

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

03 DECEMBER 2020

DAY 317



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TRANSCRIBERS:

B KLINE; Y KLIEM; V FAASEN; D STANIFORTH



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PROCEEDINGS RESUME ON 03 DECEMBER 2020

CHAIRPERSON: Good morning Mr Chaskalson, good morning everybody.

ADV CHASKALSON SC: Good morning Chairperson.

CHAIRPERSON: Yes are we ready?

ADV CHASKALSON SC: We are Chair. Today's witness is Mr Paul Holden before we swear him in can I just check that you have the documents that are necessary for today's hearing?

10 **CHAIRPERSON:** I have got Flow of Funds Bundle 5 Exhibit VV511 and which his name.

ADV CHASKALSON SC: That is correct Chair and then there should be a – a file of duplicate spread sheets in A3 format as opposed to A4 format.

CHAIRPERSON: Thank you.

ADV CHASKALSON SC: And that is not a – a bundle in its own right it is merely larger copies of the ...

CHAIRPERSON: For convenience.

20 **ADV CHASKALSON SC:** Of the documents that are already in the bundle.

CHAIRPERSON: Okay, okay.

ADV CHASKALSON SC: For convenience. We – we have also arranged for a – a screen to be up today. So on certain of the spread sheets which have thousands of entries with very small numbers Mr Holden will be able to

zoom us in to show them.

CHAIRPERSON: Okay. Will that be enlarged larger than that or it will stay like that?

ADV CHASKALSON SC: When we want to examine in particular.

CHAIRPERSON: Ja.

ADV CHASKALSON SC: It can – it can be magnified much

CHAIRPERSON: Oh okay.

ADV CHASKALSON SC: Much more than that.

10 **CHAIRPERSON:** Okay no that is fine. Okay thank you. You – will it be before the – the oath is administered or after that – for the benefit of the public you will just say what his evidence will cover?

ADV CHASKALSON SC: Sure. Mr Holden will be with us for two days and some evenings hopefully.

CHAIRPERSON: Ja.

ADV CHASKALSON SC: He – he is going to testify about money flows. Today and possibly spilling into tomorrow he will be testifying about the public funds that went into the
20 Estina Dairy Enterprise and what happened to them.

Starting tomorrow he is going to be dealing with the offshore kickbacks that were paid into the Gupta Enterprise in respect of Transnet contracts for cranes and locomotives and he is going to be tracing that money and – and to an extent what happened to it.

It is – we are in the lucky position in relation to Estina that because part of what happened to it happened on shore we can access banking records and what happened offshore was documented in fairly detailed accounting records that are kept on Gupta leaks.

So we can account for most of the funds and where they went in relation to Estina.

Offshore we do not have powers to gather bank statements from other countries and so we are much more
10 limited and so our picture is not as clear as it is in respect of Estina.

CHAIRPERSON: Okay no thank you. Please administer the oath or affirmation.

REGISTRAR: Please state your full names for the record.

MR HOLDEN: It is Paul Edward Holden.

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

MR HOLDEN: I do not.

REGISTRAR: Do you solemnly affirm that the evidence
20 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, I truly affirm?

MR HOLDEN: I truly affirm.

CHAIRPERSON: Thank you very much Mr Holden; you may be seated. Thank you.

ADV CHASKALSON SC: Good morning Mr Holden. I would like you to begin by confirming the correctness of the statement that you have furnished to the commission and possibly before I do that I need you to make one minor correction to your report. And can I ask you to turn to page 112 of the bundle?

CHAIRPERSON: And just for the record the bundle we are using is Flow of Funds Bundle 5?

ADV CHASKALSON SC: That is correct Chair.

10 **CHAIRPERSON:** Yes.

ADV CHASKALSON SC: Unless I mention another number.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: That will be the bundle I am referring to today.

CHAIRPERSON: Ja okay. And what page did you say we must look at?

ADV CHASKALSON SC: 112 Chair.

CHAIRPERSON: 112.

20 **ADV CHASKALSON SC:** And there at – towards the top of the page against a paragraph B a figure of 3.1 million US Dollars paid to Oakbay Investment Limited is reflected. I understand that you need to correct that figures. Can you give the Chairperson the correct – the correct number there?

MR HOLDEN: Certainly. Chair the correct figure there is

3.35 million US Dollars.

CHAIRPERSON: I am sorry Mr Chaskalson where about is that?

ADV CHASKALSON SC: Paragraph B towards the – the little indenture paragraph.

CHAIRPERSON: Oh okay.

ADV CHASKALSON SC: Which says 3.1 million.

CHAIRPERSON: Oh so that should be 3.3?

MR HOLDEN: 3.35 Chair.

10 **CHAIRPERSON:** 3.35 okay. So it would 3.35 and then the zeros? Okay alright. Thank you.

ADV CHASKALSON SC: And that is dollar denominated not rand denominated Chair.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Mr Holden we will be doing some fairly microscopic examination of transactions of hundreds of transactions later on and every now and then there are typographical errors which we may need to correct as and when we come to them. But subject to that sort of error do
20 you confirm the correctness of that statement to which I first referred you to at page 5 of the bundle?

MR HOLDEN: I do Chair yes.

CHAIRPERSON: Yes. Of course particularly this not being an affidavit Mr Chaskalson a corrected page can easily be obtained.

ADV CHASKALSON SC: Yes.

CHAIRPERSON: And to replace this one.

ADV CHASKALSON SC: Indeed Chair.

CHAIRPERSON: Yes okay.

ADV CHASKALSON SC: Then Mr Holden attached to your – your statement is a – is a brief Curriculum Vitae I do not want you to have to read it all out but can you very briefly describe to the Chair who you are; what you do for a living and what your experience is?

- 10 **MR HOLDEN:** Chair – thank you Chair. My name is Paul Holden I am currently working as Director of Investigations at Shadow World Investigations based in London. I have been investigating complex grand corruption for the better part of twelve years. I have written five separate books on a combination of corruption related issues and South African political economy. I have been working at Shadow World Investigations for the previous two years but prior to that I worked at a company by the name of Corruption Watch UK Limited which is the predecessor company to
- 20 Shadow World Investigations and I worked there for the better part of about eight years. I have led relatively complex training for journalists and activists and law enforcement. I have trained over I think it is about a thousand journalists around the world in open source investigative methods and security training as well. And I

have also taken part in a number of complex financial training exercises as well.

ADV CHASKALSON SC: Thank you Mr Holden. And if you go to page 12 of the bundle you will see a report that you have prepared for today's evidence. Can you briefly describe to the Chair how this report came to be generated?

MR HOLDEN: Absolutely. So initially the report was submitted to this commission as a submission. It was one
10 of – we have made as Shadow World Investigations a total of three individual submissions under our name and one joint submission with our colleagues Open Secrets. We have made two separate submissions on the Estina matter.

The first submission provided evidence from the Gupta Leaks indicating the extent to which the – what we call the Gupta Enterprise so the broader Gupta family and set of companies. What role they played in the establishment and the running of the Estina Project.

And the second submission is the result of a – an
20 analysis of what was then Open Source banking information designed to try and trace the disposition of funds that was paid to Estina by the Free State government and how it eventually was paid to the benefit of the Gupta Enterprise.

Subsequent to that submission the commission ...

ADV CHASKALSON SC: Before you get to that you describe – you describe the sources as Open Source banking records can you explain to the Chairperson what those sources were?

MR HOLDEN: Absolutely. Chair the sources were for the local bank accounts were drawn from attachments that were appended to the asset forfeiture unit application for the seizure of funds. There were two separate asset forfeiture applications to which they attached a range of
10 bank statements and of – there were also a series of affidavits – sort of explanatory affidavits explaining how the Estina accounting mechanisms were operating.

In addition to that there are quite a substantial number of internal accounting ledgers that appear within the Gupta Leaks themselves and we will get to that in more detail but those are effectively an internal accounting of what was really happening on the Estina Project.

ADV CHASKALSON SC: That was your submission. The report has been amplified and enriched through your
20 interaction with the commission. Can you explain to the Chair how that – how that took place?

MR HOLDEN: Absolutely. Chair there were certain gaps within our knowledge due to the fact that certain bank statements were not available to us as they were not appended to the asset forfeiture application and also

certain records of offshore and onshore flows were not available to us because those were held at the time by the Reserve Bank.

The commission very – very graciously pointed out those gaps and filled those gaps with the available documentation they have and we have reproduced that – we have updated the original submission including the new banking documentation and what that reveals into this new report which will be the most sort of up to date and
10 complete version of events based on underlying banking documentation.

ADV CHASKALSON SC: Thank you Mr Holden. We now going to move to your report and your report is going to detail the banking flows from the Estina Project through the Gupta Enterprise.

Before we begin getting into that detail I think we should take some time just to describe both the individuals who are going to be involved and the companies.

And in that respect can I ask you to go to page 20
20 of your – of the bundle where there is a list of the individuals who will feature prominently in the emails and the banking transactions that we will later discuss. And can you take the Chairperson through that list. You do not need to read it all out but just identifying each one of these individuals, what role they are going to play and yes.

MR HOLDEN: Certainly. Chair the first entry is for Ashu Chawla I am sure he has been mentioned already in the commission's evidence.

He was the Chief Operating Officer of Sahara Systems but was effectively running the vast majority of the logistics of what we call the Gupta Enterprise.

In this respect he was very important as a facilitator and a director of how the offshore funds were to be dissipated and he was giving direct instructions to the
10 individual who was controlling those bank accounts.

And that person enters as a second dramatis personae Sanjay Grover. He is an Indian National. He had been working with the Gupta Enterprise in a separate capacity for a number of years prior to the Estina Project around about 2012 based on the Gupta Leaks we can ascertain that he effectively became the Gupta Enterprise's accountant in Dubai.

That included setting bespoke offshore vehicles and running their bank accounts on instruction of Ashu Chawla
20 and also providing a regular update of the movement of funds in those accounts to Ashu Chawla and others.

He was – I should mention the sole director of a number of Gupta offshore enterprises and a South Africa entity by the name of Vargafield which was the recipient of considerable funds through the Estina Project.

The third entry is Achla Gupta and she is the sister of the three Gupta brothers. We mention her because there is at one point in the internal ledgers an indication that money may have gone to her so I just highlight her role within the family there.

The fourth entry is Rajesh Gupta also known as Tony Gupta. Obviously he was central to the entire Gupta Enterprise and a director of a number of companies within it. The importance here is that in our first submission we
10 identified that he was quite closely involved in meeting with various Free State officials to discuss the Estina Project but also most importantly he was being kept abreast of and informed of the disposition of Estina's funds offshore. And that was achieved by Sanja Grover's accounting to Ashu Chawla which was then subsequently provided to Tony Gupta.

ADV CHASKALSON SC: Sorry Mr Holden before you continue you have been referring to your first submission. Do you have FOF Bundle 6 in front of you or available?

20 **MR HOLDEN:** I am afraid I do not Chair.

ADV CHASKALSON SC: Can you turn to – sorry I have lost my reference – I believe it is that flag document where the blue tag is can you just – and give me a reference there?

MR HOLDEN: Certainly. That is FOF-06-004.-06-004.

ADV CHASKALSON SC: And is that document – that submission by Shadow World International what you referring to when you talk about your first submission?

MR HOLDEN: That is correct.

CHAIRPERSON: Just hang on – one second Mr Chaskalson. So shall we record that that is a document that is in Flow of Funds Bundle 6?

ADV CHASKALSON SC: It is in Flow of Funds Bundle 6 Chair.

10 **CHAIRPERSON:** Ja and it is at page 4?

ADV CHASKALSON SC: Correct Chair.

CHAIRPERSON: Black numbers. Okay and – ja okay.

ADV CHASKALSON SC: And if you can briefly explain to the Chair the distinction between that submission and – or the topic addressed by that submission and the topic addressed by today's report?

MR HOLDEN: Absolutely. So the first submission is a focus rather on the circumstantial evidence of the role of the Gupta Enterprise in the Estina Project drawn almost
20 exclusively from the Gupta Leaks materials. And there for example we tried to outline this is the pragmatic and practical ways in which the Gupta Enterprise was creating the infrastructure to which the Estina Project happened and effectively directing the Estina Enterprise remotely. And that is a distinction from the – the report we

discussing today which focuses exclusively on money flows.

ADV CHASKALSON SC: Thank you. I took you out of your sequence of describing the relevant individuals so if I can take you back to Bundle 5 and you had addressed Tony Gupta, Rajesh Gupta – if you can go over the page to page 21 there is an entry Shivani Gupta. Can you tell the Chairperson who she is?

MR HOLDEN: Certainly Chair Shivani Gupta was the wife
10 of Ajay Gupta or is he wife of Ajay Gupta and I include her on the dramatis personae as she is also noted as a recipient of funds in the internal ledgers that have ultimately derived from the Estina Project.

And the second entry on that page is a person by the name Lin Yu Chu also goes by the name of Alex and we include his name – I am afraid I do not know a great deal about him beyond that there is correspondence between him and certain of the Gupta Enterprise employees but I include him there as there is a payment of \$50 000.00 that
20 ultimately derives from the Estina Project that was sent to him.

The third entry is Ashok Narayan who I am sure the commission has heard a great deal about already. In relation to the Estina Project we show in our first omissions which I have just described the very intimate

role that he played in running or establishing in running the Estina Project on the ground. In relation to this specific report the thing that is useful to bear in mind is that he appears to be the on ground administrative person or point person for the running of their account by the name of Vargafield the company Vargafield which received just under R60 million from the Estina Project.

The...

ADV CHASKALSON SC: Can you mention also his role in
10 relation to Linkway Trading?

MR HOLDEN: Absolutely. So he served as a director of Linkway Trading and Linkway Trading was one of the entities that received a very large sum of money derived from the Estina Project and that was quite famously invoiced against the costs of the Sun City wedding.

ADV CHASKALSON SC: Then Evan Tuck?

MR HOLDEN: Yes Evan Tuck was – he is a senior Sahara Computers employee. He is involved in a number of sort of logistical discussions and the reason why we include him in
20 this dramatis personae is that he was involved in trying to troubleshoot the importation of equipment from India and that equipment was imported using funds drawn from the Estina Project.

The second to last entry is Suresh Tutega he is a former employee of the Gupta company JIC. For the

majority of the period of time under consideration here he operated in India and acted as a – as an additional accountant and manager of Gupta Enterprise Funds Offshore.

And then the last entry here is Kamil Vashram who we will be dealing with quite extensively in the money flows. He was the sole director of Estina Pty Limited up until if I am not mistaken 2016 in which – when he was replaced.

10 The Gupta Leaks record show that he was engaging with the – with Sahara Computers from at least 2008 onwards. From 2011 onwards he starts to invoice and is paid – invoice a monthly amount against – against the Gupta Enterprises including against Linkway Trading of which Narayan was the director. And the first invoice is from March 2011 onwards as we discussed.

 He provided the – he acted essentially as a front man for the Estina Project. He was always based in Johannesburg. He also acted as the front man for a
20 number of other companies through which the capture of certain funds from the Free State occurred including Sunbay Trading. I am not sure if the commission has heard evidence in relation to Sunbay Trading and the laptop issues but – so that can be just another point.

Very importantly he also opened up a vast series of

personal bank accounts at the bank of Boroda and Standard Bank through which much of the laundering of the Estina funds takes place in South Africa.

ADV CHASKALSON SC: Very briefly to touch on the Sunbay Trading Computer issue because we will see later that some funds go there. Literally no more than a minute can you tell the Chair what the Sunbay Trading Computer project was?

MR HOLDEN: Absolutely. The Sunbay Trading Project
10 was very briefly a project in which the Free State Government ordered a number of laptops to be given to needy learners. The order was placed via Sunbay Trading. It appears from the Gupta Leaks that the point man between the Free State government and Sunbay Trading at that point was actually Ashok Nayaran who was receiving confirmations of payment.

We have been able to establish and we do set in our first submission that Sunbay Trading was effectively merely providing computer sourced from Sahara and
20 computers sourced from Sahara at significantly reduced cost for what they charged to the Free State Government.

ADV CHASKALSON SC: Sorry. Can you just clarify that? They – who was benefiting here Sahara or the Free State Government? What – where was the reduced cost?

MR HOLDEN: So the reduced cost was if I was to explain

this better Sunbay Trading purchased laptops from Sahara Computers and then effectively doubled that cost when they sold it to – or doubled the price I should rather say when they on-sold to the Free State Government. So the prejudiced party here is the Free State Government which if they had directly contracted with Sahara would have paid half the price and the beneficiary here is Sunbay Trading although we do know from the Gupta Leaks that the majority of the profits they would earn on this particular
 10 transaction were ultimately transferred back to Sahara Computers.

ADV CHASKALSON SC: Thank you. That deals with the individuals we now turn to the companies who are going to be involved and can I ask you to go to page 28 of the bundle? And can you – at page 28 you deal with the four most significant offshore companies that we are going to encounter and can you take the Chair through those – through those companies who are they?

MR HOLDEN: Absolutely. So the first company is
 20 Accurate Investments which is entry 3.1. The registration number is provided there. It is registered to a PO Box address in the UAE and we – the only known shareholder is Sanjay Grover who as I pointed out earlier was effectively the Gupta Enterprise accountant.

I then also provide a list of banking facilities for

Accurate Investments. I should mention that paragraph 16 I am surprised that it appears it was actually removed – that should be corrected.

ADV CHASKALSON SC: Paragraph 60?

MR HOLDEN: It is a page FOF05-029 I think there might be a version issue here but that paragraph was – is deleted – paragraph 16.

ADV CHASKALSON SC: So paragraph 16 must be removed from the report?

10 **MR HOLDEN:** Correct.

ADV CHASKALSON SC: Chair can I ask you to strike a line through paragraph 16? Then I have asked you to deal with the offshore companies but I see of course in your report you are dealing with – you are dealing with companies domestic and offshore alphabetically. Let us stay with the report so that the Chair does not have to jump around.

So Chair we are talking about local and offshore companies.

20 **CHAIRPERSON:** Ja.

ADV CHASKALSON SC: That are going to be involved here. Before we leave Accurate when you come to talk about Transnet money flows we will be focussing on some offshore deposits that went into the Accurate account.

Can I ask you now briefly to describe to the Chair

what you see in the transaction records of Accurate that gives you an insight into the nature of the company?

MR HOLDEN: Absolutely. Chair Accurate Investments is I would describe as effectively merely a money laundering vehicle that exists within this collection of four separate companies.

It receives payments – the majority of payments into and out of this account almost universally are derived from other Gupta Enterprise companies offshore.

10 It is only used in 2013 to receive payments from one tranche related contractor and then to immediately dissipate out those funds to other Gupta Enterprise companies offshore. It is also used in this particular instance to – as a vehicle through which funds from the Estina Project are eventually co-mingled into a single – singular account from the Gupta Enterprise to be paid into South Africa. It is really – it is mostly just a place for the – through which funds are being flowed as part of a laundry process.

20 **ADV CHASKALSON SC:** Do you see any recurrent expenses in the accounts of Accurate Investments?

MR HOLDEN: Absolutely none.

ADV CHASKALSON SC: Can you then tell the Chair about Aerohaven Trading?

MR HOLDEN: Yes Aerohaven...

CHAIRPERSON: That entity would not have had many employees.

MR HOLDEN: Absolutely. There are absolutely no employee costs or infrastructure costs associated with Accurate Investments. As we discuss we will discuss in relation to Transnet the company has no online profile and has no physical infrastructure either.

CHAIRPERSON: Okay thank you.

ADV CHASKALSON SC: Thank you Mr Holden. Can we –
10 can we move to Aerohaven?

MR HOLDEN: Absolutely. Aerohaven is a company registered in South Africa. The registration number is provided there as 2008/014743/07. The known shareholder is Ronica Ragavan who had 100% shareholding. I am sure Ronica Ragavan has emerged during testimony before.

Aerohaven held shares in a vast array of companies. Should I go through each single one?

ADV CHASKALSON SC: No I think they are set out under paragraph 18.

20 **MR HOLDEN:** Okay.

ADV CHASKALSON SC: Unless there is anything that you want to emphasise particularly there?

MR HOLDEN: The only thing I would emphasise here is the extent to which Aerohaven is integrated into the Gupta Enterprises local entities and the sort of – it is a very sort

of central cog within the local laundry. We address Aerohaven because it is an important part of the laundering of Estina funds as we will address later.

ADV CHASKALSON SC: Then we come to Estina itself. You can be very brief there because we – we have heard lots of evidence around Estina. What – what may be useful for today's purposes is to go to paragraph 21 where you describe the banking records of Estina that you have – that you have analysed?

10 **MR HOLDEN:** Absolutely. Chair at paragraph 21 I have included a table of all the known bank accounts operated by Estina. The primary account I will be focussing on today is the first entry which is the current account that was operated by Standard Bank with the account number 310864860. That account is used until it is replaced by an account held with FNB in 2015 to receive and dissipate Estina funds and that was paid into and received into the business account 6250573906. Turning to the Bank of Baroda there are two unit trust accounts – well money on

20 call account with FNB and a unit trust account with Standard which are used as parking places for funds for a very temporary period during the laundering of funds and thereafter there is a vast array of Bank of Baroda accounts they include the main – the primary Bank of Baroda current account which I refer to throughout is 02/255, account

number is 9202000000255. And then below, that there are 14 fixed deposit accounts that are opened and held at various times at the Bank of Baroda. And then three loan accounts.

Chair, it might be worthwhile at this point to – just to indicate. I am not sure if this has come up in any testimony before but the reason why I refer to the account is 02/255, is because the Bank of Baroda internal account allocation system indicated that the current – the type of account by
10 the sixth number in the account number.

So in this case, 92020. The 02 indicated the current account whereas the one below that, 9202203. The 03 refers to a fixed deposit account and 06 is a loan account.

ADV CHASKALSON SC: Thank you Mr Holden. Can you then go to Fidelity Enterprises? And we are now offshore again.

MR HOLDEN: So the Fidelity Enterprises is registered offshore, also known to be that the sole shareholder was Sanjay Grovo and the only known director is Sanjay Grovo,
20 although, obviously, he was taking instructions from Ashu Chawla and others.

We have identified the six different Fidelity offshore accounts that we are aware of with Standard Chartered Bank, the Bank of Baroda and Mashreq Bank.

In both of those cases, they were operating in US Dollar

and Dirham, the nominated accounts. And we see throughout the laundry that there is quite often a laundry that has gone through different denomination accounts, be it Dirham or US Dollars.

Of the offshore companies, Fidelity is the only one that is then subsequently integrated into the onshore laundry and it holds shareholder in a number of different local Gupta companies that included a 10% shareholder in Mabengela Investments alongside Tony Gupta, Duduzane Zuma trading 10 Mufasa(?) Investments, Ashu Chawla of which the directors were Duduzane Zuma and Tony Gupta.

A 20% shareholding in Mabengela Resources and Energy. Two hundred ordinary shares out of 1301 shared in Tegeta Resources and Exploration and a 25% shareholding in Tegeta Resources (Pty) Ltd.

ADV CHASKALSON SC: I understand it also has shares in Oakbay?

MR HOLDEN: That is correct.

ADV CHASKALSON SC: So I may have misread your 20 paragraph.

MR HOLDEN: No, I am just double-checking. I do not think that is correct.

ADV CHASKALSON SC: Yes, thank you. I will stop making suggestions. [laughs] Then we come to Gateway, another UAE based company. Can you tell the Chair about it?

MR HOLDEN: Absolutely. So Gateway like Fidelity and Accurate(?) before it, is registered in UAE. It is registered to Sanjay Grovo who is the main director and the main shareholder.

It operated a number of different bank accounts with three different banks that we know of, Standard Chartered, Bank of Baroda and Mashreq Bank again in Dollar denominated and Dirham.

If held shared in one Gupta enterprise company but
10 based abroad in India by the name of Alpha Computers. Sorry, it is registered in Singapore. Apologies.

And it purchased the shares in Alpha Computers from CSC Technologies which is based in India and is one of the Gupta's Enterprises main vehicles.

They are in – Gateway Limited as we will show in greater detail later, was the primary means by which the offshore laundry first received funds from Estina Project and from where the Estina funds were eventually dissipated.

ADV CHASKALSON SC: And can you talk about the
20 relationship between Gateway and Vargafield?

MR HOLDEN: Absolutely. Vargafield, as we will describe in a bit more detail later, was the recipient of just under R 60 million from Estina Project.

The sole director of Vargafield was Sanjay Grovo, although that we do know that Ashu Kenarian was operating

an account, an email account on behalf of Vargafield.

The internal accounting records for the offshore enterprise indicates two entries, entitled Vargafield/Gateway shares R 120,00 and Vargafield/Gateway shares R 130,00, which I have come to believe indicates that Gateway held shares in Vargafield or bought shares in Vargafield.

ADV CHASKALSON SC: Can I ask you to turn to page 341 of that bundle, Bundle 5?

MR HOLDEN: [No audible reply]

10 **CHAIRPERSON:** What is the page number Mr Chaskalson?

ADV CHASKALSON SC: 341 Chair.

CHAIRPERSON: 341.

ADV CHASKALSON SC: And we will get to this document in a bit more detail later but can you briefly first tell the Chair what is the document that we are looking at?

MR HOLDEN: Certainly, this is – Chair, this is probably the most important single document in relation to the offshore flow of funds. This document is an internal accounting ledger of all the movements of funds into and out of before
20 primary offshore companies.

What we are looking at here is the fund, the first heat(?) within that spreadsheet which provides an overall summary of the movement of funds into and out of those accounts between March 2013 and the end of February 2014.

And I assume that you want to refer to the bottom entry?

ADV CHASKALSON SC: Yes, before we get to the bottom entry. Can you tell the Chair how we came to be in possession of this document?

MR HOLDEN: Absolutely. The document is attached to an internal mail correspondence within the Gupta leaks. The document was attached to an email that was sent by Ashu Chawla to Tony Gupta, sharing this particular spreadsheet.

For some reason it had the subject line: Forward Visit Observations. From the trail of emails, we can see that Ashu
10 Chawla received that email and that spreadsheet from other employees within the Gupta enterprise and *Sanjay Grovo(?)* in particular. [Speaker is not clear.]

ADV CHASKALSON SC: Thank you. And we will take the Chair to those specific references later but for present purposes, can you go to the references 3 and 4 from the bottom of page 341?

MR HOLDEN: Absolutely. Chair, as you can see, they are the entries Vargafield/Gateway shares R 120,00. And then below that, Vargafield/Gateway shares R 130,00.

20 **CHAIRPERSON:** Hang on Mr Holden. I am at page 341 but I remember that I heard you earlier on mention a date, I think March, but I cannot see a date here. I think you and Mr Chaskalson have mentioned something that I cannot see either. The page is 341.

ADV CHASKALSON SC: Chair, we will come to the emails

to which this was attached which is where the dates comes from.

CHAIRPERSON: Oh, okay.

ADV CHASKALSON SC: A little later. [laughs]

MR HOLDEN: [laughs]

CHAIRPERSON: Okay. When you mentioned the date, I was trying to see where exactly.

ADV CHASKALSON SC: Sorry, there is no date on the spreadsheet itself.

10 **CHAIRPERSON**: Yes, okay.

ADV CHASKALSON SC: But ...[intervenes]

CHAIRPERSON: But the docket – the page that – what we are looking at it is the page that has as a first item Ho Chi Minh, Jen Trading LLC at the top. Is that right?

ADV CHASKALSON SC: That is correct.

CHAIRPERSON: Okay alright. Okay. Yes, you may continue.

ADV CHASKALSON SC: But if one goes to the third last entry or the third last yellow entry on the page.

20 **CHAIRPERSON**: Yes, where we have got rand and Global?

ADV CHASKALSON SC: At ...[intervenes]

CHAIRPERSON: Highlighted yellow.

ADV CHASKALSON SC: Oh, no, no, no. The bottom highlighted yellow section. The last part, yellow highlighted section.

CHAIRPERSON: Oh, okay.

ADV CHASKALSON SC: And can you just direct the Chair to the entries that are relevant to Vargafield and Gateway?

MR HOLDEN: Absolutely. So the fourth last and the third last entries say – the first one says Vargafield/Gateway Shares, R 120,00. What is useful to note there is that if you scroll to the right the column indicates 13.98...[intervenes]

CHAIRPERSON: Okay. Mr Holden, you will have to be patient, certainly with me. [laughs] Because... Okay. Now
10 when you say R 130,00. I was looking. So that is ZAR. That is the South African Rand.

MR HOLDEN: That is correct.

CHAIRPERSON: Ja, but the way it is written [laughs] with a capital Z and a small letter AR, one was not sure – I was not sure. Okay. So I now I see where you are. Yes.

MR HOLDEN: Okay. So just for the record. It is Vargafield/Gateway shares, 120 ZAR.

CHAIRPERSON: H'm.

MR HOLDEN: And then if you follow the columns to the
20 right, you will see an entry 13.98 in brackets.

CHAIRPERSON: Yes, I can see that.

MR HOLDEN: And that is a Dollar figure. It is a Dollar equivalent figure for R 120,00. And the importance there is that because the entry is in brackets, we know the money was paid out.

CHAIRPERSON: Oh, okay. No, no. I am sorry Mr Holden. No, I think I was looking at the wrong line. I was looking... You are on the fourth line on the highlighted – on the last highlighted shade.

MR HOLDEN: That is correct. So the fourth line ...[intervenes]

CHAIRPERSON: Yes, I was on the third. But the name is the same but the amounts are different.

MR HOLDEN: Correct.

10 **CHAIRPERSON:** You are looking at the one, four, one, twenty.

MR HOLDEN: Correct.

CHAIRPERSON: And then when you go straight, then you go to 13.98.

MR HOLDEN: That is correct.

CHAIRPERSON: Okay alright.

MR HOLDEN: And Chair, the important thing there is that because it is in brackets, that is the indication that money is paid out of the offshore laundry. So we know that money
20 was paid out of these accounts to buy the shares.

CHAIRPERSON: Yes. Okay.

MR HOLDEN: And that applies for both entries.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: And the price of the shares?

MR HOLDEN: So the price of shares are R 120,00, 120

ZAR. And 130 ZAR. The 120 ZAR is equivalent to 13.98 Dollars. A 130 ZAR is equivalent to 15.03 Dollars.

ADV CHASKALSON SC: Thank you Mr Holden. Can I now take you back to the company sequence?

CHAIRPERSON: So the 120 ZAR is 120 as is, not like 120 000. It is just 120.

MR HOLDEN: Correct.

CHAIRPERSON: Okay alright. Thank you.

ADV CHASKALSON SC: And now at – going back to page
10 35. The next company you address is Global.

MR HOLDEN: Yes. So Chair, this is Global Corporation LLC. Again, operated in Dubai. The know director is Sanjay Grovo. I indicate there known director as Shivani Gupta and I should clarify that how I understand that to be the case.

ADV CHASKALSON SC: Please do.

MR HOLDEN: So we have – it is very difficult to get share registers from Dubai and the UAE, unfortunately. But there is correspondence in the Gupta leaks thrive in which there is an accounting issue that has to be dealt with in India.

20 And in that correspondence, it emerges, they state that Shivani Gupta had shares within Gateway. I think, partially, to explain why she had received funds there from.

ADV CHASKALSON SC: Can you make a note at some stage? I think having mentioned that we need to produce the relevant correspondence.

MR HOLDEN: Absolutely.

ADV CHASKALSON SC: And maybe tomorrow we can
...[intervenes]

MR HOLDEN: Absolutely.

ADV CHASKALSON SC: ...an additional exhibit. Global.
You were going to move to it.

MR HOLDEN: That is correct. So we see there that Global
Corporation – we know Chair operated accounts of four
different banks registered in Dubai. It is Standard Chartered
10 Bank, The Bank of Baroda, Mashreq Bank and The National
Bank of Abu-Dhabi. Again, they were operating in US Dollar
and Dirham flavoured(?) accounts.

ADV CHASKALSON SC: So you had in fact dealt with
Global. Linkway.

MR HOLDEN: Yes, Linkway Trading is an account
registered in South Africa with registration number
2007/009012/07. The known directors are KWE Tisbat(?)
Kaiser and Ronica Govender.. And the known shareholders
...[intervenes]

20 **ADV CHASKALSON SC**: Sorry. Can I just stop you at
Veronica Govendor. Do you know who – how do we know –
by what name is Veronica Govendor more commonly known?

MR HOLDEN: Ronica Ragavan.

ADV CHASKALSON SC: Sorry?

MR HOLDEN: Ronica Ragavan, Chair.

CHAIRPERSON: Oh, the one who has hundred percent shareholder in one of the entities we have dealt with.

MR HOLDEN: Exactly.

CHAIRPERSON: Okay. H'm.

MR HOLDEN: We know that Linkway Trading holds shares in Islington Site Investments. Holds 53% of the shares there. Sorry, I am getting a little bit mixed up there. The shareholders of Linkway Trading are Islington Site Investments which owns 53% of the shares.

10 Ronica Govender which owns 25% of the shareholding and Brugath(?) Investments which owns 22% of the shareholding.

I am aware of two different accounts operated by Linkway Trading which I referred to in my evidence. One was an account operated with a state Bank of India. And the second account was held with Nedbank.

ADV CHASKALSON SC: Your next entry is Oakbay. I think we all know who Oakbay is. So you entertained the DCJ, the Chairperson there. And then we come to Vargafield on page
20 38 who you have talked about already. Is there anything that you want to add in respect of Vargafield?

MR HOLDEN: At this point, no. It might be useful just to record its registration number on the record. So it is registered with CIPC. It was registered in 2012 which was the year in which the Estina Project was initiated. And the

registration number is 2012/101734/07 and the known director, as I mentioned before was Sanjay Grovo.

ADV CHASKALSON SC: Then I would like us, before we get into the details, just to give an overview of what you found in your investigation. And for that, can I ask you to turn to page 109?

MR HOLDEN: [No audible reply]

ADV CHASKALSON SC: And maybe it would be simpler to start at the end where you talk about aggregate numbers and
10 then get to the individual tranches. So can I ask you to go to page 111?

MR HOLDEN: Sorry. I...

ADV CHASKALSON SC: And at page – at the top of page 111, you summarise what the aggregate amounts paid into Estina by the South African state or by the Free State Government were and what happened to that money. Can you take the Chairperson through that big picture overview that starts at the top of page 11?

MR HOLDEN: Absolutely. If I may, could I actually – there
20 is a slight distinction between the figures, between pages 109 to pages 111? It might be useful to draw out, if we may?

ADV CHASKALSON SC: Sure. Certainly.

MR HOLDEN: At page 109, paragraph 286. I recorded a total amount that the Free State Government paid into Estina (Pty) Ltd which was R 280 202 652,00 in eight separate

tranches between the 9th of July 2012 and the 5th of May 2016. And then returning to page 111, we see the figure is slightly different. It is R 7 million more.

And that is R 287 220 534,88 and the additional amount that is included there is an amount drawn – is caused by a trial(?) of interest against the amounts deposited by the Free State Government against the Estina accounts.

CHAIRPERSON: Okay now... Thank you Mr Holden. I was looking for the 287. I have now seen it. Yes, at
10 ...[intervenes]

ADV CHASKALSON SC: So there is approximately seven million worth of interest that is added to the 280 million that comes direct from the Free State Government. Is that correct?

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

MR HOLDEN: [No audible reply]

ADV CHASKALSON SC: What happened to that 287 million?

MR HOLDEN: Of this, R 169 532 396,82 was transferred to
20 Gateway Limited offshore. R 83 703 664,32 was transferred to Gateway from Estina's Standard Bank account, which I have already mentioned. And R 85 828 732,50 is transferred to Gateway from Estina's FNB current account.

Of this, the two largest recipients of funds, once Gateway has disbursed it, three point three, three zero...

Sorry, let me rather rephrase that. I left – put out a zero there. 3 330 700 Dollars is transferred to the benefit of Linkway Trading and the amount is ...[intervenes]

ADV CHASKALSON SC: Sorry, can I just pause there. You are talking Dollars, not Rands.

MR HOLDEN: That is correct. Dollars.

CHAIRPERSON: H'm, h'm.

MR HOLDEN: An amount which we have corrected on the page, I believe, is 3.35 million Dollars to Oakbay. Following
10 that, R 59 505 875,00 is transferred to Vargafield of which
R 52 726 348,00 was paid from Estina's Standard Bank
account and R 6 779 256,95 was transferred from Estina's
FNB account. A further R 34 563 580,12 was transferred to
the South African Revenue Services to settle Estina's VAT
obligations. Therefore, ...[intervenes]

ADV CHASKALSON SC: Continue.

MR HOLDEN: Therefore, we can see that of the total
amount paid in by the Free State Government, a total of
R 263 601 851,94 was paid out accumulatively to Gateway
20 Limited to Vargafield and it is like a services for connected
to Estina.

So of those funds that are deposited by the Free State
Government, we can trace a mere R 21 746 697,18 that was
transferred to accounts or recipients other than the South
African Revenue Services, Gateway Limited and Vargafield.

These appear to be a mixture of payments for the cost of running the dairy enterprise but also include paying salaries to individuals, two individuals who ran Estina on the ground but who were ultimately connected to the Gupta enterprise. And one person of particular notice there was Tranjay(?) Mabusat(?).

ADV CHASKALSON SC: Thank you Mr Holden. Can we now back to your tables on page 109 and see how those big numbers break down if we look at it tranche by tranche?

10 **MR HOLDEN:** Absolutely. Chair, just as an indication why we start at Tranche 0 rather than Tranche 1. The reason why, is because the initial money laundering analyses that we started doing was based on the asset forfeiture application.

And in the first forfeiture application for a reason that I do not fully understand, the Asset Forfeiture Unit neglected to include in its analyses the first payment that was made out.

20 So I called that Tranche 0 instead so that the tranches now match in numbering with asset forfeiture application.

ADV CHASKALSON SC: Thank you. So what was Tranche 0 and where did it end?

MR HOLDEN: So Tranche 0 was R 30 million that was paid on the 9th of July 2012 to Estina. And the endpoints that we are aware of is 1.347 million Dollars that is paid to Linkway

Trading.

R 1 million that is paid to Estina's ABSA current account which we will return to at a later stage. Oakbay Investments which this – this needs to be updated I am afraid, which is the reason for the error later, is 250 000 Dollars. Star Engineering received 72 231.14 Dollars.

ADV CHASKALSON SC: Can you tell the Chair who is Star Engineering now?

MR HOLDEN: Absolutely. Star Engineering is an Indian
10 based company. They provided certain dairy equipment's to Estina that was important from India.

The – as we show in our first submission, it appears that the decision by Estina to purchase equipment from Star Engineering – it appears to be based on the fact that they were known to the Gupta family in India.

I also do note that in previous evidence, maybe about five(?) years ago in the first evidence on Estina, a couple of the individuals who witnessed the importation of that equipment, claimed that it was sub-standard and that it was
20 quite rusted and poorly treated.

Below that is Ling Lu Yu who I have mentioned previously, who received 50 000 Dollars. And then there is an entry in the internal ledgers for Shivani and Ashley Gupta combined which is 737 220 Dirham which roughly equals to 200 000 Dollars.

And then there is an amount of 735 825 Dirham that is paid out to what we believe are suspected Hawala transfers.

ADV CHASKALSON SC: And when you talk about Hawala transfers, can you explain to the Chair what you are referring to?

MR HOLDEN: Hawala is a very common money exchange system that is used throughout South East Asia in particular. You, effectively, have two partners in different parts of the world who run a ledger internally and they will receive
10 deposits from one individual who then wants to transfer money abroad to a certain other individual.

They will not actually physically transfer funds but will be marked off against the ledge of the second person. So it is a way of transferring money between traders of funds for their clients without actually money through any sort of actual transfer of cash or electronic transfer.

CHAIRPERSON: Would it be easier or would it be difficult, maybe because of different dates when the transfers happened to have a column that translates the US Dollars
20 into what it is in terms of Rands? Would that be easy? Just because one is used to the Rands. When you look at R 30 million you want to see how it was – who got how much of that R 30 million. And when you use US Dollars, it is not always easy.

MR HOLDEN: Absolutely.

CHAIRPERSON: Would that be easy for – to create such a column?

MR HOLDEN: Yes, absolutely Chair.

CHAIRPERSON: Yes.

MR HOLDEN: We are happy to do so.

CHAIRPERSON: Okay, okay. No, I would appreciate that.

ADV CHASKALSON SC: Chair, it may not be something that we can do overnight because there are so many of these transactions.

10 **CHAIRPERSON:** Oh, no, no. That is fine.

ADV CHASKALSON SC: But we will arrange that it – at a certain stage it is formally ...[intervenes]

CHAIRPERSON: No, that is fine. It does not need to be done today.

MR HOLDEN: I should also maybe just to make things slightly easier, when we deal with Tranche 0 a little bit later, the largest Dollar amount there or the Dollar amounts there are paid into South Africa and we do have a corresponding amount in the bank statements.

20 **CHAIRPERSON:** Okay.

MR HOLDEN: Which we will revert to.

CHAIRPERSON: Okay, okay. Thanks.

MR HOLDEN: So for Tranche 1, we have R 34,95 million on the 18th of April 2013. The largest recipient of funds there is Vargafield which receives R 14.27 million.

Gateway Limited which is paid R 4.57 million, of which a hundred thousand, we can ultimately trace being paid to Oakbay Investments. A hundred and fifty-seven thousand ...[intervenes]

ADV CHASKALSON SC: Sorry. You say a hundred thousand. That is 100 000 Dollars?

MR HOLDEN: That is 100 000 Dollars. Correct.

CHAIRPERSON: H'm, h'm.

MR HOLDEN: R 157 320,00 to Linkway Trading.
10 R 1.6 million to sorted recipients which we have not really been able to identify but it appear to be related to the running of the dairy farm. R 1.2 million paid to attorneys, Frieda Pretorius and Bosman.

R 250 000,00 that is paid to Sunday Trading which I mentioned before was controlled by Kanal(?) Wasram(?). And an amount of R 2 359 899.00 that is paid to AFGRI Equipment which is a contractor for the provision of certain equipment for use on the Estina Dairy Farm.

In the second tranche is thirty million that is paid on the
20 26th of April 2013. Of that, R 3 million(sic) or the vast majority of it is paid to Oakbay Investments.

ADV CHASKALSON SC: Sorry, Mr Holden I think you said Rands there.

MR HOLDEN: I probably did.

CHAIRPERSON: Ja.

MR HOLDEN: Three million Dollars is paid to Oakbay Investments.

CHAIRPERSON: H'm.

MR HOLDEN: An amount of 65 270.39 Dollars is ultimately transferred to a company by the name of Idea For Life General Trading. Sadly despite it appearing in the Gupta leaks, I cannot shed a heat amount of light of the nature of that company. That is also true of the entity below. That is Third Eye Enterprises which is paid 125 000 Dirham.

10 **ADV CHASKALSON SC:** And how does the Dirham, Dollar and the Rand relate at that stage?

MR HOLDEN: The Dirham was roughly 3.7 at that time. So we are looking at, probably, about 30 000 Dollars.

CHAIRPERSON: The Dirham being the UAE currency?

MR HOLDEN: Correct.

CHAIRPERSON: H'm. Okay.

MR HOLDEN: Below that, gives an amount of 73 222 Dirham. That is paid to Llewellyn Global in Australia. We know from the Gupta Leaks that this amount is – that
20 Llewellyn Global was providing certain travel services to the Gupta family.

CHAIRPERSON: Do you have a recollection, just roughly, what the – how the Dirham compares with the Rand? I mean, one has an idea about the US Dollar.

MR HOLDEN: I am afraid Chair. I do not want to commit to

a figure.

CHAIRPERSON: Yes.

MR HOLDEN: I would hate(?) [laughs] myself.

CHAIRPERSON: Yes. [laughs]

MR HOLDEN: I know very well that the Dollar/Dirham because of the calculations I was making.

CHAIRPERSON: Ja.

MR HOLDEN: I need to check that.

CHAIRPERSON: Ja-no, that is fine. That is fine. Okay.

10 **MR HOLDEN:** Bellow that is 95 000 Dollars. It is paid to Global Corporation which dissipated in other things.

ADV CHASKALSON SC: And you just refresh – just come back to who Global are?

MR HOLDEN: Absolutely. Global Corporation is one of the four offshore entities that is controlled by Sanjay Grovo which is used to, amongst other things, dissipating transfers Estina funds.

And then there is an unidentified offshore recipient. I am afraid there is not entry in the ledger against this amount
20 for 108 932,40 Dollars. The third tranche is an amount of R19 050 000 3rd of May 2013 and that is ultimately paid to Linkway Trading and the value that Linkway Trading receives is 1 986 000 dollars, it is actually, I think it is R2 million that is transferred but there is a ...[intervenes]

ADV CHASKALSON SC: Sorry, 2 million dollars.

MR HOLDEN: 2 million dollars, that is correct. And Kamal Vasram is paid R100 000 of that amount, so virtually the entirety of that charge is paid out to Linkway Trading.

The fourth tranche is R29.95 million on the 20 December 2013 paid by the Free State government to Estina. Of this R18.237 million is paid to Vargafield and R5.825 million is paid to a company by the name of UTI South Africa based on the Gupta Leaks records we know that UTI South Africa was the freight company and the
10 conveyancing company that was used by the Gupta family to import the dairy equipment from Star Engineers.

The fifth tranche is R30 million on the 25 July 2014. Of this, R15.79 million is paid to Estina's FNB account and ultimately [indistinct] 01.19 other funds to be paid on to Gateway Ltd.

R14.2 million is paid to Vargafield and R3.2 million of which a R100 000 is from the Free State government is paid to Aerohaven, that is R3.2 million of which R100 000 is from the Free State government and the R3.1 million I
20 am afraid I have not been able to determine the source but is - I have not deemed it relevant considering it did not come from Estina, to try establish that.

Transfix is R60 million on the 8 May 2015. That is paid – quite a large number of those payments are made out to South African Revenue Service. The first payment is

R28 590 349.74, that is paid to South African Revenue Services with that long reference number 4650257167 VC2015062 and the Commission has kindly confirmed that that number is Estina's VAT account at the South African Revenue Services.

And then there are two amounts that are paid to SARS e-Filing, one amount of R183 000 and R2.78. Another one of R19 711.23. Vargafield is paid R3 116 479.10 and Gateway Limited is paid R45 091 652
10 and that is a combination of funds emanating from this tranche and the 15.79 million that was transferred from Estina's account at Standard Bank from the previous tranche.

And then the seventh and final tranche is R46 252 652 which is paid on the 5 June 2016 by the Free State government to Estina. Of that R5 384 412.26 is paid to the South African Revenue Service again with Estina's VAT reference and the vast majority is paid out to Gateway Ltd which is paid R40 737 452.

20 **ADV CHASKALSON SC:** Thank you, Mr Holden. And once again, to give an overall picture, can I ask you to go to paragraph 293 on page 112?

MR HOLDEN: Absolutely. The importance here, the reason I include this, it might be worthwhile to explain why I have included this paragraph, if I may.

ADV CHASKALSON SC: Yes, yes, it certainly is. Can you tell the Chair what defence was put forward by the respondents in the asset forfeiture application, in Estina asset forfeiture application. In other words, the people whose assets were sought to be frozen.

MR HOLDEN: Absolutely. Chair, the respondents in that application indicated that if you looked at the Estina bank records you could see a huge amount of money coming into the Estina that did not derive from the Free State
10 government, it derived from other sources and their argument was that you cannot argue that the entirety of these funds belonged to Free State government and therefore cannot be seized assets flowing from the Free State government.

It is also what they argued as proof of the investment that Estina was drawing into the project. I am not sure if you recall from earlier evidence but one of the stipulations of the underlying contract between Estina and the Free State government was that the Free State
20 government would provide a certain amount of funding and Estina would provide the remainder, I think it was R220 million. We can now establish that ...[intervenes]

CHAIRPERSON: Which is never provided.

MR HOLDEN: It was ...

CHAIRPERSON: On which Estina never provided.

MR HOLDEN: Absolutely. It was drawn entirely from the Free State government funds and what was happening was a very complex system of money laundering in which Free State government funds were paid out of Estina and to a very complicated loop, that we will describe, eventually returned back into the Estina account which made it look like Estina was receiving deposits from other sources but was effectively deposits derived from the Free State government funds. So of that amount, of the total amounts
10 that are paid into the Estina account over this period, there is 800 and ...[intervenes]

ADV CHASKALSON SC: So if I can just stop you there. So including original amounts deposited from the Free State government and amounts which circle around from those Free State government funds and then eventually come back into Estina, what is the total aggregate amount of deposits into Estina?

MR HOLDEN: The total aggregate amount of deposits is R880 345 265.83 and that is including accrued interest.

20 **ADV CHASKALSON SC:** And how much of this did not come from the Free State government?

MR HOLDEN: Ultimately we trace R35 087 788.77 which indicates that a mere 3.98% of all the deposits received or interest accrued did not derive from Free State governments.

ADV CHASKALSON SC: So more than 96% of all of that money deposited into Estina can ultimately be traced back to the Free State government?

MR HOLDEN: Absolutely. And, Chair, if I may, it may even be a smaller figure. In examining some of the bank statements there were two entries, two large payments into the Estina account. I think they total around about R9 million against a statement reference that I did not understand, so I just indicated that this is the statement
10 reference.

