

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

19 MARCH 2021

DAY 364



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DATE OF HEARING:

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TRANSCRIBERS:

B KLINE; Y KLIEM; V FAASEN; D STANIFORTH



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PROCEEDINGS RESUME ON 19 MARCH 2021

CHAIRPERSON: Good morning Mr Seleka, good morning everybody.

ADV SELEKA SC: Morning Chairperson.

CHAIRPERSON: Are you ready?

ADV SELEKA SC: We are ready Chairperson.

CHAIRPERSON: Yes.

ADV SELEKA SC: Our first witness is Ms Lynne Brown it is the former Minister of DPE Department of Public
10 Enterprises. Ms Brown is legally represented Chairperson by my learned friend Mr Welcome Lusenga who will place himself on record.

CHAIRPERSON: You can place yourself on record from where you are if your mic is working.

ADV LUSENGA: Welcome Lusenga on behalf of Ms Brown Chair and just for the record I was with Mr – Advocate Sini Navala [?] when the brief started.

CHAIRPERSON: Oh.

ADV LUSENGA: She has not – he has now postponed.

20 **CHAIRPERSON:** Oh yes I heard about that. Yes. Such a pity. Yes. Okay.

ADV LUSENGA: Thank you Chair.

CHAIRPERSON: Thank you. Good morning Ms Brown.

MS BROWN: Good morning Chairperson.

CHAIRPERSON: Thank you. Thank you for availing

yourself to assist the commission.

MS BROWN: Thank you very much for having me Chair.

CHAIRPERSON: Thank you.

MS BROWN: I think I have waited a long time for this.

CHAIRPERSON: Well now you have got the opportunity.

MS BROWN: Thank you.

CHAIRPERSON: And I think because the scope for today is limited you probably are going to get another opportunity in regard to other work streams soon.

10 **MS BROWN:** Thank you.

CHAIRPERSON: Okay alright. Mr Seleka.

ADV SELEKA SC: Thank you Chairperson. I suppose Ms Brown would be ready to take the ...

CHAIRPERSON: Ja please administer the oath or affirmation.

REGISTRAR: Please state your full names for the record.

MS BROWN: My name is Lynette Brown.

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

20 **MS BROWN:** No.

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

MS BROWN: Yes.

REGISTRAR: Do you solemnly swear that the evidence you will give will be the truth; the whole truth and nothing

but the truth; if so please raise your right hand and say, so help me God.

MS BROWN: So help me God.

CHAIRPERSON: Thank you. Okay Mr Seleka.

ADV SELEKA SC: Thank you Chairperson. Chairperson we using for Ms Lynne Brown Eskom Bundle 19 and the affidavits of Ms Lynne Brown are contained in Exhibit U40. Ms Lynne Brown please confirm with me that you have Exhibit – Eskom Bundle 19 with you.

10 **CHAIRPERSON:** You will look at the spine of the file to see whether it is Eskom Bundle 19.

ADV SELEKA SC: Ja she is following the electronic bundle Chair.

MS BROWN: I am – I do not have Eskom Bundle – let me see. I have Eskom Bundle 1, Eskom Supplementary Zola Tsotsi, I have 13, 12, 6. I have 9, 17 and 14. I do have copies of my sworn affidavit.

ADV SELEKA SC: Ja.

20 **CHAIRPERSON:** It would be better if you have exactly what the evidence leader and I have it will make it easy when you are referred to pages. Do you know whether you Have got this bundle somewhere in your house or you ...

MS BROWN: No, no I have it all on – online.

CHAIRPERSON: Oh okay.

MS BROWN: But I – I do not have – we received the

bundles quite late last night.

CHAIRPERSON: Oh.

MS BROWN: So I – I do not have Bundle 19. I have 14, 17 as I told you all the numbers Chair.

CHAIRPERSON: Yes. Okay. Mr Seleka.

ADV SELEKA SC: Yes. Thank you Chair. Ms Brown I am being shown the link that was sent to you by email. The – is that the link you are using to access the bundles?

MS BROWN: That is absolutely the link that I am using.

10 **ADV SELEKA SC:** Yes in that link I see that there is the Eskom Bundle 19 – ja. Tell me the email that you are using to access the link.

CHAIRPERSON: I am sorry Mr Seleka maybe I should adjourn while you sort out.

ADV SELEKA SC: Ja.

CHAIRPERSON: The issue of the bundles.

ADV SELEKA SC: Yes.

CHAIRPERSON: I am going to adjourn for a short time to enable this to be sorted out.

20 **MS BROWN:** I have it. Sorry Chair.

CHAIRPERSON: Unless you say you have just found it I would like to adjourn to give everybody a chance to sort it out. You are not saying you have just found it?

MS BROWN: Thank you. No I have it – I have not just found it.

CHAIRPERSON: Okay alright. Let – let us adjourn for a few minutes. We adjourn.

ADV SELEKA SC: Thank you Chair.

CHAIRPERSON: Has the issue been sorted out?

ADV SELEKA SC: It has been sorted out Chair.

CHAIRPERSON: Okay.

ADV SELEKA SC: Thank you. Ms Brown then I can refer to Bundle 19 again page 4. Eskom Bundle 19.

MS BROWN: Yes.

10 **ADV SELEKA SC:** Page 4. Are you on page 4?

MS BROWN: The removal of Mr Natana Rajesh.

ADV SELEKA SC: No.

CHAIRPERSON: Did you tell her about black numbers?

ADV SELEKA SC: Yes.

CHAIRPERSON: Pagination.

ADV SELEKA SC: Yes we did Chair.

CHAIRPERSON: Okay look at the top black – top corner left black numbers on that bundle look at where it says Eskom-10-19-004. When he says page 4 that is the page
20 he is referring.

MS BROWN: Yes.

CHAIRPERSON: He is just not mentioning 00. Have you found it?

MS BROWN: Okay thank you. I have Chairman.

CHAIRPERSON: Okay alright.

ADV SELEKA SC: She was there. Chairperson as we do that let me just explain Ms Brown has submitted to the commission three affidavits. Two of those affidavits were requested from her by a different work stream. The first one and the last one.

The first affidavit does not deal with Eskom matters but we will make it available to the Chairperson. We did ask for it and in view of the fact that it did not deal with Eskom matters we approached Ms – Ms Brown to do an
10 affidavit in relation to Eskom matters and that affidavit is this supplementary affidavit which is being referred to as the first supplementary affidavit.

The last affidavit which is the third is the second supplementary affidavit and we will place both the two supplementary affidavits on record for purposes of Eskom matters.

CHAIRPERSON: Okay no that is fine. The reason why I was enquiring about it was

1. I know it exists.

20 **ADV SELEKA SC:** Yes.

CHAIRPERSON: And

2. In this supplementary affidavit she makes references to it I think.

ADV SELEKA SC: Yes.

CHAIRPERSON: So it seems that it might be necessary to

have a look.

ADV SELEKA SC: Yes.

CHAIRPERSON: At what she says in that affidavit insofar as it – she refers to it.

ADV SELEKA SC: Correct.

CHAIRPERSON: I think there are places where she says something like as I said in my main affidavit or something like that.

ADV SELEKA SC: Okay.

10 **CHAIRPERSON:** So that – that is why I wanted to have a look.

ADV SELEKA SC: Yes.

CHAIRPERSON: But it can be made available as soon as you are able to make it available for me.

ADV SELEKA SC: Thank you Chair.

CHAIRPERSON: Obviously ...

MS BROWN: Chair could I just say something about that?

CHAIRPERSON: Yes.

20 **MS BROWN:** I have submitted a – in January 2020 an affidavit and that is my – the affidavit that I refer to all the time.

CHAIRPERSON: Yes. Yes I think that is the one that I am talking about. I think in this supplementary affidavit there are places where you make reference to it. But they – they will make it available to me.

MS BROWN: Yes. You are absolutely right there.

CHAIRPERSON: Hm. They will make it available to me hopefully within the next hour so we can continue. Okay alright.

ADV SELEKA SC: Thank you. MS Brown let us go back to page 4 where you found – you find that supplementary affidavit.

MS BROWN: Yes.

ADV SELEKA SC: You are there?

10 **MS BROWN:** I am – I am Advocate Seleka.

ADV SELEKA SC: Thank you. That affidavit runs up to page 18 – page 18.

MS BROWN: On mine it says 355.

ADV SELEKA SC: Yes. No that is the entire bundle. But if you go to page 18

MS BROWN: Okay.

ADV SELEKA SC: You will – you will get to the end of your supplementary affidavit.

20 **MS BROWN:** It actually takes me when I go to page 18 it takes me to Governance Challenges facing South African Airways.

CHAIRPERSON: Are you still using the black numbers as opposed to the red numbers to have regard to ...

MS BROWN: I am using whatever Advocate Seleka tells me Mr Chairperson.

CHAIRPERSON: Well he...

MS BROWN: When he says ...

CHAIRPERSON: Well when he said page 18 he is referring to the black numbers at the top left hand corner of the page. He is not...

MS BROWN: Yes.

CHAIRPERSON: It is not referring to 018 he says 18 and leaves out the 0.

MS BROWN: Yes.

10 **CHAIRPERSON:** On – on that page there is the signature of the Commissioner of Oaths before whom you deposed to this affidavit. That is before the annexures.

