

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

**15 SEPTEMBER 2020**

**DAY 267**



**Gauteng Transcribers**  
**Recording & Transcriptions**

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

**CERTIFICATE OF VERACITY**

I, the undersigned, hereby certify that, *in as far as it is audible*, the foregoing is a **VERBATIM** transcription from the soundtrack of proceedings, as was ordered to be transcribed by Gauteng Transcribers and which had been recorded by the client

**COMMISSION OF INQUIRY INTO STATE CAPTURE**

**HELD AT**

**CITY OF JOHANNESBURG OLD COUNCIL CHAMBER**

**158 CIVIC BOULEVARD, BRAAMFONTEIN**

DATE OF HEARING:

15 SEPTEMBER 2020

TRANSCRIBERS:

B KLINE; Y KLIEM; V FAASEN; D STANIFORTH



**Gauteng Transcribers**  
Recording & Transcriptions

**PROCEEDINGS RESUME ON 15 SEPTEMBER 2020**

**CHAIRPERSON:** Good morning Mr Seleka, good morning everybody.

**ADV SELEKA SC:** Good DCJ.

**CHAIRPERSON:** Are we ready?

**ADV SELEKA SC:** Yes we are ready DCJ.

**CHAIRPERSON:** Okay.

**ADV SELEKA SC:** Yes. Thank you. DCJ today is the day scheduled for Ms Suzanne Daniels' testimony; she is  
10 present and ready to be sworn in.

**CHAIRPERSON:** Yes.

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

**MS DANIELS:** Suzanne Margaret Daniels.

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

**MS DANIELS:** No.

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

**MS DANIELS:** Yes.

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

**MS DANIELS:** So help me God.

**CHAIRPERSON:** Thank you.

**ADV SELEKA SC:** Thank you.

**CHAIRPERSON:** Yes. You may proceed.

**ADV SELEKA SC:** Thank you DCJ. DCJ before I proceed, I wish to place on record for the purposes of clarity because there has been great interest shown in the testimony of Ms Daniels.

**CHAIRPERSON:** Hm.

**ADV SELEKA SC:** I wish to explain DCJ that the – this – this round of testimony of Ms Daniels will relate mainly to  
10 the suspension of the executives.

**CHAIRPERSON:** Yes.

**ADV SELEKA SC:** The issues pertaining to transactions relating to Tegeta, Trillian and McKinsey have not been forgotten. They will not be touched in this time of her testimony but they are deferred to the second round of the Eskom hearings which will come in due course.

**CHAIRPERSON:** Yes.

**ADV SELEKA SC:** Yes.

**CHAIRPERSON:** Yes okay.

20 **ADV SELEKA SC:** Thank Mr Chair.

**CHAIRPERSON:** Okay.

**ADV SELEKA SC:** Ms Daniels just for home keeping aspects you will have before two lever arch files. Let me place them on record. The set of lever arch files that will be used Chairperson is Eskom Bundle 08[a] Exhibit U18.

**CHAIRPERSON:** Oh okay. You are present? Yes. Okay thank you. Oh I think he forgot. Ja maybe for the sake of completeness if there are other Counsel you can just indicate or they can just place themselves on record.

**ADV SELEKA SC:** Thank you Chair. You may Sir.

**CHAIRPERSON:** Just switch on the microphone. Yes.

**ADV HEFFERMAN:** Sean Hefferman from Hefferman Attorneys appearing on behalf of Suzanne Daniels.

**CHAIRPERSON:** Thank you. Thank you. Okay.

10 **ADV SELEKA SC:** I do not think there is any more Chair.

**CHAIRPERSON:** No there is not. You see when Mr Nguckaitobi was talking, I could not see where he was talking from.

**ADV SELEKA SC:** yes.

**CHAIRPERSON:** But that is because I think this light puts him in a dark...

**ADV SELEKA SC:** That is right.

**CHAIRPERSON:** Ja. But I do not think much can be done about the light and he does not need to move. You do not  
20 need to shift Mr Nguckaitobi it is okay. It is just that I took some time trying to see where the voice was coming from. Okay alright.

**ADV SELEKA SC:** Yes.

**CHAIRPERSON:** Okay. Let us continue.

**ADV SELEKA SC:** If I may proceed that is – ja I was

placing on record Eskom Bundle 08[a] Exhibit U18 and Eskom Bundle 08[b].

**CHAIRPERSON:** The [b] one is a smaller one?

**ADV SELEKA SC:** That is correct Chair.

**CHAIRPERSON:** Yes.

**ADV SELEKA SC:** Ms Daniels do you confirm you have the two files?

**MS DANIELS:** Yes I do.

**ADV SELEKA SC:** You do. Thank you. Just quickly Ms  
10 Daniels if you go to the index in the – in Bundle 08[a] which is the bigger of the two files there is an index and in the interest of time I wish to – I would like you to confirm that you have already made a statement or submitted a statement to the Parliamentary Portfolio Committee way back in 2017 when it was doing its investigation. Correct that statement is Item 1.3 in the index. Submission by Suzanne Daniels to the Portfolio Committee on Public Enterprises.

**MS DANIELS:** That is correct Mr Chair.

20 **ADV SELEKA SC:** That statement is on – contained on page 58. Page 58 in this bundle to page ...

**CHAIRPERSON:** Are you talking about the red and the black ha?

**ADV SELEKA SC:** The red – the red Chairperson.

**CHAIRPERSON:** Okay.

**ADV SELEKA SC:** The red – the pagination Ms Daniels is the red one at the right hand corner – top right hand corner. So that is the numbers I will only be referring you to. To page 83.

**MS DANIELS:** That is correct Chairman.

**ADV SELEKA SC:** You see that. And then you also testified before the Parliamentary Portfolio Committee. They have produced a transcript which you find on page 84 of this bundle to page 127. It is dated 8 November 2017.

10 **MS DANIELS:** That is correct Mr Chairman.

**ADV SELEKA SC:** You have provided two affidavits to this commission. You have the main affidavit and a supplementary affidavit for purposes of what I have taken you through. I want to refer you to your supplementary affidavit which is contained on pages 50 of the same bundle to 57. The 57 you see that?

**MS DANIELS:** Yes I do.

**ADV SELEKA SC:** You confirm your signature?

**MS DANIELS:** Yes I confirm my signature Mr Chairman.

20 **ADV SELEKA SC:** And the date of the supplementary affidavit being 1 September 2020?

**MS DANIELS:** That is correct Mr Chairman.

**ADV SELEKA SC:** If you please go to page 52 – 52 paragraph 7.2. There you state in your affidavit “I stand by the testimony in Parliament save for the

correction of the date on meeting with Mr Salim Essa In Melrose Arch for the first time on 10 March 2015.”

The testimony you are referring to is the one contained in your – in the transcript that we refer to.

**MS DANIELS:** Yes that is correct Mr Chairman. The commission’s investigators actually when we consulted pointed out to me by virtue of phone records that we got the date wrong in Parliament.

**ADV SELEKA SC:** So that – is that the only change you  
10 wish to make in regard to your testimony in Parliament?

**MS DANIELS:** Yes that is correct.

**ADV SELEKA SC:** Other than that you stand by what you said in Parliament?

**MS DANIELS:** That is correct Mr Chairman.

**ADV SELEKA SC:** Thank you Ms Daniels. So Ms Daniels you have agreed to assist the commission insofar as the Eskom Board took decisions to suspend the top executives. Correct?

**MS DANIELS:** That is correct Mr Chairman

20 **ADV SELEKA SC:** Just before we go into that you can go back to the main affidavit which you will find on page 1 of your bundle. I simply want to place on record your career progression within Eskom.

**CHAIRPERSON:** Before you do that ...

**ADV SELEKA SC:** Thank you Chair.



**CHAIRPERSON:** Do you want me to admit this affidavit because she has confirmed that she – it is her signature there on the affidavit is it not and that this is her affidavit previously commissioned?

**ADV SELEKA SC:** Yes Chair.

**CHAIRPERSON:** Do you want me to admit that?

**ADV SELEKA SC:** Yes. Ms Daniels. Sorry Chair. Ms Daniels let us do likewise in respect of this affidavit as we did in respect of the supplementary. On page 21 the  
10 affidavit runs from page 1 to 21. Page 21 that is the last page with the signatures on it. Do you confirm the signature of the deponent that it is your signature?

**MS DANIELS:** Yes Mr Chairman I confirm that that is my signature.

**ADV SELEKA SC:** And the date you signed is 17 August 2020?

**MS DANIELS:** Yes that is correct Mr Chairman.

**ADV SELEKA SC:** So this is indeed your affidavit?

**MS DANIELS:** Yes indeed it is.

20 **ADV SELEKA SC:** Yes. Then you – thank you Chair.

**CHAIRPERSON:** Do you request that it be admitted and marked as Exhibit what U18?

**ADV SELEKA SC:** Let us see.

**CHAIRPERSON:** Or U18[a]?

**ADV SELEKA SC:** 18.

**CHAIRPERSON:** Hm.

**ADV SELEKA SC:** 18.1 Chair.

**CHAIRPERSON:** 18.1

**ADV SELEKA SC:** Yes.

**CHAIRPERSON:** The affidavit of Ms Suzanne Margaret Daniels appearing at page 1 and deposed to on the 17 August 2020 is admitted and will be marked as Exhibit U18.1

**ADV SELEKA SC:** Thank you Chairperson.

10 **CHAIRPERSON:** Okay. And then we will admit the others as we go along.

**ADV SELEKA SC:** Indeed Chairperson.

**CHAIRPERSON:** Okay.

**ADV SELEKA SC:** Should – while we are at it – ja I think as we go along. I thought we could admit the supplementary now.

**CHAIRPERSON:** Let us do that?

**ADV SELEKA SC:** Ja.

**CHAIRPERSON:** Okay.

20 **ADV SELEKA SC:** It is U18.2.

**CHAIRPERSON:** And where is it again?

**ADV SELEKA SC:** It is Item 1.2 at page 50.

**CHAIRPERSON:** Page 50?

**ADV SELEKA SC:** 50 yes.

**CHAIRPERSON:** The supplementary affidavit of Ms

Suzanne Margaret Daniels appearing at page 50 and  
deposed to on – what is the date again?

**ADV SELEKA SC:** The...

**CHAIRPERSON:** On the 1 September.

**ADV SELEKA SC:** 1 September 2020.

**CHAIRPERSON:** On the 1 September 2020 is admitted and  
will be marked as Exhibit U?

**ADV SELEKA SC:** U18.2.

**CHAIRPERSON:** U18.2. Okay.

10 **ADV SELEKA SC:** Chair then it is her written submission  
to the Parliamentary Portfolio Committee.

**CHAIRPERSON:** Hm.

**ADV SELEKA SC:** On page 58.

**CHAIRPERSON:** Hm.

**ADV SELEKA SC:** To 83 to be admitted as Exhibit U18.3.

**CHAIRPERSON:** The – Ms Suzanne Daniels' statement  
appearing at 50 – at page 58 will be admitted as an exhibit  
and will be marked as Exhibit U18.3.

20 **ADV SELEKA SC:** Then we have also referred to her  
transcript at the Parliamentary Portfolio Committee. That  
starts on page 84.

**CHAIRPERSON:** 84.

**ADV SELEKA SC:** 84 and we ask that it be admitted as  
Exhibit U18.4

**CHAIRPERSON:** The transcript of the evidence of Ms

Suzanne Daniels before the Portfolio Committee in Parliament will be admitted and marked Exhibit U18.4.

**ADV SELEKA SC:** Thank you Chair.

**CHAIRPERSON:** Okay.

**ADV SELEKA SC:** The others will be admitted as we go along.

**CHAIRPERSON:** Admitted with – as we go along.

**ADV SELEKA SC:** Yes.

**CHAIRPERSON:** Okay.

10 **ADV SELEKA SC:** Mr Daniels page 1 of your affidavit deals with your personal details. Paragraph 3 with your qualifications which included Bachelor of Arts, Bachelor of Laws and Post Graduate in – Post Graduate Diploma in Law you see that at that the end of that page?

**MS DANIELS:** Yes that is correct Mr Chairman.

**CHAIRPERSON:** Mr Seleka.

**ADV SELEKA SC:** Yes Chair.

**CHAIRPERSON:** Are you going to – I [00:16:03] that you will not lead her evidence in regard to everything?

20 **ADV SELEKA SC:** Ja.

**CHAIRPERSON:** Because she has given evidence under oath in Parliament.

**ADV SELEKA SC:** Correct.

**CHAIRPERSON:** We have got the transcript in front of us.

**ADV SELEKA SC:** Indeed.

**CHAIRPERSON:** She is – we have got her statement in Parliament, we have got two statements from her but that you will focus on certain issues.

**ADV SELEKA SC:** Indeed Chair.

**CHAIRPERSON:** Ja.

**ADV SELEKA SC:** Yes that is – that I was going to touch on.

**CHAIRPERSON:** Oh okay.

**ADV SELEKA SC:** But now that the Chairperson has  
10 reminded me Ms Daniels and for the sake of the viewers as well since – because of taking you through your submissions at the Parliamentary Portfolio Committee, referred to your transcript the purpose for that was to have that placed on record before us so that we do not have to traverse your evidence as it is already given. So we will in this – in this hearing be focussing on the issues that we need clarity on for the purposes of this commission so we may not touch on everything but for context you are at liberty if you want to tell the Chairperson so that he  
20 understands the context to elaborate on certain things.

**MS DANIELS:** Yes Understand.

**ADV SELEKA SC:** Thanks. You understand that ja. Thank you Chairperson. The – the information will in any event be made available on the Commission's website so whoever needs to have access to it Chairperson will find it

there. So quickly Ms Daniels looking at your job projection within Eskom you say you were employed at Eskom for the first time 1 May 2006. You joined Eskom as Chief Legal Advisor in Generation Primary Energy. You will just indicate.

**MS DANIELS:** That is correct Chair.

**ADV SELEKA SC:** That is correct. April 2007 you were appointed into the position acting Contracts Manager Primary Energy Fuel Procurement.

10 **MS DANIELS:** That is correct Mr Chair.

**ADV SELEKA SC:** April 2008 you became a senior manager of Contracts in Coal Water and Gas?

**MS DANIELS:** That is correct [00:18:36].

**ADV SELEKA SC:** Is that a division Coal Water and Gas?

**MS DANIELS:** It was still in the Primary Energy division Mr Chairman.

**ADV SELEKA SC:** You remained in that position until January 2010?

20 **MS DANIELS:** Yes that is correct. Eskom underwent a restructuring at that time and I moved across to Group Commercial.

**ADV SELEKA SC:** You then became a Managing Director in Primary Energy Division.

**MS DANIELS:** That is incorrect Mr Chair. It is not a Managing Director. I was the senior manager in the office

of the Group Executive.

**ADV SELEKA SC:** Senior Manager. I see. Just correct it again. You say you were the senior manager?

**MS DANIELS:** In the office of the Group Executive for Group Technology and Commercial.

**ADV SELEKA SC:** Is that is February 2010?

**MS DANIELS:** Yes but...

**ADV SELEKA SC:** Who did – say it sorry.

**MS DANIELS:** It could have been from 2010 onwards.

10 **ADV SELEKA SC:** Ja. Who did you account to?

**CHAIRPERSON:** Well the statement says in 2011 senior manager office of the Group Executive in 2011.

**MS DANIELS:** Oh my apologies. It – Primary Energy I then moved to Group Commercial. My first boss was Dan Marokane. We moved together from Primary Energy to Group Commercial.

**ADV SELEKA SC:** And then 11 April 2015 you became a senior manager in the office of the Chairperson of the Board?

20 **MS DANIELS:** That is correct Mr Chair.

**ADV SELEKA SC:** Was that a formal appointment?

**MS DANIELS:** At the time it was not a formal appointment Mr Chairman I – I do go into it a bit later but I – you wish me to answer it now?

**ADV SELEKA SC:** Yes.

**MS DANIELS:** I just want to find the –

**ADV SELEKA SC:** Do you want the paragraph dealing with this?

**CHAIRPERSON:** The relevant page.

**MS DANIELS:** It is paragraph 47 of my affidavit.

**CHAIRPERSON:** Yes.

**MS DANIELS:** The main affidavit and it is on page 11.

**CHAIRPERSON:** Yes you can just – you can just say what it says without looking at it if you do not read it.

10 **MS DANIELS:** Okay. So on the 9 April the acting Chairman of the Board Mr – Dr Ben Ngubane called myself and Leo Dlamini who was the manager in the office of the Chairman to his office and actually just told us that I would be taking over so that is how it happened. So on the 11 April I then worked with Leo to transfer information – transfer duties.

**ADV SELEKA SC:** So who is Leo?

**MS DANIELS:** Leo Dlamini was the senior General Manager in the office of the Chairman at the time. Mr  
20 Tsotsi in his evidence did refer to him as the manager there.

**ADV SELEKA SC:** Yes. When Mr – Dr Ben Ngubane asked you to become a senior manager in his office what was your position?

**MS DANIELS:** I was the senior manager in the office of



the Group Executive, Group Commercial.

**ADV SELEKA SC:** And who was that?

**MS DANIELS:** That – at the time it was Matshela Koko but he was acting and he had been suspended.

**ADV SELEKA SC:** And according to your affidavit you become the Company Secretary from 1 October 2015?

**MS DANIELS:** Yes that is correct.

**ADV SELEKA SC:** So then you hold a dual position? Senior Manager in the office of the chairperson and the  
10 position of Company Secretary?

**MS DANIELS:** I actually did not. The responsibilities for the Chairman's office in terms of correspondence was dealt with by the office of Chief Executive. I then just deal with the other matters pertaining to the office of the Chairman. Sorry Mr Chairman. I handled the liaison with the Ministry – the Department of Public Enterprises more particularly the Minister's office and then attended to the Board duties of the Chairman – the administrative issues that he needed to deal with.

20 **ADV SELEKA SC:** So you held the position of Company Secretary from 1 October 2015 to 27 July 2017.

**MS DANIELS:** Yes that is correct.

**ADV SELEKA SC:** When – when was your dismissal?

**MS DANIELS:** 20 July 2018 Mr Chair.

**ADV SELEKA SC:** 20 July.

**MS DANIELS:** Yes.

**ADV SELEKA SC:** 2018. You were also the acting Head of Legal and according to the affidavit that was from the 1 September 2016?

**MS DANIELS:** Yes that is correct Mr Chair.

**ADV SELEKA SC:** And for how long did you hold that position – acting position?

**MS DANIELS:** I think it was until the 27 July 2017 Mr Chair.

10 **ADV SELEKA SC:** Yes. If – well your – if your dismissal came a year later what happened – what was your position in the intervening period from 27 July 2017 to 20 July 2018?

**MS DANIELS:** Mr Chairman here I am going to have to give you some context. I was the – I was then the Head of Legal and Compliance. I – the 27 July 2017 was quite significant because it was the first Board meeting of I think the Xhosa Board meeting – the Xhosa Board in Eskom. And it is at this meeting that I was told – well prior to that  
20 – weeks prior while I was on leave it was announced that a Board breakaway that I needed to choose between being Company Secretary and Head of Legal. I was overseas at the time. So when I came back this was the first Board meeting that was held and the issue was raised again by the Board and I was then told to choose. And I chose to

become the Head of Legal and Compliance. And that is why the 27 July is – it is an odd date but it was – and what was more dramatic that it was actually with immediate effect. Even though it – it had an impact on the governance you know arrangements in Eskom it was immediate effect that I was relieved of my Company Secretarial duties.

**ADV SELEKA SC:** Okay so from then on you – you became the Head of Legal?

10 **MS DANIELS:** Yes that is correct.

**ADV SELEKA SC:** You were no longer acting you were now permanent Head of Legal.

**MS DANIELS:** That is correct. I was permanent.

**ADV SELEKA SC:** Okay. Before I go into the suspensions. In – there are emails that we have looked at exchanged between yourself, Dr Ngubane and what has been referred to as the Businessman. These emails came up during your disciplinary hearing Businessman infoportal. You say at the disciplinary hearing the ruling I read that  
20 you were told by Dr Ngubane in April 2015 that the email belongs to Mr Richard Seleke. Do you recall that?

**MS DANIELS:** Yes I do recall that but I do need to correct it Mr Chairman. The chronology is incorrect. It was actually – it was April 2016 not 2015.

**CHAIRPERSON:** When he told you that?

**MS DANIELS:** Ja because the emails in question at the disciplinary hearing are in 2016.

**CHAIRPERSON:** Yes. Okay. The – okay Mr Seleka.

**ADV SELEKA SC:** Thank you Chairman.

**CHAIRPERSON:** Mr Seleka take it from there.

**ADV SELEKA SC:** Thank you Chair. So you saying he told you in April 2016?

**MS DANIELS:** Mr Chair I am not certain of when he told me but I do know that he told me that it was the DG's  
10 email.

**CHAIRPERSON:** When you – do you recall when it was that you started sending or receiving emails to Businessman or infoportal email address?

**MS DANIELS:** The first email that I have in my records was when I replied to all. Subsequent emails have come out here in the commission that I have watched and it seems that it started in 2015 – late 2015.

**CHAIRPERSON:** Yes that is the – that is the one that you regard as the first?

20 **MS DANIELS:** Yes that Dr Ngubane forwarded it to me.

**CHAIRPERSON:** Yes. Now prior to Dr Ngubane forwarding that email to you had you not had any – have you not sent any emails to Businessman or infoportal that address – that email address?

**MS DANIELS:** Not that I have in my records.

**CHAIRPERSON:** Yes.

**MS DANIELS:** Mr Chairman.

**CHAIRPERSON:** And had you received any – have you not received any emails from that email address?

**MS DANIELS:** It does appear that there were some that were forwarded to me.

**CHAIRPERSON:** Yes. But had you become aware of them before Dr Ngubane forwarded that one to you?

**MS DANIELS:** I think Mr Chairman you know the – I  
10 cannot say that they were not in my Inbox you know what I mean.

**CHAIRPERSON:** Sorry.

**MS DANIELS:** I say I cannot say that they were not in my Inbox.

**CHAIRPERSON:** Yes but...

**MS DANIELS:** But I did not take – I took them at face value at that time.

**CHAIRPERSON:** So you were – had them.

**MS DANIELS:** Yes.

20 **CHAIRPERSON:** Yes. And when would that have been as you recall? Obviously, I am not looking for an exact date but I want to have an idea of when it was, month and year or roundabout which month.

**MS DANIELS:** First from the evidence that has come out and that what I have been made aware of, it was late 2015.

**CHAIRPERSON:** Late 2015?

**MS DANIELS:** Yes.

**CHAIRPERSON:** I think from the... on the day that Dr Ngubane was giving evidence, I think reference was made to, if I am not mistaken, some emails that may have happened, somewhere mid-year 2015 around July/June if I am not mistaken.

**ADV SELEKA SC:** It was 28 September 2015, Chair.

**CHAIRPERSON:** And there is one for September but my  
10 recollection is that before the September one, there was one  
or more earlier than September 2015. Does anything earlier  
than December sound like something you know nothing  
about?

**MS DANIELS:** I have not seen them Mr Chairman.

**CHAIRPERSON:** Yes.

**MS DANIELS:** So I would not be able to, you know,  
categorically say.

**CHAIRPERSON:** Yes. So you ... but whatever  
communications you had with this Businessman Info Portal  
20 that you sent to whoever was on the other end, is the  
position, that some of the emails that you sent to this email  
address, you sent on your own but others you sent because  
Dr Ngubane asked you to send them?

Or is the position that all the emails that you sent were  
sent because you made the decision to send them, you were

not asked by anybody to send them?

**MS DANIELS:** They were usually part of a conversation regarding some subject matter that we were dealing with. The one was about a media statement. I think both were about media statements.

**CHAIRPERSON:** Ja. Okay, maybe it will be better that Mr Seleka goes to the... to each one of those emails.

**ADV SELEKA SC:** Yes, Chair.

**CHAIRPERSON:** So we can... you can also have a look at  
10 them and have ...[intervenes]

**ADV SELEKA SC:** Yes. Ms Daniels, the emails  
...[intervenes]

**CHAIRPERSON:** ...to refresh your memory.

**ADV SELEKA SC:** Sorry, Chair.

**CHAIRPERSON:** No, I am saying so that she can refresh her memory as well.

**ADV SELEKA SC:** Yes, Chair thank you. Ms Daniels, the emails are in the second file, Eskom Bundle 08(b), page 944.

**CHAIRPERSON:** Did you say 944?

20 **ADV SELEKA SC:** 944.

**CHAIRPERSON:** 944?

**ADV SELEKA SC:** 944, Chair.

**MS DANIELS:** [No audible reply]

**ADV SELEKA SC:** Page 944.

**MS DANIELS:** Here I am.

**ADV SELEKA SC:** Are you there?

**MS DANIELS:** Yes, I am.

**ADV SELEKA SC:** At the bottom of the page, it is an email from Businessman dated 28 September 2015 at 04:41 p.m. to Baldwin, Dr Ngubane, subject: Forward for chairpersons. They serve documents as discussed. That is at 04:41 p.m. Immediately above that, it is an email from Baldwin, Dr Ngubane.

The email address is baldwindrngubane@gmail.com. It  
10 is sent on Monday, 28 September 2015 at 05:23 p.m. to Ms Suzanne Daniels. Forwarding for chairpersons. The email immediately above that, it is from yourself, Suzanne Daniels, danielism@eskom.co.za.

It is on Monday, 28 September 2015 at 17:47. It is to baldwindrngubane@gmail.com. The subject is RE. So that is a reply: For Chairpersons, the attachment 28/09/2015, BOD, Round Robin Resolution. What does BOD stand for? Board of Directors?

**MS DANIELS:** Board of Directors.

20 **ADV SELEKA SC:** Now the document, Ms Daniels, and I will ask questions on this, on the emails. The document that Dr Ngubane said would have been attached to this emails is on page 948. It is contained on pages 948 and 949 dated, 28 September 2015.

Reference number: Round Robin. Has the numbers



referred to there, 28 September 2015. The Board.

“Attention dear members. Urgent request to approve the suspension of contact and/or commercial relationship with Mail & Guardian, City Press and Sunday Times on a Round Robin...”

Now Dr Ngubane said he recalls this document having been sent to several SOE’s. He mentioned Transnet, Eskom. The document on the face of it, on page 949, also shows that it would have been sent to Denel. Do you recall this  
10 document?

**MS DANIELS**: Yes, I do Mr Chair.

**ADV SELEKA SC**: So do the emails jolt your memory in regarding to this exchange of... the exchange preceding the emails relative to this document?

**MS DANIELS**: Yes, it does Mr Chair.

**CHAIRPERSON**: So is your recollection that in September 2015, that was the first time you became aware of this email address of Businessman of Info Portal or were you already aware of it?

20 **MS DANIELS**: I think it was... this would have been roundabout the first time that I have seen it in direct correspondence like this. I really cannot pinpoint. 2015 was such a ...[indistinct] ...[intervenes]

**CHAIRPERSON**: You cannot remember whether it was the first time you became aware of this email address?

**MS DANIELS:** Ja.

**CHAIRPERSON:** In September 2015?

**MS DANIELS:** 2015. That is correct.

**CHAIRPERSON:** Yes. But it would seem here that on the 28 September 2015, Dr Ngubane forwarded to you documents that had come from that email address, Businessman.

**MS DANIELS:** Yes, that is correct.

**CHAIRPERSON:** That is right. And you do recall this  
10 occasion?

**MS DANIELS:** Yes, he would have phoned me and said, I have sent you an email.

**CHAIRPERSON:** Yes, yes. Do you recall what you did with them after receiving them?

**MS DANIELS:** I ...[intervenues]

**CHAIRPERSON:** Or what he wanted you to do with them?

**MS DANIELS:** I would have prepared the document that you see on page 945.

**CHAIRPERSON:** You would have...?

20 **MS DANIELS:** I would have prepared the document that you see on 945.

**CHAIRPERSON:** So the document in... at... appearing at page 945 was prepared by you?

**MS DANIELS:** Yes.

**CHAIRPERSON:** And that goes up to... is...

**MS DANIELS:** 946.

**CHAIRPERSON:** 946. Is that where it ends?

**MS DANIELS:** Yes, that is correct.

**CHAIRPERSON:** Okay. Yes, Mr Seleka.

**ADV SELEKA SC:** Thank you, Chair. Chair, we may want to read on record the contents of the two documents.

**CHAIRPERSON:** Ja.

**ADV SELEKA SC:** Because I think that is important.

**CHAIRPERSON:** Ja.

10 **ADV SELEKA SC:** Ms Daniels, if you go back to page 948, back to the, what I believe is a draft. Is that correct? Page 948.

**MS DANIELS:** That is correct.

**ADV SELEKA SC:** I believe it is a draft. And this person is writing to not only Eskom but the other SOE's to adopt this as a draft of the board.

**MS DANIELS:** That is correct.

**ADV SELEKA SC:** Now the document reads:

20 "Urgent request to approve the suspension of contact and/or commercial relationship with Mail & Guardian, City Press and Sunday Times on a Round Robin introduction on the 28 September 2015.

The chairperson received the letter from the Minister of Public Enterprises, enclosing the letter from the chairperson of Transnet and the resolution of the

Transnet Board.”

So if you look at – and we want to compare paragraph by paragraph – if you go back to page 945, Ms Daniels, you have that heading, the urgent request to approve, which I have already read and introduction and then the first paragraph. It says:

10 “On the 28 September 2015, the chairperson received the letter from the Minister of Public Enterprises, enclosing the letter from the chairperson of Transnet and resolution from the Transnet Board. These attached as annexures hereto.”

So I could do that or you can say to the chairperson, the documents are essentially the same chairperson and I simply copied and paste for the purpose of the resolution for the board of Transnet. I mean, the board of Eskom. Or should I go through it?

**MS DANIELS:** No, that is correct Mr Chair. That is indeed what happened.

20 **CHAIRPERSON:** Yes. So let us just make sure we have a complete understanding of the documents that were attached to Businessman’s email to Dr Ngubane. One, you say it is the document appearing at page 948. Is that right?

**MS DANIELS:** That is correct, Mr Chair.

**CHAIRPERSON:** That is a draft letter which is meant to be

addressed to “the board”. Is that right?