I have been informed by the Commission that those may have been payments made by the South African Revenue Service and I understand the Commission is now investigating whether those are rebates that were paid by the South African Revenue Service to Estina.

If that is the case then clearly the amount of funds that actually derives from sources outside of the Free State government funds falls even further.

CHAIRPERSON: So I thought that the evidence that I had
20 under Estina suggested that the amount was much lower than this 96% of this 880 million. So what you are saying is out of this 880 million only about 3 comma something percent did not come from the Free State government.

MR HOLDEN: That is correct, Chair.

CHAIRPERSON: The rest came from the Free State

government.

MR HOLDEN: That is correct, Chair.

CHAIRPERSON: And under the Estina project, not that there was some money coming or something else.

MR HOLDEN: That is correct, Chair.

CHAIRPERSON: Oh, okay. That is quite a large amount. I am under the impression that all along the amounts that had been mentioned were 200 and something.

ADV CHASKALSON SC: Indeed, Chair. Maybe if you can
10 explain to the Chair how we get from 280 million plus 7 million interest to 880 million deposits.

CHAIRPERSON: Yes, yes.

MR HOLDEN: Absolutely, Chair. So the 287 million figure is the figure that is paid in by the Free State government with accrued interest and the figure that we reach of 880 million, that is the 287 million plus and additional amount that is effectively drawn from the 287 million but is laundered in such a complex way through a circular system that returns the funds ultimately back into Estina which
20 thereby increases the aggregate deposits into the ...[intervenes]

CHAIRPERSON: Oh, okay, like investments or something.

MR HOLDEN: Well, we will see when we – Chair, when we look through the specific tranches, we have done visualisations.

CHAIRPERSON: Ja.

MR HOLDEN: But effectively it is referred to in money laundering terms as a round tripping where funds are paid out of an account to a second account potentially and number of different accounts before being paid back into the original account.

CHAIRPERSON: Okay.

MR HOLDEN: To create the impression that there is a separate fund flowing into the account but it actually
10 derived from the original payment.

CHAIRPERSON: Okay. Okay, but basically it is - like they get 287 or whatever million from Free State government and they find a way - ways in which they either grew it or whatever but ultimately it comes back and they say well, you know, it cannot be the money from – it cannot all be the money from the Provincial Government because the Provincial Government only paid 287 so you can see now it is 880 million but actually whatever it is, the increased amount actually – it is like proceeds of some
20 kind of the same 287 million?

MR HOLDEN: That is correct, Chair.

CHAIRPERSON: Ja, okay, alright.

ADV CHASKALSON SC: Can I maybe illustrate with a personal example.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: If I receive R100 000 into my current account and I then transfer it from my current account to a savings account for a month and then back from the savings account into the current account there will be two deposits. So my current account statement will reflect two deposits of R100 000. The first one that came from the outside and the second one that came back from my savings account after I had put it there.

CHAIRPERSON: Ja, okay, okay.

- 10 **ADV CHASKALSON SC:** Am I correct in suggesting that the 880 million figure that you quote there corresponds to the two times R100 000 deposits on my current account and the 280 figure would be the original R100 000 deposit in my current account?

MR HOLDEN: That is correct, Chair.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: So it is not about growth interest and investment growth it is actually simply about moving the same funds to one place and bringing them back.

- 20 **CHAIRPERSON:** Okay.

MR HOLDEN: That is correct. So, if I may, Chair, as you can see the increase, which is about R600 million which would indicate that the R280 million was paid in by the Free State government was washed three times in a circle to produce this amount.

CHAIRPERSON: Oh, okay, okay. Thank you.

ADV CHASKALSON SC: Chair, I see it may be a convenient time to take the tea break at this point.

CHAIRPERSON: Yes, let us take a tea break, we will resume at twenty five to. We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes, let us continue.

ADV CHASKALSON SC: Thank you, Chair. Mr Holden,
10 you have given us some overall pictures, we now need to take the Chair to how we get to those overall pictures and that involves two separate exercises.

One, first establishing what our sources were or what your sources where. And, two, how you have taken the information from those sources to generate those overall pictures on a step-by-step basis.

To start then with the sources, there are two broad – or they can be provided into two parts. Can we start first with the South African sources and in that respect can I
20 ask you to go to page 132 and I am going to take you sequentially through all of the South African sources of bank records to which you have had regard. Starting with page 132 and can you identify the document annexure E from page 132?

MR HOLDEN: Certainly, Chair, this is the Standard Bank

bank statements for Estina (Pty) Ltd for the account number – I am trying to find exactly where it is on here. 310864860 and you can see at the top left, just underneath the Standard Bank logos where their account number is recorded.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Thank you. Then I am just going to take them sequentially through the bundle even though it is probably not the most logical – or conceptually. But if
10 you can go then to page 378.

CHAIRPERSON: Just so that I understand, page 132 is the bank statement in regard to the specific account for Estina?

MR HOLDEN: That is correct, Chair.

CHAIRPERSON: Yes, as at a particular date I assume or before 18 January 2013 to 16 February 2013, is that right?

MR HOLDEN: That is correct. If I may answer, the Commission was able to provide the actual PDF, the full printout of a statement from that date onwards.

20 **CHAIRPERSON:** Yes, yes.

MR HOLDEN: But before that we have records that were collected electronically. I do not know whether my evidence leader would like to explain how that happened.

CHAIRPERSON: I think it is acceptable to note anything in particular on the contents at this stage on the page,

other than that is a statement for Estina.

ADV CHASKALSON SC: Indeed, Chair.

CHAIRPERSON: Oh, okay.

ADV CHASKALSON SC: But it is more than one statement for Estina.

CHAIRPERSON: Oh, is that so?

ADV CHASKALSON SC: It is monthly statements for Estina that run – I think they go all the way down to page 298.

10 **CHAIRPERSON:** Okay, okay.

ADV CHASKALSON SC: It is a bundle of consecutive monthly Estina statements.

CHAIRPERSON: Okay, alright.

ADV CHASKALSON SC: It may – referring to what Mr Holden has just mentioned, if I might take the Chair ...[intervenes]

CHAIRPERSON: Or maybe before you continue, Mr Chaskalson, it is a bundle of statements starting at page 132 going up to what page? I think maybe I should know
20 that first.

ADV CHASKALSON SC: It is – I think the last one, Chair, is on page 298.

CHAIRPERSON: Okay, I think it is just important to understand that that is how far it goes.

ADV CHASKALSON SC: And it is linked, Chair, to the

document that you see on page 299.

CHAIRPERSON: Okay, okay. Okay, then that is fine, I understand, that is a bundle of statements.

ADV CHASKALSON SC: For Estina from Standard Bank.

CHAIRPERSON: Ja, okay.

ADV CHASKALSON SC: Then, Chair, if you go to 299 you will see there is a spreadsheet.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Now that is a spreadsheet that
10 the Commission has produced in respect of electronic transaction records that were furnished to the Commission by Standard Bank for Estina that are not reflected on the PDF bank statements because they come from an earlier period.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: We will attempt to locate the original PDFs if Standard still has those PDFs.

CHAIRPERSON: Okay, alright.

ADV CHASKALSON SC: The next bundle of statements is
20 at page 378 – the next bundle of local bank statements, page 378 and can you identify these for the Chair?

MR HOLDEN: Absolutely, these are – Chair, these are bank statements for Estina's business account with First National Bank. Well, the account number is 62505753906 and they run from 29 November 2014 until effectively the

closure of the account.

ADV CHASKALSON SC: The last page is at 437, if you can take the Chair there or maybe to the preceding page which will tell you the date.

MR HOLDEN: Yes, the final page of statements is at page 436. Actually, no sorry, it is 347, where the last entry is for the 18 April 2017. The relevance here is that this is the period in which the Free State government makes payments into these accounts.

10 **CHAIRPERSON:** Okay, thank you.

ADV CHASKALSON SC: Then if you can go to page 438 and identify the document there?

MR HOLDEN: Absolutely, Chair, this is Estina (Pty) Ltd's Bank of Baroda account statement and the account number is 92020200000255 or, as I refer to it, 02/255 and this runs from the inception of the account until the closure of the account and the inception of the account is the 10 July 2012 and the final page ...

ADV CHASKALSON SC: 443.

20 **MR HOLDEN:** Is at 443. And the final transactions there is the 5 October 2018.

ADV CHASKALSON SC: Can I ask you then to go one page over, page 445 and identify that document for the Chair?

MR HOLDEN: 444, I would imagine.

ADV CHASKALSON SC: Oh, I beg your pardon.

CHAIRPERSON: 445 or 444?

ADV CHASKALSON SC: 444, Mr Holden has corrected me quite appropriately.

MR HOLDEN: So this is a very brief bank statement from Estina's fixed deposit account with the number 92020300000189. It is opened on the 31 July 2012 and it is effectively rolled over but the final transaction day is the 7 August 2013.

10 **ADV CHASKALSON SC:** And then to the next page?

MR HOLDEN: This is the fixed deposit account for Estina (Pty) Ltd. Again, with the account number 92020300000207 and the first date of the – the creation date of the fixed deposit account is the 15 October 2012 and the closure date is the 4 September 2013.

ADV CHASKALSON SC: And over the page to 446?

MR HOLDEN: 466 is Estina's Bank of Baroda fixed deposit account with account 92020300000212. This fixed deposit was created on the 8 November 2012 and closed
20 on the 26 November 2012.

ADV CHASKALSON SC: Over the page again to 447.

MR HOLDEN: 447 is another fixed deposit account for Estina (Pty) Ltd with account number 92020300000245 and the opening date of that fixed deposit account was the 19 April 2013 and the closure date of that account is the 3

October 2013.

ADV CHASKALSON SC: Page 448?

MR HOLDEN: This is another fixed deposit account held by Estina with the Bank of Baroda with the account number 92020300000246 with an opening date of 22 April 2013 and a closing date of 3 October 2013.

ADV CHASKALSON SC: Sorry, what I should have done for record purposes is referred to the annexure numbers, we are now on annexure J5. Each one of these – the
10 original current account was annexure J.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: And each one of these fixed deposit accounts is J1, J2, J3, J4. We are now at J5. If we go over the page to J6, on page 449.

MR HOLDEN: J6 is an Estina fixed deposit account with the Bank of Baroda with account number 92020300000249, with an opening date of the 25 April 2013 and a closure date of the 20 September 2013.

ADV CHASKALSON SC: Over the page again to page
20 450, J7?

MR HOLDEN: This is another Bank of Baroda fixed deposit account for Estina (Pty) Ltd with the account number 92020300000282 with an opening date of the 6 August 2013 and a closing date of the 4 September 2013.

ADV CHASKALSON SC: Then J8 on 451?

MR HOLDEN: J8 is another Estina fixed deposit account with Bank of Baroda with account number 92020300000297 with an opening date of the 30 September 2013 and a closing date of the 4 October 2013.

ADV CHASKALSON SC: Sorry, I have lost track now, we are on J...?

MR HOLDEN: J9.

ADV CHASKALSON SC: We are going to J9 on page 452, thank you.

- 10 **MR HOLDEN:** J9 is another fixed deposit account held by Estina with the Bank of Baroda with the account number 92020300000300 with an opening date of 30 September 2013 and a closure date of the 14 October 2013.

ADV CHASKALSON SC: And then 453, J10?

MR HOLDEN: Is a further Estina (Pty) Ltd Bank of Baroda fixed deposit account with the account number 92020300000314. Opening date of the 19 December 2013 and a closure date of 14 April 2014.

ADV CHASKALSON SC: And J11 on page 454?

- 20 **MR HOLDEN:** J11 is an Estina fixed deposit account again with Bank of Baroda with account number 92020300000389 with an opening date of 27 November 2014 and a closing date of the 12 June 2015.

ADV CHASKALSON SC: And J12, 455?

MR HOLDEN: J12 is a further fixed deposit account held

by Estina (Pty) Ltd with the Bank of Baroda with the account number 92020300000507 with an opening date of the 11 June 2015 and a closing date of the 5 August 2015.

ADV CHASKALSON SC: And J13 on page 546?

MR HOLDEN: J13 is an Estina loan account loan which has been issued against a fixed deposit account with the account number 92020600000273. The loan was opened on the 30 July 2012 and closed on the 7 September 2012.

ADV CHASKALSON SC: And then J14 on 547?

10 **MR HOLDEN:** J14 is an Estina (Pty) Ltd loan against fixed deposit account also with the Bank of Baroda with the account number 92020600000359, opened on the 29 September 2013 and closed on the 14 January 2014.

ADV CHASKALSON SC: And finally J15 on 458?

MR HOLDEN: J15 is a further Estina (Pty) Ltd Bank of Baroda loan issued against a fixed deposit with the account number 92020600000367 with an opening date of 10 June 2014 and a closing date of 12 August 2014.

ADV CHASKALSON SC: Thank you. I am afraid this may
20 be a little tedious, Chair, but we have to identify all of these sources.

CHAIRPERSON: Ja. No, but when it is necessary it is necessary.

ADV CHASKALSON SC: Thank you, Chair.

CHAIRPERSON: But I see that almost all of these fixed

deposit accounts their life span is very limited, it is a few months.

MR HOLDEN: That is correct, Chair.

CHAIRPERSON: Ja, ja, okay.

ADV CHASKALSON SC: Maybe – I mean, we will see that in context a little while later, maybe you can respond to the Chair by explaining how these fixed deposits of Estina operate within the movement of funds that you are later going to describe.

10 **MR HOLDEN:** Absolutely. So there are two purposes of the fixed deposit accounts. The one is to hold funds paid by Free State government to Estina until they decide how they are being dissipated.

And the second way, which is slightly more complicated and will be best described with a visualisation later. As I mentioned towards the end there, there are loans that are issued against the fixed deposit amounts and those loans are then used to pay certain expenses or to conduct the circular laundry and eventually those loans
20 are settled once the fixed deposit accounts are closed.

CHAIRPERSON: Okay, okay, thank you.

ADV CHASKALSON SC: Can you then take us to annexure K at page 459?

MR HOLDEN: Annexure K is an Estina (Pty) Ltd bank statement. This is for – I am trying to find the account, it

is a call account, a money on call account with the account number 62611308554 and the statement period is for the 11 May 2016.

ADV CHASKALSON SC: And if you go to the letterhead in the top right hand corner can you say which bank is the bank is this call account?

MR HOLDEN: Certainly, Chair, it is First National Bank.

CHAIRPERSON: I am sorry, what bank?

MR HOLDEN: It is FNB, Chair.

10 **ADV CHASKALSON SC:** And if you go down to page 462 that would be the last of the series of call account statements on annexure K. Annexure K, page 4.

MR HOLDEN: That is correct.

ADV CHASKALSON SC: If you go over the page to annexure L at page 463?

MR HOLDEN: Yes, this is a Stanlib account also held with the name of Estina (Pty) Ltd, it is effectively a money market investment account. The account number is a little bit unclear on this printout, I am afraid.

20 **ADV CHASKALSON SC:** Are you possibly able to magnify it on your computer screen? Anyway, I think we can come back to identify the ...[intervenes]

MR HOLDEN: Specific number.

ADV CHASKALSON SC: The specific account number. I can possibly magnify it.

MR HOLDEN: Ja, I do provide the account number in my annexures list as well, which might be the easiest.

ADV CHASKALSON SC: I think it looks to me like 552028172 but maybe you can confirm for me or...

MR HOLDEN: Annexure K, is that correct?

ADV CHASKALSON SC: Annexure L.

MR HOLDEN: Annexure L is the unit, is a Standard Unit Trust account, the account number is 532028173.

ADV CHASKALSON SC: Good thing you went to your...

10 **ADV CHASKALSON SC:** And that runs through to page 472 whereafter we get to annexure M on page 473. Can you identify that for the Chair?

MR HOLDEN: Certainly, this is a Bank of Baroda current account but held by Kamal Vasram, who was the director of Estina.

CHAIRPERSON: I am sorry, that is at 473?

ADV CHASKALSON SC: Indeed, Chair, annexure M at 473.

CHAIRPERSON: Yes, okay.

20 **ADV CHASKALSON SC:** And can you confirm that annexure finishes on page 476?

ADV CHASKALSON SC: That is correct, let me double-check that.

MR HOLDEN: That is correct.

ADV CHASKALSON SC: Conveniently says end of

statement.

MR HOLDEN: That is correct.

ADV CHASKALSON SC: If we go over the page to 477, annexure M1, can you tell the Chair what this is?

MR HOLDEN: This is a fixed deposit account opened by Kamal Vasram. The account number is 92020300000358, it is opened on the 21 August 2014 and closed on the 28 November 2014.

ADV CHASKALSON SC: And annexure M2?

10 **MR HOLDEN:** Annexure M2 which is the following page.

ADV CHASKALSON SC: On 478.

MR HOLDEN: Is a loan against a fixed deposit account opened by Kamal Vasram and the account number is 92020600000295 and is opened on the 18 April 2013 and closed on the 14 October 2013.

ADV CHASKALSON SC: Page 479, annexure M3?

MR HOLDEN: This is a loan against the fixed deposit account opened by Kamal Vasram. The account number is 92020600000297 with an opening date of the 22 April 2013
20 and a closing date of the 14 October 2013.

ADV CHASKALSON SC: Annexure M4?

MR HOLDEN: Annexure M4.

ADV CHASKALSON SC: On page 480.

MR HOLDEN: Annexure M4 is another loan against a fixed deposit account issued to Kamal Vasram with Bank of

Baroda with the account number 92020600000302, the opening date is the 15 May 2013 and the closing date is the 20 September 2013.

ADV CHASKALSON SC: And then page 481, Annexure M5?

MR HOLDEN: M5 is another loan against the fixed deposit account opening in the name of Kamal Vasram with the account number 92020600000306 with an opening date of the 10 June 2013 and a closing date of the 20
10 September 2013.

ADV CHASKALSON SC: 482 – I am just wondering if there is a way in which we might speed this up, Chair. Might I suggest that we prepare a schedule, which we will have prepared overnight which will give a detailed description of accountholder, bank, opening and closing date.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Annexure number, page numbers.

20 **CHAIRPERSON:** Yes.

ADV CHASKALSON SC: And then Mr Holden can just confirm that rather than taking an hour and a half of the Commission's time to read it all out.

CHAIRPERSON: No, that is fine, that will speed it up.

ADV CHASKALSON SC: And then what – but what I

would like us to identify today is just briefly the entities whose statements had been looked at.

CHAIRPERSON: Ja, oaky.

ADV CHASKALSON SC: So at page 484, can you tell which entity's statement we are looking at there? I think you may have to go down to page 485.

MR HOLDEN: That is correct. This is Oakbay Investments ABSA bank account.

ADV CHASKALSON SC: And that is Annexure N.
10 Annexure O starts on page 500.

MR HOLDEN: Chair, this is the Aerohaven Trading bank account again with ABSA.

ADV CHASKALSON SC: And from page 520?

MR HOLDEN: This is a ...[intervenes]

CHAIRPERSON: 520?

ADV CHASKALSON SC: 520, Chair.

CHAIRPERSON: Okay. Yes.

MR HOLDEN: This is Estina bank statement from 27th of -
- Estina (Pty) Ltd with – I am trying to establish that.

20 **ADV CHASKALSON SC:** ABSA.

MR HOLDEN: With ABSA, that is correct.

ADV CHASKALSON SC: And Q from 522?

MR HOLDEN: This is the bank statements for Kamal Vasram with Standard Bank for his current account.

ADV CHASKALSON SC: And 559, annexure R.

MR HOLDEN: This is Linkway Trading, State Bank of India account.

ADV CHASKALSON SC: 592, annexure S? I have gone offshore, forget about that. The last set of South African account records that we have are Reserve Bank records across border transactions involving the Dubai companies and there can I take you to page 631, annexure and are you able to identify which entity we are looking at with annexure U?

10 **MR HOLDEN:** Yes, this is – and I am checking overleaf.

ADV CHASKALSON SC: So this is the – these are records of an offshore entity.

MR HOLDEN: That is correct, I am trying to...

ADV CHASKALSON SC: If you look at – if you go to page 632 you will see the entity.

MR HOLDEN: Correct. This is the forex report for Gateway Limited.

ADV CHASKALSON SC: And then annexure V at page 636 and again for that you need to go to 637 to see the
20 entity's name.

MR HOLDEN: These are the Reserve Bank records for searches against the name Fidelity Enterprises.

ADV CHASKALSON SC: And at page 645 and again you have got to go over the page to see the non-resident name. So 645 is annexure W. If you go over the page to 646.

MR HOLDEN: Chair this is the Reserve Bank search results for Accurate Investments.

ADV CHASKALSON SC: And then, Chair, I see that I have actually left out some of the South African records as well. If you go to X on page 656 – sorry, 646. No, 650. Sorry, my reference is wrong, 650.

MR HOLDEN: This is an Aerohaven Trading (Pty) Ltd bank account, fixed deposit account with Bank of Baroda.

ADV CHASKALSON SC: And 651 we have some bank
10 records.

MR HOLDEN: That is correct, 651 is an instruction that is issued to grant a loan of R3 million against a fixed term deposit held by Aerohaven with the Bank of Baroda.

ADV CHASKALSON SC: And whose name is it that is giving that instruction?

MR HOLDEN: It is Kamal Vasram.

ADV CHASKALSON SC: And do you know if Kamal Vasram had any position within Aerohaven?

MR HOLDEN: Absolutely none.

20 **ADV CHASKALSON SC:** 654?

MR HOLDEN: 654 is an annexure to an affidavit that was filed by Ronica Ragavan in relation to the assets forfeiture application and this provides a description of a loan that was granted to Kamal Vasram and thereby paid to Estina. This is by Oakbay and as we will establish later this was

effectively a fictitious loan designed to increase the flow of revenues into the account.

ADV CHASKALSON SC: And 663, annexure AA?

MR HOLDEN: This is a Bank of Baroda account for West Dawn Investments.

ADV CHASKALSON SC: 665, BB?

MR HOLDEN: This is a fixed deposit account with the Bank of Baroda for West Dawn Investments.

ADV CHASKALSON SC: And 666 CC.

10 **MR HOLDEN:** That might start earlier.

ADV CHASKALSON SC: 666 CC – sorry....

MR HOLDEN: That is right. 666 CC is the Commission's records of the cash flow analysis of the Standard Bank account of West Dawn Investments.

ADV CHASKALSON SC: And the last is DD at page 670.

MR HOLDEN: This is a Baroda current account for Oakbay Investments.

ADV CHASKALSON SC: And that, I think, concludes our domestic records, the records that we have from banks
20 under subpoena or from the Reserve Bank or including Reserve Bank in relation to cross border transactions but then your analysis depends on a great deal of offshore records and I would like to take the Chair quite slowly through the nature of these offshore records and how you came to – or how the world came to see them and what

they comprise and what they tell us and maybe to go back to page 41 of the bundle which is part of your report and at paragraph 42 you say what you are going to be describing, a selections of emails and correspondence that show the control exercise by Ashu Chawla and the Gupta brothers over the offshore network as well as the evidence that the assets of the four entities were used ultimately to benefit the Gupta enterprise.

10 The first set of those emails and correspondence is in the bundle that is your annexure UAE1. UAE1 starts at page 717. Can you take the Chair to the email on page 717 and explain what you see there?

MR HOLDEN: Absolutely, this is an email that is sent from – Chair, this is an email sent from Ashu Chawla from his Sahara address, it's Ashu@sahara.co.za. It is sent on the 12 February 2014 and it is sent to Sanjay Grover. The text of the email read ...[intervenes]

ADV CHASKALSON SC: Sorry, can I just ask you to confirm, all of these emails, I understand, are on Gupta
20 Leaks.

MR HOLDEN: That is correct.

ADV CHASKALSON SC: And if there is any – sorry, I am not going to ask you each time but if there is a document that is not on Gupta Leaks that we are relying on this section please flag that.

MR HOLDEN: Yes, I will do. The text of – the text of the email says:

“buyer please update this sheet every day in this format, thanks Ashu.”

And attached a document called Format ACC.xlsx which is an Excel spreadsheet and that is attached – the attachment is then provided overleaf.

ADV CHASKALSON SC: And so at 718 what do you – or first can you describe what you see on 718, 718.1, 718.2,
10 718.3, 718.4, 718.5 and explain to the Chair how that relates – how the spreadsheet is constructed?

MR HOLDEN: So what we have is a spreadsheet that includes all of the four offshore enterprises and their various banking facilities, so for example you have the bank facilities for Global Standard Chartered Bank, their account for example, the page 718 lists all the various bank accounts that are reflected in the spreadsheet and then the spreadsheet starts overleaf and is the much more dense and slightly unreadable version provides a running
20 telly of transactions through each of those accounts and what emerges from the clip I hope I am not jumping forward here.

ADV CHASKALSON SC: No, no not at all.

MR HOLDEN: Is that effectively what Ashu Chawla’s was instructing Sanjay Grover to do was on a regular basis to

input transactions that were occurring at his direction interview spreadsheets that they had a running total of transactions and their balances. The Gupta league show that on a relatively regular basis every couple of days a new version of this would be sent by Sanjay Grover to Ashu Chawla's with the new set of transactions included.

ADV CHASKALSON SC: And can you take the Chair to 718.1 and just explain to the Chair what 718.1 is?

MR HOLDEN: So what we have at 718.1 is effectively
 10 eight different accounts all held by Global Corporation LLC.

The description or the nature of the account it is described in bold above the individual, each individual table and so for example the top left version it says global SCBAED which stands for Global Standard Chartered Bank Account Denominated Dirham and if you look below that it will be Global Standard Chartered Banks, Global Standard Chartered Bank Accent Denominated in dollars and you can see there are dates reflecting the opening balances at
 20 those dates and that is repeated across the different tables for the different banks at which account are held.

So the second column over is Global's bank accounts both in Dollars and Dirham with the National Bank of Abu Dhabi. The third column is Global's account held with Mashreq Bank Dirham in US Dollars and the fourth

column is Global's bank of Baroda account also held in Us Dollars and Dirham and just to clarify Chair these are our accounts held in Dubai in relation to the offshore entities.

ADV CHASKALSON SC: And then 718.2?

MR HOLDEN: 7 point, we have here Chair effectively the same arrangement, here we have three different banks that were being used by Fidelity, Standard Chartered Bank, the Bank of Baroda and Mashreq and again providing a tabulation of the Us dollar and Dirham account.

10 **ADV CHASKALSON SC:** And 718.3?

MR HOLDEN: Is effectively the same process applied to Gateway Limited again the banks reflected here are Standard Chartered Bank, the Bank of Baroda, the Mashreq Bank both in Dirham and dollars.

ADV CHASKALSON SC: 718.4?

MR HOLDEN: Is the same procedure applied to Accurate Investments here the difference is though there is only two banks, it is the Bank of Baroda with Us dollar and Dirham amounts and the Mashreq Bank, Us dollar and Dirham
20 amount.

ADV CHASKALSON SC: And 718.5?

MR HOLDEN: 7 point this is a catch in hand tabulation which is updated throughout which is, as you will see when we go through some of the visualisation at times as a means of breaking an electronic record of fund flows cash

is taken out in hand or received from different people and it is recorded in this particular spreadsheet.

ADV CHASKALSON SC: And, this spreadsheet will become more important when we deal with Transnet. We not going to deal with it too much today but will you briefly describe to the Chair what actually happens on a sort of weekly basis thereafter well not exactly weekly basis but on a regular basis thereafter?

MR HOLDEN: On a regular basis thereafter Sanjay
10 Grover inserts the transactions that have occurred since the last spreadsheet was shared with Ashu Chawla and then sends that updated spreadsheet to Ashu Chawla which allows us overtime as we will show with the Transnet discussion to track all movements into and out of these accounts between February 2014 when this accounting system was started and the end of 2014 when our Gupta Leaks's records goes silent.

ADV CHASKALSON SC: Thank you. So that is the first set of sources that you are using for the offshore sources,
20 then you refer to go back to page 42. You describe at paragraph 47 you talk about a separate set of documents relating to Gupta Enterprise well sorry, I can understand that these documents relate specifically to accurate investments and what we now going to do is look at each one of these four offshore companies and documents

specifically relating to each one of those companies evidencing control from within the Gupta Enterprise and the first set relates Accurate Investments at UAE 2. Can I ask you to go to UAE 2 at page 719 and briefly take the Chair through what you have in the UAE 2 bundle?

MR HOLDEN: Certainly. Chair we have an email that is sent from Ashu Chawla from his Sahara address on the 13th of October 2012 it is sent to Asha Kanarihum and the subject is forward Accurate Investments Limited and it
10 provides details of Accurate Investments registration number and address and phone number plus also the address for Sanjay Grover presumably Ashu Chawla sent this to Asha Kanarihum for him to be able to compile documents that made reference to Accurate Investments and refer to the correct details.

ADV CHASKALSON SC: And then down the page at 721?

MR HOLDEN: 721, we have an email that is sent from Sanjay Grover's Hotmail account at sanjay.grover@hotmail.com. It is sent on the 27th February
20 2014 and it was sent to Ashu Chawla and to a separate account that was operated by Sanjay Grover and the subject is Linkway and the text of the message is effectively it is a confirmation of payment that is provided by Mashreq Bank that shows that Accurate Investments has made a payment to Linkway Trading.

ADV CHASKALSON SC: Then over the page we get to UA3 the deals with Fidelity and can you briefly tell the Chair what the UA3 had deals with?

MR HOLDEN: UA3 refers to a correspondence in which, wait let me start from the top actually Chair. This is an email that was sent for Ashu Chawla to Sanjay Grover on the 25th of July 2014 with the subject forward aircraft purchase agreement and it has an attachment who is that said aircraft purchase agreement.

10 The substance he Ashu Chawla direct Sanjay Grover to please. Sanjay Grover apologies to please sign these attached documents and send them back to Ashu Chawla and the documents are a purchased agreement between Fidelity Enterprises and Green Link Capital Corporation to purchase as far as I can recall it the helicopter.

ADV CHASKALSON SC: And maybe if you could go all the way down to 726 were it comes a bit clearer, the foot of the page.

20 **MR HOLDEN:** Here we have the attachment to that email, and this is – you could see at 731 Sanjay Grover has actually signed it and return it to Ashu Chawla.

ADV CHASKALSON SC: Oh sorry I am talking at page 726.

MR HOLDEN: Oh apologies.

ADV CHASKALSON SC: Foot of 726 and then go down to 727.

MR HOLDEN: Apologies, so we have here an email from Ashu Chawla his Gmail account which is asherc111@gmail.com, he effectively sending it to himself that is Ashu Chawla Sahara address he is – it is sent on the 19th of June 2014. The subject is Ford LOI signed by seller. LOI is letter of intent and it includes a pdf file which is reproduced over leaf, the substance of this is
10 to...[intervene]

ADV CHASKALSON SC: May we go down to the bottom of that page where there is the forwarded email from the, Rouhitma Massa email 1:32pm.

MR HOLDEN: What we see here is an email from Rhahid Matar at Heritage Aviation and Heritage Aviation has been known from the Gupta Leaks and media reporting was the entity that the Gupta Enterprise created or was trying to establish in India to move into a rental market for helicopters. It is sent on the night, at the 18th of June
20 2014. It is sent to a number of different people including Ashu Chawla and Steve Girlinger who is a, Steve Girlinger is a, well better to describe him as a sales agent on behalf of this particular transaction.

ADV CHASKALSON SC: And the text to the email?

MR HOLDEN: The text of the email says:

“Dear Mr Steve.”

So this is addressed to Steve Girlinger.

“Please find attached a fresh letter of intent the name of new company. Please get it signed from seller, please also get the revised transfer advice from the Escrow agent the money will be transferred tomorrow morning, until then please get the revised, signed by the seller and resend to us.”

ADV CHASKALSON SC: And then finally over the page
10 on UAE3 page 727 we see who the new sellers is.

MR HOLDEN: So this is the signed agreement which is the seller is Green Link Capital Corporation. It is signed on the 6th of June 2014 and it is signed by overleaf on page 731 by Sanjay Grover who list himself as a director of Fidelity Enterprises on the 18th of June 2014.

ADV CHASKALSON SC: Thank you. Can we then turn to the Gateway bundle which deals with, sorry the bundle dealing with Gateway the third of the four companies at page 750 UAE 4?

20 **MR HOLDEN:** 750?

ADV CHASKALSON SC: 750, and briefly tell the Chair what you have attached as UAE 4.

MR HOLDEN: At UAE 4 page 1 we have an email that is sent from Ashu Chawla's Sahara's address ashrasahara.co.za sent on the 2nd of July 2012. It is sent

to Sanjay Grover and the subject is regarding US dollar Gateway bank detail with Iban and Ashu Chawla responding on this email he says:

“Thanks.”

He is responding to an earlier email that is sent on the same day by Sanjay Grover to Ashu Chawla in which Ashu Chawla is been given the bank details for Gateway Limited Standard Chartered Bank accounts that are foreign, so a transfer can be made to accounts.

10 **ADV CHASKALSON SC:** Thank you and if you go lower down on 751, UAE 4 it is the email from Grover to Ashu on September 17th 2012 at 2:41pm.

MR HOLDEN: Certainly Chair, this an email from Sanjay Grover’s Hotmail account to Ashu Chawla and Sanjay’s Grover separate email account with the subject Gateway Limited.

CHAIRPERSON: Is it 751 Mr Chaskalson?

ADV CHASKALSON SC: Yes Chair.

CHAIRPERSON: Oh.

20 **MR HOLDEN:** It is the second email.

CHAIRPERSON: Oh yes, no alright I think I was looking at the one at the top, okay alright, yes, thank you.

MR HOLDEN: And this says Sanjay Grover is indicating to Ashu Chawla. It says:

“Please note the details for agreement as below.”

With the office address and it gives their office address and registration number for Gateway Limited and Sanjay Grover's P.O. box address to receive documents.

ADV CHASKALSON SC: And then finally the Global Corporation bundle which is UAE 5 starting from 777. Maybe start on 778 which indicates sort of measure of how the system work. The email from Narajan to Ashu, Friday November 4, 20:11 the second email in the string.

MR HOLDEN: So, Chair at UAE 5 page 2, the second
10 email...[intervene]

ADV CHASKALSON SC: No, it is page 778 of the bundle.

MR HOLDEN: Sorry page 778, I was just reading the red number. It is an email sent from Ashrif Marianter to Ashu Chawla with the subject line agreement with Global sent on the 4th of November 2011 and he says:

"Ashubay enclosed please find the completed agreement, please forward to Sanjay G."

Which I assume is Sanjay Grover.

"For his signature. Please ask him to put his email
20 ID and his full name on page 17, Annexure A. Once you receive the mail back from him please forward to me as well best regards Ashrik."

ADV CHASKALSON SC: Can we then go back to the main body of your statement, where you describe what that subcontracting agreement was at page 49 paragraph 85.

MR HOLDEN: Absolutely, should I read it or.

ADV CHASKALSON SC: No, no if you can just explain to the Chair what that subcontracting agreement was and maybe what we need to do overnight is to bring the subcontracting a copy of the subcontracting agreement as well.

MR HOLDEN: So Chair the subcontracting agreement was a subcontracting agreement that was to be entered into between Global Corporation LLC and Newlani Unalani
10 Management Services with a CIPC registration number 2008/020998/07 the agreement envisaged that Global Corporation would for a fee of R10million provide certain services to Newlani Management Services and Unalani Management Services at that time was anticipated to be the service provider for the project in the Free State known as the City of Tomorrow.

ADV CHASKALSON SC: And then it gets to the second set of banking records offshore that we see and these are what you call the UAE ledgers. Can I ask you to page 53
20 and will you describe to the Chair or will you explain to the Chair what these UAE ledgers are?

MR HOLDEN: Absolutely. Chair we discovered in the Gupta Leaks relatively frequent updates of what was happening in the offshore accounts which were being sent by sent by Sanjay Grover to Ashu Chawla's and of

particular importance here, was a document that was appended to an email to Sherech Totajo who I describe earlier and employee of the Gupta Enterprise abroad in India and it is sent to Tony Gupta's, Rajesh Gupta's Sahara email address Tony@sahara.co.za. It is sent...[intervene]

ADV CHASKALSON SC: Can I just stop you there if you go to page 370 can you identify that as to which you are referring and it is Ledge 31A at page 370.

MR HOLDEN: That is correct so Ledge 1A at page 370 is
10 the email Chair.

CHAIRPERSON: Let me get there please, thank you, yes.

MR HOLDEN: And in the email Sherech to Jojo from his Gmail account FKtajojo@gmail.com sends an email to Tony Gupta on the 30th of April 2013 with the subject forward visit observations and he attaches a document by the name of bank summary 2014 which is an excel spreadsheet and he says:

“Respected Sir,

Please find below the email sent to Ashu G for 2014
20 with regards to Resto Tajay.”

And the substance of the correspondence that falls there under is correspondence between Ashu Chawla and Toteje in which they are consolidating and correcting certain errors in a ledger and once those errors have been

corrected they are being sent on to Tony Gupta for his information.

ADV CHASKALSON SC: And can you then go up to page 340 and identify the document that you see there?

MR HOLDEN: Absolutely, Chair this was the document that I attached as Ledge 1.1 to the report. This is the first page of the excel spreadsheet that was attached which we refer to as the UAE Ledgers.

ADV CHASKALSON SC: And can you briefly describe to
10 the Chair how the spreadsheet operates, how the ledger works?

MR HOLDEN: Absolutely should I do it on the screen or should I carry on with the hardcopy?

ADV CHASKALSON SC: Chair we in your hands I do not know if the copies in front of you are sufficiently clear.

CHAIRPERSON: At page 340?

MR HOLDEN: At 340 and then 341.

CHAIRPERSON: Ja, 340, 341 are quite clear.

ADV CHASKALSON SC: And 342 and all the way down
20 to...[intervene]

CHAIRPERSON: 341, 342...[intervene]

ADV CHASKALSON SC: We have had major difficulties Ledge 1.2 which starts at page 345.

CHAIRPERSON: Ja, 341, 342, 343 are fine 344 is fine, 345 is not so bad.

ADV CHASKALSON SC: Okay 345 is as bad as it gets so we can continue. So if you can then take the Chair through this ledger that was attached to that email to Tony Gupta and explain how it operates.

MR HOLDEN: Certainly, so what we have on page 342 which is overleaf we have a recordable of different cash in hand transactions.

CHAIRPERSON: Okay did you say 342?

MR HOLDEN: Correct.

10 **ADV CHASKALSON SC:** I think go back to 340 which is Ledge 1.1.

MR HOLDEN: So at 340 and 341 what we have is a summary of all the transaction that have occurred against particular names. So if I was going to give one example on page 340 you will see an entry for Estina Pty Ltd an against that amount is a Us dollar amount of 8million 348 thousand 700dollars and that is to be read to mean that Destine Pty Ltd has over the period of this ledge paid in that amount into this collected Gupta Enterprise offshore
20 banking system.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: And maybe by way of comparison if we can look at the entries a little higher up in respect of Browns Sandton City. I do not know if you know what Browns Sandton City is.

MR HOLDEN: Yes, Browns Sandton City is a jeweller and what we have, we have two entries for Browns Sandton City – I should point out that Sandton City is misspelt I have it here as Suntan City. What you see to the right of those entries is 230thousand 991.34 Dirham and because that is enclosed in brackets we know that that is a payment out of these accounts. So that effectively means that Browns Sandton City has been paid that number of Dirham from these consolidated offshore ledger accounts. We will
10 probably get to this at a later stage but the next to Browns Sandton City at the top it says 600thousand by checking the reserve back records we were able to confirm that the Dirham amount of 230 thousand was roughly equivalent to 600 thousand rand.

ADV CHASKALSON SC: So that is ledger 1.1 which runs over the page to 341 and we have already mentioned the Bargofield shares that we saw there being paid out on this ledger.

CHAIRPERSON: Ja.

20 **ADV CHASKALSON SC:** Can we then go to the 342 and can you explain what 342 is?

MR HOLDEN: Certainly 342 is a recordal of expenses in cash that are being transmitted of the Gupta Enterprise accounts to a variety of different entities. Maybe I am jumping ahead here but one of the entities for example on

the 24th of September 2013 in the second box gives Nadi X an amount and that is how we ascertained that that was most likely Hawala transaction because there is quite a famous Hawala exchange network called the Nadi Exchange.

ADV CHASKALSON SC: Before you said these are payments in cash. Can you just look at the first box at the top of the page?

MR HOLDEN: Yes sorry those are receipts that have been
10 recurred in cash and the box below are payments out.

ADV CHASKALSON SC: And are there any entries that you would want to flag now in relation to receipts?

MR HOLDEN: There are, oh there are one particular one which is of interest is the first three entries are for JJ T or alternatively JJT direct in bank. JJT was short for JJ trading, JJ Trading is an entity that ultimately is controlled by an Indian group of companies by the names of World windows Network but most importantly was the entity that signed various agreements with China South Rail, China
20 North Rail and others to receive a percentage of a locomotive contracts from Transnet.

ADV CHASKALSON SC: And this...[intervene]

CHAIRPERSON: I am sorry that third one the directing bank is not part of the name that still just stays JT directing ban is on its, just explain something?

MR HOLDEN: I think so yes I think that is a sort of a short hand account of what then actually happened with the cash.

CHAIRPERSON: Ja, okay.

ADV CHASKALSON SC: If we go down to the next part of the ledger which starts at page 344. Are you able to cast any light on this I must confess I have never been able to?

MR HOLDEN: I have always understood it to mean that the – this is a range of different expenses or amounts paid
10 out – I think we may be missing a top line here because this is actually separated into two columns. One says received and once says sent. So on the left hand side which I am sure we will be able to organise a better printed version. But on the left it is amounts received and a description of where they come from and on the right side is amounts paid out.

ADV CHASKALSON SC: And then ledger 1.2 that starts on 345, first is that ledger a different spreadsheet or part of the same spreadsheet attached to that email to Tony
20 Gupta?

MR HOLDEN: It is the same spreadsheet. I think I maybe got a little bit confused to be honest.

ADV CHASKALSON SC: In what way?

MR HOLDEN: So bank summary – the ledger we now is the email that was attached, that we described previously.

ADV CHASKALSON SC: The Tony Gupta email.

MR HOLDEN: Absolutely this is the ledger we have just looked at now is actually an earlier email.

ADV CHASKALSON SC: Well that we need to correct.

MR HOLDEN: Yes.

ADV CHASKALSON SC: So I think we need to clarify that after the lunch break.

MR HOLDEN: Absolutely.

ADV CHASKALSON SC: But the – so ledger 1.2 is the
10 ledger attached to the email to Tony Gupta?

MR HOLDEN: That's is correct.

ADV CHASKALSON SC: Okay so that once can you describe it?

MR HOLDEN: So if I may just describe the sequence of these two ledgers and why attached ledger 1.1 is mainly for completeness sake but it was an earlier version of the accounting ledgers that were used and as you can see there they are quite difficult to read and understand and then they were replaced by new set of ledgers which are
20 substantially easier to read and more fulsome in terms of what there include and what we have across this ledger is if you look on page 345 on the left hand side, I know it is very small, you will have the columns names company and if you read down that column you will see it is different entries for Global Fidelity, Gateway and Accurate as well.

To the right of that you have a date column which indicates the date of the transaction and then it gives you a particulars description over there which will then describe the nature of the transaction and the direction of the money flows. So I might choose an example which would be easier to follow or what I should say is next to the particulars we have eight columns, we have a rate figure which is the rate of Dirham, Dollar exchanges at a particular time and then we have a cash entry figure but

10 actually this is irrelevant to this particular sheet because this ledger is actually a separate cash sheet as well and then you have the very top heading there is AED which is Dirham and then it provides all the various bank accounts. So Standard Chartered Bank is the first one, Bank of Baroda, National Bank of Abu Dhabi and then Mashreq Bank and then a total on the – is used by them to where an amount is in Dirham they translate it into dollars. And then to the right of that is a heading USD and again it gives Standard Charter Bank, Bank of Baroda and National Bank of

20 Abu Dhabi and Mashreq bank accounts so these all of the account in US Dollars with the different banks. And then there is a Euro figure to the right which is just for Standard Charter Bank and then total running tally to the right hand side which provides a total of the transaction if it is in – if it is more than one implicated in that particular transaction.

The way in which this operates and maybe I should give a good example. So if we look at the second entry from the top we have – on the left hand side the company is indicated as Global. The date is given as 20/03/2013 so the 20 March 2013 and the particulars is FEL and we now know from looking at this document that FEL stood for Fidelity Enterprises. And if you scan over to the right you can see that there is an amount of \$60 000 from the Standard Charter Bank account in brackets which means that \$60 000

10 was transferred from Global Corporations US denominated account at Standard Chartered Bank to Fidelity and because this is a double entry ledger you will see on the entry below is Fidelity and Fidelity records the same date it records particulars Global Corporation so we know that they had received funds from Global Corporation and if you scan over to the right you see under the US Dollar figure the exact amount as a positive integer of 60 000. So we [00::01:50] together we can see that \$60 000 has been transferred from Global Corporation, Standard Chartered Bank account in US

20 Dollars to Fidelity's Standard Chartered Bank in US Dollars.

CHAIRPERSON: I am sorry Mr Holden you lost me on Fidelity. Can you start on the one relating to Fidelity just indicate which line I was trying to locate it here?

MR HOLDEN: Okay should I start from the beginning Chair?

CHAIRPERSON: Ja okay.

MR HOLDEN: Okay. So – at the top left you see the entry Company.

ADV CHASKALSON SC: This may be a useful time to use the screen because you can then highlight the columns that you...his may be a useful time to use the screen because you can then highlight the columns that you...

CHAIRPERSON: Ja.

MR HOLDEN: What we have – apologies Chair. We have now on screen I will be zooming in very shortly. Just to give
10 you a sense of how the spread sheet works. On the – I will zoom in here so you can see it a bit better. But on the – you have different sheets describing different transactions. Over here is the summary sheet which we have already discussed. Here is a cash sheet we discussed as transactions. And then we have a consolidated sheet which has everything but the cash transactions and then for some reason that is replicated in the all spread sheet over here – so the sheet – and I will focus on that.

So what we have for example so as I mentioned
20 before you have the Dirham amount up here – the Dirham column and you have a USD column up here and the Euro column and beneath that are these...

ADV CHASKALSON SC: Sorry Mr Holden you have been working with this stuff every day for two years – opposed to us who have come a bit more recently. You can go a little bit

slower.

MR HOLDEN: Apologies.

ADV CHASKALSON SC: And maybe open – yes open up the columns.

MR HOLDEN: Okay.

ADV CHASKALSON SC: So that the date becomes visible again once we zoom.

MR HOLDEN: So what we are looking at here is – I am afraid it is a little bit small on the screen but the sheet name
10 is All which is a recordal of all the transactions on – in this ledger beginning from the 1 March – as you can see here is the date – for all of the four companies within the ledger.

So to give you ...

ADV CHASKALSON SC: And can I just make a suggestion? Can you scroll – zoom out a little bit and show the division between the Dirham side and the Dollar side.

MR HOLDEN: Okay.

ADV CHASKALSON SC: To start.

MR HOLDEN: So what we have here is the Dirham side –
20 the AED side over here. And underneath that you have the banks and I will just zoom in if that is okay so we can see the individual banks.

So here we have AED and then SCB stands for Standard Chartered Bank, BOB stands for Bank of Barodo, NBAD stands for the National Bank of Abu Dhabi and MB

stands for Mashreq Bank.

So what we can see from these columns these columns record so if we had to look at this column for example here that I am highlighting column F what it shows is all transactions taking place in Dirham denominated accounts at Standard Chartered Bank and then we can determine which company is running that account by having a look across to the left. So if we have – let me give you a different example which would be a bit easier to see.

10 So we have here on the left hand side we have the company Global. So Global is involved in this transaction. And it gives that is this here Global is highlighted here. On the 19 March 2013 there is an account – there is a transaction involving Sahara. So we know looking at these three columns that there are some funds flow between Global and Sahara. We then scroll to the right to establish what the nature of that funds flow was and what we can see here we finally hit an entry here and I should point out there is never more than one entry per line.

20 And what we have we can see here is this is under the US Dollar column which you can see up here. Underneath that you can see Standard Chartered Bank and it is an amount of 140 029.87. So that means that Sahara paid \$140 029.87 to Global on the 19 March and this is effectively how the spread sheet runs throughout.

ADV CHASKALSON SC: Now you are dealing there with a transaction between one of the four companies in Dubai namely Global and a company – and a company other than those four. So in respect of those transactions you will just see one entry reflected on the spread sheet.

MR HOLDEN: That is correct.

ADV CHASKALSON SC: Can you now go to a transaction between two of those companies because it will appear twice.

10 **MR HOLDEN:** Absolutely.

ADV CHASKALSON SC: Once in mirror images of itself.

MR HOLDEN: So what we have I am highlighting here Chair is at row 16 we have the company Global. So that is – and then the date is 20 March 2013 and on the right here we have FEL which is short for Fidelity and we can see if we scroll across ...

ADV CHASKALSON SC: Sorry before you leave FEL can you just give Fidelity's full names because those are the initials of Fidelity?

20 **MR HOLDEN:** Yes it is Fidelity Enterprise Limited so that is what FEL stands for.

CHAIRPERSON: Okay.

