

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

25 NOVEMBER 2020

DAY 312



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TRANSCRIBERS:

B KLINE; Y KLIEM; V FAASEN; D STANIFORTH



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PROCEEDINGS RESUME ON 25 NOVEMBER 2020

CHAIRPERSON: Good morning Mr Chaskalson, good morning everybody.

ADV CHASKALSON SC: Good morning Chairperson. Chairperson our witness today is Steven David Powell who is the forensic investigator at ENS Africa and who has conducted investigations at EOH.

CHAIRPERSON: Thank you. Please administer the oath or affirmation. It seems we are continuing for the rest of
10 the week with evidence relating to EOH.

ADV CHASKALSON SC: Chair today's evidence will relate to EOH. Tomorrow's evidence will be the evidence of Mr Ramosebudi which concerns ACSA, SAA and Transnet and Friday's evidence will be from the Executive Mayor Mr Makubo about matters in this municipality.

CHAIRPERSON: Yes okay thank you.

REGISTRAR: Please state your full names for the record.

MR POWELL: Steven David Powell.

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

MR POWELL: No do not.

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

MR POWELL: I do.

REGISTRAR: Do you swear that the evidence you will give

will be the truth; the whole truth and nothing else but the truth; if so please raise your right hand and say, so help me God.

MR POWELL: So help me God.

REGISTRAR: Thank you.

CHAIRPERSON: You may be seated Mr Powell.

MR POWELL: Thank you Mr Chair.

ADV CHASKALSON SC: Chair for housekeeping purposes the affidavit of Mr Powell is in Flow of Funds Bundle 1
10 page 71.

CHAIRPERSON: Flow of Funds Bundle 1 – right and it appears at page?

ADV CHASKALSON SC: 71 Chair.

CHAIRPERSON: 71.

ADV CHASKALSON SC: And attached to that affidavit are three reports with bundles of supporting documents that Mr Powell has – or Mr Powell and his team have produced.

The first report is at page 1 – Volume – Bundle 1 page 82.

20 **CHAIRPERSON**: Yes.

ADV CHASKALSON SC: And it together with annexures runs all the way to page 374 of Bundle 1 where the second report appears at page 375.

CHAIRPERSON: Oh yes so it ends at 374 and then at 375 is another report?

ADV CHASKALSON SC: Indeed Chair.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: And the – that report runs until the end of Volume – Bundle 1.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: And the third report commences at page 3 of Bundle 2.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: For most of this morning's
10 testimony Chair we will be concerned with Bundle 1.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: Mr Powell can I ask you first just to confirm under oath that the three reports that I have described to the Chairperson were prepared by your team. The first one at page 82 of Bundle 1 and that was submitted to the commission if I remember correctly on the 11 August.

MR POWELL: That is correct Chair.

ADV CHASKALSON SC: The second at page 375 of
20 Bundle 1 and it is if I remember correctly it was submitted on 9 September of this year

MR POWELL: That is correct Chair.

ADV CHASKALSON SC: And the third at Bundle 2 page 3 which was submitted at – in – was it November the 11th this year?

MR POWELL: Correct that was just recently Mr Chair.

CHAIRPERSON: You just have to raise your voice Mr Powell.

MR POWELL: Certainly Chair.

CHAIRPERSON: Otherwise I cannot hear. Ja.

MR POWELL: I do confirm.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: Mr Powell your affidavit appears at page 71 of the first bundle. If I might take you to that
10 affidavit now?

MR POWELL: Certainly.

ADV CHASKALSON SC: And in paragraphs 1 to 9 you describe who you are – can you briefly tell the Chairperson?

CHAIRPERSON: Mr Chaskalson do you want to do the formalities first?

ADV CHASKALSON SC: I beg your pardon Chair.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: I have done it again. Can we
20 admit the affidavit of Mr Powell together with the supporting reports as Annexure BB2?

CHAIRPERSON: Yes no that is fine. But let us just confirm. Mr Powell look t page 75 is that your signature at the top there?

MR POWELL: That is correct Chair.

CHAIRPERSON: And you deposed to this affidavit before a Commissioner of Oaths?

MR POWELL: That is correct Chair.

CHAIRPERSON: You confirm that the affidavit starting at page 71 is your affidavit and its contents are to the best of your knowledge and belief true and correct?

MR POWELL: That is correct Chair.

CHAIRPERSON: Okay. We – Mr Chaskalson you would like me to admit it as Exhibit?

10 **ADV CHASKALSON SC:** BB2 Chair.

CHAIRPERSON: BB2.

ADV CHASKALSON SC: And I am in your hands Chair as to whether ...

CHAIRPERSON: If the annexures are part of the affidavit – are annexures to the affidavit then we do not have to admit them separately.

ADV CHASKALSON SC: They ...

CHAIRPERSON: But if they are separate then we have to admit them separately.

20 **ADV CHASKALSON SC:** They are referred to in the affidavit.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: And they are part of the affidavit.

CHAIRPERSON: Then we will just – so it will be BB2 – BB2 only or BB2 point something?

ADV CHASKALSON SC: Let us make it BB2.1 in case there is a need for an additional document to be put to Mr Powell in the course of his testimony.

CHAIRPERSON: Okay. Okay the affidavit of Mr Steven David Powell starting at page 71 together with its annexures is admitted as Exhibit BB2.1. Ja.

ADV CHASKALSON SC: Thank you Chair. Mr Powell can you briefly describe to the Chair your qualifications and your place at present employment?

10 **ADV CHASKALSON SC:** Certainly. Chair I hold the degrees BProc, LLB attained from the University of Cape Town and I was admitted as an Advocate at the Cape Bar in 1991. For the past sixteen years I have been an executive in the law firm ENS Africa and a role that I play as an executive at ENS Africa is I head up the forensic services division.

I am the Managing Director of ENS Forensics PTY Limited a subsidiary of ENS Africa. I started my career Chair as a Prosecutor in the Magistrate's Court in Cape
20 Town and I moved to Regional Court and I ended my career as a Prosecutor in the office of the then Attorney General. I spent eight years as a Prosecutor.

After that I moved to the Auditing firm Deloitte Chair and I headed the forensic services of Deloitte in the Western Cape for six years and I was a partner at Deloitte

and for the last sixteen years I have been at ENS Africa.
Thank you Chair.

ADV CHASKALSON SC: Thank you Mr Powell. Now your evidence today is going to concern matters relating to EOH. Some of the background to your involvement at – with EOH has been dealt with by Mr van Coller who testified on Monday. But can you very briefly turn to paragraph 14 of your affidavit on Bundle 1 page 72 and very briefly just describe to the Chair how you became
10 involved in EOH and what the nature of your investigation there was?

MR POWELL: Certainly. Mr Chair we had been providing services to EOH prior to February 2019 when drama emerged with Microsoft and we had been providing Governance Compliance support and some ad-hoc investigative work.

But in February 2019 when Microsoft served a notice of cancellation of the appointment of EOH as a reseller of Microsoft products it caused a significant
20 concern to the business and I was mandated by Mr van Coller to do a comprehensive investigation.

Prior to that we did not have access to the EOH server; we could not just look at emails; data of everyone and – in the business but we received an unfettered mandate to get to the bottom of what had happened and we

were asked specifically to focus on the Microsoft contract at the Department of Defence and just before that Mr van Coller had mandated us to look into concerns that had come to his attention at the Department of Water and Sanitation and we then conducted an extensive investigation where we had unfettered access to the mailbox server of EOH and we then conducted a multitude of interviews with personnel to try get the bottom of what had happened.

10 We also conducted an extensive data review reviewing information on the system related to the Department of Defence and very soon after initiating that investigation we confirmed that there had been irregularities in respect of the Microsoft contract and Mr van Coller asked us to look at all the significant public sector contracts to make sure that similar issues did not exist in other contracts as well.

 And during the course of our investigation we did flag concerns that we had which I will elaborate on further
20 in my evidence Chair that the issue related to the City of Johannesburg. We identified a range of concerns and irregularities and we were then contacted by the commission to ask if we will share some of the details and we were asked to look at certain persons that were of interest to the commission which includes the current

Executive Mayor Mr Geoff Makhubo as well as a gentleman by the name of Patrick Makhubedu and then entities by the name of Molelwane Consulting and Molelwane Holdings and another entity by the name of Zylek.

I do want to emphasise and perhaps it is opportune just to mention there are some limitations in the work that we have done Chair because EOH is a company of companies at various stages the business had more than 275 subsidiaries in it. They did not at all times have a
10 centralised accounting system. They have a system called the Infor System.

We have been able to analyse information on the Infor System from 2013 to 2018. Most of the irregularities that we have identified occurred in a small time frame Chair and that time frame was 2014 to 2017.

And it is quite interesting Chair that when the media starting zooming in on irregularities at EOH the mischief – the misconduct seemed to curtail. So the media definitely had a positive influence and it coincided when the analysis
20 in the media focussed on the Gupta's and that seemed to curb the illicit activities that were going on at the group.

Chair I mentioned the limitations because we also – I do want to emphasise that some of the entities that we have investigated such as Zylek, Geoffrey Makhubo were not part of our initial investigation but when the

commission asked us because we have access to the EOH data and server we were able to extract a lot of information and I think that information is helpful to the commission and that will be part of my testimony today.

But I do want to highlight that we have not had access to Mr Makhubo's data per se. We have got what communications he had with EOH people on the EOH system and we have got details of payments made to Molelwane and to Mr Makhubo from what we could gather
10 from the EOH server.

We can see our analysis that Mr Makhubo has gmail addresses and we may not have access to all of the information. So I just wanted Chair to be aware that there were limits to what we did and we have gone out of our way to assist the commission by doing an extensive data review to identify correspondence, payments etcetera linked to the individuals that were of interest to the commission. Thank you Mr Chair.

ADV CHASKALSON SC: Thank you Mr Powell. Before we
20 get to the Johannesburg – or the issues relating to the City of Johannesburg I just want to take you to paragraph 27 of your affidavit page 74 Bundle 1 where you speak about a Mr Jehan Mackay. Can you tell the Chair who Mr Mackay was or is?

MR POWELL: Certainly Chair. Mr Mackay was the head of

the public sector vertical team at EOH and he was also the Managing Director of a company called TSS MS. Mr Chair I will in my testimony refer extensively to Mr Mackay and you will see that he features in quite a few emails and documents that we will draw the commission's attention to.

He is one of the key role players in the irregularities that I will be highlighting today.

CHAIRPERSON: Mr Chaskalson you might wish just to give a spelling – spelling of some of the surnames for – to
10 – for the convenience of the transcribers. Ja at least now that there are some of – as they get mentioned.

ADV CHASKALSON SC: I will do that Chair. Jehan Mackay as I understand if J-e-h-a-n first name and the surname is M-a-c-k-a-y. At paragraph 28 you talk about suspicious payments from an FNB account belonging to Mr Mackay. Can I ask you first how did you discover those payments?

MR POWELL: Certainly. Chair we had full access to the mine cost server and attached to email correspondence
20 that we analysed the bank statements for a window period of Mr Mackay were on the server and we analysed those statements and we identified payments to a number of politically exposed persons and we have shared that with the commission.

ADV CHASKALSON SC: Can you take the Chair through

that table of payments in paragraph 29?

MR POWELL: Certainly Chair. The table in paragraph 29 is an analysis. This is an extrapolation of an analysis that we conducted on Mr Mackay's FNB bank statement and Chair you will see that it starts on the 26 May 2013.

CHAIRPERSON: So just to clarify Mr Powell. So the FNB account number that appears on the extreme left that is whose account?

MR POWELL: Correct Mr Chair that account we
10 ascertained belongs to Jehan Mackay.

CHAIRPERSON: Okay alright.

MR POWELL: Thank you.

CHAIRPERSON: Thank you.

MR POWELL: The table sets out payments that we identified and extrapolated from his bank statements starting on 26 May 2015 until 29 June 2017. And this was from his personal bank account and it kicks off on 26 May with the payment in the amount of R80 000.00 and this was made to an FNB account with a reference NG and the NG
20 is repeated Chair I do not know why the NG is repeated but it is as it was stated on the reference NG NG Kodwa.

And then on 13 July 2015.

ADV CHASKALSON SC: But before you leave that – that reference Chair if I can for convenience sake direct you to the relevant pages in the bundle if you can annotate the

table where the relevant bank statements are. That first entry is to be found at page 700 of Bundle 1.

CHAIRPERSON: Okay. Page 700?

ADV CHASKALSON SC: Indeed.

CHAIRPERSON: Yes okay.

ADV CHASKALSON SC: But Mr Powell were you able to identify who the recipient of this payment was?

MR POWELL: Correct Chair it appears to be Mr Zizi Kodwa who I understand is the Deputy Minister of
10 Intelligence in the current government.

ADV CHASKALSON SC: And can you tell the Chair this is a payment in 2015. What was Mr Kodwa's position in 2015 – are you aware of that?

CHAIRPERSON: The question is whether you...

MR POWELL: Ja.

CHAIRPERSON: Are aware...

ADV CHASKALSON SC: Mr Chair I have that here.

CHAIRPERSON: Of what position. Oh you need to check.

MR POWELL: Ja.

20 **ADV CHASKALSON SC:** Chair I think it is a matter of public record Mr Kodwa was not in government in 2015.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: But he was a spokesperson for the ANC.

CHAIRPERSON: Yes. Yes.

MR POWELL: Correct Mr Chair I do confirm we had – when we did our intelligence checks we did identify he was spokesman for the ANC.

ADV CHASKALSON SC: The second – the second reference? And Chair the bundle reference for the second reference for the statement is page 704.

CHAIRPERSON: Thank you.

MR POWELL: Chair the second reference is on 13 July 2015. There was a payment of R45 00.00 also referenced
10 to NG NG Kodwa.

ADV CHASKALSON SC: The third reference which Chair is at page 708 of the bundle in its original statement.

CHAIRPERSON: Maybe before that can I just check Mr Powell whether as you understand the position NG are initials or what is it? I just see that the N is capital letter but the g is small letter. Normally one would write initials in capital letters. Do you know or you do not know?

MR POWELL: I do not know Mr Chair.

CHAIRPERSON: Oh okay alright.

20 **MR POWELL:** It is odd and you will see when we deal with number 3.

CHAIRPERSON: Yes.

MR POWELL: There is SG Sintwa and I understand that Mr Sintwa at the time is described in the media a personal assistant to Jacob Zuma and we know that he was an

advisor to Mr Zuma and there was a payment of R50 000.00 on that date of 12 September 2015 also from Mr Mackay's personal bank account and Chair you will see that the initials seem to be repeated. There it is Mr Siyabulela Sintwa.

CHAIRPERSON: Yes and Sintwa is S for Sugar –i-n-t-w-a and there is JM in brackets after the surname.

MR POWELL: Correct Chair I assume the JM is Jehan Mackay.

10 **CHAIRPERSON:** Yes okay.

ADV CHASKALSON SC: Chair I wonder if it might be convenient for me to give you Chair.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: All of the references.

CHAIRPERSON: yes.

ADV CHASKALSON SC: So that we do not interrupt.

CHAIRPERSON: Ja it would be – ja it would be.

20 **ADV CHASKALSON SC:** So the first – the first is 700 – page 700. The second is 704. The third is 708. The fourth is 713. The fifth is 713 as well as is the sixth. Seventh and I am now at 3 November is 717. The eighth also – 5 November is 717. The ninth at 26 November is 717. The tenth at 28 November is 717. Then 4 December is 722. 18 December is 722. 2 February is 727. 27 January is 737 and 29 June 731.

CHAIRPERSON: Yes thank you.

ADV CHASKALSON SC: Mr Powell you were – you just finished the third entry I think the 12 September entry.

MR POWELL: Correct Chair. The next entry is 7 October 2015. There was a payment of R21 600.00 to the FNB account of Mr Sintwa.

The next date is 19 October there was a payment of R20 000.00 to the FNB account of Mr Sintwa.

And on 29 October 2015 there was another payment
10 of R50 000.00 to Mr Zizi Kodwa – NG Kodwa.

Again on 3 November 2015 there was a payment of another R50 000.00 to Mr Kodwa.

And on 5 November 2015 there was a payment of R50 000.00 to Mr Sintwa.

On 26 November 2015 there was a payment of R30 000.00. It is referenced as FNB and it has the number OB000000282 April Streetwise [Zizi] and that appears to also be a payment to Mr Kodwa Chair.

On 28 November 2015 there was a payment of
20 R50 000.00 to Mr Kodwa again.

And on 4 December there was a payment of R40 000.00 to Mr Kodwa.

And on 18 December 2015 there was a payment of R100 000.00 to Mr Siyabulela Sintwa.

On 2 February 2016 there was a payment of

R30 000.00 to Mr Zizi Kodwa.

On 27 January 2017 there was a payment of R50 000.00 to Mr Sintwa.

And the last entry Chair is 29 June 2017 there was a payment of R500 000.00 to the FNB bank account of Mr Nkabinde and this is referenced {JM} and it is referenced as loan. So half a million is the last entry.

Chair we identified that at the time Mr Nkabinde appears to be Mr Reggie Nkabinde and he was the
10 Treasurer of the ANC Youth League – ANCYL. Thank you
Chair.

ADV CHASKALSON SC: Mr Powell when you looked at the bank statements of Mr Mackay did you notice any patterns relating to the periods around the time in which these payments were made on the statements themselves?

MR POWELL: Correct Mr Chair. Very often the payments seemed to follow a deposit of a similar amount or a larger amount just prior to the transfer to the individuals that I have listed and many of those were referenced as transfers
20 from TSS Tactical Software Solutions.

ADV CHASKALSON SC: And can you...

CHAIRPERSON: Okay I am sorry. Just repeat – you say the payments which are reflected in this table seemed to happen immediately after what?

MR POWELL: They were deposits into Mr Mackay's bank

account – electronic transfers to his account Chair.

CHAIRPERSON: yes.

MR POWELL: And most of these seemed to come from an entity named TSS.

CHAIRPERSON: Yes. So – so first Mr Mackay would received deposits into his account.

MR POWELL: Correct.

CHAIRPERSON: And then these payments would happen?

10 **MR POWELL:** Correct Chair but that seemed to be the pattern.

CHAIRPERSON: That seemed to be the patters. Okay alright.

ADV CHASKALSON SC: And can you tell the Chair who TSS are?

MR POWELL: Ja. TSS was a company and I refer to Mr Mackay as the Managing Director of TSS MS Chair. This was a company that was acquired by EOH Group in 2011. So it was part of the EOH stable.

CHAIRPERSON: Okay.

20 **ADV CHASKALSON SC:** And from whom was it acquired?

MR POWELL: It was acquired from Danny and Jehan Mackay. Danny is Jehan's father Chair.

ADV CHASKALSON SC: And just to give the Chair an example of this phenomenon that you are describing can I ask you to turn to Bundle 1 – sorry Bundle 1 page 722.

MR POWELL: Certainly Chair.

ADV CHASKALSON SC: And on Bundle – on page 722 are two of the transactions that you have already described to the Chair for December there is a payment of R40 000.00 referenced NG Kodwa / 12.

And on 18 December there is a payment of R100 000.00 referenced Mr Siyabulela Sintwa.

Can you look at 8 December?

MR POWELL: Certainly.

10 **ADV CHASKALSON SC:** And just tell the Chair what you see there?

MR POWELL: Chair it reflects an FNB QB transfer and the reference – the description column refers to transfer TSS JM. And then there is a figure of half a million that comes in Mr Chair.

CHAIRPERSON: So the table at 722 reflects a transfer or transfers from whose account? From Mr Mackay's personal account?

MR POWELL: Correct – that is correct.

20 **CHAIRPERSON:** Oh okay to the accounts of the different people.

MR POWELL: Ja.

CHAIRPERSON: Okay.

MR POWELL: And Chair the pattern referred to is that generally when these payments are made to the politically

[00:29:19] person there is a larger deposit just preceding that.

CHAIRPERSON: Yes. And it comes from the same source?

MR POWELL: Correct. They seem to – to often come from TSS Chair.

CHAIRPERSON: Yes okay. Okay. In other words I guess what you are saying is one were to sit down and look at the different tables that you have indicated one will – and look
10 at dates one could see a deposit going into Mr Mackay's personal account coming from – and then immediately or soon thereafter transfer into the account in one or other exposed, politically exposed person.

MR POWELL: That is correct, Chair.

CHAIRPERSON: Okay alright.

ADV CHASKALSON SC: Mr Powell, we are now going to move to matters relating to the City of Johannesburg. And before we get into particular tenders. I would like you to take the Chair briefly through a description of the who
20 players, we are going to be seen, are. And if I can ask you to go to your first report at telephone numbers 1, page 84 where you start doing that.

MR POWELL: Just let me check.

ADV CHASKALSON SC: At 4.1, you describe TSS Managed Services but you have already explained to TSSR to the

Chair. At 4.2, you deal with Mr Patrick Makhubedu. Can you explain to the Chair who Mr Makhubedu is?

MR POWELL: Certainly, Chair. Mr Makhubedu is a former employee of EHO. We understand that he was employed at the TSS Group from 1 December 2007, initially in Business Development and then later as a General Manager, Sales.

After EOH required TSSMS, Makhubedu's employment was transferred to EOH on 1 March 2014. Makhubedu was employed at EOH as Business Development Executive in the
10 Public Sector, working closely with Jehan MacKay. Makhubedu resigned from EOH with immediate effect on 11 March 2019. And Mr Chair, what is quite interesting is, we had invited him to a discussion.

We wanted to interview him and that interview was supposed to take place at eight o'clock on the Monday morning and he resigned on the weekend and back dated his resignation to the Friday. And he refused to engage with us at all.

ADV CHASKALSON SC: Now you have spoken about his
20 position being Business Development Executive in the Public Sector. Can you explain to the Chair what Business Development embraces?

MR POWELL: Business Development is Marketing. It is finding opportunities and expanding on existing contracts. And we saw that Mr Makhubedu was integral to a number of

relationships at the City of Johannesburg and he seemed to win a lot of businesses for EOH at the City of Johannesburg.

Chair, I will elaborate on some of the methods that were used to win business which was not quite savoury.

ADV CHASKALSON SC: We will get to that in detail in due course. Let us continue through the list of individuals who we will be describing.

CHAIRPERSON: Well, Mr Chaskalson, I am sorry. I just want to mention that in the context of another work stream, a
10 witness who gave evidence here, I think Mr Sodi. He said that his then business partner, Mr Mpambani, said that he wanted to unlock business opportunities in the Provincial Government of the Free State for their joint venture.

So was this some kind of unlocking business opportunities?

MR POWELL: Mr Chair ...[intervenes]

CHAIRPERSON: ...position did it entail?

MR POWELL: I see the Business Development as exactly that. Unlocking opportunities ...[intervenes]

20 **CHAIRPERSON:** Yes.

MR POWELL: ...at the City of Johannesburg.

CHAIRPERSON: Okay alright ...[intervenes]

MR POWELL: ...diverse(?) identities(?)

CHAIRPERSON: Okay alright.

[Parties intervening each other – unclear]

CHAIRPERSON: Mr Chaskalson, I am sorry I interrupted you.

ADV CHASKALSON SC: Not at all Chair. At paragraph 51, you refer to Mr Makhubo and his relationship with Mr Makhubedu that you have been able to see from the outside.

Can you tell the Chairperson what you know about Mr Makhubo and what his commercial relationships with Mr Makhubedu are ...[intervenes]

10 **MR POWELL:** Certainly Chair. Makhubedu and Makhubo are linked to a number of entities. Some of these entities financially transacted with one another, including Molelwane, Mr Makhubedu's consulting business. There was a gentleman by the name of Reno Neil Barry who was integral in a number of these financial transactions.

Chair, it is also important to identify Mr Barry because he will feature in one of the business partners that seems to have been used extensively for concealed and illicit payments, which I will elaborate on further, later in my
20 testimony.

Barry is the former Group Financial Manager at Tactical Software Systems (Pty) Ltd. So he also worked for what is known as TSS.

Barry provided accounting services from time to time to various of these linked entities, including Zylek. Zylek is a

entity which reflects Patrick Makhubedu as a key-principle Chair.

Molelwane, an entity by the name of Mfundi Mobile and then Prime Molecular and Grass Farms. Email evidence that we were able to analyse, indicates that Barry made a number of payments, including to Molelwane at the instructions of Patrick Makhubedu.

The emails that we will elaborate on further in my evidence Chair, also suggest that Barry assisted Makhubedu, 10 Makhubo and Makhubo's wife in their personal tax matters. He was the accounts and preparing their tax affairs.

ADV CHASKALSON SC: If I can then take you over the page to page 86. You have a table of entities that will feature or that you described. You touched on Zylek. But can you say something about Molelwane Consulting?

MR POWELL: Certainly. Chair, if I may, I am going to take you from the table to the documents because when we do these investigations, we use the Sub-C documentation as a Windeed and Sub-C documents.

20 The first one is Molelwane Consulting CC. Chair, you will find that in Bundle 1 at 163. So I think what I will do is, I will go to 163 and then... Sorry. And it is the FOF-163, Chair.

You will see that this is a Windeed company report. It reflects Molelwane Consulting, status in business.

ADV CHASKALSON SC: Can you just give the Chair the date of that report because it may become significant later?

MR POWELL: Right at the top.

CHAIRPERSON: Ja, it is at the top.

MR POWELL: Yes. The dated requested was 2020, July 7th.

CHAIRPERSON: Yes.

MR POWELL: And the info comes from the CIPC, Chair. And it reflects Molelwane Consulting as in business and its
10 registration date was 1997.

Chair, so I think what Mr Chaskalson was alluding to is, this was a recent cheque that was done.

CHAIRPERSON: Yes.

MR POWELL: So it was July of this year.

CHAIRPERSON: H'm.

MR POWELL: And it reflects the members as Makhubo, Matlekale(?) Florence. And then it has got a number of inactive – as an active director. And I cites an ID number of 7408010558082. And she is described as an active member.
20 The inactive members are Lynette Ruth Fox and it is status is resigned. And then Makhubo Moloantoa Geoffrey, status resigned. Makhubo Tebogo(?) Clive.

ADV CHASKALSON SC: Sorry, before you move to Mr Makhubo. Can you just record the dates that CIPC reflects his resignations having taken place?

MR POWELL: Ja, I shall turn to the date reference.
Resignation date for Mr Makhubo, Chair is 4 October 2019.

CHAIRPERSON: Where does that ...[intervenes]

MR POWELL: Apologies Chair. Is that is on the next page,
page 164. You will see that it refers to the members and it
provides more detail on each of the members.

CHAIRPERSON: Okay.

MR POWELL: And you will see, the second last one is
Geoffrey Makhubo.

10 **CHAIRPERSON:** Yes.

MR POWELL: And it is has an ID number of
6802085374083.

CHAIRPERSON: Oh, yes.

MR POWELL: Status resigned.

CHAIRPERSON: Ja.

MR POWELL: Appointment date, 1998, 16 September.
Resignation date, 4 October 2019.

CHAIRPERSON: Yes.

MR POWELL: So it is last year that he resigned Chair.

20 **CHAIRPERSON:** Yes.

ADV CHASKALSON SC: I am interested, primarily in
Mr Makhubo. Can I just ask you if you know who the current
active members listed as Florence Matlekale Makhubo. Do
you know Florence Matlekale Makhubo is?

MR POWELL: Chair, we are not a hundred percent certain

but it looks her mother. It is – if I look at the ID, it is a 47.
And if you look at Geoff Makhubo it is a 68.

ADV CHASKALSON SC: Thank you. Can you talk briefly about Molelwane Holdings next?

MR POWELL: Certainly. Chair, and I think we will do the same on this one, being ...[intervenes]

CHAIRPERSON: I am sorry, Mr Chaskalson. As you direct him to specific topics, if you can just mention the page?

ADV CHASKALSON SC: Alright.

10 **CHAIRPERSON:** Ja, page ...[indistinct] ...[intervenes]
[Parties intervening each other – unclear]

ADV CHASKALSON SC: I am afraid Mr Powell being a sort of trained Forensic Investigator is ahead of me here. I was not planning on going to the CIPC documents.

CHAIRPERSON: [laughs]

ADV CHASKALSON SC: So I do not have the references. He does.

CHAIRPERSON: Oh, okay.

20 **ADV CHASKALSON SC:** I am just referring to the table on page 86.

CHAIRPERSON: Oh, okay.

ADV CHASKALSON SC: But I am sure he will give the references to you Chair.

CHAIRPERSON: Yes, okay. No, that is fine

MR POWELL: Exactly right, Chair. I have marked on the

table.

CHAIRPERSON: Yes, okay.

MR POWELL: And I want to take you, Chair to 167 of the bundle. Chair, you will see that this was also – the cheque was requested this year in July, 09/07/2020 which coincides with the time when the Commission asked us to have a look at this. And it reflects the company, Molelwane Holdings as status, annual return final deregistration.

So it looks like the company is in the process of being
10 deregistered. It reflects an active director as Asher Bohbot, King Aluthe(?) Thokoane, ID number 8012315407087 as an active director.

The two further names on this document. The first one, I think, is irrelevant Chair because Christiaan Gouws is an individual whose business is selling companies off the shelves. So here, he will appear in a multitude companies. So I do not think there is anything relevant to that.