ADV SELEKA SC: I think I should...

MS BROWN: Yes. I am there and that is because I have just scrolled down.

CHAIRPERSON: Have you found the page?

MS BROWN: I have found the page.

CHAIRPERSON: Okay. Mr Seleka.

ADV SELEKA SC: Yes. What do you see on that page Ms
20 Brown?

CHAIRPERSON: Do you see the words Declaration at Stellenbosch on this the 19th August 2020 and then the signature of Commissioner of Oaths and the SAPS stamp?

MS BROWN: Yes.

CHAIRPERSON: Okay alright.

MS BROWN: I do.

CHAIRPERSON: Okay and do you see on the previous page namely page 17 at the bottom a signature before the word or above the word Deponent?

MS BROWN: Yes that is my signature.

CHAIRPERSON: That is your signature. And is this your affidavit and do you confirm the contents thereof as true and correct to the best of your knowledge and belief?

MS BROWN: To the best of my knowledge and belief I
10 believe it is true and correct.

CHAIRPERSON: Okay Mr Seleka.

ADV SELEKA SC: Thank you Chairperson I will – I beg leave to have this affidavit which is dated 19 August 2020 admitted as Exhibit U40.1.

CHAIRPERSON: 40 or 14?

ADV SELEKA SC: 40.

CHAIRPERSON: Okay.

ADV SELEKA SC: 40.1.

CHAIRPERSON: The affidavit of Ms Lynette Brown that
20 starts at page 4 will together with its annexures be admitted as an exhibit and will be marked as Exhibit U40.1.

ADV SELEKA SC: Thank you Chair. Ms Brown then to the second supplementary affidavit which you find on page 73.

MS BROWN: The second supplementary affidavit.

ADV SELEKA SC: Yes.

MS BROWN: Yes.

ADV SELEKA SC: On page 73.

MS BROWN: I have it.

CHAIRPERSON: Because it goes up to page 106 is that right? Go to page 106 Ms Brown.

MS BROWN: Yes I have that Chair.

CHAIRPERSON: Yes you – can you see the signature of the Commissioner of Oaths there?

MS BROWN: I can.

10 **CHAIRPERSON:** And then if you go to the previous page namely page 105 at the bottom there is the Deponent and there is a signature above the word Deponent. Can you see that signature?

MS BROWN: I see the signature.

CHAIRPERSON: Is that your signature?

MS BROWN: That is my signature.

CHAIRPERSON: Is this your affidavit and are the contents thereof to the best of your knowledge and belief true and correct

20 **MS BROWN:** They are Chair.

CHAIRPERSON: Mr Seleka.

ADV SELEKA SC: Thank you Chair. Chairperson then I beg leave to have the – Ms Brown's second supplementary affidavit dated 17 September 2020 admitted as Exhibit U40.2.

CHAIRPERSON: The affidavit – the second supplementary affidavit of Ms Lynette Brown which starts at page 73 will together with its annexures be admitted as an exhibit and will be marked as Exhibit U40.2.

ADV SELEKA SC: Thank you Chair. Ms Brown. Sorry. M Brown then we can lead your evidence.

CHAIRPERSON: It looks like she is still occupied with something. Are you ready to start Ms Brown?

MS BROWN: I am ready Chair.

10 **CHAIRPERSON:** Okay alright.

MS BROWN: I am ready.

CHAIRPERSON: Okay.

ADV SELEKA SC: Yes.

ADV LUSENGA: Chair.

CHAIRPERSON: Yes.

ADV LUSENGA: Just a moment on the first supplementary affidavit Ms Brown wanted to effect a correction to paragraph 78 is it the appropriate time to do the correction?

20 **CHAIRPERSON:** On second sup...

ADV LUSENGA: On the first supplementary.

CHAIRPERSON: On the first.

ADV LUSENGA: Yes.

CHAIRPERSON: Okay.

ADV LUSENGA: 00:12:38 thereof I make sure in terms ...

ADV SELEKA SC: It is long term

ADV LUSENGA: Yes.

CHAIRPERSON: You are aware of it Mr Seleka that the correction that is intended.

ADV SELEKA SC: Yes I think she – she did indicate she wishes to make the correction.

CHAIRPERSON: Oh okay. So okay.

ADV SELEKA SC: I think it is the opportune moment.

CHAIRPERSON: This is the right time. Okay.

10 **ADV SELEKA SC:** Ms...

CHAIRPERSON: Ms Brown.

MS BROWN: Yes.

CHAIRPERSON: What correction would you like to make in your...

MS BROWN: The correction is – the correction is Sections – paragraph 78 and it says: “The War Room” in essence it is a Wednesday and it should say Cabinet.

CHAIRPERSON: Oh okay.

ADV SELEKA SC: So that is on..

20 **CHAIRPERSON:** Are you sure about it Ms Brown because it will read you had just – you had attended another frustrating cabinet meeting.

MS BROWN: I am writing funny stories but I – I think it was frustrating because it was about Eskom.

CHAIRPERSON: It is the truth. Okay alright.

MS BROWN: Yes it is the absolute truth.

CHAIRPERSON: Ja. Is it...

MS BROWN: Cabinet is on a Wednesday that I know absolutely for sure.

CHAIRPERSON: Okay.

MS BROWN: It is never not on a Wednesday.

CHAIRPERSON: Yes. Actually I seem to think that the acting DG may have raised something about...

ADV SELEKA SC: She did.

10 **CHAIRPERSON:** They had to say it could not have been a War Room meeting because it was a Wednesday of something like that.

ADV SELEKA SC: She did Chair.

CHAIRPERSON: Ja. Okay. Was that the only correction Ms Brown you wanted to make?

MS BROWN: That – as far as I can see Chair.

CHAIRPERSON: Okay no that is alright. I will ask that your legal team just prepares a short supplementary affidavit so that we can have a supplementary affidavit in
20 the bundle to that corrects that so that one never says you said War Room when you corrected it to say Cabinet. Okay alright.

ADV LUSENGA: We shall do so Chair.

MS BROWN: Thank you Chair.

CHAIRPERSON: Yes thank you.

ADV SELEKA SC: Thank you Chair.

CHAIRPERSON: Okay Mr Seleka.

ADV SELEKA SC: Yes. Ms Brown I have explained Chair to Ms Brown that she is called today specifically in respect of the Eskom work stream related matters. And those matters exclude therefore matters relating to other work streams which are the focus of this commission's investigations.

She will then in due course be called to lead
10 evidence on those matters. For present purposes the matters relating to Eskom as I explained to Ms Brown we will start with her appointment as a Minister.

The appointment of the Eskom board in December 2014. The subsequent appointment or composition of the sub-committees and what Mr Tsotsi has testified about before the commission.

We will ask Ms Brown to touch on whether or not she had any dealings or relations with the Gupta brothers and or Mr Salim Essa.

20 We will deal with the suspensions of the executives in light of the meeting she had with the board of Eskom on the 11th March 2015.

The inquiry in relation to that which was conducted by Dentons because the report was presented to her and the findings that were made in regard to that.

She will touch on the secondment of both Mr Molefe and Mr Brown – Mr Singh from Transnet to Eskom. Deal with the removal of Mr Tsotsi and the removal of Mr Norman Baloyi.

Those will be the issues.

CHAIRPERSON: Okay that is fine.

ADV SELEKA SC: Thank you.

CHAIRPERSON: You may proceed.

ADV SELEKA SC: Thank you. Ms Brown I see that the
10 electronic bundle is two pages out so maybe that is why
you were struggling. So when I refer you to a page number
just add two more numbers you get the right page.

MS BROWN: (Inaudible).

ADV SELEKA SC: So Ms Brown just as by way of a
background could you tell the Chairperson when you
became the Minister of the Department of Public
Enterprises?

MS BROWN: I became the Minister of the Department of
Public Enterprises in May I think the 26th of May 2014.

20 **ADV SELEKA SC:** Now who was the President at the
time?

MS BROWN: The President was Jacob Zuma.

ADV SELEKA SC: Okay. This was your first time to head
– to head this department?

MS BROWN: Well Chair it was my first time in National

politics and heading the National Department but I – since 1994 I held various positions in the Western Cape Provincial Legislature. I was Speaker, Deputy Speaker. I was MEC for Finance and Economic Development. I was Chairperson of various Portfolio Committees and I even served as a stint as a Premier.

I am a teacher by profession. I have also joined the ANC in 1993 I joined the ANC and then – and Umkhonto we Sizwe. I was a – and this I came to via my church youth movement so I was not new to politics. I was not new to public service when I became a Minister in December 2014. I was new to National politics. If that was the question Advocate Seleka.

ADV SELEKA SC: Yes no that is fine that answers it. And are you still in National politics?

MS BROWN: No. When I was removed as Minister of Public Enterprises I also resigned from the National Assembly.

ADV SELEKA SC: Okay. When you became tired.

20 **MS BROWN:** I think it might be – no I did not become tired.

ADV SELEKA SC: Oh.

MS BROWN: It did take its toll on my family and my friends. You know that attacks were no longer on me. I joined politics and I was the person who could take the

attacks. But when they started going to my family and my friends and I use the word they quite widely because at this stage I do not want to say it is this or that. I – I stepped down and anyway I am of age to step down now. I am 60. I am retirement age.