**MS DANIELS**: That is correct, Mr Chair.

**CHAIRPERSON**: Yes. Now, when... that was the one document. Is there another document that was attached to Businessman’s email that he directed to Dr Ngubane or as this the only document that was attached?

**MS DANIELS**: Mr Chair, I cannot remember if this was attached to the email.

**CHAIRPERSON**: Yes.

10 **MS DANIELS**: But when I prepared the document, there were the letters from... there was a letter from the chairman of Transnet.

**CHAIRPERSON**: Yes.

**MS DANIELS**: Which indicated... it was addressed to the Minister of Public Enterprises, Ms Lynne Brown.

**CHAIRPERSON**: Yes.

**MS DANIELS**: And it indicated that Transnet was going to withdraw its media stand and its media participation with all of the publications mentioned.

20 **CHAIRPERSON**: With City Press, Mail & Guardian and Sunday Times?

**MS DANIELS**: Yes, that is correct.

**CHAIRPERSON**: Yes. What other document was attached?

**MS DANIELS**: It was a letter.

**CHAIRPERSON**: A letter from the chairperson of the

Transnet Board.

**MS DANIELS**: The board. I think it was Ms Linda Mabaso.

**CHAIRPERSON**: Ja, addressed to the minister  
...[intervenes]

**MS DANIELS**: To the Minister of Public Enterprises.

**CHAIRPERSON**: Of Public Enterprises. Yes, what else was  
attached?

**MS DANIELS**: And ...[intervenes]

**CHAIRPERSON**: So this document... this draft at page 948,  
10 was it also part of... was it also attached?

**MS DANIELS**: On the... and I say a resolution of the  
Transnet Board. So there would have been... there ought to  
have been ...[intervenes]

**CHAIRPERSON**: A resolution of the Transnet Board.

**MS DANIELS**: ...a formal resolution, a formal document.

**CHAIRPERSON**: Yes, okay.

**MS DANIELS**: Those were the two attachments  
...[intervenes]

**CHAIRPERSON**: Those were the two attachments?

20 **MS DANIELS**: ...that I would have attached to this one.

**CHAIRPERSON**: Okay. Mr Seleka, do we have them here  
in the bundle?

**ADV SELEKA SC**: We do not have those two ...[intervenes]

**CHAIRPERSON**: We do not have those two?

**ADV SELEKA SC**: No.

**CHAIRPERSON:** Okay alright. Would you be able to facilitate getting them or you would not have access to anything?

**MS DANIELS:** I will definitely check my records, Mr Chairman.

**CHAIRPERSON:** Ja.

**MS DANIELS:** But I am not sure if I still have them.

**CHAIRPERSON:** Whether you can find them, ja. So ...[intervenes]

10 **MS DANIELS:** But ...[intervenes]

**CHAIRPERSON:** So this draft letter at page 948 which was meant for the company secretary to be addressed to the board and I think it was meant to be addressed to the boards of different SOE's, how did it come... did it come to your attention at the time, around 28 September 2015?

**MS DANIELS:** I would go on these documents, Mr Chair. And I would say yes it did.

**CHAIRPERSON:** Yes.

20 **MS DANIELS:** What I do recall that this was not actually a Round Robin ...[intervenes]

**CHAIRPERSON:** Sorry?

**MS DANIELS:** This did not become a Round Robin decision. This actually became a meeting.

**CHAIRPERSON:** Yes, but who drafted this document?

**MS DANIELS:** This one ...[intervenes]

**CHAIRPERSON**: This letter?

**MS DANIELS**: The... which letter? I just ...[intervenes]

**CHAIRPERSON**: The one at page 948.

**MS DANIELS**: That one I am not clear about.

**CHAIRPERSON**: H'm?

**MS DANIELS**: That I am not clear about.

**CHAIRPERSON**: You are not clear who drafted it?

**MS DANIELS**: I am not sure who drafted it.

**CHAIRPERSON**: And you were not company secretary at  
10 that time?

**MS DANIELS**: No, I was not.

**CHAIRPERSON**: Okay. But you say you became aware of it  
roundabout end of September?

**MS DANIELS**: It would have been the end of September  
because it was addressed... it was sent to from Dr Ngubane.

**CHAIRPERSON**: Yes, okay. But you cannot remember how  
it may have come to you?

**MS DANIELS**: No, from here, it was forwarded to me.

**CHAIRPERSON**: From Dr Ngubane?

20 **MS DANIELS**: Yes.

**CHAIRPERSON**: Oh, okay. You recall what Dr Ngubane  
said you must do with it?

**MS DANIELS**: Well, he asked me to prepare the document  
which you see on 945.

**CHAIRPERSON**: He asked you to prepare the document at



page 945?

**MS DANIELS**: Yes.

**CHAIRPERSON**: And attach the document at page 948

...[intervenes]

**MS DANIELS**: Those...

**CHAIRPERSON**: ...to assist you?

**MS DANIELS**: Yes.

**CHAIRPERSON**: Okay. Did he speak about the document at page 948 in particular?

10 **MS DANIELS**: Not that I recall, Mr Chairman.

**CHAIRPERSON**: Yes.

**MS DANIELS**: Not in so many words. He just asked me to use that as the basis.

**CHAIRPERSON**: Oh, to use that as a basis to prepare ...[intervenes]

**MS DANIELS**: This document.

**CHAIRPERSON**: ...the document at page 945?

**MS DANIELS**: Yes.

**CHAIRPERSON**: And that is what you did?

20 **MS DANIELS**: That is what I did.

**CHAIRPERSON**: And as a result, the document you prepared at 945 to 946 is... except for one or two differences, are basically identical to the one that he sent to you?

**MS DANIELS**: Yes, it is just that we... this... I subsequently

found out, if you look at page 950 is the way that Transnet did its resolutions.

**CHAIRPERSON**: Yes.

**MS DANIELS**: And ours was slightly different. So that is why it is in 945, it is done in that particular format.

**CHAIRPERSON**: But the substance is the same?

**MS DANIELS**: The substance is the same.

**CHAIRPERSON**: Ja. Actually, most of it seems to be identical.

10 **MS DANIELS**: Yes.

**CHAIRPERSON**: Ja. Okay. And what is the document at page 945? Who was it addressed to and for what purpose?

**MS DANIELS**: This was addressed to the board to make the resolution ...[intervenes]

**CHAIRPERSON**: Ja?

**MS DANIELS**: ...that you see at the bottom of page 945 ...[intervenes]

**CHAIRPERSON**: Yes and ...[intervenes]

20 **MS DANIELS**: ...which says: Eskom shall suspend any dealings.

**CHAIRPERSON**: And would it be correct that you prepared the document at page 945 in order to give effect or implement what is written in the document that Dr Ngubane... that you say Dr Ngubane sent to you which is at page 948?

**MS DANIELS**: That is correct, Mr Chair.

**CHAIRPERSON:** Yes, okay. Mr Seleka.

**ADV SELEKA SC:** Thank you, Chair. Ms Daniels, you were saying to... explaining to the Chairperson that what ultimately transpired is that the resolution was adopted by not... but not by way of Round Robin but in an actual meeting?

**MS DANIELS:** That is correct, Mr Chair. There was actually a special meeting called to deal with the media... and I am trying to think of the correct word. I think it was  
10 described as a media onslaught at the time. And that these specific publications, who were identified by the board, as not favourable to Eskom.

**CHAIRPERSON:** Yes. Okay, I think Mr Seleka, earlier on you wanted to either read ...[intervenes]

**ADV SELEKA SC:** Yes.

**CHAIRPERSON:** ...or ask the witness to read the document at page 948. I think that is a good idea.

**ADV SELEKA SC:** Is that a good idea?

**CHAIRPERSON:** There might not be a need to read the one  
20 at 945.

**ADV SELEKA SC:** Yes.

**CHAIRPERSON:** Because she had said that that was meant to implement.

**ADV SELEKA SC:** Yes.

**CHAIRPERSON:** Or give effect to the document at page

948 that she had received from Dr Ngubane.

**ADV SELEKA SC**: Yes, Chair.

**CHAIRPERSON**: But I think let us have that one read into the record.

**ADV SELEKA SC**: Thank you.

**CHAIRPERSON**: So that the... whoever is listening or viewing, can understand the context of the two... or the contents of the two documents.

**ADV SELEKA SC**: Thank you. Ms Daniels, let us go back  
10 to page 948. I have read the paragraph immediately under introduction. So I will move onto the second paragraph. It starts:

“City Press, Mail Guardian and Sunday Times in the recent past.”

Let us see whether they repeated that mistake. Did you repeat the mistake here? It does not have Mail & Guardian. It is Mail Guardian. Do you see that?

**CHAIRPERSON**: [No audible reply]

**ADV SELEKA SC**: “City Press, Mail Guardian and Sunday  
20 Times in the recent past.”

“They have published stories in their respective papers, making unsubstantiated allegations of fraudulent conducts in our administration and corruption against officials of the sister’s state-owned companies.”

The sister's state-owned companies. They... what is that, Ms Daniels?

**CHAIRPERSON**: What was your understanding of what that was?

**MS DANIELS**: Mr Chair... do I go into detail now?

**ADV SELEKA SC**: Yes, please.

**MS DANIELS**: Okay.

**ADV SELEKA SC**: Tell the Chairperson.

**MS DANIELS**: Mr Chairman, there was actually a  
10 conversation between the minister and the chairperson about the media treatment of... when she... when they talk about sister companies, they are talking about Eskom, Transnet, Denel. I think those were the main ones at the time that we were being bombarded in the newspaper and ...[intervenes]

**CHAIRPERSON**: But it is written as sister apostrophe s state-owned.

**MS DANIELS**: Yes, it is supposed to be ...[intervenes]

**CHAIRPERSON**: [laughing] It does not say sister companies or sister state-owned companies.

20 **ADV SELEKA SC**: Yes.

**CHAIRPERSON**: It says sisters.

**MS DANIELS**: Yes, it was actually the state-owned companies that were within the portfolio of the Department of Public Enterprises. And that is what it was meant to say, sister state-owned company.

**ADV SELEKA SC:** Okay. Shall I carry on, Chair?

**CHAIRPERSON:** [No audible reply]

**ADV SELEKA SC:** Yes.

“They have selected to not report on the verifiable responses provided by the relevant SOC’s. SOC’s irresponsible... and irresponsible published gossip and sensationalism without any regard for fact.

The above form of reporting by the three newspapers is misled...”

10 Now I want to check if that mistake is also there. Is misled to the members.

**MS DANIELS:** It is.

**ADV SELEKA SC:** Is it exactly there?

**MS DANIELS:** Yes, Chair.

**ADV SELEKA SC:** Yes.

“The above form of reporting by the three newspapers is misled to members of public.”

That is on page 945. That is the resolution subsequently adopted.

20 **CHAIRPERSON:** Did you understand that you had to reproduce it like that, exactly as it is?

**MS DANIELS:** Mr Chair, I do not actually have a recollection of, you know, the copying and the pasting and things. I recognise the Transnet documents.

**CHAIRPERSON:** Yes.

**MS DANIELS:** I recall the letters from the minister... my apology. I recall the letters from Ms Mabaso. I recall the conversations that the chairman had with the Minister of Public Enterprises. Ja.

**CHAIRPERSON:** So what is that you cannot recall?

**MS DANIELS:** I am not sure if I would have corrected this letter.

**CHAIRPERSON:** Oh, but I thought you said earlier on, you prepared the document at page 945?

10 **MS DANIELS:** Well, this was... I am not sure what version this is.

**CHAIRPERSON:** Ja?

**MS DANIELS:** So this would have been a copy and paste.

**CHAIRPERSON:** Yes.

**MS DANIELS:** Okay so I ...[intervenes]

**CHAIRPERSON:** But you may have had different versions.

**MS DANIELS:** Yes.

**CHAIRPERSON:** But whatever version this one is ...[intervenes]

20 **MS DANIELS:** This is the ...[intervenes]

**CHAIRPERSON:** ...quite clearly, it is taken from the document at page 948.

**MS DANIELS:** That I...

**CHAIRPERSON:** Yes.

**MS DANIELS:** Yes, so I am not... there may have been

corrections to the grammar and those things but the base document would have come from document 948.

**CHAIRPERSON:** Ja, I think what Mr Seleka was highlighting is that you appeared to have just taken it as it is in the true sense including how they formulated what they must have intended was misled the public. Continue, Mr Seleka.

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

10                   “The above form of reporting by the three newspapers is misled to members of the public and is intended to influence public deception.”

**CHAIRPERSON:** Oh, unless it was... unless they meant to say has misled. Or would that make sense Mr Seleka or not really? No, then the two after misled would not...

**ADV SELEKA SC:** Ja, Chair I do not... what the Businessman wrote, I would not want to correct.

**CHAIRPERSON:** [laughing]

**ADV SELEKA SC:** I will read it as it is.

**CHAIRPERSON:** Ja, okay yes.

20                   **ADV SELEKA SC:** Yes.

“...and is intended to influence public deception that state-owned companies are corrupt and guilty of stealing public funds.

If this negative trend by the three newspapers is not challenged, it will cause irreparable damage to the



roles of the state-owned companies in assisting government in job creation and economic growth.

It is therefore important that the state own companies...”

Now you will see it is missing the “ed” there.

“...the state own companies should collectively suspend any dealings with the above three newspapers until such time they provide verifiable proof supporting their allegations referred to above.”

10 Then the proposed resolution follows:

“Resolve that:

1. Denel/Eskom hereby suspend any dealings.
2. Placing advertising or any other commercial relationship with Mail & Guardian, Sunday Times and City Press pending the resolutions of the complaints that the state-owned entities have against the three newspapers until such time they provide verifiable proof supporting the allegations referred to above. Yours faithfully.”

20 Ms Daniels did you... do you recall... I mean, the Chairperson was asking whether changes... or I think you were explaining to him whether changes would have been made to this draft which was literally taken from this draft and put on the Eskom document for the purposes of the board resolution.

Do you recall whether you went through the document, read through the document prior to you placing on Eskom document for purposes of the board?

**MS DANIELS**: I am not sure, Mr Seleke(sic). I remember this document ...[intervenes]

**ADV SELEKA SC**: Seleka.

**MS DANIELS**: Oh.

**CHAIRPERSON**: [laughing]

**ADV SELEKA SC**: Yes. Mr Seleke is coming...

10 **MS DANIELS**: My... [laughing]

**CHAIRPERSON**: [laughing] Ja.

**MS DANIELS**: My apology, Advocate Seleka. I do... I remember these documents, the Transnet documents.

**ADV SELEKA SC**: The reasons I am asking that question is because when you go back to that page which is on the board's resolution the portion of the resolution does not have Denel, so Denel is deleted, you do have only:

“Eskom shall suspend any dealings.”

20 So somebody would have read, to notice that hey, I need to delete reference to Denel. Any recollection that you would have done that?

**CHAIRPERSON**: Apart from that, also the document at page 948, particularly 949 reads:

“Denel/Eskom hereby suspend”

Whereas the one at 945 says:

“Eskom shall suspend any dealings”

So one gets the impression that either you or somebody on your behalf did look and decided what to leave out and what to include. Is that fair comment?

**MS DANIELS:** That is fair comment, Mr Chairman.

**CHAIRPERSON:** Do you remember whether it was you?

**MS DANIELS:** I really cannot recall, I would have to look at what was attached to ...[intervenes]

**CHAIRPERSON:** But would you have prepared the  
10 document at 945 without reading the document at 948? I  
am saying prepared, maybe it is not prepared, it is just  
electronically – just put it on to create exactly the same  
document and change here and there. Would you have  
done that without reading it and applying your mind to it?

**MS DANIELS:** Mr Chairman, I am a stickler for grammar.

**CHAIRPERSON:** Sorry?

**MS DANIELS:** I said I am a stickler for grammar so I  
would have corrected these mistakes, so that is why I am  
not sure if there were other versions.

20 **CHAIRPERSON:** Yes but Dr Ngubane, as I understand it,  
sent the document at page 948 to you, is that right?

**MS DANIELS:** That is correct.

**CHAIRPERSON:** And he must have either given you  
instructions about what to do with it or there was an  
understanding between the two of you as to what you

should do with it, is that right?

**MS DANIELS:** Ja, he asked me ...[intervenes]

**CHAIRPERSON:** What was that instruction or what was that understanding.

**MS DANIELS:** He asked me to use these documents to prepare ...[intervenes]

**CHAIRPERSON:** The document [inaudible – speaking simultaneously]

**MS DANIELS:** The document for the board, yes.

10 **CHAIRPERSON:** Yes and that is what you did.

**MS DANIELS:** And that is what I did.

**CHAIRPERSON:** So my question is, would you have done that without reading the document at page 948?

**MS DANIELS:** No, I would have read it.

**CHAIRPERSON:** You would have read it?

**MS DANIELS:** I would have read it.

**CHAIRPERSON:** Yes, do you remember whether you made the changes that Mr Seleka and I have referred to on the part relating to resolution?

20 **MS DANIELS:** That I cannot recall but ...[intervenes]

**CHAIRPERSON:** You cannot recall.

**MS DANIELS:** But if I had prepared the document then it is possible that I would.

**CHAIRPERSON:** Yes.

**MS DANIELS:** You know, I would not say that I did not, I

could not say that categorically right now.

**CHAIRPERSON:** Yes, now you said that you remember that the email that Dr Ngubane forwarded to you on the 28 September came with a letter from the Chairperson of the Transnet board to Minister Brown as well as – you say resolution?

**MS DANIELS:** Yes, there was a Transnet resolution.

**CHAIRPERSON:** A resolution but you say you do not know whether it also came – that is the email from Dr Ngubane  
10 to you, you do not remember whether it came with the document at page 948?

**MS DANIELS:** I do not recall if it was attached to this particular email.

**CHAIRPERSON:** Yes.

**MS DANIELS:** It may have been a subsequent email.

**CHAIRPERSON:** Yes, but you are saying the end you got it from Dr Ngubane.

**MS DANIELS:** Yes, that is correct.

**CHAIRPERSON:** Yes. Would you know whether it is a  
20 document that he drafted, Dr Ngubane, the document at page 948?

**MS DANIELS:** This would not be something that he would have drafted.

**CHAIRPERSON:** It is not the kind of document that he would drafted?

**MS DANIELS:** No.

**CHAIRPERSON:** He gave evidence before me to the effect that he normally did not prepare his speech, his own speeches. I do not know what else he said he did not prepare, he would have those prepared for him. Is that to your knowledge the correct thing that he did not prepare his speeches as well?

**MS DANIELS:** He did not prepare his speeches from scratch, Mr Chairman.

10 **CHAIRPERSON:** Oh, I think media statements was the other one, ja.

**MS DANIELS:** Yes. There was a process within Eskom.

**CHAIRPERSON:** Ja.

**MS DANIELS:** Certainly during the time that I was in his office.

**CHAIRPERSON:** Ja.

**MS DANIELS:** What would occur would be that the executive responsible for that particular area would draft the content ...[intervenes]

20 **CHAIRPERSON:** Media statement or speech.

**MS DANIELS:** Yes.

**CHAIRPERSON:** Ja.

**MS DANIELS:** And it would be sent to the media department.

**CHAIRPERSON:** Ja.

**MS DANIELS:** We had a dedicated communications department. They would sort of make it media friendly.

**CHAIRPERSON:** Ja.

**MS DANIELS:** It would then come to me, I would look at it and check if it made sense.

**CHAIRPERSON:** Ja.

**MS DANIELS:** Just from a – from someone who knew nothing about it, that as the test. And those questions or issues would then – I would raise them with the  
10 communications department and with the executive responsible and say look, this is too technical or, you know, really do you expect the Chairman to talk about this? These are the kinds of questions that would come from that. If it was something that, you know, was not immediately able to be clarified, I would request them to brief Dr Ngubane in any event. He also read through his speeches and made his own ...[intervenes]

**CHAIRPERSON:** Changes.

**MS DANIELS:** Changes and amendments. Once the  
20 speech was finalised, you know, he would get a copy of this is the proposed speech, the media - communications department would then prepare possible questions with answers. So there would be active participations from his side because he would be the one presenting it.

**CHAIRPERSON:** Yes but you say he would not have

prepared this document himself, this draft at page 948.

**MS DANIELS:** No, this would not have been prepared by him.

**CHAIRPERSON:** Yes, why do you say that? What is the basis for saying that?

**MS DANIELS:** From my understanding, Mr Chair, and my recollection, this was the Transnet template, this was the Transnet template.

**CHAIRPERSON:** So would it have been prepared by  
10 somebody within Transnet or the ...[intervenes]

**MS DANIELS:** Or they may have used the Transnet template.

**CHAIRPERSON:** Yes, okay. Mr Seleka, it is just that I cannot remember, I thought I was under the impression that Dr Ngubane accepted that this document came with emails from a businessman but I cannot be sure, I do not know what your recollection is.

**ADV SELEKA SC:** Yes, he did, Chair.

**CHAIRPERSON:** He did, ja.

20 **ADV SELEKA SC:** Ja, he did accept that.

**CHAIRPERSON:** Yes, okay.0758

**ADV SELEKA SC:** He recalled that the document was sent to various SCOs.

**CHAIRPERSON:** Ja.

**ADV SELEKA SC:** And that was the one to Eskom.



**CHAIRPERSON:** Yes. Okay, alright.

**ADV SELEKA SC:** Yes.

**CHAIRPERSON:** Continue.

**ADV SELEKA SC:** Ms Daniels, the meeting you say took place in respect of this document on page 945, can you recall the date of that meeting?

**MS DANIELS:** I really cannot recall, it would have been around this time, Mr Chairman.

**ADV SELEKA SC:** Ja.

10 **CHAIRPERSON:** Is it your understanding of the document at page 948 that whoever drafted it was saying that the board of Eskom must take a certain stand against the three newspapers mentioned in that document, namely City Press, The Mail & Guardian – Mail Garden – the Mail & Garden ...[intervenes]

**ADV SELEKA SC:** Sunday Times.

**CHAIRPERSON:** And Sunday Times.

**ADV SELEKA SC:** Yes.

20 **CHAIRPERSON:** Is that your understanding as well, that that person was saying the board of Eskom must take a certain stand and actually the boards of other SOEs must do the same against the newspaper.

**MS DANIELS:** Yes, Mr Chairman, that was my understanding.

**CHAIRPERSON:** Yes and that this was to be in response

to certain articles that were said to have been published in those newspapers about SOEs.

**MS DANIELS:** Yes, Mr Chair, that was my understanding.

**CHAIRPERSON:** Yes.

**MS DANIELS:** And that was what actually happened.

**CHAIRPERSON:** Yes, okay. Mr Seleka?

**ADV SELEKA SC:** Thank you, Chair. Do you think you would have the minutes of that meeting, not now but you could check for that?

10 **MS DANIELS:** I will definitely check.

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

**CHAIRPERSON:** But also just going back – I am sorry, Mr Seleka, going back to my question. So you have a situation where somebody – and if Dr Ngubane’s evidence is correct and probably – well, it certainly seems to be, if somebody using the businessman email address had drafted this letter, this document at page 948, that person wanted the Eskom board to take a certain position against those newspapers. Dr Ngubane gave you the document at  
20 page 948 and asked you to prepare the document at 945 which would ask the board of Eskom to adopt exactly the position that whoever had drafted the letter at page 948 wanted to be adopted by the Eskom board.

**MS DANIELS:** Yes.

**CHAIRPERSON:** You accept that?

**MS DANIELS:** I accept that, that is exactly what happened.

**CHAIRPERSON:** Yes. And on your understanding the person who drafted this, would that person have been within Eskom or outside of Eskom or is that something you do not know?

**MS DANIELS:** Mr Chairman, from the evidence and from my experience within Eskom this is someone external to Eskom at the time.

10 **CHAIRPERSON:** This is somebody who was external to Eskom at the time.

**MS DANIELS:** Yes.

**CHAIRPERSON:** Okay. Mr Seleka?

**ADV SELEKA SC:** Ms Daniels did you know who is that person?

**MS DANIELS:** I did not know who that person was at the time.

**ADV SELEKA SC:** So in September 2015 you did not know who was that person.

20 **MS DANIELS:** No, Mr Chair, I did not.

**CHAIRPERSON:** And was it strange to you that the Chairperson of the board, I think he had been confirmed as Chairperson at the time, Dr Ngubane, in September 2015, was it strange to you that the Chairperson was asking you to prepare resolution that would be adopted the board on

the basis of a document that came from outside Eskom or was that not strange, that was something normal?

**MS DANIELS:** Mr Chairman, at the time I did not interrogate it as I would later ...[intervenes]

**CHAIRPERSON:** You did not ...[intervenes]

**MS DANIELS:** I did not interrogate it as I would later.

**CHAIRPERSON:** Yes, okay.

**MS DANIELS:** At that point in time I took it at face value.

**CHAIRPERSON:** Ja, okay.

10 **ADV SELEKA SC:** Is there a reason why you took it at face value?

**MS DANIELS:** I – at that time I was still the senior manager and I honestly had no reason to believe that there was anything sinister in the activities of the Chairman and in his conduct. You know, I - you know, when you start a job you always believe that people are good and I did not have any reason at that stage to even suspect anything.

**ADV SELEKA SC:** Well, we have seen ...[intervenes]

20 **CHAIRPERSON:** Well, I see we are at quarter past, Mr Seleka.

**ADV SELEKA SC:** Opportune time, Chair, indeed.

**CHAIRPERSON:** Ja, let us take the tea adjournment. Am I wrong to think that there were other emails that you referred Dr Ngubane to from businessmen that happened before September in 2015?

**ADV SELEKA SC:** It is actually June 2016, Chair.

**CHAIRPERSON:** Oh, is it June 2016?

**ADV SELEKA SC:** That is actually June 2016.

**CHAIRPERSON:** Oh, okay, okay. So on what we have, September 2015 appears to be the earliest we have ...[intervenes]

**ADV SELEKA SC:** The earliest.

**CHAIRPERSON:** Oh, okay.

**ADV SELEKA SC:** From what we have been able to  
10 obtain.

**CHAIRPERSON:** Oh, okay, okay. We will take the tea adjournment, we will resume at twenty five to twelve.

**ADV SELEKA SC:** Thank you Chair.

**CHAIRPERSON:** We adjourn.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Let us continue.

**ADV SELEKA SC:** Chair are you done with your questions?

20 **CHAIRPERSON:** I think so.

**ADV SELEKA SC:** Yes, Ms Daniels I had asked the question whether you knew who Businessman was at the time of exchange of these emails?

**MS DANIELS:** No, I did not Mr Chairman.

**ADV SELEKA SC:** Did you come to know who

Businessman was?

**MS DANIELS:** In my disciplinary hearing, Mr Chairman, my attorneys did an extensive search and with the help of the organisation called OUTA it established that it was a DG Seleke.

**CHAIRPERSON:** It was?

**MS DANIELS:** Director General's Richard Seleke. Based on my further reading that I have done and assessment of the evidence that has come out in the Gupta leaks  
10 etcetera, it's my suspicion that it wasn't just one person, it was indeed an info portal but I do suspect that one of the administrators of that email box was Salim Essa.

**ADV SELEKA SC:** You say your attorneys, during your disciplinary action did some research and according to their research they told you that it was Mr Richard Seleke behind the name Businessman?

**MS DANIELS:** They didn't just tell me, Mr Chairman, we received IP addresses and I think it was technical data from ALTA.

20 **ADV SELEKA SC:** You will obviously recall that the Chairperson finds otherwise in his ruling, he finds that the email – info portal, most probably belonged to Mr Essa.

**MS DANIELS:** Mr Chairman, it was most probably, they also did not produce any evidence that it was, indeed, Mr Essa's. What Eskom relied on in my disciplinary hearing

was the emails from the discredited Matshela Koko so there was no direct evidence that it was and he found that it may have possibly have been Salim Essa.

**ADV SELEKA SC:** Okay, let me know from you, did you know who is the person behind the name Businessman, using the email address, info portal 1?

**MS DANIELS:** No, I did not.

**ADV SELEKA SC:** You say you were told by Dr Ngubane that the email address or Businessman email address info  
10 portal belongs to Mr Richard Seleke.

**MS DANIELS:** Yes, that is correct.

**ADV SELEKA SC:** That would have been long before your disciplinary action at Eskom.

**MS DANIELS:** Yes, that is correct.

**ADV SELEKA SC:** Now these emails, if you followed the hearing of – the testimony of Dr Ngubane here, before the Commission, were exchanged with Dr Ngubane, September 2018 before Mr Richard Seleke was appointed at DPE. His date of appointment was effective 27 November 2015, did  
20 you know that?

**MS DANIELS:** Yes.

**ADV SELEKA SC:** Now, Dr Ngubane himself has said, to the Commission that, in fact, he understood from you that the email is of Richard Seleke and not – he understood from you and not the other way around, you told him, not

him telling you that, that is the email of Mr Richard Seleke. Would you explain your comment to the Chairperson on that?

**MS DANIELS:** Mr Chairman, it's clear from the emails that Dr Ngubane introduced the info portal email into the system...[intervenes].

**CHAIRPERSON:** That is assuming that the email at the bottom of page 944 from Businessman to Dr Ngubane, was the first one?

10 **MS DANIELS:** Assuming, but in my experience, what was introduced to me...[intervenes].

**CHAIRPERSON:** And also, assuming that you had not received any email from Businessman prior to that?

**MS DANIELS:** Yes.

**CHAIRPERSON:** You are able to say you had not received any emails or sent any emails – you had not received any mails from and had not sent emails to Businessman before that email at the bottom of page 944 that came from Businessman and was directed to Dr Ngubane?

20 **MS DANIELS:** Not that I could find on my system.

**CHAIRPERSON:** Okay, Mr Seleka?

**ADV SELEKA SC:** Thank you Chair, you see and what we – this Commission has been able to obtain through the Fundudzi report is that on 21<sup>st</sup> June 2015, Mr Richard Seleke, using an email address,



[blueberries.slk@gmail.com](mailto:blueberries.slk@gmail.com), he sent his CV – this is prior to him being appointed at the DPE, he sends his CV through info portal 1 on Sunday 21 June 2015, and he says,

“Evening sir, please find attached my CV and supporting documents, regards Richard”,

That you find on page 1042 of Eskom Bundle 08B, 1042 at the bottom of the page, Ms Daniels, you see the email, [blueberries.slk@gmail.com](mailto:blueberries.slk@gmail.com), it's from that email address to email address [infoportal1@soho.com](mailto:infoportal1@soho.com), the subject is Richard CV, the email is sent at 22h32, that's twenty eight minutes before eleven at night, you see that?