But it does reflect Geoffrey Moloantoa Makhubo as a resigned director. And if we turn the page Chair, as we did
20 on the last one, we get a more detailed breakdown and it reflects that his profession was Chief Executive Officer and the resignation date on this one is 7 November 2011.

CHAIRPERSON: That is on the next page, is that right?

MR POWELL: Correct, Chair.

CHAIRPERSON: Okay thank you.

ADV CHASKALSON SC: And Chair, we will see later – or maybe when Mr Makhubo comes, that November 2011 is when Mr Makhubo entered government.

CHAIRPERSON: Oh, okay.

ADV CHASKALSON SC: If we can move then to Mfundi Mobile Networks. You have said a little about Mfundi but ...[intervenes]

MR POWELL: Certainly.

ADV CHASKALSON SC: ...there is certainly a lot more to
10 say.

MR POWELL: Yes. Mfundi Mobile, the directors are listed as Mongezi Duma(?) and Reno Neil Barry.

ADV CHASKALSON SC: Can you give the Chair the reference again?

MR POWELL: I am going to do the same as I did previously and I am going to take you to page 160 of the bundle. One, six, zero. And this cheque was also requested in July of this year and it reflects the company name as Mfundi Mobile Networks, status in business.

20 The company was registered in 2012 Char. Registration date, 10 October 2012. The directors and other summary reflects Barry Reno Neil or... ja. Reno Neil Barry is his name Chair. ID number 7409165060084 as the director and it is an active status Chair.

And then there is an inactive director reflected as

Duma(?) Mongezi Imbros(?), and it reflects that he is a resigned director. And we turn the age Chair, we will see that Mongezi Duma resigned on 23 June 2017.

CHAIRPERSON: Yes, that is at page 161.

MR POWELL: Correct.

CHAIRPERSON: Ja, okay.

ADV CHASKALSON SC: And do you know anything else about Mr Duma? If I might refer you back to page 86 of your first report?

10 **MR POWELL:** Yes, certainly. Mr Duma was employed at Tactical Software Systems as a Group Financial Analyst, Chair and you will find that on page 86 in the table.

And Mfundu is quite important to my testimony Chair because we have identified that EOH paid Mfundu Mobile more than R 54 million excluding VAT for purported work on Public Sector projects where we could find no evidence that any work was done.

ADV CHASKALSON SC: While we are talking about the relationship between Mfundu Mobile and EOH Can you take
20 you to a contract that appears at page 466 of the bundle?
466.

MR POWELL: Yes.

ADV CHASKALSON SC: Which describes itself as a teaming agreement.

MR POWELL: Certainly.

ADV CHASKALSON SC: And this is a document which have furnished or your team furnished to the Commission. Can you tell the Chairperson what this document is?

MR POWELL: Certainly. Chair, just before we go into this document, I just want to highlight to the Commission that we had already, before the Commission asked us, identified irregularities within Mfundi Mobile and we had issued Mr Van Coller to depose here an affidavit and we issued a Section 34 report to the DPCI reporting irregularities
10 regarding Mfundi Mobile.

The document that Mr Chaskalson has referred me to, is the appointment of, as an independent service provider and it is an agreement between the SAP Services, Business Unit of EOH Mathombo(?) (Pty) Ltd. And the SAP is the software OEM, Chair, the Original Equipment Manufacturer.

This entity's primary business was the support around SAP Services. And the contract is with Mfundi Mobile Networks represented by Mr Duma in his capacity as a director. And this is what we commonly found and I think Mr
20 Chaskalson referred to it as a teaming agreement.

CHAIRPERSON: And the reference to – I mean, SAP Services Business Unit.

MR POWELL: Ja.

CHAIRPERSON: Of EOH Mathombo.

MR POWELL: Jip. Mr Chair ...[intervenes]

CHAIRPERSON: H'm.

MR POWELL: Mr Chair, if I may ...[intervenes]

CHAIRPERSON: This has got nothing to do with the South African Police?

MR POWELL: Nothing to do with the South African Police.

CHAIRPERSON: Okay.

MR POWELL: Chair, that is why I mentioned this is SAP which is an only distributor of software to many municipalities across the country.

10 **CHAIRPERSON:** Yes, okay. Alright.

ADV CHASKALSON SC: If I can ask you to go to the definition of deliverables in that agreement, page 467?

MR POWELL: Chair, at paragraph 1.1.8, the contract refers to deliverables and it states that this means:

“The tasks and/or products and/or services delivered by the service provider as set out in Addendum A attached and read as it is specifically incorporated herein.”

20 **ADV CHASKALSON SC:** So, I understand, these are going to be the services provided by Mfundi to EOH. Is that correct?

MR POWELL: That is correct.

ADV CHASKALSON SC: Can I then ask you to go to Addendum A so that we can see what the services are?

MR POWELL: Yes.

ADV CHASKALSON SC: It is at page 476, Chair.

CHAIRPERSON: Thank you. 476. Yes?

MR POWELL: Chair, you will see that the project and deliverables of the service provider is blank. Nothing is stipulated.

CHAIRPERSON: Hang on one second.

MR POWELL: [No audible reply]

CHAIRPERSON: 476. I have got the Addendum A.

[Parties intervening each other – unclear]

10 **MR POWELL:** This refers to the Addendum A, Chair
...[intervenes]

CHAIRPERSON: ...service provider is blank.

MR POWELL: It is blank. So Chair, what we found is that business ...[intervenes]

CHAIRPERSON: Under payment arrangements, it is not blank.

MR POWELL: Correct.

CHAIRPERSON: [laughs]

20 **ADV CHASKALSON SC:** Ja, if I understand Mfundi, it is
blank.

CHAIRPERSON: [laughs]

MR POWELL: Ja.

CHAIRPERSON: Yes, you wanted to make – you wanted to say something Mr Powell.

MR POWELL: This is not uncommon Mr Chair. We have

found a number of service providers that were used where we cannot find any evidence that they have done work. And when we looked at the ...[intervenes]

CHAIRPERSON: Agreements.

MR POWELL: ...deliverables in the agreements, it is either blank or it is nebulous consulting services ...[intervenes]

CHAIRPERSON: Ja.

MR POWELL: ...as broad as can be.

CHAIRPERSON: Yes.

10 **MR POWELL**: And we cannot find the actual work that was done Chair.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Chair, I need to withdraw the remark that I just made. The payment arrangements are not black.

CHAIRPERSON: [laughs] Ja, no, no. It is not blank/black(?).

ADV CHASKALSON SC: Mr Powell, if I can take you back to that table on page 86.

20 **CHAIRPERSON**: Well, I am sorry Mr Chaskalson. Interestingly, what is blank also is rates, requirements, position and rates Am I right?

ADV CHASKALSON SC: That is correct.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Yes, yes.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: If we go back to the table on – to 186. We are not going to be deal with acts of – in your testimony. So I ask you to go to Present Perfect Investec – Investments. And tell the Chair what you have learnt about this entity.

MR POWELL: Present Perfect Investments, Chair.

CHAIRPERSON: I am sorry. Is it page 186?

ADV CHASKALSON SC: Bundle 1, page 86 Chair.

10 **CHAIRPERSON**: Alright. Thank you.

ADV CHASKALSON SC: I beg your pardon, Mr Powell. In fact, we are not going to deal with Present Perfect Investments today either. So if you can go down to Prime Molecular Technologies.

MR POWELL: Thank you, Mr Chair. I was about to point out to Mr Chaskalson that both of us did not have the reference to that one. So I am glad he has. Prime Molecular Technologies Africa (Pty) Ltd.

20 Chair, you will find that – the Windeed SIPC documents at 177 of the bundle.

CHAIRPERSON: Yes.

MR POWELL: Chair, this report was also requested in July after the Commission approached us and we ran this check. We identified that Prime Molecular Technologies Africa is reflected as in business.

It was registered on the 13th of August 2009 and it reflects as an active director, Patrick Makhubo with his ID number of 740801558082.

ADV CHASKALSON SC: Sorry, Mr Powell. If I can just interrupt there It is a Makhubo because I do not want us to potentially confusing – I do not want the record which potentially confuses ...[intervenes]

MR POWELL: Patrick Makhubo.

ADV CHASKALSON SC: ...Mr Makhubo with
10 Mr Makhubedu.

MR POWELL: Oh, my apologies. Did I say Makhubo? It is Mr Makhubedu, Chair. So Patrick Makhubedu is reflected as an active director and Ryno(sic) Neil Barry is reflected as a resigned director.

And if we turn the page to 178, we will see that Ryno(sic) Barry was appointed in 2009 on the 13th and it appears to have resigned on the same date, Chair, 13 August 2009. So the active principle is Patrick Makhubedu.

20 *[Please note that speaker refers to Reno Neil Barry as well as Ryno Neil Barry.]*

ADV CHASKALSON SC: And then lastly, Mr Powell. EOH Africa (Pty) Ltd.

MR POWELL: Certainly. Mr Chair, for this one, I am going to take Chair to 120 of the bundle.

CHAIRPERSON: Yes.

MR POWELL: This report was also requested in July.

ADV CHASKALSON SC: Mr Powell.

MR POWELL: Yes?

ADV CHASKALSON SC: Sorry, Mr Powell. Before you take the Chair to the details in the bundle. If you can just briefly describe what EOH Africa is and what it used to be.

MR POWELL: EOH Africa used to be TSSMS Chair. There was a name change. So it is as EOH Africa. Sorry,
10 Mr Chaskalson. I am just going back to the bundle. So the former name of this entity was TSS Managed Services and they are relevant to this – to my evidence today Chair because they have also made payments to Molelwane and I will testify further about that at a later stage in my evidence.

CHAIRPERSON: Which name came first? Was it TSS or was it ...[indistinct] ...[intervenes]

[Parties intervening each other – unclear]

MR POWELL: The first one is TSS Managed Services. So TSSMS.

20 **CHAIRPERSON**: Is that how it is known now?

MR POWELL: No, it is known as EOH Africa.

CHAIRPERSON: Oh, it used to be ...[intervenes]

MR POWELL: It used to be TSS.

CHAIRPERSON: Ja, okay that is what I wanted to know.

MR POWELL: Thanks, Chair.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: And it was acquired by EOH when it was TSS, the TS Group when it was TSS Managed Services? Is that correct?

MR POWELL: Correct.

CHAIRPERSON: Yes. So early payments that previously made here reflected somewhere as having come from TSS to whoever, would be the same source as the payments that may now reflect as coming from EOH Africa?

10 **CHAIRPERSON**: No?

MR POWELL: It might be another TSS entity.

CHAIRPERSON: Oh, okay. Okay, okay.

MR POWELL: So this one is most definitely previously TSSMS, now EOH Africa.

CHAIRPERSON: Ja.

MR POWELL: The reference to TSS on most deposits is...

CHAIRPERSON: Oh, okay, okay.

20 **ADV CHASKALSON SC**: If I can now ask you, Mr Powell to go to page 87 of the bundle which is where, in your first report, you talk about the contract that you have discovered between Molelwane Holdings and TSSMS.

MR POWELL: That is correct, Chair. We were actually unable to find the contract between Molelwane and EOH or any entity related to EOH but what we did find is, there was a Molelwane contract which was in a form of an unsigned

teaming agreement between TSSMS and Molelwane Holdings (Pty) Ltd.

We do not know if this was ever signed. We have never seen a signed copy and we have attached a copy of this. It has an effective date of 1 October...[intervenes]

ADV CHASKALSON SC: Can I just ask you to identify it for the Chair and go to page 184?

MR POWELL: Certainly. Mr Chair, this is the teaming agreement that I referred to, the unsigned teaming
10 agreement and you will see that this reflects an agreement date of 1 October 2009 between TSS Managed Services (Pty) Ltd with Molelwane Holdings (Pty) Ltd referred to as Molelwane.

And if we just page through the document, you will see that it is indeed unsigned, Mr Chair.

CHAIRPERSON: Does it talk about deliverables?

ADV CHASKALSON SC: If you might take the Chair to page 189.

MR POWELL: 189, Chair and 188 and 187 reflects that it is
20 unsigned and then if we go to 189, you will see the services to be provided by Molelwane are: 1) business advisory; 2) business development; 3) advisory services and 4) changed management.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: There is a preamble to the

contract that located within the context of a specific contract of - if I can take you back to 184.

MR POWELL: Correct. Under the recitals, Chair, it indicates that:

“Whereas TSSMS is providing VOIP voice server IP and VPN services for its client and has identified Molelwane as supplier for the services described in part 1 of schedule A attached hereto.”

ADV CHASKALSON SC: So these business advisory
10 business development advisory services and change management services according to the contract are going to be provided in the context where TSSMS is providing voice over IP and virtual private network of services to the CCMA. Is that how you understand it?

MR POWELL: That is correct. Thank you, Chair.

CHAIRPERSON: Is there a definition of the VOIP VPN services or if not do you know what that refers to?

MR POWELL: The VOIP is voice over IP, Chair.

CHAIRPERSON: What is it?

20 **MR POWELL:** Voice over IP.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: And, Chair, IP is internet protocol.

CHAIRPERSON: Oh, okay.

ADV CHASKALSON SC: So it is like telephony over the

internet.

CHAIRPERSON: Yes and VPN, Mr Chaskalson, VPN services?

ADV CHASKALSON SC: Virtual private networks.

MR POWELL: Virtual private networks.

CHAIRPERSON: Oh, okay, alright, thank you.

ADV CHASKALSON SC: Then if you go back to your report at page 87 you refer to a payment schedule which you found. Can I take you to page – that reference is in
10 paragraph 66.4 and maybe if you can just explain to the Chair the relevance of this payment schedule from TSSMS to Molelwane from the ...[intervenes]

CHAIRPERSON: Is that at page 87?

ADV CHASKALSON SC: 87, Chair. I must apologise, Chair, today's testimony is going involved bouncing backwards and forwards from documents to reports to annexures.

CHAIRPERSON: Yes. No, that is fine, ja. Okay.

MR POWELL: Chair, if I can elaborate on what Mr
20 Chaskalson has said, we have literally run through millions and millions of emails and thousands of documents and the bundles before you are a more than a thousand pages but this is small snippet of the volume of documents that we have analysed. Thank you, Chair.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: And if you go to 6.4 on page 87 you described this payment schedule.

MR POWELL: Correct. It appears that the TSSMS client is the CCMA and the schedule reflects what TSSMS would pay Molelwane Holdings for its services.

CHAIRPERSON: And CCMA, does it refer to the CCMA that we all know or is it something else.

MR POWELL: It is the CCMA that we all know, the Council for Mediation, Chair.

10 **CHAIRPERSON:** Okay.

MR POWELL: It reflects CCMA build 180 000. TSS fees R117 000, Molelwane fees R63 000 and that is for voice over IP, Chair. And then you will see for the virtual networks there is CCMA build 220 000, TSS fees, 150 000, Molelwane fees 70 000 and the monthly Molelwane fees are reflected as R133 000. So it is quite a significant portion of that total bill, it is almost a third, roughly a third, Chair.

20 **CHAIRPERSON:** So there is a column for VOIP and a column for VPN services.

MR POWELL: Correct, Chair.

CHAIRPERSON: And VOP is – CCMA was billed...

MR POWELL: 180 000.

CHAIRPERSON: 180 000 and then TSS fees I assume from that was 117 000.

MR POWELL: That is what it looks like, Chair.

CHAIRPERSON: And then fees for Molelwane was 63 000 coming from the amount billed to the CCMA.

MR POWELL: Correct, Chair.

CHAIRPERSON: And then under VPN services, it is R220 000 billed to the CCMA and then TSS fees are 150 000 from that and Molelwane fees 70 000.

MR POWELL: Correct, Chair.

CHAIRPERSON: And monthly Molelwane fees is 133 000.

10 **MR POWELL:** Ja. Now, Chair, the 73 and 63 seem to total and it seems to be a monthly payment there.

CHAIRPERSON: Yes, yes, yes.

MR POWELL: And then the payment schedule goes on as follows. One-stop consulting, market Positioning and advisory Services, there is a fee stipulated here of 600 000 and then the monthly advisory services, 63 000 and it states that all of this will be honoured subject to TSSMS achieving its revenue targets and payment from the customer.

20 **CHAIRPERSON:** So it looks like – does it look like – well, certainly in terms of VPN services it looks like the fees are split between TSS and Molelwane.

MR POWELL: Correct, Chair.

CHAIRPERSON: And I do not know if the same applies to VOIP, I am not sure.

MR POWELL: It seems to be split as well, Chair.

CHAIRPERSON: Yes, okay, alright.

ADV CHASKALSON SC: So now at paragraph 7.1 you refer to an invoice that I will take you to in a minute.

MR POWELL: Yes.

ADV CHASKALSON SC: And this was your first report to the Commission, you said we found to date only one Molelwane invoice.

MR POWELL: Correct, Chair, I do need to change that
10 because we were still looking and when we made the first submission it was to be in time for the Commission's request, we continued searching and we found an additional payment which I will elaborate on shortly.

ADV CHASKALSON SC: Thank you.

CHAIRPERSON: Of course, what you said was true at that time.

MR POWELL: Correct, Chair.

CHAIRPERSON: Yes but subsequently you found more.

MR POWELL: Correct.

20 **CHAIRPERSON:** Okay.

ADV CHASKALSON SC: Can I take you to page 398 of bundle 1?

MR POWELL: Chair, this appears to be the Molelwane Holdings (Pty) Ltd invoice and it is addressed to TSS Managed Services (Pty) Ltd for attention Mr Patrick – or

sorry, it says Mr P Makhubedu and it reflects ...[intervenes]

CHAIRPERSON: Yes. Just one second, Mr Powell, just to go back. There is Molelwane Holdings (Pty) Ltd and there is Molelwane Consulting, is that correct?

MR POWELL: Correct.

CHAIRPERSON: And Molelwane Consulting is a subsidiary of Molelwane Holdings (Pty) Ltd or not?

MR POWELL: It is reflected as a separate entity, Chair.

CHAIRPERSON: It is a separate entity.

10 **MR POWELL:** Correct.

CHAIRPERSON: But it could be a separate entity but still being a subsidiary, you are not sure.

MR POWELL: We do not know.

CHAIRPERSON: But the directorship, is it the same, do you know?

MR POWELL: Correct. Yes, Chair, we went through the CIPC documents.

CHAIRPERSON: Yes.

20 **MR POWELL:** And you will remember on Holdings Mr Makhubo resigned, if I recall correctly before 2011.

CHAIRPERSON: Yes.

MR POWELL: But on the other one he was still an active director until 2019.

CHAIRPERSON: On which one?

MR POWELL: The Molelwane ...[intervenes]

CHAIRPERSON: Consulting.

MR POWELL: Correct, Chair.

CHAIRPERSON: Yes, okay, alright. And in regard to Molelwane Consulting he was the sole director, the last time you checked?

ADV CHASKALSON SC: No, Chair, the CIPC records reflect that Florence Matlakhala Makhubo is now the sole director.

CHAIRPERSON: Yes.

10 **ADV CHASKALSON SC:** Sole member because it is a CC. She was previously a member with Mr Makhubo according to the CIPC up until 2019.

CHAIRPERSON: Okay, okay. And Florence Makhubo was one name we saw.

ADV CHASKALSON SC: Correct.

CHAIRPERSON: Did that name relate to Molelwane Holdings (Pty) Ltd?

MR POWELL: Correct, Chair.

CHAIRPERSON: And she remains the sole director.

20 **MR POWELL:** Correct, Chair.

CHAIRPERSON: Okay.

MR POWELL: And that is the lady with the ID number starting 48.

CHAIRPERSON: Yes, yes, of 47 I thought?

MR POWELL: Yes, correct, Chair.

CHAIRPERSON: Okay, no, thank you, I just wanted to re-orientate myself. So we are now dealing with – at page 398 with Molelwane Holdings (Pty) Ltd. Okay, thank you.

ADV CHASKALSON SC: Mr Powell, can I take you to the date of that invoice?

MR POWELL: Certainly, the date of the invoice, Chair, is 30 November 2014.

ADV CHASKALSON SC: Now on that date would Mr Makhubo have been a director of Molelwane Holdings?
10 Molelwane Holdings, not Molelwane Consulting.

MR POWELL: So he had resigned earlier but, Chair, I think you need to keep your wits about you because what we are going to analyse in the next couple of minutes is even though the invoice reflects Molelwane Holdings, the bank account actually belongs to Molelwane Consulting.

CHAIRPERSON: Oh. But he had resigned from Molelwane Holdings in 2011, if I recall correctly.

ADV CHASKALSON SC: That is correct, Chair, but he was still a member of Molelwane Consulting.

20 **CHAIRPERSON:** Consulting, yes, yes.

ADV CHASKALSON SC: Correct.

CHAIRPERSON: Would this be the convenient time, Mr Chaskalson?

ADV CHASKALSON SC: Thank you, Chair.

CHAIRPERSON: Yes. We will take the tea adjournment,

it is now about eighteen minutes past eleven, we will resume at twenty five to twelve. We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay, let us continue.

ADV CHASKALSON SC: Mr Powell, when we broke you were looking at the invoice on page 398 and you had mentioned to the Chair that the invoice is in the name of Molelwane Holdings but the bank details at the bottom are
10 Molelwane Consulting's bank details.

MR POWELL: That is correct, Chair. So Chair, you correctly pointed out the date of resignation from Holdings was 2011 and the resignation date from Consulting for Geoff Makhubo was much later, 2019, and this is an anomaly on the invoice because it purports to come from holdings but the bank details belong to Consulting and I understand further that the Vat details also belong to Consulting, Chair.

CHAIRPERSON: I guess – well, maybe with electronic
20 transfers there is no problem effecting a transfer of money from say TSS Management Services to Molelwane Consulting when the invoice does not come from Molelwane Consulting but comes from Molelwane Holdings but I would have thought that in the old way of doing things if there was a cheque written Molelwane Holdings (Pty) Ltd

the bank would not put that cheque into the account of Molelwane Consulting.

ADV CHASKALSON SC: Indeed, Chair.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: It would be much – in the age of cheques it would have been much more difficult to...

CHAIRPERSON: Yes, yes, yes, okay, alright.

ADV CHASKALSON SC: You mentioned the Vat registration number on this invoice.

10 **MR POWELL:** Correct, Chair, the Vat registration number also belongs to Consulting, as I pointed out, Chair. Chair, if I may also just add, you know, any finance official that was processing this invoice should have put up a break and said stop, there is a problem with the invoice because it reflects – it purports to come from the Holdings company but this is Consulting, they should have queried it, but it was processed.

CHAIRPERSON: That is now from TSS management side.

MR POWELL: Correct.

20 **CHAIRPERSON:** Yes but from the bank's side they would not be able to see anything like that.

MR POWELL: You are quite correct, Chair.

CHAIRPERSON: Yes, yes.

MR POWELL: And I think one of the ingredients for the vast amount of fraud in the country is because the banks

only look at the number and not necessarily the accountholder.

CHAIRPERSON: Yes.

MR POWELL: But many of the banks do offer a service where you pay extra and you can validate the name of the beneficiary to the account number.

CHAIRPERSON: Yes. Okay, alright.

ADV CHASKALSON SC: There is another Molelwane invoice that you were able to find, that was the one that –
10 the first one that you presented to the Commission together with this report. Can I take you to page 194?

MR POWELL: Certainly, Chair.

ADV CHASKALSON SC: Before we get to 194, sorry, one last point about this invoice. Can you just note the invoice number because we will be comparing it when we see the next invoice.

MR POWELL: Certainly, Chair, the invoice number on this invoice is 021 and I think it is important just to tie the date 30 November 2014 to the number.

20 **CHAIRPERSON:** I am looking for the invoice number.

MR POWELL: It is on the right hand column under tax invoice, Chair.

CHAIRPERSON: Yes.

MR POWELL: You will see a little bubble.

CHAIRPERSON: Ja.

MR POWELL: It is in there.

CHAIRPERSON: I am sorry, on the – we are at page 398, is that right?

MR POWELL: Correct.

CHAIRPERSON: I see where it says tax invoice.

MR POWELL: Just below that.

CHAIRPERSON: Ja?

MR POWELL: Right at the bottom in that block, Chair, it says invoice number 021.

10 **CHAIRPERSON:** Oh yes, okay, thank you.

MR POWELL: Chair and then I have also directed Chair to the date.

CHAIRPERSON: Yes, that is 30 November 2014.

MR POWELL: 30 November 2014.

CHAIRPERSON: Ja, okay.

ADV CHASKALSON SC: And then if we can go to the second invoice you have been able to find on page 194.

MR POWELL: That is correct, Chair.

20 **ADV CHASKALSON SC:** And I think while numbers and dates are fresh in our mind can you just direct the Chair to the date and number of this invoice?

MR POWELL: Certainly, Chair. The first thing to point out is the date is 30 April 2016 almost two years later and if you look in the bubble below tax invoice, Chair, you will see invoice number 22. So it seems to be a sequence and

that indicates no transactions between.

ADV CHASKALSON SC: And any other comments about this invoice?

MR POWELL: Chair, it is the same scenario as the prior invoice, the invoice emanates from Molelwane Holdings (Pty) Ltd, it is directed to TSS Managed Services (Pty) Ltd. It talks about services rendered as per agreement, LAN and WAN services. The amount charged is 500 570 with VAT and again a similar characteristic to the last invoice it
10 is the bank account details of that of Molelwane Consulting and it is a First National Bank account and it has the same anomaly that we recognise don the first invoice.

CHAIRPERSON: Do you know what LAN and WAN services are?

ADV CHASKALSON SC: I think the abbreviation, Chair, Local Area Network and Wide Area Network. I think that is what the abbreviation is, they are network-related services.

CHAIRPERSON: Yes.

MR POWELL: Chair, I can confirm that as well from my
20 side. Thank you, Mr Chaskalson.

CHAIRPERSON: Okay. Well, I see that the invoice does not reflect when these services were provided. I take it was the same with the other invoice, just provided what services were provided but not exactly when.

MR POWELL: Ja, there is no date, Chair.

CHAIRPERSON: Yes. Okay, alright.

ADV CHASKALSON SC: We are going to come back to both invoices in due course, Chair, when we put them in a chronology of events relating to Johannesburg.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: In your report you have dealt with these invoices at page 87 and then you go on to deal with payments to Molelwane in paragraph 8 over the page, bundle 1 page 88. Again my preference is to deal with the
10 payment when we can see them in a chronology relating to tenders in the City of Jo'burg but there is one set of payments that we will not be getting to in that chronology and I would like to just ask you to flag it here for the Chair. On page 89 of bundle 1 you talk about steps that you have taken to track down historical payments with reference to the BEE reports furnished by EOH companies and you referred to a 2012 schedule of BBBEE service providers and amounts paid to them. Can I take you to page 200 of the bundle – sorry and what you state there is that that
20 schedule reflects that Molelwane was paid 1.35 million in the course of 2012. Can I ask would that be calendar year 2012 or financial year 2012?

MR POWELL: That appears to be the calendar year.

ADV CHASKALSON SC: Okay. Can I then take you to page 200 of the bundle?

MR POWELL: Certainly.

ADV CHASKALSON SC: And can you describe – this is a page of broader document that one sees going back from 200. Can you describe to the Chair what that document is?

MR POWELL: This appears to be an EOH Group BBEE supplier list.

CHAIRPERSON: One second? The document starts at page 198, is that right?

MR POWELL: Correct.

10 **CHAIRPERSON:** But Mr Chaskalson wants us to look at page 200, hey?

MR POWELL: So this seems to be a schedule of all the BEE payments, BEE suppliers, Chair.

CHAIRPERSON: Oh.

ADV CHASKALSON SC: In what year?

MR POWELL: The 2012.

ADV CHASKALSON SC: And can you just direct the Chair to where you see that?

MR POWELL: Sorry, Mr Chaskalson, my copy is cut off.

20 **CHAIRPERSON:** Well, I see on the extreme right column there are – there is a reference to 2012 but there is also 2013 and 2011.

MR POWELL: Ja, I do see the 2012 reference.

CHAIRPERSON: Or could it be different years?

MR POWELL: Ja. There is reference to 2012 and 2013,

Chair, in the far right column.

ADV CHASKALSON SC: Maybe if I can take you to the start of the email string under which that document is furnished.

MR POWELL: Yes, that will help.

ADV CHASKALSON SC: And that is on page 195.

MR POWELL: Correct, Chair, that does reflect that attached is what I found on the drive from 2012 so it does
10 appear to apply to the 2012 year.

ADV CHASKALSON SC: It would of course be anomaly because there are some dates in 2013.

MR POWELL: Correct.

ADV CHASKALSON SC: But whether it is 2012 or 2013 is not going to be relevant for our purposes.

MR POWELL: Ja.

ADV CHASKALSON SC: I do want us to flag the entry for Molelwane on page 200.

MR POWELL: Correct. Chair, if I can direct you to on
20 page 195 the attachment is described as EOH Group BE 2012. PP suppliers list, certificates, final, 11 October '12. So I think that does help clarify the timing and then, Chair ...[intervenes]

CHAIRPERSON: Sorry, did you say at page 195?

