responsibilities that they need to meet.

And furthermore, like for instance when the payment comes, I may have checked, as I checked some payment. As I indicated, some payment I have verified and checked but the primary responsibility for the validity
10 whether it was for the – the money has been used for the intended purpose and all those, rests with the programme manager and the relevant district director.

CHAIRPERSON: But would you not have a role being required to either receive reports insofar as the financial aspects are concerned with the project, received any reports on the financial aspects and also would you not be required to interrogate whether what – whether they were doing effective monitoring to make sure that taxpayers' money is used properly and effectively?

20 **MS DHLAMINI:** The responsible manager ought to have done all those things, Chairperson. If there is any other thing unto - on the financials, he would then write to the CFO because they were supposed to give the CFO the report also. So that is when they would then seek even my advice in dealing with those issues.

CHAIRPERSON: Yes but the question I am putting is, if they were supposed to write reports to you about those aspects it seems to me that if, for example, you were not getting reports, it would be incumbent open you to say where are the reports? Or, if there was just silence, you would say hang on, you are supposed to be giving me reports, where are the reports? Am I right?

MS DHLAMINI: Chairperson, my take is, if there are silence it means they are happy with what they – or what
10 they get over their monitoring, they do not have other – they do not have issues that they want to raise.

CHAIRPERSON: But would they not – ultimately, would somebody not ultimately report to you as CFO in terms of how the financial aspects in terms of implementation were going and if there was silence, would you not be saying but I cannot just be satisfied with silence, I need to get positive – reports that positively say A, B and C have been done so that I can have peace of mind that taxpayers' money is being use properly?

20 **MS DHLAMINI:** Chairperson, as I have indicated that I would have taken it that they have engaged the reports that I would get from the Estina and they are happy with that.

CHAIRPERSON: Yes but they might be happy but are you not also supposed to be happy and can you be happy with

silence? I am thinking that at CFO level you are having oversight in the department with regard to the financial aspects of various projects. I may be wrong but that is what I am having in mind and that it should not be enough for you to just sit back when there is silence but that you should be – you should sit back if you are receiving reports that give you peace of mind but not when there is silence because when there is silence something terrible could be happening with taxpayers' money in the implementation of
10 the projects.

MS DHLAMINI: Chairperson, I concede on that fact that probably I should have not left them where there are silence, I should have asked them and pushed them to provide reports.

CHAIRPERSON: Okay.

ADV GCABASHE SC: Thank you, Chair. Ms Dhlamini, just on this point, if I just read (c) and (d), what I do understand is that the responsible authorises the payment, am I correct?

20 **MS DHLAMINI:** That is correct, Chair.

ADV GCABASHE SC: Okay, now earlier on you explained to the Chair regarding your role in when you verify the payments. Can you give an explanation of what that means and maybe in doing so, you can relate to the certificate that you referred to which you would submit to

Treasury. Maybe before you do that, I would like to refer the Chair to that document in the event that you refer to it. It is annexure 13A but it is page 327, Chair. So I think you need to explain firstly your role and what you understand in verifying and then you said that the certificate related to how you would then verify or it is a consequence of your verification.

MS DHLAMINI: This certificate, Chairperson, my signature on the payment advice basically certifies these
 10 elements that are written here which elements include – this expenditure would not – I think I did I did read it, the payments is that once duly – was duly authorised by mandated officials in the department, they payments are for expenditure incurred in accordance with the vote which is the Appropriation Act or setting off these payments will not result in unauthorised expenditure meaning there is a budget for this, expenditure was accurately and correctly allocated and that is under the correct budget allocation. That is basically when you capture it in the system, that is
 20 properly captured, and this payment is going against the correct line item and payments against earmarked funding and conditional grants. Yes, Chairperson, that is – that is basically what my signature seeks to say when I verify and check.

ADV GCABASHE SC: Again you also just explain – so

what you are saying here is that what you confirmed and certified, what you verified was essentially what you would have confirmed and certified in this certificate, is that correct? That is that the payments were authorised by the mandated officials?

MS DHLAMINI: That is correct, Chairperson.

ADV GCABASHE SC: That means?

MS DHLAMINI: That means the person who authorised the payment has the correct financial delegation to can do
10 that.

ADV GCABASHE SC: Now having said that, Ms Dhlamini, you also said something earlier to the Commission regarding that everyone has – that programme managers have their own budgets, that they have to deal with and plan. What was the scope of your budget and you were responsible for specifically?