**MS DANIELS:** Yes, I see that.

**ADV SELEKA SC:** And the email immediately above that, it's a forwarding email. The forwarding email from Businessman, in inverted commas the email is [infoportal1@soho.com](mailto:infoportal1@soho.com), date is 21 June 2015 at 8h34pm, subject forward, Richard CV and it's sent through [anckimcwc@gmail.com](mailto:anckimcwc@gmail.com) and that email address, if you look at the email above, seems to belong to Ms Kimberley Davids and Businessman writes,

“Hi madam, as per sir, this is the candidate for DG, it possible for him to meet madam on Tuesday, regards”.

So, Businessman forwards Mr Richard Seleke's CV

to, on the face of it, appears to be Kimberly Davids and he says this is a candidate for DG.

**CHAIRPERSON:** And I think Kimberley Davids is, understood to have been someone working in the office of the Minister of Public Enterprises, Minister Brown, I don't know whether as a PA or as something else but it is understood to be somebody who was working in Minister Brown's office.

**MS DANIELS:** Mr Chairman, she was the Executive  
10 Assistant.

**CHAIRPERSON:** Hm?

**MS DANIELS:** She was the Executive Assistant to Minister Brown.

**CHAIRPERSON:** She was the Executive Assistant, okay and you knew – at the time that you were working at Eskom in 2015/2016 did you know her to use this email address of [anckimcwc@gmail.com](mailto:anckimcwc@gmail.com)?

**MS DANIELS:** No, I did not.

**CHAIRPERSON:** Oh, but you knew that Kimberley Davids  
20 was Minister Brown's Executive Assistant?

**MS DANIELS:** Yes, I did because I had to liaise with her on issues relating to meetings etcetera.

**CHAIRPERSON:** Okay, so it appears that Mr Richard Seleke sent to [infoportal1@soho.com](mailto:infoportal1@soho.com) on 21 June 2015, his CV to that email address and that on the same day in the

evening, Businessman or somebody from that address – email address then forwarded – sent an email to Ms Kimberley Davids in the office of Minister Brown, saying, enclosing the CV of Mr Richard Seleke and saying, this is the candidate for DG and DG would be Director General and asking whether it would be possible for madam to meet Mr Seleke on Tuesday. I take it madam refers to Minister Brown, Mr Seleka, I think you had put a question to the witness but I just, summarised what appears at page 1042.

10 **ADV SELEKA SC:** Than you Chairperson. Ms Daniels the position of DG, is that the position that Mr Seleke, ultimately was appointed into?

**MS DANIELS:** Yes, that is correct Chairman, he was the Director General.

**ADV SELEKA SC:** Director General at DPE, I see there, then the email on the top of the page is from Ms Kimberly Davids, that email address which info portal used, anckimwc@gmail and she seems to be forwarding to herself, now at an official address, [kim.davids@dpe.gov.za](mailto:kim.davids@dpe.gov.za)

20 on the 23<sup>rd</sup> of June 2015 and the subject is, forward, Richard CV, there's an attachment referred to as Mogokare CV.doc, qualifications PDF, do you see that?

**MS DANIELS:** That's correct, I do see that.

**ADV SELEKA SC:** Now on the face of this exchange, it would appear that Businessman and Richard Seleke are

two different persons, any comment on that, do you see that?

**MS DANIELS:** I see that on the face, Mr Chairman, and that is why I say that, you know, it is my suspicion that this was used as an information portal, this particular inbox and that it was not managed by just one person.

**CHAIRPERSON:** But do you or do you not accept that on the face of it, it appears that the person who forwarded Mr Richard Seleke's CV to Ms Kimberley Davids appears to be  
10 somebody other than Mr Richard Seleke himself?

**MS DANIELS:** That I accept but later on, Richard Seleke, himself uses that very inbox, you see, so that is one of those reason why I said to you that I don't think that it was one person that used this info portal address. We just don't have enough proof.

**ADV SELEKA SC:** How do you know that Richard Seleke used it?

**MS DANIELS:** There were emails in the Gupta leaks and ALTA...[intervenes].

20 **ADV SELEKA SC:** No, I'm asking you, how do you know that Richard Seleke used it?

**MS DANIELS:** There was an email in the outer bundle that they gave us which was from info portal, signed, best regards Richard.

**ADV SELEKA SC:** Okay would you have that email?

**MS DANIELS:** Yes, it was part of our evidence bundle at the disciplinary.

**ADV SELEKA SC:** And tell me, just repeat that again, what did it say?

**MS DANIELS:** I can't remember the details now, Mr Chairman, but it did say, best regards Richard.

**ADV SELEKA SC:** An email from info portal?

**MS DANIELS:** Yes.

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

10 **MS DANIELS:** I would have to ask my attorneys.

**ADV SELEKA SC:** Well let's look at this further because Fundudzi has another correspondence between Kimberly Davids and Businessman page 1032. These are Exhibits, as you can see, from the report itself, 1032, you there Ms Daniels?

**MS DANIELS:** Yes, I am.

**ADV SELEKA SC:** Now, the bottom email again which is 16 July 2015, it's from Kimberly Davids with that email address of gmail.com, 16 July 2015, the subject is forward,  
20 Travons CV to Businessman inforportal1@soho and here she explicitly writes,

“Dear Salim, herewith CV for Aleska Board as discussed”,

And she's not writing to Richard, you see that?

**MS DANIELS:** Yes, I see that.

**ADV SELEKA SC:** So, all the more the – all the more the – all the more giving credence to the conclusion that Businessman and Mr Richard Seleke are two different persons but this email takes it further, the email takes it further it, in fact, covers the face behind Businessman, do you have any comment, Ms Daniels?

**MS DANIELS:** Mr Chairman, I still have, based on what my experience was, I cannot discount that Salim Essa was one of the people that had access to this box but it is still  
10 my suspicion that there was more than one person handling this box.

**ADV SELEKA SC:** And, that leaves one – if you look at this correspondence before Mr Seleke is appointed DG in the office of the Department of DPE, two things. One is, it puts a big question mark on the explanation that he would have been the one having interest in the affairs of Eskom because at this stage he would have been the one having interest in the face of Eskom as a DG of the DPE because at this stage he's not in that position, he's not in that  
20 department, that's a big question mark on that explanation because look Dr Ngubane says it was an explanation you gave to him and he didn't have a problem with it because it's an interest expressed by the DG of a department that oversees the SOE's. Now, I can let you comment on that first and then I can go to the next point.

**MS DANIELS:** Well, all I can say is that it was – from Dr Ngubane that this was the DG and I took it at face value.

**ADV SELEKA SC:** So – well, so Dr Ngubane says you told him, he's the DG, Mr Richard Seleke he has an interest they want to see the media statements before they are published because they see them for the first time once published and he wants to know beforehand and that was your explanation, what do you say about that, just that portion, did you say that to him?

10 **MS DANIELS:** I didn't say that to him but that did happen when it was – it was, in fact, when it was a major media statement the DPE did want sight because Minister Brown was not impressed, to use a colloquial terms but when she saw the media statements for the first time in the media and that she hadn't been briefed or had input, so on major issues she had wanted to see them beforehand.

**ADV SELEKA SC:** Minister Brown?

**MS DANIELS:** Minister Brown, yes.

**ADV SELEKA SC:** No, I'm talking the DG now.

20 **MS DANIELS:** Well, he would have been the one handling the issues on her behalf.

**ADV SELEKA SC:** Sorry, who raised the concern, is it the Minister or is it the DG?

**MS DANIELS:** In my recollection, the Minister raised these...[intervenes].

**ADV SELEKA SC:** Not the DG?

**MS DANIELS:** Not the DG.

**ADV SELEKA SC:** Did you tell Dr Ngubane that the DG raised the concern?

**MS DANIELS:** In the email that we got?

**ADV SELEKA SC:** No, did you tell Dr Ngubane, you personally, saying to him, the person behind the email, Businessman is Mr Richard Seleke and this is the reason why he's corresponding with us.

10 **MS DANIELS:** No, I did not.

**ADV SELEKA SC:** So, you maintain that it is Dr Ngubane who told you that the man behind Businessman email is Mr Richard Seleke?

**MS DANIELS:** Yes, he did.

**CHAIRPERSON:** Is there any chance that you could be mistaken about that and that maybe you told him?

**MS DANIELS:** I did not deal directly with the Director General, Mr Chairman.

**CHAIRPERSON:** Sorry?

20 **MS DANIELS:** I said, I did not deal directly with the Director General, you know, to tell the Chairman that, it would have been the other way around.

**CHAIRPERSON:** You are quite clear that you did not tell him or it could be that you told him but you can't remember, what is the position?



**MS DANIELS:** I'm quite clear that I wouldn't have told him that it was DG Seleke.

**CHAIRPERSON:** Yes, the fact that the emails from Businessman from info portal happened or Mr Seleke was appointed as DG of the Department of Public Enterprises would mean that if it was him at that time it would be very strange because, to your knowledge, to our knowledge he had nothing to do with DPE or with Eskom at the time before his appointment to DPE.

10 **MS DANIELS:** Well to my knowledge yes, I don't think he did.

**CHAIRPERSON:** Okay, Mr Seleka?

**ADV SELEKA SC:** Thank you Chair. The other point then, my second point, was, phrased with this information on the face of which it is apparent that Richard Seleke could not – could most probably not have been the person behind the email Businessman info portal, how, in your view, should the Commission deal with that aspect because we can only go by the documents before us?

20 **MS DANIELS:** As I said, Mr Chairman, if you look at the totality and you look at the correspondence in the Gupta leaks, for example, and you look at, you know, the specific institutional emails, it is, in my view a suspicion that Salim Essa was one of those people that controlled that inbox. I, you know, I found other emails, I did not have direct

contact with Salim Essa and you can see from this, I would still say that it's highly suspicious that at various points in time he was the one directing those emails but there isn't, in my mind yet, because I don't have access to everything, that conclusivity.

**ADV SELEKA SC:** Shall I carry on? Thank you.

**CHAIRPERSON:** You may continue.

**ADV SELEKA SC:** Chair, then I was provided with the document which I showed Ms Daniels during the  
10 adjournment, I'm going to beg leave to hand it up, Chairperson. It goes with the documents we've referred to on page 945 and 948; the draft resolution that was prepared and sent to various SOE's and then in respect of Eskom we saw that, that draft became the draft resolution for the Board to adopt. What we're focusing on here, this – with the production of this, Chairperson, is the persons who created the document itself, the draft itself. Ms Daniels might not know but I've shown her the documents it's an IT production and I beg leave to hand it up. So  
20 what is being handed up to you, Chairperson, is a copy of the email, the first page is two emails which we have already referred to, firstly exchange between Businessman and Dr Ngubane on 28 September 2015, Dr Ngubane then forwards that email to Ms Daniels on the same date, we've referred to that, we can turn the page and we will mark the

document in due course for the purposes of the record. Then you have the draft document or draft resolution which was adopted – adopted into Eskom’s document, Ms Daniels you follow?

**MS DANIELS:** Yes.

**ADV SELEKA SC:** That’s two pages and then the third page is what has been drawn to our attention, Ms Daniels. Now you have this document, info, at the top, urgent request email attachments and you have these blocks, read  
10 only document, compatibility mode and then you have protect document. Against that block of protect document you have related dates; last modified 28 September 2015 ...25pm, created 28 September 2015 2:25 pm. Last printed today 1.57 pm. Below that you have related people and firstly is the Bossa and it shows that the Bossa is Mantsha Attorneys. Does that ring a bell Ms Daniels with you? Mantsha Attorneys?

**MS DANIELS:** Mantsha Attorneys I can assume is Daniel Mantsha he was the Chairperson of Denel at the time Mr  
20 Chairman.

**ADV SELEKA SC:** The Chairperson of Denel?

**MS DANIELS:** Yes.

**ADV SELEKA SC:** At the time September 2015?

**MS DANIELS:** I will have to check but if he was ..

**ADV SELEKA SC:** At some point he was the Chairperson?

**MS DANIELS:** He was Chairperson – he was related to Denel.

**ADV SELEKA SC:** And then last modified by you chose the name of the person there Salim Essa and if you read this together with that email from Kim Davis where she says – this email I read what did she say here – say:

“Dear Salim herewith CV for Alexco Board as discussed.

The email of 16 July 2015.”

10 If you read the two together it seems the commission cannot but come to the conclusion that the man behind Businessman is Salim Essa. You see that?

**MS DANIELS:** I see that.

**ADV SELEKA SC:** Do you have any comment?

**MS DANIELS:** I still think that it is – it is more than likely that it was more than one person but I do not discount that he would have had something to do with infoportal.

**ADV SELEKA SC:** Yes. Chairperson then you turn the page you go to what Ms Daniels has said is a template of a  
20 resolution for Transnet. Is that right Ms Daniels?

**MS DANIELS:** Yes that is correct.

**ADV SELEKA SC:** And you go to – turn again that page – you go to the last page of this document it has similar information – the same information as to the author and the person last modified. The author again Mantsha Attorneys

and last modified – oh here last modified – I beg your pardon by the same Attorneys. For the purposes of the record Chair I would ask that the document be admitted as Exhibit U18. – it is going to have to be Point 5.1.

**CHAIRPERSON:** Have you double checked what the last number was? Was it not 18.3?

**ADV SELEKA SC:** It was 18.4 the last number Chair.

**CHAIRPERSON:** Okay.

**ADV SELEKA SC:** But I am going to explain why I added  
10 Point 1 at the end.

**CHAIRPERSON:** Now this one that you want to be admitted is at what page?

**ADV SELEKA SC:** It is going to be at page – we will add it to the bundle at page 951.1. What I have not done Chairperson is to admit the emails we have referred to.

**CHAIRPERSON:** Yes.

**ADV SELEKA SC:** And mark them as exhibits and those emails which are starting at page 874 would be admitted as Exhibit U18.5. That is the e – the Businessman’s email to Dr  
20 Ngubane and then Dr Ngubane forwarding that email to Ms Daniels.

**CHAIRPERSON:** You want us to start at 874?

**ADV SELEKA SC:** Is it 874.

**CHAIRPERSON:** Hm.

**ADV SELEKA SC:** Yes Chair. Let me – not 874 sorry. Sorry

Chair those emails which I want to have admitted are on page 944. Page 944. Together with the – that will be from 944.

**CHAIRPERSON:** yes.

**ADV SELEKA SC:** And the related – and the related documents until page ...

**CHAIRPERSON:** You have dealt with these emails under – during Dr Ngubane’s evidence.

**ADV SELEKA SC:** Yes.

10 **CHAIRPERSON:** Yes they were there they should have been admitted there.

**ADV SELEKA SC:** Yes.

**CHAIRPERSON:** And they have to retain that Exhibit number throughout because otherwise you – you will have confusion. Same documents are in different bundles and different bundles are known as – with – by different names. So I think that is what we should do either now or later maybe during lunch break you can have a look.

**ADV SELEKA SC:** During lunch will be in order Chair.

20 **CHAIRPERSON:** Ja. Also that we do no.

**ADV SELEKA SC:** So that it does not delay.

**CHAIRPERSON:** So that they can be admitted where they primarily belong and then reference to them can be made to whatever bundle they are deemed.

**ADV SELEKA SC:** Yes.

**CHAIRPERSON:** And the exhibit numbers relating to them can be used.

**ADV SELEKA SC:** Yes. Thank you Chair. That will be done during the lunch break Chair.

**CHAIRPERSON:** Ja.

**ADV SELEKA SC:** Thank you. Ms Daniels there is more emails exchanged with Businessman but they come in during 2016. But I think this is the critical moment what we have gone through now – that is the critical moment. So I – I  
10 would like – Chair unless you have any questions I want to move on?

**CHAIRPERSON:** Ja. No that is fine you can continue.

**ADV SELEKA SC:** Yes. Talking of Mr Salim Essa Ms Daniels have you – you have met with – well ja rather say that you have met with Mr Salim Essa as we understand from your affidavits; your testimony, correct?

**MS DANIELS:** Yes that is correct Mr Chairman.

**ADV SELEKA SC:** And can you tell the Chairperson your first occasion when you met – the first occasion when you  
20 met with Mr Essa?

**MS DANIELS:** Mr Chairman I met Mr Essa for the first time in March 2015. As I testified in Parliament it was on the 9 March but as I said to you earlier with the – with the commission's team and using phone records they have confirmed for me that it was actually the 10 March. I was

called to – by Matshela Koko who was the acting Group Executive for Technology and Commercial at the time and I was called to Melrose Arch to meet with him. It was around about lunchtime.

**CHAIRPERSON:** You were called by whom?

**MS DANIELS:** Matshela Koko.

**CHAIRPERSON:** Yes okay.

**MS DANIELS:** He held the position of acting Group Executive Technology and Commercial at the time.

10 **CHAIRPERSON:** Hm.

**MS DANIELS:** And – so Dave Facto [?] he was my boss. I went to Melrose Arch and I waited for him at the restaurant called JB Rivers because he told me I must wait for him.

**CHAIRPERSON:** Did Mr Koko tell you to go to that restaurant?

**MS DANIELS:** He just told me to come to Melrose Arch.

**CHAIRPERSON:** Yes.

**MS DANIELS:** For me that was sort of a hub and I thought that would be the easier – easiest place to... thought that  
20 would be the easier – easiest place to...

**CHAIRPERSON:** Okay, alright so he did not tell you where exactly at Melrose Arch you should go but once you were there you went into this restaurant.

**MS DANIELS:** Yes and then I told him where I was.

**CHAIRPERSON:** Ja okay.



**MS DANIELS:** He told me to wait there and I waited for about an hour.

**CHAIRPERSON:** When he asked you to go to Melrose Arch did he say why?

**MS DANIELS:** No not at that stage. He wanted to talk to me about certain matters.

**CHAIRPERSON:** He wanted to talk to you about?

**MS DANIELS:** Certain matters.

**CHAIRPERSON:** Certain matters.

10 **MS DANIELS:** Yes.

**CHAIRPERSON:** Is that what he said?

**MS DANIELS:** That is what he said when he called.

**CHAIRPERSON:** Okay.

**MS DANIELS:** But he did not – he was not specific. So I waited at the restaurant and he came across and he collected me. We then went across the road to an office building and we proceeded to go to the – I think it was the first floor and we walked towards an office in the corner and at the entrance I could not see there was not any plaque  
20 identifying what the company name was etcetera. We went inside. I had to hand in my phone at reception. We waited in a board room and a couple of minutes later.

**CHAIRPERSON:** As you were going to this building he still had not told you what – where you were going and what matters you had to discuss?

**MS DANIELS:** No. We – the conversation was quite limited you know.

**CHAIRPERSON:** Yes.

**MS DANIELS:** It was like where are we going? He said be patient.

**CHAIRPERSON:** Yes.

**MS DANIELS:** It will become clear.

**CHAIRPERSON:** This would have been around about what time of the day or evening?

10 **MS DANIELS:** It was in the afternoon.

**CHAIRPERSON:** Yes.

**MS DANIELS:** Around about lunch – lunch time.

**CHAIRPERSON:** Around about lunch time.

**MS DANIELS:** Ja. Or just after lunch

**CHAIRPERSON:** Okay.

**MS DANIELS:** Because people were having lunch at the restaurant and things like that. So – I cannot remember specifically the time but it was in the afternoon.

**CHAIRPERSON:** Hm.

20 **MS DANIELS:** We are then ushered into this board room and we waited – we wait a couple of minutes and I still asked him you know what is this about? And he was like be patient. And then this gentleman walks in introduces himself to me as Salim Essa and that he is the advisor to Minister Brown.

**CHAIRPERSON:** Is that what he said?

**MS DANIELS:** Yes.

**CHAIRPERSON:** Okay. Continue.

**MS DANIELS:** I was quite surprised because I had not heard of him before. I looked at Mr Koko and he just sat there quite – quite comfortable. Mr Essa then proceeds to ask me what do we need to do if we want to suspend people. And I was a bit perplexed you know. And I said to him well firstly I am not a labour lawyer. And so – my area of  
10 expertise does not extend that far but what I can tell you is that you need a very good reason to suspend people. You cannot just suspend them willy nilly. It is at that stage that he then proceeds to tell me – or sketches out that in the coming days the four executives namely Tshediso Matona, Dan Marokane, Tsholofelo Molefe and Matshela Koko would be suspended. At this point I look at Matshela Koko because he is sitting in the room and he is actually unfazed by this revelation. Mr Essa continues to tell me that there would be an inquiry and he knows that these executives more than  
20 likely....

**CHAIRPERSON:** There would be an inquiry where?

**MS DANIELS:** At Eskom.

**CHAIRPERSON:** Yes.

**MS DANIELS:** Okay he was talking about Eskom.

**CHAIRPERSON:** Hm.

**MS DANIELS:** And the – into the – he just said into the affairs of Eskom and that you know certain people would – would not – not return.

**CHAIRPERSON:** Just repeat that?

**MS DANIELS:** And he said that certain people would not return.

**CHAIRPERSON:** He said certain people would not return?

**MS DANIELS:** Yes.

**CHAIRPERSON:** Did you ask him who he was talking about?

10 **MS DANIELS:** Mr Chairman at that stage I was quite shocked.

**CHAIRPERSON:** Hm.

**MS DANIELS:** I was – even though I was a senior manager I had not been exposed to this kind of behind the scenes machinations.

**CHAIRPERSON:** What was your understanding of who the people were that he was talking about when he said certain people would not return and what was your understanding of where he was saying they would not return to?

20 **MS DANIELS:** Because he was talking of suspensions. I – my understanding was that they would not return to work.

**CHAIRPERSON:** Yes. Okay. Continue. So you said you looked at Mr Koko after hearing that his name was included by Mr Salim Essa.

**MS DANIELS:** Yes.

**CHAIRPERSON:** Among the executives who would be suspended and he looked unfazed?

**MS DANIELS:** He was unfazed. He – I still looked – because he was sitting opposite me. I – you know directly opposite me and I looked at him and I frowned in sort of bewilderment because I was like how – what is going on here? And he just gestured you know be quiet. He raised his hand he did not speak much.

**CHAIRPERSON:** Did he say keep quiet – did he say...

10 **MS DANIELS:** No, no he did not say keep quiet he just – he raised his hand as if to say you know do not ask too many questions. So it was gesture.

**CHAIRPERSON:** He raised his hand to you.

**MS DANIELS:** Yes.

**CHAIRPERSON:** In a manner that you understood to be ...

**MS DANIELS:** Like just leave.

**MS DANIELS:** Do not ask too many questions?

**MS DANIELS:** Yes.

20 **CHAIRPERSON:** Okay. Alright. So he was not shocked by this revelation?

**MS DANIELS:** No he was not.

**CHAIRPERSON:** Yes.

**MS DANIELS:** He was quite comfortable. He was relaxed in his chair.

**CHAIRPERSON:** Ja.

**MS DANIELS:** I think he was you know he had some – a cold drink I cannot remember what but it ...

**CHAIRPERSON:** Ja.

**MS DANIELS:** But it – it was not – it was like an ordinary conversation.

**CHAIRPERSON:** Yes.

**MS DANIELS:** I was quite bewildered.

**CHAIRPERSON:** Hm.

**MS DANIELS:** We left shortly after.

10 **MS DANIELS:** How did you respond to this revelation from Mr Essa?

**MS DANIELS:** Well I said to him that there would – this is not possible there would have to be reasons for suspending people. You cannot just suspend them on – without any reason.

**CHAIRPERSON:** Yes.

**MS DANIELS:** I remember I repeated that. For me what was shocking was that he had said that in the coming days ...

**CHAIRPERSON:** He said what about coming days?

20 **MS DANIELS:** That this would happen in the coming days.

**CHAIRPERSON:** Oh okay.

**MS DANIELS:** And that was a bit you know that was shocking for me.

**CHAIRPERSON:** Hm. Yes.

**MS DANIELS:** And I think when – when he realised that I

actually did not you know could not add any more value to the process questions that he was asking the conversation ended.

**CHAIRPERSON:** Hm.

**MS DANIELS:** Matshela Koko proceeded to walk me out.

**CHAIRPERSON:** Ja.

**MS DANIELS:** Of the building.

**CHAIRPERSON:** Hm.

**MS DANIELS:** And I remember asking him how – how is this  
10 possible? You know. And he just said well this is what is going to happen.

**CHAIRPERSON:** Hm.

**MS DANIELS:** And I then left and went home.

**CHAIRPERSON:** Did Mr Koko remain behind?

**MS DANIELS:** He did remain behind.

**CHAIRPERSON:** Yes. Now I may be mistaken I did not  
seem to – I do not seem to remember reading in your  
statement that Mr Salim Essa said at that meeting that some  
people would not return. Do you know whether you did  
20 include that part?

**MS DANIELS:** No I did not include it in the – in the statement.

**CHAIRPERSON:** Hm. Why not?

**MS DANIELS:** I am just you know this is more formal. I spent a lot of time trying to remember, going through my

notes.

**CHAIRPERSON:** Yes it is just that it is an important part of the conversation is it not – was it not?

**MS DANIELS:** Ja.

**CHAIRPERSON:** Just like the suspension – the first is certain people would be suspended and you are told the names of the people who would suspended that came as a shock to you; you have told me. But it must also have come as even greater shock that some people would not return if  
10 that – if you understood that to refer to the same people who would be suspended? Because it would mean the idea was that they would be suspended but they would part ways with Eskom?

**MS DANIELS:** Well at the time I did not understand it like that Mr Chairman.

**CHAIRPERSON:** What did you understand him to mean when he said...

**MS DANIELS:** Because he was –

**CHAIRPERSON:** I am sorry –

20 **MS DANIELS:** My apologies.

**CHAIRPERSON:** We should not speak at the same time. What did you understand when he said some people will not return? I thought you said you understood that to be a reference to the – at least some of the executives who – who would be suspended?



**MS DANIELS**: You see he spoke about an inquiry.

**CHAIRPERSON**: Yes.

**MS DANIELS**: So I was not very clear at that stage.

**CHAIRPERSON**: Hm.

**MS DANIELS**: I said I was not very clear at that stage.

**CHAIRPERSON**: What were you not clear about?

**MS DANIELS**: What he was – who he was referring to. That would become clearer later.

**CHAIRPERSON**: Ja but I asked you earlier on when you  
10 said he said some people would not return. I asked you  
what your understanding was of who he was referring to and  
my recollection is that you said your understanding was that  
he was referring to the people who would be suspended.

**MS DANIELS**: That is correct. But it happened so quickly  
that I did not make that connection at that point.

**CHAIRPERSON**: No Ms Daniels we were speaking just  
maybe ten minutes ago or maybe fifteen or twenty. You said  
Mr Salim Essa said to you some people will not return. And  
then I asked you what your understanding was of who he  
20 was talking about when he said, some people would not  
return. And my recollection is that you said he was talking –  
your understanding was that he was talking about the people  
who would be suspended or at least some of them. Is my  
recollection of your evidence incorrect?

**MS DANIELS**: I – I am a bit confused now Chairman.

**CHAIRPERSON:** Hm.

**MS DANIELS:** I think – I think it would be – it would have been the four of them.

**CHAIRPERSON:** Sorry.

**MS DANIELS:** I think if I – I said I am a bit confused now. So I think it would have been the four of them

**CHAIRPERSON:** It would have been reference to all of them?

**MS DANIELS:** Yes.

10 **CHAIRPERSON:** Yes. Now my question is, how could you not include that part in your statement namely that he said some people would not return because if anything it seems to me to be even much more important than his statement that they would be suspended. Because it meant that they would part ways with Eskom.

**MS DANIELS:** It was not a deliberate omission.

**CHAIRPERSON:** Hm.

**MS DANIELS:** It was not a deliberate omission Mr Chairman. I think going through preparing for my testimony  
20 since four weeks now.

**CHAIRPERSON:** Did you include it in your statement to the Portfolio Committee in Parliament?

**MS DANIELS:** I am not sure. I do not think it was.

**CHAIRPERSON:** Did you – did you include it in your oral evidence before the Portfolio Committee?

**MS DANIELS:** I do not remember.

**CHAIRPERSON:** But how could you have not remembered on so many occasions over such a long period of time something so important that here was this person from outside Eskom that you were meeting under very strange circumstances it seems to me from what you have said telling you that certain executives from Eskom and he mentioned them by name would be suspended and would not return to Eskom. How could you remember that he said they  
10 would be suspended but you did not remember that he said they would not return? Because it seems to me to be equally important if not even more important than the fact that they would be suspended.

**MS DANIELS:** Mr Chairman for the – for preparation for the commission I had to go through my notes and I brought my actually original notes.

**CHAIRPERSON:** Yes.

**MS DANIELS:** Which I did not go through at the time of giving evidence.

20 **CHAIRPERSON:** Yes.

**MS DANIELS:** In 2017.

**CHAIRPERSON:** Are those notes that you made at the meeting with Mr Salim Essa and Mr Koko?

**MS DANIELS:** No they are not of the meetings that I speak about later in – in the testimony.

**CHAIRPERSON:** Yes but do those notes include this piece of important information namely that Mr Essa told you that some of the people would not return to Eskom?

**MS DANIELS:** They jogged my memory as to what – what was said.

**CHAIRPERSON:** Ja but did they include that or did they not include that?

**MS DANIELS:** There are references to it from the Board's side Mr Chairman.

10 **CHAIRPERSON:** Yes. Mr Seleka.

**ADV SELEKA SC:** Thank you Chair. Ms Daniels in your affidavit when Mr Matshela Koko phones you you say it was in the afternoon in paragraph 18 I think of your affidavit. I am – I cannot recall whether the Chairperson asked you whether did he – did he give you reasons why he was calling you to Melrose Arch?