MR POWELL: Page 195.

CHAIRPERSON: Yes, at the bottom.

MR POWELL: At the top where it reflects the subject, it refers to EOH Group BBEE supplier list.

CHAIRPERSON: Oh, yes.

MR POWELL: And then the attachment refers to EOH Group BE 2012, PP suppliers list and the document appears to be dated a final spreadsheet 11 October '12.

CHAIRPERSON: Ja, okay.

ADV CHASKALSON SC: Can I clarify the anomaly that
10 turns out not to be an anomaly in relation to the dates and
if you go to page 198, is the date where we are seeing
2013 dates is explained by the heading to that column.

MR POWELL: Oh, absolutely, correct, Chair. Mr Chaskalson has referred Chair to that top column on the right hand said, it says certificate expiry date. Chair, I think that is what the confusion was. So the date seems to be 2012 and some of the certificates referred to in the schedule expired in 2013.

CHAIRPERSON: Yes, okay.

20 **ADV CHASKALSON SC:** And then can you direct the Chair on page 200 to the line dealing with payments to Molelwane?

MR POWELL: Chair, just below the middle of that page you will see on the left hand side it refers to solutions and then two lines below solutions there is a gap in the middle

of the page. Two lines below that it refers to Molelwane Consulting CC 1 350 000 and then it refers to EME level 4 and it refers to – there is a reference on the right to TSS.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Chair, it is a very long list, I am not sure if you picked up the Molelwane entry.

CHAIRPERSON: I have. I do not know how many Molelwane there are but I have picked up the one I think that he is talking about, the amount is 1,350, level 4 and
10 not applicable, not applicable and then at the end TSS.

MR POWELL: That is correct.

CHAIRPERSON: That reflects that TSS paid R1,350 million to Molelwane Consulting CC, is that right?

MR POWELL: That is correct, Chair.

CHAIRPERSON: Ja, okay.

ADV CHASKALSON SC: Thank you, Chair, thank you, Mr Powell.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: We are almost ready to get to
20 Johannesburg. In fact we are ready to get to Johannesburg but before we get to the two specific contracts ...[intervenes]

CHAIRPERSON: Maybe just – I am sorry, Mr Chaskalson, just for the sake of completeness, is the date when that payment was effected reflected on page 200 or is the

amount of 1,350 million the total of various payments over a certain period?

MR POWELL: It appears to be various payments for the period, Chair.

CHAIRPERSON: Yes, okay, alright.

ADV CHASKALSON SC: Chair, if you go – the column heading is on page 198.

CHAIRPERSON: Yes, okay, okay.

ADV CHASKALSON SC: And that column is described as
10 total spend for the measurement period.

CHAIRPERSON: Oh yes, I see that, thank you. Just that they made a bit blacker there, I think it would have been much better if it was the same as the actual page. Okay, okay, alright.

MR POWELL: Chair, I think what makes the process difficult is we have been able to determine links, relationships, quantify payments from various sources, so it is not a simple matter of going straight to the accounting system and this schedule just is – corroborates the
20 information that we found.

CHAIRPERSON: Yes.

MR POWELL: So it does make it difficult to piece it together, Chair.

CHAIRPERSON: Yes. No, thank you.

ADV CHASKALSON SC: If we move now to the City of

Jo'burg, in your second report at page 376 of bundle 1 you provide a table that gives an overview of the various contracts that EOH Group of companies had with the City of Jo'burg.

MR POWELL: That is correct, Chair. There are a number of contracts referred to on the table at paragraph 3 of page 376 and if I can run through them quickly, Chair. The first one was a tender referred to as COJ 8387 and that was for ICT LAM and 1 services. The entity was TSSMS. The
10 value of the ward was R38.4 million. The date, the period was December 2010 to November 2012 and then extended.

ADV CHASKALSON SC: Can I ask that – you speak of the value of the award, is that the appointment value or the total amount that was paid during the course of the contract?

MR POWELL: This is the tender award value.

ADV CHASKALSON SC: Indeed and did you find cases where the amount ultimately paid exceeded the amount on award?

20 **MR POWELL:** We did, Chair, there were a number of instances where the amount actually paid went beyond what was awarded. The other anomaly, which I think it is important just to understand, Chair, is that when we issued an interim report on what we had found, EOH published the interim report on their website and they were very

transparent in communicating that they had problems and they went into great lengths and I know Mr van Coller has testified but the board were very, very anxious to undo all the wrongdoing to make sure that they removed the perpetrators, that they were no longer employed at EOH and that they were reported, prosecuted and that the company fulfilled all of its reporting obligations.

And when we issued that report we found a multitude of tender abuses so what transpired – and I think
10 this is just useful context before we go into the different tenders, Chair, is that the guys would collude with the government officials at the departments to irregularly extend an existing tender.

National Treasury puts limits on how far one can extend so if the value of the tender goes up by more than 20% the entity should retender. If the extension is for a completely different separate project it should retender but it looks like the small group of people who worked in that public sector vertical team under Jehan Mackay managed
20 to bypass tender on multiple occasions. So we have got multiple extensions of contracts which should have gone to tender and then there is a swear word in procurement, Chair, and that swear word is sole sourcing because very often entities will motivate why they are the only party that can provide the service but the reality is, all the

competitors can provide a similar service. But without competition the price can escalate exponentially and those are the types of things that happened on the various tenders. And then the other types of things that happened is the EOH people would collude, that public sector vertical small group of people would collude with the officials and they would get an inside track on tenders before they even advertised. So they would get advance notice, they would get more information than competitors and they would be
10 placed in an advantaged position.

And when we go through the evidence you will see that these types of scenarios play out on multiple occasions and then when things go wrong for this group of people and it looks like they are not getting their way with the public entity then they would use politically exposed persons to exert influence on the decision-makers to make sure that it goes their way.

So they would get advance notice of what is supposed to be confidential Bid Adjudication Committees
20 and they would know that they are about to lose something and they would then contact very well-known politically exposed persons, which I will refer to later in my evidence, Chair, and that person will then intervene and suddenly the anomaly or the decision to go out to tender will be changed or we find correspondence when, for example, City of

Jo'burg advertised something for tender that they had promised to EOH, there is consternation with this group of people.

But I am just pre-empting to just give you some context for what is about to follow, Chair.

CHAIRPERSON: Well, you know, this concept of sole source seems to be abused quite a lot from the evidence I have heard over the past two and half years and one of the questions I have asked is, if you believe that a particular
10 entity is the only source that provides a certain product or a certain service, why is that justification for not inviting others who may or may not exist to tender because if that entity is the only one that provides that product or service, it will be the only one that will respond to the invitation. But if there are others, they will also respond, if you are mistaken in thinking that that entity is the only one.

So, as a government entity, you suffer nothing by opening up the whole thing to open tender. Where there is no emergency, why do you not advertise for the whole
20 world and if there is only one entity that responds because it is the only one, that is fine. So I am yet to – that somebody will explain to me why the fact that you are a sole source for a certain product or service should justify not inviting whoever.

MR POWELL: Yes.

CHAIRPERSON: Just in case you are mistaken to think that is the only source.

MR POWELL: Correct, Chair.

CHAIRPERSON: So – ja, okay, alright. Mr Chaskalson.

ADV CHASKALSON SC: Thank you, Chair. Mr Powell, are you finished with that table or is there anything else you would like to highlight?

MR POWELL: There are number of other tenders, Chair, and it is useful just to get an understanding of the volume
10 of tenders at the COJ that we are talking about.

So the next one was COJ 8387 and that was ICT security and that was – the EOH entity was Mthombo and it was awarded for 26 million in December 2010 to 2012 and then extended.

The next one was COJ A472 for SAP support. EOH entity was Mthombo, 250 million. This was also 2012 to February 2016 and then extended and then the next ...[intervenes]

CHAIRPERSON: I am sorry, I think I did not hear the
20 page.

MR POWELL: Sorry, this is page 376, Chair, 376.

CHAIRPERSON: Oh, I am there. So okay, alright. Okay.

MR POWELL: Chair, this is just a short table setting out all of the different tenders at the City of Johannesburg.

CHAIRPERSON: Yes.

MR POWELL: So I have just referred to COJ A472 for SAP support, Mthombo 250 million. 2012 to 2016 and then extended. And then we do not have a tender number but SAP software, Mthombo was awarded for 97 million in November/December 2015 and then COJ A639 or ICT outsource, we do not have an award. And then COJ A647, SAP upgrade was awarded to Mthombo. The award value for 404 million and the date was June 2016 to June 2019. There was a delayed start with this tender. Chair, we will
10 elaborate on wrongdoing that happened around some of these particular dates and tenders.

ADV CHASKALSON SC: Thank you, Mr Powell. At this point we are going to go into one very detailed chronology concerning procurement in Jo'burg in 2014 and for my starting point I would like you to go to page 761 of the bundle.

MR POWELL: Thank you, Chair.

ADV CHASKALSON SC: Can you describe that document to the Chair?

20 **MR POWELL:** Certainly. This is a proposal for the upgrading of the City of Johannesburg network and infrastructure, it is dated 16 April 2014 and it was prepared for the City of Cape Town by EOH.

ADV CHASKALSON SC: Sorry, you said City of Cape Town.

MR POWELL: I am sorry, City of Johannesburg. My home city, Chair, apologies.

ADV CHASKALSON SC: Are you aware whether it was prepared in the context of a competitive bidding process or not?

MR POWELL: Chair, we understand that this was an unsolicited proposal.

ADV CHASKALSON SC: Then if we can fast forward a little bit to 6 August 2014. The date on that previous
10 document you pointed out was 16 April and can I take you to page 606?

MR POWELL: Certainly. Chair, this page 606 refers to an email from Geoff Makhubo dated 6 August 2014 and it is sent to Patrick Makhubedu and it seems to forward prior emails:

“Dear Patrick, the ANC greater Johannesburg requests urgent assistance with the re-launch of its Youth League this weekend. Apologies for the late request but it is an imperative from head office.
20 Attached is the accommodation quotation.”

ADV CHASKALSON SC: Can I interrupt you at that point? Can I ask you to take the Chair to page 605?

MR POWELL: Certainly, Chair. 605, Chair, appears to be the conference quotation that is referred to in the request that I just read on email and it comes from Randburg

Towers and it has a day conference package that is elaborated upon in the document and the date of the document is 24 July 2014 and the amount is R582 100.

CHAIRPERSON: Is that just for accommodation or is more than accommodation?

MR POWELL: There is a whole range, it is conferencing, it is dinners, tower rooms, admin.

CHAIRPERSON: Yes.

MR POWELL: Decor, twin accommodation, single
10 accommodation. So it seems to be a conference with accommodation and all of the necessary for the conference.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Then if you go back – I maybe interrupted you too soon, I am afraid, Mr Powell, but if you can go back to 606 and take the Chair through the rest of the email.

CHAIRPERSON: Maybe just for convenience you can start – read it from the beginning again, the email at 606.

20 **MR POWELL:** Certainly, so 6 August this email was just forwarded by Patrick Makhubedu to Rene Jonker. Rene Jonker was one of the divisional finance directors within the EOH Group and there is no ...[intervenes]

CHAIRPERSON: I am sorry, I am sorry, I am sorry, Mr Powell ...[intervenes]

ADV CHASKALSON SC: Chair, I might be of assistance, if it is at the top of the page once sees the forwarding to Rene Jonker.

CHAIRPERSON: Oh, yes. So the forwarding is from Patrick Makhubedu to Rene Jonker but the actual email which is in the middle is from Geoff Makhubo to Patrick Makhubedu, is that right?

MR POWELL: That is correct Chair.

CHAIRPERSON: Oh, okay so I think start with the email.

10 **MR POWELL:** Yes.

CHAIRPERSON: And then once we know who it was from and who it was to then we can go to who the addressee forwarded it to.

MR POWELL: Certainly Chair.

CHAIRPERSON: Ja, okay.

MR POWELL: So this was forwarded to Rene Jonker in finance, with no narration, just sent from an iPad.

20 **ADV CHASKALSON SC:** But can I ask you just to take the Chair through the body of the email that was forwarded to Mr...[intervenes]

CHAIRPERSON: Yes, just read the email first, ja.

MR POWELL: Chair but this, who what I read earlier so ...[intervenes]

CHAIRPERSON: No, no what I meant read it again.

MR POWELL: Certainly, sorry Chair. The email comes

from Geoff Makhubo, it is dated 6 August 2014 at 2:18 and it is sent to Patrickmakubedu05@gmail.com, and the subject is just forward FW, and it reads Chair:

“Dear Patrick,

The ANC greater league Johannesburg requests urgent assistance with the re-launch of its youth league this weekend. Apologies for the late request but it is an imperative from head office. Attached is the accommodation quotation. Funds can be paid directly into the ANC or to the venue.”

10

CHAIRPERSON: Regards Geoff Makhubo, ANC Regional Treasury?

MR POWELL: Correct.

CHAIRPERSON: Yes, okay.

ADV CHASKALSON SC: Now we have seen the accommodation details that he referred to at the Randburg Towns conference invoice. Can I ask you then to go back up to 602 because it is a long email stream it is chronologically reversed as it were and can you tell the Chair what you see on page 602?

20

MR POWELL: On 602, on 6 August 2014 at 9:47pm...[intervene]

CHAIRPERSON: Sorry just to complete the – it is something you dealt with but I like it in proper sequence.

ADV CHASKALSON SC: Certainly Chair.

CHAIRPERSON: So Mr Geoff Makhubo sends an email to Mr Patrick Makhubedu...[intervene]

ADV CHASKALSON SC: Correct.

CHAIRPERSON: ...requesting assistance for the launch of the youth league for the ANC greater Johannesburg and when Mr Makhubedu receives it he forwards it to Rene Jonker, is that right?

MR POWELL: Correct Chair.

CHAIRPERSON: Okay then continue then.

10 **ADV CHASKALSON SC:** Then following the same sequence if we can start towards the bottom of page 602 at the email he sent at 3:50pm.

MR POWELL: Certainly this is from Geoff Makhubo and interesting Chair it is also Geoffmakhubo@gmail.com date 6 August 2014 to Patrickmakubedu05@gmail.com and he copies another Gmail address for Patrick Makhubedu.

“Subject: ANC greater Johannesburg accounts.”

It starts with:

20 “Heita,

Here are the account details name ANC greater Johannesburg...[intervene]

ADV CHASKALSON SC: I do not think we need to quote the ANC bank account certainly not.

MR POWELL: Certainly.

ADV CHASKALSON SC: But we get the general idea. Can you follow that stream; can you take the Chair through what happens when that goes to Patrick Makhubedu.

MR POWELL: So Patrick receives this on 6 August 2014 at 9:46pm he forwards to Rene Jonker and the subject is:

“Forwarded ANC greater Joburg accounts:

“Hi please see below the ANC bank details, regards Patrick.”

The next email Chair is at the top of the page Rene Jonker
10 responds at 9:47pm to Patrick Makhubedu and says:

“Thanks will pay first thing in the morning, regards Rene Jonker, financial manager TSS Managed Services Pty Ltd.”

ADV CHASKALSON SC: Can I then take you to page 607.

MR POWELL: Certainly Chair page 607 is what we refer to as a POP, P-O-P Chair it is the proof of payment and if you look at the earlier invoice from the venue you will see the amount was R582 100,00 and that is the value of the POP. So this is clearly the payment for the accommodation
20 for the conference.

CHAIRPERSON: Yes and that is not a small amount that is just over a half a million rand.

MR POWELL: That is correct Chair.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Can I ask you to take the Chair

to the beneficiary name.

MR POWELL: Certainly Chair if you look at the document.

CHAIRPERSON: At page 607 that is the document we are looking at, is it not?

ADV CHASKALSON SC: Correct Chair.

CHAIRPERSON: Yes.

MR POWELL: That is description:

10 “ANC greater Johannesburg from account TSS
Managed Services Pty Ltd and the description ANC
greater Johannesburg.”

ADV CHASKALSON SC: Thank you in fact when you read that description you omitted a detail there which cross refers to the invoice. I appreciate that your printed copy may not be as clear as my electronic copy Chair if I might read the detail.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: It says:

 “ANC greater Johannesburg (Randburg Towers).”

MR POWELL: Correct.

20 **ADV CHASKALSON SC**: And Chair you will recall that the invoice that was attached to Mr Makhubo’s, the quotation that was attached to Mr Makhubo’s letter of 6 August came from Randburg Towers.

CHAIRPERSON: Okay.

MR POWELL: And then one further detail Chair is the

authoriser number two is Jehan Mackay.

CHAIRPERSON: Yes, okay.

ADV CHASKALSON SC: Can I then asked you to go to page 609 and 610 and to take the Chair chronologically through what you see there?

MR POWELL: Certainly. This Chair is a letter from the African National Congress greater Johannesburg Region, office of the Regional Treasurer it is addressed to the executive director EOH Mthombo and it is copied to Mr
10 Ebrahim Laher and it is dated 8 August 2014.

ADV CHASKALSON SC: Can I just interrupt at the point, who was the executive director of EOH Mthombo at the time?

MR POWELL: The executive director of EOH Mthombo at the time was a gentleman by the name of Asha Bohbat, B-o-h-b-a-t Mr Chair.

ADV CHASKALSON SC: I think Mr Bohbat, in fairness to Mr Bohbat I understand that he was the chief executive of the entire EOH group I think EOH Mthombo...[intervene]

20 **MR POWELL:** EOH Mthombo was Jehan Mackay.

ADV CHASKALSON SC: Was Jehan Mackay indeed and everyone sees in the address Jehan Mackay.

CHAIRPERSON: I am sorry you said it is Mr Ebrahim Laher is copied just for the convenience of the transcribers the surname there is L-a-h-e-r.

MR POWELL: Correct Chair.

CHAIRPERSON: Ja, okay.

ADV CHASKALSON SC: And can you tell the Chair who Mr Laher is?

MR POWELL: Yes, Mr Laher was the director of the SAP business of EOH.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: And then can you go back to the letter.

10 **MR POWELL:** Certainly. This letter the header is:

“RE, request for financial assistance:

Dear Mr Jehan Mackay,

The ANC greater Johannesburg it is a busy season again with conferences and congresses coming in which they require enormous resources to execute we therefore humbly request donations to the ANC greater Johannesburg towards these programs perhaps to be achievable your contribution will make a positive impact within our organisation. The following is a breakdown of cost from this month to January 2015 after all is normal.”

20

And then it details August month, monthly administration expenses, stipends for employees, ANCYL regional conference, congress venue cost, ANCYL regional congress transport cost, ANCYL regional congress package

T shirt, caps, badges, bags, woman's month celebration. Each of these has a number and just to run through it is 50 000,00. 140 000,00, 400 000,00, 100 000,00...[intervene]

CHAIRPERSON: I am sorry Mr Powell I think read each item and its figure at the same time so that one knows.

MR POWELL: Certainly Chair.

CHAIRPERSON: Ja.

MR POWELL:

10 "Monthly admin expenses 50 000,00, stipends for employees 140 000,00, ANCYL regional conference venue cost 400 000,00.

ADV CHASKALSON SC: That is the ANC Youth League.

MR POWELL: Correct:

"The ANC Youth League regional congress transport cost 100 000,00, ANCYL regional congress package T-shirts, caps, bags R110 000,00, woman's month celebration R100 000,00 the total R900 000,00."

But that is just for August Chair then for September we have a similar schedule and September shows:

20 "Monthly admin expenses 50 000,00, stipends for employees 140 000,00, ANCYL regional conference 400 000,00."

And then apologies Chair the bottom line is cut off but the last item I can see is:

"300 000,00."

But we will be able to...[intervene]

ADV CHASKALSON SC: Chair I do not know if you would want me to read those items into the record?

CHAIRPERSON: You may read them because, ja I think it might be quicker.

ADV CHASKALSON SC: So it is where the:

“300 000,00 is against MK Military Veterans Association Regional Congress.”

Underneath that there is a:

10 “Heritage day celebration for 160 000,00 and the total for September is 1 000 050,00.”

Then if we go over leave for October, if you can pick up Mr Powell.

MR POWELL: Certainly. So the:

20 “Monthly administration expenses are 50 000,00, stipends for employees 140 000,00, ANC greater Johannesburg regional conference venue 1million, ANC greater Johannesburg regional conference packages 650 000,00, ANC greater Johannesburg regional conference transport 200 000,00, ANC greater Johannesburg regional conference printing documents branding and décor 800 000,00, BGMS ancillary cost for branch, it looks like corrations[sic] 370 000,00 totalling 3 000 210,00 Chair. If I may continue?

CHAIRPERSON: Yes.

MR POWELL:

“November the monthly administration expenses are stipulated as 50 000,00, stipends for employees 140 000,00 total R190 000,00. December: monthly administration expenses R50 000,00, stipends for employees R280 000,00, staff getaway R150 000,00, total R340 000,00”

And then:

10 “January monthly admin expenses R50 000,00, stipends for employees R140 000,00, ANC January 08 anniversary national event transport, accommodation and refreshments R250 000,00, total R490 000,00. The grand total is R6 000 180,00.”

And then what follows are the ANC banking accounts and following the bank account details there is a note from Geoff Makhubo:

“Your support is highly appreciated.”

20 It closes with this comment from Geoff Makhubo:

“Your support is highly appreciated and we thank you in advance for your commitment and contribution towards strengthening our democracy. Yours in democracy Geoff Makhubo.”

ADV CHASKALSON SC: Can I then take you to the

following page 611.

CHAIRPERSON: One second Mr Chaskalson, Mr Powell I do not know whether you had a chance of adding up all these amounts to see...[intervene]

MR POWELL: Yes, Chair that grand total is just over R6 000 000,00, R6 000 180,00.

CHAIRPERSON: Oh there it is okay they provide it ja, okay.

MR POWELL: The next page, page 611 Chair is an email
10 from Patrick Makhubedu dated 20 August 2014 sent to Geoff Makhubo at a Gmail address and it is forwarded with a subject header:

“Proof of Payment SCC, Proof of Payment Sandton Convention Centre.”

And if you turn to the ensuing page 612 Chair the email attaches this document which is a Nedbank payment confirmation and if you look at that document we also refer to this as a POP Chair, it is a proof of payment and it comes from account details Prime Molecular Cheque
20 account and then it has the reference both statements have the reference SCC14872 and that seems to be the abbreviation for Sandton Convention Centre to account number and it refers to the account number and an amount sorry Chair I think this was a different proof of payment, apologies.

CHAIRPERSON: Oh okay.

ADV CHASKALSON SC: No, no it is the right proof of payment.

MR POWELL: Okay, amount R20 527,30.

ADV CHASKALSON SC: For the Sandton Convention?

MR POWELL: For the Sandton Convention Centre, correct.

ADV CHASKALSON SC: Can you refresh the Chairs memory as to who Prime Molecular are?

10 **MR POWELL:** Prime Molecular if I remember correctly Chair was one of Patrick Makhubedu's entities.

ADV CHASKALSON SC: That is correct and the details Chair are to be found in that table at page 86.

CHAIRPERSON: Thank you.

ADV CHASKALSON SC: If we then go over the page to 613.

MR POWELL: Certainly Chair.

ADV CHASKALSON SC: And what we see at 613 is an email string that runs to 615. Can you take the Chair
20 through what one sees on page 613 to 615?

MR POWELL: Do you want me to start at the top and work down Mr Chaskalson or do you want me to refer to the document that is forwarded, I think the email forwarded?

ADV CHASKALSON SC: I think this is a case where it does not matter either way works.

MR POWELL: Chair the top of the page refers
to...[intervene]

CHAIRPERSON: That is 6...[intervene]

MR POWELL: 613.

CHAIRPERSON: Ja.

MR POWELL: It is forwarded by Patrick Makhubedu on 22
August 2014 at 3:06pm to Geoffmakhubo@gmail.com and
the forward narration is payment confirmation 1165 and
there is an attachment payment confirmation PDF and it is
10 forwarded with no narration. The item that was forwarded
appears to be an email that was resent it has the header
just below resent from PatrickM@tssms.co.za from
Standard Bank IB Support at Standard Bank dated 22
August 2014 at 3:00pm to Patrick Makhubedu it is the
payment confirmation from Standard Bank.

CHAIRPERSON: Yes.

MR POWELL:

20 “Dear Patrick, a payment has been made to your
account to view the details of the payment please
open the attached PDF.”

And then it is just the admin around that from the bank and
then if we can turn the page Chair to page 615.

CHAIRPERSON: Just one second, I just note the – I do
not know whether it is the informal nature of the salutation,
Dear Patrick, it is the bank writing to him maybe it is a

client that has a close relationship with whoever is writing from Standard Bank or maybe this is, I would have expected Dear Mr Makhubedu but maybe that is old fashioned.

MR POWELL: Correct Chair it might just be an electronic payment confirmation with a polite greeting, we do not know.

ADV CHASKALSON SC: I think the customers are able to set how he or she gets greeted for the confirmation.

10 **CHAIRPERSON:** Okay, alright yes thank you. Then you said I should go to page?

MR POWELL: 615, Chair.

CHAIRPERSON: Yes.

MR POWELL: And this one is from Standard Bank and this one also starts with Dear Patrick Chair:

“We confirm that the following payment has been made into your account from Mfundi 1.”

And then it has a reference number 741172063 beneficiary name ANC, bank name First National Bank. It has the
20 beneficiary account number, beneficiary branch number, beneficiary reference is Patrick Makhubedu and the amount is R70 000,00 and payment date and time is 22 August 2014 and there is a further comment:

“If you need more information or have any questions about this payment please contact Mfundi 1.”

And there is a cell number Chair.

ADV CHASKALSON SC: And you refer to Mfundi, can you remind the Chair who Mfundi are?

MR POWELL: Yes, Mfundi was the entity with I highlighted Reno Neil Barry as the key protagonist Chair.

ADV CHASKALSON SC: Then if I can ask you to go to page 337 and maybe start at 336.

MR POWELL: Certainly Chair at page 336 we have an email from Reno Barry sent on 10 September 2014 9:30 to
10 Patrick...[intervene]

ADV CHASKALSON SC: Can you just refresh the Chairs memory as to who Reno Barry is?

MR POWELL: Yes, certainly Chair Reno Barry is the principle of that entity called Mfundi Mobile but the email is from Reno to Patrick Makhubedu the date is 10 September 2014, time is 9:30pm. It is a management report, subject management report Mfundi Mobile Solutions, Mfundi Management Report excel is attached. There is a spreadsheet dated 10 September 2014:

20 "Hi Patrick."

Is the narration Chair:

"Please find attached the management report for Mfundi as at 10 September 2014."

ADV CHASKALSON SC: Then if you go over the page at 337, can you identify this document for the Chair?

MR POWELL: Certainly Chair this appears to be management accounts for Mfundi and...[intervene]

ADV CHASKALSON SC: Can I be more specific than that there was an excel spreadsheet attached to the previous email, is this that spreadsheet?

MR POWELL: Ja, correct. So this says the annexure referred to management report 10 September 2014, Chair.

ADV CHASKALSON SC: Now if one goes to the top left there will be a description of income coming into Mfundi.

10 Can you explain to the Chair what you see there?

MR POWELL: Certainly there is a reflection of monthly EOH invoice Chair and there is amounts in the columns on the right of that 406 000,00, 406 000,00 repeated for October, November, December, January, February and there is a total of R2million and...[intervene]

CHAIRPERSON: The figures on this page are not as clear as one would have liked them to be just start afresh, go back to the first figure you mentioned then let me try identify it.

20 **MR POWELL:** Chair the top figure on the left under October 2013, October 13 it reflects 406 000,00 and it is the narration my page is slightly cut off Chair.

CHAIRPERSON: Oh, ja.

MR POWELL: But if you take the 406 000,00 and that number is repeated for October, November, December,

January, February and the total reflected is R2 000 030,00.

ADV CHASKALSON SC: There are in fact three totals going across, three total columns the one at the end of February 2014. I presume that that is because Mfundu has a financial year that ends in February, would that be a fair assumption?

MR POWELL: That appears to be the case Chair.

ADV CHASKALSON SC: Then there is a second total which is second from the right which totals everything after
10 February and then there is a main total that totals both of them, is that correct?

MR POWELL: Correct.

ADV CHASKALSON SC: Can you – I do not know if your copy is legible Chair we may apologise for the quality of these documents we may need to have better quality documents produced but on your copies of the document is the description in the first column legible, which describes what this revenue relates to?

MR POWELL: It is slightly cut off Chair but I can make out
20 sales.

ADV CHASKALSON SC: Chair at the risk of assuming the witness's role I have a clear electronic copy, can I read those?

CHAIRPERSON: Ja, you can read it.

ADV CHASKALSON SC: The first line item says:

“Sales monthly EOH invoice.”

The second line item said:

“Sales EOH special invoice.”

Can you comment to the Chair on what this reflects?

MR POWELL: Certainly Chair the special invoice if you run across to the right you will see the figure under June 14 of R1.2million and if you take that across it gets put into to the total and you see the R1.2million again and then it goes into the main total on the right.

10 **CHAIRPERSON:** Before we proceed Mr Chaskalson you referred earlier onto there being three total amounts on this page. I can see two but I cannot see the one which you said was for February 2014, I did not see anything written total whereas the other two you have got total and you have got main total. So I do not know if I am missing anything.