MS DHLAMINI: Yes, what I have explained, Chairperson, is the budget is divided into programmes. I have my own budget and you would find it under programme one,
20 administration. When you go to details of that programme you will find as financial management unit which is the entire finance department. The budget that is sitting there is my overall and primary responsibility and you have – I would then have sub-programme managers who will also have the budget and my scope really was very small in that

regard, because you would realise – I do not think we have ever even got to 50 million as a budget because basically it is salaries and running costs of the unit and if there is any major payment, it will be the payment that we make to the Auditor-General.

ADV GCABASHE SC: So that would be directly under your responsibility?

MS DHLAMINI: That would be directly under my responsibility, that will be the budget that I will – I can do
10 shifting, move it, all these things that I was explaining, I can reprioritise, I can authorise somebody to travel to Gauteng but I cannot authorise somebody in – in, for instance, Dr Matiseng's unit to travel to Gauteng because then I will be giving – I will be authorising a spending in another programme which is not my responsibility.

ADV GCABASHE SC: So that then, in other words, I am now – that would now explain to the Chair your role that was secondary in this particular budget – this particular project insofar as budgeting is concerned and monitoring.

20 **MS DHLAMINI:** That is correct, Chairperson.

ADV GCABASHE SC: The last question, Chair and Ms Dhlamini, concerns the issue of payments. I am going to ask this very broadly because I may not – maybe I am – you have not explained this properly to the Chair and you can then just directly – you can deal with the issue in that

regard.

Were you the only one in the position of the CFO who would have verified the payments? That is now the payments that we are talking about that you have attached to your supplementary affidavit and in respect of the Vrede Dairy Project?

MS DHLAMINI: I was not the only one who could do that. As I have indicated, Chair, the first payment, for instance, it was compiled by Alta – Mrs Meyer, and it was verified by
10 the Acting Chief Director. My secondary role that my advocate is talking about is when I would be also re kind of checking by signing that certificate that goes to Treasury to make sure that we prevent unauthorised expenditure and the question she is asking is there are instances where I have verified and instances where I have checked and verified is instances where the payment was compiled by the highest official in the programme which is the – which will be in this instances Dr Matiseng because he cannot take that to a lower level, always the higher level will be
20 the one that will check and verify.

ADV GCABASHE SC: So would it be correct then to say – or maybe I will put the proposition to you, that was it a requirement that your verification as CFO was a requirement for the payment to be effected?

MS DHLAMINI: Not it was not necessarily a requirement

that every payment must be verified and checked by the CFO.

ADV GCABASHE SC: The last final question, Ms Dhlamini, I have referred to annexure 12. Chair, it is page 306.

CHAIRPERSON: Did you 306?

ADV GCABASHE SC: 306, yes.

MS DHLAMINI: Annexure?

ADV GCABASHE SC: 12.

10 **MS DHLAMINI:** Is it not 303?

CHAIRPERSON: It is 306.

MS DHLAMINI: Oh, 306, okay.

CHAIRPERSON: Ja.

ADV GCABASHE SC: Can you explain what this document is and what the effect of this document is? It is not addressed to you, it does not have your name on, but you furnished it as part of your supplementary affidavit and gave an explanation.

20 **MS DHLAMINI:** This particular document, Chairperson, it is addressed from the office of the HOD, from the office manager, office of the HOD, Mr Gama, is the one who signed, to the Acting – the A there stands for Acting. The Acting General Manager Agricultural Development and Support and the Acting General Manager District Services. It says:

“Colleagues, Vrede Integrated Dairy Project visit by Indian experts. Following the presentation made by Paras and Estina (Pty) to the department, please note that the Indian delegation will be arriving in the country to visit the project on Thursday 21/06/2012. You are therefore expected to provide a detailed situational analysis of the project site including engineering support, irrigation, study soil testing, pasture location, climate and any other support required by the delegation. You are further requested to compose a team to assist the project led by Alta Meyer to be assisted by economists, engineers and other agricultural scientists relevant to the task. Please coordinate with the district in terms of logistics and support needs.”

10

So basically, Chairperson, it shows that I did not really have a role in this whole thing of Vrede Dairy except dealing with the budgets.

ADV GCABASHE SC: You – there is a reference to Ms Alta Meyer, can you explain to the Chair what her position is? Her job description starts on the next part. I do not expect you to read it, you can maybe explain it to the Chair maybe and it starts basically on page 308.