MR HOLDEN: And then if we go across to the right here we see an amount under the US Dollar column for Standard Chartered Bank of [60 000] just over there Chair if you can

it. And what we know that to mean is that Global paid to Fidelity \$60 000 from Global Standard Chartered Bank account that is denominated in US Dollars and then we will see a matching transaction involving Fidelity which occurs on the following line. So on the same date it records Fidelity on the left hand side the 20 March 2013 Global Corporation LLC because Global is the party that has paid Fidelity in the line of both and if you scroll to the right here you see \$60 000 as a positive integer which means this is recording
 10 the receipt of \$60 000 into Fidelity's Standard Chartered Bank US Dollar account and as you can see here which I might just zoom in so it is a little bit easier to see – these two cells here they correspond – they match up so it is a double entry ledger. So you can see the top one is the payment out and the payment in between the two accounts.

ADV CHASKALSON SC: Thank you Mr Holden. Can I – can I ask – I mean we will go into some detail in relation to individual transactions later when we are looking at the precise flows from Estina funds. Can I ask you is there
 20 anything else in relation to this ledger that you would want to draw to the attention of the Chair on a general basis?

MR HOLDEN: There is quite a number of different things. The one thing I should mention is – and you will see it on – if we were to turn to the fund page summary sheet which is at 4 – at 340 of the bundle Chair. It makes for very interesting

reading the entities that are paying into and out of these four companies the Gupta Enterprise companies and for our purposes I would like to highlight a couple just to flag them for your own interest.

The first obviously is the Estina Limited amount which gets paid \$8.248 million and I think you have every right to ask why Estin Limited is paying this amount of money to an offshore company.

Below that is an entity by the name Flamingo
10 International which is – which pays in \$100 000 an Flamingo International is a duty free entity.

We also have Unova Manager in Gauteng which I understand from my evidence leader he may be leading separate evidence on a certain point.

ADV CHASKALSON SC: That may well be do you know who controls Unova Management?

MR HOLDEN: I am actually not sure off the top of my head okay.

ADV CHASKALSON SC: And I will not put words in your
20 mouth.

MR HOLDEN: Okay. Below that is JJ Trading which we can see is a quite large amount of money coming in \$1.372 million being paid into this account and then the final one if I may is to indicate – actually there are three more if I may?

There is entry called...

ADV CHASKALSON SC: Sorry, sorry can you go back to JJ Trading because there are in fact two separate amounts there?

MR HOLDEN: Yes there seems to be a mistake in the ledger entry. The – the sum total on the left has to be wrong because what we can see is – it gives a sum equivalent of AD on the far right hand side which is 5 million Dirham which is 1.372 million multiplied by the Dirham foreign exchange rate.

10 **ADV CHASKALSON SC:** Is that clear? It is not the sum of the Dirham's and the dollars exchanged? Maybe we can come back to this.

MR HOLDEN: Actually you are right there.

ADV CHASKALSON SC: So the – the total columns that say AED and USD.

MR HOLDEN: That is correct. Apologies

ADV CHASKALSON SC: Relate to separate cumulative transactions.

MR HOLDEN: That is correct. So we have 1.267 million
20 Dirham plus \$1.372 million coming into the account and that is equivalent in total to 5.049. Thank you for correcting me.

Below that I would also like to highlight Lieber against which there is an amount of \$1.117 006.00 so it is \$1.117 million and as we will discuss in relation to the Transnet contracts Lieber received crane contracts from

Transnet and was making payments through to a Gupta Enterprise Companies at the same time.

And then two more entries if I may? Below that is Linkway Trading which indicates \$3.932 million and it is obviously showing that \$3.932 million is being paid from these Gupta accounts into Linkway Trading in South Africa and then the final one I would like to mention is Oakbay Investments which is on the following page on 341 against which there is a figure recorded of \$4 million in brackets
10 which shows that from these Gupta Enterprises accounts formally and it was paid to Oakbay Investments.

CHAIRPERSON: So those companies you wanted to highlight are Estina, Flamingo, Unova, JJ Trading, Lieber, Linkway and Oakbay?

MR HOLDEN: That is correct Chair.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: Thank you Mr Holden. I am just trying to see where we are in terms of our offshore sources. We are going to leave these ledgers now but Chair just to
20 under – for future reference in relation to Ledger 1.2 which is the total ledger – the All button or tab that Mr Holden showed us a short while ago.

CHAIRPERSON: Which starts at page 345?

ADV CHASKALSON SC: That is correct Chair.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Because it runs for several pages the pages that follow do not have the column headings on them and it may be a useful exercise now or maybe we could do it at the break that we could actually just write in – you will see the column headings on page 345. It is the same column headings all the way through to page 347.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: And then we see them again on page 348 but not on page 349, 350, 351, 352, 353 and it may
10 be – I think during the adjournment if that is alright we will –
annotate your copy?

CHAIRPERSON: Yes.

ADV CHASKALSON SC: With those column headings because we are going to come to a lot of these individual entries later.

CHAIRPERSON: Ja I think that will be helpful.

ADV CHASKALSON SC: Can I – these ledgers are documents that we find on the Gupta Leaks. You have done a corroboration exercise in relation to these ledgers. Can
20 you explain to the Chair what you have done to check that the entries on the ledgers correspond – can be independently verified?

MR HOLDEN: Certainly. Chair we work from a number of different sources. One of the sources is the Reserve Bank currency flow analysis which allows us to confirm the fund

flows between the Gupta Enterprise companies and South African entities that are reflected in the ledger.

We can also check against ...

ADV CHASKALSON SC: Sorry slow down there. So there are cross-border records from the Reserve Bank in relation to individual – any individual entity that transfers money into South Africa from offshore or received money offshore from South Africa those records are kept at the Reserve Bank? And so you have used those records to corroborate
10 transactions on these ledgers. So where the ledger refers for instance we saw a – an amount earlier where Global paid 4 million – I think it was Global or we saw an aggregate amount of 4 million going into Oakbay from those Dubai companies. Would you be able to trace a Reserve Bank cross-border transaction record that matches that?

MR HOLDEN: Absolutely. Well we will see and we will come to that when we look through the visualisations. The Reserve Bank conducts its searches against the company names of Gateway Limited Global Corporation and we are
20 able to trace from that the payments that are made into Oakbay Investments. It is a payment of \$3.1 million and then a separate payment of \$900 000.00 which are both reflected in the Dubai ledgers – the UAE ledgers apologies and are also reflected in the Reserve Bank transfer of funds.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: So that is one source of corroboration using the Reserve Bank cross-border transaction records. Can you give us another source of corroboration?

MR HOLDEN: Certainly. So in the instances where transactions are taking place between South Africa and one of the offshore entities they would also be reflected in the counterparts of South African Bank Statements.

So for example when Estina makes a transfer out to
10 Gateway Limited which is matched by the Reserve Bank it also reflects on Estina's bank statement as well which gives us an additional corroboration of that transaction.

ADV CHASKALSON SC: And any other sources of corroboration?

MR HOLDEN: Certainly. The commission provided me with access to a number of bank statements for certain of the entities abroad. One of those bank statements was for Gateway Limited at Standard Chartered Bank which was attached as far as I understand to an internal compliance
20 discussion about whether Standard Chartered Bank should be maintaining their accounts or not.

But that included a series...

ADV CHASKALSON SC: Sorry if I can just correct you there. That is a – those accounts were furnished to the commission by the NPA who has received them pursuant to a

mutual legal assistance request. And maybe if I can take you to those accounts. I will have to find them. If you go to 598. Those are the records that furnished to the commission from the NPA pursuant to – from the UAE authorities in relation to Gateway and the transaction records come at the end of that bundle. So if you – if you go all the way down to 621 one starts getting transaction records. And the actual bank statements themselves are annexure T from page 624.

MR HOLDEN: So if we look if I may at page 624.

10 **ADV CHASKALSON SC:** Yes.

MR HOLDEN: One good example of something we were speaking about earlier is payment for example to Browns Sandton City made on the 3 December 2013 which is the last – the second to last entry on page 624 which then is corroborated against the same entry in the ledgers which reflected a R50 000.00 payments to Browns Sandton City.

ADV CHASKALSON SC: Can we – you have in fact if we go to page 57 I think it is prepared a table setting out the transactions which on a selection of transactions on those
20 ledgers that you have been able to corroborate independently. And can you just briefly explain to the Chair how this table works?

MR HOLDEN: Absolutely. So Chair we have on the left hand side we have the date that is recorded in the ledgers and the amount that is recorded in the ledgers. And then

extrapolated from the ledgers we understand who the payee is and who the beneficiary is. So I – those four first four columns are drawn from the ledgers and then the verification the corroboration is provided by the documents to the right there. So for the first entry for example we are able to confirm that amount of money is paid by Sahara to Global Corporation by looking at the Reserve Bank data for Global Corporation.

ADV CHASKALSON SC: And if you look at the second line
10 there is in fact an additional source of corroboratory material that you have not mentioned yet.

MR HOLDEN: That is correct. What the commission has also provided me with is HSBC Dubai bank statements for JJ Trading.

ADV CHASKALSON SC: Sorry if I might just clarify they are not bank statements they are HSBC's transaction records. So they are not in the form of a statement they are in the form of a transaction record which HSBC has confirmed is an accurate set of transaction records.

20 **MR HOLDEN:** That is correct. So against that were able to confirm the payments from JJT Trading to Global Corporation and this is something that we have never been able to do before Chair which is very useful. We have known that this transaction has taken place according to the ledgers but because none of – this transaction – the second transaction

here involving JJ Trading and Global Corporation took place offshore we never had any means of corroborating that but by the commission securing those transaction records we are now able to corroborate the fluidity of that as well.

ADV CHASKALSON SC: Chair obviously at the time that Mr Holden prepared this table like the previous table he did not have paginated references to the bundle but what I have – would suggest is that again we develop a – an enriched version of this table which will give two references. One the
10 reference to the ledger on the left hand side in terms of the bundle reference and two the corresponding reference to the independent corroborating material on the right hand side.

CHAIRPERSON: Okay. Thank you.

ADV CHASKALSON SC: We have reached one o'clock it has been a very dense morning Chair. We should take the break.

CHAIRPERSON: Well it is necessary it has got to be done and it is very important information so – so – alright let us take the lunch break we will resume at two o'clock. We
20 adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay let us continue.

ADV CHASKALSON SC: Thank you, Chair. We were

dealing with the corroboration exercise that Mr Holden has done to confirm the authenticity...

Well, the correctness of these letters with independent evidence. I am not going to ask him to say more about that because we will produce a referenced, a cross-referenced annexure for you Chair on that.

And of course, when we come to look at individual money flows from the Estina deposits in the process, we will see that they appear both on the – by ledge side and on the
10 domestic side when they involve cross-border transactions.

What I want now to do before we... But before we... Joh, if we call talk like laundering strategies as well. As – before we leave the ledgers, I just want... Mr Holden, can you go to Annexure A, page 113?

CHAIRPERSON: On the same bundle we were using before lunch?

ADV CHASKALSON SC: That is correct, Chair. And this is a document where I think we may need the screen.

CHAIRPERSON: Oh, okay.

20 **ADV CHASKALSON SC:** Because this is probably the...[intervenes]

CHAIRPERSON: But you said it is 188, the page?

ADV CHASKALSON SC: 114.

CHAIRPERSON: 114.

ADV CHASKALSON SC: Annexure A.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: Oh, 113. I am sorry.

CHAIRPERSON: Oh, okay.

ADV CHASKALSON SC: It runs over.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: And Mr Holden ...[intervenes]

CHAIRPERSON: Mr Chaskalson, I was going to say, if it –
if it is possible. I would prefer a screen that is closer. I do
not know if it is possible to have one there. You know, we
10 sometimes we have had it here but that is when there are no
witness there. Closer, if it is possible. Whether it is this
side or that side, it does not matter. Maybe from tomorrow if
that is particularly possible but if it is not it is okay.

ADV CHASKALSON SC: We will certainly explore this after
the session.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: So if it is possible, we will do it.

CHAIRPERSON: Ja, okay alright.

ADV CHASKALSON SC: Mr Holden, can you explain to the
20 Chair what Annexure A is?

MR HOLDEN: Absolutely. Chair, Annexure A is a document
that I created. The way I created it, was to take all these
transactions that appear on the ledgers for the consolidated
spreadsheet and to bring them into a new spreadsheet.

And the reason I have done this is because, we then be

able to show relatively clearly that the funds that were ultimately paid back to South Africa or outwards to other recipients, would derived exclusively from monies that were paid by Estina.

And the way to achieve that, is to create a running balance on those accounts. So what this spreadsheet does and I will draw the Chair's attention to the screen and I will zoom in. Do not worry.

So what we have on the left-hand side is the company
10 that identified, the date and the particulars just as was the case in the previous ledgers.

The primary difference is that we have words that says Standard Chartered Bank over here, for example. Then on the formula next to it, which generates a running total balance in that account.

And that allows us to determine whether the funds that are transferred out of that account at any one time, are funds or drawn exclusively from one particular transaction.

So if I may and I have done that for every single of the
20 bank accounts that are used here and the formula is relatively simple. You can see it up there. It is just adding the two columns together.

I will show you Chair one example. Probably one of our most famous examples.

CHAIRPERSON: I am sorry Mr Holden. Just so that I can

understand whether this applies – will apply all the time. Where in this spreadsheet you have got the entity on the extreme left column, is that always going to be the company that received the money or that paid the money or it might change?

MR HOLDEN: No, no. That is great. It will either receive or pay money if the entry is there.

CHAIRPERSON: Yes, but is it one or the other or it could be one or the other, depending?

10 **MR HOLDEN**: It could be one or the other, depending on whether the accounts reflect a positive or a negative ledger.

CHAIRPERSON: Oh, okay.

MR HOLDEN: So if it is in brackets, then it means that it is a payment out.

CHAIRPERSON: Yes.

MR HOLDEN: And if it is not a bracket, then it is a payment in.

CHAIRPERSON: Okay. It would ...[intervenes]

ADV CHASKALSON SC: Can I clarify...[intervenes]

20 **CHAIRPERSON**: Yes, yes.

ADV CHASKALSON SC: ...one of the important distinctions between this spreadsheet and the original ledger, which is, as I understand it, you have made two significant changes. You have taken the information on the original ledger and you made two significant changes.

The first is. You have organised it, not just by – not by date as the original letter is, but by company by date. So there is a discreet set of transactions by Gateway and then Accurate...[intervenes]

CHAIRPERSON: [Indistinct] ...[intervenes]

ADV CHASKALSON SC: ...and then Fidelity and Global.

CHAIRPERSON: H'm.

ADV CHASKALSON SC: And that enables you then to do your running balance because a running balance by company
10 because you are looking at one company, not intermingled four companies, you can then create a running balance for that company.

MR HOLDEN: That is correct Chair.

CHAIRPERSON: Okay now, what I was looking at is. At some stage the money would have come from Estina to some entity and from that entity to another entity. Blah-blah-blah. By the time you reach a particular – maybe the end – the money might have gone through various entities.

So when I look at that, do I – how do I see that in this
20 particular case, Gateway received the money or paid the money to somebody else?

Received it from Estina and then paid it to somebody else or what the position is. Is there anything on the spreadsheet that should tell me that?

MR HOLDEN: Yes, Chairman. So to use this example.

What we can see here is, obviously, the company on the left that is involved in the transaction is Gateway on the 5th of September and the particulars are Estina.

ADV CHASKALSON SC: We have lost it but we found you again on the screen.

MR HOLDEN: Okay. And if you were to scroll to the right, you will see a transaction as recorded and you will be able to establish whether it is a payment in or a payment out by whether it is in bracket or not. If it is not a bracket, that is a
10 payment in.

CHAIRPERSON: Oh, okay. So if it is in brackets, it is payment out.

MR HOLDEN: That is correct. It is a deduction from the balance.

CHAIRPERSON: Oh. But what it shows is, in relation to that company that appears on the extreme left.

MR HOLDEN: That is correct.

CHAIRPERSON: That is what it will mean.

MR HOLDEN: That is correct.

20 **CHAIRPERSON:** So if I look at the company on the – or entity on the extreme left and I see an amount in brackets, then I know that is an amount that was paid by that company paying it out.

MR HOLDEN: That is correct.

CHAIRPERSON: And if it is an amount that is not in

brackets, then I know that it is an amount that was received by that entity.

MR HOLDEN: That is correct.

CHAIRPERSON: Okay alright. No... And that principle will apply in most of the spreadsheets or not necessarily?

MR HOLDEN: It applies in relation to ...[intervenes]

CHAIRPERSON: This one?

MR HOLDEN: ...these ledgers that we are dealing with in relation to Estina.

10 **CHAIRPERSON**: The ledgers. Ja. Okay alright. Okay. Maybe you might remember as we deal with the spreadsheets, just remember to explain to me what the position is in regard to that, just so that I know who is received or who paid out.

MR HOLDEN: Okay absolutely. Thank you Chair.

CHAIRPERSON: Ja, okay.

MR HOLDEN: If I was continue with this example. So we can see here, for example, that – so Gateway is the company involved, Estina is a company that is recorded and
20 ...[intervenes]

ADV CHASKALSON SC: Sorry, Mr Holden. Can I ask you to slow down. If you go back because again I think you are much quicker than us on that. So you have got Gateway at row 118, column A.

MR HOLDEN: Ja.

ADV CHASKALSON SC: Which is the primary Dubai company involved in the transaction. Its counter party is in column C which is Estina.

MR HOLDEN: That is correct.

ADV CHASKALSON SC: The date is column B, which is the 5th of September 2013.

CHAIRPERSON: Yes. Ja, that is the kind of explanation I needed. [laughs]

MR HOLDEN: Okay.

10 **CHAIRPERSON:** Ja.

ADV CHASKALSON SC: And now if we go slowly across, we will eventually come to a number. If it is going to be ...[intervenes]

MR HOLDEN: All the way across, I am afraid.

ADV CHASKALSON SC: All the way across? Okay. So there is the first transaction. The only transaction on that line. That number because it has no brackets means that just under three million Dollars was paid into the Standard Chartered account of Gateway.

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

ADV CHASKALSON SC: By Estina. And if we go to the right, that means it took the balance of Gateway from just over one thousand Dollars. Sorry, just under 1 943 Dollars to 3 1918 Dollars.

MR HOLDEN: That is correct.

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

MR HOLDEN: So now that we know that – to return to the example – that Gateway has this amount of money in its Standard Chartered bank account, we can then go to the following entries to determine what they did with that money.

And I have highlighted one in yellow here because it is probably the most famous example. But if we were to return to the spreadsheet, on the four days after the amount was paid in by Estina...[intervenes]

10 **ADV CHASKALSON SC:** Okay slow down. We are still in the Gateway accounts.

MR HOLDEN: Yes.

ADV CHASKALSON SC: So that is the primary party.

MR HOLDEN: So the primary party is Gateway. The date is the 9th of September 2013. That is four days subsequent to the date that Estina paid Gateway and the counter party is Accurate.

And if we scroll again slowly to the right, we can see what actually – we can see that this is in brackets and
20 1.4 million Dollars. So we know that 1.4 million Dollars was transferred from Gateway to Accurate.

ADV CHASKALSON SC: Yes.

CHAIRPERSON: Yes.

MR HOLDEN: And it could have only come from Estina's funds because it was only Estina's funds that created this

working balance from which this transfer could be made.

CHAIRPERSON: Ja, just repeat that point Mr Holden.

MR HOLDEN: So we know that prior to Estina paying in money into Standard Chartered bank account, there was only a 1 943 Dollars in that account.

CHAIRPERSON: In Gateway's account?

MR HOLDEN: That is correct.

CHAIRPERSON: Yes.

MR HOLDEN: Once Estina made its payment, that
10 increased the balance to just over 3 million Dollars.

CHAIRPERSON: Yes.

MR HOLDEN: Which then gave it the funds to make a transfer out to Accurate of 1.4 million Dollars. Now if we go further up the spreadsheet which is a counter party which, remember, is Accurate. What we see here is the same transaction but reflected in Accurate's records.

ADV CHASKALSON SC: So now the primary party that we are looking at is Accurate?

MR HOLDEN: That is correct. So the primary party is
20 Accurate. The date is the 9th of September. The counter party is Gateway Limited. And if we scroll across again, we see the deposit of 1.4 million Dollars which increases the balances to 1.4 – just slightly over 1.4 million. So prior to that transaction we know that the balance in this account, for Accurate's account, was only 4 000 Dollars. Subsequent to

the 1.4 million being paid in, it is now 1.4 million and 4 000 Dollars.

The following or actually, the following entry rather than the following day. If we return back here, the primary partner – the primary company is Accurate also on the same day on the 9th and the counter party now is Linkway which is based in South Africa.

And if we scroll over to the right here, we see 1 347 400 Dollars in brackets, which means that we are able to confirm
10 that this amount is paid to Linkway.

And it could have only derived from Estina's funds because the balance was increased by the payment on the previous day.

ADV CHASKALSON SC: So in fact, there are two sets because the balance that came the previous day, came from Gateway as we have seen only out of Estina's funds and it increased the balance to 1.404 million which facilitated a payment 1.347 million to Linkway. None of that money would have been there without the originally Estina payment that
20 we saw at the start of the trial.

MR HOLDEN: That is correct.

ADV CHASKALSON SC: Now that payment of 1.3474(?) million to Linkway in South Africa, what does that payment do?

MR HOLDEN: Well, there are two transfers in total that are

made to Linkway. Both of those transfers are eventually invoiced in the Gupta records [fe-la-quay] as costs that are incurred against the wedding in Sun City.

ADV CHASKALSON SC: So what we are seeing here is 1.3474 million Dollars of Free State public funds that goes to Estina that then go to Gateway that then go to Accurate that then paid for the Sun City wedding.

CHAIRPERSON: Yes, okay. Of course, do the funds – is Linkway the last entity to have the money before the money
10 issued for the wedding or from Linkway, where does it go before – who expends it for the wedding?

MR HOLDEN: So I think what should be clarified is that, I think there is a bit of misconception about the precise nature of this payment. The important point to bear in mind here is that Linkway invoices Accurate for this amount and they invoice a total figure of almost exactly R 30 million.

It does not necessarily mean that all of that money was spent on the Sun City wedding. What it did do was to create a paper trail through which Linkway could present to its
20 auditors who are KPMG saying, this is why we have this money coming into account is because Linkway provided services on the wedding and ...[intervenes]

CHAIRPERSON: Oh, okay.

MR HOLDEN: Actually, if you look at the Linkway account, for example, you do not see suddenly a vast numbers of

expenses related to the wedding.

CHAIRPERSON: Okay.

MR HOLDEN: Instead, it is disbursed to other Gupta enterprise companies.

CHAIRPERSON: Okay.

MR HOLDEN: And we – what we see throughout is that whenever the funds return back to South Africa, they are then whizzed around the various Gupta enterprise accounts in South Africa including(?) with other operating funds that
10 they have.

CHAIRPERSON: Okay thank you.

ADV CHASKALSON SC: Can I maybe on this point take you to page 118, which is Annexure B?

MR HOLDEN: [No audible reply]

ADV CHASKALSON SC: Thanks. And can you identify to the Chair what we see at Annexure B?

MR HOLDEN: Certainly. This is the rather infamous invoice that is drawn up by Linkway Trading and their name is indicated at the top and their registration date and their VAT
20 number indicated thereafter.

And under the heading Tax Invoice, it gives the name Accurate Investment Limited and gives the address of Accurate investments in the UAE. So we know from this that Linkway is effectively billing Accurate Investments. And then below that is a serious of charges for specific costs that

were incurred by the Sun City Wedding.

The thing, I think, particularly useful to bear in mind is that if you would turn to the following page which is 121, you will notice that the ...[intervenes]

CHAIRPERSON: I am sorry. Did you say 121?

MR HOLDEN: That is correct.

CHAIRPERSON: Was I on the right page? I was on 118 before... I thought Mr Chaskalson ...[intervenes]

ADV CHASKALSON SC: You were Chair. It is not the
10 following page, it is the end of the invoice.

CHAIRPERSON: Oh, okay alright.

ADV CHASKALSON SC: Which is after all of these entries.

CHAIRPERSON: Okay. Ja, okay I am at 121 now.

MR HOLDEN: And did you see, at the bottom of the invoice, it provides the total amount excluding VAT. The total amount including VAT. And then the total. And then very neatly, all of these wedding expenses magically add up to R 30 million. And they very helpfully explain ...[intervenes]

CHAIRPERSON: And they match... I am sorry. They
20 match... I thought you said the expenses matched something?

MR HOLDEN: So the expenses here are tabulated in order to create the impression that Linkway has spent exactly R 30 million that Accurate must pay.

ADV CHASKALSON SC: I wonder if you can take the Chair

to where the R 30 million appears.

MR HOLDEN: That is correct. On page 121, at the bottom right hand corner in the final row, you will see their columns there. The first column is R 260 million. That is a total excluding VAT. Then there is a second column of R 3.6 million. That is the VAT that they charged. And the final column is R 30 million.

CHAIRPERSON: Oh, yes. Okay.

MR HOLDEN: I might also usefully point out, that if you go
10 slightly higher, the last entry is on that page.

CHAIRPERSON: I am sorry. That R 30 million, is it connected with the first R 30 million from Estina or not necessarily?

MR HOLDEN: [No audible reply]

CHAIRPERSON: Not necessarily. Okay. Remember the first payment at Estina was R 30 million there. So I thought maybe... Ja, okay. Ja, but it is Estina – it is provincial government money.

MR HOLDEN: Absolutely Chair.

20 **CHAIRPERSON**: Ja, h'm.

MR HOLDEN: As you will see as we do the visualisation, as far as I recall, the first payment of one point... The payment I have just described, related to the invoice drawn from the first payment that was made to Estina. Then there is a second payment that brings it up to R 30 million and that is

drawn from a separate tranche. But is, all in the end, Free State Government money.

CHAIRPERSON: Ja, okay.

ADV CHASKALSON SC: The, we would eventually get to following the money on each payment but... So one last topic that I would like us to address which is the systems of money laundering used in this case study. And for that, can I ask you to turn to page 24 of the bundle wherein your report you described different techniques used in money
10 laundering.

MR HOLDEN: [No audible reply]

ADV CHASKALSON SC: Can you explain to the Chair what you are addressing and – in paragraphs 5 and 6 of your report?

MR HOLDEN: Certainly. Chair, paragraph 5 speaks about the primary three principle steps that are involved in money laundering and this is defined by the Star(?) Recovery Initiative that is run by the World Bank.

The first step is placement and that is literally just
20 money being paid into an account from a criminal source.

The second step is layering in which that money is then usually then split up into smaller amounts and then put into all sorts of different banking and investment vehicles.

And then the final step is integration where those resources are then recompiled into a new asset or a new

bank – a new banking instrument which then allows it to be used in a normal formal economy.

And the idea behind this process is to make the origins of the funds as difficult to discern as possible and to provide an electronic trail so that if one of these parties is approached by a bank or a regulator or a law enforcement and say: Can you explain to me how you received these funds? They can say: Well, it derives from this loan. For example.

10 Rather than – there are so many intermediary steps, it will be quite hard to find the original criminal amounts. Within that, there are sub-categories which I described at paragraph 6.

And this in referencing specifically to layering. And there are two primary means of layering that we will focus on today. The first is called round-tripping which I think is relatively straightforward. It sort of implies what it means.

But the – here you have the original criminal amount that is paid out on a number of different occasions to various
20 different accounts or instruments and then eventually brought back into the original account.

And that is done to both increase same sort of outside revenue but also to try and disguise the origin, the criminal origin of the funds.

The second process is known as a loan-back which is

used extensively by the Gupta enterprise in relation to the laundering of the Estina funds.

Here, what you have, is a portion of the criminal proceeds or the criminal proceeds. It will be placed into a fixed deposit account and against that fixed deposit account a loan will be issued.

That loan is then spent in very many different ways. It is used to reintegrate the funds into the assets of the people who ultimately own the criminal assets. And then once that
10 process is concludes, the loan is settled by the closing of the fixed deposit account. And that creates – this is done for two or three different reasons.

Again, it makes it very difficult to discern the transfer of the way in which the funds have moved because unless you are aware that the loan has been granted against the fixed deposit, which is often not clear, you will not know that is the original source of the funds.

CHAIRPERSON: On the face of it, it looks like the amount ended in a fixed deposit or something and from there, it paid
20 – it was paid into the bank or it remains there for quite some time.

MR HOLDEN: That is correct Chair.

CHAIRPERSON: Yes. So if they have a – if they obtained a loan and bought some properties, you will not – it will not be easy to link the purchase of those properties to these

amounts that went into a fixed deposit or something.

MR HOLDEN: That is correct Chair.

CHAIRPERSON: Ja, okay.

MR HOLDEN: What that also does as well is because it creates a second money stream, if that is return back to the original accounts. So, for example, if Estina takes out a fixed deposit account and then a loan against that fixed deposit account who pays the loan amount back into the Estina current account, it looks like there is actually two
10 flows of funds, where it is all derived from a single flow of funds which is from Estina from the Free State Government.

CHAIRPERSON: Well, just to go back to the example we were talking about a minute ago. I guess that the one important thing about them putting the money, for example, into a fixed deposit account, is that whoever is investigating to them, it looks like this money did not do a lot of travelling. [laughs] So it looks fine. It was deposited in a fixed deposit for whatever time whereas if it seems to be travelling, then that attracts attention.

20 **MR HOLDEN**: Exactly Chair.

CHAIRPERSON: Ja, okay.

MR HOLDEN: And it becomes a more sophisticated mechanism when, for example, Estina fixed deposit is used to give a loan to Kamal Vasram for example. And then it makes them – the funds do not even look like they are

attached to Estina at all anymore.

CHAIRPERSON: Yes, yes. Okay.

ADV CHASKALSON SC: Now there is a particular example of a loan back scheme that you have found which shows that Estina was being used to loan the funds for the Gupta's even before the dairy project began. So can I take you to page 63 of your report?

MR HOLDEN: [No audible reply]

ADV CHASKALSON SC: And maybe to give context, go
10 back to page 62 where you talk about the Hawala ledgers. And although we are going to get into that.

We are anticipating something that we really should be doing tomorrow but it relates to Estina and it is very important for Estina.

So I am just going to ask you to give a very brief outline of what the Hawala ledgers are.

Chair, I am going to ask for your indulgence here. We will go into detail on the Hawala ledgers tomorrow...[intervenes]

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

ADV CHASKALSON SC: ...since they relate to - more to Transnet.

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

MR HOLDEN: So Chair, what we were able to uncover from the Gupta leaks material, is that from roundabout 2010 to

about 2014, the Gupta enterprise in South Africa goes into partnership, as it were, with a group of companies called the Worlds Window Group based in India.

And those two parties are engaged in a pretty – a quite substantial amount of money laundering both in South African and abroad.

And the World's Window Network achieves this partially by creating – establishing entities in South Africa through which it transacts.

10 In relation to this, we know the existence of this particular relationship because at a certain point Ronica Ragavan sends an email to Ashu Chawla, attaching the spreadsheet which is a transaction register of all the payments to and from Gupta enterprise companies and World Windows Companies.

So we can trace the disposition of funds between those two different criminal networks.

ADV CHASKALSON SC: And can you tell the Chair how the – I mean, we will look physically at the Hawala ledger
20 tomorrow but can you tell the Chair what the idea behind the Hawala ledger is?

MR HOLDEN: The Hawala ledger is compiled from the point of view of the Worlds Window Group and you have – you will see on the Hawala ledger, there is a running total balance which is either negative or positive.

And every transaction is recorded as either a negative or a positive in very much the same way that the previous ledger operated.

If you see a positive amount, it means that the World Window Group has made a payment into the Gupta Enterprise. If you see a negative amount, it means the reverse.

And the idea behind that is that the running balance is the amount of money that is owed by the World Window Group to the Gupta enterprise or vice versa.

So if it says minus 200 000 Dollars at a certain point within those transactions, we now then know that the Worlds Window Group is owed a certain amount by the Gupta enterprise.

ADV CHASKALSON SC: And can you give an example for instance of how it would work?

MR HOLDEN: So a good example would be. One of the loan backs that we have identified in relation to this particular network. Here, if we look at page 64, there is a very simple visualisation of showing a – a very simplified version of how the loan back operated.

The important thing to bear in mind here is that Everest Global Metals which I indicate on my left-hand side, is a company that was owned by the Worlds Window Group. And then Westdawn at the top is obviously a company that

is owned by the Gupta enterprise and the way in which this particular loan back worked is quite simple. The Bank of Baroda at the bottom would give a R15 million overdraft or loan to Everest Global Metals. Everest Global Metals paid that ...[intervenes]

ADV CHASKALSON SC: So let us take it step-by-step. So Bank of Baroda is lending 15 million to a Worlds Window entity.

MR HOLDEN: That is correct. So 15 million overdraft
 10 facility is given to a Worlds Window entity. As soon as that has been approved and issued to the Worlds Window entity it transfers the full amount into a Gupta enterprise entity. So you can see that is the second arrow, is Everest pays West Dawn R15 million in March 2011 and all of these transfers will be effected in the Hawala ledger.

Then West Dawn repays Everest Global Metals for the loan but they pay it on a monthly basis, that is the third arrow. And then Everest Global Metals then transfers that amount on a monthly basis back to the Bank of Baroda in
 20 order to satisfy their loan requirements and what we have here is a way of disguising a flow of funds, so even though the Bank of Baroda effectively is issuing a R15 million overdraft to West Dawn, if you look at the electronic records and you do not have access to the Hawala ledger it looks like they have given a R15 million loan to a Worlds

Window entity.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: Can you take the Chair to – well, how does Estina get involved in this?

MR HOLDEN: So what we established from the Gupta Leaks is that on ...[intervenes]

ADV CHASKALSON SC: Sorry, I give some context there. Just to emphasise the – if we go back to your diagram at page 64, that the way the Gupta enterprise is paying back
10 the Worlds Window enterprise in this loan back scheme is that on a monthly basis it is paying the interest of 120 000. So that is the equalisation payment over time that the Gupta enterprise makes to the Worlds Window enterprise.

MR HOLDEN: That is correct and what we see – there is two parts of this explanation of how Estina gets involved. The first thing that we see is that it is quite apparent that the Bank of Baroda in South Africa is aware of the real nature of this transaction because every month the Bank of Baroda issues a letter stating this is the interest on the
20 loan, this is the amount they need to be repay but they do not actually send this to the Worlds Window Group, they send it to Ashu Chawla and then Ashu Chawla makes a payment to Everest Global, to West Dawn and then he instructs Everest Global to pay back Baroda. So the Bank of Baroda at all times knew that this was a fiction.

So what we have every month is a generation of two instructions effectively. One instruction from the Bank of Baroda to Everest Global Metals to the Worlds Window company that says this is the amount that is outstanding and then a second instruction which is sent from the Worlds Window Group back to the – sorry, from the Gupta enterprise to the Worlds Window Group saying please remember to make this payment to satisfy this loan.

10 So we have in the Gupta Leaks a quite vast set of correspondence where Worlds Window Group and Gupta enterprise employees are sharing these instructions between each other in order to settle up this loan back. For some reason on the 23/11 ...[intervenes]

ADV CHASKALSON SC: Can I ask you to take a step back? What was the paper trail that was created between Worlds Window and the Guptas to justify the monthly payments from – the monthly loan repayments from the Gupta enterprise to the Worlds Window enterprise?

20 **MR HOLDEN:** So the only paper trail that I can identify in the Gupta Leaks is the original Bank of Baroda instruction which is addressed to Everest but actually sent to Ashu Chawla.

And then the second instruction is to make a payment from a particular Gupta enterprise company to a Worlds Window Group company and then finally an

instruction for that Worlds Window Group company to pay over to the Bank of Baroda. So there are three separate instructions there.

ADV CHASKALSON SC: And the instructions refer what, once we are dealing with Worlds Window and Guptas, are they issues – are they asking for loans to be repaid, are they falsifying invoices so the payments look like payment of invoices. How is the paper trail covered?

MR HOLDEN: I see where the evidence leader is going
10 here. The only instruction that is accurate is the instruction from the Bank of Baroda to Everest Global Metals, the Worlds Window Group company saying you have a loan outstanding, you may repay this. But all the other instructions for payment are invoiced just generally against consultancy fees. So there is no indication in instructions from Gupta enterprise employees to Everest, for example, that this is to do with a loan facility at all. It is only the first instruction from Bank of Baroda, so you effectively have a series of fictitious consultancy fees that
20 are invoiced in order to justify the payment of the funds.

ADV CHASKALSON SC: And with that context can we get to where Estina fits in?.

MR HOLDEN: Thank you. So for a reason, I cannot entirely establish, but on the 3 May 2011 ...[intervenes]

ADV CHASKALSON SC: Can I stop you there? When

was the first payment from the Free State government to Estina?

MR HOLDEN: That is in June 2012.

ADV CHASKALSON SC: So this is more than a year before the first Free State payment which itself is quite some time before anything happens in the dairy project.

MR HOLDEN: That is correct.

CHAIRPERSON: Did you say on the 3rd or on the 13 May?

MR HOLDEN: It is the 3 May 2011.

10 **CHAIRPERSON:** Oh ja, okay. We were at page 64, ja.

MR HOLDEN: What we have is an email from a Worlds Window employee by the name of Satyajit Panday, he emails Ashu Chawla and he said to Ashu Chawla please get an invoice from Estina for the following and provides details of what Estina should be invoicing for and gives Estina's details. It says:

“Project scoping and advisory fee, Project Insinga.”

Which I think is made up and then it gives an amount which is the exactly amount that was outstanding on the Bank of
20 Baroda loan. So effectively Estina is being invoiced by a Worlds Window company so that Estina can make a transfer to the Worlds Window company and then from there to settle the loan.

ADV CHASKALSON SC: And this is taking place more than a year before the dairy project?

MR HOLDEN: That is correct. And what we see – the Commission was able to confirm by proving bank details or banks statements for the – sorry, it is actually a transaction record at this point for Estina bank accounts, shows that this payment was actually made, R125 400 was made from Estina's bank account to Everest Global Metals on the 13 May 2011 which I have taken to read – to mean that, amongst other things, Estina was effectively being used as a front for money laundering by the Gupta
10 enterprise for a year prior to the initiation of the Free State dairy project.

ADV CHASKALSON SC: Then is there – we have dealt with round tripping and loan backs. There are two other devices that you speak to in your report. The first is called smurfing and you deal with it from page – actually, I forget where you first deal with it. Well, can you describe to the Chair what smurfing is?

MR HOLDEN: Absolutely.

CHAIRPERSON: That is from what page?

20 **ADV CHASKALSON SC:** I think, Chair, it will be 25. If we go to 25 it should be there. Let me just check if I have got the right reference here. No, you talk about smurfing later.

MR HOLDEN: I do.

ADV CHASKALSON SC: Well, I will get the reference but in the meantime can you explain to the Chair what smurfing

is about?

MR HOLDEN: Certainly. Chair, this refers to the fact that – I am not sure if you were aware of the television programme the Smurfs.

CHAIRPERSON: No, I am not.

MR HOLDEN: Smurfs are very small blue men and smurfing refers to the fact that - taking a large amount of money and then reducing into – and paying it out in a series of much smaller transactions.

10 **CHAIRPERSON:** Oh, okay. H'm, okay.

ADV CHASKALSON SC: In fact I realise now that you do not explain what smurfing is, you just have, but you used the term. You do use the term on page – at page 89. So, Chair, maybe if you go to page 89 and just make a note of what smurfing means and while we are at page 89 it ...[intervenes]

CHAIRPERSON: Which paragraph at 89 dealing with smurfing?

ADV CHASKALSON SC: The second line of the page,
20 Chair, right at the top.

CHAIRPERSON: Oh, okay.

ADV CHASKALSON SC: Maybe we should – maybe if we just go up the page.

CHAIRPERSON: Ja?

ADV CHASKALSON SC: What you are talking about is

tranche – how the money moved in tranche two and maybe if you can pick it up from paragraph 202.

CHAIRPERSON: Mr Chaskalson, I do not see smurfing on line two on page 89. I do not see the term, the word.

ADV CHASKALSON SC: Unless I have the...

MR HOLDEN: It is 89.

ADV CHASKALSON SC: The second line of page 89, Chair, are you on 89?

CHAIRPERSON: Well, I have got - on page 89 I have got:

10 2. Estina's Baroda account was made up of six R5 million payments, a typical example..."

Oh, okay. Ja, okay.

ADV CHASKALSON SC: And maybe if you can explain what you are referring to there by going back to the start of paragraph 202 on the previous page.

MR HOLDEN: Absolutely. What we see here is – this is in reference to the tranche two payment that was made the Free State government to Estina. That payment was made on the 26 April 2013. But 30 million is paid directly into
20 Estina's Standard Bank account but then three days later on the 29 April 2013 this amount is then transferred to Estina bank, a Borado bank account but notably it is not as just one 30 million payment it is instead split up into six transfers of 5 million.

ADV CHASKALSON SC: And if we go to the Standard

Bank statement on page 147, can you – it is very neatly illustrated there.

MR HOLDEN: Yes, so I am – Chair, are you...?

ADV CHASKALSON SC: 147, Chair.

CHAIRPERSON: Thank you, I have got it.

ADV CHASKALSON SC: Can you take the Chair to what you are describing?

MR HOLDEN: Certainly, so just to clarify, this is the Standard Bank account bank statement for the Estina
10 Standard Bank account and what you can see as the third entry, it says transfer from Free State Agriculture and then R30 million comes in on the 26 April.

CHAIRPERSON: I am sorry, transfer from?

MR HOLDEN: It says transfer from, it is a code that is used to describe the Free State Department of Agriculture.

CHAIRPERSON: Oh that VAS101?

MR HOLDEN: That is correct, SA Agriculture, yes.

CHAIRPERSON: Yes, okay.

MR HOLDEN: And then to the right of that you see a
20 credit in R30 million on the 26 April.

CHAIRPERSON: Ja, so it goes into Estina's account.

MR HOLDEN: That is correct and then what you can see following is payments that are made out of the account into the Bank of Baroda, Estina's Bank of Baroda account of R5 million, multiple R5 million payments, you see five on this

page and then one further one on the following page.

CHAIRPERSON: Yes, so that is a good example of smurfing?

MR HOLDEN: Yes.

ADV CHASKALSON SC: Can you – what is the – why is smurfing potentially useful to launderers?

MR HOLDEN: There is a couple of reasons. First of all, if it is being paid into accounts where it is comingling with a large amount of funds it can be difficult to trace that the
10 original amount is - where it derives from, especially if there is a lot of movement in that account. It is often also used where there are statutory reporting requirements so if there is a point at which a suspicious transaction becomes – needs to be reported, you will often see with money launderer exercises they will split a large amount into very small amounts so it falls under that threshold.

ADV CHASKALSON SC: And the last device that you speak to in the course of your report is what you describe as cash withdrawal firebreaks. Can you tell the Chair what
20 you mean by that?

MR HOLDEN: Certainly. Chair, we will come to an example of that very shortly.

CHAIRPERSON: And that is in the report, hey? What page in the report? I find it easy if I can look on the report as well, as he speaks.

ADV CHASKALSON SC: Let me find that reference.
Chair, maybe if I can take you – I cannot find – I cannot find my reference in the report but can I take you to the example?

CHAIRPERSON: Yes.

ADV CHASKALSON SC: And maybe we can make a note on the example.

CHAIRPERSON: Yes, ja.

ADV CHASKALSON SC: So if you go to page 679.

10 **CHAIRPERSON:** Yes, I found it.

ADV CHASKALSON SC: And, Chair, here we are moving into the diagrams of how the Estina money moved and if it may be more convenient for you, Chair, there are A3 copies of each of these diagrams in that small file to your left.

MR HOLDEN: Okay, okay. No, that is fine but at least 679 seems to be clear.

ADV CHASKALSON SC: Mr Holden, can you describe the cash withdrawal firebreak here and explain to the Chair
20 what purpose it is serving?

MR HOLDEN: Absolutely. So the cash firebreak that you can occurs at the bottom left hand corner of the diagram. There is just an entry in a yellow box called cash and prior to that you see Global Corporation's Bank of Abu Dhabi, Dirham Vest Account and what the arrow then reflects

going down is that 1.7 million Dirham has been withdrawn on the 24 September 2013 on that account in cash and then if you could see there is an arrow that goes diagonally up to the right to Global Corporations, Bank of Baroda, Dubai Dirham account.

ADV CHASKALSON SC: So it is the same corporation?

MR HOLDEN: It is the same entity with just a different bank and the arrow reflects that 1.3 million dirham is paid in on the 24 September. So the same day the amount is
10 withdrawn, it is paid, it is deposited in the same company's account and a different bank.

ADV CHASKALSON SC: And what purpose does that serve?

MR HOLDEN: The main purpose is that it would be almost impossible to discern the source of that 1.3 million dirham, it will be certainly be difficulty discern where – that it comes from the Global Corporation's Bank of Abu Dhabi account unless you had something like the internal accounting ledgers. All you will see is two different banks,
20 a cash withdrawal and a cash deposit and if you do not have both sets of accounts or some sort of internal mechanism, it would be almost impossible to identify the original source of those funds.

ADV CHASKALSON SC: I think at this point we should start following the money.

CHAIRPERSON: But just before we move away from page 679. So there the money would have come from Estina, from the Standard Bank account of Estina, is that right?

MR HOLDEN: That is correct, Chair.

CHAIRPERSON: And then it goes Gateway and that is 2,9 US dollars, is that right?

MR HOLDEN: Yes, the 2.9 million goes to Gateway.

CHAIRPERSON: Gateway. And then Gateway then pays 400 000 US dollars to Global Corporation and Global
10 Corporation pays a little more – alright, well, they use the UAE currency 449 to pay – make a payment to Global Corporation in Dubai or in Abu Dhabi. And then does it then – the 1.7 is made cash.

MR HOLDEN: That is correct.

CHAIRPERSON: And then that cash emerges at Global Corporation, the Baroda Bank in Dubai, is that right?

MR HOLDEN: That is correct, Chair.

CHAIRPERSON: And then from there it goes to – it goes as cash to the various people or the two – given there,
20 Hawala and Vikas.

MR HOLDEN: That is correct, Chair.

CHAIRPERSON: Okay, okay, thank you.

ADV CHASKALSON SC: For present purposes, Chair, what - I mean, we will in fact analyse this entire movement, this part of tranche 0, we will analyse it from

start to finish in a minute.

CHAIRPERSON: Yes, okay.

ADV CHASKALSON SC: But while we are looking at this page, what is significant. is if one starts with Gateway payment to Global on the 23 September the money is in Global Standard Chartered account on the 23 September. So then some of it, a large part of it is then moved to the same Global Corporation's Bank of Abu Dhabi account. It is then turned into cash. It is then moved as cash to the
10 Global Corporation's Bank of Baroda, so it has passed through three different banks and a cash conversion or in the hands of the same company which is going to make it increasingly difficult to retrace when money laundering investigators look at it.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: The only reason we can see this is because of the Hawala ledger. The internal ledgers.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Which track this in great detail
20 for internal use.

CHAIRPERSON: Yes. So otherwise, once they have turned it into cash it becomes difficult after that.

ADV CHASKALSON SC: Indeed, indeed.

CHAIRPERSON: To trace it.

MR HOLDEN: Absolutely, Chair.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: So, Chair, what – if one goes back to page 671 and runs forward all the way to page 716, from 671 to 716.

CHAIRPERSON: Just on second, from 671 to..?

ADV CHASKALSON SC: 716, black 716, red 712. Sorry, it starts at 671.

CHAIRPERSON: Ja?

ADV CHASKALSON SC: And from there until the
10 diagrams run out on page 716.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: What these diagrams reflect is the movement of all of the public funds that were put into the Estina Dairy.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: And what we will is we will take you, Chair, through each one of these diagrams to show the movement of the funds.

CHAIRPERSON: Yes.

20 **ADV CHASKALSON SC:** To begin with, we will go incredibly slowly cross-referring to every underlying bank record that is relevant but we are not going to do that for all seven, what we are going to do is we are going to reissue a set of these diagrams now that we have record references where on each one of these arrows you will see

the FOF volume 5 reference for where the money goes out and the FOF volume 5 reference for where it come in.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: But Mr Holden can – let us start with tranche zero which you described in a big diagram at page 671 and let us go step-by-step through that tranche and maybe if you can explain to the Chair what your colour coding system is for these diagrams.

MR HOLDEN: Certainly, would it be easier for me to do
10 this on screen or...?

ADV CHASKALSON SC: I think certainly given that there may be people watching it would help to put it on the screen just because – otherwise it will make no sense whatsoever.

CHAIRPERSON: Yes.

MR HOLDEN: Okay, Chair, so what we have here ...[intervenes]

CHAIRPERSON: And that is as large as it can get, hey?

MR HOLDEN: I will be zooming in to specific things.

20 **CHAIRPERSON:** Ja, okay.

MR HOLDEN: So as you have indicated here at the bottom left, this is about tracing tranche zero and tranche zero revolves around the payment of 30 million on the 9 July 2012. The colour coding words relatively simply. As you can see here, the Free State government has indicated

in green, green for go, as in this is – wherever you see a green box is money coming into the system, into the money laundering system, and then a red box describes where we could trace the money to, at the end point.

CHAIRPERSON: I am sorry, green represents money leaving a particular entity?