ADV CHASKALSON SC: Yes, Chair the copy may well, your copy may well be illegible but after February 2014 after that, there is a total cost, yes.

20 **CHAIRPERSON:** Oh yes now I see it, ja okay thank you.

ADV CHASKALSON SC: Now so we have dealt with the revenue that comes into Mfundi from sales on monthly EOH invoice and EOH special invoice underneath that we see a whole list of line items that are described as cost of sales. I would like to take you first to the first line item which is

cost of sales P Makhubedu.

MR POWELL: Correct Chair the first line item is cost of sales P Makhubedu and it has a figure of 1,140 000.

ADV CHASKALSON SC: No I think you slipped a line.

MR POWELL: R1.2million apologies Chair it is just this copy is not that great.

CHAIRPERSON: That is under August 2014, is that right?

ADV CHASKALSON SC: That is correct, Chair.

CHAIRPERSON: Yes, Okay.

10 **MR POWELL:** And it continues into the total and then into the main total that same figure Chair. So and that number coincides with the special invoice number which was also R1.2million, just above that Chair.

CHAIRPERSON: Ja, I just want to refresh my memory this reflects payments from Mfundi Mobile Networks to the people mentioned here, is that correct?

MR POWELL: Correct.

ADV CHASKALSON SC: That is it, below the break Chair the first two line items are payments into Mfundi then there
20 is a gap and then there are cost of sales which are payments made by Mfundi.

CHAIRPERSON: Oh the first two that is sales and ja those two sales that is payment to Mfundi.

ADV CHASKALSON SC: Indeed Chair.

CHAIRPERSON: And then the balance would be payments

from Mfundi or by Mfundi.

ADV CHASKALSON SC: Indeed and all of the payments to Mfundi are described in relation to either EOH invoice, monthly EOH invoice or EOH special invoice.

CHAIRPERSON: Okay no thank you.

ADV CHASKALSON SC: We dealt with the first line item before we were looking at the spreadsheet we were dealing with a payment made by Mfundi to the ANC in August 2014 on the 22nd of August 2014. Can I take you down the list of
10 the cost of sales to six from the last cost of sale and can you tell the Chair what you see there?

MR POWELL: Certainly Chair I see a payment reflected under August 2014 of 70 000,00.

ADV CHASKALSON SC: And the line item description in relation to it?

MR POWELL: ANC.

ADV CHASKALSON SC: Okay if you can read the full line item description because I think it is important.

MR POWELL: Okay:
20 "Cost of sales ANC."

ADV CHASKALSON SC: So the payment by Mfundi to ANC is treated as a cost of sales by Mfundi?

MR POWELL: That is correct Chair.

ADV CHASKALSON SC: Indeed, then I want to take you to the next cost of sale to Mfundi can you identify that for

the Chair.

MR POWELL: The next narration is:

“Cost of sales Molelwane Consulting 80 000,00.”

And then that is also...[intervene]

CHAIRPERSON: Is that is the one just immediately below the one you have just read of cost of sales ANC?

MR POWELL: Correct Chair. That appears in the August 14 column and that is taken through to the total and the main total column as well.

10 **ADV CHASKALSON SC:** And can you just remind the Chair whom are the members of Malolwane Consulting?

MR POWELL: Certainly that is Florence Makhubedu and Geoff Makhubo was a member active until 2019.

CHAIRPERSON: But at the time of these payments Mr Makhubo was still a member of Molelwane Consulting CC, is that right?

MR POWELL: Correct – sorry Chair the consulting was the Holdings was Florence. Mr Makhubo was her partner.

ADV CHASKALSON SC: If I might – if I might correct you.

20 **MR POWELL:** Yes.

ADV CHASKALSON SC: Florence Makhubo was in Consulting.

MR POWELL: Yes.

ADV CHASKALSON SC: With Geoff Makhubo.

MR POWELL: Correct.

ADV CHASKALSON SC: And as reflected on CIPC.

MR POWELL: Yes.

ADV CHASKALSON SC: Until 2011 – until 2019?

CHAIRPERSON: Oh okay. In Molelwane Consulting for a certain period the members were Mr Geoff Makhubo and Florence Makhubo is that right?

MR POWELL: Yes both Makhubo's.

CHAIRPERSON: Both Makhubo's. But in – at some stage in 2019.

10 **MR POWELL:** Correct.

CHAIRPERSON: Mr Geoff Makhubo resigned from Molelwane Consulting CC.

MR POWELL: That is correct.

CHAIRPERSON: But in 2014 which you are dealing with they were both still members of the CC?

MR POWELL: That is correct.

CHAIRPERSON: Okay. Am I right to say Consulting – Molelwane Consulting was a CC?

MR POWELL: That is correct Chair.

20 **CHAIRPERSON:** Yes okay alright.

ADV CHASKALSON SC: Chair I do want to put it on record because Mr Makhubo has not testified yet but Mr Makhubo's own version is that he had intended – he had attempted to resign in 2011 but his resignation was not processed.

CHAIRPERSON: It was not processed.

ADV CHASKALSON SC: Was not processed.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: We will canvass that with him.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: When he comes to testify.

CHAIRPERSON: yes.

ADV CHASKALSON SC: But he has publicly stated that he withdrew from both Molelwane's in 2011.

CHAIRPERSON: Yes. Yes okay.

10 **ADV CHASKALSON SC:** May I just the round the loop and get a specific date for that R80 000.00 payment to Molelwane Consulting can I ask – Chair can I ask you and Mr Powell to go to Flow of Funds Volume 3 page 612?

CHAIRPERSON: Is that the bundle?

ADV CHASKALSON SC: Bundle 3.

CHAIRPERSON: Bundle 3.

ADV CHASKALSON SC: Bundle 3.

CHAIRPERSON: Okay.

20 **ADV CHASKALSON SC:** And Chair that page 612 is the only page I am going to be referring to from the bundle so you just need the page not the whole bundle for now.

CHAIRPERSON: Okay. You might just take the page out and then you can put it back. Yes thank you.

MR POWELL: What is the page reference?

ADV CHASKALSON SC: 612.

MR POWELL: Okay. Right have it before me Mr Chair.

ADV CHASKALSON SC: And there can I ask you to look at the very first – sorry – this Chair is a bank statement for Molelwane Consulting CC that the commission has obtained from First National Bank. Can I ask you to go to the very first entry on 612?

MR POWELL: Certainly. Chair it is dated 22 August. It is a magtape credit. Description Patrick Makhubedu and the amount is R80 000.00.

10 **CHAIRPERSON**: Do we know which year 22 August – which year – do we know?

ADV CHASKALSON SC: On the previous – I apologise Chair I should have given you 511 with it.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: It is the bank statement from 16 August 2014 to 17 September 2014.

CHAIRPERSON: Okay alright.

MR POWELL: Correct Chair.

CHAIRPERSON: Okay. Yes okay.

20 **ADV CHASKALSON SC**: While we are looking at the statement can I ask you to go down to 1 September?

MR POWELL: Certainly. On 1 September there is another magtape credit Chair and it is – description is Patrick Makhubedu R100 000.00.

CHAIRPERSON: One – that first one of 22 August you did

mention the amount eh R80 000.00?

MR POWELL: R80 000.00 yes Chair.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: And we have just been looking at the Mfundu Management Accounts. Can you draw a connection for me there?

MR POWELL: Correct Chair there R80 000.00 was reflected as a cost of sales.

ADV CHASKALSON SC: Indeed. From Mfundu to EOH in
10 respect of August 2014. If we go back to Bundle 1 we are now going forward to 27 August and can I ask you to go to page 760?

MR POWELL: Certainly.

ADV CHASKALSON SC: Can you describe to the Chair what you see there?

MR POWELL: Yes. This is an email from Patrick Makhubedu sent on Wednesday August 2017/2014 Chair to geoffmakhubo@gmail.com and he copied himself with another email address patrickmakhubedu05@gmail.com and
20 it is – it attaches EOH COJ Networking Solutions Version 3 doc and it is forwarded with the narration EOH COJ Networking Solution Version 3.

ADV CHASKALSON SC: And you go to the next page it is a document we started off this chronology with. Can you describe it to the Chair?

MR POWELL: Correct. It is the proposal for the upgrading of the City of Johannesburg Network and Security Infrastructure Chair and the date of this – this is prepared for City of Johannesburg and the date is 2014/04.16 – the 16 April.

ADV CHASKALSON SC: So you earlier refer to this document as an unsolicited proposal that was sent to the City in April on 16 April 2014. Can we just go back to that previous email so that we are clear on the date on which it is
10 now forwarded from Mr Makhubedu to Mr Makhubo?

MR POWELL: Certainly this – the date of this is 27 August 2014.

ADV CHASKALSON SC: I do not need to tell take you through the entire document but can I ask you to go to page 776 where the price attached to this proposal appears?

MR POWELL: Certainly.

CHAIRPERSON: What is the page number?

MR POWELL: 776.

ADV CHASKALSON SC: 776 Chair.

20 **CHAIRPERSON:** Thank you.

MR POWELL: Chair at page 776 there is a table Solution Pricing and Assumptions and the total price it goes into the different components – the total price is R106 185 395.36.

CHAIRPERSON: I think you may have two millions there.

MR POWELL: 106 million yes.

CHAIRPERSON: R106 185 395.36.

MR POWELL: Yes.

CHAIRPERSON: Ja.

MR POWELL: 395 thanks Chair.

CHAIRPERSON: Yes, ja.

MR POWELL: Correct.

ADV CHASKALSON SC: Then Mr Powell can we move forward to the 29 August and can I ask you to go to page 778?

10 **MR POWELL:** Certainly.

CHAIRPERSON: That total that you have just read Mr Powell would – is that the total given of the quotation for the job that they wanted to do?

MR POWELL: Ja this is the proposal total Chair.

CHAIRPERSON: Ja okay alright. Yes page 778 is that right?

MR POWELL: This is an email from Patrick Makhubedu and it is dated Friday 29 August 2014 to Geoff Makhubedu – Makhubo sorry. To Geoff Makhubo and the subject is just the
20 205191721pdf and that is also the name of the attachment. And if you turn the page it is TSS Managed Services.

ADV CHASKALSON SC: Chair I – I just want to check that you have page 778.1.

CHAIRPERSON: Yes I do.

ADV CHASKALSON SC: If you can just describe to the

Chair what you see there?

MR POWELL: This is a tax invoice made out to the City of Johannesburg project name COJ Network and Security Upgrade and project – there is a project number in it. The customer number, order number etcetera and it refers to customer reference 8387. Description upgrading of network and security infrastructure and the total is the total we just looked at previously the exact amount of the proposal R106 185 395.36 Chair.

10 **CHAIRPERSON:** Just hang on one second. The proposal was dated what?

ADV CHASKALSON SC: 16 April Chair.

CHAIRPERSON: Oh 16 and this is the invoice dated 26 June? Is that right 2014?

MR POWELL: Correct.

ADV CHASKALSON SC: That is correct Chair.

CHAIRPERSON: Ja okay alright.

ADV CHASKALSON SC: So in respect – there is an invoice for the full amount of the proposal. The customer reference
20 number is 8387. Can I take you back to that table you were going through with the Chair on page 336?

MR POWELL: Certainly.

CHAIRPERSON: Just to make sure I understand. Since the total of the total appearing on this invoice is the same as I understand it as the total of the quotation or of the proposal.

MR POWELL: Correct Chair.

CHAIRPERSON: This suggests that the work would have been completed because you – one would expect that you put in your invoice after you have done the work.

MR POWELL: Correct Chair.

CHAIRPERSON: Would that be your expectation as well?

MR POWELL: That would be the expectation Chair.

CHAIRPERSON: Yes.

MR POWELL: I am not sure that is the reality.

10 **CHAIRPERSON**: Okay no I just wanted to make sure I am following. Yes okay Mr Chaskalson I think you – I interrupted you.

ADV CHASKALSON SC: First the reference number the customer reference was 8387 that refers to a contract which you describe in your table at page 376.

CHAIRPERSON: Page 376?

ADV CHASKALSON SC: That is correct Chair. It is fact the first item on that table.

CHAIRPERSON: Yes okay.

20 **ADV CHASKALSON SC**: So what was the contract with reference number 8387?

MR POWELL: 8387 was an ICT Lan and Wan project and the entity was TSSMS and the value was R38.4 million.

ADV CHASKALSON SC: That was the award value?

MR POWELL: Yes and there is also the same – there is also

a COJA387 for ICT Security Mthombo and that value was R26 million also 2010 to 2012 and then extended.

ADV CHASKALSON SC: So both of the relevant contracts ought to have expired in 2012?

MR POWELL: That is correct Chair.

ADV CHASKALSON SC: Can I then take you ...[intervenes]

CHAIRPERSON: Hang on one second. So if you look at the reference of 8387 the first item on your table at page 376 that would be a contract that expired in 2012 or thereabout?

10 **MR POWELL:** That is correct. Ja.

CHAIRPERSON: But the invoice that we looked at two/three minutes ago which had the same reference 8387 was in June 2014?

MR POWELL: 14. Correct Chair.

CHAIRPERSON: And it purported to be an invoice for – or connected or arising from work connected with the proposal made in April 2014?

MR POWELL: Correct.

CHAIRPERSON: Okay alright.

20 **ADV CHASKALSON SC:** Then Mr Powell can we go forward to 1 September and page 779.

MR POWELL: Certainly. Page 779 Chair is an email from Patrick Makhubedu to Reno Barry sent on 1 September 2014 and the narration is

“Hi, please pay R100 000.00 into the

Molelwane Consulting from Mfundu and make immediate clearance. Thanks Patrick.”

ADV CHASKALSON SC: Can we then go back to our bank statement for Molelwane in August/September 2014 which is at page 612?

MR POWELL: Certainly.

ADV CHASKALSON SC: Volume 3 – Volume 3 – Bundle 3 of page 612.

CHAIRPERSON: The page that you would like us to go to is
10 in another bundle?

ADV CHASKALSON SC: It is that one page that we – that I referred you to.

CHAIRPERSON: Oh.

ADV CHASKALSON SC: Earlier Chair.

CHAIRPERSON: Okay and what was the page number?

ADV CHASKALSON SC: 612 sorry.

CHAIRPERSON: Okay alright. Yes I have got it.

ADV CHASKALSON SC: And Chair you will recall that we had identified the R80 000.00 payment to Molelwane on 22
20 August and also that R100 000.00 payment on 1 September.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: With – both with references Patrick Makhubedu. You have just quoted the email that required immediate clearance. Can you point the Chair to what the balance of Molelwane was before the R100 000.00 was paid

in?

MR POWELL: Certainly Chair. It looks like that account was almost empty. The balance was R597.45 when the R100 000.00 came in and that pushed it to R100 000.00 just under R600. So the account was almost depleted.

ADV CHASKALSON SC: And while we are on this issue can you do the same exercise for the payment on the 22 August of R80 000.00?

MR POWELL: Certainly Chair when the R80 000.00 came in
10 the balance was also R600.00. In that case it was R621.45. So R600.0 the account was virtually depleted when it got the R80 000.00 credit. Mr Chaskalson can I put away this bundle? Is that the last?

ADV CHASKALSON SC: Yes we are not going to come back to Volume 3 certainly not before lunch.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Chair I was hoping that we might
be able to complete the 2014 chronology but there is little prospect that we will do that before lunch so if this is a
20 convenient time to take the adjournment I would ask that we do so?

CHAIRPERSON: Yes. Okay we will take the lunch adjournment – adjournment now and then we will resume at two.

ADV CHASKALSON SC: Thank you Chair.

CHAIRPERSON: We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES:

CHAIRPERSON: Okay let us continue.

ADV CHASKALSON SC: Thank you, Chairperson. Now the chronology, we have just finished on 1 September. Can I then, Mr Powell, take you to page 616?

MR POWELL: [No audible reply]

10 **ADV CHASKALSON SC:** Can you describe it to the Chair, the document that you see there?

CHAIRPERSON: That is 616?

ADV CHASKALSON SC: 616. Chair, indeed.

CHAIRPERSON: Okay.

MR POWELL: Yes. Mr Chair, this is an email from Patrick Makhubedu sent to Geoff Makhubo at Gmail and the subject is donations letters. It is dated 9 September 2014. And there were a number of attachments; Donation Letter ANC, EOH Managed Services, Donation 01/2014 doc,
20 Donation Letter ANC / EOH Managed Services Donation doc, Donation Letter ANC TSS Managed Services, Fund Raising Gala 2014.

And the narration is:

“Hi. Attached are the letters for your signature.

Your help will be highly appreciated. Regards,

Patrick Makhubedu.”

And his cell number.

ADV CHASKALSON SC: And then, can you take the Chair to the attachments themselves?

MR POWELL: The following page on 617, has a series and it follows. Chair, there are a number of documents attached and this is addressed to Patrick Makhubedu at EOH Managed Services (Pty) Ltd. And it is dated 19 June 2014:

“Dear, sir. Re donation acceptance.”

10 And the narration reads:

“On behalf of the African National Congress, we would like to acknowledge and thank EOH Managed Services (Pty) Ltd for the donation of R 2 million on 13 December 2014.

We confirm that the funds were utilised for Development and Education Programmes and a hundred percent of the funds were utilised for black beneficiaries. Your sincerely.”

20 And then it is a blank space for to be signed for the name, designation and company and institution.

ADV CHASKALSON SC: So can I just clarify here? We have Patrick Makhubedu sending unsigned letters to Geoff Makhubo for him or somebody else in the ANC to sign to confirm donations. Is that correct?

MR POWELL: That is exactly what it is Chair.

ADV CHASKALSON SC: And can you just emphasise the amount of the donation in that first unsigned letter or recorded in the first unsigned letter?

MR POWELL: Certainly, Chair. The first one is R 2 million and...[intervenes]

CHAIRPERSON: Do you have any understanding whether the R 2 million is payment made on the 13th of December as reflected or whether it is R 2 million is a total of a number of payments made over a certain period of time?

10 **MR POWELL:** Chair, I think what the email suggests is that there were three different EOH entities and this R 2 million was the amount that came from EOH Managed Services (Pty) Ltd.

CHAIRPERSON: H'm.

MR POWELL: If we turn a page to the next document Chair at 618, you will see it is a similar letter authored – sent to Patrick Makhubedu. It is a draft for Patrick Makhubedu that he has emailed to Geoff Makhubo, asking him to sign.

20 And this one refers to on behalf of the African National Congress. We would like to acknowledge and thank EOH Managed Services (Pty) Ltd for the donation of R 3 million on 16 April 2014. And it has got a similar confirmation on the use of the funds.

ADV CHASKALSON SC: Can I just stop you there? Can you recall what else happened on 16 April 2014?

MR POWELL: I think we referred earlier to that event, that there was a request ...[intervenes]

CHAIRPERSON: Was is it not the unsolicited proposal?

MR POWELL: Oh, sorry. That is correct.

[Parties intervening each other – unclear]

CHAIRPERSON: Ja.

MR POWELL: The unsolicited proposal was dated exactly this, Chair.

CHAIRPERSON: Yes.

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

ADV CHASKALSON SC: And the last letter?

MR POWELL: Thank you, Chair. The last letter is a similar letter. This one is again sent for attention by Patrick Makhubedu for his own attention. TSS Managed Services.

And this one says:

“On behalf of the African National Congress, we would like to acknowledge and thank TSS Managed Services (Pty) Ltd for the donation R 151 000,00 on
20 11 November 2013.”

ADV CHASKALSON SC: Then can I ask you to go down to 626?

CHAIRPERSON: Did you say 626?

ADV CHASKALSON SC: Yes, that is correct Chair.

CHAIRPERSON: 626. Okay.

MR POWELL: This is a letter from Patrick Makhubedu to René Jonker. René Jonker was a Financial Manager at TSS at the time – you will recall Chair, we referred to her earlier.

And it is dated 11 September 2014. And it is forwarded with attachments and the narration is:

“Please receive the ANC letters as promised.”

ADV CHASKALSON SC: And can you then take the Chair to the attachments ...[intervenes]

MR POWELL: Certainly.

10 **ADV CHASKALSON SC:** ...on pages 627 to 629?

MR POWELL: 627 to 629 is the very same draft letters that was sent by Patrick Makhubedu to Mr Makhubo. This – they are now placed on an ANC letterhead Chair for the African National Congress Greater Johannesburg Region, Office of the National(sic) Treasurer.

ADV CHASKALSON SC: Sorry. Regional.

MR POWELL: Regional. Sorry. Regional Treasurer. And it is attention Mr Patrick Makhubedu, EOH Managed Services, dated 19 June 2014 and it is exactly the letter that was sent
20 by Mr Makhubedu to Geoff Makhubo and it signed by Geoff Makhubo with his title as Regional Treasurer and his cell number below.

And then a similar letter is attached at 628. And this again on the African National Congress, greater Johannesburg, Office of the Regional Treasurer’s letterhead

and it is addressed to Mr Makhubedu, dated 19 June 2014.

And this one is to thank EOH Managed Services (Pty) Ltd for the donation of R 3 million on 16 April 2014 with a similar narration on utilisation of the funds.

And then the last one is the third in the series that was originally emailed by Mr Makhubedu to Mr Makhubo and this one is again on the African National Congress's letterhead as stated before, dated 19 June.

“Dear Mr Makhubo. Re donation acceptance.”

10 And:

“This is to acknowledge and thank EOH Managed Services (Pty) Ltd for the donation of R 2 million on 13 December 2014.”

Thank you, Chair.

ADV CHASKALSON SC: The date on that email was 11 September. Can I now take you to a document at page 782?

MR POWELL: Chair, the document at page 782 is a, what appears to be a purchase order from The City of
20 Johannesburg. And it is addressed to TSS Managed Services (Pty) Ltd.

And the reference is to – it comes from Supply Chain Management of City of Cape Town. It is a framework order.

ADV CHASKALSON SC: [laughs] Mr Powell, we are going to get you used to be in Johannesburg.

MR POWELL: Did I say Cape Town?

ADV CHASKALSON SC: Ja. [laughs]

MR POWELL: I am so sorry.

ADV CHASKALSON SC: Yes [laughs]

CHAIRPERSON: He likes Cape Town too much.

MR POWELL: Mr Chair, I have sorted out a lot of drama in The City of Cape Town too.

CHAIRPERSON: [laughs] Ja, it comes from The City of Johannesburg.

10 **MR POWELL**: Certainly. So the terms of payment, COJ paid immediately without deduction and it refers to the item and the material, active unit.

And then there is a series of numbers that refers to ICT Infrastructure Network WAM/LAN. And the amount is R 96 265 770,63, and the total figure with that comes to R 109 737 278,52. And it is signed by the buyer at The City of Johannesburg.

ADV CHASKALSON SC: Can I then take you to page 339, which is a document three days later, 15 September?

20 **CHAIRPERSON**: Before we get there, and maybe the document you are referring us to, Mr Chaskalson will enlighten me. This figure, is it connected in any way with the proposal or something else that we have dealt with before or not really?

ADV CHASKALSON SC: Mr Powell, can you answer that

question?

CHAIRPERSON: Oh, Mr Powell. Okay. But if you cannot remember that is fine. I just thought the figures seems ...[intervenes]

MR POWELL: It seems similar ...[intervenes]

[Parties intervening each other – unclear]

CHAIRPERSON: ...figure I had seen before.

MR POWELL: It seems similar to the unsolicited proposal figure.

10 **CHAIRPERSON**: Yes, yes.

MR POWELL: Correct, Chair.

ADV CHASKALSON SC: To be precise there. The unsolicited proposal with that was R106million.

CHAIRPERSON: Oh.

ADV CHASKALSON SC: And this is R109million. So they are not quite ...[intervenes]

CHAIRPERSON: It might not be. Ja, okay.

20 **MR POWELL**: That is why I said it seems similar Chair because it is a very close to that number but it is not the exact number.

CHAIRPERSON: Yes, okay alright.

MR POWELL: Ja. Mr Chaskalson, which page?

ADV CHASKALSON SC: 339.

MR POWELL: 339. Mr Chair, this document at 339, there is a Nedbank payment confirmation and it is dated

15 September 2014 and it is from account details, Prime Molecular cheque account and then the statement on that account is – the narration or the description is Molelwane Consulting.

Then the beneficiary statement description is P Makhubedu. And it goes to an account number of Molelwane and that number is reflected on the document in the amount of R 70 000,00 and payment date is reflected as 15 September 2014.

10 **ADV CHASKALSON SC:** And then once again – because I do not keep track of all of these entities. Prime Molecular is which entity?

MR POWELL: That is the entity which reflects Patrick Makhubedu as the principle Chair.

ADV CHASKALSON SC: Can I then take you to another document dated 15 September? It appears at page 783.

MR POWELL: Mr Chair, it would be nice to be as proficient as Mr Chaskalson, having it all electronically.

CHAIRPERSON: [laughs]

20 **MR POWELL:** You and I have to page through the binders.

CHAIRPERSON: Yes.

MR POWELL: Chair, this is an email from Patrick Makhubedu sent to Geoff Makhubo on 15 September 2014 and the subject is COJ Upgrade Award docex. Attachments, COJ Upgrade Award doc. And then it

has got an HTT 00001 reference.

And attached to that on the very next page is a draft letter coming from Mr Makhubedu and it is addressed, this draft is addressed to TSS Managed Services.

So what we must remember is. Mr Makhubedu is sending this to Mr Makhubo.

CHAIRPERSON: To say...[intervenes]

MR POWELL: To say ...[intervenes]

CHAIRPERSON: Do a letter. Sign a letter along these lines
10 on your letterheads.

MR POWELL: Correct, Chair.

CHAIRPERSON: H'm

MR POWELL: And that is why this whole thing is very, very irregular. And it is dated 22 May 2014.

ADV CHASKALSON SC: Sorry, can I just... The attachment is dated 22 May 2014.

MR POWELL: Correct.

ADV CHASKALSON SC: The email was sent?

MR POWELL: The email was sent on the September 15th,
20 2014 Chair. Sorry. The email is September. It is Updating the Award, Chair.

ADV CHASKALSON SC: And maybe you can read that email.

MR POWELL: Yes.

ADV CHASKALSON SC: That attachment.

MR POWELL: Certainly. So this goes to TSS Managed Services:

“Attention Mr P Makhubedu.. 22 May 2014?

Dear Mr Makhubedu. Upgrading of The City of Johannesburg Network and Security Infrastructure.

We refer to your proposal dated 16 March 2014 submitted in response to the above-mentioned RFP.

We have pleasure in advising you that after careful consideration of the proposals received and their evaluations thereof, your proposal has been successful and you have been nominated as the preferred supplier of the upgrading of The City of Johannesburg Network and Security Infrastructure. Your participation in this tender process is highly appreciated.

Yours faithfully.”

And then it leaves a space for the signatory to sign. Chair, you will recall, this was an unsolicited bid. There was no tender and it refers to an RFP at the top line.

20 An RFP is a Request for Proposal. There was no Request for Proposal and there certainly was not a tender.

Chair, and I think it is just bizarre that Makhubedu should be sending this to Mr Makhubo for him to sign and send back to himself.

CHAIRPERSON: Now the other letters that you referred to

a few minutes ago, there were three of them, I think.

MR POWELL: Correct.

CHAIRPERSON: Relate to Mr Makhubo sent to Mr Makhubedu. Who were sent to Mr Makhubedu in his capacity as Johannesburg original Treasurer ...[intervenes]

MR POWELL: Correct.

CHAIRPERSON: ...of the ANC, Johannesburg to sign on the letterheads of the ANC. This appears to be different. It cannot be a point to sign in that capacity.

10 **MR POWELL**: Correct, Chair. This looks like this is for me him to sign in his capacity as – at The City of Johannesburg.

CHAIRPERSON: Yes. So the contemplation is that whoever must sign the letter appearing at page 784, would be either Mr Makhubo if he was part of The City of Johannesburg at time, or some official in The City of Johannesburg. Is that correct?

MR POWELL: That is my understanding Chair. You have summed it up perfectly.

CHAIRPERSON: Yes, yes. Okay alright.

20 **ADV CHASKALSON SC**: Mr Powell, are you aware what position within The City Mr Makhubedu occupied in 2014?

MR POWELL: He was previously a councillor and then he was MMC for Finance at The City of Johannesburg, Chair. And I think held the latter position in the 2014.

ADV CHASKALSON SC: That is how I understand his

statement to the Commission Chair.

CHAIRPERSON: I think you said MEC but I think
...[intervenes]

MR POWELL: MMC.

CHAIRPERSON: Ja, MMC. Ja.

MR POWELL: Correct, Chair.

CHAIRPERSON: Now... So, in effect, Mr Makhubedu works
on the basis that The City of Johannesburg is going to –
must write a letter to him to say in effect: You are the
10 preferred bidder or whatever in regard to this tender and...

But he prepares the letter and it must signed by
somebody within The City of Johannesburg addressed to
him.

MR POWELL: Correct.

CHAIRPERSON: That is in May... Well, he may have back-
dated it. It may be September 2014. This is after a series of
payments that he seems to have been involved in.