**MS DANIELS:** No he did not – he was not specific.

**ADV SELEKA SC:** Yes. So he gave reasons but he was not specific or he did not give reasons at all?

20 **MS DANIELS:** No he just said come meet me at Melrose Arch.

**ADV SELEKA SC:** Did you ask him for the reasons?

**MS DANIELS:** I said – I asked why and he said we will let you know.

**CHAIRPERSON:** He said what?

**MS DANIELS:** I asked why and he said I will let you know.

**CHAIRPERSON:** I thought earlier on you said he said to you he wanted to discuss some matters with you?

**MS DANIELS:** Yes that is what he – we spoke – we spoke quite a lot of times so I may have the sequence wrong but you know he was not specific as to I want to discuss X with you. It is just meet me there and I will – I will speak to you.

**CHAIRPERSON:** Did he say when you asked him why I will let you know or did he say there are some matters I want to  
10 discuss with you?

**MS DANIELS:** It will be more I will speak to you when I – I will – I will discuss the matters when I see you.

**CHAIRPERSON:** Okay. Mr Seleka.

**ADV SELEKA SC:** Ja. Was this the first time and as I understand it this is during working hours?

**MS DANIELS:** Yes.

**ADV SELEKA SC:** You were at work and you receive a call from him. Is it the first time that he called you during working hours to come to him somewhere outside of the office?

20 **MS DANIELS:** At that point in time yes.

**ADV SELEKA SC:** In March 20 – well not March 2015 – when you – you were reporting to him at this time. Is this the first time he is calling you? Was this the first time?

**MS DANIELS:** Yes.

**ADV SELEKA SC:** So he had never called you prior to this

to come to him at Sandton?

**MS DANIELS**: No not at this time.

**ADV SELEKA SC**: Ja no any time before.

**MS DANIELS**: Not that I can recall Mr Chairman.

**ADV SELEKA SC**: He did not call you to cancel him at Woodmead Shopping Centre prior to this? Because it is really around the corner of Eskom?

**MS DANIELS**: Ja. Not that I recall.

**ADV SELEKA SC**: But you are trying to think, I see in your  
10 face.

**MS DANIELS**: [laughing] Yes. No, the trip to Melrose Arch stood out for me. That is why I do not think, not that I recall that we met at other places.

**ADV SELEKA SC**: So this would have been... it would have made it all then more strange that he was calling you during office hours that he had not done it before but he was doing it now for the first time during your normal office hours and you would go to them to him to a place he does not even identify where in Melrose Arch. It will make it all the more  
20 strange.

**MS DANIELS**: Yes.

**ADV SELEKA SC**: But you went, nonetheless.

**MS DANIELS**: Yes.

**CHAIRPERSON**: It would have been even more strange if he did not tell you what he wanted to discuss with you

outside of Eskom, is that not so?

**MS DANIELS**: Yes.

**CHAIRPERSON**: Yes. And it would have been even stranger when, after meeting you at the restaurant where you were waiting for him, he took you and you walked to some offices and still he did not tell you on the way to those offices. Is that right?

**MS DANIELS**: That is correct.

**CHAIRPERSON**: Yes. And when you came to this board room and you said he still did not tell you, you waited for somebody to come in. Is that right?

**MS DANIELS**: That is correct.

**CHAIRPERSON**: So you must have found all of this quite strange?

**MS DANIELS**: Yes, I did indeed.

**CHAIRPERSON**: Yes. Okay, Mr Seleka.

**ADV SELEKA SC**: Thank you, Chair. Ja, the Chairperson has already asked you. You know, how did you know where to wait for him?

20 **MS DANIELS**: I just parked in the central parking, Mr Chairman. And I walked up and out of the escalator, I think the first restaurant to the... that I could find, was JB Rivers(?) because, you know, it was locked(?). I sat down and I let him know that I was there.

**ADV SELEKA SC**: Well, JB Rivers... Dr Ngubane says he

was there. Mr Koko himself says he was there. Now you say you were also there.

**MS DANIELS**: H'm.

**ADV SELEKA SC**: That sounds like some meeting point.

**MS DANIELS**: Mr Chairman, I for the first time... I listened to the testimony last week and that is when I heard that they were at JB Rivers as well. So, you know, for me it was strange but that was the closest restaurant.

**CHAIRPERSON**: Had you been to that restaurant before?

10 **MS DANIELS**: Yes, I have been there before?

**CHAIRPERSON**: Many times?

**MS DANIELS**: Not many times.

**CHAIRPERSON**: A few times?

**MS DANIELS**: A few, yes.

**CHAIRPERSON**: Once?

**MS DANIELS**: When I used to shop at Melrose Arch, I would go there. So.

**CHAIRPERSON**: Okay.

20 **ADV SELEKA SC**: Now, Mr Koko... you have seen his statement? It is actually his affidavit.

**MS DANIELS**: [No audible reply]

**ADV SELEKA SC**: And he says... he called you to... he agrees calling you to Melrose Arch. He agrees meeting with you at JB Rivers but he says you did not go anywhere else. The two of stayed at JB Rivers.



And he wanted you to advise him on his... on a labour related issue or his labour rights because he was being threatened by Mr Tsotsi to be suspended if he did not reverse the suspension of Mr Malesela Sekhasimbe. You saw in his statement his affidavit?

**MS DANIELS**: Yes, I saw that in his affidavit.

**ADV SELEKA SC**: And tell the Chairperson what is your response to that?

**MS DANIELS**: With respect Mr Chairman, Mr Malesela Koko  
10 is lying.

**CHAIRPERSON**: What he says happened did not happen insofar as he says the two of you did not move to any other place. You spoke at that restaurant and that he spoke to you about his written suspension. Is that right? So you say that is not true?

**MS DANIELS**: That did not come into the conversation.

**CHAIRPERSON**: Yes.

**MS DANIELS**: We... he collected me at JB Rivers and took me to the office.

20 **CHAIRPERSON**: Did he ever speak to you about what he is saying on another occasion and not on this occasion?

**MS DANIELS**: No, he did mention his tussle with Mr Tsotsi but it was not about the pending or being threatened with suspension. What I do recall is, subsequent later in the year, this... the suspension and the disciplinary matter

against Mr Sekhasimbe did continue.

**CHAIRPERSON:** Ja.

**MS DANIELS:** But at that point in time, he did not mention Mr Sekhasimbe's suspension to me.

**CHAIRPERSON:** Ja.

**MS DANIELS:** He also did not speak to me about Mr Tsotsi's threats and he definitely did not ask me advise on a pending suspension.

**CHAIRPERSON:** Okay. Before I forget this point which I  
10 should have asked earlier on. Now, when you left this meeting, the boardroom where you met with mister... you and Mr Koko met with Mr Essa on your version, did you still ask Mr Koko: Why did you bring me here or did you not ask him?

**MS DANIELS:** I did ask him, Mr Chairman.

**CHAIRPERSON:** And what did he say?

**MS DANIELS:** He did not really answer me. You know, he just shrugged his shoulders.

**CHAIRPERSON:** What was your understanding of what the purpose is for you being brought there to meet with Mr Essa?

20 **MS DANIELS:** You see, at that point I was an Eskom functionally in the office in Mr Malesela Koko's office. So when he had issues, process related issues or, you know, questions, I would be the one responsible to get the answers for him or, you know, get the right people to speak to him.

He did not characterise me in the affidavit that Advocate

Seleka refers to as his legal advisor at the time but I was not in that position as legal advisor.

I was in his office and I generally was an executive assistant. So I think from that perspective, you know, I would have been the go-to-person.

But I did not have the necessary labour process other than what I knew this is the process that was followed at Eskom.

**CHAIRPERSON:** But my question is whether you were able, 10 after the meeting, to understand for yourself what the purpose of that meeting was or whether you did not seek to understand that or to apply your mind to the question: Why was I brought here.

Did you make up your mind and say: This is why I was brought here. Or did you not think about it? Or you do not know why you were brought there and you were not told?

**MS DANIELS:** I was not told why I was brought there, Mr Chairman.

**CHAIRPERSON:** Did you look at... did you, having regard 20 to what was discussed, did you analyse and conclude why you were brought there or did you not do that?

**MS DANIELS:** It was difficult to conclude why I was brought there but what I did do was then call... I called Dan Marokane and asked him to come and see me.

**CHAIRPERSON:** Asked him...?

**MS DANIELS**: To come and see me.

**CHAIRPERSON**: Yes?

**MS DANIELS**: So that I can... could tell him ...[intervenes]

**CHAIRPERSON**: Yes.

**MS DANIELS**: ...what had transpired.

**CHAIRPERSON**: Now from what you have told me in regard to the content of the discussion in that meeting while Mr Essa was there. It seems that there are two issues that he raised with you.

10        One, he asked you what process or what is to be done at Eskom if somebody needs to be suspended. And two, he told you that certain people were to be suspended and he gave their names. Is there something else of importance that I am missing out that he told you?

**MS DANIELS**: No, just what I told you today.

**CHAIRPERSON**: Those are the two things?

**MS DANIELS**: Key things.

**CHAIRPERSON**: Yes. Okay alright. Mr Seleka.

20        **ADV SELEKA SC**: Thank you, Chair. Ms Daniels, what boggles one's mind is this. That this seems to be a secret meeting. Is that how you understood it?

**MS DANIELS**: [No audible reply]

**ADV SELEKA SC**: It is not a meeting... when I say, it is not a meeting arranged by emails. We are going to meet at Eskom office on such a date, such a time. It is a phone call

to you: Come to Melrose Arch. You do not know where. Who else you are going to meet. What is the agenda. No prior arrangement. You understand?

**MS DANIELS**: Yes.

**ADV SELEKA SC**: And that what gets to be discussed there are things pertaining to Eskom, letters pertaining to Eskom by a person who is not an Eskom employee or official. Mr Koko did not say people are going to be suspended. Correct?

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

**ADV SELEKA SC**: Mr Koko did not say what is the procedure to follow in order to suspend. You say it was Mr Salim Essa who was talking?

**MS DANIELS**: Yes, that is correct.

**ADV SELEKA SC**: So what boggles the mind is. How is that they would call you to such a meeting to discuss such sensitive issues. Call you and not anybody else. Did they trust you?

20 **MS DANIELS**: I... Mr Chairman, that has been an issue that, you know, has always been in my mind, as I have been sort of privy to some of these discussions and my testimony will later tell you. It just appears that, they did not really think that people would speak out, you know.

**CHAIRPERSON**: That people would do what?

**MS DANIELS**: Would speak out about what had happened.

I did not know Mr Essa. So the confidence with which he spoke ...[intervenes]

**CHAIRPERSON**: Did Mr Koko... or let me put it... how was your relationship with Mr Koko at the time?

**MS DANIELS**: At the time, it was one of respect and trust. We had gone through a challenge with Eskom in terms of procurements, litigations. And we worked quite closely together.

So at that time, you know, I had no reason not to trust  
10 him. He was fastidious. He was meticulous. He followed Eskom processes. You know, it was a... at that point, it was a good relationship.

**CHAIRPERSON**: Yes, okay.

**ADV SELEKA SC**: Thank you, Chair. Well, you see, one has... and you need to explain this. You know, the public has received some negative reports about yourself that had received some positive reports.

You had been called the whistle-blower. And you need to balance these perceptions that if you go to a meeting like  
20 this, that really these people either trusted you or you must be part of them.

**MS DANIELS**: [No audible reply]

**ADV SELEKA SC**: And maybe you need to explain to the Chairperson and I think that is why the Chairperson is at pains to find out, you know, how do you get yourself into that

meeting so that we move on from that point. You either are part of them, hence they are able to discuss these things with you or maybe there is some other reason why they did.

**MS DANIELS:** Mr Chairperson, I cannot give you a reason for why they would trust me. I sometimes felt like a use, you know, just a useful functionary, just part of the background. But in my own... just from what Advocate Seleka is saying is that, you know, there has been this theory that I was part of it.

10 And I would urge you to just look at the Gupta's modus operandi. I was not offered bags of cash. I was not entertained at the Saxonwold residence. I was not in Dubai at the lodges of the Gupta's. I certainly was not a member of the Roy Club.

I did not get invited to any of the functions or any of the things that people have testified about. So it is something that I also do not understand, you know, why there would have been this blatant ...[intervenes]

**CHAIRPERSON:** Well, I guess that assuming that you had  
20 no interactions with Mr Salim Essa or the Gupta's, anybody from the Gupta's or their associates, Mr Koko could bring you to such a meeting if he thought that he could trust you that you would be one, helpful to Mr Essa and two, that you would not disclose maybe this meeting or what was discussed at this meeting to other people. Would you think

he had that trust in you?

**MS DANIELS**: I think at the time he did. He did. But he had also earlier told me that, you know, I must tell Dan that we are not of the correct political affiliations.

**CHAIRPERSON**: Just repeat that.

**MS DANIELS**: I said, I think at the time he did trust me because he also told me to tell Mr Marokane that we were not of the correct political affiliations.

**CHAIRPERSON**: And who is we?

10 **MS DANIELS**: Myself and Mr Marokane.

**CHAIRPERSON**: Oh, okay. Mr Seleka.

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

**CHAIRPERSON**: Well, it seems to me Ms Daniels that unless there is something else that comes out, you may have been trusted to be the person who would cooperate in this context.

20 And that you would be able to advise Mr Essa as to how at Eskom you go about if you want to suspend somebody but that you would also keep the discussions at the meeting confidential.

Because they would not call you to that meeting just to tell you that certain people would be suspended. What would you do with that information?

**MS DANIELS**: No, I think at that stage they did... Mr Koko probably thought I would not disclose the information.



**CHAIRPERSON:** Mr Seleka.

**ADV SELEKA SC:** Thank you, Chair. So Ms Daniels, and I know I have said when we started that there are matters that you will deal with in the second time around.

So what one sees here from this moment onwards, because this is the beginning of the suspensions, once those officials are out that were to be suspended, you have new people coming in.

You have Mr Brian Molefe, you have Mr Anoj Singh. But  
10 let me focus on Mr Brian Molefe. At the very beginning of his entrance, there is the Tegeta issue ...[intervenes]

**CHAIRPERSON:** I am sorry Mr Seleka. I think it is necessary for the sake of completeness to also deal with her evidence about what happened after that meeting and the following day because I think she said she called certain people.

**ADV SELEKA SC:** Yes, Chair.

**CHAIRPERSON:** Yes.

**ADV SELEKA SC:** Yes, Chair.

20 **CHAIRPERSON:** Ja.

**ADV SELEKA SC:** I just wanted to deal with the impression that gets created.

**CHAIRPERSON:** Oh, okay. No, that is fine.

**ADV SELEKA SC:** That gets created. And maybe you can explain. I mean, we will deal with the details later. That

here you have this contact with Mr Salim Essa in this meeting.

And there is a facilitation of the transactions with Tegeta later on which features in your disciplinary hearing that leads to the prepayment to Tegeta, for instance, of R 659 million.

And that you are one of the parties' central in the facilitation of that prepayment. You see that impression that gets created?

**MS DANIELS**: [No audible reply]

10 **CHAIRPERSON**: Is that a yes?

**MS DANIELS**: Yes. Sorry, Mr Chairman. Yes.

**CHAIRPERSON**: Yes, you see that?

**MS DANIELS**: I see that.

**CHAIRPERSON**: Yes.

**ADV SELEKA SC**: Ja, so these things need to be explained. You do not just appear on the scene once but you see that the trend developing on where you feature. You may want to say something now or you can say it later.

**MS DANIELS**: I prefer to say later when we deal with it.

20 **ADV SELEKA SC**: When we deal with it.

**MS DANIELS**: Yes.

**ADV SELEKA SC**: Thank you. And okay, so the meeting is over and you go home and we know that ...[intervenes]

**CHAIRPERSON**: Go home or go back to work? Did you go home or back to work?

**MS DANIELS**: No, Mr Chairman I went back to work.

**CHAIRPERSON**: Ja.

**MS DANIELS**: Because I... I was actually... I live in Pretoria. And I was actually quite shaken by the meeting.

**CHAIRPERSON**: Yes.

**MS DANIELS**: So I drove straight home.

**ADV SELEKA SC**: H'm.

**ADV SELEKA SC**: And on your way home, I mean, that is apparent from your documents, your testimony, your affidavit  
10 that you called a friend of yours and... paragraph 27. You called a friend of yours and your words were, you say:

“I know this man called Salim Essa. Can he do what he says he can? My friend responded: In all probability, yes.”

And then you get a call from a doctor... you will help to pronounce that name?

**MS DANIELS**: Dr Gieunu(?).

**ADV SELEKA SC**: Yes. And the next day, Mr Koko asked you about those telephone calls. Now let me ask you about  
20 your friend because you did not give us more details regarding your friend. Did your friend know Mr Salim Essa?

**MS DANIELS**: No, Mr Chairman. What he did say is he knew of Mr Salim Essa.

**CHAIRPERSON**: He knew of him?

**MS DANIELS**: Yes.

**CHAIRPERSON**: Yes.

**ADV SELEKA SC**: Did you know that your friend knew of Salim Essa? Because your call does not say: Hi, mister so and so, if it is a mister, do you know Salim Essa? You simple ask him: I met this man. Can he do what he says he can do? Did you know that he knew of him?

**MS DANIELS**: Well, as I have testified in parliament, Mr Chairman. He... the friend that I spoke to was quite... he worked in government circles as well.

10 **CHAIRPERSON**: He worked in...?

**MS DANIELS**: In government circles as well.

**CHAIRPERSON**: Government circles?

**MS DANIELS**: Yes.

**CHAIRPERSON**: Ja.

**MS DANIELS**: He was a one time advisor to Minister Mcebisi Jonas.

**CHAIRPERSON**: Minister who?

**MS DANIELS**: Jonas, Mcebisi.

**CHAIRPERSON**: Ja.

20 **MS DANIELS**: Jonas.

**CHAIRPERSON**: H'm.

**MS DANIELS**: So and we had been friends over 20 odd years.

**CHAIRPERSON**: Yes.

**MS DANIELS**: So I thought if there is one person that some

understanding of what the political landscape looked like it would be him and that he would give me an honest answer.

**CHAIRPERSON**: Well, I did not see the name of your friend. Is there a particular reason you might want to tell us who your friend is?

**MS DANIELS**: It is in my parliamentary statement so I can tell you.

**CHAIRPERSON**: What is his name?

**MS DANIELS**: His name is Rustum Mohammed.

10 **CHAIRPERSON**: Dr Mohammed?

**MS DANIELS**: No, Rustum Mohammed.

**CHAIRPERSON**: Justin Mohammed?

**MS DANIELS**: Rustum. R-u-s-t-u-m

**ADV SELEKA SC**: If I may, Chair?

**CHAIRPERSON**: Ja.

**ADV SELEKA SC**: Paragraph 31.

**CHAIRPERSON**: Page 31?

**ADV SELEKA SC**: Paragraph 31.

**CHAIRPERSON**: Oh, okay.

20 **ADV SELEKA SC**: Of the affidavit.

**CHAIRPERSON**: Okay. Okay alright. So you phoned him on your way from this meeting with Mr Essa and Mr Koko and before your office?

**MS DANIELS**: Before I arrived home, yes.

**CHAIRPERSON**: Okay. Did you go to the office and then

went home? I thought you said you went back to work.

**MS DANIELS**: No, no. I did not go back to work.

**CHAIRPERSON**: You did not go back to work?

**MS DANIELS**: I went straight from Melrose Arch, home.

**CHAIRPERSON**: Oh, okay. Roundabout what time was it when you left that meeting?

**MS DANIELS**: It would have been late afternoon.

**CHAIRPERSON**: About what time?

**MS DANIELS**: Roundabout three in the afternoon.

10 **CHAIRPERSON**: Sorry?

**MS DANIELS**: The traffic... roundabout three in the afternoon.

**CHAIRPERSON**: About three in the afternoon?

**MS DANIELS**: Ja. The traffic was not yet ...[intervenes]

**CHAIRPERSON**: Was not yet heavy?

**MS DANIELS**: ...was not yet heavy.

**CHAIRPERSON**: Okay. I think you said you... you say you got Mr Koko's call around lunch time or did you say you met him at the restaurant around lunch time?

20 **MS DANIELS**: It was around lunch time when we were at the... when I was at the restaurant.

**CHAIRPERSON**: Yes, but did not want him to...

**MS DANIELS**: Yes.

**CHAIRPERSON**: Yes, okay alright. So from the meeting you went home?

**MS DANIELS:** Yes, I did.

**CHAIRPERSON:** So on your way home, you called your friend?

**MS DANIELS:** Yes, I did.

**CHAIRPERSON:** And in that conversation you just asked him... you asked him whether Mr Essa could deliver what he said he... what he said?

**MS DANIELS:** Yes. I just said: I met this man, Salim Essa. Can he do what he says he can do?

10 **CHAIRPERSON:** Yes. But what he had said? He could do or could not do?

**MS DANIELS:** Well, I was talking about the suspensions.

**CHAIRPERSON:** Yes.

**MS DANIELS:** Because the distinct impression was that, you know, this was going to happen.

**CHAIRPERSON:** Yes. But he was not going to be the one doing the suspensions, is it not?

**MS DANIELS:** No.

20 **CHAIRPERSON:** So what were you talking about when you asked your friend whether Mr Essa could do what he said he could do? He never said he would suspend the people.

**MS DANIELS:** Well, Mr Chairman, that is the impression that I got.

**CHAIRPERSON:** H'm?

**MS DANIELS:** That was the impression that I got, even if he did not say that in so many words.

**CHAIRPERSON:** Yes but what was the impression that you got?

**MS DANIELS:** That he would be able to, you know, arrange these suspensions.

**CHAIRPERSON:** He would be able to?

**MS DANIELS:** Arrange the suspensions.

**CHAIRPERSON:** Arrange the suspensions?

10 **MS DANIELS:** Yes.

**CHAIRPERSON:** Okay, that is what you were talking about.

**MS DANIELS:** Yes.

**CHAIRPERSON:** To get them suspended.

**MS DANIELS:** To get them suspended.

**CHAIRPERSON:** Okay, alright. So – and your friend's response was probably he would be able to do what he said he would do?

**MS DANIELS:** Ja, he said in all probability, yes.

20 **CHAIRPERSON:** But did your friend know what you were talking about?

**MS DANIELS:** No, he did not, I did not tell him.

**CHAIRPERSON:** You did not tell him?

**MS DANIELS:** No.

**CHAIRPERSON:** Did you subsequently tell him?



**MS DANIELS:** No, I did not, he found out in parliament.

**CHAIRPERSON:** But did he never ask you what are you talking about, what did Mr Essa say he would do?

**MS DANIELS:** I do not think we had that specific conversation.

**CHAIRPERSON:** But that is strange. You are my friend, I get a call from you, you say to me can so and so do what he says he can do. I respond and say yes. I do not know what it is you are talking about, what it is that he said he  
10 would do and then I do not ask questions during the telephone conversation. I do not phone you up later on and say what were you talking about?

**MS DANIELS:** I do not recall that we had that conversation, Mr Chair.

**CHAIRPERSON:** You agree with me that it is strange? Unless the two of you had full understanding of what it was, that is why he would not – he did not need to ask you.

**MS DANIELS:** Yes, it may be strange to you now. At the time I actually did not speak much about Eskom matters to  
20 my friends, anyway. And Mr Mohamed lives in Cape Town, not here in Gauteng so it would not be something that we would discuss on the telephone.

**CHAIRPERSON:** But what was the purpose of your call to your friend then?

**MS DANIELS:** My purpose was to find out if this man

could – you know, had that kind of power that he purported to have.

**CHAIRPERSON:** That is all you wanted to find out?

**MS DANIELS:** That is all I wanted to know at that stage.

**CHAIRPERSON:** And you found it out?

**MS DANIELS:** Well, the ensuing days actually showed more than that.

**CHAIRPERSON:** Even though your friend did not know you were talking about Mr Essa getting people suspended?

10 **MS DANIELS:** Ja, he did not – no, I did not tell him that.

**CHAIRPERSON:** It is very strange to me, Ms Daniels.

**MS DANIELS:** Well, I did not tell him anything.

**CHAIRPERSON:** Mr Seleka, I do not know if you have one or two questions before we take the lunch break or whether we should take it straightaway?

**ADV SELEKA SC:** We should take it. We can take it, Chair.

20 **CHAIRPERSON:** Okay, we are going to take the lunch break. The time is ten past one, we will resume at ten past two.

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

**CHAIRPERSON:** We adjourn.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Let us continue.

**ADV SELEKA SC:** Thank you, DCJ. Ms Daniels, did you have any interaction with the Gupta brothers?

**MS DANIELS:** Yes, I did. One of them, Mr Chairman.

**ADV SELEKA SC:** Did you tell the Chairperson the circumstances under which you had such interaction?

**CHAIRPERSON:** Tell us first how it was?

**MS DANIELS:** I had the occasion to meet with Ajay Gupta. It took place late July 2017. I was called by Salim Essa and the conversation was actually about Mr Molefe's  
10 pension matter that was before court at the time. I said to him do not waste my time, you know, Brian is going to lose the matter.

**CHAIRPERSON:** I am sorry, he – how did you meet, did you call you, did somebody call you, a meeting was set up? Where was it set up, what did he want to talk to you about? Give me all the information.

**MS DANIELS:** That is why I am saying Mr Salim Essa called me.

**CHAIRPERSON:** Mr Salim Essa called you?

20 **MS DANIELS:** Salim Essa called me.

**CHAIRPERSON:** Ja and said what?

**MS DANIELS:** And the said – the introduction was about the Molefe matter, Brian Molefe's pension matter that was before court. I said to him Brian is going to lose that matter and he then said let us meet for coffee.

**CHAIRPERSON:** I am sorry, just go back again. He called you – tell me, he called you and said what? Did he say Brian Molefe matter? What did he say exactly?

**MS DANIELS:** He was asking what was happening with Brian Molefe's matter.

**CHAIRPERSON:** Yes that is now Mr Salim Essa?

**MS DANIELS:** Mr Salim Essa.

**CHAIRPERSON:** And this was 2017?

**MS DANIELS:** Late July 2017.

10 **CHAIRPERSON:** Late July. Was this only the second time you were talking to him after the meeting at Melrose Arch or had you spoken to him or had communication with him in the meantime?

**MS DANIELS:** In the interim I had had communication with Mr Essa.

**CHAIRPERSON:** Yes.

**MS DANIELS:** There was one meeting, physical meeting at his offices when it was at Trillian.

**CHAIRPERSON:** Yes and when was that?

20 **MS DANIELS:** I cannot recall the precise date of that meeting, Mr Chairman.

**CHAIRPERSON:** Ja. 2015, 2016, 2017?

**MS DANIELS:** That would have been either – early 2017, mid...

**CHAIRPERSON:** Early 2017?

**MS DANIELS:** Yes.

**CHAIRPERSON:** Okay.

**MS DANIELS:** We were talking – would you want me to describe that one as well?

**CHAIRPERSON:** Ja, just tell me about that second meeting before you go to the July one.

**MS DANIELS:** Okay. So that meeting, Mr Matshela Koko told me that we were going to a meeting with Ms Lyn Brown to talk about IPPs.

10 **CHAIRPERSON:** So that second meeting which you had with Mr Salim Essa was arranged by Mr Koko?

**MS DANIELS:** Yes.

**CHAIRPERSON:** Okay. What did Mr Koko say to you to make the arrangement?

**MS DANIELS:** He said I must please come along, we are going to meet Minister Brown to discuss the IPPs.

**CHAIRPERSON:** To discuss the IPPs.

**MS DANIELS:** Yes, the ...[intervenes]

**CHAIRPERSON:** This is early in...?

20 **MS DANIELS:** Early 2017.

**CHAIRPERSON:** 2017. And you went along.

**MS DANIELS:** And I went along.

**CHAIRPERSON:** And where was this meeting held?

**MS DANIELS:** I assumed that we were going to Pretorius about once again we ended up in Melrose Arch.

**CHAIRPERSON:** Oh and he had not told you that were going to go Melrose Arch?

**MS DANIELS:** No, he did not.

**CHAIRPERSON:** Did he say where the meeting was going to be held?

**MS DANIELS:** No, he did not. Because it was a me with Minister Brown I assumed we would be going to ...[intervenes]

**CHAIRPERSON:** To Pretoria.

10 **MS DANIELS:** To Pretoria.

**CHAIRPERSON:** Okay, so you went to Melrose Arch.

**MS DANIELS:** We ended up in Melrose Arch.

**CHAIRPERSON:** Ja.

**MS DANIELS:** This time the offices – what I later came to find out, it was the offices – it was actually the offices of Trillian.

**CHAIRPERSON:** Yes.

**MS DANIELS:** You know, the Trillian Group of Companies.

**CHAIRPERSON:** Yes.

20 **MS DANIELS:** I was made to sit outside the boardroom while he and Salim Essa had a meeting.

**CHAIRPERSON:** Yes.

**MS DANIELS:** Because it was a glass office I could see them but I was sitting outside of the boardroom. During the time that I was sitting out there, Mr Eric Wood from

Trillian came past and introduced himself to me.

**CHAIRPERSON:** Yes.

**MS DANIELS:** And during that introduction Mr Essa and Mr Koko then came out of the boardroom and Mr Essa joked with me then, you know, you must tell your boss to stop Tweeting.

**CHAIRPERSON:** Yes, talking about Mr Koko?

**MS DANIELS:** Talking about Mr Koko.

**CHAIRPERSON:** Yes.

10 **MS DANIELS:** Because he was very active on Twitter.

**CHAIRPERSON:** Yes.

**MS DANIELS:** And I think he has earned the nickname of tweeting engineer. So he was very active there. That was the end of that meeting. Mr Koko and I had then left. I obviously was very irritated with Mr Koko and I said to him why did you bring me with to this meeting? You know, I had to sit outside. And he said well, he had things to discuss with Mr Essa and I just said please do not put me in this position again, do not waste my time. We then  
20 returned to Eskom.

**CHAIRPERSON:** So you did not go to see Minister Brown?

**MS DANIELS:** Not at all that day.

**CHAIRPERSON:** Did you ask him what happened to the meeting with Mr Brown that you said we were going to?

**MS DANIELS:** I did ask him in the drive back and he says that would be arranged for another time.

**CHAIRPERSON:** Yes. So he asked you to come along, said that the two of you were going to meet with Minister Brown but took you to Melrose Arch, kept you outside of the boardroom, had a meeting with Mr Salim Essa inside the boardroom, came out of the boardroom or the meeting and drove back with you to Eskom?