MR HOLDEN: It is money entering into Estina or into the money laundering network.

CHAIRPERSON: Oh, okay, into the money laundering
10 network.

MR HOLDEN: That is correct.

CHAIRPERSON: Okay, alright.

MR HOLDEN: So in this example here you can see the – I have indicated that is the Free State government and they are initiating the tranche by paying that amount of money over here.

CHAIRPERSON: Oh, they pay out.

MR HOLDEN: The Free State government pays out to Estina.

20 **CHAIRPERSON:** Yes, yes.

MR HOLDEN: And then all the red boxes, and there is quite few on this tranche, indicates the final point at which we can identify where related funds go to, where they eventually pay out. So, for example, here there is R1 million payment to Estina ABSA bank account.

CHAIRPERSON: And the Estina colour coding, is that – does that denote a recipient of the money?

MR HOLDEN: No, so the yellow boxes are just an indication of an account, that is not an beginning point or an end point.

CHAIRPERSON: Oh, okay, somewhere – it is one of the stations.

MR HOLDEN: Exactly.

CHAIRPERSON: Okay, okay.

10 **MR HOLDEN:** So if we were to scroll out here you could see, for example, one of ...[intervenes]

CHAIRPERSON: So green is like point of departure.

MR HOLDEN: Exactly.

CHAIRPERSON: And somewhere you will find the destination. In between there are various bus stops.

MR HOLDEN: That is correct.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: And quite a few junctions as well.

20 **CHAIRPERSON:** And junctions and detours.

MR HOLDEN: Exactly.

CHAIRPERSON: Okay, alright.

MR HOLDEN: So to give another example, an end point here, if I scroll in, which we have already discussed earlier as an example, one of the ...[intervenes]

CHAIRPERSON: So red is an end point.

MR HOLDEN: The red is an end point, yes.

CHAIRPERSON: Okay, alright.

MR HOLDEN: And as we can see this is – the end point here is Linkway Trading and this is in relation to the [indistinct] 27.12 invoice.

In addition to that, there are parts of this transaction, there is five separate parts that we can identify where funds travel – it makes it much easier to
10 understand if you separate it into particular steps and each part has its own coloured line. So for part 1 they are all black lines. So you can see here at the top left these are all black lines, so that is part one and then all the pink lines are part 2, which is over here and so on and so forth. But those will not be too material as we go through the more detailed steps.

ADV CHASKALSON SC: So let us – moving from this big overview of tranche zero, let us go to what you call part 1 of tranche zero which you have separated out at page 672
20 and you have – if one goes to – 672 is an overview of the whole of part 1 and that in turn is broken up into series of more subsets of part one.

MR HOLDEN: Subsets.

ADV CHASKALSON SC: Which end I think at page 677, so we have big picture, part one, subsets of part one and it

may be useful at this stage to while we are at subset of part one – so sorry, while we are at the picture of the whole part on 672, just to compare it with the big picture so that you can see where part one is going to fit in on the big picture. So if you can go back to page 671 and show us what we are going to be looking at in part one.

MR HOLDEN: It is this series of transactions here on the left which are all South African-based, these are all transactions that take place before the money moves
10 offshore.

ADV CHASKALSON SC: Then if we go to part one itself, on 672, and we look at the whole of part one we can start with the first steps in part one on page 673 and can you contextualise what is going at Estina at this point?

MR HOLDEN: Absolutely, so as the Chair will see the first payment that is made in under Transzero is R30million that is paid in on the 9th of July 2012. At this point Estina was not operational as a dairy farm at all, and in fact was still in the process of being formally approved sort of *poste*
20 *facto* through the Free State bureaucracy at that point. So once the money is paid in it really has – there is nothing for Estina to spend the money on which is why, it then takes quite an elaborate diversion through a fixed deposit account.

CHAIRPERSON: I'm sorry the part one arrows, did you

say those are – would be the arrows from the point of departure to the first station, first entity to which it is paid or does it go beyond that in terms of the treasury?

MR HOLDEN: It goes beyond that sir, so what we did, the black lines here reference only – it's all transactions that happen within South Africa in relation to this tranche.

CHAIRPERSON: So other arrows that might be other colours relate to outside of South Africa?

MR HOLDEN: Exactly.

10 **CHAIRPERSON:** Okay, alright I think Mr Chaskalson had asked you if you could explain what was happening at Estina here, you said they were not operating a dairy farm at that stage, they didn't know what to do with the money, and then what happened?

ADV CHASKALSON SC: So, let's – So Chair just – at the risk of spoiling a good story, I'm going to, for the first couple of parts of tranche nought, I'm going to ask Mr Holden to show proof for every single step that he describes.

20 **CHAIRPERSON:** No, that's important.

MR HOLDEN: And then when we finally get exasperated, we can speed up a little bit but I think it's important for the Commission to know and for the public to see that every single one of these arrows is based, either in an underlying bank account, transaction record or when we go offshore in

those ledgers.

CHAIRPERSON: No, no I think that's important, ja.

ADV CHASKALSON SC: So let's start with step one, which you see on page – and Chair, might I ask you to take out page 672 for the moment, just so that you can sit with it on one side while you are going to be watching the different steps in part one. So, you have the picture of the whole of part one which you can look at while we're looking at individual steps.

10 **CHAIRPERSON:** Yes, okay I've done that.

ADV CHASKALSON SC: Then if we look at the first step in part one which is on page 673 which is the Free State Government transferring R30million into Estina Standard Bank account and can I ask you to go to page 279 – 299, sorry I misread my seven...[intervenes].

CHAIRPERSON: 299?

ADV CHASKALSON SC: 299.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: And can you show the Chair
20 there, where that R30million payment is reflected?

MR HOLDEN: Absolutely, so Chair, as we discussed a little bit earlier, we don't have the PDF bank statements for Standard Bank prior to 2013, instead we've drawn the electronic records that the Commission provided, but you can see, I think it is the – it's the entry that's highlighted in

yellow and you can see on the left-hand side that it's Estina's Standard Bank account and if you follow us to the right it gives you the description which is BASF01 – FS Agriculture on the 9th of July over there and then on the far right-hand side you can see the R30million payment into Estina's account.

CHAIRPERSON: I see the words, Dormant enclosure request, there is there any significance about the account?

ADV CHASKALSON SC: Chair, maybe I can answer that.

10 That is what Standard's electronic records reflect, not necessarily – well they will reflect them today but at the time that Standard provided us with the electronic transaction records, that reflected that the account as dormant because closure had been requested or – so that's just a banking...[intervenes].

CHAIRPERSON: Oh okay, I thought it might reflect that at the time the R30million was paid it was dormant, okay, alright.

ADV CHASKALSON SC: Then while we're on this page,
20 still looking at step – at – if we go back to page 673 but don't leave – keep a finger on these records, keep a finger on 299 but go back to the diagram at 673 and there we'll see that step two, R1million is transferred to Estina's Absa account.

CHAIRPERSON: I'm sorry, you're asking me to check out

page 672, that's not the page you want me to look at now?

ADV CHASKALSON SC: We can do it on 672 as well, Chair.

CHAIRPERSON: Oh, okay, alright.

ADV CHASKALSON SC: So, if you look at 672 and you look down, from Estina's Standard Bank current account you'll see an arrow that says R1million 27/07/2012. Mr Holden can you describe what that is – what that arrow reflects?

10 **MR HOLDEN:** Certainly, so that reflects that R1million has been transferred from Estina's Standard current account 310864860, it has been transferred on the 27th of July 2012 into Estina's Absa account 4079496171.

ADV CHASKALSON SC: And then if you go back to page 299 can you show us where that R1million is?

CHAIRPERSON: Maybe before that, Mr Chaskalson and because you've got that red colour coding there, that means that's where that R1million ended.

ADV CHASKALSON SC: Correct.

20 **CHAIRPERSON:** That was its destination – it ended it didn't move after that?

MR HOLDEN: What we have in relation to – this is somewhat of a mystery I think, within the bank statements, this is, I think one of the only times we have this sort of a mystery, we have the amount – it's paid into Estina's bank

account at this point, at a later point R950 000 is paid out but despite our best efforts we haven't been able to identify where it goes to. I have my own suspicion of where it might go to and where it might turn up again but we can't – based on the records of the Commission have definitively confirmed where that went, so rather than guess and create a final point, I made the R1million payment the final point.

CHAIRPERSON: Okay, no that's fine, yes Mr Chaskalson?

10 **ADV CHASKALSON SC:** So, if we go back to 299 can you show the Chair where that R1million is?

MR HOLDEN: Absolutely, so directly below the entry we had just addressed, this is now highlighted in a slightly different shade of yellow, a mustard perhaps, you'll see a payment made from Standard Bank on the left-hand side and if you follow that all the way across you'll see minus R1million and the middle part is Estina, it should be Estina, clearly there was a transcription error while making the payment, Estina Pty Ltd.

20 **ADV CHASKALSON SC:** While we're on this page, can you identify the next transaction?

MR HOLDEN: Certainly, so the next transaction occurs on the 31st of July 2012 and this is a transaction of R28million that's paid out of the Estina Standard Bank account and we'll show a little bit later, into the bank of Baroda and that

goes into Estina's Bank of Baroda account.

CHAIRPERSON: Hang on one second.

ADV CHASKALSON SC: So, Chair, if you go back to 672 and maybe, Mr Holden, we should go – we should just have 672 up for now.

CHAIRPERSON: Yes, yes, I've got it, I can see the R28million from the Estina Standard Bank current account into Estina Baroda current account.

ADV CHASKALSON SC: So, I would ask – Chair if you
10 can just reference that up arrow with Annexure E1, page 299 for future reference, the R28million.

CHAIRPERSON: Yes, I can see R28million at 299.

ADV CHASKALSON SC: And if you reference the R1million down to Estina Absa, also with 299 and the R30million in with 299.

CHAIRPERSON: Ja.

ADV CHASKALSON SC: Let's look at the other side of these transactions. So, if we go to Annexure P, page 520 and Mr Holden can you identify to the Chair, what this
20 statement is?

MR HOLDEN: Certainly, Chair, this is Estina PTY Ltd's Absa account with the account number 4079496171.

ADV CHASKALSON SC: And where will we see the R1million that came from the Standard account, landing in this account?

MR HOLDEN: It's slightly blurry Chair, but the second entry under those transactions, it says 27/07/2012 and it says, net credit and if you scroll over to the right-hand side it says the credit amount of R1million which increases the balance in that account to R1million.

ADV CHASKALSON SC: So, Chair, if we go back to 672, we can then – on the R1million line down to Estina Absa, also add the 520 reference. So have a – one reference for it leaving Standard Bank and another reference for it arriving at Absa.

CHAIRPERSON: Yes, thank you.

ADV CHASKALSON SC: On a similar theme if we follow the R28million from Standard to Baroda, can we go to page 438?

CHAIRPERSON: 438?

ADV CHASKALSON SC: 438.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: And Mr Holden can you take the Chair to the relevant transactions there?

20 **MR HOLDEN:** Certainly, so Chair, just to re-confirm this is a – this is Estina PTY Ltd's Bank of Baroda current account ending 255 and as you can see on the – it's the second entry on that bank statement it says 31/07/2012 so 31st of July 2012, deposit dated 31/07/2012 and if you scroll over to the right you'll see an amount of R28million

deposited, thereby increasing the balance in the account to R28million.

ADV CHASKALSON SC: And Chair – so if you go back to your...[intervenes].

CHAIRPERSON: That balance brought forward, zero.

MR HOLDEN: That's correct.

CHAIRPERSON: Does that mean there was no money?

MR HOLDEN: There was no money in that account.

ADV CHASKALSON SC: Oh, until this amount came in?

10 **MR HOLDEN:** Exactly Chair.

CHAIRPERSON: Yes okay.

ADV CHASKALSON SC: But it is a fixed deposit account so it would have been created – I take that back, sorry, Mr Holden has corrected me.

CHAIRPERSON: Okay, well I heard evidence about Estina that – I don't know whether it was the first R30million or it was another payment where the – before the amount came in that R30million or whatever the amount was that came from the Provincial Government, the balance on the Estina
20 account on that particular Estina account where it went in was, I don't know whether it was R16 or R1 600.

MR HOLDEN: That's correct, Chair.

CHAIRPERSON: Ja, okay, alright.

ADV CHASKALSON SC: If we keep annotating that page 672, so we now have a corresponding annotation on the

R28million up from Estina Standard to Estina Baroda, we see it arrive at Baroda at page 438.

CHAIRPERSON: Yes, yes.

MR HOLDEN: There is one other – there is one additional thing to note in relation to this bank statement which you noticed, is that, the first entry on the left-hand side is the 10th of July 2012 and that is the creation of the account and what we can defer from that is...[intervenes].

CHAIRPERSON: Oh, okay so it was a new account?

10 **MR HOLDEN:** It's a new account that's created the day after the Free State Government pays into Estina's Standard Bank account, there creates an account with Bank of Baroda.

CHAIRPERSON: So, it looks like it was specially opened – the account was specially opened for this deposit that was coming?

MR HOLDEN: That's correct Chair.

CHAIRPERSON: Ja, okay.

ADV CHASKALSON SC: Then, can we see what happens
20 to the deposit. Stay on page 438 and if you can – Mr Holden can you explain to the Chair where that deposit goes?

MR HOLDEN: Certainly, so as we can see on the diagram up here, and I also reference it to the bank statement, on the same day the amount is paid from Estina Standard

Bank into Estina's Bank of Baroda account, it is – that R28million is immediately placed into a Bank of Baroda fixed deposit account and if you look at the bank statement appearing at 438, you can see that withdrawal the day after the deposit – sorry on the same day of the deposit, it's the entry that comes directly after the deposit, there's a withdrawal of R28million.

CHAIRPERSON: So, it comes in on the 31st of July 2012, same day it is withdrawn from that account, ja, R28million,
10 okay.

ADV CHASKALSON SC: So, Chair, that diagonal – Mr Holden can you just show the diagonal that we've just been watching, so that's the movement, that arrow, we can have a reference also at page 438. Then to see where it lands, let's go to page 444 and can you tell the Chair what 444 is?

MR HOLDEN: Certainly, Chair, 444 was attached as J1 to my report it is Estina PTY Ltd's fixed deposit account at the Bank of Baroda with the account number
20 92020300000282 and if you were to look at the very short statement it shows that the first entry, the 31st of July 2012B/F shows that it was opened on that day, the fixed deposit and the date below that is the 31st of July 2012 and that reflects the R28million deposit into the fixed deposit account.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Still on that statement, what does it tell you about that R28million?

MR HOLDEN: So that R28million remains within that fixed deposit account for slightly over a year and on the 7th of August 2013 it is then rolled over into a new fixed deposit account and I assume that being the case, because this was originally established as a 12 month long fixed deposit account.

10 **CHAIRPERSON:** Oh, okay.

ADV CHASKALSON SC: So, Chair, there – sorry Mr Holden, on your diagram can you show what you are now describing the withdrawal on 7 August 2013?

MR HOLDEN: So, it goes from – so this is – apologies this is 2013 not 2012 over here, I thought I'd corrected that. It goes from the....[intervenes].

ADV CHASKALSON SC: Sorry Mr Holden, can you just confirm that for the Chair, because it's quite an important correction.

20 **MR HOLDEN:** Apologies Chair, when I did this diagram, I wrote the 7th of August 2012 over here when I actually meant the 7th of August 2013.

CHAIRPERSON: Oh, okay, so one can correct it, page 672.

MR HOLDEN: Correct sir.

CHAIRPERSON: Ja, okay, alright.

MR HOLDEN: And you can see that on that date it is – it has moved...[intervenes].

CHAIRPERSON: I – ja no, I think you're right, it's very important to get it right ja, okay.

ADV CHASKALSON SC: Can we just step back a minute now and just reflect on what we've seen. The Free State Government transfers R30million of public funds to Estina on the 9th of July 2012, those funds – or R28million of
10 those funds sit and do nothing for more than a year. So R28million of public funds have been given to an entity that doesn't touch them, just let's them accumulate interest for over a year, then if we go...[intervenes].

CHAIRPERSON: And this happens in the context, looking at other evidence I've heard when – at the time this R30million was being paid, first R30million it was a rush, rush thing within the Provincial Government as if there was a lot of urgency and I asked witnesses here, what was so urgent, I think it was on a Friday afternoon where various
20 people were told to go and meet and try and – because this amount had to be paid, ja, okay, alright.

ADV CHASKALSON SC: So, we've seen that the fixed deposit is withdrawn on the 7th of August 2013 to see where it goes, can we go to page 450 and can you tell the Chair what we see there?

MR HOLDEN: Certainly, what we have here, Chair, was attached to my report as Annexure J7, it is Estina PTY Ltd's Bank of Baroda fixed deposit account with the account number 92020300000282 and what we can see if we look at the second entry is the 7th of August 2013 is a payment in it says TD for 12 months which I assume was, termed deposit for 12 months and a deposit of R28million.

ADV CHASKALSON SC: So Chair, if one goes back to the diagram, Mr Holden can you show the branch of the
10 diagram we've now seen on both sides, so that diagonal going up towards the right, we see starting on page 444 and landing at page 450.

CHAIRPERSON: I was still just checking something here, Mr Chaskalson, I was asking myself, where is the other R1million because we had R30million we know where R1million went to but where is the other R1million because we are dealing with R28million now but I think, you might not have touched on it but I can see from page 672 where it went but I see it's got 1.3 is that correct?

20 **ADV CHASKALSON SC:** Sorry Chair, 1.3 now...[intervenes].

CHAIRPERSON: Going to Kamal Vasram personal account. You see the Provincial Government paid Estina R30million and we talked about the R1million that went to Estina Absa account, so now we are busy with R28million

so I'm asking about the question, where is the other R1million so then I see that R1.3million that went from – oh no, no it didn't go from Estina Standard Bank account it came to Estina...[intervenes].

ADV CHASKALSON SC: It's the opposite direction indeed, Chair.

CHAIRPERSON: Yes, so where's the other R1million?

ADV CHASKALSON SC: Well, we'll have to go back to the Standard accounts to see what happens.

10 **CHAIRPERSON:** Okay, but we can do it...[intervenes].

ADV CHASKALSON SC: Mr Holden, there actually would be able to help us Chair.

MR HOLDEN: Yes, I do, what happens at this point, and I think it, effectively remains in the Standard Bank account and is then co-mingled with payments that are made – sorry tranche one which is then made by the Free State Government, it co-mingles with that amount.

CHAIRPERSON: Oh, okay.

MR HOLDEN: At that point when the second payment is
20 made, Estina is starting to put together a dairy farm and it goes on those costs.

CHAIRPERSON: Okay, alright, okay.

ADV CHASKALSON SC: So, we now, covered the diagonal up from FDR 03189 to 03282 on 7 August 2012 before we leave page 450 can you talk to the Chair about

the second – the next entry on that fixed deposit account?

MR HOLDEN: Certain, so Chair, what that reflects is that on the 4th of September 2013 this fixed deposit account is closed and the full R28million is withdrawn.

ADV CHASKALSON SC: And to see where that R28million goes, can we go down to 439 again, or up to 439 and what are we looking at, at 439?

MR HOLDEN: So, Chair, at 439 we are looking, again, at Estina PTY Ltd's Bank of Baroda current account and the
10 entry is reflected on the 4th of September 2013, if you found it there Chair?

CHAIRPERSON: Yes, I – there are three 4th of September – yes.

MR HOLDEN: And what you see there is, the description is, 92020300000282 closure, so that refers to the closure of the fixed deposit account and then the inward transfer of R28million.

CHAIRPERSON: And is transferred by EFT, is that so or not, I just see EFT there?

20 **MR HOLDEN:** So, below that is a transaction, that amount is then immediately paid out to a different account.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: So, if we go back to our diagram there, can you just show us where that R28million is moving, so it's moving down from FDR 03/282 into the

Estina Baroda – the rectangle with the Estina Baroda current account. So, Chair, on that branch we can – the branch coming down on the 4th of September 2013 we can put in the reference 450 for where the money comes from and 439 for where it goes to.

CHAIRPERSON: From Estina Bank of Baroda on 3/282...[intervenes].

ADV CHASKALSON SC: Indeed that's 450.

CHAIRPERSON: Yes.

10 **ADV CHASKALSON SC:** And it goes down the arrow to Estina Baroda current account, that's 439.

CHAIRPERSON: Yes, okay.

ADV CHASKALSON SC: While we're at the current account let's look at two more transactions that we see on the current account. The first is the transaction immediately above that payment of R28million, can you tell the Chair what that transaction is?

MR HOLDEN: Certainly, so that is a deposit of R2million and that R2million is derived from a separate fixed deposit
20 account which was 92020300000207 and as we will show a little bit further along, this money actually comes from the second Free State payment from tranche one.

CHAIRPERSON: So that's the R2million that comes from Kamal Vasram's account in Baroda into Estina Bank of Baroda 03,207?

MR HOLDEN: That's correct, so what we see is R2million is paid by Kamal Vasram from his current account and on the 15th of October 2012 that is then used to create an Estina fixed deposit account 03/207 and it sits there for a period of time until the 4th of September 2013 when it is closed and co-mingled with the R28million on – that came from the earlier FDR. If I may, the one thing I'd like to point out here is that I do annotate on this page here, I say, of which R1 050 000 is definitively from tranche one of
 10 that R2million payment and the R950 000 is from a – is an unknown source, I've been unable to trace. That said, this is where my suspicion arises in relation to the Estina Absa Bank account because it's from the Estina Absa Bank account that an amount of R950 000 is paid out to a separate party and it seems quite a coincidence that we suddenly have this amount that I can't account for showing up, not very long after within the money laundering network.

ADV CHASKALSON SC: For the purposes of our diagram
 20 we've just seen – can you just flag the payment that we've just seen in the Estina current account, so it's the diagonal coming from top right to bottom left from Estina Bank of Baroda FDR 3/207 into Estina Baroda current account, we've seen that land on 4 September 2013 in Estina current account. Before we leave Estina current account,

we're going to go – we'll later go back to see where that R2million came from but before we leave the current account, while we've got it up can you talk to the third transaction on 4 September 2013?

MR HOLDEN: Certainly, so what we see – actually going slightly earlier is that the closure of the two fixed deposit accounts increased the balance in that account from R281 234 once those two FDR's has a balance of R30 281 234.00 and on the same day those two fixed deposits
10 are closed. There was a transfer out of R30 million and we know that that goes to Estina Standard Bank current account.

CHAIRPERSON: So – so the R2 million that is paid by Mr Vasram into the Estina Bank of Baroda account 03,207 and on the 15 October 2012 stays for about close to a year or so in that account before there is – before it is paid into the Estina Baroda current account, is that right?

MR HOLDEN: That is correct.

CHAIRPERSON: And that is just in time for it to – to make –
20 to be added to the R28 million to make R30 million.

MR HOLDEN: That is correct Chair.

CHAIRPERSON: Yes. So the – and then that R30 million is then paid to the Estina Standard Bank current account. So in effect the R30 million that the Provincial Government had paid into the Estina Standard Bank current account and

travelled for quite some time is now back.

MR HOLDEN: That is correct Chair.

CHAIRPERSON: Yes. Okay alright.

ADV CHASKALSON SC: Just for again for reference. The movement of that R30 million down is – should be – the R30 million down from Estina Baroda to Estina Standard Bank a reference at page 439 on the Estina side is where we will find that. If we can pick up we are at Lans and Standard and go to page 174.

10 **CHAIRPERSON:** We should go to page 174?

ADV CHASKALSON SC: 174 Chair.

CHAIRPERSON: Okay. Yes.

ADV CHASKALSON SC: And Mr Holden can you show the Chair where that – where to find that R30 million landing from – from Baroda?

MR HOLDEN: Certainly. So what you see at the – on page 174 the very last entry on that page says Interbank Credit Transfer Estina PTY Limited Bedford Gardens and a deposit of R30 million on the 4 September.

20 **CHAIRPERSON:** Hm.

ADV CHASKALSON SC: So – so then for the – for the diagram we can put 174 as the corresponding reference in Standard Bank for that R30 million payment? While we are on the Standard accounts Mr Holden can you talk to that previous entry of 1.3 million?

MR HOLDEN: Absolutely. So what that is is a payment of R1.3 million from Kamal Vasram and it is paid into the account on the same day as the R30 million is paid and it is for R1.3 million. I have indicated it Chair up here on the diagram.

ADV CHASKALSON SC: For the record purposes because at some stage we are going to have to read what you are saying. What you are indicating is the diagonal down from the yellow box and Kamal Vasram personal accounts down to
10 the right to Estina Standard Bank current account.

MR HOLDEN: That is correct. And what is important there is that this R1.3 million ultimately derives from tranche 1 of the Free State government money. So what we have by the – the 4 September is money from tranches 0 and tranche 1 have been reconstituted back into Estina Standard Bank account to facilitate a further payment.

ADV CHASKALSON SC: And not...

CHAIRPERSON: The R300 million – ag the R300 000.00 1.3 is that just to confuse or – because with R1 million that
20 would have made 30 or is that not really that is just a transfer that has got nothing to do with the R30 million?

MR HOLDEN: What – so to move ahead what the R1.3 million eventually – effectively does is increase the balance?

CHAIRPERSON: Yes.

MR HOLDEN: Along with the R30 million sufficient so that

Estina can then make an outward transfer of exactly \$3 million.

CHAIRPERSON: Oh okay.

MR HOLDEN: Which is slightly more than the 30 million from the original tranche.

CHAIRPERSON: Oh.

MR HOLDEN: Which you will see on the page.

CHAIRPERSON: So it is to facilitate that transfer. But when that transfer happens does it – is it the equivalent of R30
10 million in US Dollars?

MR HOLDEN: No so it actually – if we go over to the following page which is 175.

CHAIRPERSON: Ja.

MR HOLDEN: You can see there – you can see the date is the 4 September so the exact same day which has received the funds and they being comingled there. There is a debit of R30.9 million.

CHAIRPERSON: Yes.

MR HOLDEN: And that goes to Gateway Limited.

20 **CHAIRPERSON:** Yes okay.

MR HOLDEN: Which then obviously leaves a certain amount of balance but the R30 million from tranche 0 would not have been quite enough to make the payment.

CHAIRPERSON: Yes okay. Now Mr Holden some of these explanations you give us might be simplified to enable some

of us to understand. You remember earlier on you explained to me that your green coding that colour is for the point of departure but now I see that Kamal Vasram's is not green it is like it is a bus stop like the other bus stops. So how come you did not?

MR HOLDEN: In relation to that it is because that money from Kamal Vasram is ultimately from tranche 1.

CHAIRPERSON: Ja.

MR HOLDEN: And I indicate the green – the green start
10 point in tranche 1...

CHAIRPERSON: So the green is for a legitimate point of departure or something?

MR HOLDEN: So the green is money coming into this money flow.

CHAIRPERSON: Ja.

MR HOLDEN: And in relation to this particular payment I do not indicate it as green here..

CHAIRPERSON: Because that is...

MR HOLDEN: Because it is actually derived from an earlier
20 – from a different tranche payment.

CHAIRPERSON: Oh okay.

MR HOLDEN: And that one is indicated as green as we – when we get to it.

CHAIRPERSON: And on the fact of he seems to be a participant in the whole network?

MR HOLDEN: Absolutely Chair.

CHAIRPERSON: Ja okay alright. Thank you Mr Chaskalson.

ADV CHASKALSON SC: So Chair just for referencing purposes we have looked at quite a lot.

CHAIRPERSON: Well with referencing I wanted to say to you maybe when we are done with this we will have to go through it because some of the referencing I did not do this but others I did so to make sure that what I have got is the same as what you have got.

10 **ADV CHASKALSON SC:** Yes in fact Chair what – what will probably be the best.

CHAIRPERSON: Ja.

ADV CHASKALSON SC: Is for us to – now that we have a record with pagination.

CHAIRPERSON: Ys.

ADV CHASKALSON SC: Is to generate a full set of these diagrams with references on both ends.

CHAIRPERSON: Ja no that would be – ja that would be ...

ADV CHASKALSON SC: And then you do not need to..

20 **CHAIRPERSON:** Yes, ja.

ADV CHASKALSON SC: Need to be too concerned at this stage.

CHAIRPERSON: Okay. Okay.

MR HOLDEN: Maybe – could I make a suggestion?

ADV CHASKALSON SC: Sorry Mr Holden has a suggestion.

MR HOLDEN: What might also make things slightly easier is that I have compiled an additional annexure which is annexure H which appears at

ADV CHASKALSON SC: 303.

MR HOLDEN: 303.

CHAIRPERSON: Yes.

MR HOLDEN: And what annexure H is is every single transaction that I refer to in these diagrams I have placed into a table.

10 **CHAIRPERSON:** Ja.

MR HOLDEN: And cross-referenced that transaction.

CHAIRPERSON: Ja.

MR HOLDEN: Against the underlying bank document from where I draw the information.

CHAIRPERSON: Okay.

MR HOLDEN: Side it was referenced against the annexures attached to my report rather than pagination in the file itself so that will be relatively quickly upgraded.

CHAIRPERSON: Okay. Okay.

20 **ADV CHASKALSON SC:** But if we – if we go back to page 672 we have now covered everything on page 600 – oh sorry before we leave that Reserve Bank – that Standard Bank to Gateway there are two other references that we should look at. First it is picked up by the Reserve Bank at pages 631 and 632.

CHAIRPERSON: Hang on one second Mr Chaskalson. Mr Holden am I correct then to understand that the diagram at page 672 does not reflect the final destination of the R28 million not R80 million. We know the R1 million had reached its destination in the Estina ABSA account but otherwise the R28 million plus the R2 million that came from Mr Vasram has not reached its destination.

MR HOLDEN: That is correct Chair.

CHAIRPERSON: Ja.

10 **MR HOLDEN:** It is now going to be moved offshore

CHAIRPERSON: Ja.

MR HOLDEN: Where it is further laundered and then.

CHAIRPERSON: Ja okay.

MR HOLDEN: Spat out.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: So if we – if we go to page 631 this is the Reserve Bank spread sheet and we are looking for unfortunately the spread sheets sort of runs sideways along two pages but if we look at the entry – we are looking for a
20 payment of R30.9 million which we will see at page 632. So if you can take the Chair to 632 and identify the Estina Gateway payment.

MR HOLDEN: Certainly. So Chair that is the – the fourth transaction which reflects in a rand amount a R30.9 million which is then transferred in US Dollars and the US Dollar

amount is exactly R3 million.

ADV CHASKALSON SC: \$3 million.

MR HOLDEN: Sorry \$3 million.

CHAIRPERSON: \$3 million ja I was trying to look where is \$30 million. Okay. Okay

MR HOLDEN: \$3 million.

CHAIRPERSON: That is – that – whose account is that – is that Gateways' account?

MR HOLDEN: It is going into Gateway Limited's account.

10 **CHAIRPERSON:** Gateway Limited.

MR HOLDEN: So you can see that is next to the left of the rand amount.

CHAIRPERSON: Ja.

MR HOLDEN: That gives Gateway Limited as the account it is going into.

CHAIRPERSON: Okay. Ja I can see that ja.

ADV CHASKALSON SC: And if you go back up to 631 we get the Reserve Bank state for this transaction.

CHAIRPERSON: That is if we go back to?

20 **MR HOLDEN:** 531 because...

CHAIRPERSON: Oh ja.

ADV CHASKALSON SC: This is a spread sheet that really should be on the same page but it is too long.

CHAIRPERSON: Oh okay.

ADV CHASKALSON SC: To fit on a page. So the – so we

have been looking at the fourth row and if we go to the fourth row on page 631 we see the date is 4 September 2013.

CHAIRPERSON: Yes okay.

ADV CHASKALSON SC: Then we have – this is a case where we have offshore evidence as well. So if we go to page 625 we see the Gateway accounts that were obtained from the UAE and Mr Holden can you take the Chair to the – this transaction on Gateways' Standard Chartered Bank
10 statement page 65.

MR HOLDEN: Certainly. So just to confirm this is a – this was attached as annexure T to my original report page 31 of that annexure and it is the second yellow highlighted transaction. And you can see on the left hand side it gives the date as the 5 September 2013. It is – the text is rather small but you can actually see that the reference that it has given is Estina Pty Limited at Shimbali Sands which is what the registered address for Estina was at that time.

And then the third column over also highlighted is the
20 amount of \$2.999. 975.00 which is \$25 dollars less than \$3 million. That \$25 is most likely accounted for by bank charges.

ADV CHASKALSON SC: There is one South African leg that we need to exhaust before we go offshore. We took as our starting point for the 2 million that came into the Baroda

account or we just saw it land in the Baroda current account. We have not seen where it came from. For that can I ask you to turn to page 445? And Mr Holden can you describe what 445 is?

MR HOLDEN: Certainly. This is a fixed deposit account held by Estina at the Bank of Baroda with the account number 92020300000287 and what we have here if you look at the transaction dates thereafter the first date is the 15 October 2012 that is the date that this facility was created.

10 On the 15 October 2012 you see the deposit coming in of R2 million and then the closure on the 4 September 2013 of R2 million.

ADV CHASKALSON SC: So that then takes us to the arrow out of the Octagon on the right hand side of page 668. It also takes us to the bottom of the arrow dropping vertically into that – sorry it is an hexagon dropping vertically into that hexagon and the last South African link that we need to look at is where that R2 million that we see arriving on 15 October 2012 comes from and for that can we go to page

20 473?

CHAIRPERSON: 473. 473.

ADV CHASKALSON SC: 473 Chair indeed.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: And Mr Holden first can you identify where the R2million comes from and then can you

talk to how it is made up?

MR HOLDEN: Certainly. So this page is a page from Kamal Vasram's Bank of Baroda current account with the bank account number 92020200000262 and on the left hand side if you scroll down to the date 15 October 2012 you can see an amount of R2 million withdrawn and the reference is given as FDR and so that is the R2 million that goes into the fixed deposit account.

ADV CHASKALSON SC: And how is this R2 million made
10 up?

MR HOLDEN: So the R2 million is made up as you can see prior to this transaction there are two deposits. The first on the 12 October 2012 of R1 million – R1 050 000.00 and then a further deposit on the 15 October of R950 000.00. Those two deposits together increased the balance in the account to R2 million – R2 000 493.17 cents which then facilitates the R2 million transfer out to the fixed deposit account.

ADV CHASKALSON SC: So can you explain to the Chair why you have not got that rectangle with Kamal Vasram at
20 the top of page 672 why it is in yellow and not green?

MR HOLDEN: Certainly. Because the transfer on the 12 October 2012 of just over – of R1 million and R50 000.00 is ultimately drawn from tranche 1 the second payment the Free State government makes. And the R950 000.00 is from the source that we are unable to identify but we suspect may

have been the Estina ABSA account.

ADV CHASKALSON SC: So now we have covered the starting the – the whole of the starting South African leg of tranche 0 and \$3 million has landed in the Gateway account. To pick up where it goes in the Gateway account can we turn now and Chair at this point we are off part 1 so if you can put that page back – page 672 you can put it back in the file.

CHAIRPERSON: Okay thank you.

ADV CHASKALSON SC: And if we go to page 674 sorry 678
10 we will see what happens to that R3 million when it lands in Dubai or in the UAE.

CHAIRPERSON: Just one second Mr Chaskalson. Okay and then we go to what page?

ADV CHASKALSON SC: To 678 Chair.

CHAIRPERSON: Yes I am there.

ADV CHASKALSON SC: And Mr Holden can you first describe what you are depicting on page 678 and then we can go to the bank statements?

MR HOLDEN: Certainly. So the \$3 million that is paid into
20 Gateway Limited's account is dissipated in a number of different tranches. It is four different steps I am able to trace and this is the first of those steps. And what we see is on the 5 September 2013 the deposit is made into Gateway Limited and then on the 23 September 2013 we see a payment made of \$72 231.14 on the 23 September 2013 and

that goes to Star Engineers. And then on the same day 50 000.00 is transferred to Lin Yu Chu.

ADV CHASKALSON SC: And can you just remind the Chair who Star Engineers are and who Lin Yu Chu is?

MR HOLDEN: Certainly. So Star Engineers is the Indian company from which Estina purchases the dairy equipment and Lin Yu Chu I am afraid I have not been able to discern the exact relationship to the Gupta Enterprise but there is correspondence showing that there were some sort of
10 business relationship between them.

ADV CHASKALSON SC: Then if we want to confirm these transactions it gives us an opportunity to test the ledger against the Gateway – the official Gateway Standard account – Standard Chartered account. So can we go to the Gateway Standard Chartered account first at page 625? And can you identify the two payments that you have been describing here? The payment of 50 000.00 to Lin Yu Chu and 72 231.14 to Star Engineers?

MR HOLDEN: Certainly. So what we have on the left hand
20 side of you see the dates running chronologically under the 23 September which is two entries after the second yellow highlighted entry we have a payment – a first payment reflected of 50 000.00 and then a second payment of 72 231.14. What is...

CHAIRPERSON: I am sorry. We are at 625 is it not?

ADV CHASKALSON SC: 625 Chair.

CHAIRPERSON: Oh okay I was looking for that amount of 72 now I can see it ja.

ADV CHASKALSON SC: And I think Mr Holden it is a rare occasion I can correct you. You have given the date of the 50 000.00 payment as 23 September but when I was preparing this morning I had reason to believe that it was not that 50 000.00 it was the one above that is dated 18 September and so let us pend it for now but – until we go to
10 the ledger on page 375. And can you describe to the Chair what we see on page 375?

MR HOLDEN: Certainly. So this is a transaction ledger that we have described previously and if you were to look at the...

ADV CHASKALSON SC: Sorry just to clarify is this one of the tabs that was on that spread sheet that was emailed from I think Suresh Tuteja to Tony Gupta?

MR HOLDEN: That is correct. And what we see in the second column is if we scroll down to the 18 September
20 which I can the evidence leader has very kindly corrected me you see 50 000.00 going to Lin Yu Chu. It is about a third of the way down that page and against the date the 18 September 2013.

ADV CHASKALSON SC: And where do we see the Start Engineering payment?

MR HOLDEN: So that occurs three transactions later on the 23 September 2013 and it gives the amount 72 231.14 paid from – if you scroll over to the far – the final column it indicates it was made from Gateway Standard Chartered Bank US Dollar accounts which the statement confirms.

ADV CHASKALSON SC: So what we have seen here is an instance of confirmation of the correctness of these ledgers on the email. Because we saw the underlying bank statement for Standard Chartered in respect of Gateway matching
10 transactions that we see on the ledgers. Can we then turn to page 679? And you have a heading Tracing Tranche 0 part 3. Can you explain to the Chair what you are doing here?

MR HOLDEN: Absolutely. So just to recap part 1 was tracing the internal South African laundry. Part 2 was the transactions we have just dealt with and part 3 is another chain of transactions through which the \$3 million is dissipated through offshore transactions.

ADV CHASKALSON SC: And if we go over the page you will see – you have broken it up into steps again.

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

ADV CHASKALSON SC: So we have...

CHAIRPERSON: That 679?

ADV CHASKALSON SC: No 680 now Chair.

CHAIRPERSON: 680 okay. Yes.

ADV CHASKALSON SC: So at 680 we have already seen –

it starts with the Estina payment – the Estina Standard Bank payment to the Gateway payment that we have already seen. Your first new step comes out of Gateway Limited Standard Chartered US Dollar account and can I ask you first to go to the official Standard Chartered account on page 625? The statement on page 625. And can you see where we find a payment of 400 000.00 on 23 September 2013?

MR HOLDEN: Certainly. So it appears directly after the 72 241.14 that was paid to Star Engineers. There is an entry
10 for 400 000.00 also on the 23 September.

ADV CHASKALSON SC: And let us again cross-check that against the ledgers and go to page 346? And you have this 400 000.00 moving from Standard Chartered – the Gateway Standard Chartered Dollar account to the Global Standard Chartered Dollar account. Can you show me where we see that on the ledgers?

MR HOLDEN: Certainly. It is a bit small.

ADV CHASKALSON SC: Maybe at this point if you could put the ledger up on the screen.

20 **MR HOLDEN:** Certainly.

ADV CHASKALSON SC: So that you can direct us.

MR HOLDEN: As we can see here on the screen I am going to zoom in very quickly. We have two transactions listed here. The first main party is Global Corporation the 23 September 2013 the counter party is Gateway Limited and if

we scroll over to the right here we see that 400 000.00 has been deposited into Global's US Dollar Standard Chartered Bank accounts and then the transaction that appears below that is the counter party transaction and on the left hand side we can see Gateway as the main party again the 23 September. The counter party is Global Corporation and if you scroll again across we have R400 000.00 that is transferred – it is a \$400 000.00 that is transferred out. So these two transactions reference each other.

- 10 **ADV CHASKALSON SC:** So this is another instance where we started with the ledgers and saw a transaction on the ledgers which subsequently was confirmed as correct when the NPA received the underlying Gateway statements from Standard Chartered?

MR HOLDEN: That is correct Chair.

ADV CHASKALSON SC: Your next transaction on page 680 is the 400 000.00 that has moved from Standard Chartered Gateway to Standard Global is transferred across to Global's Bank of Abu-Dhabi a Dirham account and to see that, it is...

- 20 Sorry. Can you just describe that arrow down from Global Corporation Standard Chartered Dubai US Dollar account to Global Corporation Bank of Abu-Dhabi Dirham account?

MR HOLDEN: Certainly. So what we see there is a transfer of 449 346 Dollars which is equal to 1.64 million Dirham and that is transferred on the 24th of September 2013. So a day

after that account has just received the payment from Gateway Limited.

ADV CHASKALSON SC: And can I ask you to go to page 350 to identify that transaction on the ledgers?

CHAIRPERSON: What page is that Mr Chaskalson?

ADV CHASKALSON SC: 350, Chair.

CHAIRPERSON: Okay.

MR HOLDEN: So on the screen, as you can see, her at rows 257 and 258, the first party at row 257 is Global, the
10 24th of September. It says... I think I should be looking here. I apologise. I am looking at the wrong transaction here. It is up here.

And see here at... Sorry, row 249. You see the party, the main party is Global. The date is the 23rd of September 2013.

The counter party is Global Corporation LLC which obviously is the second as the first party. And what see here is an amount deposited into Global Corporations National Bank of Abu-Dhabi Dirham account of 1.65 million.

20 **ADV CHASKALSON SC:** And 1.65 million would correspond to roughly to 455 000 Dollars.

MR HOLDEN: That is correct.

ADV CHASKALSON SC: And then that 1.650 Dirham which is deposited into... Well, sorry. The other – you have an entry of 449 346, 15 Dollars, that has left the Dollar account.

Can you flag that on the ledgers?

MR HOLDEN: [No audible reply]

ADV CHASKALSON SC: I think you have overshoot it.

MR HOLDEN: Is it?

ADV CHASKALSON SC: If you go back to 1650 and you go up four rows, you should find it.

MR HOLDEN: Ja, it is 3449. Is that correct?

ADV CHASKALSON SC: That is correct, yes.

MR HOLDEN: Yes, yes, yes.

10 **ADV CHASKALSON SC:** So ...[intervenes]

MR HOLDEN: Let me get organised here. At row 244, we see the company, the main party is Global. The 23rd of September 2013 for a reason I do not fully understand. They have the left counter party blank.

But we do know that that is Global Corporation as well. And we see the capital withdrawal of 449 246 Dollars from Global US Dollars to Standard Chartered bank account.

ADV CHASKALSON SC: Thank you. So we know have 1 650 000 Dirham's in the Bank of Abu-Dhabi account. And
20 you say as step two, 1.7 million is withdrawn in cash. Can you go to page 350 and show me where we see this 1.7 million withdrawn in cash?

MR HOLDEN: [No audible reply]

ADV CHASKALSON SC: It is your date on your diagram is 24 September.

MR HOLDEN: That is right. Over here. We have at row 256, we see the first party is Global. The date is the 24th of September 2013. Then we have a description of cash withdrawal and then cash is reflected – there is a cash here. It is reflected as 1.7 million in cash.

And if you see the counter party transaction here, it is actually on the same line because it is cash withdrawal. You can see the 1.7 million Dirham being taken out of the National Bank of Abu-Dhabi account in Dirham.

10 **ADV CHASKALSON SC:** Thank you. Then we move to page 681 where we know as our starting point, 1.7 million in cash and we are going to see where that cash goes. At the bottom left-hand page of...

Well, it depends which way you are looking at it. If you are reading the script from left to right as opposed to turning your head, trying to read it A4.

If you have the page landscape not portrait, can you show us what happened to that 1.7 million cash?

MR HOLDEN: Certainly. So on step 3 of this transaction.

20 **CHAIRPERSON:** Sorry, sorry. Or 1.7 budget at the bottom there. Is that the one at the bottom?

ADV CHASKALSON SC: That is the 1.7 million cash in that bottom...

CHAIRPERSON: Yes, okay alright.

MR HOLDEN: Step 3, 1.3 million Dirham of that 1.7 million

Dirham is then transferred to Global Corporation, Bank of Baroda, Dubai Dirham account on the 24th of September 2013.

ADV CHASKALSON SC: Oh, you said transferred?

MR HOLDEN: Oh, sorry. Deposited not transferred.

ADV CHASKALSON SC: So this is would be an example of the cash...[intervenes]

MR HOLDEN: Exactly.

ADV CHASKALSON SC: So where in the banking system
10 the cash of 1.7 million and now the banking system cannot see where we are taking that cash but we put 1.3 million straight back into the banking system and now there has been a break.

MR HOLDEN: Absolutely.

ADV CHASKALSON SC: And where do you see... If I take you to page 350, which we were on a minute ago, can you show us where that 1.5 million ...[intervenes]

MR HOLDEN: 1.3 million.

ADV CHASKALSON SC: Oh, sorry. 1.3 million is
20 ...[intervenes]

MR HOLDEN: Certainly. So at row 257 which is directly after the cash withdrawal row, you will see on the left-hand side the main party is Global, 24th of September 2013 and here reflects cash deposit.

And we see in the cash, the cash heading, 1.3 million is

minus from the – is subtracted from the cash amount. In fact, cash in hand. And then 1.3 million Dirham is reflected as being paid into Global's Bank of Baroda Dirham based account.

ADV CHASKALSON SC: That is 1.3 of the 1.7 million. Can you go back to page 681 and tell us what happens to most of the balance of that original 1.7 million?

MR HOLDEN: So what we see is that amount being – the remainder amount of the 1.7 million is paid to the right on
10 the diagram, 367 245 Dirham on the 24th of September 2013, is described as cash given to Nadi(?) which we understand the Nadi exchange for Hawala transaction.

I should clarify Chair. At the bottom of this red enter point here, I give a figure of 2 million Dirham. That is – actually, what happens is that at a later stage within this transaction, more money is paid into – more cash is transferred into the Hawala system.

ADV CHASKALSON SC: To find that 367 245 going into the Nadi Hawala system. Can I take you to page 342?

20 **MR HOLDEN:** It might be - more about to show, it going out and then where it shows up on the cash later.

ADV CHASKALSON SC: Sorry? You told me what you want to show.

MR HOLDEN: I think you are correct in the first instance. So.

CHAIRPERSON: So what was that page Mr Chaskalson?

ADV CHASKALSON SC: 342, Chair.

CHAIRPERSON: H'm..

ADV CHASKALSON SC: And you are looking for 367245 going out to the Nadi system on the 24th of September 2013.

MR HOLDEN: That is correct. So just to clarity. On the – it is a little bit difficult to see on the screen here – but this is the – I have now moved to a different sheet in the Excel spread – Excel workbook.

10 I am now on the cash sheet. I am now on the cash sheet because obviously they are now transacting in cash. And then we can see here on the 24th of September 2013, we see an amount of 367 245 Dirham and it is described as Nadi Exchange Remittance.

ADV CHASKALSON SC: While we are on this page. Can I ask you to flag also the second payment to the Nadi Exchange?

MR HOLDEN: Certainly. So that occurs at row 31 directly thereafter and that is 367 255 Dirham as paid on the
20 25th (?) of September 2013.

ADV CHASKALSON SC: And if you go back to 681, can you show where that is reflected on your diagram?

MR HOLDEN: Certainly. That is this transfer going down from Global Corporations, Bank of Baroda, Dubai account into the cash given Nadi Hawala. I should mention that

367 255 Dirham is roughly equivalent to 100 000 Dollars.

CHAIRPERSON: Is that the Dirham(?), the one that appear... It is not the one that appears at 671, is it?

ADV CHASKALSON SC: 681, Chair.

CHAIRPERSON: 681.

ADV CHASKALSON SC: 681.

CHAIRPERSON: Yes, okay.

ADV CHASKALSON SC: And just to close that loop on the ledgers. Can you go back to page 350 and show where the
10 cash, the 367 255, how that cash is created because it has come out of the – your diagram says it comes out of the Global Corporation, Bank of Baroda.

MR HOLDEN: That is correct.

ADV CHASKALSON SC: Dubai bank account.

MR HOLDEN: So what we see here at row 258 on the spreadsheet on the screen. The first party is Global. The date is the 24th of September 2013. There is a description called Depo Con which I have never been really able to ascertain this – that meaning but it could mean deposit
20 convert or something like that.

And then, further to the right here, we see 367 450 Dirham withdrawal from Global, Bank of Baroda, Dirham account.

ADV CHASKALSON SC: Thank you. So we have now finished. If we go back to six... We finished six, eight... The

diagram on 681 which is step 4 of your description of these tranches. And we now need to go to step 5 on page 682.