MR POWELL: Correct, Chair.

CHAIRPERSON: And then donating to the ANC and so on.
20 And having those dealings with Mr Makhubedu. Is that right?

MR POWELL: That is correct, Chair.

CHAIRPERSON: Yes.

MR POWELL: And that is why the dates and the timing is
so important.

CHAIRPERSON: Yes, yes.

MR POWELL: Chair, I do a lot of support to companies on Anti-corruption Compliance and we advise our clients that during any bid adjudication and even if it is an unsolicited bid, you should not be making any donations. You should not provide anything of value. But what we have seen is almost a pattern of regular solicitation of donations coupled to the award of these tenders. It is almost as if the tenders are being granted in exchange for financial benefit to the party.

10 **CHAIRPERSON**: H'm, h'm. Yes, okay. Mr Chaskalson.

MR POWELL: Chair, and if I may?

CHAIRPERSON: Yes?

MR POWELL: Is that, and to the individual, because as Mr Chaskalson has taken us through, you also see simultaneous injections into personal bank accounts of Mr Makhubo at the same time.

CHAIRPERSON: Yes, okay alright.

ADV CHASKALSON SC: Chair, I would just like to clarify. It is not personal bank accounts to Mr Makhubo.

20 **MR POWELL**: It is Molelwane.

ADV CHASKALSON SC: It is Molelwane Consulting.

CHAIRPERSON: Molelwane Consulting. Yes.

ADV CHASKALSON SC: Ja.

CHAIRPERSON: Okay, okay.

ADV CHASKALSON SC: Can I ask you then to go to page

785? And if you can describe the email that you see there. There is a – it starts with something that is forwarded from Patrick Makhubedu to himself. We do not need to ...[intervenes]

MR POWELL: Yes.

ADV CHASKALSON SC: ...concern ourselves with that. But the forwarded email, the trials below.

MR POWELL: Correct.

ADV CHASKALSON SC: Describe to the Chair what you
10 see there and how you understand it.

MR POWELL: Chair, this is an email from Ebrahim Laher and I mentioned Ebrahim Laher was the Head of the SAP Division at EOH and it is sent to Patrick Makhubedu, dated 18 September 2014.

It copies various other employees, like, Ashley de Klerk, Kenton(?) Seta(?), Stephen Nokinthorn(?) at EOH.

And the subject header is forward with: EOH Confidential COJ. And the narration, at the start of the email is:

20 “Hi, Patrick. In preparation for your meeting now with Geoff, please see below for confirmation on the work being done by SAP our OEM(?) are, these services were part of A472 that was awarded to us. No formal tender process was done by the COJ to award these projects to SAP.

Who signed these projects off in The City?

Trevor has indicated to Ashley, did not know about this.”

The Trevor referred to was a Mr Trevor Fowler who was a senior employee of The City at the time and it goes on to say:

“SAP have now been there for about a year. Where is this billing, et cetera happening?”

ADV CHASKALSON SC: So can you translate this email for
10 the Chair? What is actually is asked of Patrick here?

MR POWELL: So what it appears to be Chair is that, SAP, the OEM, can provide services directly. They do not have to go through a reseller like EOH. And EOH were becoming uncomfortable because it looks like SAP were encroaching on their territory.

And it appears that that is what they wanted to discuss with Geoff to try and influence, to try and stop this happening. It would appear Chair.

ADV CHASKALSON SC: Are there any other Geoff’s other
20 than Mr Makhubo who you are aware of in the course of your investigation or you have become aware of in the course of your investigation of EOH’s relationship with The City?

MR POWELL: Mr Chair, we have not come across another Geoff. The correspondence on COJ is predominantly Patrick Makhubedu, Geoff Makhubo and various others,

Ebrahim Laher, et cetera, but certainly no other Geoff.

ADV CHASKALSON SC: Can I then take you to page 787?

MR POWELL: Certainly, Chair. Page 787 is a document on the African National Congress's letterhead, Tshwane Region and it seems to emanate from the Office of the Regional Secretary.

It is dated 18 September 2014 and it is addressed to: Whom it may concern. EOH Mathombo (Pty) Ltd. Subject: Request for assistance. It starts off with warm revolutionary
10 greetings.

“As per the letter dated 12 September 2014, which was directed to your company, the ANC in Tshwane had requested that your company for assistance.

However, until to date we have not received any confirmation of payment from our service providers relating to the under mentioned services.

The ANC is requesting that your company to remunerate those service providers within a week or during the course of next week, as we cannot
20 continue with the conference if those services are not yet remunerated.

For the ANC to achieve or hold a successful conference, we therefore request the following from your company.”

And then it has got a bullet: As conference package for

400 delegates, 300 000 and then in brackets (Sekathle Trading and Projects), account number. And it is an FNB bank account.

And then it goes on to say:

“We are non-profit organisation with the mission to deliver quality services to our members and fellow citizens of South Africa.

We continue to meet our goals because of thoughtful contributions from companies like you.”

10 And then it has got below that:

“NB: It will be highly appreciated if payment is made during the course of next week or before in order for us to focus on other logistics.”

The date again Chair is 18 September 2014.

ADV CHASKALSON SC: Then on 789, you – just turn the page.

MR POWELL: On 789, we have an attachment that was forwarded by Patrick Makhubedu to René Jonker and Jehan MacKay at EOH. And it is headed: Request for assistance.
20 Request conference doc as the attachment. And it seems to be the document we have just read Chair.

And then, this forwarding is from Danny/Demino(?) Mathila(?). mathiladn@icloud.com, dated Thursday, September 18, 2014.

And it is – there a request for assistance sent to

Patrick Makhubedu at his Gmail address and this comes from
– it says:

“Good day. Kindly find the attached in order.
Regards Demino Mathila.”

ADV CHASKALSON SC: And do I understand that the
attachment is that request from the Tshwane, ANC 300... for
R 300 000,00?

MR POWELL: Correct Chair. It appears to be.

ADV CHASKALSON SC: Can I then take you to page 621?

10 **MR POWELL**: Certainly. Chair, at 621, there is an email
from Patrick Makhubedu, dated 20 September 2014. And it
is addressed to Jehan MacKay at EOH, Ebrahim Laher at
EOH.

And it forwards the financial assistance request and
there is an untitled DDF attachment and the narration is:

“Hi. Please receive the request from ANC, Joburg
region. Regards Patrick.”

Chair, I just highlight the date again. You will see
20 September and this document forwarded, the document
20 that came from Geoff Makhubo addressed to
Patrick Makhubedu on Friday, September the 19th. So the
day before, saying:

“Dear Patrick. Please find the letter of funding
request towards our regional conference expenses.
Regards Geoff Makhubo.”

ADV CHASKALSON SC: Can you turn the page?

MR POWELL: Certainly, Chair. The next page, page 622 attaches a letter on an African National Congress, Greater Johannesburg Region letterhead.

ADV CHASKALSON SC: Can I stop you there?

MR POWELL: Yes.

ADV CHASKALSON SC: Is this the document that was attached to the email that was ...[intervenes]

MR POWELL: That is correct. This appears to be the
10 attachment to the email I just read Chair. And this document comes from the Office of the Regional Treasurer, Greater Johannesburg Region, ANC. And it is addressed to Mr Patrick Makhubedu.

And it refers to the Executive EOH Mathombo and it is also CC to Mr Ebrahim Laher, dated 19 September 2014. Request for financial assistance.

“Dear Patrick Makhubedu. We would like to thank you for the support your organisation has given to the ANC in the past.

20 The ANC in the Greater Johannesburg Region will be going to its conference from the 16th to 19th October 2014 at Cedar Park in Woodmead.

We are expecting 500 delegates from branches, the leagues, the alliance, representatives of business and the religious sector.

The congress will discuss and take resolutions on issues like governance elections, the economic transformation and social transformation. The conference requires resources to execute. We, therefore, humbly request a donation to cover, amongst others, the following expenses; the conference venue and the accommodation, 2 million. Conference package and paraphernalia, 1.2 million. Transport and registration 600 000, printing documents and shirts, 250 000, other 250 000, total 4 300 000.”

Chair, and then what follows on the next page at 623 is the ...[intervenes]

ADV CHASKALSON SC: Sorry, I think – I am hoping the Chair’s copy is not cut off because I think yours is ...[intervenes]

MR POWELL: Oh, sorry.

ADV CHASKALSON SC: Because there is an important paragraph at the bottom of page 622.

20 **MR POWELL:** Chair, I think it might be cut off but I got one line, if I may read it and then ...[intervenes]

CHAIRPERSON: I see there is no full stop at the end of the last sentence on page 622.

MR POWELL: Ja.

CHAIRPERSON: I do not know whether that means it is

cut off or that means they stopped, they did not put in the full stop.

“The Regional Executive Committee will appreciate contribution of at least 2,5 million to ensure a successful conference.”

That is my last line.

ADV CHASKALSON SC: That is the last. I just did not understand – I did not hear Mr Powell read that last sentence.

10 **CHAIRPERSON:** Yes.

MR POWELL: Chair, I am slightly cut off further than you are so thank you, that is the last line.

ADV CHASKALSON SC: Yes.

CHAIRPERSON: And then of course in the following page that is where it says the banking details and so on.

MR POWELL: Correct and then it ends with:

“Thank you, your support is highly appreciated and we thank you in advance for your commitment and contribution towards strengthening our democracy.

20 Yours in democracy, Geoff Makhubo, Regional Treasurer.”

With his cell number.

ADV CHASKALSON SC: Can I ask, I do not want it to be published but can I ask that we take a note of that cell number because it is going to become relevant later on.

Chair, will you just write it down somewhere because it will become later on.

CHAIRPERSON: What is that?

ADV CHASKALSON SC: The cell number on page 623.

CHAIRPERSON: Oh, okay. Okay. Yes. No, that is fine, I have taken note of it. It does look like the ANC was quite active in seeking donations during these particular months.

MR POWELL: Certainly from EOH.

CHAIRPERSON: Ja, from EOH, ja. Thank you.

10 **ADV CHASKALSON SC:** Can we then go back to a document that we have seen previously, it is on page 296. I am not sure we have actually seen this one previously. Oh, we have not, sorry. I skipped over it when we were doing payments.

MR POWELL: Chair, the document at page 296 is headed Transactions Report and it reflects company TSS Managed Services and in the middle of the page it has a line referring to beneficiary, Malolwane Consulting.

20 **ADV CHASKALSON SC:** Can you just look at the date as well, Mr Powell?

MR POWELL: Absolutely. Apology, Mr Chaskalson, the date is 20 September 2014 and if we look at the ...[intervenes]

CHAIRPERSON: I am sorry, I am 296, is that where you are too?

MR POWELL: Yes, it is a transactions report, Chair. And then ...[intervenes]

CHAIRPERSON: The dates that I – oh, okay, I see 20 September, ja.

MR POWELL: Correct.

CHAIRPERSON: Okay.

MR POWELL: And just below the date, Chair, is a double line with beneficiary branch account reference, etcetera, and the beneficiary is reflected as Malolwane Consulting.

10 The branch number is reflected, there is an account number and the reference is TSSMS and then Genven, G-e-n-v-e-n and the amount ...[intervenes]

CHAIRPERSON: Okay, ja, beneficiary Malolwane Consulting and then the branch and the account number and the reference, the reference is TSSMS Genven.

MR POWELL: Correct, Chair. And the amount is R570 000.

CHAIRPERSON: Yes.

MR POWELL: And it is got an action date ...[intervenes]

20 **CHAIRPERSON:** It is 20 September.

MR POWELL: 20 September 2014.

CHAIRPERSON: Is 20 September 2014 the date of the transaction?

MR POWELL: It appears to be, Chair.

CHAIRPERSON: Ja, okay.

ADV CHASKALSON SC: Mr Powell, can you tell the Chair what work, if any, you found that Malolwane did in return for this payment?

CHAIRPERSON: So before that just so that I understand this document at page 296, it says Transaction Report, it is produced by who? And it is a report of what?

MR POWELL: It is a report of the company on financial transactions, payments, Chair. And this is a ...[intervenes]

CHAIRPERSON: On TSS?

10 **MR POWELL:** TSSMS, Chair.

CHAIRPERSON: Okay.

MR POWELL: And it is a supplied as a proof of a payment to Malolwane referring to the preceding email.

CHAIRPERSON: Oh, okay. And the items mentioned at the bottom there below rejection reason, legend, are those ...[intervenes]

MR POWELL: I do not think it is relevant, Chair.

CHAIRPERSON: Oh, that is not relevant.

MR POWELL: Because this has been processed.

20 **CHAIRPERSON:** Oh, what is relevant is what appears before that namely the transaction of R570 000?

MR POWELL: Correct, Chair.

CHAIRPERSON: Which reflects – so it would be – it would reflect a payment by TSS Managed Services to Malolwane Consulting on the 20 September 2014.

MR POWELL: Correct, Chair.

CHAIRPERSON: Into that account number and that branch.

MR POWELL: Correct.

CHAIRPERSON: Okay, alright.

MR POWELL: The evidence leader has just asked me whether I am aware of any work that was done for this payment and I am not, Chair. We tried to establish if there was services rendered and we are not aware.

10 **CHAIRPERSON:** Yes. What is your – in those instances where you say, as you do, in regard to this payment that you, that is you and your team, tried to establish what work had been done and you did not find any evidence.

MR POWELL: Chair, we have gone to ...[intervenes]

CHAIRPERSON: How would you rate that you made a mistake, there is evidence, depending on the thoroughness of your investigation. How would you...?

MR POWELL: Chair, it is not impossible that there may be something that was done that we are not aware of.

20 **CHAIRPERSON:** Yes.

MR POWELL: So our process is we go to the employees who were involved in the project at the time and we asked them did you work with this entity, did you come across this entity? Did they feature in the project at all? And the answer was no. The work that was done on this specific

project was done by a former EOH employee.

CHAIRPERSON: Yes.

MR POWELL: That is why I am confident, Chair, that ...[intervenes]

CHAIRPERSON: And the former employee said they did not do any work.

MR POWELL: The former employees. The current employees have concerned that they did not do work.

CHAIRPERSON: Ja. Yes.

10 **MR POWELL:** And they have indicated that the actual work was done by an EOH employee.

CHAIRPERSON: Oh, okay, okay. But your team, your investigation team, would it have taken statements from various persons who were interviewed to say what do you know about this?

MR POWELL: Ja.

CHAIRPERSON: And would that be statements that are stored somewhere?

20 **MR POWELL:** Chair, there are statements for some portions where we had lodged criminal cases.

CHAIRPERSON: Yes.

MR POWELL: And for others we have just gathered the information.

CHAIRPERSON: Yes.

MR POWELL: And for some of these items like the

request from the Commission we have responded as quickly as we could to get the information across.

CHAIRPERSON: Yes, yes. But you feel reasonably confident that where you say you could not find any evidence of work chances are good that no work was done.

MR POWELL: Correct, Chair. Chair and the other reason for my confidence is that this is a common practice that we came across at EOH.

CHAIRPERSON: Yes, yes.

10 **MR POWELL:** With partners on projects and I have referred, Chair, previously to these nebulous terms on teaming agreements that sometimes are blank or they refer to broad services.

CHAIRPERSON: Yes.

MR POWELL: On many of the projects. We have had a similar phenomenon where people are paid but they have not provided any services.

CHAIRPERSON: Yes.

20 **MR POWELL:** Chair, if I can just conclude that thought it comes at great cost to EOH because they tender for a project or they do the work on a project, they pay away to these business partners and in some instances they do not even recover the money from the client or the work and they just lose money as a result but the ED partners, like in this case, Malolwane, are paid and they get their money.

CHAIRPERSON: Yes, okay. Thank you. Mr Chaskalson?

ADV CHASKALSON SC: And just to – another detail on this document, if you go back to 295, back a page.

MR POWELL: Certainly.

ADV CHASKALSON SC: Can you just describe that email?

MR POWELL: Certainly. Chair, 295 is an email from a Natalie Buchner at EOH sent to Rene Jonker on 6 October 2014 and it says:

10 “Subject: Re: Proof of payment Malolwane.
 Attachments, proof of payment Malolwane
 Consulting PDF.”

And that seems to refer to this document that we have just analysed.

ADV CHASKALSON SC: And just the narrative on the email?

MR POWELL: “Please find attached proof of payment for
 Malolwane in the amount of 570 000 paid on 19
 September 2014. Thank you and regards, Natalie
20 Buchner, Accounts Payable Manager TSS Managed
 Services.”

ADV CHASKALSON SC: Then the last document in this 2014 chronology is at page 625.

CHAIRPERSON: Just one second Mr Chaskalson. So the long and short of a number of these transactions, Mr

Powell, is that there were many occasions when EOH or other entity under EOH would pay a lot of money to Malolwane Consulting or Malolwane Holdings for no work that has been done as far as your investigation has gone.

MR POWELL: Correct, Chair.

CHAIRPERSON: Yes.

MR POWELL: That is correct.

CHAIRPERSON: Okay.

MR POWELL: Chair, we will elaborate shortly but the
10 same scenario happens with Mfundi and we will go into that detail shortly.

ADV CHASKALSON SC: And then if you can go to – from 20 September to 2 October at page 625.

MR POWELL: Certainly, Chair, at 625 we have a Nedbank proof of payment. It is head Authorised Payment Batch Completed and this reflects batch description: ANC Greater Johannesburg account, from account TSS Managed Services (Pty) Ltd and an account number. It is date 2
20 October 2014 and the description is ANC Greater Johannesburg account, the amount, the batch total is referred to as 1.5 million and the authoriser T2 is Jehan Mackay and then if we look at the narration on the table just below it refers to the beneficiary name, ANC Greater Johannesburg account, beneficiary's account number, branch, once-off payment captured, beneficiary statement

description is TSS Managed Services (Pty) Ltd and on the accountholder's description TSS Managed Services account, it reflects ANC Greater Johannesburg account as the description and then the amount on the right is R1.5 million.

ADV CHASKALSON SC: And then if you can just go up to page 624 you will see an email which attaches that proof of payment.

MR POWELL: That is correct, Chair. At 624 there is an
10 email from Patrick Makhubedu to Geoff Makhubo dated 2 October 2014 and it forwards POP ANC. The POP refers to the proof of payment we have just read, Chair, and it is a JPEG picture attachment, ANC Greater Johannesburg account, 2 October '14 and that is sent by Patrick Makhubedu after he receives the same proof of payment from Rene Jonker at TSSMS dated 2 October 2014 and this is sent to Patrick Makhubedu. So he just forwards the proof of payment, once it has been made, off to Geoff Makhubo.

20 **ADV CHASKALSON SC:** Thank you, Mr Powell. We are going to move on to a completely new topic now. We have completed our 2014 chronology. Is there anything beyond that which you have said already that you would want to say to the Chair in relation to that 24 chronology from August to October that we have been looking at?

MR POWELL: I think my observation, Chair, as Chair pointed out, there was a lot of donation requests that coincided with the award and we have pointed out the anomalies in Makhubedu drafting the award to himself. It is just unheard of, Chair, it is just wrong.

ADV CHASKALSON SC: Thank you, Mr Powell. Our next chronology deals with a tender in 2016 and for the purposes of this chronology, I want us to start on your second report at page 91 where you describe the A647
10 tender of 2016. Can you go to page 91?

MR POWELL: Certainly.

CHAIRPERSON: Maybe, Mr Chaskalson it would be convenient to put in a divider or something just that will indicate where one finds each one of the three reports so that it is easier to go to it much more quicker.

ADV CHASKALSON SC: I will certainly do that, Chair. The problem in relation to this tender is that it straddles both reports.

CHAIRPERSON: Oh, okay.

20 **ADV CHASKALSON SC:** And so there is no one simple place where – and for the most part I will be referring to documents between about pages 450 and 530 where the original underlying documents are.

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

ADV CHASKALSON SC: But I do have to refer to some

stuff attached to the original report as well.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: But we will have your file organised so that the three separate reports can at least be partitioned.

CHAIRPERSON: Ja, okay.

ADV CHASKALSON SC: So in paragraph 91 you describe this tender, A647. Can you explain to the Chair what this tender was about and what its period was?

10 **MR POWELL:** Certainly. Chair, the COJ SAP upgrade tender for 2016 is referred to as the COJ tender A647 for SAP upgrade/implementation. This was advertised in November 2015 with a closing date of 14 December 2015. COJ awarded this tender to EOH Mthombo on 8 June 2016 for a price of just over 404 million including Vat. Chair, again, the date will become crucial and I emphasise 8 June 2016 and if the 2014 donations appeared large ...[intervenes]

CHAIRPERSON: I am busy looking for June 2014 or 2016.

20 Oh, here it is, ja.

MR POWELL: Chair, if the previous donations that I explained and elaborated on looked large, they are about to be dwarfed by some significant developments that we will now go into detail on.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: So our chronology starts on 2 November. Can I take you to page 480?

MR POWELL: Just before you do, Chair, we are now at the heart of what EOH had discovered after they appointed us, after what we initially found on the investigation and we reported to the Hawks, to the DPCI.

CHAIRPERSON: Okay.

MR POWELL: Thank you. Mr Chaskalson?

ADV CHASKALSON SC: 480.

10 **MR POWELL:** Thank you.

CHAIRPERSON: Where at page 91 do I find – oh, there it is, the reference to 404 million. Okay, I found that now.

ADV CHASKALSON SC: Thank you.

CHAIRPERSON: Okay, are we still on that page?

ADV CHASKALSON SC: Chair, we are now going to go through a chronology of the emails and the like.

CHAIRPERSON: Yes, okay.

ADV CHASKALSON SC: And so we are going to page 480.

20 **CHAIRPERSON:** 480.

ADV CHASKALSON SC: And, Chair, in relation to this chronology I will be referring also to four of five documents in flow of funds bundle 3.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: So it may be useful to have that

bundle to hand.

CHAIRPERSON: Ja, I think let us have that bundle at hand.

ADV CHASKALSON SC: Chair, this time it is more than one document. It is five across the file so I think we should give you the whole file.

CHAIRPERSON: Okay. Ja, just give me the whole bundle. He might not refer to it now. Okay, alright. Thank you. But at this stage you just want me to go to 480?

10 **ADV CHASKALSON SC:** Of bundle 1.

CHAIRPERSON: Of bundle 1, ja.

ADV CHASKALSON SC: But I just would like you to have that other file to hand because we are going to get there in due course.

CHAIRPERSON: Yes, okay.

MR POWELL: Thank you, Chair, at page 480 of the bundle we have an email from a Nyikomutileni@EOH.co.za.

CHAIRPERSON: Yes, that is N-y-i-k-o, I think it's Nyiko.

MR POWELL: Nyiko.

20 **CHAIRPERSON:** Mutileni, M-u-t-i-l-e-n-i. Yes.

MR POWELL: Correct, Chair. Thank you and it is addressed to Jehan Mackay sent on 2 November 2015 and it forwards City of Johannesburg outsourced IT services and the narration starts with:

“FYI City of Johannesburg outsource tender is out.

I have prepared all team members to attend to it. I have also notified Mr Makhubedu because of Geoff's influence. Thank you."

And he forwards an attachment from a Herman Scheepers and it looks like the document was forwarded to him.

ADV CHASKALSON SC: Can I then ask you to go to page 453?

MR POWELL: Certainly.

CHAIRPERSON: So, I am sorry, Nyiko Mutileni is an EOH person, nè?
10

MR POWELL: Correct. He is forwarding to his bosses because the City is now advertising the tender.

CHAIRPERSON: Yes.

MR POWELL: Chair and we are about to go into how upset EOH were that this was being advertised.

CHAIRPERSON: Yes, okay.

ADV CHASKALSON SC: Sorry, I have actually glossed over quite an important part of that email. He says:

"I have notified Mr Makhubedu because of Geoff's influence."
20

MR POWELL: Correct.

CHAIRPERSON: Yes.

MR POWELL: Chair, I have previously testified that we have only come across Geoff Makhubo who engages with Patrick Makhubedu.

CHAIRPERSON: Yes.

MR POWELL: And it appears, I am assuming and I think correctly so, Chair, that this “notify Mr Makhubedu because of Geoff’s influence” because it is clear Mr Makhubedu has a very good relationship with Geoff Makhubo.

ADV CHASKALSON SC: Can we then pick up what is going on inside EOH by going to page 453? We may in fact have to go down a little bit.

MR POWELL: Yes.

10 **ADV CHASKALSON SC:** Maybe the correct place to start is the last of that chain of emails on 453, 7 November 2015 at 9.39.

MR POWELL: Correct.

ADV CHASKALSON SC: Which will spill onto 454.

MR POWELL: Correct. Chair, on 7 November, this is at the bottom of that page 453, Ebrahim Laher wrote an email:

20 “COJ are proceeding with the advertising of our current contract this week, this despite their assurance that they would rather extend our contract.”

CHAIRPERSON: This is Mr Ebrahim Laher.

MR POWELL: Ebrahim Laher.

CHAIRPERSON: Writing to whom? Writing to Asher Bohbot or...?

MR POWELL: It is not very clear but it is clear Mr Bohbot replies, so I assume it has to Mr Bohbot.

CHAIRPERSON: Yes, okay, alright.

ADV CHASKALSON SC: If I can possibly assist. This is one long email chain between Mr Bohbot and Mr Laher.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: And we see the two parties right up at the top at 453, Chair.

CHAIRPERSON: Okay, alright, thank.

10 **MR POWELL:** Correct. Mr Chaskalson is quite correct, Chair.

CHAIRPERSON: Yes.

MR POWELL: He goes on to say that – on the next page at 454.

20 “Also it seems that certain camps want to reduce the scope of this contract radically even though they do not have the skills to run the system or the billing department. This could create a billing crisis again unless the plan is to somehow obtain our skills in another way poaching/another partner.”

And then he goes on to say:

“Our support contract, the SAP upgrade and the IT outsource contracts are out at the same time. I do not think they will award all three to us. As EOH, our current review out of these is about 250 million

per year. The upside, if we pull this off, is to go about 500 million per year but I am on the maintain our current base page. Anyway...”

He reads, that is the – the next line is:

“Anyway I suspect the next quarter is going to be a political minefield and we need to be proactive and ready for what is coming. We cannot lose this.”

And just before that, when they announced the advertisement of the tender – and it looks like that
10 knowledge came from the City of Johannesburg, they received intelligence that this tender is going out, the response from Laher was just:”“Wow!...” Chair and that is on 3 November on page 454. Asher Bohbot then asks:

“What does this mean?”

And then Laher explains – so, Chair, I am now going to move forward to page 453 for the rest of that thread. Asher Bohbot then asks:

“How? What must we do? Can we get the involved guys together on Monday?”

20 And then Ebrahim Laher replies:

“Hi Asher, yes, we have started some stuff...”

And the next line I want to emphasise, Chair.

“...and have a full political and technical strategy for this but our team is riddled with internal politics and half-hearted attempts and personal agendas.

Your assistance in meeting, as you indicate, will be essential, I think. I will chat to Jas and set this up. Thanks.”

And then Asher just replies with a thanks.

ADV CHASKALSON SC: Then if we can go – we have seen that chain from 7 November, 13 November – sorry, sorry, 483. If you go down to 483.

MR POWELL: Certainly. Chair, I am on 483.

ADV CHASKALSON SC: And once again can I ask you to
10 start at the bottom of this email thread?

MR POWELL: Certainly.

ADV CHASKALSON SC: so that we can go through it chronologically in time.

MR POWELL: It starts at the bottom, Chair, with a note to:

“Hi Nyiko, please find the attached letter. Kind regards Mpho Kotane.”

ADV CHASKALSON SC: That is Mpho Kotane, M-p-h-o K-o-t-a-n-e.

20 **MR POWELL:** Mpho Kotane.

CHAIRPERSON: Yes.

MR POWELL: “SAP upgrade programme, change management lead.” And then there seems to be a document attached.

ADV CHASKALSON SC: Can I take you then for that

document to 485?

MR POWELL: Certainly, Chair. The document attached appears to be a letter from City of Johannesburg addressed to this Nyiko Mutileni and it is addressed to EOH Technology and Outsourcing and it is dated 23 October 2015 and it refers to – sorry, the header is:

“Request promotional items for the optimisation and modernisation of non-SAP applications”

And it refers to ...[intervenes]

10 **ADV CHASKALSON SC:** Maybe – because we are going to run out of quite a lot of time, if you can just give a general description of what this document is.

MR POWELL: Ja. Basically it is asking for sponsorships of a whole lot of goodies, technical, laptops, smart phones, gift vouchers, power banks, memory sticks, etcetera, as part of a promotion prize, competition prizes. It ends after a description of all the items on the next page, Chair, at 486 and it refers to:

20 “Please note the competition prizes are urgent, it will be appreciated if you could respond by Monday the 26 October 2015 before close of business.”

And then:

“Thanking you in advance, Tumelo...”

CHAIRPERSON: Tumelo Kganane.

MR POWELL: Kganane.

CHAIRPERSON: Acting Group Head Information, Communications, Technology Information Management. That is somebody from the City of Johannesburg.

MR POWELL: Yes Chair his email underneath describes himself as someone from the City, it is Thumelakje@joburg.org.za.

CHAIRPERSON: Yes.