ADV SELEKA SC: Hm. You – do you think you are free to tell the Chairperson what the attacks were about?

MS BROWN: Well the attacks in essence were I think somebody in – I think it was Mr Molefe who said that the
10 biggest or let me rather put in my view of it.

I think the attacks were driven by a campaign that the Chairperson now has to make a decision on is whether I captured – I was part of capturing the state. And capturing the state in this case was about whether I was part of capturing the state via an entrance with the Gupta's, the President and all of that.

But that was not the worst part of the attacks. I think the attacks came to where it actually dealt with personal matters and it dealt with people who had nothing
20 to do with my work. Family, friends but also to say you know if I were to read everything I read in the newspapers I would not be surprised if any of you thought that I must live in a palace with a couple of sports cars in my basement. A house built for me by the Gupta's. No Chair a whole lot of Gucci whatever I live in my own house I

bought 28 years ago. I paid it off when I retired even – in essence. And I drive the same car I have driven before.

So I think it was – they were all quite un-litigated attacks and I decided I was – I left – and I then left politics.

At the time of course my father was also very ill and it played a big role in me not staying in – in politics.

ADV SELEKA SC: Well...

MS BROWN: Informal politics. I am not – that is formal
10 politics I am actually a member of the African National Congress. I believe in fighting for a non-racial, non-sexist, prosperous South Africa for all people.

And I suppose I will always do that and I go to my branch or I will go to my branch. I have been waiting for this occasion to come to the commission so that I can – I hope I will be able to clear myself and that this process would help to – help to set my reputation straight again.

ADV SELEKA SC: Yes.

MS BROWN: I have worked for 20 odd years in – in
20 provincial governments and I have always been viewed as a corruption buster, a stabiliser of the organisation. In my time 29 out of the 30 municipalities did not receive a single poor audit. One did 29 did not.

So this is a very important occasion for me and it is a very important occasion for me to be able to clear my

name.

ADV SELEKA SC: Yes.

MS BROWN: And I am very grateful to you Chair. In fact I have always been a supporter of this commission because I really believe that it will separate fact from fiction. I also believe that it will separate the narrative from a reality.

I – I supported it especially when the Public Protector sent me her questions on a Thursday. I was on my first ever and only ever international trip with the former President Jacob Zuma to Kenya and I was to sign with Transnet and I received her questions on the Thursday and by the time I arrived back home on the Monday the Public Protector had to leave office on the Wednesday. And even though I gave my responses it was never incorporated into her report. It could not have been because she had left office at that time. It – her time has expired.

So yes Chair I am – I am – I make myself publicly accountable to this commission today and I thank you for the opportunity. I might sound a bit like you at the moment my voice is a bit croaky but it is because I have a bit of flu.

CHAIRPERSON: Yes, yes. No, no that is fine. You definitely should use this opportunity to deal with all relevant matters and make sure that you have put your side of the story properly because that is important.

MS BROWN: Thank you very much Chair.

CHAIRPERSON: Yes. Okay Mr Seleka.

ADV SELEKA SC: Thank you.

CHAIRPERSON: I do not know what you plan to do – how you plan to start but it seems to me looking at Ms Brown's supplementary affidavit that it might be appropriate to give her an opportunity to talk about what the state of Eskom was when she was appointed and so and so forth.

ADV SELEKA SC: Okay.

CHAIRPERSON: Have before one goes to specific
10 questions.

ADV SELEKA SC: Yes.

CHAIRPERSON: Yes.

ADV SELEKA SC: Yes.

CHAIRPERSON: Would you like to talk about that Ms Brown? How you found...

MS BROWN: I am – I am delight – I am delighted to be able to do so Chair.

CHAIRPERSON: Yes okay just do that.

MS BROWN: So I know this is a work stream that only
20 relates to Eskom.

CHAIRPERSON: Yes.

MS BROWN: But at the time when I became the Minister of Public Enterprises in May 2014 it was already six years before that where Eskom is not able to keep the lights on. And the way Eskom kept the lights on in all this period was

to use what was called OCGT – Open Gas Turbines and we have two in Ankerlig and one in Mossel Bay. So that is the purchasing of diesel and purchasing of diesel and my figure might be a bit out and it [word cut out] ... a billion rand. So Eskom was no longer a growing concern and it does not matter how many documents are written up, Eskom was not a growing concern. There were a whole range of reasons for it. One of the reasons was the fact that it was spending so much money on trying to keep the
 10 lights on by purchasing diesel.

The second problem with Eskom, at that particular time, was the fact that it, therefore, did no maintenance and all of the plants, all of Eskom's plants are older than, if my memory serves me well.. Remember Chair, it was seven years ago. All of the plants were 25-years and older.

And some of those plants were in my period, their lives were extended by ten more years. Eskom had a huge debt. In my time – when I came to Eskom the debt
 20 was at R 180 billion. By the time I was reshuffled out of Cabinet, the time – Eskom's – the debt was at R 260 billion. I think I looked at it about a month ago. The debt is at R 450 billion.

CHAIRPERSON: So it was ...[intervenes]

MS BROWN: Eskom has a huge, huge debt.

CHAIRPERSON: H'm.

MS BROWN: So that is on the one hand. So on an operational level, the company – the December of that year, both the CE and the chair called me around December to say that by January the 15th we will not have any money to pay the 42 000 plus workers that worked for Eskom.

So Eskom was in a really, really – in real dire straits including the fact that by the time I got there, the
10 then board was in a very, very highly conflicted state and that was to do with the fact that there was a tender for Koeberg. That happened three years before my time but it came to an end within my time.

They sort of made the agreement or made the deal within my – they concluded the deal within my time. And that was the Western House Ariva Project. And this was also quite – in fact, it was my first run in with the media in a very negative way because that – for some reason Mr Montana was DG at the time, asked me to look
20 at the process of that tender.

Now I have never done it, again, before even though there were big tenders but the view was that I was the person who changed the name of the – whoever got the tender but the courts ruled on that matter. And many months later, the courts ruled on the matter and the matter

was, largely, clarified. But it was – the company was a very conflicted company.

I also want to just make two last points about Eskom. The company is incredible large. It is a key-national point. Eskom also employs about 42 000 workers across the country. If – and it is absolutely crucial to the economy. If Eskom does not work, the economy will not work.

So Eskom is absolutely crucial to the economy,
10 on the one side. On the other hand, Eskom was doing a fabulous job. We are now – in 1994, I think 52 0000 people had access to electricity and I am sure now it is even more.

But by the time I left, it was about 90% of the public that had access to electricity and therefore access to lights and warmth and being able to put your food in the fridge and just on a very ordinary level and therefore the company accepts and affects everyone's life.

I think I will stop there, Chair, but it is – I think
20 the point I am making is, that Eskom was in dire financial straits, it was in dire straits in terms of load-shedding. I mean, I think I was called the Minister of Load-shedding. Even though I had other portfolios in my portfolio, I was called the Minister of Load-shedding.

It is nothing compared to what is happening at

the moment. Nobody is blamed at the moment for any of this load-shedding and I just want you to reflect on that even if it is not now.

Not even Eskom is blamed for the load-shedding at the moment. The public sentiment against the company was very, very high and that was just when I came into the company. So nothing happened yet. I just came into the company and there was that public sentiment. So I want to leave it at that for now Chair.

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

ADV SELEKA SC: Yes.

CHAIRPERSON: Yes.

ADV SELEKA SC: No, thank you Chair. Ms Brown, could you please give us the date when you were removed as the Minister.

MS BROWN: I must give you the date when I was removed as the Minister?

ADV SELEKA SC: Yes.

20 **MS BROWN**: I think it was in 2017 in February. I cannot remember the exact date.

ADV SELEKA SC: Yes.

CHAIRPERSON: Not 2018?

MS BROWN: [No audible reply]

CHAIRPERSON: Was it not when Cyril Ramaphosa became President?

MS BROWN: Yes, 2018. Sorry, 2018.

CHAIRPERSON: February 2018. Yes.

MS BROWN: Was it 2018?

CHAIRPERSON: Well, he became President in February 2018.

MS BROWN: Yes. I just need to add Chair. You know, things were so bad in Eskom that a War Room was created. And this War Room was created on the – I think it was the 10th of December 2014. It was the last Cabinet meeting
10 where all the kind of companies – not companies, departments had affected Eskom, were all part of it and it was chaired by the Deputy President at that time, the President today. So I am trying to show you the amount of absolute ...[intervenes]

CHAIRPERSON: Pressure.

MS BROWN: ...chaos that was in the company and pressure that we were under in that company.

CHAIRPERSON: H'm. Well, Mr Seleka ...[intervenes]

MS BROWN: But equally.

20 **CHAIRPERSON:** H'm?

MS BROWN: If you have a tender in that company you are a millionaire or billionaire overnight. So there is a lot of battle around that too.

CHAIRPERSON: H'm. Are you going to have questions to her in relation to how she found the Eskom or are you

going to go into other issues because if you are going to other issues, I want to ask her about how she found Eskom.

ADV SELEKA SC: Yes. No, I have a version from one of the executives on this aspect.

CHAIRPERSON: Oh, okay.