CHAIRPERSON: We might need to take a break. How far are we from finishing for the day?

ADV CHASKALSON SC: Chair, in truth, where we finish... Now is a good a time any time to finish.

CHAIRPERSON: Oh.

ADV CHASKALSON SC: Because this illustration, we cannot do this for all eight diagrams.

10 **CHAIRPERSON:** Oh, yes, ja.

ADV CHASKALSON SC: But what we will do is, we will give ...[intervenes]

CHAIRPERSON: Ja.

ADV CHASKALSON SC: ...a detailed referenced copy of each diagram so that all of that information is there.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: And then what we can do early tomorrow morning ...[intervenes]

CHAIRPERSON: Yes.

20 **ADV CHASKALSON SC:** ...or at the start of tomorrow morning, is we can very quickly ...[intervenes]

CHAIRPERSON: Yes.

ADV CHASKALSON SC: ...just talk high-level about where this money goes, where it ends in five minutes.

CHAIRPERSON: Yes. Okay but in terms of your plan, when

do you think we will stop?

ADV CHASKALSON SC: We will finish – with an hour tomorrow morning or maybe an hour and a half tomorrow morning, we will finish the Estina money flows.

CHAIRPERSON: Yes, okay.

ADV CHASKALSON SC: And then we will move over to the Transnet money flows.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Which will – we will have
10 comfortable time to finish ...[intervenes]

CHAIRPERSON: Yes.

ADV CHASKALSON SC: ...given the time available for us tomorrow ...[intervenes]

CHAIRPERSON: Ja.

ADV CHASKALSON SC: ...and Monday evening and even Tuesday evening if we need to.

CHAIRPERSON: Yes, okay. Well, I take it that that means it might be convenient to adjourn his evidence now or would you like ...[intervenes]

20 **ADV CHASKALSON SC:** I think it is as good a time... It is as convenient a time as any ...[intervenes]

CHAIRPERSON: Yes.

ADV CHASKALSON SC: ...now to ...[intervenes]

CHAIRPERSON: Okay. No, that is fine. Maybe we should do that. Then when – then you start the next step tomorrow.

ADV CHASKALSON SC: Yes.

CHAIRPERSON: Ja, ja. And then we will continue. So we can take the break. I mean, if it mattered, we could have continued for some time ...[intervenes]

ADV CHASKALSON SC: Chair, I wonder if we take...[intervenes]

CHAIRPERSON: Ja.

ADV CHASKALSON SC: If we now stop moving high-level.

CHAIRPERSON: Yes.

10 **ADV CHASKALSON SC:** Not... and maybe we should finish Tranche 0.

CHAIRPERSON: Okay alright.

ADV CHASKALSON SC: Because we are in the middle of it.

CHAIRPERSON: Okay maybe let us take five minutes, ten minutes' break.

ADV CHASKALSON SC: Certainly.

CHAIRPERSON: And then we can continue and then stop at a certain time. Then I can hear the evening witness.

20 **ADV CHASKALSON SC:** Oh, Chair.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: There is an evening witness waiting and we should not – I do not want to inconvenience.

CHAIRPERSON: Ja.

ADV CHASKALSON SC: We can tailor our time tomorrow

to...

CHAIRPERSON: Yes. No, no, no. That is fine. But the evening team knows that I said we could start at four o'clock... They should be here at four o'clock but we could start at five or half-past four. So there is ...[intervenes]

ADV CHASKALSON SC: Oh, no. Look, from my perspective Chair, whether we finish now or in ...[intervenes]

CHAIRPERSON: It does not ...[intervenes]

ADV CHASKALSON SC: ...half an hour's time, it makes no
10 real difference.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: I would not want to inconvenience the evening session.

CHAIRPERSON: Okay, okay. Maybe then let us adjourn for the day in terms of this witness and then we continue tomorrow. Then I will take a break. When I come back, I will start with the evening session.

ADV CHASKALSON SC: Thank you, Chair.

CHAIRPERSON: Ja, ja.

20 **ADV CHASKALSON SC:** And now I can rest(?) for the rest of the day.

CHAIRPERSON: [laughs] Then let us adjourn. We will adjourn Mr Holden. And then tomorrow, we start at ten as normal. We start at ten, ja. So we will adjourn for the day and you will come back tomorrow. Okay. The adjournment

will be about 15 or so minutes to enable the evening team to setup and thereafter we will continue with the evening session. We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Good afternoon, Mr Seleka, good afternoon everybody.

ADV SELEKA SC: Good afternoon, Chairperson.

CHAIRPERSON: Are we ready?

10 **ADV SELEKA SC:** We are indeed, Chairperson.

CHAIRPERSON: Yes.

ADV SELEKA SC: Chairperson, the witness for this session is Mr Matshela Moses Koko and he may take either the oath or the affirmation. We will place on record the legal representatives afterwards.

CHAIRPERSON: Afterwards, okay.

ADV SELEKA SC: Yes.

CHAIRPERSON: Let us do the oath or affirmation.

REGISTRAR: Please state your full names for the record?

20 **MATSHELA MOSES KOKO:** Matshela Moses Koko.

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

MR KOKO: No.

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

MR KOKO: That is correct.

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 KOKO: So help me God.

CHAIRPERSON: You may be seated, Mr Koko.

MR KOKO: Thank you.

CHAIRPERSON: Thank you for coming to give evidence
10 and assist the Commission. Or then counsel for Mr Koko can place themselves on record, you may do so from where you are if that is convenient.

ADV BARRIE SC: Chair, my name is Frans Barrie, I am from the Johannesburg Bar, I am instructed Ndou Incorporated Attorneys. Chair, as mentioned to you in chambers, there are some matters of housekeeping that we want brought to your attention.

CHAIRPERSON: Yes.

ADV BARRIE SC: Because we were after nine yesterday
20 evening supplied with a bundle that is going to serve before you today and it is in certain respects deficient. The one aspect is unforeseen but we made available to the legal team an affidavit to correct minor errors in the affidavits that have been made available to the Commission.

CHAIRPERSON: Okay.

ADV BARRIE SC: Then we wrote to you a letter yesterday in relation to various aspects pertaining to these proceedings.

CHAIRPERSON: Yes.

ADV BARRIE SC: My understanding is that that letter has not reached you.

CHAIRPERSON: Yes, it has not reached me.

ADV BARRIE SC: Because we – one of the issues that is
10 relevant here is that we have now for a period of more than
a year been trying to obtain our client's cell phone records
which you will know have in these proceedings been put to
witnesses quite liberally and we have requested I think on
the 29 October of last year already, we have requested that
these documents be made available to us. They were not
made available to us.

CHAIRPERSON: Did you get a response at all?

ADV BARRIE SC: We did not get a response to that letter
at all.

20 **CHAIRPERSON:** Oh.

ADV BARRIE SC: And that letter was then later followed
up when – during this year, more recently, in a letter dated
23 September 2020 and the letter that we sent to you this
morning was to ask again, which was the same request that
was made yesterday, that you should intervene and give

some directive to the effect that those cell phone records have to be made available to us.

CHAIRPERSON: Yes.

ADV BARRIE SC: It does to us, though, that we do not have any choice but to resort to the Promotion of Access to Information Act which ...[intervenes]

CHAIRPERSON: No, there should be no need for that. If we have got the information it relates to him, I cannot see any problem why the Commission should not give those –
10 that information.

ADV BARRIE SC: We, in the letter to you, we express our dismay at this situation.

CHAIRPERSON: Ja, I cannot think of any reason why, if we have got them, why they cannot be made available. You referred to some occasion when they may have been mentioned. I seem to think – but I do not remember whether it was Mr Koko's cell phone records but I do know that at some stage, a few weeks ago or a few – two months ago, whatever, when we were dealing with Eskom matters
20 there was a reference to some cell phone records but I cannot remember they related to him or somebody else.

ADV BARRIE SC: No ...[intervenes]

CHAIRPERSON: But if we have got the cell phone records relating to him there is really – I cannot see any reason why they should not be made available.

ADV BARRIE SC: Chair, the reason why I am mentioning that Act is if we have to resort to that, you will be person responsible to respond to it and we would not want you to take umbrage at that.

CHAIRPERSON: Ja.

ADV BARRIE SC: But for the time being if I may hand up the affidavit correcting the prior affidavit.

CHAIRPERSON: Ja, yes.

ADV BARRIE SC: And then the letter of yesterday.

10 **CHAIRPERSON:** Yes.

ADV BARRIE SC: Which was incorrectly dated, I must say, and then again the letter to us so that it is a matter of public record before you.

CHAIRPERSON: Yes, yes. He is going to check those.

ADV BARRIE SC: I have copies for my learned friends although I am sure they also have these documents.

CHAIRPERSON: What is the effect of the fact that you have not received those cell phone records ...[intervenes]

ADV BARRIE SC: In terms of our continuing today?

20 **CHAIRPERSON:** Sorry?

ADV BARRIE SC: In terms of our continuing with the proceedings today?

CHAIRPERSON: Yes, yes.

ADV BARRIE SC: Our decision is that we – my client needs to be heard.

CHAIRPERSON: Yes, yes.

ADV BARRIE SC: My client has been the victim of vicious trial by media over a number of years.

CHAIRPERSON: Yes, yes, yes.

ADV BARRIE SC: And my client wants to be heard before you.

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

ADV BARRIE SC: So we are not going to ask for postponement for any of the things.

10 **CHAIRPERSON:** Yes, yes.

ADV BARRIE SC: But we are in due course hoping to get those records.

CHAIRPERSON: No, no, that is fine. Do I – is it important for me to read these before we start or...?

ADV BARRIE SC: I would not think it is particularly important at this time.

CHAIRPERSON: I can read them later.

ADV BARRIE SC: But if you possibly overnight then – or in due course.

20 **CHAIRPERSON:** Okay.

ADV BARRIE SC: I may also mention that we have been requested to be here again on the 11 December.

CHAIRPERSON: Okay.

ADV BARRIE SC: Our understanding is that the present proceedings relate only to what is referred to as the

suspension of ...[intervenes]

CHAIRPERSON: Yes, yes of the executives.

ADV BARRIE SC: Of executives.

CHAIRPERSON: Ja.

ADV BARRIE SC: We are currently going to be back on the 11 December, only an hour, we hope, when we will see you again.

CHAIRPERSON: Ja.

ADV BARRIE SC: So things that arisen possibly from the
10 correspondence will then be addressed.

CHAIRPERSON: Yes. No, no, that is fine then. Thank you.

ADV BARRIE SC: Thank you, Chair.

CHAIRPERSON: Mr Seleka, what is the story about cell phone records not being made available to Mr Koko's legal team?

ADV SELEKA SC: Ja. Thank you, Chairperson, the cell phone records that have been used before the Commission, they came through the evidence of Ms Veleti, Nonkululeko
20 Dlamini Veleti. The affidavit together with what was contained in regard to the list of telephone exchanges between I and Mr Koko would have been provided to Mr Koko in terms of Rule 3.3 and indeed that was provided to Mr Koko prior to Ms Veleti coming to testify because the part of Ms Veleti's evidence in the affidavit is captured in –

is responded to in Mr Koko's affidavit. That is one.

Then there was a general request for cell phone records which my learned friend is referring to. There was a response to that, Chairperson, by letter dated 13 November 2020 from the secretariat. It is a two page letter. It deals with all the requests that had been made from my learned friend's attorneys and the letter is addressed to the attorney, Mr Phumudzo Ndou. In regard to the telephone records the letter reads at paragraph 7:

10 "Anymore by your phone records that the Commission has in its possession have been obtained by virtue of the Commission's investigative work. In the event that the Commission wishes to present any such records as evidence during the testimony of your client such records will be part of the bundle of evidence that will be presented. This information will be shared with your client beforehand to afford him an opportunity to prepare. Let us know if you require any further assistance."

20 So it is not correct to say there was no response to the letter, there was indeed a response and insofar as the information was used before the Chairperson in regard to Ms Veleti, that would have been provided to Mr Koko.

CHAIRPERSON: And then – well, the letter says the cell phone records will be provided together with the bundle.

Has that happened?

ADV SELEKA SC: No, that is – we are not – that is if the Commission intends relying on that when your client comes to testify. So we have not packaged the cell phone records as evidence for the purposes of Mr Koko.

CHAIRPERSON: Yes, well is there any reason why you cannot share them with his legal team, the cell phone records? Are they not relevant for some or other point?

ADV SELEKA SC: Ja. We have not, I have not looked at
10 them except for the ones of Ms Nonkululeko Veleti, Chairperson.

CHAIRPERSON: Ja.

ADV SELEKA SC: Which have been shared.

CHAIRPERSON: Yes.

ADV SELEKA SC: The one which is general question
...[intervenes]

CHAIRPERSON: Oh, you say those ones have been shared?

ADV SELEKA SC: Yes.

20 **CHAIRPERSON:** Ja.

ADV SELEKA SC: The general question one, any cell phone records in the possession of the Commission.

CHAIRPERSON: Oh, okay. Well, I think what should happen is have a discussion with Mr Barrie.

ADV SELEKA SC: Indeed.

CHAIRPERSON: Have a discussion afterwards to understand exactly if they have received the earlier ones which you say were sent together with the Rule 3.3 notice.

ADV SELEKA SC: Yes.

CHAIRPERSON: And whether the request for other cell phone records is just to say any cell phone records that the Commission has ...[intervenes]

ADV SELEKA SC: Or might have.

CHAIRPERSON: Or might have or relevant to a particular
10 issue. If the two of you talk, I am sure that will be sorted out.

ADV SELEKA SC: We could certainly do that, Chairperson.

CHAIRPERSON: Yes.

ADV BARRIE SC: Chair, if I may, I did not intend to convey to you that the more recent letter was not responded to. It was responded to, it took two months.

CHAIRPERSON: Yes.

ADV BARRIE SC: The initial letter was never responded
20 to. We have not received any cell phone records.

CHAIRPERSON: Ja.

ADV BARRIE SC: But the real issue is the cell phone records are not only important for what my learned friend thinks they might be important. They may be important for what they do not show.

CHAIRPERSON: Yes.

ADV BARRIE SC: And we requested that quite unequivocally.

CHAIRPERSON: Yes.

ADV BARRIE SC: We discussed it with my learned friend.

CHAIRPERSON: Yes.

ADV BARRIE SC: We still do not have it.

CHAIRPERSON: Yes.

ADV BARRIE SC: And it is beyond our understanding, to
10 be perfectly frank, why – how this could happen.

CHAIRPERSON: Yes. Well, maybe what we should do is
after – when we have finished this evening the two of you
can talk. Today is Thursday, the 11th is next Friday?

ADV SELEKA SC: Correct, Chair.

CHAIRPERSON: Ja, when Mr Koko will be back. I think if
– or by Monday, latest Tuesday, the issue has not been
resolved then maybe the two of you can see me at the
hearing during one of the breaks and we can see what can
be done, ja.

20 **ADV BARRIE SC:** Very well. Very well, thank you, Chair,
I think that is for the time being...

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

ADV SELEKA SC: Thank you, Chair. Chair, on that note
we may proceed. The bundle we will be using is Eskom
bundle 15, EXHIBIT U27.

CHAIRPERSON: Yes.

ADV SELEKA SC: Mr Koko should have the same bundle also in front of him.

CHAIRPERSON: And let us confirm that for purposes of this evening, Mr Koko's evidence will be confined to the issue of the suspension of the executives. Any other matters in respect of which he may testify will be dealt with either on the 11th or some other time.

ADV SELEKA SC: Indeed, Chairperson.

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

ADV SELEKA SC: So the suspensions will not – his evidence on the suspension will not touch on the transactions which I know other people do know the transactions, the Tegata transaction, the Trillian transactions.

CHAIRPERSON: Yes, ja.

ADV SELEKA SC: That will be dealt with in due course.

CHAIRPERSON: Ja.

ADV SELEKA SC: Thank you, Chair.

20 **CHAIRPERSON:** Okay.

ADV SELEKA SC: So Mr Koko, by way of the bundles you have Eskom bundle 15, EXHIBIT U27.

CHAIRPERSON: Maybe what you should do, Mr Seleka, just for the benefit of the public.

ADV SELEKA SC: Yes.

CHAIRPERSON: Because I hear evidence during the day relating to this entity and then in the evening I hear evidence relating to another entity and the previous evidence relating to that entity happened weeks ago. Maybe you could just recap as to where exactly Mr Koko features in terms of his suspension so that when Mr Koko starts his evidence and the questioning starts the public can follow.

ADV SELEKA SC: Follow, sure.

10 **CHAIRPERSON:** Ja.

ADV SELEKA SC: Okay, this is – the evidence that will be presented is part of the Eskom work stream in regard to matters arising at Eskom back in March 2015. On the 11 March 2015, Chair, the Eskom board took decisions to suspend four executives. Mr Koko was one of the four executives suspended.

The three other executives were ultimately engaged in negotiations to leave Eskom. Settlement agreements were concluded with them on the basis they separated with
20 Eskom. Only Mr Koko came back from his leave.

The evidence then he will – we hope he will adduce today, relates to the circumstances leading to his suspension and perhaps give the Commission insight into his return and when he is back then there are other factors or matters relevant to his presence at Eskom which are the

matter we say will be dealt with in due course.

In a nutshell, his evidence fits into the issue of the suspensions, the decisions by the board relative to the evidence that has already been laid.

CHAIRPERSON: Well, the part that you may have not highlighted, which does need to be highlighted, is that there are some witnesses who have given evidence to the effect that whereas the suspensions were effected on the 11 March 2015 he had called them separately to meetings
10 that they had with him together with Mr Salim Essa on the 10 March. That is the day before the board suspended the four executives where the information – where the discussions revealed that I think in respect of one of the witnesses, Ms Daniels, I think, he said it was Salim Essa who did most of the talking, if I am not mistaken.

ADV SELEKA SC: That is correct, Chair.

CHAIRPERSON: And he was the one who told her that four executives were going to be suspended including Mr Koko. Mr Koko, according to Ms Daniels was in that
20 meeting in Melrose Arch and Mr Masango gave evidence this week, Mr Abram Masango. He said he too was called by Mr Koko to a meeting at Melrose Arch on the 10 March.

ADV SELEKA SC: 10th, yes.

CHAIRPERSON: And he said that he met with Mr Koko and Mr Salim Essa but he said it was Mr Koko who did the

talking, Mr Salim Essa was quiet most of the time, I think, and he said Mr Koko told him that there would be a suspension of executives which would include him, Mr Koko. Ja and – ja, I think one can say that in Mr Koko's affidavit, which is here, he has admitted that he had a meeting with Ms Daniels at a restaurant but has denied that there was any meeting that he had with her and with Mr Salim Essa at Melrose Arch on that day and discussing the suspension of executives.

10 I have not seen anything he says about Mr Masango's evidence but it might be somewhere, I just have not seen it. So I think it is important to understand that because I think it is an important part for both Mr Koko and those particular witnesses. Ja.

ADV SELEKA SC: Yes.

CHAIRPERSON: Okay, alright.

ADV SELEKA SC: Chairperson, yes if we give that more detailed description then we might as well add there is also Mr Koko, the evidence of Ms Veleti who says she was also
20 called by you on the 10 March 2015, that you – that Mr Koko was asking her also to come to Melrose Arch, was asking for her CV.

Chairperson, we have consulted with Mr Edwin Mabelane who is having to give an affidavit as well and he gives an information about him also being with Mr Koko in

his office, in Mr Koko's office, on the 11th midday or just after midday and being told by Mr Koko that we might be suspended but without specifying who are the we. And he is coming in Mr Koko's office to tell Mr Koko that I have just – I have received a call from the company secretary, he says tomorrow morning I should meet with the Chairperson. He emphasises the importance of the time and in response Mr Koko said well, you might be asked to act and that meeting is probably about that, the meeting of
 10 tomorrow morning and he says he leaves the office of Mr Koko with the impression that he is going to be asked to act in Mr Koko's position and that is what happened. So if we go into the detail, we can paint that picture in its entirety.

CHAIRPERSON: Ja. No, no, that is fine. So but it is important that we – that I hear Mr Koko's side of the story today.

ADV SELEKA SC: Yes.

CHAIRPERSON: Yes, okay, let us continue.

20 **ADV SELEKA SC:** Yes. Chairperson, this being an evening session, I think, Mr Koko, you can accept that we have read your affidavit and we will cut to the chase. So that file I have referred to, which is Eskom bundle 15 , contains your affidavit. It contains – there are three – well, there is two affidavits ...[intervenes]

CHAIRPERSON: Well, maybe I must say this, Mr Koko, nothing he says means you will not get a fair opportunity to put your case. Okay. So if – do not think that you will be prevented from stating your case.

ADV SELEKA SC: Yes, indeed.

CHAIRPERSON: Putting your evidence properly.

ADV SELEKA SC: Yes.

CHAIRPERSON: Ja.

MR KOKO: I mean, I do not want to be disrespectful of
10 you and if I am, my – I grew up with my grandfather, he will smack me.

CHAIRPERSON: Ja.

MR KOKO: So I really – I have been criminalised and I have been criticised, I have been condemned. I have been called names. I have a son who comes back from school and I feel for him. I look forward to today.

CHAIRPERSON: Yes, yes.

MR KOKO: I really want to assist you to get to the truth.

CHAIRPERSON: Ja.

20 **MR KOKO:** Wherever the truth gets you to.

CHAIRPERSON: Ja, ja, ja.

MR KOKO: I had a long difficult discussions with my lawyers about we do not have this, we do not have that, and I said to counsel and my attorney that we do in there, whatever happens. I have followed your sessions closely

and I have no doubt that I will be heard.

I am of the view that this is the only place giving the four years that I have been crucified, that evidence will matter and you will cut to the chase and separate allegations and just focus on the evidence and I really want to ask you that you allow me to make opening remarks. And if you say no, it is okay.

CHAIRPERSON: No, no, I will allow you.

MR KOKO: I will be happy if you say no.

10 **CHAIRPERSON:** Ja, no, no, no, I will allow you. You see, if I had my way, people who have been vilified or feel that they have been vilified in the media and so called court of public opinion about matters that fall within the terms of reference of the Commission would come here and – because they would get a chance to put their side of the story. We might make mistakes somewhere but certainly we try our best to make sure that everyone gets a fair opportunity. That does not mean that we would allow anybody to just go on and on and on because obviously
20 time is important but we would try and make sure that as far as possible they get a fair opportunity to put their side of the story.

So I have allowed other witnesses, we have asked for time to say something before the questioning starts and I would allow you. Some have said can I have five

minutes, others have said ten minutes, others fifteen minutes and we have looked at how much and then they would say what they wish to say before the questioning starts. So I would allow you. How much time would you like?

MR KOKO: Fifteen minutes.

CHAIRPERSON: Fifteen? Okay, it starts now.

MR KOKO: Thank you, Chair.

CHAIRPERSON: Okay.

10 **MR KOKO**: I have a set of documents that have I brought for your purpose.

CHAIRPERSON: Yes. I must say, Mr Koko, on one occasion, I do not know whether it is one or two, I allowed a witness to say something without a statement and without us having seen the statement, having seen what they are going to say in advance but then the witness started making statements implicating other people and those people had not been notified. So I do not know whether you are able to assure me that you are not going
20 to be mentioning anybody's name that would be implicated who has not been notified or anything of that kind.

I just mentioned that because when it happened I realised that maybe in the future when witnesses or certain people want to make statements we should say give us the statement of what you are going to say in advance so that

if we see that somebody will be implicated we can notify them.

MR KOKO: Chairman, I will not mention names that are not in my affidavit.

CHAIRPERSON: Yes. Okay, alright. Okay.

MR KOKO: And if I do ...[intervenes]

CHAIRPERSON: No, if they are in your affidavit, names that are in your affidavit, those people would have been notified and so on, so that should not be a problem.

10 **MR KOKO:** Thank you, Chair.

CHAIRPERSON: Ja. Okay, alright, you may start.

MR KOKO: Chairman, I thought I must put it to you that I listened to the NPA giving feedback to parliament and I got extremely worried about what was said there, Hermione – Ms Hermione Cronje told Parliament that we don't want to get to the lowest hanging fruit, we know who we are targeting and we prosecute them and he says it will be disappointing for them to get to the lowest hanging fruit but not get to the people they were set up to get, but I thought
20 the prosecution is not set up to get to people, the prosecution is set up to follow the evidence and get to the people that the evidence implicates.

In the letter that you have received, and I had a long argument with my counsel and I forced them to write it to you, because I honestly think that by – unconsciously or

consciously your investigators are following people and are not following the evidence, because if they follow the evidence I can assure you Chairman even people who were sitting – will be sitting where I am sitting, this ...[indistinct].

You will, and one of the things I appreciate with you is that you put your proposition so I listen to you and say this is what the Judge is thinking. Chairman you are going to make a decision about where there was State Capture or
 10 not and you have clearly made it clear that State owned companies were very competent companies in the past and then there was State Capture and then they are all in trouble, and you included Eskom. I have in the event that you conclude that there is State Capture and in the event that you conclude there was State Capture at Eskom the difficulty you are going to deal with is this, Eskom in 2001 was the global energy company of the year, I was there and the Chairman, the CEO then was Allen Morgan. Show you on evidence and this is why I say this is the only place
 20 where evidence matters and I would like you to go to – it is this graph Chair, I think it is in the ...

CHAIRPERSON: The document doesn't have or does have page numbers?

MR KOKO: It does not have page numbers, I followed that, but it is written Eskom Operational Performance under

different executives.

CHAIRPERSON: Yes I have got it.

MR KOKO: You will see that is the Eskom performance since 2000, you will see the peak in 2001, that is when Eskom was the global utility of the year, you see the peak there, we were walking on water, we were proud of being Eskom people. We travelled overseas and I was one of the few people fortunate to be part of the technical team that went globally and everywhere we went people came to us
10 and asked us how did you do that. Thulani Gcabashe took over after Allen Morgan. If you look from 2002 to 2000 and – if you look at what's happening in 2015 it is down here.

CHAIRPERSON: It was at its highest at around 2000/2001 and then around 2003 came down then 2005 it rose again and then from roundabout 2005 it seems to have been going down right through and 2015 represents it seems the lowest point.

MR KOKO: Yes, and then 2015 look at what happens in
20 2015.

CHAIRPERSON: And then it rose up to a certain point in 2017 and then it started coming down again.

MR KOKO: Yes.

CHAIRPERSON: Yes.

MR KOKO: The submission that we make to you is that in

2015/2016/2017 Eskom produced the best performance improvement ever since 2001, in all KPI's, now the front page of your documents that you are looking at is Eskom KPI's over ten years. You choose any single KPI there, any single KPI you will see that it has been the best ever since 2001, the best improvement in the year that is today defined as the years of State Capture, so when you get to a conclusion that there was State Capture and it affected Eskom the challenge you are going to have to deal with is

10 that in the years of State Capture Eskom produced the best performance ever.

The next graph I would like you to look at is the one that is after what we looked at, the one that's ...[intervenes]

CHAIRPERSON: I am sorry the red lines or vertical lines what do they represent, I was looking at that.

MR KOKO: The red lines you will see at the top it says in 2005 the CEO was Mr Dames and the Chief Generation Officer was Mr ...[Indistinct] and then in 2014 the CEO was

20 Mr Matola and the Chief Generation Officer was Mr ...[Indistinct] and then in 2015 the Chief Executive Officer was Mr Molefe and the Chief Generation Officer is Mr Koko, I call it the Molefe Matshella effect, Matshella Molefe effect is the best ever since 2001 and Matshella Molefe are being presented to you at the phase of State Capture.

When history is written and I can tell you now Mr Chair history will absorb us that we have showed the best performance ever since 2001. When I became the most senior engineer in Eskom on merit my motivation was done by BGB in Germany and ...[Indistinct] in the US, purely on merit. I took over from the gentleman, a gentleman called Mr John Beck, he passed on. Twelve months after he passed on his wife called in and said in Mr John Beck's will is mentioned your name and he has directed that you take
10 all his professional library must be delivered to your house, it was in his will, he says because you were one of the best engineers he's known. That was not a deployment.

Chair the next page after the one you are looking for, you know South Africa is a different country because even black people are not accepting that a black engineer can produce the performance that you see in front of you, so they employ a lot of people and the supposition was that the numbers that you are looking at are cooked and
20 this draft comes from an emeritus professor in Cape Town called Professor Anton Abal and when he did this work all what he thought to prove was that the numbers he produced was cooked. Of course he is a professor, you could not prove that, but if you look at what happened between 2017 and 2018 the best he can do is that it is an

outlayer, because they just cannot explain technically what we did.

The fleet, the age of the generation fleet Mr Molefe and I managed was 36 years old and when you deal with this they will then want to tell you that no Mr Koko postponed maintenance and that is why he had the performance and they will not – they will resist looking at the data, they will deliberately not look at the data. Chairman I brought you the data and it is on the next page.

10 You will see in 2016 that the only executives that did the most maintenance in Eskom history since 2023, and I must repeat this and say it very slowly, the team that did the most maintenance ever in the history of Eskom was the team of Mr Molefe and my team and Dr Ngubani. The number that we use is PCLF, it is a measure of the amount of maintenance that we see. If you go and look at the history of Eskom 13% is the highest we have ever produced, so whoever comes to you and Mr – and Mr Mabusa tried to tell you that with maintenance, he never
20 gave you evidence, he will never give you evidence, he will never do that, evidence is in the documents that you have and they are all in Eskom yearbooks.

In my time and in Mr Molefe's time and in Dr Ngubani's time we have done the most maintenance. It is for that reason that you go to the next stage at the very

last page and you see that we have reduced the diesel spend in 2015 the one we just had this one, this one.

CHAIRPERSON: Yes it would help ja. Yes, oh yes, yes, let's just number them now, I think the first page let's just mark it one, the next one two and the next one three, four, five, six, eight, nine, ten. There are ten?

MR KOKO: Yes.

CHAIRPERSON: Yes, thank you Mr Barrie.

MR KOKO: Chairman if you go to page 9 this is the diesel
10 spend by Eskom. Now the amount of diesel you use to keep the lights on it is an indication of incompetence, so if you look at 2014 you see the peak is R12.5billion. In 2013/14/15 you will see that Eskom was spending R12.5billion a year, it is a billion Rands per month and I told Mr Matona and I told Mr Molefe I have been in this space for over 20 years. We don't need to burn diesel to keep the lights on and to do the maintenance that we need to do, we have got sufficient capacity. I was taught that, I was taught by John Beck, Mr Beck, may his soul rest in
20 peace. I was taught by Mr Dames if there is any person that has a feel of this system I am one of them. To burn diesel to keep the lights on in today's time is sheer incompetencies. My team, and it is still there at Eskom, reduced the diesel spend in one year from R12,5billion to R200million, and I always make the submission that says if

you burn more than R200million worth of diesel you are incompetent.

In this financial year Eskom is spending R7.5billion, last year it spent R6.5billion. So you know there's lights off, generally it is called, generally it says Mr Koko burnt diesel to keep the lights on, and they don't give evidence. Chairman I use this opportunity to give it to you that we never burnt diesel to keep the lights on.

Chairman let's go to page 8, page 8 is very, very
10 important because page 8 is what brings us here. We are accused of State Capture, we knew what to do, I told the CEO's that I worked with that all what we need to do at Eskom is to meet the demand which the customers wants, do that without burning diesel, and do that and still do the necessary maintenance that the fleet that is 36 years old requires, you have got enough capacity in the system. Two, drive down the cost of primary energy cost, and primary energy cost may mean three things, we mean coal costs, we mean IPP cost, we mean the diesel costs, and
20 you have to be brutal with that, because if we are not brutal you will die, they will survive, and when I had the opportunity to be brutal I was brutal and that is why you hear a lot of people who come to you and say the management style of Mr Koko this and that. John Beck never took excuses from me, and in turn I never took

excuses from anybody else. We employed competent engineers, engineers that are competent don't need to be told what to do, they get led, but you don't tell a competent engineer what to do. An engineer needs to be told what to do you dispense of him or her and you do that very quickly, that is what I did.

The graph in personnel tells you that in the history and this is the graph that starts only in 2014 but the trend is ...[intervenes]

10 **CHAIRPERSON:** Did you go back to page 9 now?

MR KOKO: Page 8, I apologise.

CHAIRPERSON: Page 8, okay.

MR KOKO: It shows the level of coal cost increases at Eskom. Eskom costs has been increasing Mr Chair by minimum of 15% year on year, it is in the Eskom yearbooks you will know it. Between 2007 and 2015 Eskom coal costs increased cumulatively by over 400% against cumulative inflation of 74%. Eskom was bound to die. What you see in front of you on page 8 you will see that the only time
20 Eskom costs, coal costs reduced was again in 2017 and 2018, again in the time of Mr Molefe and Dr Ngubani after we left in 2018 things went worse.

At this stage Chair I want to go to tell you a very painful experience that I had in 2018 January I think it was either 20th or 21st of January 2018. It was over a weekend,

I can't remember whether it was a Saturday or Sunday and I was driving from Pretoria and I just joined N1 from Pretoria. I got a call from the then Acting Deputy Director General in the Department of Public Enterprises, Ms Magola, and she said to me – she used to work for me, and she went to work for DPE and then she says to Mr Koko we haven't talked for a very long time, I said yes I am on suspension so I avoid talking to you guys in case I put you into disrepute, so it is safer that I keep away from you and
10 in case you call me and it is official I suggest we don't proceed because we don't know where it will end up. She says no, no Mr Koko I called you out of respect and out of courtesy because I know you. I said okay, she says – and it was around five, it was towards five, she says the Deputy President is going to issue a media statement dismissing you. I said oh, the Deputy President is going to issue a media statement dismissing me, how can I be dismissed by the Deputy President. What reason is he going to give, what reason am I being dismissed for. She
20 says the new board will find a reason to dismiss you, will have to find a reason to dismiss you but the instruction is that you must be dismissed.

She says listen I cannot talk long, I thought it is respectful that I give you the call but the Deputy Minister who is sitting with me wants to talk to you. And then she

gave the number to call to the Deputy Minister, then Deputy Minister Ben Martin. Deputy Minister Martin spoke in Tswana and then he says – and I am going to translate – he says Mr Koko let us not discuss this thing, we thought that you don't hear from the media, this was just a respectful call, we thought we owe you the decency that this statement is going to come out and that is what it is. I said okay thank you and then I drove – before I could even get home, between Centurian and Johannesburg headline
10 news, Eskom new board appointed and Mr Koko asked to resign.

We ended up at the Labour Court and the Labour Court was very emphatic that the decision by the Deputy President then was unlawful. I say this Chair because part of what you have been focusing on is on interference and regulation, and I am saying to you the Deputy President interfered in the affairs of Eskom, in ...[indistinct], the Board that has not even met says to the – this is a new board, it has not met, but dismiss Mr Koko, go find reason
20 to dismiss Mr Koko. I deal with that in detail in my affidavit.

What is more important Chair, and this is why I am saying I get a feeling that the investigators are not following the evidence, because this is an unlawful instruction and I will lead it later on to Optimum, because

the Chairman of Optimum in 2012 and 2014 was the same Deputy President when Eskom was not paid what was due to it at the tune of R1.4billion. I will make the submission on the 11th to say Optimum is lying when it says they spent over a billion Rands to buy Optimum Mine without doing a due diligence. Glencore is a very sophisticated business to spend over a billion Rand to buy Optimum without a due diligence. They did that, the Chairman was then was Mr Ramaphosa. They owed Eskom penalties of R1.4billion, 10 they never paid Eskom and there is no reason to explain why the R1.5billion was not paid to Eskom, it was due to Eskom. They queried the tariff of the coal price. The coal price that was a consequence of an arbitration in 2011, they refused to go to arbitration.

When it became unreasonable and unpalatable to continue not to pay Eskom in 2014 they then concocted the famous cooperation agreement which I argue is unlawful, and your investigators are not saying what is the legal, what is the authority that was relied on to sign this 20 cooperation bargaining. In my letter of last night I say to you Optimum when they bought – OCH when they – Glencore when they bought Optimum they had an Ace up their sleeve and the Ace up their sleeve was the political connectivity of the current Head of State and that is why you cannot explain why Glencore did not pay Eskom the

1.5 that is due to it.

When you say that and people come in and say but you gave it to Tegeta, let's listen to the dates; between March 2012 to June 2014 Glencore did not pay Eskom R1.4billion, nobody at Eskom chased it. My friend and colleague, former friend and colleague, Mr Marokana, was sitting here, he was asked how did they suspension affect you, he was not asked Mr Marokana why Eskom was not paid R1billion under your watch, he was not asked that,
10 because your investigators are not following evidence.

CHAIRPERSON: Well when he was here he was dealing with suspensions, that might explain why, just like you will talk about suspensions only and then come back later and deal with a lot of other transactions, that might explain why he might not have been asked a question that you thought was important to ask.

MR KOKO: I accept that, I hope that one day he will come and explain why Optimum did not pay Eskom the R1.5billion, so Tegeta was not in the picture two years
20 later. The recordings of 2015 March that are being ...[indistinct] clearly say that we have got an elephant in the room, and there is recordings here, one of the biggest disappointments I have, and it hurts me, is that the minutes of Eskom that you read and the audios are chalk and cheese and the privilege I have is that now I have

listened to the audio and I am going to encourage your investigators not to only look at the minutes, the audios tell a different story.

When you finally engage with the evidence you will conclude that the real capture of Eskom is Glencore and the best we did was to deal with that, and that is what has been criminalised.

CHAIRPERSON: H'm, h'm.

MR KOKO: Thank you Chair.

10 **CHAIRPERSON:** Thank you Mr Koko. What I want to say to you is it is important that the perspectives that you may have, part of which is what you were telling me, it is important that you finish them to the Commission in written form to the extent that you may not have done so, because we are interested in all perspectives, but what happens is that some people give us information and they will say certain things about other people and those other people don't give us information about those people and then sometimes the Commission is accused of having evidence
20 only coming from certain people but when those other people don't give us the information when everybody is welcome and invited to give information they deprive the Commission of the opportunity of seeing all perspectives, so if you haven't done so in terms of giving us all perspectives that you believe are relevant to the terms of

reference of the Commission insofar as Eskom is concerned please do so, particularly because you will still come back on the 11th, I would prefer it if whatever you might need to say we have got it in written form. I know you have given us quite a detailed affidavit, for purposes of today I have looked at those parts of that affidavit that are relevant to today's proceedings, but I think I previously had a look at other parts, so – but if you have covered everything you wanted to put before us in that affidavit
10 then it is fine, but any other information that you may have which you think is relevant to our terms of reference please feel free to furnish it.

Of course I must just say that as I said to another witness maybe two weeks ago there is some limitation when we get new information at this stage, because the Commission is close to the end of this last term, it would have been different and easier if we got information much earlier and there was time to investigate. Now it is quite limited the ability to investigate and the opportunity is
20 limited, but nevertheless whatever you have which you believe is relevant let us have.

MR KOKO: Chairman thank you, I really appreciate, I will take advice from Counsel and I will waste no opportunity and I will give it to you. Chairman I forgot one thing if you may allow me.

CHAIRPERSON: Yes.

MR KOKO: If you go to page 10, if you go to page 10, this is the work that was done by CSIR, it shows load shedding since 2007, you will see that in 2015 we had very bad load shedding, again in 2016 and 2017 we had no load shedding and then I got that famous letter, a call, famous call that says you will be dismissed and I heard from the news that I will be dismissed, and look at what load shedding did afterwards. The consequences of that call is
10 the load shedding of 2018, 2019, 2020 and at the bottom there you will see there is an amount of R87,50 is the cost what you call the cost of load shedding per megawatt hours, the cost of ...[indistinct] image. I want to make a submission to you and this is the painful truth, and because they assuming a particular line, the difficulty you are going to be faced with that I am submitting to you, the consequences of the statement by Mr Ramaphosa in January 2020/21 was load shedding on 2017, 2018, 2019 and the cost as worked out by CSIR IS 266 billion rands to the
20 economy. That is the cost of the call that I received in January 2020/21.

Finally, finally I have, it has been alleged that I gave my daughter a billion rands contract out of Eskom. It is also being alleged that I lied on national television. One of the things I had expected is that the people who says that, come

to present that evidence to you. Or they got to the Hawks or to the police. And the police or the Hawks or you deal with that.

For four years I have been accused of giving my daughter a billion rand. For four years I have not been talked to by the police or the Law Enforcement Agency or the Commission about a billion rand. Do you know why? I never did it. And we'll get into that detail because I know where that comes from. But it cannot be Mr Chair that journalists,
 10 commentators continue to say I gave my daughter a billion rands and have nothing to show for it.

It cannot be. You know there is a gentleman who made an affidavit, to submit an affidavit. He went to parliament and he said, I told Eskom Board that even when, even when Mr Koko is acquitted by a ...[Indistinct], he must still be dismissed because he lied on national television. And I said to my wife, you know I wish the Chairman Zondo asks me about that because I am going to ask the Chairman Zondo to put the vid – the catagal(?) interview.

20 And I am going to say Mr Zondo let's sit back to check the line. I am hurt, I am pained. My kids are paying, my kids are hurt because people think that when they are in trouble they must claim the Koko Gang(?). And they will have the sympathetic ear. All what we are going to discuss here is the evidence of witnesses, two main witnesses that

are in trouble.

One of them came here. He did not even tell you that he's on a bail of R300 000,00 for fraud or corruption on charges that I received. The other one was a national talk show and she says I committed crime. And when she was asked, what do officers of a court do when they commit crime. She said, I expect to be arrested.

And to get away with it, they join the Koko Gang and they think they will get an audience with you. But I will stop
10 here and you will get ...

CHAIRPERSON: Yes, thank you Mr Koko. Mr Seleka.

MR SELEKA: Thank you ...[Indistinct].

CHAIRPERSON: You may start.

MR SELEKA: Thank you Chairperson. I was going to ask but the same thing in regard to this documentation Chairperson that it be supported by an affidavit explaining ...

CHAIRPERSON: Yes, yes. I think that would be quite convenient.

MR SELEKA: Yes.

20 **CHAIRPERSON:** If it could be annexure to an affidavit Mr Barry(?). Yes.

ADV BARRIE SC: As you please Chair.

CHAIRPERSON: Yes.

ADV BARRIE SC: The issue here is and it is something address - the address in the letter to you.

CHAIRPERSON: Yes, yes.

ADV BARRIE SC: It ...[Indistinct] of the directors of the Commission.

CHAIRPERSON: Yes.

ADV BARRIE SC: The attention of witnesses are focussed on very, very particular issues.

CHAIRPERSON: Yes, yes.

ADV BARRIE SC: They are not asked to give a general overview ...

10 **CHAIRPERSON:** No, that's true.

ADV BARRIE SC: So and ...

CHAIRPERSON: Yes, yes.

ADV BARRIE SC: We look forward ...

CHAIRPERSON: Ja, ja.

ADV BARRIE SC: To providing an affidavit during the course of ...

CHAIRPERSON: Yes.

ADV BARRIE SC: Of next week.

CHAIRPERSON: Okay. Thank you. Okay Mr Seleka.

20 **MR SELEKA:** Thank you Chair.

CHAIRPERSON: I think if you cut to the chase down. It, it will be ...

MR SELEKA: Yes.

CHAIRPERSON: Fine because Mr Koko has had a chance to ...

MR SELEKA: Yes.

CHAIRPERSON: Deal with certain matters.

MR SELEKA: Yes.

CHAIRPERSON: Okay.

MR SELEKA: Thank you. So Mr Koko the file before you which is Eskom bundle 15, has two affidavits of yours and one statement you submitted to the Parliamentary Patrol Committee. The first affidavit which is the second of the two affidavits is on page 5.

10 Now the page numbers I am referring to are on the left-hand corner. That's right. The black numbers as opposed to the red numbers. So that's the first affidavit. It runs up to page 152. On page 5 to 152. And on page 152 there is a signature. Do you confirm that that to be your signature?

MR KOKO: Chairman I do confirm that that's my signature.

MR SELEKA: The affidavit it says the 22 September 2020.

MR KOKO: That is correct Chair.

CHAIRPERSON: Thank you. You lowered your voice Mr
20 Seleka.

MR SELEKA: Ja, the affidavit is dated 22 September 2020.

CHAIRPERSON: Yes. Okay.

MR KOKO: That's correct Chair.

CHAIRPERSON: Thank you.

MR SELEKA: Chairperson it's already marked as a exhibit.

Exhibit U27. Should we ...

CHAIRPERSON: But mine is not marked. You would like it to be admitted as exhibit?

MR SELEKA: 27.1.

CHAIRPERSON: 27? 27.1?

MR SELEKA: Yes. 27.1. Thank you Chair.

CHAIRPERSON: The affidavit of Mr Matshela Moses Koko starting at page 5 will be admitted as Exhibit U27.1.

MR SELEKA: Then there is ...[Indistinct] on page 971.

10 **CHAIRPERSON:** On page?

MR SELEKA: 971.

CHAIRPERSON: 971.

MR SELEKA: it's the – it's another affidavit which was the first affidavit you submitted to the Commission. It runs up to page 986. Chairperson in between there's a thick bundle of annexures. Up – I was saying in between there is ...

MR KOKO: I am there Chair. I am there.

CHAIRPERSON: Yes, okay let's deal with this one first.

20 **MR SELEKA:** Yes. So page – it runs up to page 986, there too there's signature above your name, Matshela Moses Koko. You confirm that to be your signature?

MR KOKO: Chairman I confirm that's my signature.

MR SELEKA: The affidavit is dated.

CHAIRPERSON: It does not look like it's an affidavit. Oh there is a Commissioner of Oaths certificate there.

MR SELEKA: Yes.

CHAIRPERSON: It is just that it is not legible. Okay.

MR SELEKA: Yes.

CHAIRPERSON: It is an affidavit.

MR SELEKA: There. Indeed Chair the heading on the first page is written, submission. But it gets to be commissioned ...

CHAIRPERSON: Ja.

MR SELEKA: On the last page. The affidavit is dated 1
10 September 2020. Chair I beg leave to have it admitted as Exhibit U27.2.

CHAIRPERSON: Mr Koko has confirmed to that. This is one of his affidavits and that this signature, the first signature, well maybe not the first, the signature above the name Matshelo Moses Koko is his.

MR KOKO: That is correct Chair.

CHAIRPERSON: Yes.

MR KOKO: Thank you.

CHAIRPERSON: The affidavit of Mr Matshelo Moses Koko
20 started at page 971 is admitted as Exhibit U27.2.

MR SELEKA: Yes.

MR KOKO: Chair may I – I'm ...

UNKNOWN MALE: Correcting affidavit, just put in the ...[Indistinct].

MR SELEKA: My learned friend wants me to put in the

correcting affidavit. Is it the three page or what?

CHAIRPERSON: Oh okay ja that can be done but ...

ADV BARRIE SC: Yes. The original of that we have handed up to you.

CHAIRPERSON: Yes.

ADV BARRIE SC: It is before you.

CHAIRPERSON: Yes.

ADV BARRIE SC: Initially and it would probably be appropriate then to mark that U27.3 or whatever.

10 **CHAIRPERSON:** Yes. Well there is in the third one, there is still that one coming which starts at 988.

MR SELEKA: Correct Chairperson.

CHAIRPERSON: Then I think that the supplementary affidavit ...

MR SELEKA: As it ...

CHAIRPERSON: Can come after that one.

MR SELEKA: Correct. Thank you.

CHAIRPERSON: Okay.

20 **MR SELEKA:** So on page 988 that was – it's a written submission. This one it is the submission, it's not under oath, unless Mr Koko given at the Parliamentary Portfolio. It runs up to page 1046.

MR KOKO: That's correct Chair.

CHAIRPERSON: Yes.

MR KOKO: And the signature is definitely mine.

CHAIRPERSON: Yes, okay.

MR SELEKA: The submission is dated 21 September. 21 January 2018. I beg your pardon.

CHAIRPERSON: The written submission of Mr Matshela Moses Koko starting at page 988 is admitted as Exhibit U27.3.

MR SELEKA: Thank you Chair.

CHAIRPERSON: And I think we can then do the supplementary affidavit quickly.

10 **MR SELEKA:** Sorry ...[Indistinct] Mr Barry ...[Indistinct].

CHAIRPERSON: I have got it Mr Koko. That affidavit has got 1, 2, 3, 4 pages and then the last page 5 is just I think the Commissioner of Oaths certificate. Do you confirm that that is your affidavit, the one that has been handed up by your counsel?

MR KOKO: Yes I do Chair.

CHAIRPERSON: Okay. And your – there are two signatures on page 4 of that affidavit. Just one is that of the deponent, that would – do you confirm that that is your signature? The
20 one that is above ...[Indistinct] deponent.

MR KOKO: Chairman I don't have it in front of me.

CHAIRPERSON: You don't have it in front of you. Registrar please take and – the signatures on page 4.

MR KOKO: Yes, I ...

CHAIRPERSON: That is your signature.

MR KOKO: I don't know this document and it's my document.

CHAIRPERSON: Yes, okay, alright. Mr Seleka you want me to admit it as Exhibit U27.4?

MR SELEKA: Correct.

CHAIRPERSON: 27.4?

MR SELEKA: .4 Yes.

CHAIRPERSON: Yes, okay. Mr Koko's affidavit starting at, it will start at page 1047 will be admitted as Exhibit U27.4.