MR POWELL: And the letter is from City of Johannesburg of course.

10 **ADV CHASKALSON SC:** Yes, and then if you can just go back to the top of this thread at page 483, what does Nyiko Mutileni do with this?

MR POWELL: At the top we see that Nyiko Mutileni sends this to Jehan Mackay and he copies Jaze Gordon, at the time Jaze Gordon was Jehan Mackay's personal assistant, and it is dated 13 November 2015, request for donation and promotional items attaching the document, the letter and it reflects:

“Hi Jehan,

20 Please approve the request from COJ.”

ADV CHASKALSON SC: Then if I can take us forward a week, almost a week, and ask you to go to page 483 – sorry 456.

MR POWELL: Certainly.

ADV CHASKALSON SC: And if you could describe the

email at the top of the page, I'm not needing you to describe the whole thread, just the...[intervenes].

MR POWELL: This document at 456, Chair, is an email from Ebrahim Laher to Asher Bohbot dated 20 November 2015 and the subject is, City of Johannesburg A649 Support,

“Hi Asher, the CAJ Support tender has come out we have our work cut out and meeting with Parks’ people tomorrow afternoon”,

10 At the time, Chair, Parks Tau was the Executive Mayor, that email goes on to say,

“Have spoken to Pat and Jehan and will manage that angle separately”,

And, Chair, I'm presuming the Pat refers to Patrick Makhubedu who seems to have been integral to City of Johannesburg,

“Am hopeful we will know more after tomorrow and then there's a line below that, good intel on COJ from Sal today at SAP UK, Regards Ebrahim Laher”.

20 **ADV CHASKALSON SC:** Then if we can go to page 487.

MR POWELL: Chair, if I may just bring the connection, the earlier emails that we looked at the, EOH Team referred to a technical and a political strategy and I suspect that this, spoken to Pat and Jehan and will manage that angle separately, refers to a political strategy,

thank you.

ADV CHASKALSON SC: Thank you Mr Powell. Can I ask you to go to page 487, and here, unfortunately we have a copy that is very poor in the printed versions but I think that you may have the text from the electronic version separately. I'm interested to begin with – there's a thread again and I'm interested in the piece of the thread, it says:

“On 1 December 2015 at 12:08pm, Patrick Makhubedu wrote”.

10 Chair I'm not sure – I'm talking from if you go down the document on page 487.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: You'll see at a certain point, lines start going down the left-hand side of your page.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: So, there's the first line, it says, “hi Pate”, there's the second...[intervenes].

CHAIRPERSON: Yes, I can see that.

20 **ADV CHASKALSON SC:** And then there's, just above the second line, on 1 December 2015 at 12:08, Patrick Makhubedu wrote...[intervenes].

CHAIRPERSON: I'm sorry, there is that email that says,

“Hi Pat, please call him and let you and I meet him, from Ashley”,

Are you now referring to, below that?

ADV CHASKALSON SC: Below that indeed.

CHAIRPERSON: Okay, what is below that is not legible at all on my copy.

ADV CHASKALSON SC: Okay, Chair we will get an enhanced copy made available...[intervenes].

CHAIRPERSON: But if I read it...[intervenes].

ADV CHASKALSON SC: Can I read out what the section that I'm interested in emphasising?

CHAIRPERSON: Yes.

10 **ADV CHASKALSON SC:** It says, on 1 December 2015 at 8:21am Ebrahim Laher wrote:

“Hi Guys,

Quick update on the consortia talks for the bid. Deloitte have pulled out of the bid they think they will get the PMO”.

Sorry Mr Powell do you know what the PMO stands for?

MR POWELL: No, I'm not certain Mr Chaskalson.

20 **ADV CHASKALSON SC:** Going back to the text of the email,

“Trevor has apparently assured them! I have asked Ashley to contact KPMG as per Pat's conversation with Jeff. HDS want to pull out according to...[indistinct 5.51]. Pat...[indistinct 5.52] hasn't heard from EMC, nothing from Ascentia, Regards

Ebrahim Lehar”.

The passages, I would emphasise Chair, are, update on the consortia talks for the bid, so they’re talking about putting together a consortium.

“I have asked Ashley to contact KPMG, as per Pats’ conversation with Jeff”.

Then can I take you up the page to the legible email at the top of the page from Jehan Mackay on 2 December 2015?

10 **MR POWELL:** Certainly, Chair, and I may just add, I can confirm what Mr Chaskalson has read because I have seen the original, unfortunately my copy, like yours is unclear, but I do confirm the content of that email. The next one that Mr Chaskalson referred to is Jehan Mackay, Ray COJ upgrade consortium, 2 December 2015 he writes to Ashley de Klerk and he copies Patrick Makhubedu, Ebrahim Laher, Neyeko Mutheleni as well as Kurton Seta [7.00 ?], these are all EOH employees:

“Hi Guys,

20 Can we please ensure that our bids to COJ, we commit that a certain percentage of the work and revenue will be allocated to Josie at Work Programme and we need to provide more or less an estimate on how many SME’s this allocation will benefit and number of jobs created from our meeting last night, this part is very critical. In

addition, please can we include an option D in the upgrade that basically, includes upgrade plus support and the potential value proposition to the city for combining, which obviously should be price. We should be aggressive as this can be used to justify, giving us both upgrade and support”,

The next line, Chair, is EBS:

“Ebs/Pat, we need a number urgently that can be allocated for goodwill to the organisation and behind
10 goodwill they’ve got the ...[intervenes]”.

ADV CHASKALSON SC: It’s a colon in brackets, so what does that symbolise?

MR POWELL: It’s usually a smiley face Chair and the EBS that’s referred, that appears to be a reference to Ebrahim Laher and abbreviation of his name and the Pat appears to be Patrick Makhubedu who he is in the stream, thanks Jehan and then...[intervenes].

ADV CHASKALSON SC: So, can I just ask you to comment on that last sentence, what is Jehan Mackay
20 saying to EBS and Pat?

MR POWELL: Mr Chair, they’re going to give benefits to the City of Joburg.

ADV CHASKALSON SC: We may disagree, Mr Powell.

MR POWELL: Sorry, they’re going to give benefits – they’re going to provide goodwill to the organisation so it’s

to build in some allowance.

CHAIRPERSON: Yes, okay.

ADV CHASKALSON SC: We'll come to see which organisation gets the benefit later.

MR POWELL: Yes, Mr Chair, that was a Freudian slip, I think Chair knows which organisation I was referring to.

ADV CHASKALSON SC: The closing date of the bid...[intervenes].

CHAIRPERSON: I'm sorry Mr Chaskalson, I just want to
10 understand that last sentence, is that we need a number
urgently that can be allocated for goodwill, then smile, to
the organisation. That number is supposed to be what,
money?

MR POWELL: It's money yes...[intervenes].

CHAIRPERSON: As I understand it.

MR POWELL: We need to build in a goodwill figure, Mr
Chair, so if I draw the link between the dots it appears to
be, we will need to make a donation to the ANC.

CHAIRPERSON: Yes.

20 **MR POWELL:** And when we look at what transpires, it
would appear that what I just suggested is correct.

CHAIRPERSON: Yes, okay, alright. Yes Mr Chaskalson?

ADV CHASKALSON SC: Then if - you'll recall that - I
don't need to take you back there because you've already
mentioned this but I want to just locate this point in the

chronology at page 91 when you were describing the tender you mentioned that the closing date was 14 December. So, in the chronology we can just record 14 December as closing date for the bids. The next point in the chronology that I would like to refer you to is in, flow of funds, Bundle 3 at page 646.

CHAIRPERSON: Yes, 646.

MR POWELL: Chair if you just go back to 645, you'll see that this document is part of a bank statement and it's
10 Molelwane Consulting CC [11.29?] FNB, business cheque account and their number and then Mr Chaskalson is referring me to page 646, Chair and on 646, if we have a look at the document...[intervenes].

CHAIRPERSON: Yes, don't speak too far away from the mic, Mr Powell.

MR POWELL: Apologies, Chair, I've got too many files in front of me, thank you.

CHAIRPERSON: Yes, at page 646.

MR POWELL: Mr Chaskalson, do you want me
20 to...[intervenes].

ADV CHASKALSON SC: Sorry, I forgot I'm supposed to be asking questions here. Can you go to an entry on 1 February?

MR POWELL: 1 February, Mr Chair, there's a magtape credit, Patrick Makhubedu Mfundi R200 000.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: And can you just look at the balance in Molelwane was before this transfer from Mfundi into Molelwane?

MR POWELL: Chair, I've mentioned before, we've seen a pattern, this time the balance was R63.19. So, there was almost nothing in that account.

CHAIRPERSON: Yes, that's the account of Molelwane Consulting CC?

10 **MR POWELL:** Correct, Chair.

CHAIRPERSON: And the description, P Makhubedu...[intervenes].

MR POWELL: P Makhubedu Mfundi.

CHAIRPERSON: Does that mean it comes from Mfundi to Makhubedu?

ADV CHASKALSON SC: Chair, maybe if I can take Mr Powell to another document which will answer your question.

CHAIRPERSON: Okay.

20 **ADV CHASKALSON SC:** If you go to page 344 of the – Bundle 1 not Bundle 3, we can leave Bundle 3 for now, we'll come back to it a little later ...[indistinct 13.32].

CHAIRPERSON: 341?

ADV CHASKALSON SC: 344, Chair.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: And Chair, I'm afraid I played a card too soon because I'm going to show you a very interesting document which I was hoping to defer to much later. I'd ask you not to – we will come back to it and unpick it in great detail.

CHAIRPERSON: Okay, that's alright.

ADV CHASKALSON SC: But I just want to refer to something in that regard, 344, have you got that document?

10 **MR POWELL:** I've got it Chair.

ADV CHASKALSON SC: Can you describe that document to the Chairperson and then I'll take you to the attachments?

MR POWELL: Certainly, this document on 344, Chair, is an email from Reno Barry and the email address is renob@renobarryconsulting.co.za and it is dated 6 January 2017 to Patrick Makhubedu, subject, "Mfundu ANC recon", and it has an attachment, "Mfundu GM, ANC, updated 13 August 2016 spreadsheet and Mfundu Management Report,

20 December 2016 spreadsheet, the narration is:

"Hi Patrick,

Attached is the last ANC recon I have, showing an amount of R560 000 still to go, however, there might be payments made afterwards that must be added to the recon to reduce this balance, see

columns for August and September 2016 or items not included. Please advise if any items must be added to the recon”.

ADV CHASKALSON SC: I don’t want you to go through the whole of this document yet, because it’s a long document and we need to get there in due course but what I do – if you can go to the document at 346 which is – first can you confirm whether this is – if you go 345 there’s one document, 346, are those the attachments to that email?

10 **MR POWELL:** Correct, Chair, so there’s a first attachment and Mr Chaskalson is going to the second attachment to that email.

CHAIRPERSON: So, the first attachment is the one at 345?

MR POWELL: Correct, and we’ll come back to that one later, Chair.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: And you’ll recall earlier that we took the Chairperson to some Management accounts of
20 Mfundi Mobile in 2014 that looked in a similar – that had a similar format. Can I ask you to look at the document at 346 and describe to the Chair, what this document is?

MR POWELL: Chair, just apologies, my copy is, again, cut off slightly so there’s – Mfundi Management Report dated December 2016 and this seems to be the

Management Report, there's a narration at the top, that's cut off, Mr Chaskalson so if you don't mind, can I ask that you read that in and then I will continue?

ADV CHASKALSON SC: It says,

“Profit and loss report”.

MR POWELL: Profit and loss, I've only got the loss report...[intervenes].

CHAIRPERSON: Hang on Mr Powell, you referred to the date of December 2016, but I only see 1 March 2016 to 28
10 February 2017 on page 346, am I on the right page, is 346 the right page?

ADV CHASKALSON SC: It is the right page Chair, I think the document has got a potentially misleading title, it may be that you say it in a running Management Report spreadsheet, running accounts that go beyond 2016 because the heading of the document itself, describes – no, no, no I take that back Chair...[intervenes].

CHAIRPERSON: It says profit and loss report.

ADV CHASKALSON SC: Indeed Chair.

20 **CHAIRPERSON:** Then it says, below that, Mfundi Mobile Networks Pty Ltd, and then it says, date range 1 March 2016 to 28 February 2017.

ADV CHASKALSON SC: That's correct Chair, and if you look at the columns, you'll see they end in December, they don't run through to January and February. So, they're

monthly columns...[intervenes].

CHAIRPERSON: Oh, okay, now – I thought he was mentioning a particular date and I was looking for it so – okay, so you’re talking about the column under December?

ADV CHASKALSON SC: Not yet Chair.

CHAIRPERSON: Oh okay.

ADV CHASKALSON SC: He was just describing the name of the document that’s attached to the...[intervenes].

CHAIRPERSON: Oh okay, alright, not that’s fine.

10 **ADV CHASKALSON SC:** Now Mr Powell, I’m not sure if the copy that you have to hand has the – has a left-hand side margin or if it cuts off, the descriptions on the left-hand side?

MR POWELL: It’s got half of the wording, so I know there’s a narration for a travel company.

ADV CHASKALSON SC: Yes, well let’s – before we get to travel company, if I can just read the narrations on the left-hand side into the record, starting off under sales, the first item under sales is:

20 “Sales-COJ SAP support special”,

And that’s the item where you’ll find an entry in July, is that legible on your copy?

MR POWELL: Half of the narration.

ADV CHASKALSON SC: Well then, I’m afraid, I may have to read these narrations verbatim...[intervenes].

CHAIRPERSON: Mr Chaskalson, let me try and just follow, I've just made a note just above the...[indistinct 19.51] to say that's all 2016, is that correct?

ADV CHASKALSON SC: That is correct, Chair.

CHAIRPERSON: Okay, alright and he said sales. My first reference to sales is "Sales COJ SAP support", is that correct?

ADV CHASKALSON SC: That's correct, SAP support special, this is a special sale that Mfundi pulled off.

10 **CHAIRPERSON:** Yes.

ADV CHASKALSON SC: In July what did they get for their special sale relating to the COJ SAP support?

MR POWELL: Mr Chair, this seems to refer to R16million.

ADV CHASKALSON SC: So, R16million was reflected as a – well an amount due to Mfundi in respect of its special sale and then – we'll come back to this document in detail and I hope by that stage to have a better copy put in front of you but for now I'm interested in some of the costs of sales, well just one for now and the – I think that I – I'm
20 not making the point that I'd hoped to make, we'll have to come back to this document later, after all of that diversion and sort of raising expectations my point falls flat, so let's move on, I apologise.

CHAIRPERSON: Right, okay.

ADV CHASKALSON SC: We were on 1st of February when

Mfundu was paid – when Mfundu paid Molelwane R200 000, can I take us to the 3rd of February on page 488, I apologise for that lengthy diversion.

CHAIRPERSON: You remain at page 346?

ADV CHASKALSON SC: No, 488, Chair, 488.

CHAIRPERSON: And it is 488 of money flows Bundles 1?

ADV CHASKALSON SC: That's correct Chair, I'm interested in the part of the email string that appears at the bottom of the page, the email headed, from Ebrahim
10 Lehar, the last email on the page from Ebrahim Lehar dated Wednesday 3 February 2016. Mr Powell can you address that email for the Chair?

MR POWELL: Absolutely, so this is an email from Ebrahim Lehar, and it's dated Wednesday 3 February 2016 and it's addressed to Ashley de Klerk, Kirton[?] Sita [?], Steven Lurkenthorn[?] and various other EOH employees and it's headed – subject header is, "status of stuff" and it starts with:

20 "Hi Guys,
I've been running around like crazy and haven't had time to debrief you on all the key things that I've been involved in and I need to share with you. COJ, am very concerned about the city allowing people to re-price. It seems to be a way to catch us out on scope, we need to be careful here",

And then the point below that is actions:

“I will meet with Geoff”.

And then below that it talks about – my copy is illegible on the first word,

“Someone and I need to meet with Dada...[Intervenues]”.

ADV CHASKALSON SC: That is Ash and I, who is that?

MR POWELL: Asher Bohbot Chair, the Chief Executive Officer of EOH at the time.

10 **ADV CHASKALSON SC:** And who is Dada?

MR POWELL: Chair, it escapes me at the moment.

ADV CHASKALSON SC: Okay well let’s not go further down this email because the critical point, for our purposes today is actions, “I will meet with Geoff”.

MR POWELL: Correct.

ADV CHASKALSON SC: Can we go down the chronology again and go back into volume 3 – Bundle 3 and go to page 652.

20 **MR POWELL:** Chair, just before I go into 652, I’ll just identify, this is the second page of a bank statement for Molelwane Consulting and it’s a Gold business account with the account number and ...[intervenues].

CHAIRPERSON: On what page, 651?

MR POWELL: Correct and the statement date is 17 May 2016 and Mr Chaskalson is going to take me to the 25th of

April...[intervenes].

CHAIRPERSON: I'm sorry just hang on one second Mr Powell.

MR POWELL: Thank you.

CHAIRPERSON: You're saying the bank statement at page 651?

MR POWELL: Yes.

CHAIRPERSON: Did you say what is the date, I see 16 April 2016 to 17 May, that's the date you are talking about?

10 **MR POWELL:** Correct Chair.

CHAIRPERSON: Okay, alright.

MR POWELL: And on page 652 we look at 25 April you'll see that there is a magtape credit, description, P Makhubedu and the amount is R50 000 and if I may preempt Mr Chaskalson's next question, Chair, the balance preceding this deposit, was R617.77, so the account was almost depleted and it got this deposit from Patrick Makhubedu.

20 **CHAIRPERSON:** So, it's like there's a pattern, when the account is very low then there's a top-up?

MR POWELL: Exactly, Chair, that's what it clearly looks like.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: Now, if I can take you to page 346 and 347 which is the Mfundi Mobile cost of sales and if

you can start on page 346 just to get the month heading because on 347 where I'll take you the headings don't appear, I want to make the point that the second column is April.

MR POWELL: Yes, that is correct.

ADV CHASKALSON SC: So, if you go down to 347...[intervenes].

CHAIRPERSON: Okay firstly at 346 that's a bank statement.

10 **MR POWELL:** So, we've got to go to...[intervenes].

CHAIRPERSON: For Molelwane Consulting CC.

MR POWELL:

ADV CHASKALSON SC: No, Chair, that's the document we were looking at a minute or so ago, if we go back up to 344, I think it will be – yes 344, there's the email from Reno Barry to Patrick Makhubedu attaching the last ANC recon and his management report.

CHAIRPERSON: I'm at Bundle 3.

20 **ADV CHASKALSON SC:** Chair, I'm sorry we should be back in Bundle 1.

CHAIRPERSON: Oh, okay.

ADV CHASKALSON SC: Sorry Chair.

CHAIRPERSON: Bundle 1 and what page?

ADV CHASKALSON SC: 344 is the covering email again.

CHAIRPERSON: Okay, yes, I've got it.

ADV CHASKALSON SC: And so that was the Barry to Makhubedu email with the ANC recon and the management report and the management report itself, which talks about the special COJ SAP support for R16million and the costs of sales, that's the document from 346.

CHAIRPERSON: Yes, okay, yes.

ADV CHASKALSON SC: And on 346, Chair, I'd just ask you to note that the second column is April, month April.

CHAIRPERSON: Yes.

10 **ADV CHASKALSON SC:** And the last column is total.

CHAIRPERSON: The last column is?

ADV CHASKALSON SC: Total.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: So, if we go down to 347 and we see the second line item.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: That line item is Molelwane Consulting.

CHAIRPERSON: Yes.

20 **ADV CHASKALSON SC:** Unfortunately, in the April column there's an amount but it's illegible but if we go across to the total, we can see what that amount is, because it's the only amount on that line, so the total which is the far column on the right...[intervenes].

MR POWELL: That is the R50 000 that we've just referred

to Chair.

CHAIRPERSON: Is it R50 000 I thought it was R400 000?

ADV CHASKALSON SC: No, R400 000 is just below it, that's the third line item.

CHAIRPERSON: Oh, okay, I think – no I was drawing a line and I'm not using a ruler so – ja okay so it's that R50 000.

ADV CHASKALSON SC: And we've just seen - referred to a payment from – a payment with reference Patrick
10 Makhubedu on 22 April of R50 000.00 what do we infer from this set of accounts? Who made that payment?

MR POWELL: It appears in the Mfundi documents so clearly it looks like Mfundi made the payment Chair.

CHAIRPERSON: Hm.

ADV CHASKALSON SC: Then we go to page 194 which is a document we have seen before. Can you start with the date of this document?

MR POWELL: Certainly. Chair this document is dated 30 April 2016 and it is a Molelwane Holdings Pty Limited Tax
20 Invoice addressed to TSS Managed Services Pty Limited and attention Patrick Makhubedu – Mr P Makhubedu and it – the description there is Professional Services Lan and Wan services rendered as per agreement. Lan and Wan Services R500 000.00 and I think Chair noted that there is no date of when the services were rendered previously. And the value

at the bottom with VAT is R570 000.00 and the reference again is to Molelwane Consulting bank account. So it is that anomaly I drew Chair's attention to where the invoice says Holdings but the account is consulting.

ADV CHASKALSON SC: For present purposes the point I want to make is that on 30 April 2016 a Molelwane invoice – well is sent to TSS Managed Services. Have you been able to identify the services in respect of which Molelwane was invoicing?

10 **MR POWELL:** No Chair I have – I have answered this previously we could not find the services being provided.

CHAIRPERSON: What was your question Mr Chaskalson?

ADV CHASKALSON SC: What services has Mr Powell been able to identify as having been provided?

CHAIRPERSON: For Molelwane [speaking over one another].

ADV CHASKALSON SC: In respect of this invoice.

CHAIRPERSON: Okay alright. And he – the answer is none as far as you ...

20 **MR POWELL:** Correct Chair.

CHAIRPERSON: Yes.

MR POWELL: And if I can add I mentioned previously we spoke to people who worked on the project. We also did extensive email reviews and normally when it is an on-going project there is exchanges of progress – nothing of the sort

Chair.

CHAIRPERSON: Can I ask this question? In the course of your investigation did you establish whether Molelwane Holdings Pty Limited during the times when it sent invoices but those – the money – the payment went into Molelwane Consulting? Did you establish whether Molelwane Holdings Pty Limited did have a bank account?

MR POWELL: No Chair we have not gone that far.

CHAIRPERSON: It would be interesting to ...

10 **MR POWELL:** Ja.

CHAIRPERSON: To find out whether Molelwane Holdings Pty Limited did have a bank account.

MR POWELL: Yes.

CHAIRPERSON: But money was not put into that account.

MR POWELL: Yes.

CHAIRPERSON: Or whether it did not have a bank account.

ADV CHASKALSON SC: Chair that certainly something the commission can establish.

CHAIRPERSON: Yes.

20 **ADV CHASKALSON SC:** Relatively easy.

CHAIRPERSON: Ja. Okay.

MR POWELL: Chair if I may say you know we were not investigating Molelwane.

CHAIRPERSON: yes.

MR POWELL: But when the commission asked us to see if

there is any documents.

CHAIRPERSON: Yes, yes.

MR POWELL: We found a lot of documents as Chair can see.

CHAIRPERSON: Yes. No that is fine.

ADV CHASKALSON SC: The next stage in the chronology after 30 April is to be found at pages 495 to 497. And again this is an email string but maybe we can start at 495 and if you can read up the string and tell the Chair what is here?

10 **MR POWELL:** Certainly. Chair at 495 we have an email from Ebrahim Laher dated Saturday 9 March 2019 – sorry this cannot be the right page.

ADV CHASKALSON SC: No you are on the right page if you can go down the string.

MR POWELL: Oh sorry.

ADV CHASKALSON SC: So – because it goes to from Nyiko Mutileni.

20 **MR POWELL:** Ja. So we have got 17 May 2016 Nyiko Mutileni writes to Ebrahim Laher at EOH. The subject header Request for Sponsorship and he seems to forward this request and the request below is from Nboniseni Nemaangani at City of Johannesburg.

ADV CHASKALSON SC: And just for the record if I can spell that out.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Nboniseni and Nemaangani –
Nemaangani.

CHAIRPERSON: Yes thank you.

MR POWELL: Thank you Mr Chaskalson. This document is
then forwarded to Ebrahim Laher and it appears ...

ADV CHASKALSON SC: And can I take you to the next
page with is 427.

MR POWELL: Yes.

ADV CHASKALSON SC: First can you confirm is this the
10 document that had the request for the sponsorship?

MR POWELL: 497?

ADV CHASKALSON SC: 497 yes.

MR POWELL: Correct. This appears to be the request for
sponsorship and it refers to a request for sponsorship New
York trip. It is addressed to – it looks like a Mr Tinyiko
Mutileni. I do not know if that is another name of the Nyiko
Mutileni that we referred to.

ADV CHASKALSON SC: I think Nyiko is an abbreviation of
Tinyiko.

20 **MR POWELL:** Thank you. And it is basically a request for
sponsorship trip New York trip and

“Please receive our request for sponsorship
in pursuance of the trip to City of New York.
The trip is from 1 to 10 June 2016.
Delegates will be able to attend student

exhibition, be part of the celebration of completion of the global partners junior 2015/2016 curriculum which is focussed on arts in cities around the world.”

And it goes on to say:

“The program is managed by the spouse of the Executive Mayor of the City of Johannesburg Ms Felisiwe Twala Tau under [00:07:15] by the GDS 2030 vision of a resilient sustainable and liveable communities that has been created. The program is located within the office of the Executive Mayor but structured to be self-funding and community driven.”

10

And there it refers to:

“Attached is the quotation from the travelling agent for ease of reference and he requests favourable consideration.”

And then there is another document on 498 and it is
20 headed NYC Global Partners and this is addressed to Nboneseni Nemaangani that Mr Chaskalson just spelt out a moment ago and it is an invitation to take part in this event.

ADV CHASKALSON SC: So the invitation comes on 26 February the request to EOH to Mr Mutileni is dated 3 March and that gets forwarded by Mr Mutileni to Mr Laher on 17

May and...

MR POWELL: Correct.

ADV CHASKALSON SC: And 17 May is where we are in the – in our overall chronology of the A647 bid. Can we then go onto page 501? And at the top of the page what – well that is – there is a string. I am interested in the email dated 19 May that is the third email in the string.

MR POWELL: Just one second.

ADV CHASKALSON SC: 501.

10 **MR POWELL**: The second email in the string is an email from Geoff Makhubo sent to Asher Bohbot copying Patrick Makhubedu and Jehan Mackay as well as Ebrahim Laher and it is dated 19 May 2016 and its subject is Request for Donation.

20 “Dear Mr Bohbot please find request letter for a donation. As you are probably aware we have twelve weeks to elections and the costs are escalating. We request a response of the earliest convenience. We hope that our request will meet your favourable consideration. Regards Geoff Makhubo Regional Treasurer ANC Greater Johannesburg Region.”

And that same cell number for Mr Makhubo that Chair recorded earlier.

ADV CHASKALSON SC: So we will get to the ...

CHAIRPERSON: The reference to elections there in 2016 must have been a reference to the local government elections?

ADV CHASKALSON SC: Indeed Chair.

CHAIRPERSON: 2016 okay.

MR POWELL: Correct Chair.

ADV CHASKALSON SC: We will get to the request in a minute – the attached request for donations. I just want to
10 orient ourselves again to the tender that we are talking about
A647 has it been awarded yet?

MR POWELL: No it is pending.

ADV CHASKALSON SC: It is pending. Can – let us go to that letter itself and that starts at page 499.

MR POWELL: Chair at page 499 we find an African National Congress letter Greater Johannesburg Region Office of the Regional Treasurer directed to Mr Asher Bohbot Group Chief Executive Officer at EHO Mthombo Pty Limited copying Jehan Mackay, Ebrahim Lehar, Patrick Makhubedu dated 19
20 May 2016. Request for Financial Assistance.

“Dear Mr Bohbot we would like to thank you for the continued support that your company has been giving to the African National Congress in the past. The support ensured that our activities become successful. The

ANC in Greater Johannesburg Region is preparing for the 2016 elections. As part of the process the region is finalising the process of nominating its candidates therefore the election campaign will be full steam starting with the local manifesto launch and unveiling of our Mayoral candidate. As discussed with your colleagues in previous meetings these activities require resources to execute and the elections budget is R50 million. The Regional Executive Committee humbly requests and will appreciate contribution and transfers as per timelines below.”

And then there is a table Chair. The table reflects date of transfer and the amount and it reflects 18 May 2016 R5 million. 30 May 2016 R5 million. 15 June 2016 R10 million. 30 June 2016 R10 million. 22 July 2016 R10 million. 1 August 2016 R4million. 15 August 2016 R3 million. 30 August 2016 R3 million. The total is the R50 000.00 and then it provides the...

ADV CHASKALSON SC: You said R50 000.

MR POWELL: Ag R50 million as we said earlier Chair. Apologies.

“And then what follows are the account

details and the statement that these are important activities in the calendar of the ANC and our mandate renewal by the electorate. Your support is highly appreciated and we thank you in advance for your commitment and contribution towards strengthening democracy. Yours in Democracy signed Geoff Makhubo Regional Treasurer with the cell number.”