ADV SELEKA SC: So I can put that version to her.

CHAIRPERSON: Okay. Maybe, let me start ...[intervenes]

ADV SELEKA SC: Yes.

10 **CHAIRPERSON:** ...by raising a few questions. Do you know, Ms Brown, one of the issues that the Commission is looking at is whether bodies and functionaries which were supposed to perform oversight over SOE's and government departments and hold relevant people accountable if things did not go right, particularly, if there were allegations of corruption and so on, whether they did their job and whether they performed their oversight properly.

Now oversight might not – the term oversight might not be seen as accurate, maybe, in relation to the
20 role of some of the people but basically everyone who was supposed to concern themselves about whether a certain entity, SOE was working properly or department and so on.

Simply because, it may well be that where oversight bodies and other functionaries who were supposed to perform oversight or supervise, keep an eye

on how things are going in ex-government department or in an SOE, where they do not do their job properly or where they are weak, maybe that creates an environment where corruption can happen easily.

Now one of my concerns in regard to SOE's is that there are a number of SOE's where there are a lot of allegations of corruption and those allegations have been there for a long time which seem to either on the way to collapsing or some of which seemed to have collapsed.

10 And one wonders whether part of the reason why that is happening is because people who are supposed to perform oversight functions over them, have not done their job properly over a certain period because they are supposed to have picked up weaknesses or certain issues quite early and put in place measure to address the situation and not get the entities to a point where they are almost collapsing.

20 So you said in your evidence about how you found Eskom, for example, that when you came in, the debt was about, I think, hundred billion rands but then later on it was two hundred billion and I think you said now it is around four hundred billion which seems to suggest to me it is not getting better. It is getting worse.

 So the question that arises to me is. But the problems at Eskom, talk about load-shedding. I think the

first load-shedding, if I can remember, happened in 2008. I do not know if it might have happened earlier. I cannot remember. But I remember 2008 quite well and then I remember 2015. You know, obviously we have it now.

ADV SELEKA SC: 2010, Chair.

CHAIRPERSON: Ja, 2020. So, but the question is. The people, and in this case maybe one should say the executive, you know and maybe the boards as well. Are they not capable of not identifying what the problem is
10 about load-shedding?

If they are not capable of doing that, can they not find people with the right expertise and experience anywhere in the world who will know how to solve this problem? And then solve the problem.

It just seems to me almost inexcusable to say you can have the same problem that affects businesses and the lives of people in such a drastic way for about 12-years. It is going on and there seems to be no light at the end of the tunnel.

20 Because if I do not know how to identify the problem, at least I must recognise it and to say: Look, I do not have the expertise to identify the problem. Let us look for somebody who can identify the problem and identify what needs to be done to solve it.

So I am asking this at a level that I look at the

issue of oversight. Maybe this might show that oversight – performance of oversight has been extremely poor or it is dysfunctional and it then makes it easy for corruption to happen as well because those who pursue corruption realise that people who are supposed to perform oversight, are sleeping.

I may be harsh in terms of what I am saying but these are ...[intervenes]

MS BROWN: No ...[intervenes]

10 **CHAIRPERSON:** ...these are real problems and we must not shy away from saying it the way it is if we are to solve the problems. So what would you say about that?

MS BROWN: Well, Chair, you know make an incredible... It is an incredibly important comment that you make, because in essence, what it says, that in my time, I could not get rid of corruption and people before my time, they could not get rid of corruption.

But you must remember – there are a couple of things that I want to raise. And I think the answer, at the
20 end of it, is actually nothing to do with the companies. It is to do with the model.

So let me explain oversight and say in my department or that department I headed, *TPE(?)*. Personally, I do not do oversights as an executive authority. Oversight is done via all of the DG on Energy

and her or his department.

Aviation has a department, Legal and Governance has a department and so forth. So everyone has an oversight responsibility but you only get the documents, the annual statements, for example, or the quarterly statements two months after the statements have been drawn up because they have to interrogate those statements and then they bring the issues to you and the issues are never issues of corruption or any of that.

10 In fact, in my time, I got so frustrated within the second year that I started engaging the SIU and the – in dealing with this matter for three of the big state-owned companies, Transnet, Denel and Eskom.

And part of the problem was that we spent a very long, probably almost six months in negotiating the terms with the SIU because there is also a culture in all of these state-owned companies. For example, the Coal Plus Mines were never – they never went out to tender for example.

20 The fact that procurement is completely decentralised. So even the person who is purchasing the milk at a small station could not purchase enough milk for him or her household. So the levels of corruption, I think, have been ongoing for many, many years.

But I want to pose. So I think it has to do with the fact, for me, that we have a system that is largely

governed by the – by the Companies Law and out of the Companies Law we develop what is called the MOI which is the Memorandum of... I cannot remember what it means.

CHAIRPERSON: Incorporation.

MS BROWN: ...but is about... Incorporation. And it is... Then we have a whole number, shareholders compact that meet the shareholders compact. And in preparation for this day, the first meeting I had with Eskom, they met 53% of the shareholders compact. Now why we are not dealing
10 with the 47%?

And part of the problem is that we do not have a step-in clause. We have the leave the company to run itself, have oversight over the company in terms of its overall results where the PFMA does not make provisions for you to stop a tender. The PFMA says that the National Treasury should write out – it should – and I use the word blacklist. I cannot stand the word blacklist. Why are there no white list?

CHAIRPERSON: H'm, h'm.

20 **MS BROWN:** But anyway. They blacklist companies that you are not supposed to do business with and this is supposed to come out annually. Now I know this because I was a Finance MEC.

So my own view is that the company – and I have seen this in other countries as well and I have gone

on two or three trips with – the vehicle that these company can run in. These companies – some vehicle where the companies will be able to deal with aviation, deal without it being attached to governments but it still remains state-owned companies and that we called the SOC Reform Process or the South African... ja, State-owned Company Reform Process.

So in a way, what I am saying is. There is also a culture within all these organisations and plus you can tick
 10 off all the check boxes. There is an Internal Audit, for example. Then there is also an External Audit. So the internal auditors are audited by external auditors. So it is a very complex governance structure that I think lends itself to any of it – any of these problems.

What do we do? We... When I had a problem and nobody in Eskom could tell me how we solve load-shedding and the financial crisis... And what I did was, we got – I then told the – and I had to say this is an informal meeting that I am calling and I very like to have you
 20 interrogate what the problem is and how we solve the problem.

And I think that August 2016, we had no more load-shedding. I think to 2015, August 2015 we had no more load-shedding and that was a combination of the skills that we brought in as well as the fact that we had an

investigation and that investigation set out and I believe it was about 18 areas that Eskom had to follow and I am using Eskom only as an example. Eskom had to follow and those had to be...

And it is a combination of that that gave us a break in load-shedding for the next three years afterwards. So Chair, I have gone roundabout it to explain to you this. The issue is the oversight is practise but it is practice through a department that has to interrogate the
10 documentation that Eskom brings.

So I am not sure what you – what else you want to interrogate but if there was anything else you had to interrogate, then that you hand over to a – to the relevant authorities whether it is the SIU or the NPA or so on.

CHAIRPERSON: No, you see ...[intervenes]

MS BROWN: But we have no stepping clause. We have no stepping clause in that – in actually getting into the operational issues of Eskom.

CHAIRPERSON: H'm, h'm. Well, I would imagine that to
20 the extent that you say you did not have any oversight function to perform but your officials, the DG or certain DDG's were the ones who were doing that.

I would imagine that it would, nevertheless, have been your responsibility to assess whether they were doing that – performing that function effectively because where I

come from, Ms Brown, is that if you can have a problem, and load-shedding is an example, that was known in 2008 and it happened in 2008.

I do not know whether it was only in 2008 or went into 2009 but it happened in 2008. And then it happened in 2015. I hope I am right about 2015. I know it happened somewhere there and then there was a time that ...[intervenes]

MS BROWN: I think not.

10 **CHAIRPERSON**: Yes. There was a time where it stopped and I think we may have been told as the nation, at some stage, that the load-shedding problem had been solved. It would never happen again. I think we may have been told that at some stage and it is back.

So I am simply saying. Either there is no proper and effective oversight or if there is proper and effective oversight, which identifies what the problems are, then maybe somebody who is supposed to make sure that a solution is found maybe those are not doing their jobs
20 properly because it is 12-years since 2018(sic) (2008), maybe 13-years.

And if, as we sit here now, we say we do not see the end in sight of load-shedding. Unless we change how things are done, we will have load-shedding in the next... Ten years from now we will still be complaining about load-

shedding.

Something somewhere needs to change and one of it might be looking at everybody who is doing - who is supposed to do something about it, is effective, knows what they are doing or whether somebody else should be brought in who might have better expertise and experience to say the correct solution is this one and not that one.

Because, otherwise, as things stand it is like ten years from now we might still be having the same problem,
 10 and it does not seem to me – it does not say to anybody who is looking at this, we know what the solution is. It is like we do not know but if we do not know, I would imagine, there must be somebody in the whole world who has the right knowledge, the right experience, who can say no, this is the way it should be solved in the context of South Africa.