10 Okay, alright. Then let's continue.

MR SELEKA: Thank you Chair. Mr Koko we have read your affidavits in regard to your appointment at Eskom. The evidence is extensively been lead and it's evident from your affidavits that you were an employee at, at, of Eskom until, I think you say until your resignation on the 16th of February 2018.

MR KOKO: That is correct. That's correct Chair.

20 **MR SELEKA:** And that also you were an employee back in March 2015, at least before you – well ja, even during the suspension you were still an employee. March 2015 and can you remind us again what was your position at the time in March 2015?

MR KOKO: I was the Acting, I was the Acting Group Executive Technology and Commercial.

MR SELEKA: Technology and commercial. What, which

position was your permanent position?

MR KOKO: I was a Divisional Executive Technology.

MR SELEKA: Ja.

MR KOKO: Chairman, my apologies. I was confirmed in the job, I was no longer acting.

CHAIRPERSON: Oh okay.

MR KOKO: I was confirmed in the job ...[Indistinct].

MR SELEKA: In this position?

MR KOKO: In that position.

10 **MR SELEKA:** Of GE Technology and Commercial?

MR KOKO: Technology and Commercial.

MR SELEKA: Ja. Now Mr Koko this is a commission that investigates to get the facts. And I welcome your statement that you want to assist the Commission to get to the truth in your opening address. Could you tell the Chairperson, have you spoken to any of the witnesses who has testified here before the Commission?

CHAIRPERSON: You want to indicate when you are asking him in terms of when you would like to know whether he has
20 spoken in the last month, in the last week? Just few months.

MR SELEKA: Recently. I had no ...[Indistinct] towards the end of November?

MR KOKO: I have, I have not spoken to the suspected people suspended.

MR SELEKA: You can tell me which of the witnesses.

MR KOKO: Oh the witnesses?

MR SELEKA: Ja.

MR KOKO: The witnesses. I have not spoken to any of the witnesses that came to speak here.

MR SELEKA: You have not sent ...

MR KOKO: I have not spoken, the only person, I have not spoken to Ms Phileppe(?). I have not spoken to Mr Marokane. I have not spoken to – the only person I spoke to was Dr Ben Ngubani(?).

10 **MR SELEKA:** Have you not recently spoken to or communicated by text with Mr Matona?

MR KOKO: I have spoken to Mr Matona. I have communicated with ...

MR SELEKA: Yes.

MR KOKO: Mr Matona ...[Indistinct].

MR SELEKA: Yes. Because I was wondering why you didn't mention him in the names that you mentioned.

MR KOKO: I have communicated. I have not – I had a text ...[Indistinct], text discussion with Mr Matona yes.

20 **MR SELEKA:** What was it about?

MR KOKO: I received a 3.3 notice.

MR SELEKA: What was your text message about?

MR KOKO: I cut and paste, I cut and – I cut and pasted a 3.3 notice, where exception on Mr Matona that he sent to me. That I received which really shocked me. I said, but Mr

Matona this is shocking. Because it's false.

MR SELEKA: You cut and pasted what? You say a 3.3 notice.

MR KOKO: I had a 3.3 notice.

MR SELEKA: Yes.

CHAIRPERSON: Which came from the Commission.

MR KOKO: Which came from the Commission, which was a lie.

CHAIRPERSON: in respect of which witness was it?

10 **MR KOKO:** Mr Matona.

CHAIRPERSON: Mr Matona's statement or affidavit?

MR KOKO: Yes.

CHAIRPERSON: Okay, alright. So you were sent a 3.3 notice by the Commission and either the whole affidavit of Mr Matona or a portion of it.

MR KOKO: Yes. A portion.

CHAIRPERSON: Yes.

MR KOKO: Just a portion.

CHAIRPERSON: Okay, portion was sent. Ja, okay.

20 **MR KOKO:** Yes.

CHAIRPERSON: Okay.

MR KOKO: So ...

MR SELEKA: Sorry Chair. [Indistinct]. Which portion was that?

MR KOKO: I note Mr Koko's rule in the suspension, it was

something like that.

MR SELEKA: Yes.

MR KOKO: I note Mr Koko's rule in the suspension of the four executives. It was something to that effect.

MR SELEKA: Ja and what did you say to him?

MR KOKO: I, I posted to him and put question marks like that. I don't, I don't remember. I just put question marks.

MR SELEKA: Yes, so what message are you communicating to him? Why do you lie? Did you say that?

10 **MR KOKO:** No I didn't. You asking what message you, was I communicating to him?

MR SELEKA: Yes.

MR KOKO: Yes.

MR SELEKA: But how will you know, how will he know you are say why are you lying if you are not spelling it out?

MR KOKO: I don't understand the question now.

MR SELEKA: You didn't write anything. You said you put question marks. So I'm asking you what ...[Indistinct]?

MR KOKO: Either I put a question mark. No, ja. I phoned
20 to him and he immediately phoned back.

CHAIRPERSON: You sent him a portion of ...

MR KOKO: Of his statement.

CHAIRPERSON: Affidavits.

MR KOKO: I sent him a portion of his statement.

CHAIRPERSON: Yes, that you considered to ...[Indistinct].

MR KOKO: That I considered to be ...

CHAIRPERSON: Not true.

MR KOKO: Not true.

CHAIRPERSON: And there you put a question mark?

MR KOKO: No I ...

CHAIRPERSON: You did not put a question mark?

MR KOKO: I, either I put a question mark.

CHAIRPERSON: Ja.

MR KOKO: Or I just ...[Indistinct] but he immediately called
10 back.

CHAIRPERSON: Oh, oh. You sent it to him and then he
called back?

MR KOKO: Yes.

CHAIRPERSON: Okay, alright.

MR SELEKA: Are you in, in pursuit of the truth willing to
share that SMS with the Commission?

MR KOKO: Not no, but after this. Or yes ...[Indistinct] if I
still ja, or I hope I can have it. Ja.

MR SELEKA: I can't hear.

20 **MR KOKO:** I will send it to you certainly.

MR SELEKA: Thank you. So the two of spoke.

MR KOKO: The two of us spoke.

MR SELEKA: And did you explain yourself the text you sent
to him?

MR KOKO: Actually he did more the talking than me.

MR SELEKA: Ja, but my question is did you explain your message to him?

MR KOKO: No, he called me. And I think he understood the point.

MR SELEKA: Mr Koko did you explain?

MR KOKO: No.

MR SELEKA: Your message to him?

MR KOKO: No I did not.

MR SELEKA: Why not?

10 **MR KOKO:** Because he immediately started talking.

MR SELEKA: So are you saying Mr Matona did the talking, say goodbye and you never said a word?

MR KOKO: No I respect, I responded to his explanation of what that text message, that cut and paste meant.

MR SELEKA: So if he says to me that you were fuming on the phone saying he is throwing you under the bus, is that not the truth?

MR KOKO: No that's not the truth.

MR SELEKA: It's not the truth?

20 **MR KOKO:** No.

MR SELEKA: Okay. So I should ask him to provide us with an affidavit.

MR KOKO: No, he must do that.

MR SELEKA: Okay. Now you have provided us with your affidavits dealing in parts with the suspensions.

MR KOKO: Yes.

MR SELEKA: And you have dealt with the issues of suspension at quite at length to demonstrate why, what reasons you believe you were suspended for.

MR KOKO: Yes.

MR SELEKA: Ja. Now you were asked at the Parliamentary Portfolio Committee why didn't you deal with what Ms Susan Daniel had submitted to the Parliamentary Portfolio Committee in regard to the meeting at Melrose Heights.

10 **MR SELEKA:** That that portion was not contained in your affidavit, in your written submission. And indeed it is not contained there. And it was put to you that is because you couldn't deal with it. It is the truth?

MR KOKO: No, that's not the truth.

CHAIRPERSON: Can I, can I start from here? Mr Koko when did you learn for the first time that you were going to be suspended in March 2015?

MR KOKO: Chairman. On the 8th of March 2018. I had a very long discussions with Mr Matona.

20 **CHAIRPERSON:** Mr Matona?

MR KOKO: With Mr Matona.

CHAIRPERSON: Ja on the 8th of March.

MR KOKO: Yes.

CHAIRPERSON: Okay.

MR KOKO: And it was a continuation of a long telephone

calls on the 7th of March. And ...

CHAIRPERSON: Between the two of you even on the 7th of March.

MR KOKO: On the 7th.

CHAIRPERSON: Ja.

MR KOKO: And that is why it's very important for the telephone records to be made available. Because I am certain the telephone records will confirm that. And Mr Matona was very concerned about the approach from Mr
10 Tsotsi that Mr Koko has run amok, he is running amok. And has suspended Malisela. Mr Kassiem there for no apparent reason. And has instructed Mr Matona to make sure that we un-suspend Malisela. And I said to him, no Chief I cannot. There's a valid reason for that and I will make the documents available to you when we first, on the following day on the Chair. And I did that. And then he said to me, Chief we are going to be suspended if we don't un-suspend Malisela.

CHAIRPERSON: You said we?

MR KOKO: Yes.

20 **CHAIRPERSON:** Meaning yourself and him?

MR KOKO: Yes.

CHAIRPERSON: Yes.

MR KOKO: I said we are going to be suspended when – if we don't bring Malisela back.

CHAIRPERSON: Yes.

MR KOKO: I said, but Chief we can't. We can't. He says, it's, it's very difficult for me to deal with Mr Tsotsi. Because his mind is made. I said, but Chief look at the documents. I have given them to you. Then I disappeared from the office. The following day he then called me again and said, Chief we've got a meeting here. The Minister is attending.

CHAIRPERSON: That is on ...

MR KOKO: On the 11th.

CHAIRPERSON: On the 11th?

10 **MR KOKO:** On the 11th.

CHAIRPERSON: Ja.

MR KOKO: The Chairman is attending. The Minister is attending. Mister, and then he showed me a WhatsApp message, not WhatsApp message. Text messages. And he said to me, look at these text messages. I'm getting threats. Mr Tsotsi is threatening me with this text message. Mr Tsotsi is even saying this is not the first problem you have had with him. There was a gas transaction that you refused to cooperate. And this cannot continue. I said, when I wrote
20 my affidavit I asked Mr Matona for those text messages. He let me have those text messages because I want to include them in my affidavit. He promised to give them to me. He never, he never did and that's why I did not include them because I will not be able to get that. It is going to be he says, he says. I would have wanted to do that. But now that

I have read his replying affidavit, that's why I mentioned it. So I have learned for the first time about the possibility of our suspension through the telephone call on the 9th of March, on the evening. It was a very long call Chairman. And that call spends more if I recall more than 10 minutes. But the telephone records will show that.

CHAIRPERSON: Okay. Mr Seleka.

MR SELEKA: Thank you Chair.

CHAIRPERSON: And then maybe I must ask. That was
10 about your – excuse me. That was about you learning about your possible suspension, maybe you and Mr Matona. Is that right?

MR KOKO: Correct.

CHAIRPERSON: And when did you hear or learn for the first time about the possible or the suspension of yourself, Mr Matona and the other two executives?

MR KOKO: Chairman I learned of the rest of the suspensions on the evening of March 2011 when they happened.

20 **CHAIRPERSON:** March 11?

MR KOKO: March 11, 2015.

CHAIRPERSON: Yes.

MR KOKO: 2015 When they happened.

CHAIRPERSON: Okay. Mr Seleka.

MR SELEKA: Thank you Chair. Mr Koko we don't have the

telephone records between you and Mr Matona. Are you able to provide the Commission with those telephone calls of 8 March and 9 March 2015?

CHAIRPERSON: And the 7th I think he said, 7th March.

MR SELEKA: Definitely.

MR KOKO: Definitely.

MR SELEKA: Thank you. Now we hear for the first time from you that you were shown text messages by Mr Matona.

MR KOKO: That's correct.

10 **MR SELEKA:** On the 11th.

MR KOKO: Are you saying are you hearing for the first time?

MR SELEKA: Yes.

MR KOKO: You are hearing for the first time?

MR SELEKA: Yes, I didn't come out with that in your affidavits.

MR KOKO: No, but I've just said to you. I just said to the Chairman I asked Mr Matona, he promised to give them to me because I wanted to include them. And when he failed to
20 give them to me, I then kept that out because I can't back it up.

MR SELEKA: Yes.

MR KOKO: I wanted to say these are the messages, but he could not give it to me. So I, I did not want, I did not want to say he said this.

CHAIRPERSON: Those would have been messages on his phone?

MR KOKO: Those are the SMSs messages between him and Mr Tsotsi.

CHAIRPERSON: Which you say he had shown you on which date, 11th?

MR KOKO: On the 11th of March.

CHAIRPERSON: Yes.

MR KOKO: Threatening him.

10 **CHAIRPERSON:** Oh, okay, threatening him?

MR KOKO: Yes.

CHAIRPERSON: With what, with suspension?

MR KOKO: Threatening him that he is failing to deal with me.

CHAIRPERSON: Oh, okay. Mr Seleka?

ADV SELEKA SC: Yes, I am saying the very explanation you are giving now that you were not given the text messages it to is not in your affidavit.

20 **MR KOKO:** The question for me that I did not expect, it did not matter to me. I did not - that line did not matter to me because I – my affidavit was telling the real issues so my message was coming across. I was saying in my messages – I did not say also in my messages that Mr Matona called me on the evening on Saturday it did not matter.

All what mattered to me to convey to you is that Mr Matona told me that on Sunday evening. I said that at the Parliamentary Commission, I repeated it in my affidavit. The SMS's and the friction messages and because I did not have them I did not think that it is relevant and adequate. But I put it to you Chairman that if Mr Matona denies it I will be extremely surprised, I will be shocked I will question his motive.

ADV SELEKA SC: Ja, but you need to give him the
10 opportunity in your affidavit explaining that I asked him, he showed me this text messages I asked him to provide them to me and he failed to do so that is why I do not have them. So that when you come here he has had the opportunity to look at your affidavit and say yay or nay to that allegation.

MR KOKO: Chairman that is why there are supplementary affidavits I got, I received his Mr Matona's supplementary affidavit I have not responded to it in total. I have read it I have not responded to the other supplementary affidavit
20 but when we do we will mention it.

Remember that it was a supplementary affidavit of Mr Matona. Mr Matona did not say in his original affidavit that he talked here, we talked or we did not talk. When he denied it I saw a need that when I come here I must deal with it and if I had the opportunity to put a supplementary

affidavit I would have dealt with it but I did not expect Mr Matona to deny or disown that we had a telephone conversation on March 11, I did not expect him to do that.

His supplementary affidavit says we could not have talked on the phone we talked the following day, now that calls for a response.

ADV SELEKA SC: I am not sure which point your dealing with, I am asking you for him to deal with your version you have to put it in writing in your affidavit or even way back
10 in 2018 when you did your written submissions to the Parliamentary Portfolio Committee it is still fresh in your mind.

MR KOKO: No, Chair I...[intervene]

ADV SELEKA SC: I have not finished, then he has the opportunity to say yay or nay to your version as we have done here in respect of your affidavit. We gave him your affidavit; we say Mr Koko says this about you what is your response because this is an investigatory Commission.

MR KOKO: No, Chair I do not accept that, I was not
20 accusing Mr Matona of anything I was telling him my version. The issue is how did I know of my suspension, I learnt of my suspension on 8th of March 2017 that is what I sort to convey to the parliament is what I sort to convey to you as a Chairman of this Commission.

The threatening messages does not explain to you

where I got to know about the suspension. The answer I was answering at all material times is when did I know and when it happens the 11th of March. The story grows legs when there is a supplementary affidavit.

ADV SELEKA SC: So...[intervene]

ADV BARRIE SC: May I just point out.

CHAIRPERSON: Yes.

ADV BARRIE SC: That the witness's affidavit that is before you is dated the 22nd of September of 2020 while Mr
10 Matona's supplementary affidavit in terms of which he denies having spoken to Mr Koko on the 8th of September, on the 8th of March is dated the 28th of October 2020 more than a month later.

ADV SELEKA SC: Yes, Mr Koko we dealing with your version and it seems you do not have...[intervene]

CHAIRPERSON: Maybe let me put it this way and see whether we capture what you have in mind.

ADV SELEKA SC: Yes, Chair.

CHAIRPERSON: If the position Mr Koko is or was that
20 you were suspended because Mr Tsotsi – as I understand your affidavit was unhappy that you did not exceed on your version to his suggestion or request I do not know if it was a demand that the suspension of Mr is it Sakazimbi, the official who were being suspended. Is it Mr Sakazimbi?

MR KOKO: Sakazimbi.

CHAIRPERSON: Sakazimbi, ja. If your version was my suspension really was because of Mr Tsotsi who was unhappy that I had refused to ensure the withdrawal of the suspension of Mr Sakazimbi and you were aware that prior to your suspension or maybe on the day that you were suspended Mr Matona had shown you messages exchanged between himself and Mr Tsotsi which included messages or a message from Mr Tsotsi which was threatening or maybe threatening to suspend you, both of you or threatening
 10 whatever but in connection with this point whether the suspension of Mr Sakazimbi should be withdrawn. Would that not have been something quite important that you would have wanted to put in your affidavit irrespective of what Mr Matona says when you tell your story of how and why you were suspended?

MR KOKO: Chairman it would not hurt; it would not hurt. Originally when I said earlier when I was putting together my affidavit for this Commission not for the parliamentary enquiry at the parliamentary enquiry it did not matter to
 20 me, that part did not matter to me.

But I have put my affidavit here after listening to a lot of Zola Tsotsi's, Mr Tsotsi's submissions and Mr Zola Tsotsi's submissions, I had a nice way of putting it but I would respect this Commission and not say but made me to want to dig more and prove my case and one of the things

that I remembered I said but hey Mr Matona showed me this, his messages and I have asked him can I have the message he said I will look and he never found it and I did not want to sit here and argue there was and there was not.

CHAIRPERSON: Okay.

MR KOKO: I left it because the important part for me is answered how did I know. The only thing, the only reason that it is becoming material is because of his response
10 affidavit that comes a month later after mine and then I sit back and I say maybe I should have put this, maybe I should have put the calls as well because I did not put the calls either.

CHAIRPERSON: Okay.

MR KOKO: I did not put the calls I did not – you know all these things matters Mr Chair when there is a dispute, when there is no dispute then they do not matter but now that there is a dispute then you sit back and say then how do I prove my case and then you go and dig.

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

ADV SELEKA SC: Thank you, Chair. Yes, so you have said it for the third or fourth time that the text messages did not matter to you, the threatening text messages you say or alleged that Mr Matona showed you they did not matter to you. Yes, or no, you have said three times of

four times now?

MR KOKO: Yes or no it did not matter.

ADV SELEKA SC: Mr Koko it is a yes or no.

CHAIRPERSON: Hang on just repeat the question Mr Seleka.

ADV SELEKA SC: You said it three to four times...[intervene]

CHAIRPERSON: Let me hear the question...[intervene]

ADV BARRIE SC: But I have to object to that type of
10 question it is not for the Evidence Leader to limit a
witness's answers, he has to ask a proper question as
beholds an advocate of his status.

MR KOKO: Chair I answer yes or no.

CHAIRPERSON: Hang on one second.

MR KOKO: Okay.

ADV SELEKA SC: Okay he said...[intervene]

CHAIRPERSON: I do not hear the question, there are
questions which do require a yes or no answer. There are
questions which do not and there may be a situation where
20 there is a need for clarification.

ADV SELEKA SC: Yes, Chair.

CHAIRPERSON: So what was the question?

ADV SELEKA SC: The question was he said it repeatedly
here three to four times that the threatening text messages
that were allegedly shown to him by Mr Matona did not

matter to him.

CHAIRPERSON: And what is the question?

MR KOKO: No, no Chairman.

CHAIRPERSON: Do you want him to confirm that he said that?

ADV SELEKA SC: The Chairperson must confirm ...[intervene]

CHAIRPERSON: Hold on one second did you want him to confirm that he had said that?

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

CHAIRPERSON: Oh okay alright. Mr Koko do you confirm that you said that?

ADV SELEKA SC: Chairperson may I say something?

CHAIRPERSON: Okay.

ADV SELEKA SC: Okay, let him answer.

CHAIRPERSON: Ja, let him answer first Mr Koko.

MR KOKO: Chair I am going to ask, to answer yes or no but you will have to allow me after I have said yes or no to explain.

20 **CHAIRPERSON:** Yes.

MR KOKO: I say yes, yes it did not matter to parliament. Once there was a dispute a month later after the supplementary affidavit of Mr Matona it mattered when I went to look for it.

CHAIRPERSON: Okay.

MR KOKO: Thank you, Chair.

CHAIRPERSON: Mr Seleka you wanted to say something.

ADV SELEKA SC: Yes, my learned friend uttered the perverse word Chairperson and I think...[intervene]

ADV BARRIE SC: I cannot hear, I say he is talking nonsense, yes.

ADV SELEKA SC: No, Chair.

CHAIRPERSON: Sorry?

ADV SELEKA SC: No, Chair.

10 **ADV BARRIE SC:** I am not going to get involved with this type of nonsensical argument with my learned friend.

CHAIRPERSON: No, no Mr Barrie you – that is not very collegial, it is not very collegial to say this. Let us try and focus on the work, Mr Seleka you wanted to.

ADV SELEKA SC: Yes, I could continue Chairperson he uttered a swearing word. You did Mr Barrie, there you go. Just repeat it again for the Chairperson that is what he said.

CHAIRPERSON: Mr Barrie?

20 **ADV BARRIE SC:** As such Mr Chair and I apologise to my learned friend.

CHAIRPERSON: Ja it is not - let us adjourn and let me see Mr Barrie and Mr Seleka in my chambers.

ADV SELEKA SC: Thank you Chair.

CHAIRPERSON: Okay, we are going to adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

ADV BARRIE SC: Chair if I may, again I apologise to my learned friend for offending him. But I must point out though Chair that in terms of the Regulations of this Commission, particularly Regulation 8.3.

10 “Any witness appearing before the Commission may be cross-examination by a person only if the Chairman permits it. Such cross-examination should he deem it necessary and in the best interest of the function of the Commission.”

That is the regulations under which we operate here. I am aware of the rules. I am aware of the rule stating that the Commission, that questions can be asked by the legal team, but the Rule 3.7 and all the rules ...

CHAIRPERSON: Well let's ...

ADV BARRIE SC: The main subject ...

20 **CHAIRPERSON:** Let's separate sir, I'll give you a chance to deal about, to deal with the – that issue. I just want to deal with the issue that arose before we adjourned.

ADV BARRIE SC: Very well.

CHAIRPERSON: Ja. Mr Barrie used language that I consider unacceptable in speaking to the evidence leader Mr Seleka. He has apologised to Mr Seleka. And to the

Commission. And I hope that going forward there will be collegiality as is to be expected it been counsel and we will proceed on that basis. Thank you. Okay Mr Barrie you have something else that you want to raise?

ADV BARRIE SC: Yes. I raised the issue of Regulation 8.3.

CHAIRPERSON: yes.

ADV BARRIE SC: 8.3 Of – which is over arching in terms of which this Commission exercises its rights.

CHAIRPERSON: Yes.

10 **ADV BARRIE SC:** Etcetera.

CHAIRPERSON: Yes.

ADV BARRIE SC: The rules are subservient to the regulations. And that is something that has to be taken into account. I am aware of the fact that the regulations make provision for the evidence leader to ask questions aimed at assisting the Commission and assessing the truthfulness of the evidence of witness, but in terms of the regulation, unless you in the interest of the work of the Commission believe that cross-examination is appropriate, it is not
20 allowed.

So there is somewhere, there must be a line to be drawn by you regarding what Rule 3.2 allows. And what is allowed well in terms of Regulations 8.3. We don't, my learned friend can ask the witness questions. And unfortunately if these types of questions are asked, and they

are clearly within the realm of cross-examination, it does put us in different camps.

As opposed to somebody who asked question to elucidation, so as to assist the work of the Commission. So and my learned friend I believe has over stepped the mark set in terms of Regulation 8.3 as and the same applies to Regulation 3.7. But I am not going to go insofar into that particular arena. That is for you to ...

CHAIRPERSON: Ja.

10 **ADV BARRIE SC:** For you to decide.

CHAIRPERSON: Yes, I'm not looking at the rules at the moment. What I can say is that there might be a very fine distinction if any, between cross-examination and questioning to establish the truth in certain circumstances.

Sometimes it's easier to Chair, sometimes it might not be easy. But as for now I had not picked up anything that I thought would, that I thought would be, would be unfair. I'm not looking at the rule, at the rules at the moment. So maybe let's proceed and then let's see that I
20 have not picked up any, anything that I found objectionable.

ADV BARRIE SC: Ja.

CHAIRPERSON: Okay, alright.

ADV BARRIE SC: Ja.

CHAIRPERSON: Mr Seleka.

MR SELEKA: Ja. Just quickly Chair, I think the point Mr

Barrie is raising, he has answered it himself by reference to that rule. That is one, number two that he does not call for bad language. A objection can be made, but we can't deal with in the manner it was now. But we've passed that, we accept their apology.

CHAIRPERSON: Ja. Okay.

MR SELEKA: Thank you.

CHAIRPERSON: Let's continue.

MR SELEKA: Yes Mr Koko in your affidavits when you
10 contended the first one, well when I say the first one, the first one in your, in your bundle. If you turn to page 29. Page 29 is starting from paragraph 92. You specifically refer to what you say Mr Matona told you. Mr Mothola then informed me that if I refuse to un-suspend Mr Sikathembe, Mr Tsotsi would have us suspended. You see that?

MR KOKO: Yes I see Chair.

MR SELEKA: It is a threat of suspension, isn't it?

MR KOKO: That's correct.

CHAIRPERSON: Mr Seleka, I think it's going to, the public
20 is going to follow.

MR SELEKA: Okay.

CHAIRPERSON: Mr Koko's evidence and understand it correctly if we put it differently.

MR SELEKA: Okay.

CHAIRPERSON: Because we have read his affidavit. We

know what he says, what his version is, but the public hasn't read it. So they just hear about the suspension of Mr Sikathembe. They don't know where that comes in, so I think it's important that he tells me about that suspension.

MR SELEKA:: Yes.

CHAIRPERSON: Because how it came about.

MR SELEKA:: Yes.

CHAIRPERSON: And, and his discussion with Mr Tsotsi.

MR SELEKA:: Yes.

10 **CHAIRPERSON**: So that the public can understand his version in that regard.

MR SELEKA:: Yes.

CHAIRPERSON: Properly.

MR SELEKA:: Yes.

CHAIRPERSON: So, so I think if you can ask him to talk to, talk about what the whole issue was about Mr Sikathembe's suspension, so what was he suspended for. And who suspended him? And then the meeting that or discussion he had with Mr Tsotsi. And then the rest can follow, can come
20 after that.

MR SELEKA:: Yes. Thank you Chairperson. Yes Mr Koko, I think that well following up on the question the Chairperson had asked you earlier, which was when did you become aware that you were going to be suspended. You have given an answer to that and now as the Chairperson has suggested

that we could deal with how did your suspension come about?

You could give us what is your version in regard to how the suspensions came about? Your suspension came about.

MR KOKO: Chairman, thank you. Let me say from the beginning that Mr Tsotsi and I had very difficult relationship. And I want to refer to the affidavit of Mr Johan Bester that is before this Commission and I want to refer in particular to
10 paragraph 21 and paragraph 22 of that ... (indistinct).

Mr Bester talks to a meeting that was called by Mr Tsotsi around the, around March 2014 to address the primary energy team. Members of my staff, without talking to me. Eskom is contrary to many things you hear, Eskom is a highly governed and regulated business. The Chairman of Eskom is not an executive and there is nothing in the delegations of authority that enables him or that he can rely, that he can rely on to address the members of my staff.

But I went to that meeting. And we actually walked
20 together to make, to that meeting. But before I could do that I went to, to CEE at the time, Mr Matjila and there's a big difference Mr Chair between Mr Matjila ...

CHAIRPERSON: Mr Majela and Mr Matjila.

MR KOKO: And the same way there's a big difference between Saleka and Seleke.

CHAIRPERSON: Ja.

MR KOKO: So, so and I asked the CE my boss then, what is this meeting all about. He says I don't know, which meeting? There is no such a thing. I said, no but the Chairman is going to address my whole department. Mr Matjila did not want to get involved. He, he just shook his head and walked out. But I walked to the meeting. In that meeting and Mr Bester describes it quite nicely.

And he testified here and one of my discomfort is that
10 he was not asked to expand on that. And, and this is why I am saying evidence is not being followed. People are being followed because there is enough in that paragraph for one to follow and appreciate the conduct of Mr Tsotsi when we talk about interference in operational issues. He talked, he told members of my staff and I was there.

And he said, we are doing anything and everything to disadvantage black coal suppliers. Mr Bester also talks about coal trackers, I don't recall about the coal trackers. I recall about the coal transport, the coal suppliers. It was a
20 very difficult address. He was very ... (indistinct) to my team. Mr Bester says after the address, Ms Maharaj stood up and, and cordially closed the meeting.

It was not Ms Maharaj, it was actually me. I could not allow a confrontation of my staff who are, who are forced to defend themselves because they have just been accused

by the Chairman, and to and fro. So I said to the Chairman I am hearing this for the first time. I will go and discuss with team. And we will come back to you. Suzanne later came back to me and said ...

CHAIRPERSON: Ms Susan Daniels.

MR KOKO: Ms Daniels yes. Ms Daniels actually came back to me and say, actually the coal contracts that Mr Tsotsi says we are delaying are actually there at Brakfontein ... (indistinct) at ... (indistinct) contracts.

10 **CHAIRPERSON:** Let's go back to the meeting.

MR KOKO: Yes.

CHAIRPERSON: What are the main points that Mr Tsotsi conveyed to that meeting, apart from saying your team, I don't know if he had directed this to you, that your team or Eskom in general were that you were, your team was disadvantaging black coal suppliers. What were the main points?

MR KOKO: There was one single important point.

CHAIRPERSON: Ja.

20 **MR KOKO:** Mr Tsotsi conveyed to the, to my team and I was part of it, and very junior staff. He called everybody, the hall was full with my ... (indistinct). And he says he heard complaints from coal suppliers that we are delaying the conclusions of the negotiations to conclude their contracts.

CHAIRPERSON: Okay. So then you closed the meeting.

MR KOKO: Then as I said ...

CHAIRPERSON: Ja.

MR KOKO: Mr Chair I should be accounting to you about these allegations. I do not know them. My team is ready to respond to you and I don't think it is right. I closed the meeting. But Ms Daniels comes to me and says, actually the contract that Mr Tsotsi says we are delaying is the Tegeta(?) Brakfontein contract.

10 So I do confirm that the affidavit paragraph 21 of your Mr Bester is correct. Interestingly the Brakfontein contract eventually was signed by Mr Bester and Mr Mboweni on the 10th of March, the day before I was suspended.

CHAIRPERSON: 10th Of March 2015?

MR KOKO: 2015. And in his affidavit, Mr Bester says the contract that he negotiated and signed with Brakfontein Tegeta, he has no doubt it was a lawful contract. That if Mr Bester in the affidavit before you. And the only reason that went wrong, was when Mr Koko started interfering and suspending the people who were managing coal qualities.

20 I always say, God is on the side of Moses. Because we now know through the North Gauteng High Court that that 3,7 billion rands that Mr Bester said was lawful, that he negotiated and concluded, has been set aside as unlawful. And Mr Tsotsi came here and says, Tony Gupta told me we appointed you, you work for us, now you, we have fallen out

of favour. But the Tegeta contract that we are ... (indistinct)
of was Mr Tsotsi's work.

I did not know that I aggrieved Mr Tsotsi when I dealt
with the gas contract. I only learned about it when Mr
Matona talked about those threatening messages through the
SMS. I was shocked, I did not know. All what I did with the
gas contract was to put my foot down, took no prisoners,
acted in the best interest of Eskom. I have only learned
through this affidavit of Mr Tsotsi here that actually the gas
10 contract was OCGT contract at Ankerlig and Gourikwa.
[Indistinct].

CHAIRPERSON: Okay remember ...

MR KOKO: Now I am giving you, I am giving you ...

CHAIRPERSON: We will talk later about those.

MR KOKO: I am giving you ...

CHAIRPERSON: ja.

MR KOKO: I am giving you, I am giving you, I am giving you
...

CHAIRPERSON: The context.

20 **MR KOKO:** The contract, the context.

CHAIRPERSON: Ja.

MR KOKO: My submission is that we did not have a good
relationship with Mr Tsotsi because of Mr Tsotsi's fiddling in
the operation at best that he does not belong to. Around
June 2014 ...

MR SELEKA:: Sorry Mr Koko just before you move on, just two points I need clarity on. Did you say the Tegeta contract was Mr Tsotsi's contract?

MR KOKO: I am saying the Tegeta contract ...

MR SELEKA:: Yes.

MR KOKO: That was set aside by the North Gauteng High Court, 3,7 billion rands. It is the same contract that Ms Daniels told me.

MR SELEKA:: But did you say it's Mr Tsotsi's contract? Or
10 no? Okay. The meeting you referenced ...

CHAIRPERSON: Okay let's get that Mr Koko when you shake your head that will not be captured by the ...

MR KOKO: Okay.

CHAIRPERSON: Recording. You need to say no.

MR KOKO: I, I did not say the Tegeta contract is Mr Tsotsi's contract.

CHAIRPERSON: Okay, alright.

MR KOKO: I did say, the Tegeta contract of ... (indistinct)
veld it's a contract that Mr Tsotsi referred to when he took
20 my staff to trust, in March 2014. It is referenced by Mr Johan Bester in this paragraph 21 and 22 of his affidavit and I confirmed that that is correct.

CHAIRPERSON: Okay. Okay. Alright.

MR SELEKA:: So that meeting you are referring to about Mr Bester, is that the meeting that took place in March 2014?

MR KOKO: That's correct.

MR SELEKA: Then you can proceed.

MR KOKO: In June 2014, around June 2014 and Mr Tsotsi walked into my office. He had a full time office at Mega Watt Park.

CHAIRPERSON: He had?

MR KOKO: He walked into my office.

CHAIRPERSON: Yes.

MR KOKO: And discussed the issue of Mr Sikathembe.

10 **CHAIRPERSON:** Sikathembe?

MR KOKO: Sikathembe.

CHAIRPERSON: What was the issue of Mr Sikathembe that time?

MR KOKO: That no, he did not discuss the issue of the Sikathembe. He discussed the issue of Simmo Tommo.

CHAIRPERSON: The issue of?

MR KOKO: Simmo Tommo.

CHAIRPERSON: Simmo Tommo, ja.

20 **MR KOKO:** Yes. Simmo Tommo had apparently written to him to ask for his intervention.

CHAIRPERSON: Mind us who or what his position was at Eskom?

MR KOKO: No, Simmo Tommo was a supplier.

CHAIRPERSON: Was a supplier, okay. Mr Sikathembe was an official ... (indistinct).

MR KOKO: Mr Sikathembe was a general manager commodities ... (indistinct).

CHAIRPERSON: Yes okay.

MR SELEKA: Sumier(?). Let me Chairperson, Tommo is it just a ... (indistinct) company that ... (indistinct) Mr Koko will then explain what the position was with this Japanese company.

MR KOKO: They manufacture transformers. They had apparently written to Mr Tsotsi and say Eskom placed a
10 contract with us, we have done a job to the tune of 69 million rands, and it must – Eskom is refusing to pay us. I said, I don't know much about it, I have heard about it. My team has been investigated and investigated it.

I had it on the corridor stock. And once I am familiar, in fact I said to Mr Tsotsi I was very polite to him, because he's an old man, but I basically told him that whether you are right or wrong, it's none of your business. You are an executive chairman ...

CHAIRPERSON: So but you may have been ... (indistinct)
20 by Mr Seleka's question. You had said Mr Tsotsi walked into your office.

MR KOKO: Yes.

CHAIRPERSON: Ja, but you have not said what he said. What the discussion was about.

MR KOKO: Now, now before that, then the transaction, then

I heard all of a sudden there's a letter that was signed committing Eskom to pay Simmo Tommo 69 million rand.

CHAIRPERSON: Is that before your discussion with Mr Tsotsi when he walked into your office or is that after when you became aware of such a letter?

MR KOKO: That's before.

CHAIRPERSON: Before?

MR KOKO: Yes, before.

CHAIRPERSON: Who had signed that letter?

10 **MR KOKO:** Mr Tsotsi signed that letter.

CHAIRPERSON: Who was it addressed to?

MR KOKO: It was addressed to a CEO Chairman of Simmo Tommo.

CHAIRPERSON: And what was the gist of the content of the letter?

MR KOKO: That Eskom commit to pay Simmo Tommo 69 million rand.

CHAIRPERSON: 69 Million rand?

MR KOKO: Yes.

20 **CHAIRPERSON:** And your understanding of this 69 million rand at that time was that it was supposed to be for what?

MR KOKO: Well my team had done investigation. My team had briefed me that Simmo Tommo is not entitled to 69 million rands. It not Simmo Tommo ...

CHAIRPERSON: In terms of the letter what did the letter

say the 69 million rand was for?

MR KOKO: The letter was saying, we commit to come to your workshops to investi – to do inspections of the place of the transformers that have been manufactured for Eskom and once the inspection is done, they will then be delivered to Eskom and Eskom will pay 69 million rand.

CHAIRPERSON: Yes, okay. You knew nothing about this and your team had investigated and what did they find? What had they found?

10 **MR KOKO:** My team was very clear and very emphatic that there was no need, there is no order number, Eskom don't need this things. And it then explained to me why there was a squabble between Mr Tsotsi and Malihlele(?) who wants to pay and the team that is doing the real work.

Because the team that's doing the real work. No, no, we did not place an order. There is no order number. So we can't even go and inspect because we don't need this things. So I said to Mr Tsotsi ...

CHAIRPERSON: So what did he say, and did he talk about
20 this particular issue when he came to your office?

MR KOKO: No, he came to my office and say, why don't you pay this people..

CHAIRPERSON: What did he say?

MR KOKO: Why don't you pay these people.

CHAIRPERSON: Why don't you pay these people?

MR KOKO: Yes.

CHAIRPERSON: Meaning?

MR KOKO: Simmo Tommo.

CHAIRPERSON: Yes, right. And what did you say?

MR KOKO: And I said to him very polite way, I told you first there is no order number. There is no goods received so we can't do what we call in Eskom procurement processes, the three were mentioned. But thirdly, lastly I am not taking this matter any further, for me it's dead. And I remember what he
10 told me.

CHAIRPERSON: What did he tell you?

MR KOKO: You are stubborn, I will sort you out.

CHAIRPERSON: You are stubborn and I will sort you out?

MR KOKO: Yes.

CHAIRPERSON: Okay. Is that how your discussion ended on that day?

MR KOKO: That is how the discussion ended.

CHAIRPERSON: And that was 20`14?

MR KOKO: That, that was 2014.

20 **CHAIRPERSON:** Do you remember around which month more or less?

MR KOKO: It was after June.

CHAIRPERSON: After June.

MR KOKO: Yes.

CHAIRPERSON: Okay, alright.

MR KOKO: Yes Chair.

CHAIRPERSON: And then when did – was there any further discussion between yourself and Mr Tsotsi about, about this issue before your suspension?

MR KOKO: So ...

CHAIRPERSON: In 2015?

MR KOKO: So on that, on towards the end of March, towards the middle of March.

CHAIRPERSON: 2015?

10 **MR KOKO:** 2015. I picked up ...

CHAIRPERSON: But before you were suspended?

MR KOKO: Before I was suspended. I picked up that the letter was signed.

CHAIRPERSON: The letter was?

MR KOKO: Was signed.

CHAIRPERSON: When you had known about the letter before he came to your office in 2014, the letter had not been signed.

MR KOKO: The letter has not been signed.

20 **CHAIRPERSON:** But you had seen it or you had been told about it?

MR KOKO: No, no. No. What I had seen when he came to my office, with the Simmo Tommo letter.

CHAIRPERSON: Or which was complaining.

MR KOKO: Was complaining.

CHAIRPERSON: Ja, but at that stage had – were you aware that there was already a letter purporting to be from him or did that only happen in 2015?

MR KOKO: No that happened in 2015.

CHAIRPERSON: In 2015.

MR KOKO: That happened at about 2015.

CHAIRPERSON: Oh alright. So when did you see this letter that was signed by him.

MR KOKO: Actually not.

10 **CHAIRPERSON:** You did not see it?

MR KOKO: No.

CHAIRPERSON: But you were told that ... (indistinct).

MR KOKO: I was told the letter is signed.

CHAIRPERSON: Yes. And who told you about this letter?

MR KOKO: Chairman I don't remember, but what I do remember is that once I heard it, once I heard about it I wrote Malisela an email. Mr Sikathembe. I say Mr Sikathembe I have since learned that there's a letter been signed by the Chairman, I direct you to regularise it and go
20 to the panel committee for condonation.

CHAIRPERSON: Now this would have been when in 2015? Around mid, around January, February?

MR KOKO: Chairman that would have been first quarter. I don't, I don't ...

CHAIRPERSON: Because your suspension was on the 11th.

MR KOKO: Yes, so I will – Mr Sikathembe is suspended on the 2nd of March.

CHAIRPERSON: Oh Mr Sikathembe was suspended on the 2nd of March.

MR KOKO: Yes.

CHAIRPERSON: Oh okay so when, when you were suspended in – on the 11th it was only about two weeks after Mr Sikathembe has ...

MR KOKO: Yes.

10 **CHAIRPERSON:** Ja.

MR KOKO: Yes.

CHAIRPERSON: And you made the decision to suspend him?

MR KOKO: Yes.

CHAIRPERSON: Okay, alright. So between the meeting, the discussion you had with Mr Tsotsi when he came into your office in 2014, in the second half of 2014 and the 2nd of March when you suspended Mr Sikathembe, the two of you namely, you and Mr Tsotsi ever discussed this issue again?

20 **MR KOKO:** No.

CHAIRPERSON: You had not discussed the issue again?

MR KOKO: No I don't remember.

CHAIRPERSON: He could never argue same.

MR KOKO: Chairman I do not remember discussing with him. I do not think, I do not think I did.

CHAIRPERSON: Yes, okay, alright. So you suspended Mr Sikathembe. What was the reason for suspending Mr Sikathembe?

MR KOKO: I suspended him pending investigations.

CHAIRPERSON: Yes.

CHAIRPERSON: What was the allegation that, that lead to his suspension?

MR KOKO: So there was a clear instructions from me to him in writing, that he must not sign the letter. He must, we are
10 not going to pay this.

CHAIRPERSON: He must not?

MR KOKO: We are not going to pay.

CHAIRPERSON: Ja, you won't pay, ja.

MR KOKO: We will not pay.

CHAIRPERSON: Eskom.

MR KOKO: Eskom, this thing is dead.

CHAIRPERSON: Yes, ja.

MR KOKO: Then I later found out that the letter is signed.

CHAIRPERSON: Now the letter that you were told you
20 signed, you had told was a letter by whom to whom?

MR KOKO: It was a letter that was originated by Mr Sikathembe, that was signed by Mr Tsotsi.

CHAIRPERSON: Now okay, but you at that stage you had not seen the letter, but you were told about it?

MR KOKO: Yes.

CHAIRPERSON: Okay, you can't remember who told you about it?

MR KOKO: No I can't remember.

CHAIRPERSON: Did Mr Sika – did you ask Mr Sikathembe about it?

MR KOKO: I ...

CHAIRPERSON: Before suspending him?

MR KOKO: Yes, I called him.

CHAIRPERSON: Yes.

10 **MR KOKO:** I even emailed him. I even emailed it.

CHAIRPERSON: Yes. Did he, did he – what did he say about the existence or none existence of that letter?

MR KOKO: Chairman he had the support of the Chairman, so ...

CHAIRPERSON: But what did he say? Did he say he knew about the letter? He knew the letter it existed? And ...

MR KOKO: Oh ja, there was no dispute about the letter.

CHAIRPERSON: Ja, he admitted it?

MR KOKO: No, there was no dispute about the letter.

20 **CHAIRPERSON:** Yes. But he didn't show it to you, he didn't produce it? You did not ask for it?

MR KOKO: No, no, there was no, there was no dispute about the letter.

CHAIRPERSON: Yes, so did he explain about the letter?

MR KOKO: How he came about it.

CHAIRPERSON: How the letter came about, did he draft it for the Chairperson or what?

MR KOKO: Chairman there was a hearing.

CHAIRPERSON: Yes, afterwards?

MR KOKO: Afterwards and there was evidence led and the sequence of events is nicely tabulated in – I think it's NK33.

CHAIRPERSON: Ja.

MR KOKO: And the senior counsel who chaired the
10 meeting was satisfied that the letter was actually originated from Mr Sakazimbi, and he was also satisfied that the letter is unlawful.

CHAIRPERSON: Was he found guilty of something?

MR KOKO: He was found guilty and the sanction was a dismissal, which I implemented.

CHAIRPERSON: Yes, that was now, that happened after you came back from ...[intervenues]

MR KOKO: After ...[Indistinct]

CHAIRPERSON: Yes, so when you were suspended Mr
20 Sakazimbi was also on suspension and when you came back the issue had not been finalised.

MR KOKO: Correct.

CHAIRPERSON: Ja, and then it was finalised, you implemented the dismissal.

MR KOKO: Correct.

CHAIRPERSON: That had been recommended by the Chairperson.

MR KOKO: Correct.

CHAIRPERSON: Okay, so the dismissal therefore of Mr Sakazimbi and his suspension centred around this letter that you understood had been signed by Mr Tsotsi?

MR KOKO: Correct.

CHAIRPERSON: Committing Eskom to paying R69million for something that you regarded as not needed by Eskom
10 or not necessary.

MR KOKO: Well there was no order number and all – and the evidence that was led in the hearing says that.

CHAIRPERSON: Ja, yes, did you by any chance have a copy of the ruling of the Chairperson.

MR KOKO: MK33 sir.

CHAIRPERSON: Yes.

MR KOKO: It is in this bundle.

CHAIRPERSON: Oh, okay, no that is fine, okay Mr – I think at least now I understand that part.

20 **MR KOKO:** Now but let me tell you, let me complete the picture. Let me complete the picture. I have learnt about the meeting of the 6th of March, I have learnt about the meeting of the 7th of March in Legani.

CHAIRPERSON: Yes.

MR KOKO: But of particular importance is what happened

in the meeting of the Board of the 11th of March.

CHAIRPERSON: With respect to your suspension?

MR KOKO: With respect to my suspension, and that is why I don't buy these other stories.

CHAIRPERSON: Yes, yes, yes.

MR KOKO: Because in that meeting Mr Zola Tsotsi says we are going to investigate these four areas, and the investigations is triggered by the load shedding with this generation.

10 **CHAIRPERSON:** This is now him speaking when you were – you had been called?

MR KOKO: Yes.

CHAIRPERSON: Ja, okay.

MR KOKO: And then he says you are responsible for the load shedding, Mr Tsotsi has said that many times in this Commission and one of the frustrating things Mr Chair is sitting at home somebody giving evidence here and being untruthful and you cannot do anything about it, it is like you must break the TV now. Mr Tsotsi says Mr Koko is
20 responsible for generation because he is doing the maintenance. The Eskom delegations of authority that Mr Tsotsi himself signed clearly says he is lying to you. He was taking you for a ride and when the Board took him to task and said but maintenance, load shedding is not maintenance, the Eskom Board and I have cut and pasted a

section that Mr Tsotsi signed clearly says that the responsibility for a new generation lies with the Group Executive Generation, and if we are going to go on that line then the head of generation who runs generation would have been suspended, but every time in going listening to the audio of 11th March every time Mr Tsotsi is told but what about generation, he says no, no, no generation is Mr Koko, and the only reason he did that is because he wanted to create a ...[indistinct] an excuse that I must be
 10 part of that because the person who is managing generation at that point was Ntsokolo so if generation was to be investigated then the head of generation should have been suspended, not the service provider who is distant from generation and where still the Eskom reputation and Chairman I am going to ask you please, ask your investigators to go and look at 2012 organisational structure that Mr Tsotsi himself signed it is attached Mr Tsotsi was taking you for a ride.

CHAIRPERSON: Now of course you make the point that
 20 you make about what Mr Tsotsi said at the meeting of the 11th when you had been called in.

MR KOKO: Yes.

CHAIRPERSON: To say your suspension was driven by Mr Tsotsi am I right to understand it like that?

MR KOKO: That is correct Chair.

CHAIRPERSON: Yes. Of course you have been listening to the evidence that has been heard, what do you say to the evidence both by Mr Tsotsi as well as by Mr Nick Linnell that at the meeting in Durban on the 8th you were included among the three executives that that he says he was told by I think Ms Dudu Myeni were supposed to be suspended or whose suspension was contemplated, what do you say about that?

MR KOKO: Chairman I have listened to the evidence of
 10 Mr Nick Linnell, I have listened to the evidence of Mr Tsotsi, I was shocked at times almost angry that there was such a meeting, it really shocked me, but Mr Tsotsi did also tell you that the idea of an inquiry into Eskom was an idea that he was thinking about, he was thinking about it. On the 6th in the Presidential Guest House Mr Linnell and Ms Dudu Myeni allegedly discussed that further. I think Mr Tsotsi was not there, no Mr Tsotsi was not there.