20

MS DHLAMINI: Ms Alta Meyer, Chairperson, was at that – was – or is appointed in the department as a project

coordinator, so she coordinates projects in the district. That is her job. What I am not sure of is – because at some point I am aware that she was Acting District Director. I am not sure with regard to this submission or document on 306 whether it was in her capacity as the project coordinator, in her capacity as the Acting District Director but basically, she is the one who deals with projects in the district.

ADV GCABASHE SC: And it includes the compliance with
10 procedures, the policies, legislative prescripts and ensure that effective management and information, marketing and reporting on all issues relating to projects is covered, am I correct?

MS DHLAMINI: That is correct, Chair.

ADV GCABASHE SC: Chair, I do not want to – wish to take this any further, I think I am done with my question, I would just like to ask Ms Dhlamini if there is anything that she might just want to just extend on this point or issue.

MS DHLAMINI: I think, Chair, my advocate has covered it
20 sufficiently.

CHAIRPERSON: Yes, okay.

MS DHLAMINI: Thank you, Chair.

CHAIRPERSON: Okay.

ADV GCABASHE SC: Thank you, Chair.

CHAIRPERSON: Thank you. Just one last issue, Ms

Dhlamini. You know, that Friday when MEC Zwane asked you to go and meet with the MEC of Finance about that payment of R30 million, I think Ms Fourie or another witness did say that the whole thing seemed to be very urgent. I certainly got the impression that there seemed to be some urgency that payment had to be done by – I do not know whether the following day or by Monday but there was something urgent. Was that your impression at the time as well, that there was some urgency about this
10 payment?

MS DHLAMINI: Ja, Chairperson, as I have senses that because you would remember even in Moremi's thing there has been to say certain things needs to happen otherwise Paras might pull out of the arrangement. So I also thought as such that it is urgent so that the project can kick-start and the milestone will be achieved according to the timelines.

CHAIRPERSON: But why would Paras pull out if payment was not made within a few days, do you know?

20 **MS DHLAMINI:** I am just thinking of it, Chairperson, to say because of the milestone. As I have indicated, Chairperson, what I have explained to HOD, we might want to wait for a month for this payment to be processed because I would only accommodate it when I submit my monthly cash projections which would be around the 25

April month and it would then be paid in the first week of the new month. Yes, Chairperson.

CHAIRPERSON: But was it the ...[intervenes]

MS DHLAMINI: So maybe that delay is the delay that cost me or cost Mr Zwane. I have not talked to him about it, maybe his HOD made him aware of that, but I did not know where – who made him aware.

CHAIRPERSON: Where the urgency came from?

MS DHLAMINI: Yes, Chairperson.

10 **CHAIRPERSON:** Ja, okay, alright. Thank you. I intend to release her, is there something arising?

ADV GCABASHE SC: No, not at all, Chairman.

CHAIRPERSON: Nothing, okay. Thank you very much, Ms Dhlamini, for coming to assist the Commission and to give evidence. You are now excused. If there is another reason why the Commission might want you to come back, you would be contacted or the Commission could send further questions in writing for you to depose to an affidavit and clarify whatever might arise in the future that needs
20 clarification. You understand that?

MS DHLAMINI: Thank you, Chairperson, also from my side for the opportunity provided.

CHAIRPERSON: Yes.

MS DHLAMINI: Thank you.

CHAIRPERSON: Okay, thank you, you are excused.

ADV GCABASHE SC: Chairman, mine is just a small little task.

CHAIRPERSON: Ja.

ADV GCABASHE SC: We have not issues Rule 3.3 Notices to the people who are implicated in the supplementary affidavit.

CHAIRPERSON: Yes.

ADV GCABASHE SC: Because we only received it yesterday.

10 **CHAIRPERSON:** Yes.

ADV GCABASHE SC: We will be proceeding to do that.

CHAIRPERSON: Yes.

ADV GCABASHE SC: And we will see if there is anything, they want to do about coming to make representations to you.

CHAIRPERSON: Okay. No, that is fine.

ADV GCABASHE SC: Thank you, Chair. Those are the witnesses that we have for ...[intervenes]

CHAIRPERSON: For today.

20 **ADV GCABASHE SC:** For Estina.

CHAIRPERSON: Yes. We are going to adjourn and thank you to everybody for all the cooperation for us to make sure that we could finish Ms Dhlamini's evidence. We are going to adjourn and tomorrow the Commission will hear evidence from Ms Mokonyane, she will be back to deal with

certain matters. We adjourn.

INQUIRY ADJOURNS TO 3 SEPTEMBER 2020