MS BROWN: Chair, you know, our countries have found solution and in many other countries they have what is called a reformed state owned company structure and some
 20 of them have it within – so they are run as commercial businesses and the commercial business becomes a catalyst for the growing the economy and I still think that it is because it is placed within a department – in a department. I did not say that I did not have oversight over – I would not have called in the SIU if I did not have

oversight.

CHAIRPERSON: I must have - I must have not
...[intervenes]

MS BROWN: The problem is, the documentation that you get from the department that actually does the actual work, it is very late and so it is always – it is a structural problem but I also want to make a point, when – in my time we stopped load shedding from – without using OCGTs, that is diesel. We stopped load shedding completely and I
10 did not stop it but Mr Molefe and his team of people stopped load shedding completely and they said to the then President that there will not be load shedding again. Now there was not load shedding for a while and we have load shedding now again and, you know, Chair, if I were to say to you that this only about Eskom I would be lying to you.

CHAIRPERSON: No, you [inaudible – speaking simultaneously]

MS BROWN: I think it is a whole range of issues.

20 **CHAIRPERSON:** Yes, yes.

MS BROWN: I think it is a whole range of issues, it has got to do with who purchases coal, the price of coal, why some people get more for coal than other people. Ag, it is a whole range of all of those things. And so, you see, if somebody says it is R150 per ton of coal, so – and let me

make one other point and this is my last point on this.

Chair, the other issue is, you know, all of these large companies that provide Eskom with coal, remember they do not want to be affected by any small people coming in, so they then get in all the well-known black leaders to be a director in this company and in that company and eventually you see them in Save South Africa, so it is a very complex thing. I think what we must do for state owned companies is to take it outside of government. I am
10 not saying they must be privatised – remember there are 720 state owned companies in this country and those we do not see and we do not feel and it does not affect our lives, we do not know they exist. So some of them must be closed down. Some of them must be merged – there are lots cultural organisations, they can be merged into one or a few other – we decide what are the strategic ones that we want to grow and to help us grow the economy and that will place in a vehicle like they have done in Singapore, like they have done in China, they have done it around the
20 oil in Norway and they have done it in the United States, they have done it across the country because they realise that it is not going to work operating within government. It reports – its greatest shareholder is government but there is public participation, there is participation from capital, you know, but it is structured as a company and it operates

as a company. It is not accountable to some politician somewhere, it is actually accountable to a board that will be getting dividends if and when this company – including the state getting dividends when this company succeeds.

So for me, I think it is the wrong space for a state owned company to – and that, Chair, is the last point I make on this. I will – I think it will be a wonderful doctoral thesis for somebody to do.

CHAIRPERSON: Well, I will let Mr Seleka continue but
 10 you said it is not just as common, I agreed. You go to SAA, SAA, I do not know where it is with regard to liquidation process, the rescue process right now but for all intents and purposes it has collapsed and you ask yourself the question, within the context of my question on oversight, you ask yourself the question but did somebody not pick up the problems earlier and identified what needed to be done in order to avoid SAA reaching the point that it has reached? Now I have heard evidence in the Commission of a lot of problems that happened at SAA a
 20 number of years back and – so you ask yourself the question, but there were the problems, some of them were in the media, did somebody not take a view to say here is what needs to be done in order to avoid SAA collapsing? Denel, same thing is happening.

So where are the people who are supposed to look

properly after these assets of the people of South Africa? And when these assets of the people of South Africa have got problems, where are the people who are supposed to pick up the problems? If they do not know what the solutions is, look for people who can find the solutions and take measures to make sure that these assets of the people of South Africa do not end up where SAA and Denel are at the moment. You have SABC also with its own problems. It is as if there is no commitment or there is no
10 will to do the right thing to make sure that these things – these disastrous consequences do not happen.

So - but I come to this discussion within the context of saying when there is no proper oversight, it may well be that that is one of the things that fertilizes the environment for corruption to happen.

Therefore, if I am going to make recommendations about what measures need to be adopted to try and bring the levels of corruption in this country down, I must look at that as well, I must ask myself the question how does it
20 happen that entities such as the ones I have mentioned deteriorate over a long period and the deterioration is not arrested, it just goes on and on and on until in the case of some of the entities they have either collapsed or are on the brink of collapsing.

So you might not wish to say anything further but I

am just contextualising what my concerns about oversight are about. Okay. Mr Seleka?

ADV SELEKA SC: Ms Brown, just taking the ...[intervenes]

CHAIRPERSON: I see that we have gone past the tea but maybe you can continue, at quarter to twelve we can take a tea break.

ADV SELEKA SC: Thank you, Chair. Ms Brown to take the point further particularly in the context of Eskom and
10 the war room that you have already mentioned, was not that establishment of the war room, particularly in respect of Eskom – well, I know the other SOEs were also singled out, I think Denel and SABC, was that not a good example of pursuing an oversight role in terms of Eskom in this case because that war room was established, as you say, in December 2014. That is about seven months after your appointment as the Minister of DPE and we have listened to evidence here that I think even from your own affidavit that you were part of the ministerial committee that was
20 assigned to that war room.

The Deputy President, Mr Ramaphosa, was the Chairperson of that war room. The war room requested information from Eskom, had meetings, so – but we know that after Mr Molefe was appointed, Dr Ngubane writes a letter to you and he says not only are we going to stop

participating in the war room but we will not respond to requests by the war room and that gets to be allowed. So his request is given, the request of the board. Again, taking away government's effort to do exactly what the Chairperson is saying, perform an oversight role. Why was the war room terminated?

MS BROWN: I mean, that is a question you have to ask the President, the then President, because he is the only one who – I am the one who attend the war room but he
10 was the one who has put the war room together.

But, you know, at the time there was a huge debate going on about whether IPPs were preferable to Eskom, then Eskom had to take the IPPs and it was not – and so that was actually the letter around Dr Ngubane because Eskom knew that they could not afford the IPPs, they were largely foreign business with I think about 10% South African owned and that became a big struggle because it was again on a take or pay basis which means that even if we do not need solar for the day we still had to pay for the
20 solar and Eskom could not – Eskom could not afford that and there was a lot of – I mean, look, Advocate Seleka, this is seven years ago, there was a lot of conflict around that but the issue was to be able to bring together water and sanitation, Public Enterprises, the Department of Energy, National Treasury and all the departments that

impacted in some way or the other on Eskom but there remained a sort of policy decision that created a lot of fractiousness within that.

When Dr Ngubane wrote the letter – I do not seem to remember the letter because I would have told him he should just go to the war room because the war room was established by the President at the time and we had to follow that direction. I do not know if you have a letter from me to say that I would have just insisted that he
10 attend the war room. The fact that people give apologies to the war room and not have alternatives would be another issue but the idea with the war room was to try and stem the load shedding.

The problem with the war room was that it had – it was too large a structure that looked at the technical aspects without looking at the issues that we were facing at that time whether it was load shedding, no access to finances and so forth.

Out of the war room a very positive thing did come
20 and that was that we got a R23 billion bailout from government but the company cannot operate on bailouts and then of course the bigger issue is that fewer people are purchasing electricity from Eskom, people are going off the grid, large, very large users of Eskom has also gone off the grid.

So I think I am understanding the conflict in my – if the Chairperson reads my recommendations in my first affidavit, I do quite a number of things on oversight but I do not – I mean, unless you can show me to document where Dr Ngubane writes the letter.

ADV SELEKA SC: Yes, no I ...[intervenes]

MS BROWN: And maybe later I will be most – I will be happy to respond to it then.

ADV SELEKA SC: Yes.

10 **CHAIRPERSON:** Ja, okay.

ADV SELEKA SC: Chair, can I do that before you take the adjournment?

CHAIRPERSON: Ja.

ADV SELEKA SC: Just quickly because I have it open right in front of me.

CHAIRPERSON: Okay.

ADV SELEKA SC: It is in Eskom bundle 13, it is page 445.

MS BROWN: 13.

20 **ADV SELEKA SC:** I read it to you, you will look out for it during the tea adjournment as well.

CHAIRPERSON: Yes, okay.

ADV SELEKA SC: It is a letter dated 10 ...[intervenes]

MS BROWN: Okay.

ADV SELEKA SC: Ja. Let me read it to you, Ms Brown, it

is a letter dated 10 September 2015, Eskom bundle 13, page 445. So he writes:

“Dear Minister Brown, Eskom’s participation in the war room.”

The letter has one, two, three, four, five paragraphs, with 6.1 being a one liner. He ultimately reads – and we will do the whole letter when we come back. The second last paragraph he says:

10 “Accordingly, the board has resolved to suspend Eskom’s participation in the war room. This will mean that the Chief Executive will be requested not to respond to the requests for information and attendance at the meetings but focus on the management of Eskom and its turnaround. This decision will be implemented forthwith.”

And then he says:

“I trust that the Minister will find this in order.”

And we will come back to it after tea.

CHAIRPERSON: Okay, let us take the tea adjournment,
20 we will resume at 12 o’clock. We adjourn.

MS BROWN: Thank you.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay, let us continue Mr Seleka.

ADV SELEKA SC: Thank you Chairperson. Ms Brown, did

you in the meantime find that letter in Eskom bundle 13, one three. Your sound is ...[intervenes]

MS BROWN: Sorry, I have not ...[intervenes]

ADV SELEKA SC: You were on mute, yes.