**MS DANIELS:** Yes.

10 **CHAIRPERSON:** That is quite strange too, is it not?

**MS DANIELS:** Yes, it was very strange and I was actually quite furious that he had wasted my time and had once again taken me into that situation.

**CHAIRPERSON:** But for all intents and purposes from your version it looks like he did not need you to come along?

**MS DANIELS:** No, he did not.

**CHAIRPERSON:** So why would he take you along when he did not need you, let you impact your work and then  
20 take you not to a meeting, take you to outside a boardroom and have a meeting with somebody else inside?

**MS DANIELS:** Mr Chairman, my only impression of what was happening at the time that it was really a power play.

**CHAIRPERSON:** What power play?

**MS DANIELS:** He was Acting CEO at the time and he



quite enjoyed showing that he was, you know, in charge.

**CHAIRPERSON:** But how would taking you to this meeting but you are sitting outside the boardroom show that he was in charge?

**MS DANIELS:** Well, I think also just letting me know who – you know, who was in charge of my time and – ja, it was just – it was a bizarre moment.

**CHAIRPERSON:** Ms Daniels, this does not make sense to me.

10 **MS DANIELS:** But that is what happened, Mr Chair, it happened like that. I sat outside ...[intervenes]

**CHAIRPERSON:** He just takes you – I mean, you must have had a lot of important work to do, he takes you, he says come along, we are going to see Mr Brown, does not take you to Minister Brown, he takes you to Melrose Arch, makes you wait outside the boardroom, has a meeting with somebody, when he is finished he says okay, let us go back to Eskom.

20 **MS DANIELS:** But that is how it happened, so I am not – and I did have very, very stern words with him.

**CHAIRPERSON:** Did you ask him why did you bring me here?

**MS DANIELS:** Well, he just laughed.

**CHAIRPERSON:** H'm?

**MS DANIELS:** He just laughed.

**CHAIRPERSON:** But did you ask him?

**MS DANIELS:** I did ask me, that is what I said, in the trip back I said why did you bring me here, this was an absolute waste of my time.

**CHAIRPERSON:** And the first time around when he took you to Melrose Arch to meet with Mr Essa, I think you asked something and you say – you said he shrugged his shoulders.

**MS DANIELS:** Yes, he did. And you must just remember  
10 the first time that he took me, I was in a much junior position than what I was in 2017.

**CHAIRPERSON:** Okay.

**MS DANIELS:** So ...[intervenes]

**CHAIRPERSON:** Anyway, so that was the second meeting and then was the next meeting you had with Mr Essa the one towards the end of July 2017? Or was there another one before that?

**MS DANIELS:** There was another one before that.

**CHAIRPERSON:** When was it?

20 **MS DANIELS:** But it was not a meeting it was in June of 2017.

**CHAIRPERSON:** Yes. What was that one about? Or, Mr Seleka, is that something that is deferred to next time Ms Daniels comes back?

**ADV SELEKA SC:** No, Chair, I think we can go into it.

**MS DANIELS:** It is out of sequence though.

**ADV SELEKA SC:** Is it out of sequence? It does not matter.

**CHAIRPERSON:** Ja, it does not matter.

**MS DANIELS:** Oh, okay.

**ADV SELEKA SC:** Ja.

**CHAIRPERSON:** I just want to see your interactions with the Guptas or their associates.

**MS DANIELS:** Yes, okay.

10 **CHAIRPERSON:** Ja.

**MS DANIELS:** Mr Chairman, with this one I would have to give you just a little bit of context, if you do not mind.

**CHAIRPERSON:** Ja.

**MS DANIELS:** It was in June and Mr Matshela Koko had been on suspension for the conflict of interest where he had not declared that his daughter was involved in Impulse or ...[intervenes]

**CHAIRPERSON:** That is June 2017?

**MS DANIELS:** 2017.

20 **CHAIRPERSON:** Okay.

**MS DANIELS:** Okay, so what I am – all the events that I am telling you now are in 2017. And I – we had received the report from Cliffe Dekker Hofmeyr and Nkonki about the conflict of interest. On the fact of it, they could not find, you know, any evidence of wrongdoing on the part of Mr

Koko but what they had not done was interrogate the evidence. It was merely taking of statements and things.

So when I presented the findings to the board, I said to them that they cannot take the report on face value, it needed to be interrogated. There was a bit of to and fro. This meeting was telephonic and it was a meeting to the audit and risk committee and it was – and I remember that I had to – I was at great pains to explain to them because there was a tussle between the – some of the board  
10 members said well, the report says he can come back, other members were we are not so sure. But there was sort of a big leaning towards he can come back now because he was Acting CEO at the time.

And I said to them you cannot do that, you know, you have to – we have to interrogate this report, you would be failing in your duty if you accepted it as is.

Eventually, it was quite a struggle, it was a debate – you know, the minutes will show that there was quite a debate. At the end of it I got the instruction to instruct a  
20 senior counsel to interrogate the report. So that was the meeting that happened on the 14 July – my apologies, the 14 June 2017.

**CHAIRPERSON:** So how did that meeting come about?

**MS DANIELS:** That was an audit and risk committee meeting.

**CHAIRPERSON:** Oh, you mean that is the meeting  
...[intervenes]

**MS DANIELS:** That is the board ...[intervenes]

**CHAIRPERSON:** Where you were dealing with the report  
from the ...[intervenes]

**MS DANIELS:** Cliffe Dekker Hofmeyr.

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

**MS DANIELS:** Okay, that was just the context for you as  
to what would happen next. So the next day, this was in  
10 the evening, the next – I then got the instruction to brief  
counsel, which I did in the morning. It is in the afternoon,  
I am going home, I – there is a filling station across the  
way from Megawatt Park, I go to the filling station and I  
was filling in petrol and this Maserati pulls up next to me.

**CHAIRPERSON:** Who?

**MS DANIELS:** This Maserati, a black ...[intervenes]

**CHAIRPERSON:** Oh, yes, ja, it pulls up next to you.

**MS DANIELS:** It pulls up next to me.

**CHAIRPERSON:** Ja.

20 **MS DANIELS:** Says to me pull over. It was Mr Salim  
Essa. So in the side there are parking spaces, I had  
parked next to ...[intervenes]

**CHAIRPERSON:** At the garage?

**MS DANIELS:** At the garage.

**CHAIRPERSON:** At the filling station.

**MS DANIELS:** At the garage, it is in a public place. He motions to me to get out and I get out and he says to me why are you not supporting the return of Matshela Koko?

**CHAIRPERSON:** The what?

**MS DANIELS:** Why are you not supporting the return of Matshela Koko?

**CHAIRPERSON:** Okay.

**MS DANIELS:** I was taken aback because of the meeting that happened before. He could recite verbatim what I had  
10 said.

**CHAIRPERSON:** At the meeting that you had with the risk and audit committee?

**MS DANIELS:** At the meeting with the audit and risk committee.

**CHAIRPERSON:** Yes, which was a telephonic meeting, you said.

**MS DANIELS:** Which was a telephonic meeting.

**CHAIRPERSON:** So he could recite exactly what you had said at the meeting?

20 **MS DANIELS:** What I had said at the meeting. So I was literally quite shocked and I did say – you know, it took me a while to compose myself because the first thing I thought was, how the hell did he know what I had said? The Commission investigators actually highlighted it to me, he may have been on the call. And I said that may well be, I

would not know because I only arranged for the directors to be on the call.

However, I then said to him – said, you know, why are you – I said to him well, that man is not fit to be CEO and he said to me I promised – I promised – no, I must just get the sequence right, I am sorry. It was quite quick...

**CHAIRPERSON:** Ja.

**MS DANIELS:** It was quite a quick and a very significant ...[intervenes]

10 **CHAIRPERSON:** You can refresh your memory if there is something that you want to...

**MS DANIELS:** Ja, I am just trying to – I am not sure if I wrote it in my affidavit. He then said to me – because I said to him there is no way that Matshela Koko could become CEO and he should never come back to Eskom, you know, the board would be derelict in its duty if he did come back to Eskom. And it was at that point that he said to me what do we need to do to bring him back? I said there is no way that he can come back, you know, he is  
20 just – he does not belong in Eskom. By that time I had discovered just exactly what the man had been involved in, in terms of the tender manipulations, etcetera.

And he said to me name your price and we will do whatever you say. And I said there is no price that will - you know, will make me help get you – help you get him

back.

The next minute, and I do not know the precise timing, it happened quite quickly, the next minute he says to me, I will offer you 800 million if you help us and we will do whatever you say. And I looked at him and I said do not be ridiculous and I actually scoffed and burst out laughing and got into my car and just drove away. I was quite – I was quite shocked.

**CHAIRPERSON:** Okay, that was your third meeting.

10 **MS DANIELS:** Yes.

**CHAIRPERSON:** With him. And then the next one was the one towards the end of July?

**MS DANIELS:** Yes.

**CHAIRPERSON:** This encounter, this third meeting, have you included it in any statements that you have made?

**MS DANIELS:** I told parliament about it, it did not make it into the public state – into the public arena because it was overshadowed by my meeting with Ajay Gupta.

20 **CHAIRPERSON:** But was it in a statement that you submitted to parliament.

**MS DANIELS:** It was in my consultations with the evidence leader.

**CHAIRPERSON:** Ja, but was it in the statement because I do not seem to remember seeing it.

**MS DANIELS:** I did not do a formal affidavit to parliament



because they called me so quickly and also because of the – so what you have from me as a statement is actually what the evidence leader called an evidence guide. So I did not make any affidavit to parliament. The transcript would contain what I said.

**CHAIRPERSON:** And then in July, how did the one that happened in July 2017 come about?

**MS DANIELS:** That was subsequent to this meeting. Salim Essa then called me.

10 **CHAIRPERSON:** Who called you?

**MS DANIELS:** Salim Essa.

**CHAIRPERSON:** Yes?

**MS DANIELS:** The very Salim Essa, he called me and I must admit, Mr Chairman, I was quite, you know, surprised and I was morbidly curious as to why he would call me after I had turned him down.

**CHAIRPERSON:** Yes, that is about how long after your third meeting with him?

**MS DANIELS:** It would have been about a month later.

20 **CHAIRPERSON:** Yes.

**MS DANIELS:** So he called me and that is when he talked about the Molefe matter and how is it going with the Molefe matter? And I said Brian is going to lose that matter.

**CHAIRPERSON:** You said?

**MS DANIELS:** Brian is going to lose that matter.

**CHAIRPERSON:** Yes. The matter was in court.

**MS DANIELS:** Yes, it was.

**CHAIRPERSON:** Yes.

**MS DANIELS:** And then he said to me can we meet for coffee? And I was - I must admit I was curious as to why – why would you want to meet with me for coffee now, I told you I do not want anything to do with you. And he just said let us just, you know, have coffee. I – then once again, it was arranged for the African Pride Hotel, it is in Melrose Arch and that he arranged to meet with me in the reception. I went ...[intervenes]

**CHAIRPERSON:** At his office?

**MS DANIELS:** No, no, no, at the hotel.

**CHAIRPERSON:** Ja, okay.

**MS DANIELS:** Okay, so it was not in his office. We met there and then he took me – he said let us go over to – I am not sure how it came about, in terms of let us walk to the office. And I said to him well, I do not have much time, I have another appointment. We walked – what I thought were offices, were in fact townhouses. They were behind Melrose Arch, in the precinct because we could literally walk from the hotel to the apartment, to that block. And he opened the door and we walked in, into a lounge type area and in the lounge area ...[intervenes]

**CHAIRPERSON:** This is now before you could have the

coffee that he said you should have?

**MS DANIELS:** That is correct.

**CHAIRPERSON:** Okay, so were you now going to an apartment?

**MS DANIELS:** Well, I only found out when he opened the door that it was an apartment. I then realised, I thought it was ...[intervenues]

**CHAIRPERSON:** You did not ask where you were going to have this coffee?

10 **MS DANIELS:** Well, he said let us walk – and I thought it was an office in the direction that he was going because that is what it looks like from the outside. There was a restaurant in front of - I think there is an Ocean Basket and there is, you know, there are a couple of restaurants in front so I thought it was an office.

As he opened the door I then realised that this was actually not an office, it was an apartment. As I walked in, the curtains were drawn, so it was not very brightly lit but in this room, in the lounge area was Ajay Gupta, Duduzane  
20 Zuma, Minister Ben Martins and an Asian lady that I could not remember her name because they did introduce me to these people. I just – at that stage I was in total shock as to what I had walked into.

Salim then continued to introduce me to Ajay Gupta and to Duduzane Zuma and to – obviously I knew Minister

Ben Martins, so greeted him and to the lady that was there. They then asked me – he then asked me to sit down and I think Salim explained to him in vernacular, Indian vernacular, I am not sure which language I would be but he explained something to Mr Gupta and then Mr Gupta sort of sat back and said – he replied something also in the vernacular, but I could not understand.

The next question was - you know, Salim Essa then said to me just tell Ajay what was – well, he gestured to Mr  
10 Gupta, tell him what was happening with Brian's case. I just said, in terms of process, I said we were going to see the judge, Deputy Judge President's office the next week which was – I think it was the 1<sup>st</sup> or the 2 August the date had not yet been confirmed and that we would be discussing the case management of the matter and I did not say anything else.

Mr Gupta then responded, but not in particular to me, I think he was talking to the people in the room, you know? He just said this – you know, we would need to find  
20 someone in the Deputy Judge President, DJP's office to move this case out. And what was more significant for me - I mean, that was already one of the shocking statements - but then he – the next one he said was, when this matter would be easier to deal with, when Nkosazana Zuma comes into power and it was at that moment that I realised that

whatever scepticism I had had about the Gupta family influence on – on the country issues, you know this was it. I did not need any more evidence. I was not, I thought you know forget whatever else you wanted to know, this was it.

I tried to stay as composed as possible, because I was extremely – I mean all sorts of thoughts went through my head, you know was this a trap, what were they wanting, I had already turned them down, are they going to kill me you know because here I am in a place, nobody  
10 knows, because I had told my family I am going to Marro Lodge, you know would they find me, those – so all those things go through your head when you sitting there and I had Mr Zuma sitting on my right hand side and it is like okay you know just get out of here.

And if you read my testimony you will see that I describe Ajay Gupta sitting there in an old T-shirt and a tracksuit and bare feet and that just made me even more angry that – and he was unshaven very slovenly and I am thinking this man is sitting here and thinking that he owns  
20 the country the way that he was speaking. They – he was quite dismissive after that he spoke to Mr Essa and once again in vernacular and he just you know he took his hand and just dismissed me like that and he walked me out to the door Mr Essa and I just walked away. I tried to get away as fast as possible, got into my car and went home.

It took me quite a while to process what had happened. I really did not speak to anybody about it until I spoke much later to my attorneys as to what was going on.

**CHAIRPERSON:** Mr Seleka I know you wanted to come to this meeting but I want to be clear about the other meetings as well.

**ADV SELEKA SC:** Yes, no Chair that is perfectly in order with me because that covers – it kills many birds with one stone if I may say so. Ms Daniels the meetings you had  
10 particularly after the second meeting where Mr Madsella Gugu[?] asked you to go with him to Melrose Arch you say and you were simply made to sit outside the boardroom where they have a meeting. Did you not – this is early 2017 at the time you are the company secretary in 2017.

**MS DANIELS:** Yes, I was also acting head of legal.

**ADV SELEKA SC:** Ja, company secretary and acting head of legal. Now that is fairly two senior positions and you are accountable to the board as a company secretary you attend board meetings. You have been working at least  
20 until that point directly for – when I say working you have been working in the office of Dr Ben Ngubane. Ja, your yes's will have to be recorded.

**MS DANIELS:** Oh my apologies yes that is correct.

**ADV SELEKA SC:** Yes, do you tell the board about this thing?

**MS DANIELS:** Mr Chairman at that point in time I did not believe that the board was bona fide.

**CHAIRPERSON:** This is around early 2017?

**MS DANIELS:** Yes.

**CHAIRPERSON:** You are saying that you did not believe at that time that the board was bona fide?

**MS DANIELS:** Yes.

**CHAIRPERSON:** Continue Mr...[intervene]

**ADV SELEKA SC:** What do you mean by that?

10 **MS DANIELS:** From about late 2016 there were a number of incidents that – well more particularly it started with the Public Protectors report where the...[intervene]

**CHAIRPERSON:** The State of Capture Report?

**MS DANIELS:** The State of Capture Report.

**CHAIRPERSON:** Which was released at the end of October 2016.

**MS DANIELS:** I think it – yes.

**CHAIRPERSON:** Ja.

20 **MS DANIELS:** I had – the board had received a summons in respect of appearing before the Public Protector.

**CHAIRPERSON:** That is prior to the reports?

**MS DANIELS:** Prior to the report being...[intervene]

**CHAIRPERSON:** Ja – being made, released.

**MS DANIELS:** Unfortunately it was a very short space of time and we did motivate for an extension of time but what

the previous Public Protector did ask for were the conflict of interest registers which I was the custodian, my office was the custodian of. So we had – you know the registers for each meeting. I then compiled that for the Public Protector and it was through that that we – the first signs of the conflict, the various conflicts of the people were then exposed.

And I had released those reports, those documents to the Public Protector without informing the board. Now  
10 my reasoning for doing that was firstly I had been summons by the Public Protector so I really did not have any reason to explain to the board why I was doing that because I was compelled by law to do that. Secondly I felt that these were real time records so once you completed it there was no need to change it.

You know it was at each meeting and there was regularly - when you as a director had to update your records you would inform me and I would ask at each meeting if there were changes. So for me there was no  
20 need to actually ask permission and I gave that to the Public Protector. So it came out obviously in the report the difference and I think from that moment the tension between myself and the board escalated because many of the board members, the implicated board members were extremely irate that I had not asked permission and I said I



did not need permission these were company records you know. So that was the beginning of that kind of tension. It escalated with issues such as bank accounts being frozen, where one of the board members actually – there was a meeting where the Minister was called, Minister Lynn Brown was called.

She in fact was on a telephone conference where the board members were complaining that their bank accounts were being investigated and that they were being  
10 declared politically exposed persons etcetera. And it was at that point that she came on the call, there was a decision that she you know she would assist where if possible and I am not quite sure how that meeting ended but subsequent to that meeting that very day one of the board directors called me and said to me that she was extremely angry because her accounts – I think it was Nedbank was threatening to freeze her accounts.

And she said to me that if these people think that I am going down alone they have another thing coming this  
20 board is owned – everybody knows that this board is a Gupta board and I will make sure that everybody knows. Ja, and I should...[intervene]

**CHAIRPERSON:** Which member of the board said that to you?

**MS DANIELS:** Do I have to...[intervene]

**ADV SELEKA SC:** I was about to ask the same question.

**CHAIRPERSON:** Yes.

**ADV SELEKA SC:** No I am saying to her I was about to ask the same question, Chair. Your microphone is off Chair.

**CHAIRPERSON:** Oh, if it is a matter that in respect of which no 33 notice has been sent out she can tell me next time but she must tell me at some stage.

**ADV SELEKA SC:** Yes, because...[intervene]

10 **CHAIRPERSON:** There is no 33 notice that has gone out?

**MS DANIELS:** No.

**ADV SELEKA SC:** No we do not...[intervene]

**CHAIRPERSON:** Oh.

**ADV SELEKA SC:** She has not told us the name.

**CHAIRPERSON:** Okay, alright. Do not tell me now but you will tell me next time.

**MS DANIELS:** Alright.

**CHAIRPERSON:** Okay, alright so one of the board members said that to you?

20 **MS DANIELS:** Yes, and I was actually quite speechless. I – she ended the call and she phoned me back I think it must have been about an hour later and said...[intervene]

**CHAIRPERSON:** This is now; it is still that same meeting Mr Seleka?

**ADV SELEKA SC:** No.

**MS DANIELS:** No.

**CHAIRPERSON:** That you are talking about.

**ADV SELEKA SC:** She's – no.

**CHAIRPERSON:** Go back to the meeting that Mr Seleka asked you about.

**MS DANIELS:** Mr Chairman I am responding to...[intervene]

**ADV SELEKA SC:** My question.

**MS DANIELS:** Mr Seleka's question as to why did I not go  
10 to the board.

**CHAIRPERSON:** As to?

**MS DANIELS:** Why did I not go to the board.

**CHAIRPERSON:** Oh okay alright, ja.

**MS DANIELS:** And so unfortunately now it has taken.

**CHAIRPERSON:** Okay then respond to that first.

**ADV SELEKA SC:** Shall we rather go to the meeting. So  
I had asked you the question after your second encounter  
with Mr Koko and Mr Essa where you were taken to  
Melrose Arch. They leave you outside the boardroom, they  
20 go into a boardroom meeting. Why did you not – well I  
said did you raise the issue with the board. Your answer  
was no because at that time the board...[intervene]

**MS DANIELS:** Well, I did not trust the board any longer.

**ADV SELEKA SC:** So and you were going on to explain  
why.

**MS DANIELS:** And that is why I was explaining, yes.

**CHAIRPERSON:** Okay, continue Mr Seleka.

**ADV SELEKA SC:** Thank you Chair, let us accelerate the – to what I believe is the fourth meeting and this – my assessment is that this meeting it gives us the connection between Mr Salim Essa and the Gupta's.

**MS DANIELS:** Yes, when you talk about the fourth meeting I assume you talking about the July meeting.

**ADV SELEKA SC:** Yes, that is late July meeting where  
10 you have described you are behind Melrose Arch, the townhouses, the apartment and so on.

**MS DANIELS:** Yes.

**ADV SELEKA SC:** So that establishes a connection between the two?

**MS DANIELS:** Yes.

**ADV SELEKA SC:** So we know now that they working together?

**MS DANIELS:** Yes.

**ADV SELEKA SC:** And I did not follow your narration –  
20 you were called by Mr Salim Essa. Is that what you said?

**MS DANIELS:** That is correct Mr Chair.

**ADV SELEKA SC:** Where are you when he calls you?

**MS DANIELS:** I was either at home or...[intervene]

**ADV SELEKA SC:** Or at work?

**MS DANIELS:** No, I was not at work.

**ADV SELEKA SC:** You were not at work. So would this have been over a weekend?

**MS DANIELS:** Yes, this was over the weekend.

**ADV SELEKA SC:** Over the weekend, so he calls you and you oblige?

**MS DANIELS:** Yes.

**ADV SELEKA SC:** You go to Melrose Arch.

**MS DANIELS:** Yes, at the African Pride Hotel.

**ADV SELEKA SC:** African Pride?

10 **MS DANIELS:** Hotel.

**ADV SELEKA SC:** Hotel. Well the obvious question follows why did you go?

**MS DANIELS:** Mr Chairman as I earlier alluded to I was actually morbidly curious at this point; this was the same...[intervene]

**CHAIRPERSON:** No, Ms Daniels you could not have gone there out of curiosity no, you could not.

**MS DANIELS:** Let me explain.

**CHAIRPERSON:** I mean this is the man that told you in  
20 2015 about executives that he said would be suspended and you were shocked because he is not part of Eskom. And upon your version Mr Koko could not explain why he brought you there, you were unhappy about that and now you say about two years later he calls you over a weekend you agreed to go where he wants you to go because you

are curious.

**MS DANIELS:** No, Mr Chairman remember I told you about the meeting in the parking lot at the fuel station.

**CHAIRPERSON:** Yes.

**MS DANIELS:** At that meeting he had offered me R800million.

**CHAIRPERSON:** All the more reason why you should not have nothing to do with him and you say after that, after he has offered you R800million, corruption. You say he called  
10 you over a weekend, you agreed to go and meet him because you are curious.

**MS DANIELS:** Well I found it quite astounding that someone that I had turned down so flatly...[intervene]

**CHAIRPERSON:** Sorry?

**MS DANIELS:** I say I found it quite astounding that someone that I had turned down so flatly.

**CHAIRPERSON:** You should not be wanting to talk to that person after that Ms Daniels. You should not be wanting to take his calls after he has offered you R800million to do  
20 something wrong. You should not be wanting to talk to that person, you should not be taking his calls. If you had his number, you have saved his number you should block his number. Is it not? So what are you doing going to meet with him over a weekend, out of curiosity?

**MS DANIELS:** I really was you know curious sir because I

could not understand why would he want to have anything to do with me.

**CHAIRPERSON:** Continue Mr Seleka.

**ADV SELEKA SC:** Thank you Chair. Yes, and Ms Daniels you go there – well I said to you this morning that one will find it strange that this people kept on calling you to this meeting's. Either they believed that you were with them or either they knew that or that they really trusted you as one of their confidants. How do you clear that?

10 **MS DANIELS:** Well like I said earlier I had – I did not participate in...[intervene]

**ADV SELEKA SC:** You did not what?

**MS DANIELS:** I say I did not participate in the Saxonwold visits. I was not offered bags of cash or provided with bags of cash.

**CHAIRPERSON:** But you were offered...[intervene]

**ADV SELEKA SC:** You were offered.

**MS DANIELS:** Well that was late 2017 Mr Chairman, it was a different time. In my view it was more an act of  
20 desperation, their bank accounts were being frozen.

**CHAIRPERSON:** Does that make any difference?

**MS DANIELS:** Well for me the timing of it you know was just an act of desperation.

**CHAIRPERSON:** Does that make any difference to the fact that that was corruption?

**MS DANIELS:** Well I did not accept it.

**CHAIRPERSON:** Yes, but in offering you if that is true that was corruption. In offering you that money in order for you to do wrong. Was it not?

**MS DANIELS:** Yes.

**CHAIRPERSON:** So does the fact that they were making this offer in desperation make any difference?

**MS DANIELS:** No, that does not make any difference but in the context because I mean the reasoning for the bribe  
10 was really to help get Matshela Koko to be chief executive officer of Eskom.

**CHAIRPERSON:** So you had then, you had some understanding of why they were offering you R800million?

**MS DANIELS:** That is what he said at the time.

**CHAIRPERSON:** And you could understand what they were doing?

**MS DANIELS:** Yes, that is what he said.

**CHAIRPERSON:** They wanted to get Mr Koko to be CEO?

**MS DANIELS:** Yes and Mr Essa said well I had promised  
20 Mr Koko well he said I had promised Matshela that he would be CEO.

**CHAIRPERSON:** Yes, that is Mr Essa saying that?

**MS DANIELS:** Mr Essa is saying that and that is when I said well that is one promise you will not be able to keep.

**CHAIRPERSON:** Mr Seleka.



**ADV SELEKA SC:** Thank you Chairperson. So this meeting to which you were called by Mr Essa himself directly which means he has your telephone number, he could access you. Correct?

**MS DANIELS:** Yes, that is correct.

**ADV SELEKA SC:** You did not block his number?

**MS DANIELS:** I did after the July meeting.

**ADV SELEKA SC:** Not prior to that?

**MS DANIELS:** No.

10 **ADV SELEKA SC:** You say the discussion was about Mr Brian Molefe's case. Which case was that?

**MS DANIELS:** It was the pension matter.

**ADV SELEKA SC:** Did the pension pay out to him?

**MS DANIELS:** Yes.

**ADV SELEKA SC:** Okay. Do you know whether what was said about they will try to get somebody in the office of the Deputy Judge President whether they acted upon that?

**MS DANIELS:** I am not sure.

20 **ADV SELEKA SC:** What you are not aware, you are not sure you – did you come to know about it?

**MS DANIELS:** It was much later but not – Mr Chair much later one of my colleagues told me that the DPJ actually did institute an investigation in his office based on the testimony that I gave in parliament. He did investigate but I am not sure, if I understand what you asking

if...[intervene]

**ADV SELEKA SC:** Whether there was interference for lack of a better word.

**MS DANIELS:** Yes.

**ADV SELEKA SC:** Do you know whether there was interference?

**MS DANIELS:** No, I do not know.

**ADV SELEKA SC:** Thank you. Ja, I see in your affidavit you talk about in paragraph 30 of the affidavit about  
10 political interference. I was quite use to the amount of political interference and lobbying behind the scenes. Would you like to enlighten the Commission what is being referred to there as political interference?

**MS DANIELS:** Yes please just repeat the paragraph for me.

**ADV SELEKA SC:** Paragraph 30, page 7, at the top of page 7.

**MS DANIELS:** Mr Chairman from – I joined Eskom in 2006 and from inception there was quite a contestation around  
20 procurement matters and just general interference in the day to day running of the utility. My first experience of that was with the old order mining rights that Eskom had acquired. As Eskom it had old order mining rights which when the new laws came into being that needed to be converted and as I was in primary energy I was tasked with

coordinating and preparing those applications for conversion of mining rights.

It was a significant amount of mining rights, it would – and this is my personal belief, it would because they were coal mining rights it would have given Eskom access to its own coal mines and it would have alleviated a lot of the coal issues that we now experience as a country. However, we went through a series of you know applications that I together with the then chief executive  
10 officer I think it was first Mr Maroga and then Mr Davis we went through having to submit these applications to the DMR. Then known as the Department of Mineral Resources and at that stage I think I was on the eve of submitting the documents for consideration when I was told not to submit those documents as a political solution would be found to those issues.

Those mining rights ended up in the hands of private companies and Eskom began the fight of trying to get them back with no avail. There was also then an  
20 unofficial policy statements that Eskom cannot own a mine. So that was one of my first experiences of political interference on the parts of the shareholder as I call it. There were also others when there were – in procurement when there were tenders we were told you know so and so is behind it follow process make sure that you do this.

I recall in 2011 specifically I was asked to put together a list of the top hundred suppliers of Eskom together with their contact details and the person at the company because the Minister wanted to do an ANC fund raising campaign. I still have that database but you know I was asked to prepare it and it was handed to the Minister. Further things like there were instructions to the board around not following the public finance not the Public Finance Managing Act the PPFA. Eskom had an exemption  
10 to the triple, which is the Preferential Procurement Framework Act. It was due to expire Minister Gigaba and Minister Gordhan on the last could not agree on the extension because Minister Gigaba was Public Enterprises and Minister Gordhan was the Minister of Finance.