10 **ADV CHASKALSON SC**: I just want to check that I have the right reference here. Can I then ask you to go to – sorry that was 19 May. If we go back to 25 May – sorry if we go back to 194. No, no, no not 194 sorry.

CHAIRPERSON: What page again Mr Chaskalson?

ADV CHASKALSON SC: 193.

CHAIRPERSON: Okay. Still on Bundle 1?

ADV CHASKALSON SC: Still on Bundle 1 Chair.

MR POWELL: Chair 193 there is an email from Patrick Makhubedu dated 25 May 2016 sent to Rene Jonker. Rene
20 Jonker Chair will recall is the Finance person at EOH and it attaches invoice 22 April 2016 pdf. And the narration is very short.

“Hi please pay this asap.”

ADV CHASKALSON SC: And if we go over the page we see the invoice that we have now seen several times before

which is the Molalwane invoice for R500 000.00?

MR POWELL: That is correct Chair.

ADV CHASKALSON SC: Then can we...

CHAIRPERSON: That is quite a large sum going into Molalwane Consulting particularly if there is no work that was done. Yes Mr Chaskalson.

ADV CHASKALSON SC: Can we go to page 194.1 and Chair I just want to make sure that you have 194.1.

CHAIRPERSON: Yes, yes I have.

10 **ADV CHASKALSON SC**: Thank you Chair.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Can you describe to the Chair what 194.1 is?

MR POWELL: Yes if we start at the bottom of the page it looks like this was a purchase order - a purchase approval that was sent to – on 26 May 2016 to Rob Godlington. Rob Godlington was one of the Executives at EOH and he received this purchase order approval request and it spoke about the R570 000.00 amount and it referred to Mololwane
20 Consulting and it was requested by Wesley Van Rheede and the date was 26 May. He then writes Rob Godlington writes to Peter Wynne at EOH regarding the purchase order approval:

“Hi Peter. What is this for? Cheers Rob.”

And then Peter Wynne at the top of the page Chair

replies Thursday May 26 9:05 pm to Rob Godlington

“Hi Rob. ED for City of Joburg.”

ADV CHASKALSON SC: Can you just remind the Chair what ED is?

MR POWELL: Ja. Chair that is the abbreviation for Enterprise Development. So it usually involved empowerment spend to develop small SME's.

MR POWELL: Thank you.

MR POWELL: I would not have thought Molelwane would
10 have qualified Chair but so let me continue.

“ED for City of Joburg it was budgeted for in the financial year 16 numbers. I asked Rene for a schedule at the time of ED payments budgeted when we compile the budgets then if the amount is in the budget I do not ask any further questions.”

He goes on to say:

“If you would like me to get more info and the historic payment details for this ED partner
20 then I know that Rene will have it. I have asked Rene to provide details of ED payments for SASSA and that is the Social and Security Agency as there were some factual inaccuracies in the numbers I quoted in my email earlier this week.”

This is something else Chair.

“The initial number R2 million and not R3 million for SASSA.” So essentially what he is saying here is Godlington wanted to know what is the PO for and they said Enterprise Development for City of Joburg.”

ADV CHASKALSON SC: If we then go to page 503 our last exchange was on 26 May – this Godlington win exchange about paying the invoice. On the same day something else
10 happens. If we go to page 503.

MR POWELL: If I may say Chair the enquiry as to the purchase order what is this all about seems to have been very superficial because if management had dug into this that should have raised red flags.

CHAIRPERSON: Of course was Peter or somebody said I do not ask questions?

MR POWELL: That is also disturbing Chair.

CHAIRPERSON: Yes.

MR POWELL: It is people looking the other way.

20 **CHAIRPERSON:** Hm. Yes. Mr Chaskalson.

ADV CHASKALSON SC: If we go to 503 what do we see?

MR POWELL: At 503 Chair we have got an email from Geoff Makhubo sent to Patrick Makhubedu copying in Ibrahim Laher and Jehan Mackay and the subject is Progress on Donation Request and Mr Makhubo writes:

“Dear Patrick, Jehan and Ibrahim. I have sent a couple of letters of request to your good selves as a sequel to the meetings we had. The last letter had cash flow requirements starting this week. I have – I have communicated our agreements to the ANC Leadership especially the Regional Office Bearers and Province. I have also committed expenditure to ensure that we get
10 renewal of our mandate of transforming Johannesburg. This I have done because of the positive experience I have with you. Can you please give me feedbacks on the – give me feedback on the requests as we have a launch rally on the 4 June 2016 and of course we need to accelerate campaigning. Please, please come to the party as we are relying on you. Regards Geoff Makhubo with his cell number.”

20 So he is following up on that unpaid request from the ANC on the R50 million donation.

ADV CHASKALSON SC: And at this stage has the tender been awarded yet?

MR POWELL: Not yet.

ADV CHASKALSON SC: Can we then go to Bundle 3 page

267?

CHAIRPERSON: Is it 267 or 367?

ADV CHASKALSON SC: Bundle 3 page 267. Bundle 3. And if you can just describe to the Chair the document there?

MR POWELL: Certainly Chair the document before us on page 267 of Bundle 3 is a Molelwane Consulting CC account.

ADV CHASKALSON SC: Can I – can I just ask you to describe to the Chair how – to report to the Chair how this
10 account is described because there are two Molelwane accounts and we are going to be going.

MR POWELL: Yes.

ADV CHASKALSON SC: To another one shortly.

MR POWELL: Certainly. This one is described as Molelwane Consulting CC and it has a CK registration 1997 salary account as the header Chair. And then it refers to a gold business account.

ADV CHASKALSON SC: And then if you can go over the page at page 268 there is an entry on the 30 May.

20 **MR POWELL:** Certainly Chair on 30 May there is an electronic magtape credit – apologies – TSS MS Pty Limited and it is the 570 that we referred to earlier Chair. And if I follow and pre-empt Mr Chaskalson's next question.

CHAIRPERSON: Yes.

MR POWELL: The balance in that account was R268.00

just before this large cash inflow of R570 000.00.

CHAIRPERSON: Hm.

ADV CHASKALSON SC: So that is on the 30 May can I staying in the same bundle but going to page 849.

MR POWELL: 849. Chair.

ADV CHASKALSON SC: And 849 is a table that the commission has extracted of transactions between Molelwane Consulting accounts and the two colons on the left hand side are the two different Molelwane accounts. The
10 salary account and the current accounts and these are transactions out of either of those accounts into the account of Mr Makhubo's – Mr Makhubo's personal account. It is the commission's document. Can I ask you to go down to 31 May 2016.

CHAIRPERSON: I am sorry Mr Chaskalson. You say this document at page 849 represents payments into Mr Makhubo's personal account, is that right?

ADV CHASKALSON SC: The – indeed.

CHAIRPERSON: Ja.

20 **ADV CHASKALSON SC:** So the transaction amount – the second column from the right.

CHAIRPERSON: Ja.

ADV CHASKALSON SC: Is the amount that is paid into Mr Makhubo's account from one of the two Molelwane accounts.

CHAIRPERSON: Oh okay. I – either Holdings or Consulting

CC?

ADV CHASKALSON SC: They both are Molelwane Consulting accounts.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: But CC's accounts.

CHAIRPERSON: Oh CC not Holdings.

ADV CHASKALSON SC: But the CC has two bank accounts.

CHAIRPERSON: Oh okay alright. Yes thank you.

ADV CHASKALSON SC: If we go to 31 May.

10 **MR POWELL:** 31 May 2016 there it reflects a transfer – internet transfer R50 000.00 and it – the narration is Payment to Mr Makhubo's FNB account.

ADV CHASKALSON SC: That is the commission's narration I should add. And underneath that?

MR POWELL: There is another transfer of ...

CHAIRPERSON: Sorry the one you have just dealt with did you say 31 May 2016?

MR POWELL: 31 May 2016.

CHAIRPERSON: Okay. Is it that amount of R50 000.00?

20 **MR POWELL:** Correct Chair and the one that I am referring to is immediately below that.

CHAIRPERSON: Yes.

MR POWELL: Is R200 000.00.

CHAIRPERSON: That is R200 000.00?

MR POWELL: Ja.

CHAIRPERSON: Okay alright.

MR POWELL: I think what Mr Chaskalson seems to be pointing out Mr Chair is that the monies go to Molelwane Consulting.

CHAIRPERSON: Ja.

MR POWELL: And then find its way to Mr Makhubo's personal account.

CHAIRPERSON: Ja. Yes.

ADV CHASKALSON SC: Indeed that is what I am inferring.

10 It is an issue we will take up further with Mr Makhubo when he comes on Friday. If I might just take you back to Bundle 3 at page 270 you will see how those two transactions are reflected in the books – in the account of Molelwane. So if we start at 269 we have the statement from 30 May to 30 June. And if one looks at 31 May the first line item – the first two line items are – just have the description transfer and are both for R50 000.00.

CHAIRPERSON: You said page 269 of Bundle 3? Are you at 269?

20 **ADV CHASKALSON SC:** Oh so 269 is the cover page for the bank account.

CHAIRPERSON: Oh then we go to 270?

ADV CHASKALSON SC: Indeed.

CHAIRPERSON: Okay. And what transaction – what date?

ADV CHASKALSON SC: 31 May. And Chair you will recall

there were two transactions on the commission's spread sheet one for R50 000.00, one for R200. One of the first two transactions on 31 May with the simple description Transfer would be the R50 000.00.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Because there were two R50 000.00 transfers out of this account.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: With no further description. Then
10 on 31 May we see the R200 000.00 with the – sorry a bit lower down – below the Geoff Pardy reference we see transfer R200 000.00.

CHAIRPERSON: Yes. Thank you.

ADV CHASKALSON SC: Can we then go to page 504? Sorry 504 in Bundle 1 not in Bundle 3. We in Bundle 3 we need to go back to Bundle 1.

CHAIRPERSON: 504 on Bundle 1.

ADV CHASKALSON SC: Indeed.

CHAIRPERSON: Okay.

20 **ADV CHASKALSON SC:** So we – our chronology has taken us to 31 May thus far. Can you describe to the Chair that you see on page 504?

MR POWELL: Certainly. Chair the letter on page 504 is the – a letter from the City of Johannesburg. It is a registered letter sent to EOH Mthombo attention Ebrahim Laher.

“Dear Sir/Madam. And it refers to Proposal number A647 request for proposal for the appointment of service provider for the SAP implementation/upgrade for period of three years. Kindly be advised that your offer in respect of an appointment of services provided for the SAP implementation/upgrade has been approved by the Executive Adjudication Committee at its meeting held
10 on 2 June 2016.”

So Mr Chaskalson referred Chair to the fact that the last communication was end of May. Just over a week later we now have the award...

ADV CHASKALSON SC: Two days later.

MR POWELL: Two days later apologies. We now have the award Chair and then there is – reflects that this award is effective for a three-year period, commencing from the letter of acceptance and it refers to Service 1, SAP Implementation, R 297 895 680,00. Service to:
20 Implementing SAP Learning Solution. Develop training material and provide training accordingly, R 45 474 144,00 including VAT.

And the last one is Service 3, existing ERP, system data is required to be transformed, cleansed and migrated to the new ERP System by the appointed Master Data Management

Specialists. And the price for that is reflected as R 61 286 400,00.

ADV CHASKALSON SC: If you total those numbers, what do you see the total value of the award for EOH?

MR POWELL: A fraction over R 404 million, Chair.

ADV CHASKALSON SC: Then...[intervenes]

CHAIRPERSON: Thank you.

ADV CHASKALSON SC: Sorry. The date of this letter. So the decision was apparently taken on the 2nd but EOH is notified?
10

MR POWELL: On 8 June 2016.

ADV CHASKALSON SC: Then, can I take you to page 507?

CHAIRPERSON: What is the page number again?

ADV CHASKALSON SC: 507, Chair.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: Or maybe we should start on... Well, 507 is the sequence.

MR POWELL: Ja.

ADV CHASKALSON SC: Where the sequence begins.

20 **MR POWELL:** Correct.

ADV CHASKALSON SC: What do you see on 507?

MR POWELL: Chair, this is a purchase order. It is EOH SAP Services. That is their division run by Mr Laher. And it looks like EOH Infrastructure Technologies is delivering to EOH Mathombo (Pty) Ltd, Bedfordview.

And it then goes into details on – dated 27 June 2015 and goes into detail regarding the provision of various computer periphery, hardware, software.

And the value of all of that Chair comes to R 204 095,00.

ADV CHASKALSON SC: If we then go up a line, we will see an invoice on page 506. Can you describe that to the Chair?

MR POWELL: Certainly, Chair. There is an invoice on page
10 506, EOH Mathombo. The invoice date is 30 June 2016. And if we look at the invoice, it refers to – it is generated by EOH Infrastructure Technologies and it is addressed to EOH Mathombo (Pty) Ltd.

But Chair, if you look at the column on the right, you will see that the delivery address is Masa House, 12 New Street, Dundee Square, Marshalltown.

And then it reflects: Attention Geoff or Justice. And if you look at that cell number Chair, you will recall that that is the number that Mr Chaskalson asked you to write down.
20 That is the cell number of Mr Geoff Makhubo.

So it appears the Geoff referred to on this donation of R 204 000,00 worth of laptop equipment, is delivered to the ANC. And the address Chair, we have confirmed, is one of the regional offices of the ANC.

ADV CHASKALSON SC: And then on page five... Can you

go to page 521?

MR POWELL: Yes. Chair, on page 521, there we have another purchase order. This one is directed to Serendipity Tours in Waterfall Centre, Midrand and ...[intervenes]

CHAIRPERSON: One second. Let me get there.

MR POWELL: Yes, Chair.

CHAIRPERSON: Yes?

MR POWELL: And the delivery address is reflected as delivered to EOH Mathombo and the company that is
10 addressing it, is EOH SAP Services, Mr Laher's business. And if we look at this, it refers to purchase numbers, dates, categories.

The date is 29 June 2016. And if we look at the description, it looks like this is a tour of some sorts. So it is a proforma invoice, 11 May 2016, COJ Team.

And then there is a list of names and some of those names featured on some of the documents we saw previously. So it is Nboniseni Nemaangani. I see it is on the list and various others. There are 18 names. And what this
20 entails ...[intervenes]

CHAIRPERSON: Hang on.

MR POWELL: Yes?

CHAIRPERSON: Are you at 571?

MR POWELL: [No audible reply]

CHAIRPERSON: What page are you on?

MR POWELL: 21, Chair.

CHAIRPERSON: 521?

ADV CHASKALSON SC: 521, Chair. Sorry.

CHAIRPERSON: Oh, okay.

ADV CHASKALSON SC: Maybe you can pause for the
Chair to get there and just...

CHAIRPERSON: Yes, yes.

MR POWELL: Apologies, Chair.

CHAIRPERSON: I was making a note on the previous
10 reference. Okay, I am sorry. I am going to have to ask you
to start afresh.

MR POWELL: Not at all Chair.

CHAIRPERSON: On that page, yes.

MR POWELL: Certainly. This is a purchase order and it
comes from EOH SAP Services, EOH Mathombo (Pty) Ltd. It
is addressed to Serendipity Tours who are based in Midrand
and it is has got a delivery address to EOH Mathombo (Pty)
Ltd but what is referred to in the description below Chair is,
there is a list of names of COJ Team and it refers to a
20 proforma invoice dated 11 May 2016.

And if you look at the narration, it talks about a list of 18
names and that is referred to as the COJ Team. And then,
flights on Emirates. Return airport hotel and private
transfers. Six nights accommodation at 3 Star Hampton in
Manhattan Time Square, 5 to 11 June 2016, and seven

standard twin-room sharing, three standard single rooms with breakfast, approximate airport taxes included.

So this seems to be a delegation going to New York that EOH is paying for around the time that they awarded this tender which, as I indicated earlier, from just good business practice, it is really bad Chair.

ADV CHASKALSON SC: Can I maybe make that a bit more specific? If one goes back to that invitation letter for Ms Towers' project of taking people to New York at page 498.

10 There is a list of no names in that invitation letter.

MR POWELL: Correct.

ADV CHASKALSON SC: So if I can... Chair, if I can ask you to go to 498?

CHAIRPERSON: Yes.

ADV CHASKALSON SC: And there you will see that the – this appears to be the same project. There is a very substantial overlap in the list of names.

CHAIRPERSON: Yes. H'm. Is it usual for a municipality or a government department to ask for donations as far as you
20 know, Mr Powell?

MR POWELL: It is pretty abnormal Chair, particularly while a bid pending with that particular service provider. It is just seems totally unacceptable.

CHAIRPERSON: Yes. It is certainly not something that ...[intervenes]

MR POWELL: Chair, for any listed company in South Africa, most of those organisations would have a compliance team. And if we look at the EOH of today, Mr Van Coller is putting the Compliance Team and a whole lot of policies and controls.

CHAIRPERSON: H'm.

MR POWELL: At that time, there was one compliance officer for the EOH Group and it was a massive group at that time. And I am not criticising the compliance officer but
10 whenever did anything, they did not even advised the Compliance Team and there was no scrutiny that would have suggested that it would be prudent not to do this kind of activity pending or after an award.

CHAIRPERSON: And it just seems strange that any private company should spend half a million of its money on taking a local government officials or any government officials on a trip somewhere.

ADV CHASKALSON SC: Chair, in fairness but to Ms Tower.

CHAIRPERSON: Yes.

20 **ADV CHASKALSON SC:** This looks like a charity that she sponsors. So the people who would go, they have a local government, officials are there, chaperons, as it were.

CHAIRPERSON: H'm.

ADV CHASKALSON SC: But it looks like, these are school children who are being sent on a trip under Ms Towers'

charity.

CHAIRPERSON: Oh, not municipal officials?

ADV CHASKALSON SC: No, not... There is a municipal official who will be looking after them while they are there.

CHAIRPERSON: Yes, yes.

ADV CHASKALSON SC: But he or she will be as a chaperone.

CHAIRPERSON: Ja.

ADV CHASKALSON SC: So it is ...[intervenes]

10 **CHAIRPERSON**: But for one.

ADV CHASKALSON SC: Indeed. It is not – the group is primarily children.

CHAIRPERSON: Oh, okay. No, I thought it was The City of Johannesburg officials. Okay, no ...[intervenes]

ADV CHASKALSON SC: There may be one or two.

CHAIRPERSON: Ja.

ADV CHASKALSON SC: There is certainly one official. There may be two.

CHAIRPERSON: Yes.

20 **ADV CHASKALSON SC**: Who are going to look after the children.

CHAIRPERSON: Okay ...[intervenes]

ADV CHASKALSON SC: That would be the primary beneficiaries of the children.

CHAIRPERSON: H'm. Okay.

MR POWELL: If you remember the previous documents, it did speak about this being a sponsored initiative by the Executive Mayor's Office. So there is still the annexed to The City of Johannesburg and it is still coming from the service provider who is busy bidding for work of City of Johannesburg. So I still maintain my view that it is highly inappropriate.

CHAIRPERSON: Okay, thank you. Mr Chaskalson

ADV CHASKALSON SC: Can we then go to page 525?

10 **CHAIRPERSON:** Mr Chaskalson, we are at quarter past four. Let us talk about the way forward. We may need to take a short adjournment. I can still continue. But I just want to have an idea, just talk about how much is left.

ADV CHASKALSON SC: My sense Chair is that, we probably got about half an hour, maybe 40-minutes left on The City of Johannesburg.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: There are then two other contracts unrelated to the City of Joburg and in fact, they are quite
20 severable in terms of their treatment.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Unless you want us to try to push it. Well, we – realistically, I think we would require at least two and a half to three hours to get through those other two contracts.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: It may be more convenient to finish Johannesburg today.

CHAIRPERSON: H'm.

ADV CHASKALSON SC: And then to look for another slot, if there is another slot available at any stage to...

CHAIRPERSON: Well, from my point of view, depending on what your situation is and Mr Powell's availability and his counsel. I can go on. I can still go on for some time.

10 **ADV CHASKALSON SC:** Chair, I am certainly able to go on myself. Can I suggest that we attempt to go on.

CHAIRPERSON: Ja.

ADV CHASKALSON SC: We maybe take stock after we have finished the first of the second of those two contracts when we will have a clearer sense of...

CHAIRPERSON: Ja, maybe we could go on up to – about six o'clock or just before six o'clock and see how far we are.

ADV CHASKALSON SC: Yes, Chair.

20 **CHAIRPERSON:** And at that stage, if, for example, all that is left is an hour, it may well be it is an hour or so. It may well be that we could look at seeing whether if Mr Powell is available tomorrow. We could start an hour earlier or we slot him in at some other time. But I have flexibility on my side in terms of going on.

ADV CHASKALSON SC: Thank you, Chair.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Then I think we should at least try to look to complete.

CHAIRPERSON: Yes. Mr Powell, how is your situation about continuing for some time?

MR POWELL: No problem, Chair.

CHAIRPERSON: You have no problem. And your counsel, no problem?

COUNSEL: No problem with me at all. I just want to make
10 sure that Mr Powell ...[intervenes]

CHAIRPERSON: Yes.

COUNSEL: He may just need a bit of time to rearrange flights, et cetera. But we will do that.

CHAIRPERSON: Yes. Okay. Maybe, let us take a short break now and then resume. We are at – what – seventeen minutes past. If you are going to need to rearrange flights, you might need, about what, 10 to 15-minutes?

MR POWELL: Ja, five minutes is fine.

CHAIRPERSON: Five minutes is fine. Okay let us take a
20 ten minutes' break. We will resume just before half-past.

ADV CHASKALSON SC: Thank you, Chair.

CHAIRPERSON: Okay. We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay, let us continue.

ADV CHASKALSON SC: Mr Powell, I am going to take you back – you do not need to go there but you will recall that we took you to an email of 2 December at page 487 where Jehan Mackay told Ebrahim Laher and – or Ebs and Pat:

“We need a number urgently that can be allocated for goodwill...”

Smiley face symbol.

“...to the organisation.”

10 Can I now take you to page 525 of volume 1? And can you take the Chair – again it is one of these email strings but can you start with the forwarded message that you see on 525? It says forwarded from Patrick Makhubedu.

MR POWELL: Yes. Chair, on 525 in the middle of the page there is a forwarded message from Patrick Makhubedu dated Tuesday July 19th, 2016, and it is sent to Ebrahim Laher.

ADV CHASKALSON SC: Sorry, can I just pause there? Would that be Pat and Ebs?

20 **MR POWELL:** That is correct, Chair, those I did identify the two who were in that string previously.

ADV CHASKALSON SC: And what does he forward?

MR POWELL: Copy invoice, Chair, and I must apologise, the copy is very, very faint, so...

ADV CHASKALSON SC: Can you read what the invoice –

I mean, we may have to generate better copies of these invoices but are you able to read what the invoice says?

MR POWELL: To be from Mfundu Mobile Networks (Pty) Ltd, Chair, and it is addressed to EOH Mthombo (Pty) Ltd and if I am reading this very faint print correctly it says:

“Sales COJ SAP support special”

And there is a figure of R4 million and with that it comes to R4 560 000, SAP services.

ADV CHASKALSON SC: Yes. And you will recall earlier
10 we have seen some management reports that talk about the COJ SAP support special.

MR POWELL: Exactly right, Chair.

ADV CHASKALSON SC: And also refer to sales. Can we go down the page because that is one invoice that you have seen. If we go down to page 527, what do you see on 527?

MR POWELL: Very similar scenario, Chair, in the middle of the page there is an email from Patrick Makhubedu dated July 19, 2016 and it is addressed to Ebrahim Laher
20 and it says:

“Hi, please receive the invoices as discussed.”

And it is another invoice from Mfundu Mobile Networks (Pty) Ltd addressed to EOH Mthombo (Pty) Ltd and this refers to sales, COJ SAP support special and it is also 4 million and with that it comes to 4 560 million and it also refers to SAP

services.

ADV CHASKALSON SC: And then ...[intervenes]

CHAIRPERSON: So this is a different amount to the one you have dealt with at 525.

ADV CHASKALSON SC: Chair, it is the same amount but it is a different email.

CHAIRPERSON: Oh, same amount. Oh, okay.

MR POWELL: It is the second amount of 4 million, Chair.

ADV CHASKALSON SC: And if we can go to the third
10 amount then.

CHAIRPERSON: I am sorry, I am sorry, at 525, on my page 525, the amount that is right at the bottom appears to be 4 560 000.

MR POWELL: Ja.

CHAIRPERSON: And then – oh, okay, at page 527 it is the same amount, hey?

MR POWELL: Correct., it is another transaction of the exact same amount.

CHAIRPERSON: It is a separate transaction but the
20 amount on each transaction is the same.

MR POWELL: Correct.

CHAIRPERSON: Oh, okay.

ADV CHASKALSON SC: And then if we can – and the amount is 4 million plus VAT to give 4 560.

MR POWELL: Correct, Chair.

CHAIRPERSON: Okay.

MR POWELL: Chair, just bear in mind the 16 million that was approved earlier.

CHAIRPERSON: Yes.

MR POWELL: Because it is going to tie up to that figure.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: Can we go then to page 529?

MR POWELL: Certainly, Chair. And again we have a similar pattern. Just above the middle of the page there is
10 an email from Patrick Makhubedu dated Tuesday the 19 July 2016 and it is sent to Ebrahim Laher and the narration is:

“Hi, hope you have all three invoices.”

And then below that is a further Mfundi Mobile Networks invoice addressed to EOH Mthombo (Pty) Ltd and again we have sales COJ SAP support special. The amount this time is R8 million and below that is a narration SAP services and the amount with VAT is 9 120 000. Mr Chaskalson can you just confirm the numbers it is very
20 ...[intervenes]

ADV CHASKALSON SC: Yes, yes, in fact go to 530, you should have a more legible copy.

MR POWELL: Yes, exactly right, Chair, on the following page there is a more legible total and you will see it ends with Patrick Makhubedu and his cell number.

CHAIRPERSON: Is that total 9,120 total when you add up 4 point something and...?

MR POWELL: Yes.

CHAIRPERSON: Those two amounts?

MR POWELL: Correct, Chair.

CHAIRPERSON: 4.560.

ADV CHASKALSON SC: That is correct, Chair.

CHAIRPERSON: Oh, okay, alright.

ADV CHASKALSON SC: There were two for 4 million plus
10 VAT equals 4 560 and a third for 8 million plus Vat, 9 120.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: And the overall total...

MR POWELL: 16 million ex Vat.

ADV CHASKALSON SC: 16 million ex Vat.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: And now need to go to see how
that 16 million on SAP – sorry, sale SAP support special
was explained by Mr Barry or accounted for by Mr Barry
and then for that purpose we have got to go back to page
20 344 where we skirted around a little bit thus far.

CHAIRPERSON: Did you mention a page to which we
must go, Mr Chaskalson?

ADV CHASKALSON SC: 344.

CHAIRPERSON: 344, okay.

ADV CHASKALSON SC: And at the risk of repetition, I

would like you to take the Chair through this covering email on 344 quite carefully because now we are going to get into it in considerable detail.

MR POWELL: Certainly. You now have more context to the schedules that are attached to this email. So if we just revisit the email, Chair will remember that this was from Reno Barry and Reno Barry you will remember was the person that was very active on Mfundi Mobile. It is dated 6 January 2017 and it is sent to Patrick Makhubedu and the
10 subject was Mfundi ANC Recon and then it attached the two documents. We have referred to the one document which was an extract from a Mfundi management report and the second item is GM ANC updated – or sorry, the first time GM ANC updated 13 August 2016 and just to revisit the narration:

“Hi Patrick, attached is the last ANC recon I have showing the amount of 560 still to go. However, there might be payments made afterwards that must be added to the recon to reduce this balance, see
20 columns for August and September 2016 for items not included. Please advise if any items must be added to the recon. Kind regards, Reno Barry.”

ADV CHASKALSON SC: So the recon that we are going to look at in a minute has the file name Mfundi GM ANC updated. Can you speculate as to what GM might stand

for? I will leave it for argument.

CHAIRPERSON: Anybody's initials? If you do not know it is fine.

MR POWELL: No, I was just thinking of the irony, it could have been JM and I would have understood, Chair.

CHAIRPERSON: Anyway, I wanted to ask the question. Is the reference to recon in this email a reference to a reconciliation of the amounts?

ADV CHASKALSON SC: Indeed, Chair.

10 **CHAIRPERSON:** Okay.

ADV CHASKALSON SC: Can you take the Chair to page 345?

MR POWELL: Thank you, Chair. Page 345 is this reconciliation, it is headed Mfundi Mobile expenses, ANC GM.

ADV CHASKALSON SC: And under sales what do we see?

20 **MR POWELL:** We see sales, COJ SAP support special, 16 million and the total for sales 16 million and then we have ...[intervenes]

ADV CHASKALSON SC: Sorry, so can you link that to documents that we have been discussing with the Chair? Where does that 16 million reflect in terms of invoices that we have seen thus far?

MR POWELL: We have just looked at the 4 million, 4

million, 8 million from Patrick Makhubedu, Chair, so this seems to tie up to that and you will remember that it also ties back to a letter of request for 50 million. It would appear that EOH paid 16, not the 50 that was requested and they paid it in the broken up tranches of 4 million, 4 million and 8 million.