MS BROWN: Ja, the issue that I, my recollection of that is and I was that by now they were starting to resolve the issue of load shedding, and I think somebody said they stopped going to the, I think it was Mr Molefe who said that they stopped going to the war room.

10 Remember, the issue before Eskom was the fact that there was incredible load shedding that was happening and I had a meeting with the President, Jacob Zuma a little bit before that, where it was told to me that we would be heading for a black out, and a black out if ... was if it happened that we had a black out, especially in the Gauteng area it would crash the economy completely.

 So at the time the board's reckoning was that the load shedding was their biggest concern and they wanted to get on top of that problem, and I think that letter is written
20 just after we had gotten to a point where there was no load shedding any longer and they did not see the need to sit through those meetings and I had an engagement with Mr, with Dr Ben Ngubane and I insisted that they send people still to those war room meetings.

 But I must tell you that it was not the CE or the

acting CE or the acting financial director. It was somebody else that went, I cannot remember who it was, but who went to the war room, but it is because they completed and they actually found a solution and the only big solution that they found was actually to do more maintenance.

To do more maintenance they had to find the money for it and they felt that the war room was taking up too much of their time.

ADV SELEKA SC: Ja, now if you look at that letter Ms
10 Brown, the third paragraphs, let me read the letter. It says:

“The above matter has reference. The board engaged with the acting chief executive and his executive management at a strategic break away over two days. We examined a number of key strategies that the team has put together and encapsulated in a turnaround plan for Eskom which will soon be sent to the minister. The board has fully endorsed at this plan and supported execution.”

20 This paragraph says:

“The turnaround plan focuses on key areas, namely liquidity, maintenance with minimal load shedding.”

That is the part I want to emphasize. Maintenance with minimal load shedding. Which seems to suggest that

there is load shedding but they want to minimize it and then they go on to mention other aspects. When ...[intervenes]

MS BROWN: In their rational at the time, sorry ...[intervenes]

ADV SELEKA SC: Yes, proceed.

MS BROWN: I am very, very sorry to make a fish up of your ...[intervenes]

ADV SELEKA SC: Ja, this is what I wanted to say. Let me complete ...[intervenes]

10 **MS BROWN:** The issue is ...[intervenes]

CHAIRPERSON: Hang on Ms Brown. Hang on Ms Brown. Let Mr Seleka finish.

ADV SELEKA SC: Let me complete that ...[intervenes]

MS BROWN: I am very sorry.

ADV SELEKA SC: When Mr Molefe was here, he also specifically said his main issue was load shedding and he did not want to go into the, to go to the meetings of the war room anymore so that he can concentrate on getting rid of load shedding.

20 So he made the focus on load shedding as he testified here, the reason why he wanted to stop attending meetings of the war room. Well, I do not know whether you have insight into that, because if you do not know, maybe you should not venture an answer as to why they wrote you ...[intervenes]

MS BROWN: No, I would like to venture an answer.

ADV SELEKA SC: Okay.

MS BROWN: Because I remember that you know, I remember the trauma of load shedding in this country too well. By that time, by the time we set up the war room, we were at load shedding at stage 3. Eskom then introduced 3A and 3B because, which meant that we had no electricity three times a day for two hours at a time.

Six hours out of the day which was just not good
10 enough for business. Especially businesses that did not, high end and intensive business. That is what I wanted to say. So at the time, they did not want to go, come back to the war room because they wanted to minimize the load shedding, so that if anything we should be doing load shedding at stage 1, which is once a day.

So I think and then systematically get to a point where we have no load shedding which by August 2015 we had no load shedding. So that is my explanation but having said that, I insisted that one person still come to, one
20 person with enough knowledge and it does not have to necessarily be the CE or the acting CE at the time.

That one person with enough knowledge still attends the war room so that there is feedback from the war room to Eskom.

ADV SELEKA SC: Yes. Can you recall whether your

response was communicated in writing? That response to the effect that you still wanted one person to attend?

MS BROWN: You see Advocate Seleka, one of my problems is that I do not, I have never made decisions or I have rarely made decisions. Let me say it that way, without a decision memo. So if that letter came to me, there would have been a decision memo that accompanied that letter, because that letter would never come to me.

A formal letter would never come to me without it
10 going via the energy unit within the department, because it will come to me with a solution which I might accept or reject, but having said that, I do not have, I do not have a proof.

I do not have a copy of that memo.

ADV SELEKA SC: Yes. The, ja. I was just raising that with you in the context of the shareholder exercising an oversight and ensuring that the SOE's operate at an optimal level, and I want to draw your attention again to the affidavit of Ms Tshelofelo Molefe which is the second
20 supplementary affidavit, also in Eskom Bundle 13, page 686.

She refers to an occasion there in her affidavit and I will read it out to you on page 688 and this relates to the war room. In this affidavit, she says:

“On 11 December 2014 cabinet announced a

government war room, with an implementation of a five point plan. Eskom made its first presentation to the inter-ministerial committee on 28 February 2015.”

She says she did not attend the meeting, she was not available, she had travelled for business. That is the first presentation, 28 February 2015. A second presentation to the IMC, which is the inter-ministerial committee, she says was made on 3 March 2015.

10 The presentation was led by Mr Mathona and herself. Before that main meeting, Mr Mathona was requested to meet with the deputy president to take him through the Eskom challenges and presentation. Mr Mathona was accompanied by myself, Mr Matshela Koko, Mr Den Marokane and two other Eskom executives.

Then she says:

 “Ms Lynne Brown was not at this meeting. She arrived a few minutes after the main meeting with the deputy president and some ministers
20 had started, as we understood she had been out of the country.”

Paragraph 11 reads:

 “Mr Mathona and I tried for several weeks to have a meeting with minister Brown to take her through the Eskom presentation prior to the

meeting on 3 March 2015, but all to no avail.”

Were you aware of this attempts by them to seek to have a meeting with you? Go ahead.

MS BROWN: Can I respond?

ADV SELEKA SC: Yes, please.

MS BROWN: Well, I must say that the deputy president always kept me informed if I on the odd occasion left the country. My recollection of that they presented on every Friday Eskom had to present, remember the meetings were
10 about Eskom, and so the dates that she has there I am sure it is absolutely true and that I could have been late for that meeting.

Not because I did not attend, I attended every IMC meeting. I remained in engagement with the deputy president. I might have been late, because I have been abroad as she says. I do not remember that I have been abroad then, but having said that, the structure is like this.

It was an unusual, it was unusual for the CE and the chief executive to present to me, unless it was with the
20 approval of the board Chair, because I spoke with the board Chair. The CE spoke with the DG and that happens to be the practice that comes out of the Company’s Act so that you do not have an interference of, a political interference in the operational side of what is happening.

The SD never presented to me. I heard yesterday

Mr Singh said I spoke with him, but the SD never presented to me. So I am not absolutely sure what she is talking about, wanting several meetings. Mr Mathona had easy access to me.

He spoke to me often and the reason, and my department, my legal and governance unit warned me about that. Saying you should not be speaking to Mr Mathona. The Chair speaks to you. The dilemma I had is that we were in a crisis.

10 We were in a huge crisis. We were not liquid, we were not a going concern and we were having load shedding every day. So ja, that is my response to that. I do not for a moment disagree with her that she, I do disagree with her that she has attended all those meetings.

I do disagree with her that she had a liquidity plan for the company. I also stand by my statement in my affidavit, where I say that the country, the company was not a financially going concern.

ADV SELEKA SC: Yes.

20 **MS BROWN:** And it does not matter what the books say, we at any time could not pay us this, or Eskom at any time could not pay the staff and that is what the CE communicated to me.

ADV SELEKA SC: Yes. Well, that tells me you have read the rest of her affidavit. I will come to that.

MS BROWN: I did?

ADV SELEKA SC: Yes, I will come to that point of liquidity but let me stay with this point for a moment. The, you say you spoke in terms of protocol you would have spoken to the board Chair and the CE would have spoken to the DG. Now would that be the position in the context of the war room where there is this inter-ministerial committee that was established?

The Chairperson of the war room is the deputy
10 president. They were able to have a meeting with the deputy president, but they sought to have the same meeting in the context of the war room with you and they say they could not.

Did that protocol apply that?

MS BROWN: I do not know, the protocol would not apply. I mean it would apply in law, but in terms of the company's law but it would not apply with me at that stage because we were in a crisis and for the life of me I cannot tell you at all why I did not give a meeting to them.

20 You must remember, every other state of the company who had difficulty, war in the face of Eskom, Eskom's difficulty was just enormous. So I am not aware of not wanting to give them a meeting.

ADV SELEKA SC: Okay. Then of course on the 11th of March they were suspended but we will come to that at a

later stage.

MS BROWN: Ja.

ADV SELEKA SC: Can I, when I ask you this in so far as you have mentioned, sorry before I move on. Does it not, if one looks at what the FD at the time, the person who was the FD at the time is saying in this affidavit, is it a fair observation that there seems not, they seemed not to have been an effort on your part to show commitment to a tool or mechanism in the form of the war room, that cabinet had put
10 in place to play an aversive role over Eskom?

MS BROWN: Not at all.

ADV SELEKA SC: Not at all.