So on the eve of the expiration of the exemption we get a notice that says the exemption is no longer valid, will not be extended. Minister Gigaba tells the board do not follow the instruction, us as officials say you cannot do that that is breaking the law, he get the board in that  
20 tussle. And there are many more examples of that kind of interference in the granting of tenders. The first nuclear tender for – was also the parties were going to sign, Minister Gigaba says no we will not, you will not sign it.

The parties were actually at the signing ceremony. There was quite a lot of that kind of interference from the

Ministry; from various political parties. The Chairman would get lots of you know meet with this one.

**CHAIRPERSON:** Hm.

**MS DANIELS:** So what I am saying is I had always – we had always get instructed when you get this kind of instruction follow process.

**CHAIRPERSON:** Yes.

**MS DANIELS:** Do not waiver follow process.

**ADV SELEKA SC:** Sorry who would have told you that?

10 **MS DANIELS:** Whoever my boss was at the time?

**ADV SELEKA SC:** So would Mr Dan Marokane have told you that?

**MS DANIELS:** It was still...

**ADV SELEKA SC:** Because he was once your boss as well?

**MS DANIELS:** Yes. So we would – you know make sure that we have – we follow the process.

**ADV SELEKA SC:** Ja but answer my question. Would – would Mr Dan Marokane have said that to you?

20 **MS DANIELS:** He had on occasion yes because we had some interference.

**ADV SELEKA SC:** Okay but you know like the Chairperson has been pointing out some of these things do not appear in your affidavit.

**MS DANIELS:** Um the affidavit was about – I am – suspensions and ..

**ADV SELEKA SC:** Ja because they will have to be notified about these things so that they can respond to it. So I think Chair if I may propose to the witness?

**CHAIRPERSON:** Yes.

**ADV SELEKA SC:** You may have to do an affidavit elaborating on those –

**CHAIRPERSON:** Yes ja.

**ADV SELEKA SC:** Those political interferences.

**MS DANIELS:** Okay.

10 **CHAIRPERSON:** So that it can be served on the...

**ADV SELEKA SC:** On the parties.

**CHAIRPERSON:** On the relevant – affected parties.

**ADV SELEKA SC:** Thank you Chair.

**CHAIRPERSON:** Ja okay.

**ADV SELEKA SC:** But Ms Daniels what we see from the documentation we went through this morning is that if you talking political interference there is more than just political interference. If regard is to be had to the newspaper – the resolution regarding the newspaper houses City Press, 20 Sunday Times and Mail and Guardian then came from outside to the Board sent to Mr Ben Ngubane; it becomes a resolution of the Board. That is another interference is it not?

**MS DANIELS:** Yes that is correct Mr Chairman. That – that interference took ...

**CHAIRPERSON:** That is like somebody outside of the Board is effective in controlling what the Board – decisions the Board may or should take in regard to those newspapers.

**MS DANIELS:** Yes.

**CHAIRPERSON:** Ja. And he said this is the position you must take and they adopt that position.

**MS DANIELS:** Yes.

**CHAIRPERSON:** Hm.

**ADV SELEKA SC:** You would know I have not referred you  
10 to it but I – I did refer you to when Dr Ngubane testified. It is an email Mr Koko receives about the guarantee which was firstly a pre-payment R1.68 billion regarding Tegeta to be paid to Tegeta. And there is an email that from Mr Koko rather from Businessman to Mr Koko then Mr Koko forwards you that email. Recall that email that talked about the guarantee?

**MS DANIELS:** Yes.

**ADV SELEKA SC:** You recall that. That too came from Businessman into Eskom through Mr Koko through you  
20 ultimately made its way – was it the Board or the BTC?

**MS DANIELS:** It was the Investment and Finance Committee and then the Board.

**ADV SELEKA SC:** Then the Board.

**MS DANIELS:** yes.

**ADV SELEKA SC:** So there too it is an indication of an

interference from outside?

**MS DANIELS**: Yes.

**ADV SELEKA SC**: So this Board was being controlled by outside forces if you like in inverted commas – outside persons – persons outside of Eskom? Whether it be Mr Richard Seleke he is outside of Eskom; whether it is Salim Essa he is outside of Eskom and they were writing these emails putting proposals together and feeding them to the Board. You follow?

10 **MS DANIELS**: Yes.

**ADV SELEKA SC**: It was a control from outside?

**MS DANIELS**: Yes.

**CHAIRPERSON**: And certainly in relation to the email that contained the – a draft of what position the Board should take with regard to the City Press, Sunday Times and the Mail and Guardian the Chairperson did not take exception to this whole thing that somebody from outside is sending him a draft of what the Board should – what position the Board should take, is that right?

20 **MS DANIELS**: That is correct Mr Chairman.

**CHAIRPERSON**: He did not object to that?

**MS DANIELS**: No he did not.

**CHAIRPERSON**: Instead he said you – you must prepare a resolution based on that draft?

**MS DANIELS**: Yes.



**CHAIRPERSON:** Okay.

**ADV SELEKA SC:** And in addition to that if – if your information – your testimony is go by the evidence you testified with the Parliamentary Portfolio Committee it is in your statement; it is in your affidavit that on the 10 March you were at Melrose Arch when you are being told four executives names are mentioned are going to be suspended. Again an indication of outside interference?

**MS DANIELS:** Yes. That is correct.

10 **ADV SELEKA SC:** Ja. It is more than outside interference it is outside control is it not?

**MS DANIELS:** Yes Mr Chairman I would just like to also add that you know in the beginning I – I did not quite believe that three brothers would control the state in the manner that they did. That would be coming clearer as we go along. As I went along in my journey. And that is precisely why I started speaking to the media firstly anonymously because I was not sure you know there was such an element of mistrust at work. I did speak to my colleagues but because of that  
20 atmosphere that you did not know who was loyal to who it was very difficult to speak to the people inside. Even – even matters that were you know sort of reported to the whistle blowing line. The executives would know who they were talking about. You know that would become knowledge. So that line was not very secure. I started anonymously talking

to some of the journalists in the beginning because I really did not know where to – to take the information.

**ADV SELEKA SC:** Why did you not resign from Eskom?

**MS DANIELS:** It was – it was very difficult. I did approach the – the recruitment agencies. The fact that I had worked at Eskom was a blight on my record. So that made it difficult. I was also – I am a single parent so it was not that easy just to walk out of a job and not have a job.

**ADV SELEKA SC:** I see.

10 **MS DANIELS:** So I think those were the - you know the compelling what shall I say the competing interest at the time for me. But it was quite a difficult terrain to master – to muster because most of the people you know just ignored what – what you were – what one would say.

**ADV SELEKA SC:** Yes.

**MS DANIELS:** In – internally. And it would only become clearer later that there were – stake – they were stakeholders so interested.

**ADV SELEKA SC:** For interested parties.

20 **MS DANIELS:** Interested parties in – in what was happening.

**ADV SELEKA SC:** Hm.

**MS DANIELS:** And that made it difficult.

**ADV SELEKA SC:** Sorry interested parties what? Interested parties within Eskom or outside of Eskom or both?

**MS DANIELS:** It would be both.

**ADV SELEKA SC:** Okay let us go to the suspension of the executives because they are suspended on the 11 November and you as I understand from your affidavit were not part of the meetings that led to their suspensions?

**MS DANIELS:** No I was not.

**CHAIRPERSON:** But you were – you attended the one of the 9<sup>th</sup> March did you not?

**MS DANIELS:** No I did not.

10 **CHAIRPERSON:** Oh I thought I read something – I read your – oh maybe I misread [mumbling]. Okay.

**MS DANIELS:** No, no. Mr Chairman what you...

**CHAIRPERSON:** No it was somebody else's in here.

**MS DANIELS:** Yes. What you would have read is that maybe just for a point of clarification. When I became Company Secretary those minutes had not been signed for a year. So myself and the Board Secretary had to work through those and we prepared them for the Board – for the 2015 for want of a better word. And it was – and that is why  
20 it took so long for those minutes to be signed because we had to listen to all of the tapes. We had to then – I had prepared a plaque for each Board Member to make sure that they could tell us that what was in those minutes because we were not present. So I think you – the reason I refer to them in my affidavit is because I did read them.

**CHAIRPERSON:** Hm. Okay.

**ADV SELEKA SC:** So you had the – you had access to the audios of those meetings?

**MS DANIELS:** Some of them yes.

**ADV SELEKA SC:** Ja well let us talk about the minutes which are being referred to here the 9 March 2011 and then the minutes – the meetings of 11 March 20 – oh I said 2011 I beg your pardon 2015. Well the commission has obtained audios of those minutes – of those meetings so you would  
10 also have had access to them?

**MS DANIELS:** Ja ...

**ADV SELEKA SC:** So you would have – you would have listened to that.

**MS DANIELS:** Ja at Eskom. I split it between myself and the Board Secretary.

**ADV SELEKA SC:** Yes. Ja okay. Now that you have raised that let me ask you. Do you know why the minutes would not have been constructed a week after the meeting took place?

**MS DANIELS:** Mr Chairman that period was...

20 **ADV SELEKA SC:** No let – just answer my question. Do you know yes or no?

**MS DANIELS:** No.

**ADV SELEKA SC:** You do not know?

**MS DANIELS:** No.

**ADV SELEKA SC:** Why they would not have been

constructed?

**MS DANIELS**: Why – ja.

**ADV SELEKA SC**: Within a week after the meeting took place?

**MS DANIELS**: No.

**ADV SELEKA SC**: Ja. So you had to do that exercise a year later.

**MS DANIELS**: Yes.

**ADV SELEKA SC**: The minutes are signed by Dr Ngubane.

10 **MS DANIELS**: Yes that is correct.

**ADV SELEKA SC**: You would have – he would have had to ensure that those minutes what you bring to him as a draft minutes which he has to sign is a correct reflection of what took place in the meeting?

**MS DANIELS**: That is correct but the process was even more detailed than that.

**ADV SELEKA SC**: Ja tell the Chairperson.

**MS DANIELS**: Mr Chairman what we did was.

**ADV SELEKA SC**: Briefly.

20 **CHAIRPERSON**: We compiled – once we – once we had – there were draft minutes so once we had put them together in the necessary format each Board Member received a pack and each Board Member was given the opportunity to comment on whether we had correctly captured those minutes. And once that had been done I then prepared a

pack for Mr – Dr Ngubane and it was actually first approved at one of the Board meetings before he signed them off.

**ADV SELEKA SC:** Thank you. You have spoken in – well stated in your affidavit that in the morning of 11 March 2015.

**CHAIRPERSON:** Hang on Mr Seleka. Okay please continue.

**ADV SELEKA SC:** Thank you Chair. In the morning of 11 March 2015 Mr Koko called you in rapid succession and one of the things he spoke with you about or rather raised with  
10 you was the concerns that you have called two people and he was asking you why did you speak to them?

**MS DANIELS:** Yes he did.

**ADV SELEKA SC:** One being your friend and the other one being – he said the Frenchman.

**MS DANIELS:** Yes.

**ADV SELEKA SC:** Yes. But you know I have – we have obtained the telephone record between you and him in which we see that there is a telephone call from him to you the evening before – the night before in three minutes before  
20 ten. And I was curious to know you did not mention anything about that and him at least that night questioning you about who you were speaking to on your way back home. Do you think you have an explanation for that?

**MS DANIELS:** Mr Chairman I – I do not recall speaking to him about the conversations but that happened the next

morning. But it was very possible that he would have called me at that time. He had no respect for personal boundaries and personal time. So I – I do not recall exactly what that – what that call would have been about but it was definitely not about the you know the – the telephone call. What I can – if I look back at that day the most important types of things were like he was trying to finish off certain transactions and more than likely they would have pertained to that.

**ADV SELEKA SC:** Yes. And Ms Daniels there is an  
10 occasion or for lack of a better word immediately after the suspension of the executives where you talk about you meeting with Dr Pat Naidoo. Can you tell the Chairperson a little bit about that what – who called – how you meet with Dr Naidoo. Who is firstly who is Dr Pat Naidoo?

**MS DANIELS:** Dr Pat Naidoo is one of the Board Members – was one of the Board Members at the time. He was also the Chairperson of the Build Recovery and...

**ADV SELEKA SC:** You deal with it in paragraph 42 to 46 of your affidavit.

20 **MS DANIELS:** Build Recovery and Build Program Committee. So I was called to a meeting with him. He asked to see me and he wanted to know what would be the process to appoint Mr Nick Linnell. He said that...

**ADV SELEKA SC:** So which day is this? Sorry.

**MS DANIELS:** This was on the 13 March 2015.

**ADV SELEKA SC:** Thank you. Carry on.

**MS DANIELS:** So I explained the process to Dr Naidoo in terms of we would need to if you request for a quotation or a request for a proposal. Dr Naidoo listened and seemed to be a bit impatient about the process because for me my impression was that they had already appointed Mr Linnell and now needed to regularise the process.

**ADV SELEKA SC:** Was that your impression?

**MS DANIELS:** That was my impression.

10 **ADV SELEKA SC:** What did he – did he convey to you that they were already engaging – the Board was already engaging with Mr Linnell.

**MS DANIELS:** Yes he did and he did say that to me. In fact you will see in paragraph 43 I think he had said the Board had acquired the services of Mr Nick Linnell.

**ADV SELEKA SC:** Do you recall or not whether Mr Linnell was ever formerly appointed by the Board?

**MS DANIELS:** I – I did not see a formal letter of appointment Mr Chairman but what I do know is that I was  
20 called upon to cancel the contract for Mr Linnell.

**ADV SELEKA SC:** You were called upon to cancel Mr Linnell's contract?

**MS DANIELS:** Yes.

**ADV SELEKA SC:** Do you recall when about was this?

**MS DANIELS:** This was late April I think.



**ADV SELEKA SC:** What 2015?

**MS DANIELS:** It was in 2015.

**ADV SELEKA SC:** Are you looking for a document?

**MS DANIELS:** Yes I am just looking for SMD3.

**ADV SELEKA SC:** SMD3 is on page 32. Page 32/33.

**MS DANIELS:** Mr Linnell's letter is dated the 14 April Mr Chairman so it would have been around – it would have been subsequent to that letter.

**ADV SELEKA SC:** So SMD3 is an annexure to your  
10 affidavit. The document is a letter dated 14 April 2015 from the Project Office Business Improvement Delivery. It is signed on the face of it what appears to be by Mr Nick Linnell resignation as director.

**MS DANIELS:** Yes that is correct.

**ADV SELEKA SC:** Is that the document you were referring to?

**MS DANIELS:** That is the document I am referring to.

**ADV SELEKA SC:** And the letter is addressed to acting Chairperson Dr Baldwin Siphon Ngubane Eskom SOE

20 "Dear Chairperson. Appointment of  
Coordinator of the Eskom Inquiry."

Two options Ms Daniels I could read the letter or you could give the Chairperson the gist of what is contained in the letter?

**MS DANIELS:** I could give the gist if that suits the

Chairman; I am not sure.

**ADV SELEKA SC:** Ja what is Mr Nick Linnell writing about in this letter?

**MS DANIELS:** What Mr Linnell is writing about in this letter is the attendances that he did on behalf of the Board in setting up the inquiry and in participating and being part of the meetings. He was – he was also to draw up the Terms of Reference for the inquiry that was to follow. And then it later – I think it appeared in the newspapers that he was no  
10 longer going to be coordinating and that is when he wrote this letter to the acting Chairperson Dr Ngubane.

**ADV SELEKA SC:** So in the last two paragraphs of his letter he writes?

“It is clear from written correspondence and public statements that the Board appointed me to fulfil this role. It is now also apparent from the media reports that the Board has since allegedly terminated that appointment. In the circumstances I would be grateful if  
20 you would advise me of the position of the Board with regard to my appointment and if my services have as publicly stated been summarily terminated how the Board would like me to account for my services rendered.  
Yours sincerely.”

What did you want to tell the Chairperson about this? Oh you were – you were talking about you had to – you were called upon to terminate.

**MS DANIELS:** Yes.

**ADV SELEKA SC:** His – his contract or his appointment.

**MS DANIELS:** Subsequently.

**ADV SELEKA SC:** Subsequently yes.

**MS DANIELS:** Yes based on that. He did issue an invoice to Eskom and Eskom paid it.

10 **ADV SELEKA SC:** Yes.

**CHAIRPERSON:** And how much was that are you able to remember?

**MS DANIELS:** I think it was in the region of about R160 000.00.

**CHAIRPERSON:** Okay.

**ADV SELEKA SC:** Yes Chair I think we have that invoice.

**CHAIRPERSON:** Yes.

**ADV SELEKA SC:** In the bundle somewhere.

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

20 **ADV SELEKA SC:** Yes. Ms Daniels the next issue or the next aspect where you feature is in regard to the exit negotiations. You called an exit negotiations of the – of the executives. And you say you attended some of the meetings the – the delegation that the Board had mandated to have settlement discussions with the executives had.

**MS DANIELS:** Yes that is correct.

**ADV SELEKA SC:** Did you find that in the relevant paragraphs in your affidavit?

**MS DANIELS:** Yes that was paragraph 56.

**ADV SELEKA SC:** Yes. Now are you aware or not that Dr Ngubane had also been authorised by the Board to attend at the CCMA in regard to the labour dispute of Mr Matona? If you do not know you do not know?

**MS DANIELS:** Yes I actually am aware that he had to  
10 attend.

**CHAIRPERSON:** My recollection may be inaccurate Mr Seleka. I got the impression that what he said that is Dr Ngubane when he gave evidence that he gone to the CCMA on his own and not because he was representing the Board.

**ADV SELEKA SC:** You are correct Chair.

**CHAIRPERSON:** That was my impression.

**ADV SELEKA SC:** Chair you are correct. That is what he said before the Chairperson.

**CHAIRPERSON:** Yes. Yes

20 **ADV SELEKA SC:** And we were pursuing that issue with him because...

**CHAIRPERSON:** Yes, yes.

**ADV SELEKA SC:** And we will do so.

**CHAIRPERSON:** Yes and I think I – I do recall that I think Mr Matona said Dr Ngubane was part of the Board's

delegation or representatives.

**ADV SELEKA SC:** Correct Chairperson.

**CHAIRPERSON:** In regard to the negotiations with him

**ADV SELEKA SC:** That is correct Chair.

**CHAIRPERSON:** But that I think Dr Ngubane when he gave evidence seemed to deny that. I hope I am – my recollection is accurate.

**ADV SELEKA SC:** It is absolutely accurate Chair and it is an issue – Chair you will find – can I give you the page  
10 reference?

**CHAIRPERSON:** Yes.

**ADV SELEKA SC:** In Dr Ngubane's bundle.

**CHAIRPERSON:** Hm.

**ADV SELEKA SC:** Well no, no it is even in – yes it is even in this bundle Chairperson.

**CHAIRPERSON:** Yes.

**ADV SELEKA SC:** Let us do that. Chair you can read it so that you clarify if – you clear your mind.

**CHAIRPERSON:** Ja I will not read it now but if you tell me  
20 that it is there that is enough for me.

**ADV SELEKA SC:** That is right.

**CHAIRPERSON:** Ja because that is my recollection that he...

**ADV SELEKA SC:** Yes.

**CHAIRPERSON:** Said he went to the CCMA.

**ADV SELEKA SC:** Yes.

**CHAIRPERSON:** On his own he was not representing the Board.

**ADV SELEKA SC:** Yes.

**CHAIRPERSON:** And that he said he was not involved.

**ADV SELEKA SC:** Yes.

**CHAIRPERSON:** In the negotiations with Mr Matona.

**ADV SELEKA SC:** Can I just read through his statement?

**CHAIRPERSON:** Ja. Ja.

10 **ADV SELEKA SC:** It says he says:

“Whilst the inquiry was pending Mr Matona had filed a labour dispute. Following the conclusion of the inquiry Matona negotiated and settled the dispute. Prior to that – that is paragraph 4.29 of his affidavit – prior to that I had been tasked by the Board to attend the CCMA proceedings which Mr Matona had instituted against Eskom.”

**CHAIRPERSON:** Oh then my recollected was incorrect.

20 **ADV SELEKA SC:** No your recollection is correct.

**CHAIRPERSON:** Ja in terms of what he said on the witness stand.

**ADV SELEKA SC:** That is correct. That is correct Chair.

**CHAIRPERSON:** But are you reading from his affidavit?

**ADV SELEKA SC:** From his affidavit before us – so his

admission.

**CHAIRPERSON:** So his affidavit says he was tasked by the Board.

**ADV SELEKA SC:** He says that.

**CHAIRPERSON:** To go to the CCMA.

**ADV SELEKA SC:** Correct Chair.

**CHAIRPERSON:** But in the witness stand he said he went there on his own. Okay.

**ADV SELEKA SC:** Your recollection is perfect Chairperson.

10 **CHAIRPERSON:** Hm.

**ADV SELEKA SC:** So Ms Susan – Ms Daniels I should not have read that statement to you but you already say you know that he was – what did you say Ms Daniels?

**CHAIRPERSON:** But she said she – you asked the question whether she was aware that the Board had asked if Dr Ngubane to attend the CCMA and she said yes. But you must tell me if I misunderstood you?

**MS DANIELS:** I am...

**CHAIRPERSON:** But that is not what you intended saying.

20 **MS DANIELS:** I am not sure Mr Chairman I – if my memory serves me correctly he also had to depose to the affidavit.

**ADV SELEKA SC:** Where?

**MS DANIELS:** In the Matona matter.

**CHAIRPERSON:** But let us clear this first. Did you say you were aware that he had been tasked by the Board or did you

say you were not aware of that but you were aware that he did go to the CCMA?

**MS DANIELS**: He did go to – I was aware that he went to CCMA.

**CHAIRPERSON**: Yes. But whether he was asked by the board or not?

**MS DANIELS**: No, I ...[intervenes]

**CHAIRPERSON**: Or did you know?

**MS DANIELS**: That I am not sure of at that stage.

10 **CHAIRPERSON**: Okay.

**ADV SELEKA SC**: No, thank you.

**MS DANIELS**: Ja.

**ADV SELEKA SC**: I understand Dr Ngubane will tell us... he has already told us himself. So but you are then involved... not involved but you are invited into settlement or exist, you called them, negotiations that the delegation... the delegation, as we understand it, is Dr Ngubane. And you can confirm that. Dr Ngubane, Mr Romeo Khumalo and Ms Venete Klein.

20 And in respect of, I think, Mr Dan Marokane, Mr Zethembe Khoza and Mr Romeo Khumalo were the delegation.

**MS DANIELS**: The board appointed Ms Klein, Mr Khumalo, Dr Ngubane and Mr Khosa.

**ADV SELEKA SC**: As the delegation.



**MS DANIELS:** As the delegation.

**CHAIRPERSON:** I did not hear the first one?

**MS DANIELS:** Ms Klein.

**CHAIRPERSON:** Okay.

**MS DANIELS:** Mr Khumalo

**CHAIRPERSON:** H'm?

**MS DANIELS:** Dr Ngubane.

**CHAIRPERSON:** Ja.

**ADV SELEKA SC:** And Mr Khoza as the delegation.

10 **ADV SELEKA SC:** The delegation, ja.

**CHAIRPERSON:** So it was a delegation of four?

**MS DANIELS:** Yes. One, two, three.... yes.

**CHAIRPERSON:** Okay. And were they meant to engage in the negotiations with all the executives who had been suspended?

**MS DANIELS:** Yes, that is correct.

**CHAIRPERSON:** Oh, okay alright.

**ADV SELEKA SC:** Were you in the meeting when the delegation was appointed?

20 **MS DANIELS:** I do not think I was in the meeting that was ...[intervenes]

**ADV SELEKA SC:** Ja, okay.

**MS DANIELS:** But what I do know is because I had to deal with them ...[intervenes]

**ADV SELEKA SC:** They have testified as well.

**MS DANIELS:** Ja.

**ADV SELEKA SC:** That they were... well, only two. So you know because you had to deal with them.

**MS DANIELS:** Yes.

**ADV SELEKA SC:** You attended the meetings when the negotiations took place.

**MS DANIELS:** I attended the meetings. I also... I took notes at the meetings. I also had to arrange the meetings and I, in some instances, I liaised with the suspended  
10 executives to get them to the meeting.

**ADV SELEKA SC:** So let us deal with Mr Matona, for instance, by way of example. So when you say you had to arrange the meetings, you would have called him and said to him: We have this date, this time, this place for a meeting to discuss.... would you say also what to be discussed... what was to be discussed?

**MS DANIELS:** I would not at that stage would have told him what were to be discussed but I... Mr Chairman, but I would have told him that the board delegation would like to meet  
20 with him.

**ADV SELEKA SC:** And you said they met at Protea Hotel in Midrand.

**MS DANIELS:** Yes, it was a neutral ground off... away from Megawatt Park. So I arranged it at... yes, the Protea Hotel in Midrand.

**ADV SELEKA SC:** Ja. What do you recall was the discussion with him?

**MS DANIELS:** I would have to... can I refer to my...?

**ADV SELEKA SC:** Yes.

**CHAIRPERSON:** I am sorry. Before you get there. In paragraph 54 of your affidavit, you say the board emphasised that this would not alter the fact that he would remain on suspension. I think they are talking about Mr Matona there.

10 And then you say it was Dr Ben Ngubane and Mr Romeo Khumalo who were mandated to meet with Mr Matona on 29 April 2015 to discuss the matter of his suspension.

So here it looks like you are saying only two board members were mandated to discuss with Mr Matona.

**MS DANIELS:** Yes, Mr Chair. What they did as a group, they would decide who would talk to whom.

**CHAIRPERSON:** The group of four?

**MS DANIELS:** Yes.

20 **CHAIRPERSON:** They then divided the job amongst themselves?

**MS DANIELS:** Yes.

**CHAIRPERSON:** To say who of them would meet with who in terms of the executives?

**MS DANIELS:** Yes, that is correct.

**CHAIRPERSON:** Oh, okay alright. And then you say in the

next sentence:

“At this point, it was clear that the board was no really considering the option of the term of executives involved with their public utterances.”

You see that statement?

**MS DANIELS**: Yes.

**CHAIRPERSON**: Is that true?

**MS DANIELS**: That is, from what I witnessed Mr Chairman, there was absolutely no intention of those executives  
10 returning. Well, for ...[intervenes]

**CHAIRPERSON**: What is the basis for you to come to that conclusion?

**MS DANIELS**: The manner in which the discussions were conducted, except for the... there was a mark change when they dealt with Matshela Koko but for the three executives, Mr Matona, Ms Molefe and Mr Marokane, there was a totally different tone and posture in terms of how they would deal with it.

**CHAIRPERSON**: Are you talking about tone at the meetings  
20 that the representatives of this group of four had with those individual executives?

**MS DANIELS**: Yes, I am .

**CHAIRPERSON**: Yes. But I thought that this... I understood the statement to relate to one board and to relate to something that would have happened before the delegation

could meet with the executives.

It gives the impression that even before the delegation met with the executives individually. You are saying that it was clear that the board was not really considering the option of the executives coming back. That is how I understand it. Is that ...[intervenes]

**MS DANIELS**: That is what I am seeking to convey.

**CHAIRPERSON**: Yes?

**MS DANIELS**: Based on... I... it is in my notes.

10 **CHAIRPERSON**: Yes.

**MS DANIELS**: Because at the meeting of the 23<sup>rd</sup> of April 2015 ...[intervenes]

**CHAIRPERSON**: Is that a meeting of the board?

**MS DANIELS**: That is the meeting of the board.

**CHAIRPERSON**: Ja?

**MS DANIELS**: Which there are no recordings.

**CHAIRPERSON**: Is that the meeting where the board mandated the four to be the ones to negotiate with the executives?

20 **MS DANIELS**: I think that happened earlier if I recall.

**CHAIRPERSON**: Okay but there was a meeting of the board on the 23<sup>rd</sup> of April?

**MS DANIELS**: Yes.

**CHAIRPERSON**: 2015?

**MS DANIELS**: Yes.

**CHAIRPERSON**: And you say it was clear to you, it was clear on that day that the board was no really considering the option of the return of these executives?

**MS DANIELS**: Yes.

**CHAIRPERSON**: Ja, and what is the basis for you to have come to that conclusion? Because you cannot, obviously, rely for that on what happened subsequently when the delegation met with the executives.

10 What is it that had happened or that was happening at the time of that meeting of the 23<sup>rd</sup> of April 2015 that made you believe that the board was not going to entertain the return of these executives?

**MS DANIELS**: I have my handwritten notes ...[intervenes]

**CHAIRPERSON**: Yes.

**MS DANIELS**: ...from the meeting of that date.

**CHAIRPERSON**: Yes?

**MS DANIELS**: I have made available...[intervenes]

**CHAIRPERSON**: Is it notes that you have made at the meeting?

20 **MS DANIELS**: At the meeting. Contemporises notes.

**CHAIRPERSON**: Oh, contemporaneous notes. Okay are those notes, you have not previously given to the Commission?

**MS DANIELS**: I have provided it yesterday, Mr Chairman.

**CHAIRPERSON**: Sorry?

**MS DANIELS:** I have provided it yesterday but we have spoken about it.

**CHAIRPERSON:** It may well be Mr Seleka that it is something she can deal with next time.

**ADV SELEKA SC:** Okay Chair.

**CHAIRPERSON:** Ja, okay alright.

**ADV SELEKA SC:** Ja.

**CHAIRPERSON:** So when they have had a chance to have a look at those notes.

10 **ADV SELEKA SC:** Yes.

**CHAIRPERSON:** Then, when you come back, one of the questions you can deal with is, what was the basis for you to say that it was clear that the board did not contemplate that the executives will come back. Okay.

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

**CHAIRPERSON:** Alright.

**ADV SELEKA SC:** So Ms Daniels, then let us rather go into the meetings where there are settlement discussions and you are present at some meetings, you say you have arranged.

20 **CHAIRPERSON:** I am sorry Mr Seleka. Did you say Ms Daniels there are no recordings for the meeting of the 23<sup>rd</sup> of April?