CHAIRPERSON: Ja he was not there.

MR KOKO: And the affidavit of Nick Linnell says he is the
 20 one who mooted the idea that says you cannot do this type of an investigation without suspending people that are in charge, I think that was Mr Linnell. He then said on the following day they met at the Presidential Guest House and the discussion of the areas of discussion continued in two meetings, one attended by Mr Masonga the other one by

the President and Mr Masonga was there or not and right, and then he says they then agreed on the three areas that had to be investigated, Generation, New-Build and the Commercial. Mr Linnell says I did not know Eskom people, the name, the names were emailed to me later, that is the evidence of Nick Linnell, so the names were attached by Mr Tsotsi and if Mr Tsotsi was truthful when he attached the name he would have attached the Generation name there, but he did not, he attached my name because he
 10 was determined to make sure that I am part of that pack that must go.

CHAIRPERSON: So you don't accept the evidence that your – in terms of the discussion at the Durban meeting on the 8th, that your area was included in terms of the portfolios that had to be investigated and whose heads had to be suspended?

MR KOKO: Chairman I don't accept it.

CHAIRPERSON: You don't accept it.

MR KOKO: And let me tell you more.

20 **CHAIRPERSON:** Yes, h'm.

MR KOKO: Mr Linnell reads a document that was submitted by Mr Masongwani, it is a conspiracy theory and please let us go back to it, he says there is a sabotage at Eskom, the open turbines have now been converted into combined cycle, into base load operation and there is no

need to do so. You may not understand the jargon there, first, the first conclusion that I have on that letter is that it was written by a non-technical person, by mixing the words, it is somebody who is not involved in our business, a distant person. Secondly what he was trying to do there he was trying force in the commercial part of the business because according to them Eskom is spending R1billion of diesel and somebody else is benefitting, and at that time you may remember or you may not remember there was a
 10 lot of stories that says the medical doctors are getting diesel contacts from Eskom, it was a very common accusation, so all what Mr Masongwane was doing with that conspiracy document was to force an argument that says there is a sabotage, one, two this sabotage has led to the use of diesel at R1billion a month and certain characters that they may or may think they know are benefitting to it. When you take that line you then conclude that then commercial must be included and I was the head of commercial, but it was a big sell and that is
 20 why Mr Tsotsi pushed me into generation, he said you are Mr Generation when he knows that Mr Generation is Mr Ntshekolo.

CHAIRPERSON: Mr Seleka ...[intervenes]

MR KOKO: And Chairman please go and read, your investigators must go and read and come and advise you,

go and read the organogram of Eskom.

CHAIRPERSON: What you must do, anything that you think is relevant and important talk to your legal team they can furnish it.

MR KOKO: My affidavit deals with that Chair, I have included it in the affidavit, I have even quoted Mr Tsotsi.

CHAIRPERSON: Okay, alright. Mr Seleka you can start where you want to start but at some stage I am sure you will talk about the issue of the Durban meeting and so on.

10 **ADV SELEKA SC:** Yes, ja. Chair I see it is nearly quarter past seven.

CHAIRPERSON: Yes.

ADV SELEKA SC: And we did not agree on how long we are going to run.

CHAIRPERSON: Yes, yes. Ja I know that my own contemplation was that we would finish by about seven, we have not. I am prepared to continue subject to everybody, I think that maybe we should continue and see where we are by eight and take it from there. How is that for you?

20 **ADV SELEKA SC:** Ja, that will still be a short time, it seems to me I need to traverse ...[intervenes]

CHAIRPERSON: Ja, I am not necessarily saying what will happen, I am saying we will assess and take it from there at that time.

ADV SELEKA SC: Okay, I see.

CHAIRPERSON: Mr Barrie how is that for you?

ADV BARRIE SC: In terms of – are we going on?

CHAIRPERSON: Okay, no ...[intervenes]

ADV BARRIE SC: I have no difficulty with that.

CHAIRPERSON: Okay I was saying let's go on until eight and see, assess at that time whether we go on further or what we do.

ADV BARRIE SC: As you please.

CHAIRPERSON: Is that alright? Mr Koko that is fine
10 with you?

MR KOKO: That is fine, may I ask for a comfort break?

CHAIRPERSON: Oh, okay, alright, let's take a short break, ten minutes? Okay let's take a ten minutes break.

ADV SELEKA SC: Thank you Chair.

CHAIRPERSON: We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay let us proceed.

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

CHAIRPERSON: While doing justice to the issues we will need to try and use the time properly.

ADV SELEKA SC: Efficiently.

CHAIRPERSON: In terms of the pace.

ADV SELEKA SC: Yes.

CHAIRPERSON: Ja.

ADV SELEKA SC: Yes.

CHAIRPERSON: Ja but in the end we must do justice to the issues.

ADV SELEKA SC: Yes.

CHAIRPERSON: Ja.

ADV SELEKA SC: Yes, no.

CHAIRPERSON: Okay.

ADV SELEKA SC: Indeed Chair. Mr Koko so we are in 2014
10 you were relating the story in 2014 Mr Koko coming to you
June 2014. What was your position in 2014?

MR KOKO: Acting Group Executive Technology and Commercial.

ADV SELEKA SC: Okay. Were you working with – or was she working for you Ms Daniels?

MR KOKO: Correct. Correct Chair.

ADV SELEKA SC: So just explain for us is she working in- was she working in your office at the time?

MR KOKO: Chair you – I always have a difficulty explaining
20 what Ms Daniels was doing at my – in my – what her role was but I found her in that office. And he was the senior manager in that office for the previous executives.

When I got there I did not really appreciate her role and I think she picked it up and she went to Mr Marokane and she knew that Mr Marokane and I were tight. Mr

Marokane and I come a long way. We actually – we are very close.

ADV SELEKA SC: Chair – sorry Chair should I leave it up to you to manage.

CHAIRPERSON: No you can also – you can also do it.

MR KOKO: She was a...

CHAIRPERSON: Ja – no you...

MR KOKO: Ms Daniels was a senior manager in my office.

CHAIRPERSON: Ja.

10 **ADV SELEKA SC:** Yes.

MR KOKO: And mainly looking at regulatory and legal issues.

CHAIRPERSON: Okay.

ADV SELEKA SC: Yes. Yes.

MR KOKO: I just wanted to put across.

CHAIRPERSON: Yes.

MR KOKO: How he ended up in my area.

CHAIRPERSON: Okay no that is fine.

MR KOKO: But his – her main focus Chair was regulatory
20 and legal issues primarily on the coal contracts.

CHAIRPERSON: Oh.

MR KOKO: She then was very strong on coal contracts.

CHAIRPERSON: Ja okay.

ADV SELEKA SC: Okay that is alright.

MR KOKO: I beg yours Ms Daniels.

ADV SELEKA SC: Ms Daniels.

CHAIRPERSON: Sorry?

MR KOKO: I beg your pardon Ms Daniels.

ADV SELEKA SC: Okay let me take step by step because you have mentioned quite a number of issues. You said in the letter from Sumitomo and in the letter of reply from Mr Tsotsi they specifically dealt with the R69 million one on the south of Sumitomo that Sumitomo wanted to be paid and two on from the south of Mr Tsotsi that Mr Tsotsi in his letter
10 committed Eskom to pay.

MR KOKO: Correct. Chair what I may not remember clearly is whether the letter from Sumitomo that came mentioned the R69 million. I think the letter from Sumitomo may or may not but it is clearly what I – what it clearly did was to say to Eskom you have got a contract with us we have done the job you need to come do inspections and you need to pay us. And that was not happening.

ADV SELEKA SC: So is that the only correctly you wish to make in that regard?

20 **MR KOKO:** Yes Chair. Remember this is five years' ago so I am working from memory but I think that is what it is all about.

ADV SELEKA SC: Ja. We have shared with you the affidavit with the annexures of Mr Sicasimi [?].

MR KOKO: That is correct Chair.

ADV SELEKA SC: The letter of Mr Tsotsi to Sumitomo is also contained in the annexures to his affidavit. You have seen that?

MR KOKO: Chair I have not – I do not recall – I do not recall seeing the attachments. Chair it is the second mistake I think this commission is being told. They said the same with the affidavit of Ms Nonkululeko Dlamini Vilette that they have sent an affidavit and it included telephone records. I did not comment but it was incorrect.

10 **ADV SELEKA SC:** Now the letter Chairperson is in the Reference Bundle Eskom.

ADV BARRIE SC: If I may be permitted the affidavit that was sent to us did not contain the annexures.

CHAIRPERSON: Yes.

ADV BARRIE SC: I can refer you to though to the finding of the – Mr [00:05:44] which is – starts at page 344 of the bundle before you where part of the letter is quoted if I can refer you to the relevant page that is page 349 is where the letter or portion of it is quoted in this dismissals finding.

20 **CHAIRPERSON:** Yes thank you.

ADV SELEKA SC: Thank you Chair.

CHAIRPERSON: Yes Mr Seleka.

ADV SELEKA SC: Mr Koko what I am going to do just so that you have the benefit of the exercise I am doing is to put the other person's versions to you. You would have seen in

the commission we have done that at this commission and we allow you to comment on that.

So I will do that by reference to this affidavit because I have also looked at that letter and I could not find the reference to that R69 million. That you will find on page 747 of Eskom Bundle 13. I will ask my junior to assist you.

MR KOKO: This [00:07:02] here.

ADV SELEKA SC: Page 747 Eskom Bundle – Reference Bundle 13 – 13.

10 **MR KOKO:** I got it.

ADV SELEKA SC: You got it?

MR KOKO: I got Chair thank you. Yes thank you.

ADV SELEKA SC: There is just for the Chairperson to know whether or not indeed there is a R69 million and we just move on.

CHAIRPERSON: Ja you can proceed Mr Seleka.

ADV SELEKA SC: Page 747.

MR KOKO: 7?

20 **ADV SELEKA SC:** 747. It will be on your right. I think it is under item 18 – under item 18.

MR KOKO: I am getting there Chair my apologies Mr Seleka.

ADV SELEKA SC: Yes. 747.

CHAIRPERSON: The black numbers not the red numbers.

CHAIRPERSON: I am – yes I am there.

ADV SELEKA SC: Yes. Now can you identify – well shall I help you quickly because we want to use time efficiently. This is a letter you can see – oh but you did have this letter which you showed to Mr Matona by the way?

MR KOKO: Yes.

ADV SELEKA SC: Remember you showed Mr Matona according to your affidavit?

MR KOKO: Yes.

ADV SELEKA SC: That Mr Tsotsi has signed this – is this
10 the letter?

MR KOKO: Yes.

ADV SELEKA SC: Dated 11 August 2014

MR KOKO: Yes.

ADV SELEKA SC: Is addressed to Assistant General Manager a very difficult name there.

MR KOKO: Yes.

ADV SELEKA SC: Mr Masato Taguchi.

MR KOKO: Yes.

ADV SELEKA SC: And on the next page is Mr Zola Tsotsi's
20 signature?

MR KOKO: Yes.

ADV SELEKA SC: Ja. I went through the letter to see where you found the R69 million I could not find it in this letter.

MR KOKO: Yes.

ADV SELEKA SC: So can you recall exactly where – so there is no commitment to pay R69 million in the letter can you recall where you got the figure from?

MR KOKO: Chairman it is quite simple and here I am going to ask us painstakingly to go to the – to MK33.

CHAIRPERSON: Hang on let us finish here first.

MR KOKO: I am answering that question.

CHAIRPERSON: Yes.

MR KOKO: Of the 69 million where it comes from.

10 **CHAIRPERSON:** Oh you accept that it is not in the letter?

MR KOKO: I accept that it is not in the letter.

CHAIRPERSON: Yes okay but you say it is somewhere?

MR KOKO: Let us go to page 69. You note that MK33.

CHAIRPERSON: Is that page 69 Mr Seleka do you know where we found that – find that.

ADV SELEKA SC: He says MK.

MR KOKO: MK33.

CHAIRPERSON: Is that an annexure to your affidavit?

MR KOKO: 33 yes – my counsel talked to it.

20 **ADV SELEKA SC:** No, no I understand.

ADV BARRIE SC: It is at the page number I referred you to earlier Chair at page 344 of the bundle before you the annexures to...

CHAIRPERSON: To his affidavit?

ADV BARRIE SC: To that affidavit yes.

CHAIRPERSON: Okay so what is the page number again?

ADV BARRIE SC: 340.

CHAIRPERSON: 340.

ADV SELEKA SC: That is in Mr Koko's bundle.

CHAIRPERSON: In the bundle we have been using up to now.

ADV SELEKA SC: Mr Koko I gather from Mr Barrie that that is the disciplinary ruling.

MR KOKO: Correct.

10 **ADV SELEKA SC:** Is that the disciplinary ruling?

MR KOKO: Correct.

CHAIRPERSON: Okay so – so are you saying Mr Koko you got the 69 million – the figure of R69 million in the ruling of the disciplinary hearing?

MR KOKO: No, no, no remember the ruling – the ruling it is the consequences of submissions.

CHAIRPERSON: Yes.

MR KOKO: The ruling is the consequences of submissions and Chair I may want to you know if – let us assume that –
20 let us take it that I may have forgotten which document.

CHAIRPERSON: Yes ja.

MR KOKO: I find form.

CHAIRPERSON: Yes.

MR KOKO: But I am saying the evidence that was led.

CHAIRPERSON: Yes.

MR KOKO: At the disciplinary hearing clearly details where the 69 is.

CHAIRPERSON: Confirmed that the amount was 69 million.

MR KOKO: Confirmed that the amount was 69 Chair I have – I want you to go to – I want you to go to page 347.

CHAIRPERSON: Well Mr Seleka is 69 million an issue if we do not see it here?

MR KOKO: Can I read – can I read page 347?

10 “In April 2014 Somutomo made a demand of
69 million payment on the basis that it is – it
had purportedly manufactured goods
pursuant to the contract. It is not in dispute
that the goods were neither inspected nor
requested under the purchase order nor is it
in dispute that there was neither a budget
nor need for allegedly affected items.”

CHAIRPERSON: Okay. Alright.

MR KOKO: Yes.

ADV SELEKA SC: Yes.

20 **CHAIRPERSON:** If it is not – if the figure is not an issue let
us move on.

ADV SELEKA SC: Yes no that is correct Chair we just trying
to clarify the version that it is in the letter and committing
Eskom to that 69 million.

MR KOKO: And Chair might I say – might I say.

CHAIRPERSON: Hm.

MR KOKO: In this letter and I need to read this you see – so just for the record to those who are watching I take off my glasses when I read. Because people read a lot into that.

ADV SELEKA SC: Is it still the ruling?

MR KOKO: Yes it is the ruling.

CHAIRPERSON: What are you looking for in the ruling?

MR KOKO: In the ruling Mr – the Chairman says he is satisfied that the signature by Mr Tsotsi is unlawful.

10 **CHAIRPERSON:** Okay well if you say it is there.

MR KOKO: It is there Chair.

CHAIRPERSON: We – we can...

MR KOKO: Yes but the important part is.

CHAIRPERSON: Yes.

MR KOKO: There - that is what Mr Tsotsi was afraid of. Mr Tsotsi knew that what he did was unlawful and if this matter is taken into conclusion and the letter is found to be unlawful the he has got an issue with the board and the Minister.

CHAIRPERSON: Okay.

20 **ADV SELEKA SC:** Yes. Now this – Chairperson I am going to try to expedite.

CHAIRPERSON: Yes. Ja not everything is important for our purposes so...

ADV SELEKA SC: Yes.

CHAIRPERSON: Ja let us focus on important issues for

purposes of suspension.

ADV SELEKA SC: Yes.

CHAIRPERSON: But the question of course of – of the letter.

ADV SELEKA SC: Yes.

CHAIRPERSON: Is important for the reasons that as far as Mr Koko is concerned that is where the origin is of why he was he was suspended.

ADV SELEKA SC: Yes.

10 **CHAIRPERSON:** Ja.

ADV SELEKA SC: yes.

CHAIRPERSON: But the question of the amount I think we can accept that even if it was not 69 million it appears that it would be quite a substantial amount.

ADV SELEKA SC: Yes. So Mr Tsotsi does not denying the letter. He accepts that he signed the letter. And I think you were saying earlier that you had not had sight of the letter.

MR KOKO: Of course I did not.

20 **ADV SELEKA SC:** Ja. So Mr Sikathembe in his affidavit you know he details references to emails and he says that when this issue to his attention he referred it to Mr Charles Khalima and then he attaches the emails of Mr Charles Khalima corresponding with Suzanne Daniels in – who was reporting to you. And that they – the two of them drafted the letter and indeed there is an email from Ms Daniels saying

the draft has been prepared and I think it is being forwarded to language – you had a language department I believe?

MR KOKO: Correct.

ADV SELEKA SC: To oversee the draft. I mean it is documents that got to be issued by Eskom.

CHAIRPERSON: But Mr Seleka why are we going there? What will be the point for our purposes? You want me to give you some leeway?

ADV SELEKA SC: Yes Chair please.

10 **CHAIRPERSON:** Okay.

ADV SELEKA SC: And the draft letter Ms Koko was in fact copied to you in the email of the 14 May 2014. The email is on page 745 of the – that Reference Bundle that other one. But it is detailed in Mr Sikathembe's affidavit he says that – ja keep to that 745. There is Ms Suzanne Daniels' email to Leo Dlamini you are copied in that email.

CHAIRPERSON: Did you say page 745?

ADV SELEKA SC: 745 Chair yes.

CHAIRPERSON: Of which?

20 **ADV SELEKA SC:** The Reference Bundle.

CHAIRPERSON: Ja

ADV SELEKA SC: Sorry Chair.

CHAIRPERSON: Ja you did not say the Reference Bundle so I was looking at the...

ADV SELEKA SC: Sorry Chair the Reference Bundle.

CHAIRPERSON: 745.

ADV SELEKA SC: At the top of the page. So there is a trail of emails with Ms Suzanne Daniels. So we have prepared a draft hereon and will let you have it once gotten it back from language. So according to Mr Sikathembe you would have been aware of the draft as it was being prepared?

MR KOKO: Chairman I do not recall this – this email. It is clearly copied to me. I do not recall seeing it.

ADV SELEKA SC: Okay.

10 **MR KOKO:** And – but let me read what the Chairman rules after this evidence has been led before him.

ADV SELEKA SC: Yes. Or you can just tell us in a nutshell what this it says.

MR KOKO: No, no it is – it is important that I do this.

CHAIRPERSON: Ja.

MR KOKO:

20 “The Chairman had no mandate to change the terms of a contract as this had to be referred back to the tender committee. The employee who is Mr Manisela – the employee was aware that this and as a senior manager was or ought to have been aware that the procurement policy prohibits a change to the terms of the contract. The payment to Sumotomo was subject to obtaining of three

signatures as per the Eskom processes. The employee admitted that he signed the earlier version of the letter – draft letter despite being aware that there was no purchase order, no budget and no inspections of an alleged manufacturing. It follows therefore that the employee was aware that no payment was due.”

Now Chair I do not recall the – the email.

10 **ADV SELEKA SC:** The email okay.

CHAIRPERSON: Ys.

MR KOKO: But – but even the employee’s version says no work was done, no money is due so why would I...

CHAIRPERSON: Ja.

MR KOKO: Support it when the senior employee himself knows that no work was done, no amount is due? But he still causes – write the letter and pretend to have copied to me. Many people when you are in that senior position Chairman people copies you in anything and everything.

20 **CHAIRPERSON:** Ja.

MR KOKO: So he – he in his own version he knows he should not have done this.

CHAIRPERSON: Hm. Hm. Mr Seleka.

ADV SELEKA SC: Thank you. Thank you Chair.

MR KOKO: But Mr Tsotsi is not my gripe is that Mr Tsotsi

has not been taken to task for acting unlawfully by the investigators of this commission. That is my gripe.

CHAIRPERSON: Well okay let us continue.

ADV SELEKA SC: Yes.

CHAIRPERSON: I assume that – or by the time you returned from suspension Mr Tsotsi was no longer a chairperson – was no longer a member of the board?

MR KOKO: That is correct.

CHAIRPERSON: Ja.

10 **MR KOKO:** And he still deemed it important to come back and to testify in favour of Mr Sikathembe and his testimony was reflected.

CHAIRPERSON: Mr Seleka.

ADV SELEKA SC: Yes thank you Chair. I think there is further on also – I will expedite this further an email on page 753 where according to Mr Sikathembe you are requesting documents from Mr Mongese and that is in regard to the Sumitomo matter. So page 753 quickly.

MR KOKO: On the Eskom Bundle?

20 **ADV SELEKA SC:** Ja that Reference Bundle.

MR KOKO: 753.

CHAIRPERSON: Mr Seleka I have given you some leeway I am not sure that we should be going that far but ...

MR KOKO: But I will tell you why I...

CHAIRPERSON: You may be knowing something I do not

know that is why I am giving you leeway but we should get to it as soon as possible.

ADV SELEKA SC: I will Chair.

MR KOKO: Page 753.

ADV SELEKA SC: Page 753.

MR KOKO: Yes this is

CHAIRPERSON: 75?

ADV SELEKA SC: 53.

MR KOKO: No, no. 753 on the...

10 **CHAIRPERSON:** On the Reference Bundle.

ADV SELEKA SC: Correct Chair.

MR KOKO: No Chair.

CHAIRPERSON: Okay.

MR KOKO: I beg your pardon, I beg your pardon Sir.
Bundle 15?

ADV SELEKA SC: 13 no.

MR KOKO: No.

ADV SELEKA SC: Not your bundle the Reference Bundle.

MR KOKO: Okay.

20 **ADV SELEKA SC:** Yes not your bundle.

CHAIRPERSON: Okay.

ADV SELEKA SC: The one with this email. 753.

MR KOKO: I am there Chair.

ADV SELEKA SC: So from the bottom up that is your email
Matshela to Mongese and Tsokolo Sumitomo matter and

“In our discussion with chairman you made reference to the information sent to you by Colin Reddy. I requested this information so that both of us can work from same set of facts. I do not have this information as yet. Kindly make it available that we can move this matter forward. This is September 2014.”

And he says:

10 “You are welcome to come to my office any time.”

And at the top of it you say to Malisela Sikathembe.

“Please get whatever Mongese has with him I am out of the office for a week.”

So you have seemed to be hands on on this matter?

MR KOKO: Ja – oh ja Chair and I am very proud of this.

ADV SELEKA SC: Yes.

MR KOKO: I am extremely proud of this because here I was applying my mind. Mongese is a user. If there is a person
20 who should know whether we need transformers and there is an order number where do I go? I went to the right person and I – when I decided – when I showed Mr Tsotsi the door I had applied my mind I went to the right people. The users told me we do not need this thing. We have not placed an order.

CHAIRPERSON: Ja.

ADV SELEKA SC: Ja. And Chair I know you are anxious.

CHAIRPERSON: Yes I - I do not see the point and it is taking long to come.

ADV SELEKA SC: Can I – can I do one more thing?

CHAIRPERSON: Hm.

ADV SELEKA SC: Mr Koko the disciplinary hearing was – was based on a report. There was an investigation report by Ernst and Young. Correct?

10 **MR KOKO:** Chair the – Mr Sikathembe was suspended pending an investigation.

ADV SELEKA SC: Yes.

MR KOKO: There must have been a company that – or there must have been somebody who did the investigation.

ADV SELEKA SC: Ja but did you not see the investigation report when you came back?

MR KOKO: No Chair I – I may have seen it I may not have seen it but the way things work you suspend a person, you do the investigation and Ms Daniels dealt with it.

20 **ADV SELEKA SC:** Ja but it is the Chairperson who wants me to cut to the chase

MR KOKO: Ja I do not recall seeing it Chair.

ADV SELEKA SC: Ja that investigation report is on page 785. It is Ernst and Young investigating report to which.

MR KOKO: 785?

ADV SELEKA SC: Yes.

MR KOKO: I am there Chair.

ADV SELEKA SC: You found it. Ja.

MR KOKO: July 31st.

ADV SELEKA SC: Yes. And in the interest of time if you turn the page 804.

MR KOKO: 8.

ADV SELEKA SC: 804. The investigators had – 804.

MR KOKO: Yes I am there Chair.

10 **ADV SELEKA SC:** Ja. You see against paragraph 6.2 Mr Daniel Tulanko's [?] name.

MR KOKO: Yes.

ADV SELEKA SC: And then the investigators had interviewed him.

MR KOKO: Yes.

ADV SELEKA SC: And they set out there in those paragraphs that he is the one who – he says that the draft that was received which was firstly sent to you apparently you refused to sign it. He then amended that draft to include
20 Mr Tsotsi's name and to word it the way he did.

CHAIRPERSON: What happened?

ADV SELEKA SC: Mr [00:27:07] the head of legal Chairperson when interviewed by the investigators he says

CHAIRPERSON: Went interviewed?

ADV SELEKA SC: When interviewed.

CHAIRPERSON: When interviewed.

ADV SELEKA SC: Ja when interviewed.

CHAIRPERSON: Okay.

ADV SELEKA SC: By the investigators he tells them he is the one who ultimately worded the letter that Mr Tsotsi signed. The letter was meant to be signed by Mr Koko but when Mr Koko refused to sign he changed it and – and it became the last – the product – the last – the final product which Mr Tsotsi signed.

10 **MR KOKO:** Chairman no.

CHAIRPERSON: No he has not finished.

MR KOKO: You know.

ADV SELEKA SC: Do you know what the point I am making which is what Mr Sikathembe is making because Mr Koko has said the letter originated from Mr Sikathembe – originated from Mr Sikathembe not – but Sikathembe says here are the emails. The letter is being drafted by Khalima and Suzanne Daniels. It is ultimately finalised by Mr Nel [?] he tells the investigators that and not Mr – so Mr Sikathembe
20 was not responsible for drafting the letter and causing the chairperson to sign it.

MR KOKO: Chairman I

CHAIRPERSON: Hang on Mr – hang on. But Mr Seleka where will that take us? Let us assume Mr Sikathembe was innocent he should not have been suspended.

ADV SELEKA SC: Yes Chair.

CHAIRPERSON: Where does that – how does that help us with the issue of the suspensions and Mr Koko's suspension. He has a certain version about why he was suspended.

ADV SELEKA SC: Yes Chair.

CHAIRPERSON: It may or – it may be right – it may not be right but even assuming that Mr Sikathembe was innocent of the allegations how does that...

ADV SELEKA SC: Well we will try...

10 **CHAIRPERSON:** Help with the question of the suspensions we are dealing with?

ADV SELEKA SC: Yes Chair. That is – that is goes – the Chair

CHAIRPERSON: I would...

ADV SELEKA SC: You will – I will bring to you Mr Koko's affidavit.

CHAIRPERSON: Ja.

ADV SELEKA SC: But I think he could answer the question then I will leave that...

20 **CHAIRPERSON:** Yes but...

ADV SELEKA SC: Link it to his affidavit.

CHAIRPERSON: No but if I do not know – if I do not see how – why the question is important should we not move onto something else?

ADV SELEKA SC: No.

CHAIRPERSON: And even if Mr Sikathembe was innocent how does it help us with the suspensions of the four executives.

ADV SELEKA SC: Yes. No correct Chair but I am not moving I am linking it to his affidavit.

CHAIRPERSON: Ja ...[intervenes]

[Parties intervening each other – unclear]

ADV SELEKA SC: [Indistinct]

CHAIRPERSON: And why is it important even if you link it?

10 **CHAIRPERSON:** That is my ...[intervenes]

ADV SELEKA SC: It goes to the veracity of Mr Koko's version. I am putting it in general terms.

CHAIRPERSON: No, I think let us move on to...[intervenes]

ADV SELEKA SC: Yes.

CHAIRPERSON: Let us talk – let us go to the issues about the fact that Mr Koko's name or his portfolio ...[intervenes]

ADV SELEKA SC: Yes.

CHAIRPERSON: ...was mentioned in the Durban meeting.

ADV SELEKA SC: Yes.

20 **CHAIRPERSON:** Let us talk about the fact that certain witnesses have said they had a meeting with on the 10th where – with him and Mr Salim Essa. Let us talk about the time when he was called to a meeting and told about these suspensions. Let us talk about the time where there was a discussion with him and the delegation of the board about

him coming back. Those, as I recall, are really the important features.

ADV SELEKA SC: H'm.

CHAIRPERSON: There may be some that I am leaving which you will...

ADV SELEKA SC: Ja.

CHAIRPERSON: But will remember, of course.

ADV SELEKA SC: Let me get to that Chairperson this way.

CHAIRPERSON: H'm.

10 **ADV SELEKA SC:** So, because Mr Koko, obviously, it weighs heavily with you this matter of Sumitomo and Simbi(?) (Sekhasimbe). And the – what you say is an unlawful instruction by Mr Tsotsi and you use the word to “unsuspend” Mr Sekhasimbe. It weighed heavily with you.

MR KOKO: What is the question?

MR KOKO: It weighed heavily with you.

MR KOKO: I am waiting for the question.

ADV SELEKA SC: That is the question. The statement to you.

20 **MR KOKO:** I am saying ...[intervenes]

ADV SELEKA SC: Yes or no?

MR KOKO: It is what caused my suspension.

ADV SELEKA SC: Yes, it weighed heavily with you.

MR KOKO: I do not understand that question.

ADV SELEKA SC: Yes or no?

MR KOKO: Chair, I do not ...[intervenes]

ADV SELEKA SC: You were saying: I was very upset and angry about what I regarded as the pressure being put on me.

MR KOKO: Oh, of course. Yes, Chair. Of course.

ADV SELEKA SC: Yes.

MR KOKO: Yes.

ADV SELEKA SC: Now Mr Tsotsi says in February 2015, he was called by Minister Brown and told that you are
10 interfering in management.

CHAIRPERSON: Meaning him, not Mr Koko.

ADV SELEKA SC: Yes. No, that Mr Tsotsi is interfering in management.

CHAIRPERSON: It is just that you are speaking to Mr Tsotsi and you are saying you. [laughs]. That you are saying ...[intervenes]

ADV SELEKA SC: Ja.

CHAIRPERSON: ...Mr Tsotsi says he was told you are... And it could be ...[intervenes]

20 **ADV SELEKA SC:** No, okay.

CHAIRPERSON: It could mean that – it could give an impression that Mr Tsotsi was being told the Mr Koko was interfering whereas what you mean is ...[intervenes]

ADV SELEKA SC: Ja, yes.

CHAIRPERSON: Ja.

ADV SELEKA SC: No, thank you for the clarification Chairperson. Mr Tsotsi is told by the minister that you, Mr Tsotsi, I have received reports that you are interfering in management. Now the minister in her affidavit has responded to that. And she says: Yes, she received complaints from management or the executives.

But one she can recall is that of the Sumitomo matter where it was alleged that Mr Tsotsi had signed a contract which later reveal what Minister Brown said.

10 “That the chairperson, allegedly, interfering in management and I tried to...

There had been complaints about Tsotsi, both from the executives and the directorate.

What comes to mind in particular was that one of the executives came to me in person, complaining about Mr Tsotsi's interference with operational issues, producing a letter, allegedly by Mr Tsotsi to a Japanese company about buying oil or some other fuel.

20 I decided I had to intervene. This is why I invited Mr Tsotsi, reprimanded him and directed him from interfering with management.”

Mr Tsotsi thinks it is you who told the minister this. What is your ...[intervenes]

CHAIRPERSON: Are you asking whether he told the

minister that Mr Tsotsi was interfering?

ADV SELEKA SC: Yes. And in particular about this Sumitomo matter.

CHAIRPERSON: Yes.

MR KOKO: Chair, I can tell you upfront. I have never talked to the minister about this. And if the minister says such an executive, she must come and account.

ADV SELEKA SC: No, that is fine.

CHAIRPERSON: H'm.

10 **MR KOKO:** But I have never talked to the minister about this matter.

ADV SELEKA SC: H'm.

CHAIRPERSON: H'm.

MR KOKO: I always – and that is you – when you are an Eskom person, Chairman.

CHAIRPERSON: H'm?

MR KOKO: When your blood is blue, protocol matters.

CHAIRPERSON: H'm, h'm.

20 **MR KOKO:** My blood was blue and I looked down at people who will jump the CD(?), jump the board, go to the minister. In the Eskom I grew up in, that is uncalled for. Mr Tsotsi has got his own issues and he is looking for friends and this time, he stands alone.

ADV SELEKA SC: I will come by to you another issue. So you say you did not tell the minister. At the time of your

suspension, you have detailed in your affidavit what you said to the board.

That is also captured in the minutes of what they say is PMG Minutes of 11 of March 2015. You refer to that in your affidavit. This matter does not appear there that you had reported it to the board.

CHAIRPERSON: Which matter?

ADV SELEKA SC: The matter of Sumitomo, Mr Tsotsi giving you unlawful instructions, and this being the reason why you
10 are being suspended.

MR KOKO: Does not appear on the board of the 11th of March, that testimony(?).

ADV SELEKA SC: It does not even appear in your version of what you told the board. You told the board you are – why are you not suspending the people who are responsible for Generation. You mentioned two names. Mister... who?

MR KOKO: And then Mr Govender.

ADV SELEKA SC: Govender and...?

MR KOKO: Ja. Mr Sekhasimbe.

20 **ADV SELEKA SC:** Yes.

MR KOKO: Yes. And the answer is simple Chair. You walk into a board meeting. The board has been deliberating the whole day.

They have reached a conclusion and you want to assume that the board is acting bona fide and is not

influenced by other things.

What just did not make sense to me was that the person who – the other person should be – if the – if what the board's bone fide is correct, then you expect other people also to be suspended.

And it was a very difficult meeting. And all what I wanted to know from the board is that. I am not saying you are not making sense but let us take your logic to the conclusion. You are just not making sense. If what
10 you are saying is correct, you are not making sense.

And when they asked me to go out and I spent 40-minutes out, and they were deliberating, I thought they were hearing me that really this person is making valuable inputs.

When I came back after 40-minutes, there was no time to talk. Take this letter, sign here, go. So that when I had an opportunity to meet the board again somewhere in May 2015, I told them.

ADV SELEKA SC: Yes. What is clear from the evidence
20 Mr Koko is that, you seem to have been given more time than the others. And it is apparent from the minutes a long portion there appears of the meeting with you and the board. So you had time.

And let us look at this against the background of what you say is the reason for your suspension. It dates back

from the 7th, at least on your version, of March 2015.

You say Mr Matona calls you. On the 8th he speaks with you. On the 9th he speaks with you. On the 10th he speaks with you. And then on the 11th, in the morning, he still speaks with you and says you are going to be suspended.

But even before the 11th, on the 10th you are angry and you leave your office. You go to Melrose Arch. You call Ms Suzanne Daniels. This thing is bothering you. And you wanted her to advice you.

10 So this thing is weighing heavily with you for seven, eight, nine, ten – five days. And there, you are in the board meeting – in the meeting with the board delegation and they say we are suspending you.

And you say in you affidavit: I knew the reason for my suspension. So why do you not say: But board members, this chairperson is misleading you.

MR KOKO: Yes, Chair I did tell the board that.

ADV SELEKA SC: On the 11th?

MR KOKO: I did tell the board that on that day that this
20 chairperson is misleading you but on a different note. The reason I did not raise the Sumitomo matter is because when I met with Ms Daniels in Melrose Arch, she made me understand that any suspension based on Sumitomo, it will not hold. The board will have to find a better reason to suspend you.

So when I listened to the board on the 11th of March, I took the bone fide. Whatever I wanted to say to... You know Chairman, March 2015 was very difficult for Eskom and I did invite you and your investigators to go and look at the... I have seen minutes of 26 February.

In the minutes of IFC of February, the IFC was saying we are load-shedding, we are bankrupt. Government is not going to bail us out. So when you know that, so you do not understand that... No board can sit and do nothing. But all
10 that I wanted is that we must all do the same and we are not doing the same.

CHAIRPERSON: But you see. If Ms Daniels said to you on the 10th of March, the day before, that on the basis of that the board would have no grounds to suspend you in connection with the Sumitomo matter, was that not all the more reason why...

If you thought that was the reason you had been suspended, that you should have raised it because you now had the backing of a legal person saying there are no
20 grounds on what you are telling me.

MR KOKO: The reason for that Chair is, I was going to appear as if I am was sour grapes. I am accusing Mr Tsotsi.

CHAIRPERSON: No, but you – if the position, as I understand it and you must tell me if I misunderstand the position.

Even as at on that day as the suspension – as the board was mentioning that you had to be suspended. You thought the reason why you are being suspended, you thought that Mr Tsotsi was behind your suspension.

And that he was behind your suspension because of your clash with him with regard to this Sumitomo matter being the suspension of Mr Sekhasimbe.

Obviously, that is when you should have said:

10 Hang on. Board members, there is something that you might have not known. You might not know this. This man, the chairperson, is the one that seeks me to have me suspended and it is not something that is starting now.

For the past five days, I have been having a discussion. I knew. I have been told that I was going to be suspended and that it was because of the Sumitomo matter.

20 This man, we have had a clash, and he is driving – he is behind me being suspended. So I want you to know that these are the facts.

MR KOKO: Yes, Chair ...[intervenes]

CHAIRPERSON: Was it not... In other words, was the fact that Ms Daniels had told you this Sumitomo matters provides no good grounds for the board to suspend you, was that not a stronger reason for you to raise that issue, that to the

board – the meeting with the board?

MR KOKO: Chair, you are making perfect sense and maybe I should have done it. I did not do it. And the reason I did not do it is because the board was putting different reasons which, if true, I could even be arrested.

ADV SELEKA SC: Sorry, you could be?

CHAIRPERSON: Could not be arrested?

MR KOKO: The board was giving different reason that if true, I could even be arrested.

10 **ADV SELEKA SC**: Oh.

CHAIRPERSON: Even be arrested.

MR KOKO: Yes.

CHAIRPERSON: Ja, h'm.

MR KOKO: Because the board was saying, there is sabotage in your area. Mr Koko, we have reason to believe that in your area of business there is sabotage. And I had no reason to say to the board that line is far-fetched.

I did not know what... I know now that the board had no evidence to that effect but that is what was put to me. And it
20 would not serve my purpose at that time, I thought, to argue the Zola Tsotsi line when this sabotage being alleged on my part.

CHAIRPERSON: Yes. Of course, that suggest to me that when the board put the reason that they were putting before you, the sabotage and so on. At that stage, your

understanding was that the reason for your suspension was different. It was not the Sumitomo matter. Is that right?

MR KOKO: That is correct.

CHAIRPERSON: Yes.

MR KOKO: Correct. And the only difference is that, with time, I realised that the allegations of sabotage were fake.

CHAIRPERSON: H'm. Okay. Mr Seleka.

ADV SELEKA SC: Yes.

MR KOKO: And my letter of suspension clearly says, the
10 board has got the intention to investigate sabotage in my area. The letter of suspension clearly says that.

CHAIRPERSON: Yes, okay. Mr Seleka.

ADV SELEKA SC: So the unlawfulness of the instructions of Mr Tsotsi was not raised with the board. The threats that he will suspend you because you have refused to unsuspend, in your words, Mr Sekhasimbe, was not raised with the board.

That Mr Matona had come to see you and met with you or spoke with you, you showed him the letter, and he asked
20 you unsuspend Mr Sekhasimbe. Otherwise, you and I are going to be suspended. It was not put to the board. Is that what you are saying to the Chairperson?

MR KOKO: Chairperson, on the 11th?

ADV SELEKA SC: Yes.

MR KOKO: Yes. No, my first opportunity with the board, I

have raised it.

CHAIRPERSON: After you came back?

MR KOKO: No, no, no. While I was still in suspension.

CHAIRPERSON: Oh, during suspension.

MR KOKO: During suspension.

CHAIRPERSON: Ja.

MR KOKO: Sometime around May, we met in a
...[intervenes]

CHAIRPERSON: Is that with the delegation that was
10 ...[intervenes]

MR KOKO: Yes.

CHAIRPERSON: ...saying yes.

MR KOKO: Yes.

ADV SELEKA SC: Yes.

CHAIRPERSON: What was to happen ...[intervenes]

MR KOKO: Yes, I met with Ms Daniels. I met with
Mr Khoza.

CHAIRPERSON: Ja.

MR KOKO: I met with... That was the first opportunity
20 ...[intervenes]

CHAIRPERSON: Okay.

MR KOKO: ...I could deal with it.

CHAIRPERSON: Okay.

MR KOKO: Because I realised, this sabotage story that the
board told me, it is fake.

CHAIRPERSON: Okay alright.

MR KOKO: Yes.

ADV SELEKA SC: Yes, but... Ja. We do not leave it ...[intervenes]

CHAIRPERSON: That is right.

ADV SELEKA SC: We do not leave it and Mr Koko has the first opportunity. Because the first opportunity is what the PMG gave the people before they were suspended. So they made representations to PMG.

10 **MR KOKO:** But Chairman, I am saying. The first opportunity I had with the board on the 11th of March, the reason for my suspension which is written in my letters – if you will go to my letters, you will find it – was that the board is investigation possible acts of sabotage on my part. And that threw me out.

Even if I can argue the Zola Tsotsi matter, what is it that the board has before them that would justify a charge of sabotage?

ADV SELEKA SC: Ja.

20 **MR KOKO:** In... Remember, I am a Senior Executive of Eskom. Eskom is a national key-point. A sabotage in national key-point is treason. So that throw you out. So whether the Sekhasimbe issue or not, it becomes irrelevant. These people are accusing me for treason.

CHAIRPERSON: Ja.

MR KOKO: Yes.

CHAIRPERSON: I think you accepted and you must tell me if you did not accept it. I think you accepted the proposition that after the board had told you their reasons for suspending you or wanting to suspend you, you accepted the reasons they gave you as genuine reasons.

MR KOKO: Correct.

CHAIRPERSON: Ja.

MR KOKO: H'm.

10 **CHAIRPERSON:** Okay.

ADV SELEKA SC: Thank you, Chair. So then Mr Koko. Here is the version. If you did not tell the board about all that, which are ...[intervenes]

MR KOKO: No, Chair. I object that I did not tell the board.

ADV SELEKA SC: Oh.

CHAIRPERSON: I think you step in before he could finish.

MR KOKO: Yes.

CHAIRPERSON: Maybe he was going...[intervenes]

MR KOKO: Yes. No ...[intervenes]

20 **CHAIRPERSON:** ...to say on the 11th.

ADV SELEKA SC: Oh, on the 11th.

MR KOKO: Yes.

CHAIRPERSON: Wait until he has finished.

ADV SELEKA SC: [laughs]

CHAIRPERSON: Ja.

ADV SELEKA SC: I am talking the 11th. So then comes this aspect. Because if you did not tell the board about this issue that is the very basis of your affidavit as to why you were suspended.

The version of the other witnesses is this. Let us start with Mr Masango. Mr Masango says you called him to Melrose Arch on the 10th. He comes there. He does not know the place. He sees you on the balcony. You are on the phone with him, giving him directions. And he alights from
10 the vehicle. He comes up to you.

You take him into an office. And prior to you moving into that office, you asked for his cell phone, to hand over his cell phone. And you go into a meeting with Mr Salim Essa on the 10th.

And you start talking about how four executives are going to be suspended. Three will not return but you will return. S

o according to that version, you knew about the suspensions before they took place. And no wonder you did
20 not bother to tell the board about the Sekhasimbe story.

MR KOKO: Chair, I confirm to you that I knew about the suspensions.

CHAIRPERSON: Yes.

MR KOKO: And please ...[intervenes]

CHAIRPERSON: Your suspension ...[intervenes]

MR KOKO: My suspension ...[intervenes]

CHAIRPERSON: ...but your suspension.

MR KOKO: My suspension.

CHAIRPERSON: Okay.

MR KOKO: And please Chair, please indulge me because we are going to get to this. But I do think you have got a difficulty in the witness called Mr Masango. We will go to – we will get into Suzanne Daniel's issue as well.

The affidavit of Ms Molefe says she went to Mr Matona
10 on the 11th of March before the meeting of the 9th. She then told Mr Matona that: I hear we are going to be suspended today.

Mr Matona's response in Ms Molefe's affidavit is that: I know. I also heard from outsiders. Now, either Ms Molefe is lying to the Commission or Mr Matona is lying to the Commission. They cannot both be right.

ADV SELEKA SC: Can I assist you there Mr Koko?

MR KOKO: [No audible reply]

CHAIRPERSON: Ja, ja.

20 **ADV SELEKA SC:** So that we can expedite this.

CHAIRPERSON: No, no. Ja, yes.

ADV SELEKA SC: Mr Koko, Ms Daniels says in the same light as Mr Masango. After meeting with you at Melrose Arch, she called Dan Marokane. She met with Dan Marokane that evening and Mr Dan Marokane told – in fact,

called and met with Ms Tsholofele Molefe that same evening. That is why Ms Tsholofele Molefe would have known on the 11th.

MR KOKO: Chair, Mr Seleka is not assisting you. Let me repeat.

ADV SELEKA SC: H'm.

CHAIRPERSON: H'm?

MR KOKO: Ms Molefe got this from ...[intervenes]

CHAIRPERSON: But let us start you... You started off by
10 saying you knew about your statement ...[intervenes]

MR KOKO: Yes and ...[intervenes]

CHAIRPERSON: Do you want to just finish that point?

MR KOKO: No. Well, I am finishing that point.

CHAIRPERSON: Yes.

MR KOKO: But I am finishing this point because it is important.

CHAIRPERSON: H'm.

MR KOKO: Ms Molefe was told by Dan, Mr Marokane. That is correct. After she has been told, in the morning of the
20 11th of March, she then approached Mr Matona and she says:
I hear that we are going to be suspended.

Her affidavit does not say she heard from – she told Mr Matona that she heard from Dan. But she has said it. So I can accept that she said she heard it from Mr Matona.

She says Mr Matona's response is that: I know about

the suspensions. Right? So Mr Matona, on the 11th of March, before the meeting of the 9th, she says to mister – he says to Ms Molefe: I know about the suspensions from the outsiders.

In his affidavit, Mr Matona says: I only learnt about the suspensions when it was said to me after hours. So my submission to you is. I knew from Mr Matona.

And Ms Molefe is correct when she says that Mr Matona told her before the meeting of 9 in the morning that there
10 would be the suspensions.

CHAIRPERSON: Before the meeting of the 9th?

MR KOKO: Before the meeting of nine o'clock in the morning.

CHAIRPERSON: Of March?

MR KOKO: Before the meeting of 11 March.

CHAIRPERSON: Ja, okay. Oh, before the meeting of the board at ...[intervenes]

MR KOKO: Yes.

CHAIRPERSON: ...on the 11th?

20 **MR KOKO:** Yes.

CHAIRPERSON: Okay.

MR KOKO: Yes. And remember, the suspensions were discussed in the board meeting of one o'clock after the minister has left.

CHAIRPERSON: Yes?

MR KOKO: So Mr Matona could not have had the benefit of that meeting to know that there will be suspensions.

CHAIRPERSON: H'm?

MR KOKO: But Ms Molefe says he had that benefit to know that there will be suspensions. And it is correct. Because that is what he told me on the 8th of March in the evening. So I knew about the suspensions and I knew the suspensions from Mr Matona. And I think Ms Molefe's version is correct.

10 **CHAIRPERSON:** So are you saying that you only got to know about the fact that the other three executives would be suspended on the 11th?

MR KOKO: That is correct Chair.

CHAIRPERSON: But as far as your own suspension is concerned, you knew before the 11th?

MR KOKO: I knew about the likelihood of my suspension and that was Mr Matona.

CHAIRPERSON: Yes.

MR KOKO: From Mr Matona.

20 **CHAIRPERSON:** Yes.

MR KOKO: On the 8th of March in the evening.

CHAIRPERSON: Yes.

MR KOKO: On the call that lasted more than ten minutes.

CHAIRPERSON: Yes.

MR KOKO: But he has been discussing it with me even on

Saturday.

CHAIRPERSON: Yes.

MR KOKO: And I said I will make the telephone records available.

CHAIRPERSON: But in terms of what - you said likelihood. So at that stage, there was no certainty that you were going to be suspended.

MR KOKO: No.

CHAIRPERSON: But Mr Matona was saying: You and I
10 ...[intervenes]

MR KOKO: Will most likely be suspended.

CHAIRPERSON: Will most likely be suspended.

MR KOKO: Yes.

CHAIRPERSON: Okay. That is what you are talking about.

MR KOKO: Yes.

CHAIRPERSON: Okay alright.

MR KOKO: Yes.

ADV SELEKA SC: But then, that suspension ...[intervenes]

CHAIRPERSON: Sorry, sorry.

20 **ADV BARRIE SC**: With respect Mr Chairman. The point that the witness is making is that Mr Matona in this hearing says that he only learnt of the suspensions eventually when he was suspended.

CHAIRPERSON: Yes.

ADV BARRIE SC: He did not know about it at all

beforehand.

CHAIRPERSON: Yes.

ADV BARRIE SC: Which the witness contests. Because he said on the 8th ...[intervenes]

CHAIRPERSON: Yes.

ADV BARRIE SC: ...he was already told that most likely.

CHAIRPERSON: Yes.

ADV BARRIE SC: The point is though – I am making is that Ms Tsholofelo Molefe has testified that in that morning, she
10 was told by Mr Matona, confirming that he knew about the suspensions. That is the issue.