MS BROWN: I, as I said to you before, I saw the war room as a, after I had gotten past my emotional issues about being undermined and all of that, I completely supported the war room. I worked timorously with the board room. I ensured all the time that Eskom was present and they had their presentations.

The issue was, and remember I also saw a set of
20 minutes that Ms Molefe has [indistinct – 00:21:39]. You must remember that those are action minutes. All of the squabbles and the battles and all of that, will not reflect in those minutes.

But it is, it was ... there was a real issue that I think it was March, it was first January the 15th that they could

not find money and thus they phoned me in December and then by March the 15th we remained on high alert and I was hoping that we would find a solution within the war room.

But remember, the war room also worked on broader issues and technical issues. One of the big issues that the war room worked on was the issues relating to generation. Why the Medupe and Phasile had huge cost overruns and behind time in their building.

But at the same time they were also looking at a
10 broader energy proposals, and in my mind, I could understand that Eskom had a very specific purpose and that was to keep the lights on, stop load shedding and to become liquid again.

CHAIRPERSON: Unless ...[intervenes]

MS BROWN: So, so that might be ... that might have been the issue because we spoke about IPP's in the war room. We spoke about our rejection and now non-rejection of nuclear. We spoke about all forms of energy types. The water usage at particular plants, we spoke about financing
20 of the energy, energy options within the war room.

We spoke about the 23 billion rand bail out for Eskom. So it is a, there were lots of issues that we spoke about. Eskom had a specific focus and that was load shedding.

CHAIRPERSON: Mr Seleka, I think we must move on.

ADV SELEKA SC: Yes.

CHAIRPERSON: I think there has been enough time for the war room. Let us move on to specific issues.

ADV SELEKA SC: Yes.

CHAIRPERSON: Ja.

ADV SELEKA SC: Thank you Chair, and then on the liquidity, this problem Ms Brown that you have mentioned, I know you have touched on that in regards to her affidavit. You have seen she refers to not herself, but the board
10 writing in the financials, that Eskom will be a going concern in the foreseeable future.

The very board of Dr Ben Ngubane. Are you saying despite that ...[intervenes]

MS BROWN: They were not a going concern at that time. A foreseeable future, they also said we will have no load shedding in the foreseeable future. They also said that we will be liquid in the foreseeable future. We were just going, Eskom was going from one crisis to the next crisis dealing with load shedding and liquidity.

20 **ADV SELEKA SC:** Yes, so in respect of the liquidity, a statement made in the financials, as a statement of the directors, are you saying that was not truthful?

MS BROWN: I think them saying that in the foreseeable future is truthful, but when was the foreseeable future? I think, I do not say it is not truthful. They probably saw a

light at the end of the tunnel, but the light at the end of the tunnel did not survive the salaries on a monthly basis.

That was, that has always been my fight with Eskom anyway.

ADV SELEKA SC: Ja. Because the quotation she takes from the financials, which is her statement she says was signed by Dr Ngubane and Mr Pamensky, reads that:

10 “The directors have made an assessment of the ability of Eskom and the group to continue as a going concern in the foreseeable future. The directors viewed Eskom’s and the group’s performance for the year ended 31 March 2015, and the cash flow forecast for the multi-year prize determination, three year period ending 31 March 2018, the directors are satisfied that Eskom and the group have access to adequate resources and facilities to be able to continue its operations for the foreseeable future. Accordingly the board continued to adopt the

20 going concern basis in preparing the financial statements.”

So they are sitting that Eskom is a going concern and that this statement, I want you to comment on.

MS BROWN: I, well Advocate Seleke, Seleka. It is a, it is a, the fact that Eskom was a going concern in the

foreseeable future I understand. I also think that I believe that Eskom would be a going concern in the foreseeable future.

We got the 23 billion bailout. I think it was just after or just before May, or in or around that time, but in my estimation, the queries that came to me from both the board, the Chair and the executive, we were not seeing the light at the end of the tunnel yet.

We probably, there is a light but it is in time to
10 come. As far as I was concerned, the crisis was then and you must remember, and it was on a weekend that the president called me to tell me that, and it could have been somewhere in February, March of that year.

I cannot remember, but to tell me that there would be a black out in the Gauteng area. Now the blackout has nothing to do with the liquidity situation. But the liquidity situation had everything to do with whether Eskom was able to get out of the mess it was in, so you know I retain my position that Eskom might have had a – and Eskom
20 projects with the multi-year, the NYPD, they also project with NERSA, what NERSA allows them to claw-back from the clients, and every year, the budget looked in a particular way and then NERSA says that they had to collect far less than what they were, they were projecting.

So the Chair asked the question earlier about

oversights and that was part of the dilemma. We had good documentation it looked like we could be on a sure footing but the documentation or the expectation of what that documentation meant could never be met, was never met. So they build into their predictions, what NERSA would be giving them as a crawl back from the public.

And Chair, you know, if I did not hear complaints from the CE, from the Chair, that we were in dire straits, frantic phone calls, then I probably would agree with Mr
10 Molefe that we were fine, we were a going concern and that the only problem we had was load shedding.

But I personally feel that they projected and this is what I say to companies all the time, they project themselves out of a crisis and they never ever meet that projection, because it is not solely reliable on them. It is also reliable on what NERSA would give them, and what they can crawl back from the public.

And remember, the public will also going off grid, so fewer and fewer people were on the grid. I think, now, I
20 see part of Eskom I think about 2% of the public - we are not able, I mean Eskom is not able to gather money from about 2%, they decreased by 2% annually, let me put it to you that way the use of electricity by the public. So that is my comment to you Advocate Seleka.

ADV SELEKA SC: Should I exercise some restrictions or

as you call it lead the witness?

CHAIRPERSON: Well, I expect you to go to a very specific Eskom issues.

ADV SELEKA SC: I mean...[intervene]

CHAIRPERSON: I think you have taken some time on the matters that you have covered.

ADV SELEKA SC: Ja, no in respect of the responses should I – okay.

CHAIRPERSON: Well exercise your judgment, but I feel
10 that you may wish to move faster to the other issues. If you are left with some more time at the end, you might wish to come back to some of these issues, I am suspecting you might run out of time.

ADV SELEKA SC: Yes, no let me make my last comment on this one is Ms Brown because those two contrasting positions cannot exist side by side. When the Board says the Board continued to adopt the going concern basis in preparing the financial statements. They seem to adopt the view that they are at that stage going in a going
20 concern status as opposed to the opposite. So all I am saying to you is the two positions cannot exist side by side, either you are a going concern or you were not.

MS BROWN: I do not want to continue and go on and on and on but I have made my position, well what I felt was quite clear.

ADV SELEKA SC: Yes, no thank you. In regard to load shedding, well we probably need to follow a sequence because I will be getting out of a sequence, but let us see. In regard to load shedding insofar as you have mentioned is that, Eskom you brought in experienced people who were able to stop load shedding, an investigation was instituted, and there were some outcomes made from that investigation.

I would like to take you back to what Ms Mokholo
 10 says about your statements at the Board meeting of 11 March 2015, and only for the purposes of her statements because I will come to the sequence of events. But she says in her affidavit:

“That the Minister began addressing the Board on the issues of the War Room and the challenges facing the War Room. Some of the issues pertaining to the decision to switch off non-paying municipalities, the issues of director’s liabilities, mishandling of load shedding by Eskom and the
 20 sabotaging of power stations, which are all operational matters. There was an allegation made to the executives that load shedding might be intentionally manipulated, mishandling of load shedding and sabotaging of power stations.”

Do you recall these comments made by yourself?

MS BROWN: I can - I do not know about the power stations, but I, and I did not see it in the minutes. Even my off the cuff minutes, I did not see it in there. But I can tell you that I did go into operational matters.

ADV SELEKA SC: Yes, but let us stick to load shedding.

MS BROWN: It was just before, ja.

ADV SELEKA SC: Sorry, let us just stick to load shedding for a moment. The concept that load shedding was mishandled or manipulated.

10 **MS BROWN:** Well, I was had a difficulty that when Parliament example, I used an example, and that was in that was actually in the minutes of that meeting and now I am just using my memory. I had a difficulty that we would have load shedding and terrible load shedding twice, three times a day and then we have an opening of Parliament and we have no load shedding from before the opening to the day after the opening.

Now if you can keep the lights on for three days, all the lights on for three days. Then why are you not - and of
20 course it is operational and I am not a Mr Koko so I do not know the details but I mean, I did have a difficulty with that because if you can suddenly not have any load shedding and then we go into terrible stage three load shedding where the lights are off for ordinary people three times a day, and because Parliament has a State of the Nation

Address and this was in Jacob Zuma's time you suddenly can keep the lights on for three days.

So yes, I did have a problem with it but frankly, it was operational and I concede that I should not have gotten into the operational matters.

CHAIRPERSON: Mr Seleka.

MS BROWN: I did not see the Board often.

CHAIRPERSON: Ja, Mr Seleka except in the context of oversight and except in the context of Mr Koko's
10 allegations that when he was suspended, there was an allegation of sabotage, which could affect load shedding. Why is load shedding relevant to our terms of reference?

ADV SELEKA SC: Why is load shedding relevant to the terms of reference?