**MS DANIELS:** That is what I am led to understand.

**CHAIRPERSON:** It is what you were made to understand?

**MS DANIELS:** Yes, Mr Chairman.

**CHAIRPERSON**: Oh. And minutes, that would be there?

**MS DANIELS**: There are minutes of the meeting.

**CHAIRPERSON**: Yes.

**MS DANIELS**: But from my notes, it seems that this was an in-committee meeting.

**CHAIRPERSON**: Yes. Okay alright.

**MS DANIELS**: I was not the company secretary at that stage.

**CHAIRPERSON**: Yes, ja okay.

10 **MS DANIELS**: I took notes.

**CHAIRPERSON**: No, that is fine. Continue Mr Seleka.

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

**CHAIRPERSON**: I just wanted to understand.

**ADV SELEKA SC**: Yes.

**CHAIRPERSON**: Ja.

**ADV SELEKA SC**: Yes. Now, I was certainly going to go to that point Chair because the minutes what on the face of it appears to be the minutes has been attached by Ms Daniels.

20 There are certain things that Ms Daniels state in her affidavit that are not apparent from those minutes.

Hence, she has then only yesterday emailed, scanned and emailed copies of what she says are handwritten notes. So we are here to deal with that.

**CHAIRPERSON**: Ja, okay.

**ADV SELEKA SC**: Ja. Thank you, Chair. So but, I mean,



similarly, there will be not minutes of this next meetings we are going into.

**CHAIRPERSON**: Ja.

**ADV SELEKA SC**: Ja.

**CHAIRPERSON**: Ja, that is fine. Ja.

**ADV SELEKA SC**: Ms Daniels, I understood from your affidavit that even though you attended meetings of three of the executives, you did not attend the meeting where the delegations met with Mr Dan Marokane.

10 **MS DANIELS**: No, I did not attend the meeting with Mr Marokane because that would have been a conflict of interest for me. He was my boss and I have spoken to him about the suspensions. My meeting with Salim Essa. So I did not ...[intervenes]

**CHAIRPERSON**: Oh, at that time Mr Koko was no longer your immediate superior?

**MS DANIELS**: He was. He was acting.

**CHAIRPERSON**: Oh, he was... because he was acting ...[intervenes]

20 **MS DANIELS**: Acting ...[intervenes]

**CHAIRPERSON**: ...group CEO, he was therefore, temporarily, not your immediate superior?

**MS DANIELS**: No, Mr Koko was acting in 2015. It is a complex... the organisation changed so much.

**CHAIRPERSON**: Oh, okay.

**MS DANIELS:** Mr Marokane and I... he was my direct boss from twenty... I think it was 2009.

**CHAIRPERSON:** Yes.

**MS DANIELS:** Until 2015.

**CHAIRPERSON:** Okay.

**MS DANIELS:** So that is why I did not take part in any of this.

**CHAIRPERSON:** Ja. Okay. Mr Seleka.

**ADV SELEKA SC:** Yes. Well, I wanted you to explain that  
10 to the DCJ because earlier you mentioned that you attended  
or maybe you gave the impression that you attended  
meetings of all four.

**MS DANIELS:** Oh, no.

**ADV SELEKA SC:** Ja.

**MS DANIELS:** Thank you.

**ADV SELEKA SC:** Yes. And I had asked a question: What was in the meeting of Mr Matona, what was told to him?

**MS DANIELS:** I just want to get to my... I think the first  
expression to Mr Matona was that the court action did not sit  
20 well with the powers that be. And I am quoting because I  
wrote down exactly what was said.

**CHAIRPERSON:** When he spoke... when he gave evidence, he talked about the day when the CCMA hearing or meeting was postponed. He said that the Eskom delegation said they wanted to consult with the shareholder or the minister.

And then he said there was subsequently a meeting... there was subsequently a meeting which he referred to as the first meeting and then another one later on.

Now what you have just told me, does it relate to the day when the CCMA matter was postponed or does it relate to the one of the two meetings he talked about or some other meeting?

**MS DANIELS**: I think this is one of the two meetings that he spoke about, Mr Chair.

10 **CHAIRPERSON**: Yes.

**MS DANIELS**: This one took place on the 4<sup>th</sup> of May 2015.

**CHAIRPERSON**: Would that have been what he called the first meeting?

**MS DANIELS**: I am not sure if this would have been the first meeting.

**CHAIRPERSON**: Or from your perspective, was it the first meeting for the Eskom delegation to negotiate with him?

**MS DANIELS**: H'm....

**CHAIRPERSON**: Or are you not sure?

20 **MS DANIELS**: It is not clear from... it is not hundred percent clear from the way I that I dotted my notes.

**CHAIRPERSON**: Okay alright.

**MS DANIELS**: There may have been discussion before that.

**CHAIRPERSON**: Ja. But was it the first one that you attended?

**MS DANIELS**: The first one that I attended.

**CHAIRPERSON**: Okay alright. So you said, what was the first point made or...?

**MS DANIELS**: The first one was that the court action did not sit well with the powers that be. This ...[intervenes]

**CHAIRPERSON**: Who said that?

**MS DANIELS**: This was said by Mr Romeo Khumalo.

**CHAIRPERSON**: Okay. Mr Seleka.

**ADV SELEKA SC**: Yes. Thank you, Chair. And please  
10 carry on Ms Daniels.

**MS DANIELS**: They then, mister... as I said in my affidavit, Mr Khumalo then outlined a framework of a proposal to Mr Matona and ...[intervenes]

**CHAIRPERSON**: Outlined what?

**MS DANIELS**: Sort of a framework of a proposal.

**CHAIRPERSON**: Ja, okay.

**MS DANIELS**: To Mr Matona.

**CHAIRPERSON**: H'm?

**MS DANIELS**: And the proposal included a payment by  
20 Eskom...[intervenes]

**CHAIRPERSON**: I am sorry. Let us just get this right. Who was... who were at this meeting? You were there, Mr Romeo Khumalo is there, Mr Matona was there. Who else was there?

**MS DANIELS**: Let me just check. I am just going to check

my notes if you do not mind.

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

**ADV SELEKA SC**: Well, Ms Daniels your affidavits, you are starting with this at paragraph 57.

**MS DANIELS**: Okay this would be Ms Klein.

**CHAIRPERSON**: Yes?

**MS DANIELS**: Mr Khumalo.

**CHAIRPERSON**: Yes?

**MS DANIELS**: And Dr Ngubane.

10 **CHAIRPERSON**: Yes, okay and yourself?

**MS DANIELS**: Ja.

**CHAIRPERSON**: What was your role? Was it to advise the delegation on legal matters or what?

**MS DANIELS**: No, at that stage what Dr Ngubane wanted me to do was to take notes when he was not there.

**CHAIRPERSON**: Oh.

**MS DANIELS**: You will recall that he testified that he was going to employee engagement meetings.

**CHAIRPERSON**: Yes.

20 **MS DANIELS**: So he ...[intervenes]

**CHAIRPERSON**: Okay so you ...[intervenes]

**MS DANIELS**: So he did not ...[intervenes]

**CHAIRPERSON**: You were at these meetings that we are talking about for negotiations with the executives at the request, at the instance of Dr Ngubane?

**MS DANIELS:** Yes.

**CHAIRPERSON:** And your task was to take notes?

**MS DANIELS:** Take notes, organise the venue.

**CHAIRPERSON:** The logistics.

**MS DANIELS:** The logistics.

**CHAIRPERSON:** Ja, okay.

**MS DANIELS:** So I would take instruction from either Dr Ngubane or Ms Klein.

**CHAIRPERSON:** Okay alright okay. Continue. The Romeo  
10 about the framework?

**MS DANIELS:** Yes.

**CHAIRPERSON:** Ja?

**MS DANIELS:** And what he was talking about was, you know, and from my notes it seems like there had been prior discussions because there was no commitment now to a specific role in government because they were talking about his transfer.

The financial issue around what proposal they would give him and the messaging in terms of how would they  
20 communicate to the public.

And also, then did say the court action did not sit well with the powers to be and that one would have to deal with that, that matter. Mr Matona then responded ...[intervenes]

**ADV SELEKA SC:** Can I just before you go there Ms Daniels? Let us read your affidavit... these two paragraphs

into the record. That is paragraph 64 because they are significant. Page 15 of your affidavit.

**MS DANIELS**: Do you want me to read it?

**ADV SELEKA SC**: I will read it.

**MS DANIELS**: Okay.

**ADV SELEKA SC**: It says:

“That the delegation subsequently met with Mr Tshediso Matona on the same day.”

Now... sorry, I have asked you out of sequence of your  
10 affidavit because you started with Ms Molefe on the  
4<sup>th</sup> of May and now you carry on and you say:

“On the same day, the meeting with Mr Matona.”

**MS DANIELS**: Yes, that is correct. It was the 4<sup>th</sup> of May.

**ADV SELEKA SC**: And so the delegation does not go away.  
They wait for the next person to come.

**MS DANIELS**: Yes, there were a series of meetings on the  
4th of May.

**ADV SELEKA SC**: On the 4<sup>th</sup> of May at the Protea Hotel.

**MS DANIELS**: At the Protea Hotel. Yes, that is correct.

20 **ADV SELEKA SC**: So it goes on to say:

“Mr Khumalo opened the discussion and emphasised that at that stage there was no commitment to a specific alternative role in government and that it would be considered.

He emphasised that Mr Matona’s court action did not

set well with the powers that be. There appeared to have been prior discussion that I was not privy.

Mr Khumalo then proceeded to outline the framework of a proposal to Mr Matona. He stressed that Eskom was committed to managing the messaging together with Mr Matona so that his dignity and credibility, as well as the credibility of the board remained intact.

10 The financial proposal included the payment by Eskom to the Government Employees Pension Fund to secure Mr Matona's full benefit as government employee.

Since had been at Eskom for a relatively short time, it was confirmed that Eskom and the Department of Public Enterprises were working together to secure the full benefit to have him approved and reinstated. The prospect of another role in government was also mooted.

20 Mr Matona requested that a formal proposal be tabled and that a further meeting be set out."

And you are talking... then you go to the second meeting with Ms Molefe.

So let us go to the meeting with Ms Molefe which is... which comes prior to this one. In a nutshell – I know you set it out in your affidavit – what can you tell the Chairperson



about that meeting?

**MS DANIELS**: Well, Mr Chairman at this meeting, this one was led by Ms Klein and she very early on set the tone of the meeting by saying... explaining to Ms Molefe that this is the delegation that has been put together to talk to the executives. And her question was: How do we amicably find a solution?

**CHAIRPERSON**: Whose question?

**MS DANIELS**: Ms Klein to ...[intervenes]

10 **CHAIRPERSON**: Ms Klein's question to Ms Molefe.

**MS DANIELS**: ...to Ms Molefe.

**CHAIRPERSON**: Yes.

**MS DANIELS**: To Ms Tsholofelo Molefe is, how do we find amicably find a solution. Ms Molefe, obviously, responded by saying... you know, this was actually the first time that the board met with Ms Molefe or in fact communicated with her because she said there had been eight weeks of no communication. And then Mr Khumalo took over and said in very direct English:

20           “Without prejudice and reserving the rights of Eskom, the terms of reference for the review were developed by the Audit and Risk Committee and that this was a separate discussion.”

He went on to say:

“Can we find a way of amicable parting ways? The

parties would like to avoid the legal angle on each side. Would you consider a managed parting of the ways? Would you be open to this discussion and also the public management thereof?”

**ADV SELEKA SC:** So how were you able to recall all these details?

**MS DANIELS:** I wrote my hand... these are my handwritten notes, Mr Chairman. It is not that I have a super memory but I did write who said what and I did make these quotes.

10 **ADV SELEKA SC:** Where does the notes that you would have made available to Dr Ngubane?

**MS DANIELS:** You know Mr Chairman, Dr Ngubane actually did not ask for my notes if I recall now.

**ADV SELEKA SC:** Ja, because I understood that he was asking you to be present in those meetings in order to do exactly that, take notes so that you can provide him with...

**MS DANIELS:** Yes, if I look back now, he did not ask me for them.

**ADV SELEKA SC:** So ...[intervenes]

20 **CHAIRPERSON:** Did you offer them?

**MS DANIELS:** I would have given him, you know, verbal feedback but I think because there was this delegation of the board in any event, that grouping spoke to each other.

**ADV SELEKA SC:** Well, Ms Klein did say, she recall the words... what?... amicable. Amicable or parting being

mentioned or separation. But, anyway, they will deal with what you are saying in due course. So Ms Molefe, according to you, responds and essentially she required more time?

**MS DANIELS:** Yes, she did.

**CHAIRPERSON:** Mr Matona gave evidence and said that at the first meeting he had with the Eskom delegation after the CCMA...

After he had referred the matter to the CCMA and had been postponed, he said the delegation or one of the people  
10 on the Eskom delegation.

And I do not know if he said it was Mr Khumalo, but he said he was told that... well, one, he said he wanted to return to his job but he was told in no uncertain terms that that was off the table.

Do you... that is what he has said. And I think Ms Klein has denied that if I am not mistaken.

**ADV SELEKA SC:** She was ...[intervenes]

**CHAIRPERSON:** Or maybe she has not. Do you... did he say that in any meeting that you attended, Mr Matona?  
20 That.. was that said? The part that was said by him, did he say it?

And the part that he says was said by somebody from the Eskom delegation. Did he say that he wanted to get back to his job?

**MS DANIELS:** Mr Matona did say that he wanted his job

back.

**CHAIRPERSON:** He did say that?

**MS DANIELS:** He did say that.

**CHAIRPERSON:** Ja. Was there a response?

**MS DANIELS:** But the response was, you know, the court action did not sit well. So it was implied that they did not want him back.

**CHAIRPERSON:** So you were present at the meeting where Mr Matona said he wanted to get back to his job?

10 **MS DANIELS:** Well, he spoke about... at this meeting of the 4<sup>th</sup> of May ...[intervenes]

**CHAIRPERSON:** Ja.

**MS DANIELS:** He spoke about the impact that this had had on him and that he would want his job back. But the discussion did not go that way.

**CHAIRPERSON:** Yes, but you... do you remember or do you not remember anybody from the Eskom delegation saying: Gong back to your job is off the table or words to that effect.

20 **MS DANIELS:** Not at this meeting, Mr Chair. It may ...[intervenes]

**CHAIRPERSON:** You do not remember that?

**MS DANIELS:** It may have been at a previous meeting.

**CHAIRPERSON:** Yes.

**MS DANIELS:** But certainly by the time it got to this meeting of the 4<sup>th</sup> of May ...[intervenes]

**CHAIRPERSON:** Yes?

**MS DANIELS:** ...it was not about returning to his job.

**CHAIRPERSON:** Well, his evidence was that of the two meetings that he held with the Eskom delegation, it was in the first of the two meetings where he raised this issue of him going back to work.

Then he said he was told in very clear terms that that was off the table, out of the question. You say you do not remember hearing anybody saying that to him?

10 **MS DANIELS:** No, not from what I have written down.

**CHAIRPERSON:** Yes.

**MS DANIELS:** That I think was at a meeting.

**CHAIRPERSON:** Ja.

**MS DANIELS:** Because here already the proposal is already in the formulation stage.

**CHAIRPERSON:** Ja, okay. Mr Seleka?

20 **ADV SELEKA SC:** Thank you, Chair. And then you attended Mr Matshela Koko's meeting as well and you seek to convey that that meeting was different from the others in comparison?

**MS DANIELS:** The meeting was markedly different to the others.

**CHAIRPERSON:** Well, before you get to that one, let us talk about where Ms Molefe was – the meeting with – in the Eskom delegation and Ms Molefe, did she talk about going

back to work at all at her meeting with the Eskom delegation?

**MS DANIELS:** She – I think the first issue for her was that there had been no communication whatsoever.

**CHAIRPERSON:** Sorry?

**MS DANIELS:** I think the first issue for Ms Molefe was that there had been no communication whatsoever so she did not have an understanding of where the inquiry was, what her position was, you know, she – the impression I  
10 got is that she did want to come back.

**CHAIRPERSON:** The impression you got was that she did want to go back?

**MS DANIELS:** Yes.

**CHAIRPERSON:** But was that based on what she said or was just your impression?

**MS DANIELS:** Just my impression at the time because this was actually – for her, the 4 May was the first meeting that she had actually spoken to the board.

**CHAIRPERSON:** Yes. Do you know what the attitude of  
20 the Eskom delegation was to the possibility of her going back to work?

**MS DANIELS:** Well, it was at that meeting that they had already spoken about how do we find a solution for you to leave.

**CHAIRPERSON:** Yes.

**MS DANIELS:** So that is how the meeting started.

**CHAIRPERSON:** Yes, did the solution necessarily exclude her going back to work?

**MS DANIELS:** Yes.

**CHAIRPERSON:** Why do you say that?

**MS DANIELS:** Because it said - what was asked to her was, can we find a way of amicably parting ways?

**CHAIRPERSON:** Yes, okay and that came from the Eskom delegation?

10 **MS DANIELS:** That came from the Eskom delegation.

**CHAIRPERSON:** Not from her.

**MS DANIELS:** Not from her.

**CHAIRPERSON:** Yes and what was her response to this?

**MS DANIELS:** She said – because it ended with would be open to this discussion and also the public management thereof, that was the delegation quote. And she responded by saying Eskom had already appointed lawyers in the matter so it puts her at an unfair advantage – I mean, put them at an unfair advantage and the trust issues are so  
20 deep so it would be something I would consider.

**CHAIRPERSON:** Okay, alright. Then you can move to Mr Koko's meeting with the delegation. Mr Seleka?

**ADV SELEKA SC:** Thank you, Chair, thank you. Yes and you were ...[intervenes]

**CHAIRPERSON:** I just wanted to make sure that before

she says Mr Koko's meeting with the delegation was different with a clear picture as to how the other two meetings were like.

**ADV SELEKA SC:** Indeed. Indeed, Chair.

**CHAIRPERSON:** Okay.

**ADV SELEKA SC:** Ms Daniels, then you may go into Mr Koko's meeting.

**MS DANIELS:** Yes. Oh...

**ADV SELEKA SC:** This meeting, does it take place on the  
10 same day as well?

**MS DANIELS:** This one was on the 11 May 2015.

**ADV SELEKA SC:** So you deal with it on paragraph 68 of your affidavit and could you briefly just explain to the Chairperson how this meeting compares to the others? The other two you have mentioned.

**MS DANIELS:** Mr Chairman, this meeting was markedly different in that it was hosted – it was hosted by Mrs Klein and Mr Koza and there was quite collegiate familiar, you know, sort of bantering beforehand and it was – it was  
20 opened by Mrs Klein with sort of – even though the correct words were like without prejudice and off the record, it opened with how do we treat people and things like that. So there was a tone being set, you know, which was different ...[intervenes]

**CHAIRPERSON:** It was a what meeting?



**MS DANIELS:** It was more collegial than the others.

**CHAIRPERSON:** Ja, okay.

**MS DANIELS:** You know, the others were more adversarial.

**CHAIRPERSON:** Yes.

**MS DANIELS:** In terms of they came in, they sat down and the next question is, how are we going to part ways. This one, there was banter, it was – ja, it was just – the atmosphere was different. He was also given time to  
10 explain and he went into, you know, great lengths of saying thank you for the opportunity for being heard even though he reserved his rights and things like that and he once again went on about I really do not understand why I have been suspended, you know, but he would not make it difficult for the board if the board thought that he should not come back. So it was very much – and I think that he was shocked and he could not understand why he was where he was at that point.

**CHAIRPERSON:** Did you say you think he was shocked?

20 **MS DANIELS:** These are words that he used.

**CHAIRPERSON:** Oh, that he used.

**MS DANIELS:** In this presentation because he was allowed to actually present to the board.

**CHAIRPERSON:** You believe he was shocked?

**MS DANIELS:** No, I thought he was acting.

**CHAIRPERSON:** Okay. Yes, continue?

**MS DANIELS:** He was a very good actor. And, you know, it was about – he could not understand where he was and it is at this meeting that, you know, he coined that phrase that Eskom is my veins, the blood in my veins is blue, those kinds of things, so he really went to town. And they actually indulged him in terms of explaining. Of course he did come with the narrative of the reason for his suspension was because of Mr Tsotsi and his animosity  
10 with Mr Tsotsi. So that came – that was in the narrative. I think then what was important, he also, you know, pointed out his career in Eskom and things like that. So there was a lot of that.

Ms Klein then also thanked him for being very honest with the board and so did Mr Koza. They both said thank you for the explanation, thank you for sharing this knowledge with us, this was a totally different tone to the other meetings, none of the other executives where -  
meetings, where I had been present, had ever had this kind  
20 of dialogue or exchange.

And then the question came from Ms Klein as could you fully trust this board again? And he responded that he would be able to – that he was confident that the issues of the previous board were resolved and that he would be able to work with this board.

**ADV SELEKA SC:** Are you done?

**MS DANIELS:** I think that...

**ADV SELEKA SC:** It is paragraph 71.

**MS DANIELS:** Ja, that is what I...

**ADV SELEKA SC:** Ms Klein in her affidavit to the Commission, Ms Klein says Mr Koko was the one executive who wanted his job back.

**MS DANIELS:** That is incorrect in my view, Mr Chairman, because they were not given the opportunity to even, you  
10 know, articulate it properly that they wanted their job back, they were just – the first line in the meeting was, how do we part ways? So even if they were considering coming back, there was just no opportunity for them to do so.

Mr Koko was asked would you trust this board and would you be able to work with this board again?

**ADV SELEKA SC:** You may or may not know this but Ms Klein in particular has also stated in her affidavit that she understood that the – at least the two executives, that is Ms Tsholofelo Molefe and Mr Marokane wanted settlement  
20 agreements with the board, that is why the board appointed a delegation to go create settlement agreements with them. If you do not know, you do not know. If you know you may tell the Chairperson what you know.

**MS DANIELS:** Mr Chairman, I do not know the minutiae but from where I was sitting, that was not the approach of

the board. This delegation was appointed to exit the executive and more particularly Mr Matona, Mr Marokane and Ms Molefe.

**ADV SELEKA SC:** You know, I am reminded because I am giving you Ms Klein's version to the Commission, I am reminded of one version she also gave which is that you were – it appears that you were in fact involved in the drafting of the letters for the suspension of the executives, you together with Mr Salim Essa.

10 **MS DANIELS:** Yes. Mr Chairman, I addressed that in my supplementary affidavit. Those letters which she attaches were drafted purportedly on the 10 March. I did have a template of the letterhead so I could accept that I would be the author, listed as the author, but if you look at the data presented on there, there are a couple of red flags on that, on that metadata that she presented.

20 Firstly, the letters are printed before they are created, they are also talking of hearings of suspension which did not take place, on their own evidence, and it would be impossible for me to have worked with someone that I had just met. So you will see in my affidavit I said I question the authenticity of those letters.

**ADV SELEKA SC:** Yes. In fact the letters are termed pre-suspension letters. But now in your explanation to the Chairperson, I want to go back to these exit negotiations,

you called them. If you say the board – what the board sought to achieve was to exit the executives, the three you have mentioned, did you know what the reason for that was because here they would get rid of or exit the CEO and the CFO all at the same time.

**MS DANIELS:** Mr Chairman, my only supposition as to why these people needed to be exited from their position was to make way for Brian Molefe coming to Eskom and the eventual transferring to Anoj Singh as well because those  
10 were the positions that were open. Mr Koko came back to generation, I think he was moved from procurement and engineering.

**ADV SELEKA SC:** He was moved from where?

**MS DANIELS:** From group technology and commercial. He went to generation when he came back in Brian Molefe's time.

**ADV SELEKA SC:** So generation, it is a division within Eskom?

**MS DANIELS:** Yes, that is correct.

20 **ADV SELEKA SC:** Can you explain to the Chairperson what generation was responsible for?

**MS DANIELS:** Generation was responsible for the managing and operation of the power stations.

**ADV SELEKA SC:** Now your explanation to the Chairperson that you think the executives were being

removed in order to make way for Mr Brian Molefe and Mr Anoj Singh, is that just an impression on your part or do you have some factors that you are able to point to for the benefit of the Chairperson which you would say you relied on for making that conclusion?

**MS DANIELS:** One of the factors is that while these negotiations were – discussions were continuing, the board – Mr Molefe had already – Mr Molefe, Brian Molefe had already arrived at Eskom and in fact on – I think it was the  
10 4 May he had in between these exit negotiations, the board delegation had a meeting with Mr Molefe. I do ...[intervenens]

**ADV SELEKA SC:** Is that on page 17? Page one seven, paragraph 73?

**MS DANIELS:** No, no, that was a different meeting. It would be paragraph 62, Mr Chairman, of my affidavit. Because, as I say, in between the meetings a meeting with Brian Molefe also took place.

**ADV SELEKA SC:** This is one the – which date is this?

20 **MS DANIELS:** On page 40.

**ADV SELEKA SC:** Ja, but the date?

**MS DANIELS:** This was on the 4 May, the very same day that the delegation met with Ms Molefe and Mr Matona.

**ADV SELEKA SC:** Well already in April the Minister had announced the secondment of Mr Molefe.

**MS DANIELS:** Yes.

**ADV SELEKA SC:** 17 April. 17 April 2015.

**MS DANIELS:** Yes, she literally parachuted into the office that day. If I recall, I was standing at the CEO's – next to his desk delivering some documents and the next minute Minister Brown comes literally flying in with Brian Molefe in tow. The Chairpersons of Eskom and Transnet I think arrived a little bit later. You know, there was a time difference but they – that is he literally was parachuted  
10 into Eskom.

**CHAIRPERSON:** He or she was literally what?

**MS DANIELS:** Parachuted into Eskom.

**CHAIRPERSON:** Who is that now?

**MS DANIELS:** Mr Molefe.

**CHAIRPERSON:** Oh, Mr Molefe.

**MS DANIELS:** Brian Molefe.

**CHAIRPERSON:** Yes, okay.

**MS DANIELS:** He arrived with Minister Brown.

**CHAIRPERSON:** Oh.

20 **MS DANIELS:** On the day that ...[intervenes]

**CHAIRPERSON:** On the day that he arrived.

**MS DANIELS:** ...Mr Seleka talks about.

**CHAIRPERSON:** Yes.

**MS DANIELS:** Is it the day that he arrived?

**CHAIRPERSON:** One second, Mr Seleka. Sorry, Mr

Seleka, we are at half past four. I need us to take a break but let us talk about how much more time you envisage you might need with Ms Daniels?

**ADV SELEKA SC:** Thirty minutes, Chair. I personally need 30 minutes.

**CHAIRPERSON:** 30 minutes?

**ADV SELEKA SC:** Yes, Chair.

**CHAIRPERSON:** Okay. No, that s fine. Ms Daniels, that is still fine with you, we can continue?

10 **MS DANIELS:** That is fine.

**CHAIRPERSON:** Okay, counsel for all concerned, it that fine? Okay, thank you. Let us take a short break, it is half past four now, let us resume at quarter to five and then we will go on and then we finish.

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

**CHAIRPERSON:** Okay, we adjourn.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Okay let us continue.

20 **ADV SELEKA SC:** Thank you DCJ, Chairperson. Ms Daniels you are still under oath, thank you. Just before the adjournment then we talked about what in your view would have been the reason why the executives were exited by the Board, and the subsequent secondment then of Mr Molefe. Correct? Your microphone is off.



**MS DANIELS:** That is correct Mr Chair.

**ADV SELEKA SC:** Were you aware beyond what you have mentioned how the secondment of Mr Brian Molefe came about, and now when I am asking you that question and you don't know the answer please do not speculate, unless we ask you to surmise from what was happening. Were you aware of how he was seconded?

**MS DANIELS:** I am not aware of how he was seconded Mr Chairman but I did have to administer the process of  
10 regularising if that is what Mr Seleka is asking.

**ADV SELEKA SC:** Oh yes, you had to administer?

**MS DANIELS:** Administer the process, put the paperwork in place.

**ADV SELEKA SC:** Of what?

**MS DANIELS:** Of the secondment.

**ADV SELEKA SC:** Yes.

**CHAIRPERSON:** And probably what you should tell me is what it is that you implemented in order to give effect to – in order to bring about the secondment.

20 **MS DANIELS:** Okay.

**ADV SELEKA SC:** Yes, you can certainly do so, Chairperson as she answers your question Ms Daniels has indicated to us – we would actually prefer her to have an affidavit specifically submitted to us dealing with the secondment.

**CHAIRPERSON:** Yes, I am quite happy that she deals with that after she has submitted her affidavit, if you are happy, I was just trying to simplify your question. So I think it is up to you whether you want her to deal with it briefly or you want to defer it to after – to the next time she comes back.

**ADV SELEKA SC:** Ja, Ms Daniels you are going to go into the details which I wouldn't know offhand, I would prefer that we defer it.

10 **MS DANIELS:** I would also prefer because it actually is quite detailed Mr Chairman.

**CHAIRPERSON:** Yes.

**MS DANIELS:** And I would like to put a full picture before you.

**CHAIRPERSON:** Ja, okay.

**ADV SELEKA SC:** Okay thank you. Then in regard to – were you aware that executives were suspended on the ground or preferred reason that there was going to be an investigation.

20 **MS DANIELS:** Yes, that was explained to us Mr Chairman as employees by Ms Klein and Mr Tsotsi.

**ADV SELEKA SC:** Yes, and we understand that Dentons was subsequently appointed to conduct an investigation.

**MS DANIELS:** That is correct.

**ADV SELEKA SC:** Did you have to deal with Dentons?

**MS DANIELS:** I did not deal with the appointment of Dentons, I was interviewed by one of the Dentons team members.

**ADV SELEKA SC:** You were interviewed?

**MS DANIELS:** Yes I was.

**ADV SELEKA SC:** Do you know why were you interviewed, why you were interviewed?

**MS DANIELS:** Because one of the areas was primary energy and procurement, I got interviewed on those issues.

10 **ADV SELEKA SC:** And who was the – what do you call them, the Group Executive for that division?

**MS DANIELS:** At the time of the review it was Matshela Koko, Acting Group Chief Executive – Group Executive, my apologies Mr Chair.

**ADV SELEKA SC:** Let me put this to you, Ms Klein talks about this Dentons report, but there were three versions and the first version was destroyed, according to her because it disclosed the names of persons and entities who had not been consulted. She goes on to talk about the  
20 second version which – from which the names were redacted and then talks about another version which was redacted by yourself and subsequently made public without the Board approval. Could you respond to that, well firstly are you aware of those allegations she is making?