CHAIRPERSON: Okay, ja. Okay. I guess, let us go back to Mr Seleka your question to Mr Koko about Mr Masango's version about the meeting of the 10th.

ADV SELEKA SC: Yes. So Chair ...[intervenes]

MR KOKO: I did not answer that.

CHAIRPERSON: Yes.

ADV SELEKA SC: Yes, you have not answered that.

MR KOKO: Yes.

20 **CHAIRPERSON:** Yes.

ADV SELEKA SC: Okay let us clarify for the purposes of the hearing. Your knowledge of the suspension of likelihood of suspension relates to the unlawful instruction from Mr Tsotsi?

MR KOKO: Correct Chair.

ADV SELEKA SC: Yes. So it is not the type of suspension we are talking here which the board ultimately effected that four executives will be suspended? It is not that time?

MR KOKO: Well, does the type matter? No, it does not to me. The type of suspension and the reasons of suspension were irrelevant to me.

CHAIRPERSON: H'm?

MR KOKO: In my mind, the suspension would occur because of Mr Malesela. When it happened, it was
10 sabotage.

CHAIRPERSON: Yes.

MR KOKO: And it threw me out.

CHAIRPERSON: Yes. So I think Mr Seleka's point is. The suspensions that were affected on the 11th, including your suspension ...[intervenes]

MR KOKO: I did not know those things.

CHAIRPERSON: ...was not said by the board to be connected with the Sumitomo matter.

MR KOKO: That is correct.

20 **CHAIRPERSON:** Yes.

MR KOKO: And I did not know of that type of suspension.

CHAIRPERSON: Yes.

ADV SELEKA SC: Yes.

CHAIRPERSON: Ja, ja.

ADV SELEKA SC: That is right. So Mr Masango then says:

Right, Ms Daniels. They go to - they meet with you there. In the case of Ms Daniels, it is Mr Salim Essa introducing himself as the adviser to the minister saying four executives would be suspended and in the case of Mr Masango, it is you doing the talking and aided ...[intervenes]

CHAIRPERSON: Take one at a time Mr Seleka.

ADV SELEKA SC: One at a time, thank you, Chair. Let me stick ...[intervenes]

10 **CHAIRPERSON:** Ms Daniels or Mr Masango, finish with it, ja.

ADV SELEKA SC: Ja, let me stick to Mr Masango. Mr Masango, then he says you add that you will return. Furthermore, you say to Mr Essa about Mr Masango that he has the potential to act as a CEO. But let us go to three – four will be suspended, three will not return but I will return.

CHAIRPERSON: Maybe let us start here. Mr Koko, did you call Mr Masango to a meeting at Melrose Arch with you
20 on the 10 March 2015?

MR KOKO: Chairman, when I watched Mr Masango's testimony at a critical point when he was asked what is your relationship with Mr Koko the TV went blank, so I did not catch his answer. But let me tell you this ...[intervenes]

ADV SELEKA SC: He said it was a good relationship.

MR KOKO: Well, it was much more than that.

ADV SELEKA SC: You called each other Maki.

MR KOKO: It was much more than that.

CHAIRPERSON: Yes.

MR KOKO: Mr Masango *umakelwane* and because *umakelwane*, we call each other Maki.

CHAIRPERSON: Yes.

MR KOKO: And not only that, his son ...[intervenes]

10 **CHAIRPERSON:** That is neighbour in isiZulu or ...[intervenes]

MR KOKO: Yes and his son is also Moses.

CHAIRPERSON: Yes.

MR KOKO: So his son and I – his son looks after me. And at Eskom I mentored Mr Masango. I mentored Mr Masango from being junior. During those days positions at Eskom that Mr Masango had were not applied for, they were appointed by the board, by Exco. Wherever Mr Masango went I make sure that he gets appointed purely
20 on competency. He was a general manager at Mpumalanga, he went to Kusile. I took him to the US for project management training. So we are much more than *umakelwane*.

CHAIRPERSON: Yes, you come a long way.

MR KOKO: We come a long way.

CHAIRPERSON: Ja.

MR KOKO: On the 10 May, when I was running away from Mr Tsotsi, I did not expect to see him at Megawatt Park because he was not based at Megawatt Park.

CHAIRPERSON: On the 10 May 2015?

MR KOKO: On the 10 March 2015.

CHAIRPERSON: 10 March 2015?

MR KOKO: Yes.

CHAIRPERSON: Okay.

10 **MR KOKO:** I did not expect him at Megawatt Park.

CHAIRPERSON: Yes.

MR KOKO: Because he is based on site.

CHAIRPERSON: Yes.

MR KOKO: I saw him – I think we had small pleasantries. I do not even recall ...[intervenes]

CHAIRPERSON: Ja. And he was reporting to you at the time?

MR KOKO: He was not reporting to me at the time, he was reporting to Mr Marokane.

20 **CHAIRPERSON:** Oh, but I thought you said you were acting on that day.

MR KOKO: No, no, Mr Marokane was on leave.

CHAIRPERSON: Yes.

MR KOKO: And I do not remember but I will not quibble with it, I think I was acting on Mr Marokane's position.

Then I left to Melrose Arch.

CHAIRPERSON: Yes.

MR KOKO: And there is no suspicion why I ended up there, I just like the place.

CHAIRPERSON: Sorry?

MR KOKO: There is no suspicion why I ended up at Melrose Arch .

CHAIRPERSON: Yes.

MR KOKO: I just like the ambience there.

10 **CHAIRPERSON:** Okay.

MR KOKO: I still do.

CHAIRPERSON: Yes.

MR KOKO: When I was at Megawatt Park – and my telephone records will show you, I phoned Suzanne, I phoned Abram Masango, I phoned Nonkululeko Veleti. Those are my people that were very close to me. They were not only other people, I did not call people at – I phoned Vusi Mboweni.

CHAIRPERSON: Yes.

20 **MR KOKO:** I – because I was traumatised and I called people that I thought were at Megawatt Park.

CHAIRPERSON: Yes.

MR KOKO: Because I want them to tell me what is going on there because I expected commotion on that day. I spoke to Mr Masango.

CHAIRPERSON: Why were expecting commotion on that day?

MR KOKO: Because I was told, that is why I ran out of the office.

CHAIRPERSON: You were told...?

MR KOKO: I was told that we will be suspended on that day, that is why I ran out of the office so that I do not meet Mr Tsotsi.

CHAIRPERSON: Yes, yes, yes, but what about the – what
10 would have caused the commotion?

MR KOKO: Well, typically when you suspend me and suspend the CE word flies and news fly, people know.

CHAIRPERSON: Okay, so – ja, you thought that the two of you, Mr Matona and yourself, were going to be suspended?

MR KOKO: Yes.

CHAIRPERSON: Okay.

MR KOKO: Yes. So I phoned him, I says Maki, where are you? And then he told me he is in a meeting at Megawatt
20 Park and he was busy, he was not available the whole day. I can tell you now with no – unequivocally, that I never met Mr Masango at Melrose Arch. I phoned Mr Masango towards five o'clock, I was driving towards – and my records will again show that, I was driving to meet Mrs Nonkululeko Veleti and she says I can come to where you

are, Matsh, I said no, Maki, do not worry because I am going to meet Ms Veleti so there is no need and my suspicion is that probably close to where we live, Witbank, so you do not need to come back. My relationship with him would have been such that if I called that evening to come because I am in trouble, chances are he would have come, but I did not meet him there.

So I can tell you now I did not meet Mr Masango at Melrose Arch, I talked to him towards five o'clock and I cut
 10 his call short because I did not know where to locate Ms Veleti, I had to call Ms Veleti. So again my telephone records will show that.

The problem you are faced and all – I recall that part, when Mr Masango was asked have you met Mr Essa? His answer was I do not remember but when Mr Koko said we must meet Salim Essa I refused.

If you go to the affidavit before you, before you in the Commission of Ms Goodson, in her affidavit before you, I was introduced to Mr Masango by Salim Essa in the
 20 office. So this story that I know the office, I – there was no [indistinct] 6.58. Unless Ms Goodson is lying, Ms Goodson says Mr Masango was introduced to me by Salim Essa in the office. So my proposition is that these two have relationship.

ADV SELEKA SC: Does she give a date, Mr Koko?

MR KOKO: She says towards December.

ADV SELEKA SC: Of which year?

MR KOKO: 2015.

ADV SELEKA SC: Oh, but we are talking March now.

MR KOKO: No, all that I putting to you is the relationship and Salim Essa and Mr Masango that is concealing from this Commission.

CHAIRPERSON: Which preceded 10 March or which came after?

10 **MR KOKO:** Well, the meeting ...[intervenes]

CHAIRPERSON: Or you do not know.

MR KOKO: The meeting that is referenced that is before you in affidavit is post March but I cannot rule out that that relationship predates ...[intervenes]

CHAIRPERSON: 10 March.

MR KOKO: 10 March. The question is, why did Mr Masango not tell you when he was asked did you meet Mr Essa? But that is one part.

The second part I got, Mr Masango, is that he is a
20 difficult witness.

CHAIRPERSON: He is a...?

MR KOKO: Difficult witness for you because in parliament with Ms Daniels he says and Ms Daniels says I worked together with Ms Daniels to get rid of Mr Koko at Eskom because he was corrupt. He says so in his – telling the

Commission. What he did not tell you is that he is out on bail, 300 000 bail on charges of fraud and corruption that were initiated by me and when I did that and there is another famous meeting of the 2 March 2017, again please go and listen to the audios, when Mr Masango wrote a whistle blower report after I confronted him with evidence that was made available to me and I removed him from his post. He responded by offering a whistle blower report of which I was charged on and Mr Seleka was quite excited
 10 about it when he talked about it. But the fact is, nothing happened to Mr Masango since I made the information available to the board of Eskom and I know they have opened a case and nothing happened but this is what happened.

By grace I was approached by Mr Paul O'Sullivan. Mr Paul O'Sullivan says I have watched your tweets, I have followed your tweets, you may have information that I can use. What is going on at Eskom? I said Mr Paul O'Sullivan, the criminals at Eskom who are being listened
 20 to, who are darlings of the media, who are on the Koko hunt, does not matter the evidence that they have. They are on the Koko and they are being given the benefit and we can go into the Koko hunt, I have got a version of why there is a Koko hunt.

Mr Paul O'Sullivan took the documents, I gave them

to my attorney and my attorney can make them available to you including the bank statements. Mr Paul O’Sullivan came back to me the following day in an email which my counsel said he says, Mr Koko, I have looked at this evidence against Mr Masango and others, I do not know why they are still here but I can bet you, now that I have it, they will not spend Christmas outside.

On the 18 March Mr Paul O’Sullivan called me and says your friends are being arrested based on the
 10 information that you have submitted. On the 2 March 2017 not only did I give the board that dossier but I also gave the board the names of the people at Kusile that I think were in a corrupt relationship with Mr Masango and one of them was Ms Nhlahla Kraai.

She is no longer working for Eskom, I do not know why. I was not surprised when I saw her evidence with Mr Masango joining the Koko hunt. For the record, Chair, I have never met Mr Masango with Salim Essa at Melrose Arch. That meeting did not happen. Mr Masango is a
 20 potential criminal and will end up in jail.

CHAIRPERSON: Well, if Mr Masango – if there are allegations of corruption against Mr Masango in relation to Eskom, make that information available to the Commission.

MR KOKO: Yes.

CHAIRPERSON: If it has not already been made.

MR KOKO: Chairman, in my letter to you of last night I quibble that the allegations of corruption against Mr Masango are common cause, are common knowledge and one would have thought that an Commission of Inquiry that is set up to investigate for a corruption in state owned companies would not have missed Mr Masango's allegations of corruption.

CHAIRPERSON: Yes.

MR KOKO: Secondly, one would have thought that Mr
10 Masango would not have come to this Commission and instead being asked about his pending charges.

CHAIRPERSON: Well, it helps if those who have the information facilitate by giving the information because of course, you know, the levels of corruption in South Africa are so high, if the Commission was going to follow every allegation it would be here for 100 years. So if those who have got information furnish it, it makes it [inaudible – speaking simultaneously]

ADV SELEKA SC: No, but Chair ...[intervenes]

20 **ADV BARRIE SC:** Mr Chairman, with all respect, there was a whole television programme about these events, about Mr Frans Hlakudi, Mr Masango, 60 million bribe money going through the account, some of which went to Mr Masango. This is – if you go onto Google it is immediately available. It must be available to the

investigators but it is not put before you. That is the issue what we are raising in the letter that we wrote to you yesterday.

CHAIRPERSON: No, no, no, that is fine. All I am saying is we have asked – I have asked since 2018, invited everybody who has information about corruption to make the information available. Of course somebody might have watched that programme, they might not have watched, somebody might have read some article in the newspaper.

10 **CHAIRPERSON:** But as I say, in the end even within the SOEs we might not be able to follow up everything because that might just need a lot of time but it helps if somebody who has knowledge of something like that, prepares a statement or whatever and furnishes it to us.

ADV BARRIE SC: With respect, Chair.

CHAIRPERSON: Ja.

ADV BARRIE SC: The question that I would respectfully submit that you should be asking is why your investigators are unaware of things that are public knowledge.

20 **CHAIRPERSON:** No, what ...[intervenes]

ADV BARRIE SC: And it is not brought to your attention.

CHAIRPERSON: No, what ...[intervenes]

ADV BARRIE SC: That is the question that we submit is the relevant question.

CHAIRPERSON: No, no, I hear what you are saying but

what I am saying is surely there are even some things that we might be aware of but we just do not have the time and capacity to check with every SOE, every government department, every municipality, so it is important that those who have got information furnish it to us, there is a lot of information that they get which has been brought before us but if we had all the capacity we wished we would be able to collect everything. But that is fine, let us not spend too much on it. It will be made available to us.

10 **ADV BARRIE SC:** The issue, though, again that we pointed out in the letter to you is that the witness like Mr Koko is asked by you to direct his attention at very specific subjects.

CHAIRPERSON: Sorry?

ADV BARRIE SC: The directives given to witnesses, including Mr Koko, are to the effect that they have to direct their intention and dies, including Mr Koko, are to the effect that they have to direct their intention and discuss very particular aspects, which they do.

20 **CHAIRPERSON:** Yes, but that ...[intervenes]

ADV BARRIE SC: That baffles me and that is why we wrote to you.

CHAIRPERSON: Yes.

ADV BARRIE SC: That is why we wrote to you, is to question why is it that something that is in the public

domain very clearly is not raised before you when that witness testifies and we find it totally [inaudible – speaking simultaneously]

CHAIRPERSON: Hang on, Mr Barrie, you have made the point. I have said – or let me say, when we issue a 10.6 directive, that is usually towards the end. Much earlier I said an invitation has been made from 2018, so Mr Koko could have responded to that invitation to say the Chairman of the Commission says anyone who had got
10 information about allegations of state capture, corruption and fraud in the public sector, bring it. But I am saying, the fact that he might not have brought it forward then does not mean that we should not ask him to give it to us now.

ADV BARRIE SC: Absolutely.

CHAIRPERSON: Ja.

ADV BARRIE SC: But again, with due respect, how could Mr Koko in his wildest dream have thought that your investigators, fulltime people, an Eskom work stream would
20 not miss ...[intervenes]

CHAIRPERSON: Okay, Mr Barrie ...[intervenes]

ADV BARRIE SC: Would miss the one – the one corruption case that goes to court.

CHAIRPERSON: We are not going to ...[intervenes]

ADV BARRIE SC: And they will not inform you of it.

CHAIRPERSON: We are not going to resolve this
...[intervenes]

ADV BARRIE SC: There is something wrong.

CHAIRPERSON: Ja. Mr Seleka?

ADV SELEKA SC: Ja, thank you, Chair.

CHAIRPERSON: We are at 18 minutes to nine.

ADV SELEKA SC: Ja.

CHAIRPERSON: I think we will stop at nine. Let us
continue.

10 **ADV SELEKA SC:** Yes. Mr Koko, there is one thing I did
not pick up from the testimony of Mr Masango at the
parliamentary Portfolio Committee. You say he said I
worked with Ms Daniels to get rid of Mr Koko.

MR KOKO: That is correct, Chair. So if you listen to the
video you will – on both Mr Koko – on both Mr Daniels and
Mr Masango, unequivocally, we worked together with a
journalist to get rid of Mr Koko because he is corrupt.

ADV SELEKA SC: Ja. Okay but then when did they work
together to get rid of you?

20 **MR KOKO:** They testified at a parliamentary committee
and it is ...[intervenes]

CHAIRPERSON: It is 2018.

MR KOKO: Ja, 2018.

ADV SELEKA SC: Oh.

MR KOKO: It is in that parliamentary committee, which

pained me, Chair, because I was involved in the Vusi Mboweni(?) document when it is in that inquiry that Mr Masango actually said I was the – I actually was the author of the Vusi Mboweni report. I thought – ja, my goodness.

ADV SELEKA SC: Yes, but ...[intervenes]

CHAIRPERSON: Well, let me put this to you, Mr Koko, so that I hear what you have to say. You have said that Mr Masango, Ms Daniels, Mrs Veleti, were people who were all close to you.

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

CHAIRPERSON: In 2015 at least.

MR KOKO: Correct.

CHAIRPERSON: Now those – two of those people, Ms Daniels and Mr Masango, have both said that you called them to a meeting in Melrose Arch separately. They met with you and you were with Mr Salim Essa and you told them about the impending suspensions of the executives. Now, as Mr Seleka said, Ms Daniels says it was Mr Salim Essa who was talking the whole time. Mr Masango says it
20 was you who was talking when you met him. And then Ms Veleti has said that on the same day, on the 10th, you called her and, if I recall correctly, she said you called her wanting her to come to a meeting at Melrose Arch but she did not because she did not – she was not allowed because she was busy with something else.

ADV SELEKA SC: That is [indistinct] 20.45 she said.

CHAIRPERSON: She says later on – I think she says she met with you and you asked for her CV, which she says you had asked for during the day, but she thought she had sent it to you but you had not received it and she said you met and she asked what this is about or you shared the information. Whether she asked you or you volunteered it, I am not sure, that there were to be suspensions and you wanted her CV and you said she could be asked to act in
10 one of the positions. Now ...[intervenes]

ADV SELEKA SC: Chair, in the position ...[intervenes]

CHAIRPERSON: Sorry?

ADV SELEKA SC: In the position of the FD.

CHAIRPERSON: Yes, in the position of the FD.

ADV SELEKA SC: Yes.

CHAIRPERSON: Now on your own version, at that time you had a good relationship with these people. Now according to Mr Dan Marokane and Ms Daniels, I think the two of them had a meeting that day or that evening where
20 Ms Daniels told Mr Dan Marokane about her meeting with you and Mr Salim Essa. According to Mr Masango and Ms Kraai, Mr Masango told Ms Kraai either on the same day or the following morning about this meeting that he says he had had with you and Mr Salim Essa. Ms Kraai confirms that and then Ms Molefe says she was told by Ms Veleti

about your call during the day to her.

Now if these three people were close to you, why would they all lie about you having met with them on this day at a time when they had a good relationship with you?

MR KOKO: Chairman, they are not lying to me at the time when they had a good relationship with me.

CHAIRPERSON: Sorry?

MR KOKO: They are not lying about me when they had a good relationship with me, they are lying now.

10 **CHAIRPERSON:** Yes?

MR KOKO: When we do not have a relationship and, you know, I say ...[intervenes]

CHAIRPERSON: So are you saying – I am sorry, I am interrupting you, so you are saying it is something that they ...[intervenes]

MR KOKO: Concocted.

CHAIRPERSON: Conspired ...[intervenes]

MR KOKO: Conspired, exactly, Chair.

CHAIRPERSON: ...concocted about after the relationship
20 between you and them had soured?

MR KOKO: Exactly and I tell you, let us start with Ms Daniels. I go into details with Ms Daniels. I even mention the time and the calls she make and the What – and the messages, text messages, I am surprised that I have not asked – I guess Mr Seleka will ask me to give

...[intervenes]

CHAIRPERSON: Well, ja, we are not done yet, ja.

MR KOKO: Ja. So I mention from the 23 March after Minister Brown issued a statement post Brian Molefe matter, how Ms Daniels come to my house telling me that I know you are the friend of the President, I know the President listens to me, I know the Minister has an ear for you, please stop - go intervene and ask them to stop throwing me under the bus because, according to her, both
10 the board and the Minister are putting the 30 million matter on her. I said to her, Ms Daniels, I cannot, I am on suspension. If I had an influence of the minister and the President I will not be sitting at home. She broke down and cried in my house. She sent me text messages and say hell will break loose, there will be no winners. And at the parliament committee, again it was very painful, Chair, when she told parliamentary committee that Mr Koko is a brazen thief and has caused the theft of R5 billion at Eskom, when she was party to all these transactions. But
20 what was most important, the only joy I had is that she testified before me, so I knew what she was saying.

And then I went to the records, to the documents on the Trillian matter. You know, Chairman, one of the things you have to deal with – and I do not want to raise eyebrows, you know, people are out there and say the

judges are captured and they make an example of the North Gauteng High Court. I do not buy into that story but one of the things I am hoping and praying that this Commission does is to deal with the decision of the North Gauteng High Court that found that Mr Koko was tasked on the 6 July to negotiate the contract with McKinsey when I was sitting at home. I am baffled that three senior judges of North Gauteng High Court make the conclusion that while I was sitting at home on suspension I was asked to
10 negotiate the contract with Trillian. They could have only done that and their first paragraph says that there was state capture, they were caught in the state capture theory but – and they relied on the work this man did with Bowman Gilfillan.

When I wrote my reply, I went to my records, I took out the motivation for – that was brought to me by Ms Daniels and in that motivation it is – and in the parliamentary inquiry, Mr Seleka, you may want to pick that, I say it is Edwin, it is actually Ms Daniels. They
20 brought to me and say the board has approved the settlement agreement with McKinsey for R460 million and please approve it so that we can pay. It did not make sense to me, McKinsey and Trillian, it did not make sense to me. I refused, I sent to back to her.

Chairman, now during the Commission I had the

privilege of listening to the – of the recordings of the meeting of the 8 February, it is shocking and it is going to make you fall off your chair. The submission made by Suzanne Daniels and the project manager, Prish Govender, in two minutes, without paperwork, the board approves R460 million payment to McKinsey and then he goes to parliament he says it is Mr Koko. She did not think at that point. She did not think at anticipate at that point that I will have the benefits of the audios that proves that she
 10 was lying with her teeth.

She concocted that story in parliament because there are facts – and please go and – I have got those minutes, I will sent to your committee. You will see the person that is making that submission is Suzanne Daniels, that leads to the 460 million approval. When she is confronted, Mr Vanara took my affidavit to her and say Ms Daniels, Mr Koko has a different version and Mr Koko's version is that you actually did the recommendation for the settlement with McKinsey and he refused to sign it, here is
 20 your submission.

Do you know what Ms Daniels said? She says in hindsight I had a lapse of mental concentration. This is the witness that he is talking about that is capable of fabricating things and evidence is before you.

CHAIRPERSON: Yes.

MR KOKO: Ms Nonkululeko Veleti in her affidavit she says I met Mr Koko, she told me she will be suspended with other executives and then she says Mr Koko – and again I am inviting you to go and read it, she says Mr Koko did not tell me who are the executives who will be suspended. She writes it that way. When – and she looks at you, she looks at you inclination what you want to hear and she thinks you want to hear that I said Mr Molefe will be suspended she says so. If that is what I said why did
 10 she say the opposite thing in her affidavit? I mean these are the type of – I have a lot of respect for Ms Nomkulela Villeti but I don't understand how can she write in her affidavit that Mr Koko did not – let me quote – she says, she told me Mr Koko told me that he would be suspended along with others, with other few executives. He did not indicate who the other executives to be suspended were. How do they move, or how does a chartered accountant move from this and I am looking at the audit trail, to then coming back and ...[indistinct] here and saying Mr Koko
 20 told me that the FD will be suspended. I heard when ...[intervenes]

ADV SELEKA SC: No sorry, I don't think she said that.

MR KOKO: Ja, she said, I have got it, I can quote it again, let me quote it, and that is you talking, you are saying to her:

“So he said he was going to be suspended and he said there was a possibility that the Financial Director will be suspended as well?”

That is you putting it back to her, and she says:

“Yes Chair and other executives.”

That is a quote verbatim from the transcript. How do you then move from saying Mr Koko did not tell me who else is going to be suspended to come in here and responding to you and say yes Mr Koko said the Financial Director will be
10 suspended, it is unlike Ms Nomkulela Viletti, I overheard and I may be wrong that there was a supplementary affidavit which was not sent to me, and I don’t know what she said about that.

CHAIRPERSON: H’m.

MR KOKO: But I am quoting verbatim, I am not ...[intervenes]

CHAIRPERSON: That is fine sir, now you say it was only after your relationship with them had soured that they said they had this meeting with – in the case of Mr Masonga
20 and ...[intervenes]

MR KOKO: Yes Chair I don’t have a sour relationship with Ms Nomkulela Viletti.

CHAIRPERSON: Oh okay.

MR KOKO: I don’t have a sour relationship, I am still baffled how she respond the way she does, which time I

will know.

CHAIRPERSON: Yes, but there is not, your relationship with her is fine?

MR KOKO: My relationship with her as far as I know the last time I met her we remain family friends.

CHAIRPERSON: Yes, okay, alright. So it is just Ms Daniels and Mr Masango.

MR KOKO: Yes and all this Mr – all the other people are quoting these two.

10 **CHAIRPERSON:** Yes, yes.

MR KOKO: Now they put ...[indistinct] and I apologise you know there is this four letters of suspension that were written on the 10th of March seven o'clock from the properties. This property says these suspension letters was originated by Suzanne and edited by Salim Essa.

CHAIRPERSON: H'm.

MR KOKO: When in one of the emails and I watched it and this I found quite interesting, Mr Seleka put it to Dr Ngubani, it was an email that originated from outside
20 Eskom allegedly and then it was about suspensions of Mail and Guardian, Business Day, City Press which the Board acted all. Mr Seleka said somebody shouted at him from the back and then he says the properties of this document says the document was initiated by the manager and edited by Salim Essa. That was Mr Seleka.

Now – and nobody pushed back that you can't rely on the metadata of this document, the Commission seems to have taken a few that says you can rely on the metadata, now here the document, four documents written by Suzanne, the metadata shows that she is the originator and the editor is Suzanne Daniels.

In the meeting, in the alleged meetings with Suzanne Daniels with Salim Essa she says I was told that four executives will be suspended, I was told there will be
10 an inquiry, she also says something else she has never said before, even at Parliament, that they will not return, that was you, when you asked her did you put it in Parliament inquiry she said yes, and she lied, it was not there.

She also says Mr Seleka put it to her were you asked to assist Salim Essa or Mr Koko with the suspension letters, she says no. So if you can rely on the metadata as Mr Seleka has relied on the ...[indistinct] Salim Essa and you rely on the metadata what are these suspension letters
20 doing on her computer.

Now Chair let me tell you a story, when I was suspended with the 20 – infoportal address which shocked me, I took documents out – I went to – I had to look into documents, I picked up an email, this email was from Suzanne's email address to infoportal address. I said to

my counsel you know this infoportal address I know where it comes from and now it is my baby, and Chairman it will come, and I tell you I have not communicated with Salim Essa on emails, I never knew Salim Essa in 2015.

I gave to my counsel I said this go to Eskom, show Eskom this letter, let them go to Ms Daniels computer, they will find more, Ms Daniels when she testified here she says Eskom relied on discredited Mr Koko but the fact is they took her computer, they emailed it and they found more. I
10 am inviting you Chairman you have got a emailed computer of Ms Daniels, you will most likely find those four suspension letters on this computer and the question is why if she was not asked to assist Mr Salim Essa.

I can tell you now like Mr Masango there is a relationship Ms Daniels is concealing with Mr Essa.

CHAIRPERSON: Now I wanted to put this to you to hear what you have to say, there are these other people who say they were told by Ms Daniels, Mr Masango, Ms Viletti either on the same day, namely the 10th of the following
20 day in the case of Mr Masango telling Mr Dan Marukane I think a week later or a few weeks later but at that time even with Mr Masango and Ms Daniels on your own version your relationship was – had not soured.

MR KOKO: That is correct Chair.

CHAIRPERSON: Yes, so why would they have decided to

concoct as you put it a story at that time about having met you at Melrose Arch with Mr Essa because at that time your relationship with him was fine?

MR KOKO: Chairman knowing what I do now I can't dispute that Suzanne on her own met Salim Essa, I can't dispute that and the suspension letter, the four suspension letters that has properties that are originated by Suzanne, edited by Salim Essa propose to a relationship on the day they are dated, the 10th of March. When Ms Daniels was –

10 when Ms Daniels was asked did you ever – were you ever asked about suspension letters, her response was I wrote a template and Mr Koko may have taken my template and given it to Salim Essa. Chairman I can tell you now suspensions in Eskom is a custodian's of industrial relations, there is no template at Eskom, there is no such a template, she was lying. She knows what happened on the day, she must explain herself what are these documents doing, why are the properties saying it is written by Suzanne Daniels, edited by Salim Essa, there must have

20 been contact with her and Salim Essa on that day. Go to her computer, it is imaged, my computer gets – you know what hacks me is that at every second chance, at every first opportunity people go to my emails, people go to my computers, why can't people do the same with others. Why do I have to write a letter to you to say Mr Chairman

please I don't have the investigative capacity that you have, please go to Ms Suzanne Daniels, here are four suspension letters, you will find, and that is my proposition, that Suzanne on the day she may have heard, she may have met Mr Essa.

CHAIRPERSON: Yes, let's assume that she had met Mr Essa on her own, without you, my question is at that time she has a good relationship with you, the two of you are close, why would she tell Mr Marokane, I think on the same
10 day, I don't know the same day or the following day.

ADV SELEKA SC: The same day.

CHAIRPERSON: The same day that she had this meeting with you and Mr Salim Essa at Melrose Arch, why would she falsely put you into a meeting in which you were not there?

MR KOKO: Because she has – she had the – she met Salim Essa, she had the urge to go and meet Dan, they are also friends, but she has to find a link, she can't use a name.

20 **CHAIRPERSON:** But you see at that time if she had gone to, she had met Mr Essa on her own she had no reason to tell Mr Dan Marokane about that meeting at all, she could have kept that secret to all, she didn't have any reason. She told him, as I understand the position ...[intervenes]

MR KOKO: Chairman there are many things we can't

explain about Suzanne, let me give you another example. Mr Koko called me to come with to go and meet the Minister to talk about independent power producers, we ended up at Melrose Arch, she kept me outside, she had a meeting with Mr Salim Essa, Mr Salim Essa came out after the meeting and said tell your boss to stop ...[indistinct] and then that's it, come let's go. How do you explain that? How do you explain, there are just too many things that Ms Daniels says and put across that I cannot – I find them

10 difficult to explain.

CHAIRPERSON: Let's go to Mr Masango.

MR KOKO: Mr ...[intervenes]

CHAIRPERSON: Hang on, let us go to Mr Masango again, he is somebody very close to you at that time, the relationship has not soured, he is your *maki*, or as you put it much more than *maki*, the two of you are close. He tells Ms Kraai either on the same day or the following morning that he had this meeting with you, I think Ms Kraai says in her statement or affidavit, if I am not mistaken, she said

20 she had a meeting with you, with a short man, a short Indian man or something like that. Now why would falsely implicate you in this meeting at that time when the relationship between the two is still fine?

MR KOKO: Chairman I dispute that that conversation happened there, I dispute that completely. That discussion

was concocted after I put Ms Klein and Mr Masango's letter for corruption investigations. It happened only after that, I dispute that it happened there. I can tell you I dispute it. This is the story that was done by both potential criminals working together against a complainant.

CHAIRPERSON: When did you lay a complaint about them, a criminal complaint?

MR KOKO: It must have – the meeting that was set up by the Board, I mean and this is another point Chairman, this
10 is another point that you need to take very seriously. I have information of corruption, I take immediate action, I remove people that I think are corrupt I remove from the scene of crime. He conspires with the Board and then the Board ...[intervenes]

CHAIRPERSON: Who is that now?

MR KOKO: Mr Masango.

CHAIRPERSON: Okay.

MR KOKO: The Board calls me to suspend me because I suspended Mr – I allegedly suspended Mr Masango. They
20 called me I say to them it was not a nice meeting, I said Dr Ngubani, Dr Ngubani if you suspend me today for the way I dealt with Mr Masango I am going straight to the police station, you are defending corruption and then they backed off, then they became so nice afterwards, I gave them the document, I said instead of suspending me here is the

dossier, these people must be arrested. That meeting was on the 2nd of March 2017.

CHAIRPERSON: Yes okay. So ultimately your criminal complaint that you laid, if that is what you did against Mr Masango, I don't know whether him alone or Ms Kraai as well, that happened in 2017/2018?

MR KOKO: The criminal complaint was opened by Eskom, not by me personally.

CHAIRPERSON: Oh okay, alright.

10 **MR KOKO:** And on the basis of the information I gave Eskom.

CHAIRPERSON: Yes, you gave them that information when?

MR KOKO: In 2017, March.

CHAIRPERSON: In 2017, March. So before that, before 2017 March your relationship with Mr Masango was fine?

MR KOKO: Chair it – my relationship with Mr Masango – and let me tell you this story, let me put this story on the table. I was approached – everybody knows at Eskom that
20 me and Abram in the township ...[indistinct] we are tight.

CHAIRPERSON: Ja, you are very close.

MR KOKO: Yes. I got a document from somebody who says listen there's a big corruption happening at Kosile, I will not tell you much but here is a document.

CHAIRPERSON: This is when now?

MR KOKO: 2017.

CHAIRPERSON: Ja.

MR KOKO: 2017 towards December, or no 2016 towards December.

CHAIRPERSON: Okay.

MR KOKO: I took this document and after looking at this document I realised I can't sit and do nothing, I have no reason to believe that what I am reading here is true, but I cannot sit and do nothing. So I called Abram, Mr Masango,
10 I beg your pardon. I said me and you are friends, I think I know your ...[indistinct] I have a difficulty but I can't ignore this and what I am going to do *Maki* I am going to remove you from your position as a Group Executive, Group Capital, I am going to remove you there, I am going to put you in my office and these following people at Kosile that are implicated I am going to remove them as well, we are going to appoint a new person in your position and we are going to replace these people at Kosile. The new people who come in must investigate this and if there is merit in
20 this then we deal with it, that is what I did.

CHAIRPERSON: Ja, that's 2017.

MR KOKO: 2017, I also said to him – 2016 December, 2016, I also said to him listen to take away the noise I will also send you to Harvard for advance management training and when you are done at Harvard I am going to send you

to Lufthansa to learn best maintenance practices, that is how much I valued that guy.

CHAIRPERSON: Ja, ja.

MR KOKO: So he then decided he is going to fight back.

CHAIRPERSON: Okay let's hang on, that is 2017, I am in 2015. Now in 2015 your relationship with Mr Masango is fine.

MR KOKO: Yes.

CHAIRPERSON: Now he has testified or Mr Dan
10 Marokane has testified that I think it was still during March
2015 that Mr Masango told him ...[intervenes]

ADV SELEKA SC: On the 14th Chairperson.

CHAIRPERSON: Oh ja, told him that – about this meeting that he says he had with you and Mr Salim Essa at Melrose Arch and Mr Dan Marokane has confirmed that if I recall correctly.

MR KOKO: Chairman he told Mr Marokane he says and you repeated, Mr Seleka repeated, did you tell Mr Marokane about that meeting in Melrose Arch that said four
20 people were suspended and four people will not return, he said no. Chair his affidavit does not say that too, Mr Masango's affidavit does not say I met them on the 14th of March and I told him that I met Salim Essa and Salim Essa said four executives will be suspended and ...[indistinct] does not say that, so I dispute that he said that.

CHAIRPERSON: But what about what Mr Dan Marokane says about what Mr Masango – what he says Mr Masango told him?

MR KOKO: I don't know what Mr Marokane says, I have not seen Mr Marokane ...[intervenes]

CHAIRPERSON: Oh you didn't get his affidavit?

MR KOKO: I have not seen Mr Marokane's affidavit, all what I know is Mr Marokane denies having such a discussion with Mr Masango, and the only reason I know
10 that is because I listened to Mr Seleka.

CHAIRPERSON: Seleka?

MR KOKO: Seleka.

CHAIRPERSON: Yes, and then of course you have Ms Viletti and you say your relationship with her as far as you know is still fine, what do you say about what she said you said to her on the 10th when you called her and she says you called her for a meeting at Melrose Arch, if I recall correctly you asked for her CV and then of course the two of you she said met later in the day. What's your version
20 ...[intervenes]

MR KOKO: Chairman I – I never – everybody that I called on that day I told them who I was, so it is no ...[intervenes]

CHAIRPERSON: So you have no issue with that.

MR KOKO: There is no issue, I told him, I did not call her to come to Melrose Arch, I did not.

CHAIRPERSON: Yes, but you told her you were ...[intervenes]

MR KOKO: Ja, everybody that I on that day everybody that I called I told him or her my difficulties and where I was and where I was working on that day. When I met Ms Viletti and I still say I don't remember the restaurant we met, she says McDonalds or KFC, I don't quibble with that, and by the way it was not a short meeting, we did not have a short meeting.

10 **CHAIRPERSON:** You did not have a short meeting?

MR KOKO: We did not have a short meeting, she says so, it was not a short meeting.

CHAIRPERSON: Oh, ja, I think she said it might have taken 20 minutes.

MR KOKO: Ja, it was not a short meeting. I had a long discussion with her, she was extremely sympathetic with me, she was saddened and then she says to me you know interestingly I am looking for a job, my CV is ready, I am sending my CV's around. I will send it to you, if you can
20 help me that is fine. It was not the first time me and Ms Viletti had a discussion about her CV, it was not the first time. She has sent her CV's to me before when I nominated her to be Executive of the year and she was an executive of the year, she is an extremely competent upright person, that is Ms Viletti that I know.

So I called her, I told her I am at Melrose Arch, I wanted to – I actually thought she is Megawatt Park, because she was senior enough now. She also says I told her that she will act on the FD's position, she is mistaken, Ms Viletti was the – she set up the shared services for Eskom, which is for transactional activities but it is mainly commercial. I was the GE of Commercial, so when I told her that I will most likely be suspended and she says so scenarios who will act, I said well who is the most senior
 10 commercial person at Eskom now as we speak, in rank. It was her.

So you would not have a difficulty if ...[indistinct] to say who is the next commercial person to step in, she was – she set up shared services, I think she had graduated to go to do what do you call, Business Productivity Workshop so she was a natural candidate and I said well who knows you might be the next in line. I said in jest. When she sat here and in my affidavit I said we were shocked, and she denies being shocked, that hurt me, because I met her
 20 eventually and we sat and say – you know when we met and joked about it we never thought it will happen.

CHAIRPERSON: Yes, so now – yes?

ADV SELEKA SC: Chair I missed what were they talking about?

MR KOKO: No I am saying when I told her that I was most

likely going to be suspended in that discussion she raised who – so who are they going to get to act in this thing, I said I don't know.

ADV SELEKA SC: In your position?

MR KOKO: Yes in my position, yes in my position. I don't know but you might act because – I didn't even tell her why, but in my mind the most senior commercial person ...[intervenes]

ADV SELEKA SC: That's fine, Chair I hope you don't
10 forget your question.

CHAIRPERSON: Ja, no, no, no I won't.

ADV SELEKA SC: May I follow up or should I
...[intervenes]

CHAIRPERSON: Can I – let me finish and then you can follow up. With regard to Ms Viletti you have no reason that she would deliberately falsely implicate you in this, in asking her to come to a meeting in – because – in Melrose Arch because your relationship was fine and it is still fine?

MR KOKO: Certainly.

20 **CHAIRPERSON:** She must be mistaken?

MR KOKO: Certainly she is mistaken, she is mistaken that I called her to Melrose Arch, I did tell her ...[intervenes]

CHAIRPERSON: Ja, yes, that you were there.

MR KOKO: Where I was, and when I was telling her

Chairman she was very impatient and after reading her affidavit I now understand why she was impatient because she was moving from lunch to a meeting with a team and now it makes sense, that is why I said no listen I will call you later in the evening, we will meet later in the evening, I will tell you what is actually happening to me, but I think she is mistaken to say I called her to Melrose Arch and I think she is mistaken to say to create an impression to say I asked her for her CV. Firstly I didn't even receive that

10 CV, she said she sent it again, I didn't receive it.

She told me that she is on the lookout and she is sending CV's and she will her send her CV to me and if I can assist in my connections please do so. I said that's fine, I don't recall receiving that CV because the following day I was out.

CHAIRPERSON: At the meeting that she says the two of you had I think which you admit you had did she not ...[intervenes]

MR KOKO: I said it by the way, it is not her who said the

20 meeting, it is me, I said, I told the Commission that I had a meeting with her.

CHAIRPERSON: No I think she also said ...[intervenes]

MR KOKO: She confirms it.

CHAIRPERSON: Oh, okay, I might not have seen whatever you had ...[intervenes]

MR KOKO: She confirms it.

CHAIRPERSON: Ja, but did she not give you her CV at that meeting?

MR KOKO: No.

CHAIRPERSON: I think she said ...[intervenes]

MR KOKO: She said she sent it.

CHAIRPERSON: Ja.

MR KOKO: But I don't remember, I don't recall ever ...[intervenes]

10 **CHAIRPERSON:** She said she thought she had sent it during the day, but she said when she met with you in the evening she gave ...[intervenes]

MR KOKO: Ja, and I am saying I don't ...[intervenes]

CHAIRPERSON: You don't remember.

MR KOKO: I don't and the reason I don't remember having it is because the following day I was out.

CHAIRPERSON: Okay, okay.

MR KOKO: I was out of the system.

CHAIRPERSON: Okay, now you have said that you in
20 your affidavit you did meet with Ms Suzanne Daniels at the restaurant in Melrose Arch but you have said you didn't have a meeting with her at – with Mr Salim Essa?

MR KOKO: That is correct.

CHAIRPERSON: Yes. Did you remain in Melrose Arch for quite long after she had – your meeting with her at the

restaurant had finished?

MR KOKO: That is correct.

CHAIRPERSON: Yes, yes, okay. Mr Seleka?

ADV SELEKA SC: Ja, time up.

CHAIRPERSON: Ja, we have got to adjourn, it is twenty five past nine, but maybe you had one or two questions.

ADV SELEKA SC: Yes Chair thank you.

CHAIRPERSON: Ja.

ADV SELEKA SC: Mr Koko I see that you emphasize that
10 things are not in somebody's affidavit like Ms Viletti saying
she will act in the position of FD or that the FD will also be
suspended, which I think is implicit in saying she will act in
the position of FD.

MR KOKO: No it is not implicit Chair.

ADV SELEKA SC: But there is a number of things. Now
in regard to Ms Viletti you are saying I am looking, she
said I am looking for a job, my CV is ready, I have been
searching, I have been distributing it, but it is nowhere in
your affidavit. Can you explain that? Now I am
20 concentrating on Ms Viletti.

MR KOKO: No, no, no, yes.

ADV SELEKA SC: Ms Viletti – I said in jest that you might
act in my position it is nowhere in your affidavit. She is
mistaken that I have asked her for her CV. She was the one
giving me the CV. It is nowhere in your affidavit.

MR KOKO: Chairman I think Mr Seleka is probably trying to be – to mislead you.

ADV SELEKA SC: No it is not a misleading.

CHAIRPERSON: Are all of these things in your affidavit – are they in your affidavit?

MR KOKO: Chairman these issues came after my affidavit. I have not responded to that affidavit. So if there could not have been – there could not have been because this affidavit came after. Look at the dates and he must tell you the
10 dates.

ADV SELEKA SC: Sorry Mr Koko.

MR KOKO: It came after the 1 – that affidavit came after the 1 September. My affidavit responding to these issues was after the 1 September.

CHAIRPERSON: Well it is not going to be the – we have not – we are not done so we will have to come back.

MR KOKO: Ja it is simple Chair. But it is simple Chair.

ADV SELEKA SC: Chair let me – no.

MR KOKO: Look at the 1 September I can tell you now.

20 **CHAIRPERSON:** Ja.

MR KOKO: And I confirm to you now that Ms Nonkululeku Vilete's affidavit that she is referring – he Mr Seleka's is referring to only came in response to my first or second affidavit.

CHAIRPERSON: Yes.

MR KOKO: Yes.

ADV SELEKA SC: Tell the Chairperson.

CHAIRPERSON: Okay alright.

ADV SELEKA SC: Mr Koko tell the Chairperson that after the date of the 7 September 2020 which is Ms Vilete's affidavit.

MR KOKO: You speaking of the 22nd affidavit.

ADV SELEKA SC: You received the – you filed an affidavit of the 22 September 2020. And you say in your affidavit:

10 "I do in some places herein elaborate on
 what I stated in my previous affidavit or refer
 to the same facts differently."

By this time you have Ms Vilete's affidavit and here you saying you could elaborate or refer to the same facts differently but you did not incorporate what you are telling the Chairperson now.

MR KOKO: Ja Chair that was for me not the making – you got the focus of – the commission gave me three directives. So the directive – I responded on the 1 September my
20 directive or my submissions of the 22 September was mainly focussed on the issues that I was asked – on the – that were due on the 22 September. I dealt with other issues that were obvious. I did – and we have said in my – and this is the crux here because that was four o'clock in the morning. We said in the affidavit of the 22nd we will put a supplementary

affidavit. We said so. And in the supplementary affidavit we were going to deal with these things. We told Mr Seleka that we are going to put a supplementary affidavit.

CHAIRPERSON: Is that supplementary affidavit the one that was put up today?

MR KOKO: No the supplementary affidavit that was put today was to deal with the...

CHAIRPERSON: Correct certain things.

MR KOKO: Counsel thought that the errors that were there
10 are not befitting his leaders.

CHAIRPERSON: Ja but then if there was an intention in September to put up a supplementary affidavit why is the supplementary affidavit not – why has it not been put up by the 4th or 3rd of December?

MR KOKO: Chair it is a timing issue. It is a timing issue between me and my counsel.

CHAIRPERSON: Oh okay. Okay. I think we will.

ADV SELEKA SC: Can I end with this Chair.

CHAIRPERSON: Ja.

20 **ADV SELEKA SC:** Because in addition to this Chair Mr Koko were would have received the Rule 3.3 Notice in regard to Ms Vilete on the 28 September 2020 that she is going to testify on the 7 October 2020 and that rule notice tells you you could bring an affidavit – you could come and cross-examine this witness so you could have dealt with her

evidence even on the basis of the 3.3 Notice.

MR KOKO: Certainly Chair. I received 3.3 Notices Nhlanhla Kraai was – Mr Kraai was supposed to have testified and I received it. I received well there is just too many and I – I have not responded on them because I need to sit with my counsel to do that and we are just not finding time to do that but I can tell you now my counsel and I will put up a supplementary affidavit to deal with all these affidavits that we have not dealt with. There are issues of [00:04:07] who
10 came here and misled you that I phoned him when my...

CHAIRPERSON: Yes let us not go into..

MR KOKO: Ja those are the – you can take me to task that those are six months old I have not responded to them. But they fall in the same category.

CHAIRPERSON: Ja. Okay. I think we will – we will have to adjourn now.

ADV SELEKA SC: Yes.

CHAIRPERSON: Mr Koko is coming back on the 11th is that right?

20 **ADV SELEKA SC**: On the 11th next if granted.

CHAIRPERSON: I think that – well I guess you will apply your mind to the question whether probably he should finish first the evidence relating to the suspensions before going into other matters so that we know we are done with these sections ja. Okay alright we are going to adjourn now. I

take this opportunity to thank everybody for staying until this time. Thank you Mr Koko, thank you Mr Barrie and your instructing attorneys. Thank you Mr Seleka, thank you everybody – your team – the staff thank you very much for staying until this time. We are trying to do as much as possible so that we finish the work of the commission within the time that we are given. Thank you very much. You have something to say Mr Barrie?

ADV BARRIE SC: Mr Chair I – very well for my learned
 10 friend to take the witness to task regarding the affidavit. You know we put together under time pressure from you and from the commission 148 pages of the document within a very short period of time. My client was ill last week and we did not – we could not meet. Now we are taken to task no but we should have said more and there are limits to what effect extent one can go into the detail in these circumstances. So all I can say is well you know have a heart. There is relevance about what can be put on paper. But if you really want a thousand page affidavit then we can supply it to you
 20 but then we cannot do it by the 11 December.

CHAIRPERSON: Thank you very much.

ADV BARRIE SC: If you want – if we have to deal with every little point.

CHAIRPERSON: Ja.

ADV BARRIE SC: Then we can do so.

CHAIRPERSON: Ja.

ADV BARRIE SC: But I do not think we are going to endure ourselves to you Sir.

CHAIRPERSON: Ja. Well it is important issues and relevant issues. Thank you very much to everybody we are going to adjourn for the day and then the – I will have a hearing tomorrow relating to what we were doing during the day – money flows in regard to Estina. This is just for the benefit of the public. We adjourn.

10 **ADV BARRIE SC:** And that is not – my client is not blamed for that.

CHAIRPERSON: No. We adjourn.

ADV BARRIE SC: I am surprised.

REGISTRAR: All rise.

INQUIRY ADJOURNS TO 4 DECEMBER 2020