ADV CHASKALSON SC: Which were invoiced by Mfundi.

MR POWELL: Which were invoiced by Mfundi, indeed.

CHAIRPERSON: And that request, where there was the
10 figure of 50 million, did I understand it correctly to be a request for them to make whatever contribution they could make so that it did not necessarily – it was not a request that they must pay the whole amount of 50 million?

MR POWELL: Chair, you are quite correct.

CHAIRPERSON: Yes.

MR POWELL: But having said that, they did give a monthly budget that they needed to receive.

CHAIRPERSON: Yes, yes.

MR POWELL: And that did come to the 50 million on the
20 request.

CHAIRPERSON: Yes.

MR POWELL: So that was part of it but if you read the preceding page it is exactly what Chair is suggesting.

CHAIRPERSON: Yes, yes.

MR POWELL: This is the amount they need.

CHAIRPERSON: The impression I got and maybe there was no basis for it was that maybe it was the kind of document that the ANC may have sent to different companies and then each company would just see what it could contribute.

MR POWELL: Chair, I concur, those were my thoughts exactly.

CHAIRPERSON: Yes, yes. Okay, thank you.

MR POWELL: Chair, if I may just pause on this because,
10 you know, the making of political donations is not *per se* irregular but when you make it to one political party and you do it at a time when a bid or a tender is being adjudicated it becomes problematic. So any compliance team worth its salt would have blocked this, they would have told the company you cannot go there but unfortunately, at the time they did not have a robust compliance programme in place and they did not have the wherewithal to stop it and I think almost by design the old EOH did not create the controls because it would have
20 inhibited this kind of behaviour. Thank you, Chair.

ADV CHASKALSON SC: Can I just stop you there, Mr Powell? The answer you just gave the Chair would have obviously carried considerable weight if the 16 million was explicitly donated to the ANC but in this case that is not what happened.

MR POWELL: Mr Chair, Mr Chaskalson is quite right and that is the second part of what I did what to convey to Chair is that this was a concealed donation, they did not outright go and make a payment to the ANC, they paid Mfundi and the document we are about to take Chair through is a recon from Mfundi. What the ANC then did is they supplied all of their election campaign expenses, printing, advertising and all the different aspects, expenses that go with preparing for an election, the ANC would
10 submit invoices to Mfundi and Mfundi would deduct it from the 16 million balance and Chair will recall that Reno Barry had indicated that there was just a couple of hundred thousand left over and we are about to go through this list of items, Chair.

CHAIRPERSON: So is the position that EOH would have received and express request from the ANC on the ANC's letterheads about that 50 million?

MR POWELL: Correct.

CHAIRPERSON: But there would be no record of EOH
20 response to that request directly.

MR POWELL: Correct, ja.

CHAIRPERSON: But there would be money that was given to Mfundi and then what one would see later is the ANC would send invoices to Mfundi and so on.

MR POWELL: Exactly right, Chair. That is what

happened.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: Can you take the Chair through these costs of sales?

MR POWELL: Certainly. Chair, there is a column on this reconciliation called cost of sales ...[intervenes]

CHAIRPERSON: Just before we proceed, you remember we have been seeing this sales and cost of sales, in the context of Mfundu Mobile and the ANC, cost of sales would
10 mean what on your understanding?

MR POWELL: Chair, Mfundu has not done any work for EOH.

CHAIRPERSON: Yes.

MR POWELL: Other than manage these donations.

CHAIRPERSON: Yes, so Mfundu did not sell anything to the ANC and...

MR POWELL: No, Chair.

CHAIRPERSON: And the ANC did not sell anything to Mfundu or...

20 **MR POWELL:** No, all that has happened is they have been a front for receiving the political donation and they disbursed payments for expenses for the ANC.

CHAIRPERSON: Yes, okay. And when I see cost of sales below that where it says less management fees and so on, I must understand that as far as you are concerned there

were no sales.

MR POWELL: Correct.

CHAIRPERSON: Okay, alright. Mr Chaskalson?

ADV CHASKALSON SC: Well, maybe we should just take a few examples to illustrate some of these costs of sales that are reflected on the spreadsheet. So can I ask you, if you go to the – well, let us before we get to the invoices that came to Mfundi, let us look at the first ...[intervenes]

CHAIRPERSON: Maybe, Mr Chaskalson, I am sorry to
10 interrupt you. Just to put it bluntly, is your understanding that where they say sales they were just concealing the true nature of the arrangements and the transactions?

MR POWELL: Correct, Chair, it is a misnomer, a misrepresentation.

CHAIRPERSON: Yes, yes, okay.

MR POWELL: And in fact, Chair, it doubles into an accounting irregularity on the EOH side because they are concealing the donation in their books and records.

CHAIRPERSON: Yes.

20 **MR POWELL:** This should have been recorded as a donation and it should have gone to, you know, the party, that is what they chose to do.

CHAIRPERSON: Yes.

MR POWELL: But instead it was hidden in the books and records in this fashion.

CHAIRPERSON: Yes, okay. Mr Chaskalson?

ADV CHASKALSON SC: And sorry, just to come back there. You will recall that when we looked at those invoices that were invoiced to EOH, they were described as sales, COJ SAP support special.

MR POWELL: Ja.

ADV CHASKALSON SC: So when they issue an invoice to EOH they call it sales COJ SAP support special, so that 16 million is a sale to EOH for the support of the SAP contract
10 at COJ.

MR POWELL: Ja, correct.

CHAIRPERSON: So that would be – they would reflect this as sales between EOH and Mfundi, not between Mfundi and the ANC, is that right?

MR POWELL: Correct, Chair.

CHAIRPERSON: And then when Mfundi then pays to the ANC it would reflect that as what?

MR POWELL: Well, they put it in as cost of sales.

CHAIRPERSON: As cost of sales too.

20 **ADV CHASKALSON SC:** The cost that they must incur to make the sale of 16 million to EOH.

CHAIRPERSON: Ja, okay.

ADV CHASKALSON SC: But before we get to the cost of sales, there is an item that is worth looking at with some – looking at closely because this is not just about, you know,

washing EOH's donations to the ANC because the first item – can you just tell the Chair what the first item says and how you understand it?

MR POWELL: Chair, there is the cost of sales less management fees and taxes, 2.4 million. So Mfundi has taken a commission for its role in what looks like almost laundering funds.

ADV CHASKALSON SC: And are ...[intervenes]

CHAIRPERSON: So the 2.4 million is there where it says
10 less management fees and taxes, that is their cut?

MR POWELL: That looks like it Chair.

ADV CHASKALSON SC: They may have to pay some tax, I do not know – but it is their cut plus tax.

CHAIRPERSON: Ja, okay, alright.

MR POWELL: Chair, but if I may, the other interesting thing about this document is that it reflects that both Mfundi and the EOH people that were involved in this, they have linked the donation to the ANC to the COJ tender because they are putting in as cost of sales.

20 **ADV CHASKALSON SC:** So let us see how this cost of sales worked. I do not want to take through all 20 odd of them but let us look at an example or two. If you go to the third line item it says cost of sales, Black & White, 677 160. Can I ask you go to page 691 and can you take the Chair through that document?

MR POWELL: Chair, at 691 we have Black & White T Shirts (Pty) Ltd issuing an invoice that is date 27 July 2017 and there is an invoice number.

CHAIRPERSON: 2016 is it?

MR POWELL: 2016, 27 July 2016.

CHAIRPERSON: Ja.

MR POWELL: It is invoiced to Jolidee Matongo and if we look at the description it says S & P polyester yellow tee-shirt printed – and it looks like abbreviation for full colour
10 front plus one colour back, 20 000 at R29.70, total amount 594 000 and with VAT that figure comes to on the invoice R677 160 and if we go back to our document at 345 there is the figure. So you can see this looks like tee-shirt printing as part of the election campaign, Chair.

ADV CHASKALSON SC: Well, we do not have to speculate too much there because there is actually a covering invoice – oh sorry, a covering email. Can I take you to page 689?

MR POWELL: Chair, at 689 we have got an email from
20 Geoff Makhubo dated 27 July 2016 to Patrick Makhubedu and it refers to:

“Subject: Forwarding invoice 21326 from Black & White T Shirts.”

And then there are a number of attachments.

“Please pay 50%.”

CHAIRPERSON: This is an email from Geoff Makhubo to Mr Patrick Makhubedu.

MR POWELL: Correct, Chair, and it looks like ...[intervenes]

CHAIRPERSON: And it relates to a certain invoice 21326 from Black & White T Shirts and then the attachments are then given there.

MR POWELL: Chair and it looks like the supplier wanted a 50% deposit before they incurred the cost.

10 **CHAIRPERSON:** Oh, okay.

MR POWELL: So if you look at the preceding request from Jolidee Matongo, it is asking for 50% payment by today.

ADV CHASKALSON SC: And let us look at another example. Chair, it may be convenient for you to take out page 95 which has- not page 95, page 344 which has that table so that you can have it on one side and we can then ...[intervenes]

CHAIRPERSON: 345?

20 **ADV CHASKALSON SC:** 345, indeed, Chair.

CHAIRPERSON: Okay. Yes.

ADV CHASKALSON SC: Let us go down to another large item, there is a payment of 1 425 000 to Nahana Holdings, N-a-h-a-n-a.

CHAIRPERSON: I am sorry, I have lost the page where

we have got that list.

ADV CHASKALSON SC: The list is on page 345.

CHAIRPERSON: Oh, I am sorry, I took it out and ja, okay, I have got it, yes.

ADV CHASKALSON SC: So if one goes about six or seven down one sees Nahana Holdings, 1.425 million.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Mr Powell, can you take the Chair to page 680?

10 **MR POWELL:** Certainly.

ADV CHASKALSON SC: 680.

MR POWELL: Got it, ja.

ADV CHASKALSON SC: And what do you see at 680?

MR POWELL: Chair, at 680 we have an invoice from Nahana Holdings (Pty) Ltd and the customer is reflected as Greater Johannesburg Region, ANC, contact Geoff Makhubo and the Johannesburg with what appears to be Mr Makhubo's cell number again, it is dated 20 July 2016 and there is an invoice number of NNCJ004 and then the
20 description, it says Greater Johannesburg Region, ANC#Real Stuff, second tranche invoice and then it has got #Real Stuff Social Media Strategy, establish content structure for Facebook, Instagram, Twitter, contracting of influential ambassadors, senior social media strategists, analytics and monitoring reports, scheduling and strategy

planning, PR and branding and there are various other items, there is content development and real stuff on ground activations and there is a figure of 1 250 000 and a grand total with VAT is 1 425 000, Chair.

ADV CHASKALSON SC: And that of course corresponds to the line on the cost of sales.

MR POWELL: Correct.

ADV CHASKALSON SC: Now can I ask you to go up to page 679 to see how this ends up being paid by Mfundi
10 Mobile?

CHAIRPERSON: I am sorry, Mr Chaskalson, I am making a note on my page 345 where to find the ...[intervenes]

ADV CHASKALSON SC: 680.

CHAIRPERSON: So ja, I have made that note but the earlier one for Black & White do you remember what page?

ADV CHASKALSON SC: That Black & White was 691.

CHAIRPERSON: 691. Okay, thank you. Yes?

MR POWELL: And if we look at 679, Chair, at the bottom, a Sibusisogumede@nahana.biz emails the attached invoice
20 that we have just looked at for 1 250 000, it gets sent to Andy Dikoba at Di Data and copied to Sifiso Zulu and then this gets forwarded and then - on 22 July 2016 and it goes to Obakeng Ansel Chikane and also to Geoff Makhubo and that gets forwarded from Geoff Makhubo to Patrick Makhubedu on 22 July 2016. The underlying email seemed

to refer to Dimension Data but it looks like this was paid by Mfundi, not by Data.

ADV CHASKALSON SC: That is certainly what – well, it went from Di Data to Geoff Makhubo and Obakeng Chikane. What went from Di Data, went from an individual at Di Data, what went was the invoice.

MR POWELL: Correct.

ADV CHASKALSON SC: And eventually it was forwarded from Geoff Makhubo to Patrick Makhubedu and later
10 appeared as a cost of sale to Mfundi. The next item I would refer to is – the next big item which is an amount of 994 964 to Shereno Printers at 668. It is page 668 is where the story of those payments is going to be told and can you – let us start with the covering email on 668 and the trail that it shows.

MR POWELL: Certainly. So at the bottom of 668 Chair there is an email from Jola D Matonga, this name we referred to earlier, she sends this email through on 13 July 2016 to Geoff Makhuba and she sends it to a Gmail as well
20 as a City of Johannesburg address, and copies a person by the name of Bruce Serella and the subject header is invoice 70718 from Sherena Printers CC and she says:

“Good day,

Attached are the invoices from Sherena Printers.

These are for the 1 000 A5 leaflets per candidate

that were printed and have already been delivered. They are also for the 300 posters per candidate and have been printed and delivered. Please process payment, the supplier is on my case.

Regards

Jola D Matonga”

That gets sent by Geoff Makhubo on 21 July 2016, he forwards this to Patrick Makubedu and attaches the invoice and various supporting documents.

10 **CHAIRPERSON:** I see that the email address for Jola D Matonga is Gauteng.co.za.

MR POWELL: Correct Chair it looks like she is a government official.

CHAIRPERSON: Yes, at not at Johannesburg City or you don't know?

MR POWELL: No, I think COJ has a different address, this could be a government department Chair.

CHAIRPERSON: Ja, okay, alright.

20 **ADV CHASKALSON SC:** Chair the title is GPDGDED which presumably refers to the Department, I think Provincial Government Department, maybe Economic Development.

CHAIRPERSON: Yes, okay.

ADV CHASKALSON SC: Can you take the Chair to 669 and 670.

MR POWELL: Certainly 669 and 670 are invoices from Sherena Printers invoiced to the African National Congress and the invoice contains the detail, order number is just referred to as Jola D Matonga and it refers to 40 500 A1 posters re order Jo'burg only 135 [one thirty five] different kinds of A1 posters, 300 of each printed in full colour, an amount of R518 400 with VAT the total amount there is R590 976.

ADV CHASKALSON SC: Can I just ask Chair can I ask
10 you and Mr Powell just to write that number down, 590 976.

CHAIRPERSON: Five nine zero, nine seven six?

ADV CHASKALSON SC: Correct Chair, and then Mr Powell if you can go to 670.

MR POWELL: 670 is the second invoice form the same source, Sherena Printers CC and it has the same order number as Jola D ...[intervenues]

CHAIRPERSON: Sorry Mr Powell I think your voice has gone down a little bit, it is late in the day.

MR POWELL: Sorry thanks Chair, I have gone closer to
20 the mic Chair.

CHAIRPERSON: Yes.

MR POWELL: This is also addressed to the African National Congress.

CHAIRPERSON: And this is what page now?

MR POWELL: 670.

CHAIRPERSON: Okay, alright.

MR POWELL: And it refers to 135 000, description is A5 leaflets, Joburg only, 135 awards, 135 different kind of A5 leaflets being 1 000 of each printed in full colour and an amount on the right as R345 375 and the VAT inclusive number is R403 987,50.

ADV CHASKALSON SC: And then if you were to add those numbers up I wouldn't ask you to do that but I will tell you that the answer is R994 963,30 and they have
10 rounded it up to 994 964 which you will find on the table at page 345, so next to Sherena Printers these two invoices reflect as 994 964.

CHAIRPERSON: Thank you Mr Chaskalson.

ADV CHASKALSON SC: And the last example that I would like to take you to is the item called Black Brain, an amount of 1 736 000, can I ask you to go to page 683 for that, so Black Brain is 683, and if you can take the Chair to what you see on page 683?

MR POWELL: Chair on 683 we have an email from Geoff
20 Makhubo to Patrick Makubedu and it refers to business request, or bus request for PR Councillors and the narration is just yes and it is sent from my iPhone and that follows a question from Patrick Makubedu just saying so we must only pay R1 736 000 with Patrick Makubedu's name and cell number just below that and that seem to

have referred to the preceding email on 22 July 2016 which was sent by Geoff Makhubo to Patrick Makubedu and it had a figure, it contained a table which referred to various suppliers, Black Brain appears on the table near the bottom of the page at the top Chair and it has an invoice number BBANC280616 and an amount of R2,736 000 and what Mr Makubedu seems to be asking is so we must pay only 17 – R1 736 000 the Black Brain number and the answer was yes.

10 **ADV CHASKALSON SC:** Before you leave that page with the table you will see a number of other ...[intervenes]

MR POWELL: Yes I see there's another email referenced on 22 July 2016 when Geoff Makhubo wrote to Patrick Makubedu, he wrote Black Brain and I think it's just a typo in R1 736 000 and in brackets it says "[we had paid them R1million from the ANC account] otherwise all is fine".

ADV CHASKALSON SC: And if I can take you to a different rendition of that email or to the same email but in a different place with a table underneath it, page 685, do
20 you see the 22 July email from Geoff Makhubo – sorry – the it's the Patrick Makubedu email saying so we must pay only 1736 in response to Black Brain is 1763 we paid them one million, otherwise all fine.

MR POWELL: Yes.

ADV CHASKALSON SC: There was a table to which Mr

Makhubo was responding.

MR POWELL: Correct.

ADV CHASKALSON SC: And so we dealt with Black Brain which on the table reflects as R2 736 000, but we understand now that one was already paid.

MR POWELL: Correct.

ADV CHASKALSON SC: The other items on the table we dealt with Sherena Printers already.

MR POWELL: Yes.

10 **ADV CHASKALSON SC:** Taj, can I ask you to go back to page 344.

MR POWELL: Certainly.

ADV CHASKALSON SC: And you will see a line item for Taj which reflects total payments to Taj of – can you just give the Chair the amount?

MR POWELL: Certainly Taj Printers R331 592 Chair.

CHAIRPERSON: I am sorry, is that at 344 or ...[intervenes]

MR POWELL: This is at 345, it is the reconciliation.

20 **CHAIRPERSON:** Oh, that's the sheet that I took out.

MR POWELL: And that document there is just two lines below the middle the reference to Taj Printers Chair.

CHAIRPERSON: Okay, ja you said we look at Taj and what is the amount?

MR POWELL: The amount for Taj is R331 592 Chair.

CHAIRPERSON: Yes, I can see that.

ADV CHASKALSON SC: Now these amounts when you add them they come to an amount slightly less but they may not have been the only amounts paid to Taj. Can you look at Paper Push.

MR POWELL: Certainly Paper Push Printers is reflected on the reconciliation as R185 820 Chair, and there's another amount just slightly higher up, just above the middle of the reconciliation there's Paper Push Printers
10 R64 980.

ADV CHASKALSON SC: And can you look back at your table?

MR POWELL: And going back to the table we have got Paper Push 18 July 16, R64 980.

CHAIRPERSON: Okay when you refer to the table you refer to the table at what page?

MR POWELL: Sorry Chair, this is page 685.

CHAIRPERSON: At 65?

MR POWELL: Six eight five.

20 **CHAIRPERSON:** 685.

MR POWELL: Chair and if you look at that number the 64980 is the number of the schedule for Paper Push Printers, the higher reference, just above the middle of the page.

CHAIRPERSON: Oh yes, I can see that. Thank you.

ADV CHASKALSON SC: Now we haven't reconciled everyone of these against the underlying invoices, I don't even know if those are to be found on EOH, but we have described the process.

CHAIRPERSON: Yes no one does get the picture.

ADV CHASKALSON SC: The picture is amplified a little bit in those management accounts that came with the same – under cover of the same email from Mr Barry, so if I can now ask Chair if you can go to page 346, which is the
10 management accounts.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: And there Chair we have seen this document before, we noted that the revenue is at R16million from EOH SAP's report special which is a sale made by Mfundu and the cost of sales. Can I – if we go through again keeping that reconciliation loose can I ask Mr Powell can you find, have you got a copy that has the left column legible or not? Maybe, it might be best to get volume 1 from behind you and just go to page 346 of
20 volume 1.

CHAIRPERSON: Do I need to go to volume 1?

ADV CHASKALSON SC: Chair you, I think your document of 346 is a legible document but Mr Powell's may not be.

CHAIRPERSON: Ja, it is legible.

MR POWELL: Volume 1?

CHAIRPERSON: Maybe somebody should assist the witness.

ADV CHASKALSON SC: Mr Powell has his volume, page 346. Can you start by looking for the cost of sales in respect of Black and White?

MR POWELL: Yes certainly, I see Black and White about seven lines down.

ADV CHASKALSON SC: And if you move across what is the cost of that sale?

10 **MR POWELL:** Just one second. 677 160.

ADV CHASKALSON SC: And that of course reconciles with the number on the reconciliation and in which month is that sale reflected in?

MR POWELL: It is reflected in July, sorry the numbers are slightly out of sync.

ADV CHASKALSON SC: It is the July column, the column headings on the left hand side of the column and the numbers on the right hand side of the column. If you go over the page to 347.

20 **MR POWELL:** Certainly.

ADV CHASKALSON SC: We see Nahana Holdings that we have already looked at.

MR POWELL: Yes.

ADV CHASKALSON SC: And the cost of sale there?

MR POWELL: R1 425 000 Chair.

ADV CHASKALSON SC: And I can tell you that that is also in the July column although it is not on your ...[intervenes]

MR POWELL: Yes I can see that Chair.

ADV CHASKALSON SC: And Taj Printers that we were looking at?

MR POWELL: Certainly, Taj Printers is also in the same column Chair so it looks like also July an amount of R331 592.

10 **ADV CHASKALSON SC:** Paper Push Printers?

MR POWELL: Paper Push Chair we have got also in that July column, R64 980 which was that number in the table that we just looked at on one of the invoices.

CHAIRPERSON: I was saying Mr Chaskalson the challenge here is that I have is to see which figure relates to which entity, I don't know whether – with bigger spaces between them it would be and maybe with lines in between.

MR POWELL: Chair I am using a page as my ruler otherwise it becomes very difficult.

20 **ADV CHASKALSON SC:** Chair what we will do is we will go back to the original spreadsheet which I presume Mr Powell will have.

CHAIRPERSON: Yes.

ADV CHASKALSON CC: And we will reprint it with columns, with cells with borders to one can see the lines.

CHAIRPERSON: Ja no that's fine because I think if you were to ask me I would give you all the wrong numbers.

ADV CHASKALSON CC: There is one – we have already talked about the cost of sales to Molelwani Consulting for R50 000, there is another line item that I want to identify to you, that is the cost of sales on page 346 for Flywell Travel.

MR POWELL: Chair for Flywell Travel we have a figure of R89 000 – there's two – sorry let me just make sure – there
10 are two columns, the one is R207 025 and the second figure is R89 330.

ADV CHASKALSON SC: I want us to focus on that R89 330.

MR POWELL: Certainly.

ADV CHASKALSON SC: Can I ask you to go to page 693.

MR POWELL: Chair at 693 there's an email from a Depika Bana and it is sent to Patrick Makubedu's gmail address and there is a Ayaaz Ahmed cc'd and it refers to subject invoice HOF and then a number of 0153043 and it refers to
20 Excel Flywell Travels Pretoria Pty Limited and the narration is:

“Dear Patrick,

Please see attached invoice for Geoff's travel.

Kind regards

Depika Bana

Travel Consultant”

And it seems to come from Flywell.

ADV CHASKALSON SC: Can I ask that you write down that invoice reference, HOF153043? And then can you go to page 800.

MR POWELL: The very last page in the bundle Chair, There’s an invoice at page 800 from Flywell, Excel Flywell Travel Pretoria Pty Limited and it is addressed to Mfundi Mobile Networks, it refers – it is described as a computer
10 generated tax invoice and it refers to air tickets and the passenger name on the detail is – it refers to a ticket number Makhubo Malotoa Geoffrey Mr and it appears to be J & B Grubog JFK Johannesburg and ...[intervenes]

ADV CHASKALSON SC: Can I stop you there, do you know, can you identify those airports for the Chairperson?

MR POWELL: Chair we just did this check a couple of weeks ago and we confirmed that this is a trip from Johannesburg to São Paulo in Brazil, followed by a connecting flight to Bogota in Columbia and a return from
20 Bogota via JFK to Johannesburg South Africa.

ADV CHASKALSON SC: And the amount?

MR POWELL: The amount is R80 000 for the ticket totals R80 350 and the number including VAT is R89 330 and that is the number that we just looked at on the schedule Chair related to the second expense for Flywell Travel.

ADV CHASKALSON SC: Under cost of sales?

MR POWELL: Yes.

CHAIRPERSON: I am sorry but the invoice at page 800 is an invoice sent by Flywell Travel to Mfundi Mobile Networks and it purports to relate to the travelling of Makhubo Geoffrey as reflected therein, that is what it reflects is that right?

MR POWELL: Correct.

CHAIRPERSON: Okay, alright.

10 **MR POWELL:** Chair and again the anomaly with this is it is reflected by Mfundi as a cost of sales on the SAP support for COJ and again the timing is really bad Chair.

CHAIRPERSON: Yes, okay.

ADV CHASKALSON SC: Can – just to complete this loop can we go to 694, and what do you see there?

MR POWELL: Certainly Chair at 694 we have a Standard Bank payment receipt, beneficiary name Flywell Travel and then the account number, it is with ABSA Bank and it is an ABSA electronic settlement, beneficiary reference LO8227,
20 your reference Flywell and the amount is R89 330 so this was clearly paid and this is the proof of payment Chair.

ADV CHASKALSON SC: Thank you Mr Powell. That concludes our run through the chronology of the 2016 contract, we have now reached the end of our Johannesburg section of your evidence. Is there anything

further in relation to the EOH Johannesburg, City of Johannesburg relationship that you would want to address to the Chairperson?

MR POWELL: Chair if I may I would like to point out that EOH have actually lost money even though it appears to have been tainted by corruption with the concealed donations the City of Johannesburg hasn't paid for these services and EOH have paid away to all the third parties, including Mfundi and so EOH is actually suffering the new
10 EOH with new management is actually struggling in not recovering this money and they are currently bleeding in terms of the project and I think that is something Mr Van Coller highlighted, so I think what it says Chair is that if people were crooked they were not very efficient crooks.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Can I – Chair I think at this point we need to discuss the way forward, because we have now finished with Johannesburg.

CHAIRPERSON: How much was your estimate of how
20 much more time would be necessary to finish his evidence?

ADV CHASKALSON SC: Chair because we are going onto a completely new set of relationships with a different cast of characters my sense is that we are probably looking at at least three hours if I measure against how it went with Johannesburg and the conception it may make sense to

end at this point and then we can take a decision on whether and if so when Mr Powell returns. I must say Chair that there is a – there are a whole series of other investigations relating to EOH, we are just dealing with City of Johannesburg and one in the NPA and one in the SAPS. If this is going to become a focus for the Commission then it is many, many times. If it is not going to become a focus for the Commission then breaking now makes as much as sense as breaking later.

10 **CHAIRPERSON:** Yes, well what I was thinking is the more limited time is needed for him to finish the better it is to accommodate him on another date, we are left with an hour it is easier than if it is four hours, if it is two hours it is easier than if it is three hours, but I am quite happy to stop here so your estimate in terms of what you wish to happen to achieve is that if we stop here we probably need about three hours that we must find somewhere.

ADV CHASKALSON SC: I think it would three to four hours Chair, I think we could probably do it in three, the
20 problem is that there will be something of a start up costs because we have to talk about a new set of relationships and a new set of intermediaries.

CHAIRPERSON: Yes, yes.

ADV CHASKALSON SC: Who will appear in both of the next two investigations and it may make sense to try and

do them together so that one remembers who the parties are.

CHAIRPERSON: No that is fine, I think then we should stop now then we will look at when we can slot him in to do the balance of the – to deal with the balance of the matters, that you have in mind you should deal with.

ADV CHASKALSON SC: Thank you Chair.

CHAIRPERSON: Ja, ja. Okay Mr Powell we will stop here and obviously we will ask you to come back some other
10 time so that you can deal with the other matters that Mr Chaskalson has in mind you should deal with.

MR POWELL: Certainly Chair.

CHAIRPERSON: And then tomorrow Mr Chaskalson we have one witness that is Ramosebudi?

ADV CHASKALSON SC: That is correct chair.

CHAIRPERSON: Yes and what is your estimate of how much time we need for him?

ADV CHASKALSON SC: Chair I think we will use the day tomorrow, I have had some – well I don't want – I would
20 expect to use the day tomorrow.

CHAIRPERSON: A day should be fine?

ADV CHASKALSON SC: A day should be fine, we won't need more than a day.

CHAIRPERSON: Okay alright, no that is fine, I was asking because I think I have agreed with Mr Kennedy that

we can have – I can have an evening session with one of his witnesses who will take about two hours but I said to him his witness might need to be here by four o'clock but maybe we will start at five all depending, so and I was thinking whether there may be a need for us to start at nine rather than ten for purposes of your witness but if you think if we start at ten we should be able to be done by four or five ...[intervenes]

ADV CHASKALSON SC: I am confident that we will.

10 **CHAIRPERSON:** Okay, no that is fine. So we are going to then adjourn for the day. I thank you very much, we adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS TO 26 NOVEMBER 2020