**MS DANIELS:** I did watch the testimony of Ms Klein Mr

Chairman so I am well aware of what she testified. I am also aware of what she puts on affidavit because the Commission provided it to me to respond and I do have a response to that. Mr Seleka's question is just a bit complex, as most matters at Eskom, so I am not sure where to start Mr Seleka, I would just need guidance from you.

**CHAIRPERSON:** Simplify it for her.

**ADV SELEKA SC:** If I may simplify it thank you Chair.

10 Let's start with what is the version of the report said to have been destroyed.

**MS DANIELS:** Mr Chairman I want to unequivocally tell you that the versions of the Dentons report that you have and that the Commission has is not complete. There has been an original version that was destroyed, and the reason I say that is because I had sight of that version by virtue of the fact that I was in the office of Dr Ngubane. That version which for the purposes of just as I say was complicated I am going to call the original version because  
20 that is how it is referred to in the minutes, but that original version is non-existent in today's time, and I say so because I had to read it at the time, it was a presentation, it was not in a formal report yet, it was a presentation through the Board of Eskom and it detailed the tender manipulation, the criminality that was associated with one

Matshela Koko and it went into detail into the interviews that were conducted, so there was quite – it was quite a damning report but any Board should not have discarded at that stage.

The report spoke about the other divisions, it did speak about you know how we could improve processes around primary energy, diesel purchases, the financing, it actually did not find any fault for want of a better word with the way that the finances were reported you know because  
10 there were external entrances. Group capital it spoke about how we could do things better in terms of project management, which were things that were already being addressed in Eskom.

The primary areas that were really, really unpacked were the procurement areas of which Matshela Koko's name featured prominently as to how the manipulation took place. That version was then collected and destroyed. I found an electronic version, well I thought it was, on my computer which I did hand to the Commission, but I don't  
20 we could have broken the code to that, but so that is why I am saying my testimony and why I am passionate about saying that original document and that the Board deliberately destroyed.

**CHAIRPERSON:** So but you say the report that was destroyed you have got – you have been able to find a

version of it in your computer.

**MS DANIELS:** I thought it was a version, I am not sure because it is ...[intervenes]

**CHAIRPERSON:** Oh, so you have not been able to access it?

**MS DANIELS:** No.

**CHAIRPERSON:** Okay, but if it is accessed you would know if – once you read it you would know if it is the same?

10 **MS DANIELS:** Yes that is correct Mr Chairman and I have handed that to the Commission.

**CHAIRPERSON:** Yes, okay, alright. Now do you know whether that report had been submitted to the Board by Dentons as Dentons Report or final report or whether it had been submitted as one of the drafts before the final report?

**MS DANIELS:** It is not clear from the records of Eskom that we went through.

**CHAIRPERSON:** Yes.

20 **MS DANIELS:** But from my recollection it wasn't in report form, it was in presentation format and it said these are the findings that are coming out.

**CHAIRPERSON:** Oh, is your understanding that this was a presentation that Dentons was putting, was going to put before the Board in order to forewarn them of what to expect in the final report?

**MS DANIELS:** Yes, that would be a good way to describe it.

**CHAIRPERSON:** Yes. But do you know whether Dentons ever got a chance to present that document to the Board in a meeting or whether Dentons simply submitted that document to the Board for the Board members to read so that they are forewarned of what the final report was to look like?

**MS DANIELS:** Mr Chairman it is not clear from the  
10 records of Eskom whether that was in a meeting because the copy that I was you know was presented was handed to me by Dr Ngubane so I wasn't – I am not sure but in the minutes you will see, and I refer to them and I say in paragraph 88 of my affidavit.

**CHAIRPERSON:** Yes.

**MS DANIELS:** That these details did not make it into the official records of Eskom as it was decided by the Board that it would be destroyed. This is recorded in the Board minute of 14 August where it clearly states:

20 "Concern was expressed with regard to the collection and destruction of initial reports. The Company Secretary was expected to take the necessary steps to ensure that all original reports were connected in exchange for the final report, in view of the concern the Chairman of P & G, People

in Governance, Ms Veneta Klein undertook to ensure that all reports were returned to her within seven days for them to be destroyed.”

**CHAIRPERSON:** Yes.

**MS DANIELS:** And that is why I say that that original report – I am not sure you know they talk about initial reports, and they talk about original versions but for me that version has not made it into the official records of Eskom.

10 **CHAIRPERSON:** Having read both, I take it you have read the final report of Dentons.

**MS DANIELS:** Yes.

**CHAIRPERSON:** Is it your observation that there is a vast difference between the final report and the document that you say was destroyed which you think sought to forewarn the Board of what was to come in the final report?

**MS DANIELS:** Yes, that is my contention Mr Chairman.

**CHAIRPERSON:** Yes.

20 **MS DANIELS:** Unequivocally so that because you will see that the reports that I have provided to the Commission the preliminary report and the final report are very similar because the Board actually stopped, instructed Dentons to stop the investigation, so those two reports even though they are two reports, they are very similar, there is not much difference, I think the dates are even the same



because they say instructed to stop as at this date.

**CHAIRPERSON:** And you say that the differences between the final report and that document that you say was destroyed relates to the alleged role that was played – was set to have been played by Mr Koko in procurement matters?

**MS DANIELS:** Yes.

**CHAIRPERSON:** That is where the big difference lies.

**MS DANIELS:** Yes, the big difference lies in the influence  
10 on particular contracts.

**CHAIRPERSON:** Yes.

**MS DANIELS:** Particular specifications, manipulation over a period of time.

**CHAIRPERSON:** Ja, okay, okay. Mr Seleka?

**ADV SELEKA SC:** Thank you Chairperson. Ms Daniels you may want to refer the Chairperson to the minutes, the minute of the meeting you are referring to I think is paragraph 89 where you say:

20 "A copy of the minutes is attached and marked SMD7."

You will find that on page 47.

**CHAIRPERSON:** I am sorry, before that, this document you are talking about that was ultimately destroyed it would have – would it have been emailed to the different members of the Board or would hard copies have been

made and they were distributed physically at a meeting of the Board and after the meeting they were collected to be destroyed?

**MS DANIELS:** This was hard copies Mr Chairperson.

**CHAIRPERSON:** Yes.

**MS DANIELS:** These were not emailed.

**CHAIRPERSON:** Ja.

**MS DANIELS:** These were hard copies.

**CHAIRPERSON:** Okay, alright. Yes Mr Seleka?

10 **ADV SELEKA SC:** Thank you Chair, and I think the Chairperson's question might be answered by what is reflected on the minutes. I see the minutes are on page 47, minutes of Eskom Holding Board Meeting extract from the final minutes of Eskom Board In-Committee meeting on 14 August 2015 at the Eskom Research Testing and Development Boardroom, do you see that at 900?

**MS DANIELS:** Yes. So Mr Chairman that is the resolution that I quoted it is actually on page 49, it is item 6.2.1 and it says:

20 "Company secretary should ensure that all initial reports are collected and destroyed in exchange for the receipt of the final Denton report.

6.2.2

It is not noted that the Chairman of People in Governance as in 6.2.1 above ensures all reports

are returned to her within seven days and destroyed.”

**ADV SELEKA SC:** I see also on page 48 paragraph 123 members considered mediates dictation, do you see that?

**MS DANIELS:** Yes.

**ADV SELEKA SC:** Could you read that also quickly?

**MS DANIELS:**

10 “Members considered the media expectation with regard to the outcome of the Dentons investigation and supported that the report be released to the Minister with a covering letter from the Chairman of the Board articulating the next steps. Copies of the final report would be delivered to the members, the Group Executives, the Chief Financial Officer and external auditors. However concern was expressed with regard to the collection and destruction of the initial reports. The Company Secretary was expected to take the necessary steps to ensure that all original reports were collected in exchange for  
20 the final reports. In view of this concern the Chairman of P & G, Ms Veneta Klein, undertook to ensure that all reports were returned to her within seven days for them to be destroyed.

**ADV SELEKA SC:** Then follow that resolution you started with in paragraph 6.2.1 and 6.2.2.

**MS DANIELS:** Yes, that is correct.

**CHAIRPERSON:** I see that those minutes are not signed, but we have seen minutes last week and maybe this week that were signed like more than a year later and so forth. Do you know whether there is any particular reasons why these ones are not signed?

**MS DANIELS:** Mr Chairman these were extracts of minutes, you will it is noted extract, I am not sure why it is signed but this one comes from my personal file.

10 **CHAIRPERSON:** Okay.

**MS DANIELS:** Because I kept the minutes or I kept some in my records so the original should be signed.

**CHAIRPERSON:** Oh, so there should be a signed one?

**MS DANIELS:** There should be a signed version.

**CHAIRPERSON:** Okay so the legal team we must check that.

**ADV SELEKA SC:** Yes Chair. Ms Daniels then the issue regarding you are said to making public a further redacted version of the report without Board approval, which is what  
20 Ms Veneta Klein alleges happened.

**MS DANIELS:** Mr Chairman the redacted version happened in 2017, February 2017. At the time I did talk about it in my supplementary affidavit. At the time, late January, we were hit with a number of PAIA applications and also a set of media questions by the former

investigative journalist Sikonathi Mantshantsha who is now the spokesperson for Eskom. He sent a rather detailed I think it was about three page of questions and we had a number, I think there were three or four PAIA applications at the same time.

The Board had decided to release the final Dentons report, but at the same time had asked me to get legal opinion on how do we do that in terms of the PAIA provisions etcetera, and were we allowed to release those  
10 documents as is, you know without – because we hadn't notified the affected parties, even though the report was not incriminating there were names of companies and earnings and things like that in there, and the initial reports show that while we could release Eskom employees and Eskom officials we would need to notify the companies involved etcetera, and the preliminary legal opinion was shared with the Board. The recommendation was that we redact those names from the report that was to be released to the public and it is that redacted report that was then  
20 released in 2017, there was no malice intended, it was purely based on legal advice, I do have the files, I will make it available to the Commission, the legal opinion stating why we did that.

I would not have been, I actually also sent it to the Minister on the 1<sup>st</sup> of February because the immediate

conference was set for the 7<sup>th</sup> of February so I sent her a copy of the speech, a copy of you know the documentation and the rationale as to why we would be redacting the document on the 5<sup>th</sup> of February and I said this was a preliminary legal opinion. I would not have been able to send that to the Minister had the Board not been aware of that, so that is why I contest Ms Klein's version in saying that you know she makes it appear as if I redacted out of my own volition and just made it appear on that day.

10 In fact on the day of that press briefing Dr Ngubane asked me to explain to the media why we had redacted the document, so I do have those documents available. It was not done out of seeking to hide information, it was done on the advice of counsel.

**ADV SELEKA SC:** And you are saying to the Chairperson that the Board was aware of that?

**MS DANIELS:** Yes, the Board was much aware of that because I would not be able to – I would not have been able to converse with the Minister in the manner that I did  
20 had the Board not been availed of that information.

**ADV SELEKA SC:** Two last points and – sorry – may we go back to the testimony you have already given. The last meeting that you had at Melrose Arch where you place is it the Minister or Deputy Minister, Ben Martens?

**MS DANIELS:** Deputy Minister of Public Enterprises.

**ADV SELEKA SC:** Yes in that picture I mean this work stream hasn't investigated that I should draw to your attention and I am sure you know by now that Mr Ben Martens has denied being present in that meeting.

**MS DANIELS:** Yes, he denied it immediately the next morning, I woke up to a press conference being held by Minister Martens, I am fully aware that he had denied it.

**ADV SELEKA SC:** Okay Chair I don't know whether she needs to comment on that but it is a matter we haven't  
10 investigated. Number two Ms Daniels it is the paragraph in your affidavit on page 17, paragraph 73 where you're talking the Board delegation meeting on 19 May 2015 and that you were in attendance and I think you need to address that to the Chairperson because the members of the Board delegation those who were appointed to be the Board delegation will have to be confronted with what you say there.

**MS DANIELS:** Yes Mr Chairman on the 19<sup>th</sup> of May this was after these discussions with the suspended executives  
20 the – Ms Klein and I am just trying to – here – Ms Klein opened this discussion by saying that they needed to find settlement with the parties because they needed to clear the decks, and I put that in quotation marks because that is how I made my notes. \_She also confirmed that the shareholder has approved to get rid of the people and make

the necessary concessions if it suits out the problem. And she stressed that the priority is to get the people off and away.

The meeting then discussed the various settlement arrangements that had been put in place and it said that the minister had a ceiling of R12 million to negotiate and that there were...

The guiding principles were as follows, as I put here that there would be... that they would be able to do full cost-to-  
10 company for up to 12-months.

They would be able to pay tranche eight and tranche nine. That was in relation to the incentive, the long-term incentive scheme that executives were on.

They would have... there could be a contribution to the legal costs and a communication plan around the suspended executives could be negotiated.

**ADV SELEKA SC:** Okay. Would you please tell the Chairperson where did this meeting take place?

**MS DANIELS:** My notes do not reflect where this took  
20 place.

**ADV SELEKA SC:** Could this meeting having taken place in Eskom, at Protea Hotel, at Melrose Arch or wherever?

**MS DANIELS:** This would have either been at the Protea Hotel or at Eskom.

**ADV SELEKA SC:** And who was in attendance apart from



yourself?

**MS DANIELS**: This was Ms Klein, Mr Khumalo, Dr Ngubane and Mr Khoza.

**ADV SELEKA SC**: And...?

**MS DANIELS**: Mr Khoza.

**ADV SELEKA SC**: Thank you, Chair. That concludes my questions to Ms Daniels.

**CHAIRPERSON**: Thank you. Where is Annexure SMD6 to which you refer in paragraph 74 of your affidavit?

10 **ADV SELEKA SC**: If I may assist?

**CHAIRPERSON**: Yes, please.

**ADV SELEKA SC**: Page 38.

**CHAIRPERSON**: Page 38?

**ADV SELEKA SC**: Yes.

**CHAIRPERSON**: Oh, somehow I saw the colours at page 38 and somehow I associated those colours with the colours on the cover of the transcript of the parliamentary committee.

**ADV SELEKA SC**: Parliamentary portfolio.

**CHAIRPERSON**: Okay. So I just want...

20 **ADV SELEKA SC**: Chair, may I ask while Chairperson is going through this document?

**CHAIRPERSON**: Sorry?

**ADV SELEKA SC**: May I ask some questions while the Chairperson is going through?

**CHAIRPERSON**: Yes, ja.

**ADV SELEKA SC:** Ms Daniels, this document is dated 4 June 2015 and in your affidavit you refer to it as... what do you refer to it as? It is a briefing to the minister?

**MS DANIELS:** Yes.

**ADV SELEKA SC:** Yes, a brief to the minister from chairman on the status of the suspended executives. Now, the status of the suspended executives, I wonder what did they mean by that. What do you they mean by that?

I see paragraph 1 of the document on page 40, it is  
10 introduction. Paragraph 2 is board resolutions of 11 March 2015. So, those are the resolutions we have learnt about all of last week.

Paragraph 3 deals with the terms and conditions of suspension. Now that too we learnt about but you want to convey to the minister the status. Is it on the 4<sup>th</sup> of June or maybe around that time?

Paragraph 4 deals with effect finding forensic inquiry. So it does not specifically relate to the executives. So 3 says:

20 “The PMG identified the key executives to be put on suspension for the duration of the inquiry as Sthembiso Matona, Chief Executive Officer, Tsholofelo Molefe, Financial Director, Dan Marokane, Group Executive, Group Capital, Malesela Sekhasimbe Koko, Group Executive

Technology and Commercial.”

Paragraph 4:

“But by 4 June, the minister would have known that.”

So what is new here which you are seeking to convey to the minister? You go to page 45.

**MS DANIELS**: Yes.

**ADV SELEKA SC**: Paragraph 5 deals with courts challenged by Mr Matona.

**CHAIRPERSON**: Well, maybe I can ask her this question.

10 You see at paragraph 8, page 45 under interactions with other executives, you write:

“Aside from Mr Matona, the executives have in various ways approach the company and they have indicated that they are amenable to a settlement being made in terms of which they would resign from their positions and accept an exit package.”

Can you see that?

**MS DANIELS**: Yes, I see that.

**CHAIRPERSON**: Now that suggests to me that you are  
20 saying that Mr Matona had not approached the company and indicated that he was amenable to a settlement being made in terms of which he would resign from his position and accept an exit package. Do you accept that?

**MS DANIELS**: I accept that.

**CHAIRPERSON**: Yes.

**MS DANIELS**: Because he took us... he took Eskom to court.

**CHAIRPERSON**: Sorry.

**MS DANIELS**: He took Eskom to court.

**CHAIRPERSON**: He took Eskom to court?

**MS DANIELS**: To court, yes.

**CHAIRPERSON**: Yes, but were you not recording here what the position was as at the meeting that you talk about in your affidavit, I think on the 19<sup>th</sup>... is it the 19<sup>th</sup> of May?

10 Ja, in your paragraph 73. Paragraph 73 of your affidavit which is at page 17, paragraph 73 of your affidavit. You talk about what happened at a meeting of the delegation of the board of 19 May.

And then after you have said what they... what was said at that meeting. You then say in paragraph 74:

“I was then asked to prepare a brief for the minister from the chairman on the status of the suspended executives. A copy of the briefing document is annexed hereto marked Annexure SMD6.”

20 So and then your briefing seems to be dated 4 June 2015. Is that right?

**MS DANIELS**: Yes, that is the date on here with the 7<sup>th</sup>(?).

**CHAIRPERSON**: So the status of the discussions with regard to the suspended executives, what you recorded at paragraph 8, is it what was the position, I mean, as at the

19<sup>th</sup> of May when the delegation of Eskom had a meeting?

Is it what was the position at the time you prepared the document which was 4 June 2015? Or what was it?

**MS DANIELS:** Mr Chairman, the notes from the 19<sup>th</sup> of May were not... was to inform the brief.

**CHAIRPERSON:** H'm?

**MS DANIELS:** The notes from the 19<sup>th</sup> of May that I have did, informed the brief because I, in my preparations for the Commission, is when I discovered by notes.

10 **CHAIRPERSON:** No, I am talking about this document.

**MS DANIELS:** Okay. I would have to ...[intervenes]

**CHAIRPERSON:** SMD6. I am asking whether you sought to record in that document the status of the matter of the executives as to where the process was or as at the 19<sup>th</sup> of May or as at the 5<sup>th</sup> or 4<sup>th</sup> of June or on some other date?

**MS DANIELS:** As of the 19<sup>th</sup> of May.

**CHAIRPERSON:** As of...?

**MS DANIELS:** The 19<sup>th</sup> of May.

20 **CHAIRPERSON:** The 19<sup>th</sup> of May?

**MS DANIELS:** My notes says to TM.

**CHAIRPERSON:** Yes, okay.

**MS DANIELS:** And then there is a question mark.

**CHAIRPERSON:** Ja.

**MS DANIELS:** And to be confirmed.

**CHAIRPERSON**: Okay. So you certainly.... that would... that precede the meetings, the meeting between the Eskom delegation and Mr Matona to try and discuss a resolution of the suspension?

**MS DANIELS**: [No audible reply]

**CHAIRPERSON**: Is the meeting of the delegation of the 19<sup>th</sup> of May precede the meeting of the delegation of Eskom with Mr Matona to try and settle?

**MS DANIELS**: The final meeting, yes.

10 **CHAIRPERSON**: The final meeting?

**MS DANIELS**: Yes.

**CHAIRPERSON**: Had the first meeting taken place?

**MS DANIELS**: Yes, the meeting had taken place.

**CHAIRPERSON**: It had taken place.

**MS DANIELS**: Already.

20 **CHAIRPERSON**: So if your minutes... if this document at paragraph 8 is correct, then it would seem that what you say there, as far as Mr Matona is concerned, is not in line with what Ms Klein said and I think Dr Ngubane as well but I might be mistaken about Dr Ngubane.

Namely, that all the, except for Mr Koko, all the executives wanted to leave Eskom. And they denied, Mr Klein denied any suggestion from Mr Matona that he said he wanted to go back to work. So this, it would seem that what you say in paragraph 8 would in support of Mr Matona's

version.

**MS DANIELS**: That is correct, Mr Chairman.

**CHAIRPERSON**: Yes. But with regard to the other executives, if what you say is to be read as suggesting that they made the approach to Eskom that they wanted to go, if that is what paragraph 8 also means in regard to the other executives, then that would be in line with what Ms Klein, I think, said.

But if you do not mean that but you mean that Eskom  
10 approached them and said let us talk about exit packages.  
And in response they then said: Well, we are amenable that  
might then be slightly different.

Are you able to say which one you are talking about,  
which one of these two scenarios you are talking about?

**MS DANIELS**: Mr Chairman, my scenario is that it was put  
to them ...[intervenes]

**CHAIRPERSON**: Ja.

**MS DANIELS**: ...we want to part ways.

**CHAIRPERSON**: Ja, okay.

20 **MS DANIELS**: Okay. How amenable are you to that?

**CHAIRPERSON**: Ja.

**MS DANIELS**: Okay. Even though I drafted this, this would  
have been signed off by the chairperson. So the language  
would be different.

**CHAIRPERSON**: Ja.

**MS DANIELS:** But what I am saying to you today - and that is why I gave you what was given to the minister – what I am saying to you today is that the executives were not, except for Malesela Koko, the executives were not given a choice.

They may have expressed they wanted to come back but that was not, to use Mr Matona's words, that was not on the table. So you know, that is what I mean.

**CHAIRPERSON:** Okay.

**MS DANIELS:** I am just giving you so that you can see they  
10 have the full picture of what occurred.

**CHAIRPERSON:** Ja. Yes, okay. No, that is fine. So what is your final reaction to Ms Klein's evidence and Dr Ngubane's evidence before me that the board wanted all these executives to come back, they wanted them to come back? It is the executives who choice that they did not want to come back. What is your reaction to that evidence?

**MS DANIELS:** Mr Chairman, with the greatest of respect, Dr Ngubane and Ms Klein are lying to this Commission. They distorted the truth. Ms Klein was at the forefront of  
20 wanting to get rid of the executives, in her own words. Dr Ngubane played this person behind the scenes.

From what I witnessed, there was no intention. Other than Malesela Koko, there was no intention to bring back any of those executives.

**CHAIRPERSON:** Okay alright. Then the last one goes back



to that one of R 800 million. What was your understanding of what Mr Essa wanted you to do in return for him giving you that R 800 million rand if you accepted it?

**MS DANIELS:** Mr Chairman, my understanding was. Mr Koko was on suspension at the time and he would have faced disciplinary action. And had the disciplinary action run properly, he would have been fired.

And I think that what Mr Essa wanted was manipulation of that process. You will see in Malesele Koko's  
10 parliamentary testimony, he only refers to the report that exonerates him. He does not go further than that.

We all know... I spent a lot of time... there were senior counsel appointed to actually run that disciplinary. The board overturned my selection of senior counsel.

The charge sheet was tampered with so that there were gaps. And that is why the disciplinary ended up, you know, being such a sham.

**CHAIRPERSON:** Now... so I thought that you had said the R 800 million was offered so as to get Mr Koko back  
20 ...[intervenes]

**MS DANIELS:** Yes.

**CHAIRPERSON:** ...to the company.

**MS DANIELS:** Yes.

**CHAIRPERSON:** Because he was on suspension at the time.

**MS DANIELS**: Yes.

**CHAIRPERSON**: Is that right?

**MS DANIELS**: That is correct. He was on suspension because of that Impulse International.

**CHAIRPERSON**: Oh, it was not the suspension that we are talking ...[intervenes]

**MS DANIELS**: No, no.

**CHAIRPERSON**: Oh, and this was ...[intervenes]

**MS DANIELS**: That...[intervenes]

10 **CHAIRPERSON**: ...when?

**MS DANIELS**: 2017.

**CHAIRPERSON**: Oh, this was a separate...

**MS DANIELS**: A separate.

**CHAIRPERSON**: Oh.

**MS DANIELS**: He was acting Group Chief Executive already.

**CHAIRPERSON**: Yes. Okay.

**MS DANIELS**: And this was why you will recall that ...[intervenes]

20 **CHAIRPERSON**: Yes. What would have been your... what would be your normal role when an executive such as Mr Koko was to face disciplinary process at that time? What powers did you have?

**MS DANIELS**: I would have assisted with the choice of chairperson and evidence leader and I would have assisted,

you know, getting the evidence together from the Eskom side. And I would have worked with... then once that had been prepared, it would have been handed over to the Industrial Relations Team.

**CHAIRPERSON**: H'm?

**MS DANIELS**: And that is what I did in the beginning to choose, to make sure that the evidence bundle, the charge sheets and everything were correct and were handed over for the IOR Team to run.

10 **CHAIRPERSON**: H'm. Mr Seleka, has this... is this one of the parts that may need to have 3(3)-notices send out before she comes back next time?

**ADV SELEKA SC**: Certainly, Chairperson.

**CHAIRPERSON**: Yes.

**ADV SELEKA SC**: Yes.

**CHAIRPERSON**: Okay.

**ADV SELEKA SC**: Because we do not have it in her affidavit.

**CHAIRPERSON**: Ja, okay alright.

20 **ADV SELEKA SC**: Ja.

**CHAIRPERSON**: So you will tell me more about it when you come back?

**ADV SELEKA SC**: Yes.

**CHAIRPERSON**: When all the details have been put on affidavit.

**ADV SELEKA SC:** Yes.

**CHAIRPERSON:** And those who may be implicating have been served by way of 3(3)-notices.

**ADV SELEKA SC:** Yes.

**CHAIRPERSON:** Okay. I do not know whether counsel for Ms Daniels had any plans to re-examine?

**ADV SELEKA SC:** Chair, before he does that, let me just ...[intervenes]

**CHAIRPERSON:** Oh, you have some questions?

10 **ADV SELEKA SC:** Ja, just one last point to Ms Daniels.

**CHAIRPERSON:** Ja.

**ADV SELEKA SC:** Going back to that paragraph in that report Mr Chairperson referred you to under paragraph 8 which says:

“Aside from Mr Matona, the executive have in various forms approached the company and have indicated that they are amenable to a settlement being made in terms of which they would resign from their positions and accept an exit package.”

20 If you look at Ms Venete Klein’s testimony or even affidavit including your testimony today, because you attended the meeting when Mr Koko’s exist settlement negotiations took place. That paragraph would not be correct in relation to him.

**MS DANIELS:** No, it is not correct. But they did offer, I

think if I recall, they did offer him, you know, a letter.

**ADV SELEKA SC:** Sorry, they what?

**MS DANIELS:** They did give him a letter.

**ADV SELEKA SC:** What do you mean?

**CHAIRPERSON:** What is that?

**MS DANIELS:** H'm...

**CHAIRPERSON:** A letter to say what?

**MS DANIELS:** H'm. What would you call it? Just an indication of what the settlement package would look like.

10 **CHAIRPERSON:** For Mr Koko?

**MS DANIELS:** Yes.

**CHAIRPERSON:** If he wanted to go?

**MS DANIELS:** If he wanted to go, yes.

**CHAIRPERSON:** Oh, okay.

**ADV SELEKA SC:** Oh, I thought he... no, this paragraph says apart from Mr Matona, aside from Mr Matona, the others wanted to go. But that cannot be correct if one looks at the evidence of both yourself and Ms Klein that he wanted to come back.

20 **MS DANIELS:** That Mr Koko wanted to come back?

**ADV SELEKA SC:** Yes, that he wanted to.

**MS DANIELS:** Yes, that is correct.

**ADV SELEKA SC:** So what is being conveyed to the minister here is not correctly reflecting ...[intervenes]

**MS DANIELS:** It is not. It is not correctly.

**ADV SELEKA SC:** ...the position?

**MS DANIELS:** That is correct.

**ADV SELEKA SC:** Well ...[intervenes]

**CHAIRPERSON:** Well, is it correct in regard to the other two executives?

**MS DANIELS:** [laughing]

**CHAIRPERSON:** Did I take it ...[intervenes] [laughing] I am sorry, I just could not resist. [laughing] Is it correct in regard to them?

10 **MS DANIELS:** Mr Chairman, at the time, there was a settlement negotiations ongoing with Mr Marokane and there was ...[intervenes]

**CHAIRPERSON:** That does not mean it is correct. That there were settlement negotiations with him, does not mean this statement is correct, necessarily.

**MS DANIELS:** Yes, that is what I was ...[intervenes]

**CHAIRPERSON:** So the question is about who may be approach?

20 **MS DANIELS:** Ja, that is why I am saying that was not correct. The approach was made by the board.

**CHAIRPERSON:** So this statement, except for Mr Matona, is not correct in regard to any of the other executives?

**MS DANIELS:** That is correct.

**CHAIRPERSON:** Yes.

**ADV SELEKA SC:** And but ...[intervenes]

**CHAIRPERSON:** But that is something you realised only now?

**MS DANIELS:** Yes.

**CHAIRPERSON:** Yes.

**ADV SELEKA SC:** Chair?

**CHAIRPERSON:** Yes.

**ADV SELEKA SC:** That is it.

**CHAIRPERSON:** Counsel for Ms Daniels, did you plan to do any re-examination now or you might do it some... when she  
10 returns?

**COUNSEL:** Chair, I think I need to consult on certain aspects of her evidence.

**CHAIRPERSON:** Yes. So ...[intervenes]

**COUNSEL:** I had to in any event.

**CHAIRPERSON:** Ja. So you could do it next time she comes again?

**COUNSEL:** Indeed so.

**CHAIRPERSON:** Okay alright. Thank you. Alright, we are going to... I am going to release you but you will come back  
20 to deal with the other matters that have not been covered. But thank you for coming. Thank you for everybody for cooperation.

For the rest of the week, the Commission is not going to have any sittings. This is just for the... to inform the public. It will resume on Monday, next week. And next week it will

hear evidence relating what is called the R 1 billion Housing Project of the Free State Government, that will be for next week.

We adjourn.

**REGISTRAR:** All rise.

**INQUIRY ADJOURNS TO 21 SEPTEMBER 2020**