CHAIRPERSON: Yes, except in the context of oversight, performance of oversight and Mr Koko's allegation that when he was suspended, he said he was accused – there was an allegation of sabotage which could affect load shedding.

20 **ADV SELEKA SC:** Yes, the question is limited to that Chair, I am not pursuing it any more beyond that.

CHAIRPERSON: Okay, let us try and move, I am more keen on those specific issues on which we have had quite some evidence.

ADV SELEKA SC: Yes.

CHAIRPERSON: That is the secondment of Mr Molefe and the secondment of Mr Singh, the cancellation of the meeting of the Board of Eskom that was scheduled for the 26th of February.

The meeting of the 9th but she was not at that meeting, but that meeting of the 11th she was there and then Mr Tsotsi's evidence, the suspension of the executives. Those, are only some of the most important issues I have here on Mr Tsotsi's evidence also gives me
10 the impression of Mr Salim Essa and the meeting with M Brown a meeting with Mr Salim Essa. For me, those are the issues that I am very keen to hear her evidence on.

ADV SELEKA SC: Shall I ask her Chairperson to start with the appointment of the Board members?

CHAIRPERSON: Ja, that is fine ja that is important to their appointment, I think start there because in terms of sequences start with the appointment of the 2015 Board.

ADV SELEKA SC: Yes.

CHAIRPERSON: She has given some evidence with
20 regard to what happened, what the position of the state of Eskom was when she was appointed in 2014, and then for the rest of 2014, until December the Board that was in existence was the one that was Chaired by Mr Tsotsi Soda, that Board left and then a new Board was appointed in December, Tsotsi was appointed, Mr Tsotsi was appointed

Chairperson.

Ja, that is the events around the appointment and the composition of committees of the Board and then we move in terms of sequence.

ADV SELEKA SC: Yes, Ms Brown, we understand from the evidence of Ms Mokholo and this is in regard to the appointment of Board members. That when the 2015 Eskom Board was appointed, members were appointed, which were appointed on or about 11 December 2014.

10 The normal practice of a database at DPE pulling names from the database and populating the Boards of the SOE was not followed, where instead you requested that an advert be published calling for members of the public to make themselves available to serve on the Board of Eskom. Is that your recollection as well, that is what happened?

MS BROWN: My most – well the adverts will add to the database. It is the first - well I have probably did not read her affidavit or did not think there was a problem when I
20 read the affidavit but I thought the advert was actually a good idea to add to the database because they had a database but the database did not necessarily give the desired effect year on year on, and I think even now, after I have left three years ago, we can see that the same thing is happening with the Board. So that is why I had the

advertisement.

ADV SELEKA SC: Yes, the question is raised in this context, because when you sit back and look at members of the Board that got appointed to the tongue, you see that some of them have, if not, most of the time, had some either previous connection or association with either Mr Salim Essa or the Gupta's and one wonders, but why not follow the database and do the advert and you asked this Board members, how did you get appointed?

10 They say well, I came across an advert in the newspaper and many of them were getting appointed for the first time to serve on the Board of an SOE. Do you think this was merely...[intervene]

MS BROWN: Many of them did not – many of them also served on Boards of SOE's prior and I think Advocate Seleka with due respect to you many of them were also not people who had anything to do with the Gupta's or with Salim Essa.

20 So I think your question in itself is quite loaded but having said that, I get involved at the beginning of the process, where I sign off on an advert. They decide what to criteria – the DPE decides on the criteria and then at the end of the process, I get involved again, when they present me with a list. I am not sure if you have asked every one of them of the Board members if they knew the Gupta's and

if you had and if you had the 13 of them and if you can measure how many of them knew the Gupta's or not. When I saw the newspaper article that you are referring to now, you are not referring to the newspaper article, but you are referring to the popular narrative.

When I saw that newspaper article, I started phoning them and one person asked me yes but who is Des Van Rooyen, I do not even know the man and it came to pass that three or four years ago, her husband did some
 10 work for MKMVA, that is how she got to know. Another person said to me, and I cannot remember who they are because it is a long time ago, another person said, well, I worked for a particular accounting company and I did the accounting work for the Gupta's computer company.

Does that mean that she worked for the Gupta's or she knew the Gupta's, somebody said, I met them at a wedding. You know, so I frankly, this is the kind of questions that I really would like to refute here now because I open up the process so that it is transparent. I
 20 open up the process to increase the database, the pool of people we can draw from, I open up the process, so that the process for being on a Board it is not closed in year ten and I am coming in year 15.

I actually got such a shock with that Board, those Board appointments that in 2018 I did something very

different. I actually asked all the companies, all the sector organisations like the black Business Council, business Leadership South Africa, etcetera, etcetera to send me three names. Not me personally send the department three names so that I could do it differently.

So that I am not accused again, of maybe not to Gupta's this time, but something else but that is what I did, I thought it was the right thing to do.

ADV SELEKA SC: Okay, now I know the person you are
10 referring to as having worked, or did an audit for the Gupta companies is Ms Miriam Cassim, but you have not mentioned Dr Ngubane, Mr Pamensky, Ms V Naidoo, Viroshini Naidoo and you are yet to get the affidavit of Mr Romeo Khumalo I understand from your advocate.

All the names have mentioned.

MS BROWN: I can respond.

ADV SELEKA SC: Okay, but can I continue ...[intervene]

MS BROWN: And neither can you answer on Pat Naidoo or Zithembe Khoza or, I mean they - you know, the point I
20 am – I am making the broader points that I would not know ...[intervene]

CHAIRPERSON: Hang on Ms Brown, I think Mr Seleka had not finished his point of question.

ADV SELEKA SC: Yes, what I want to say to you is this names I have mentioned the persons I have mentioned.

They say in their affidavits, what dealings they had with the Gupta's and or Salim Essa. My putting of this to you, is exactly to give you the opportunity for you to either refute as you say, or to explain whether or not you had knowledge of what they have stated in their affidavits.

So it is not in any way to cast dispersions on you, it is just a process of putting a version to you. If you understand what I am saying, then you can respond.

MS BROWN: I do understand what you say and my
10 previous profession was actually an English teacher.
Advocate...[intervene]

CHAIRPERSON: No, no Ms Brown I do not think that is
...[intervene]

MS BROWN: So, ...[intervene]

CHAIRPERSON: Hang on.

MS BROWN: I am sorry Chair.

CHAIRPERSON: Hang on, hang on. I think that is not fair
on Mr Seleka because I do not think that when he said - he
asked whether you understood, I do not think he was
20 saying that because he thought you did not understand the
English language.

I think what he was saying is, you might not understand the purpose of why he was putting these things to you, so I do not think he meant you did not understand the language.

MS BROWN: A huge apologies Chair, I have an unfortunate tendency to just jump at things.

CHAIRPERSON: Alright.

MS BROWN: Chair, let me please put this thing to you. As I said earlier, in the interest of transparency, I did want to open up the process and I did so. I did not – when they vetted the companies and when they vetted people, I did not think that they should be vetting the people for anything more than what they usually vet people for.

10 So the group of people who come to me have been vetted already. They not people who have not been vetted and when the issue got raised in the media, I then instituted a second conflict of interest process where I say you do it at the beginning when you are appointed, and then in the middle of the year you do another conflict of interest.

 And it is in that in that area that even though Mr Pamensky for example, and I remember this one very clearly. He listed that he was from Oakbay, I cannot
20 remember a Oakbay company, and this was a Gupta linked company. I asked him to resign or to choose that is what I asked him to do and he chose to resign, I think.

 So, yes, it was not something that I constructed in order to get a particular grouping of people in, I followed a process and if Ms Mokholo and I have no reason to doubt

her to say that I went beyond their database, then - and opened up the process, which I thought was a good idea at the time, clearly it had unintended consequences for me but that is the process that I followed.

ADV SELEKA SC: What, what...[intervene]

MS BROWN: And I actually did, I do not know what more to say about this process. I have spoken to this issue over and over in the media in explaining to everyone how the process happened and I am telling you this process as
10 well.

I, for example, also know that there are people who were not, who said they were not, they did not know the Gupta's but you see a bigger issue for me, is if the Gupta companies in terms of the PFMA if they were blacklisted, as the PFMA requires of National Treasury annually to blacklist these companies, my department would have picked it up in January, when Mr Pamensky said that he worked or he was the director of Oakbay they would have picked it up in January already and that is just using one
20 example. But yes, that is my only response that I have.

ADV SELEKA SC: Well, given the incident of 2013, and the media coverage of the Gupta's since then, do you think they needed to be blacklisted in order to be a red flag, any association of them to raise the red flag?

MS BROWN: I do I think you should actually, look I would

not for myself, but I think we should be able to - I mean, if you red flag anyone, for any reason, you must be able to give a fair, there must be a fair process. So that either they are able to defend themselves that they are doing the right thing, or it is put to them, or they are blacklisted, and they are then allowed to go and do this, go and context it in a court of law.

But having said that, I mean, this is how I would think any law abiding citizen would think about it, but
 10 having said that, I did not release all of them because they were in some way or the other. I did not fire them, because they were in some way or the other linked to the Gupta's because none of it was actually direct.

It was either through somebody – and I mean, I did speak to a number of them at the time and it was not - I did not think I should let them go, I should fire them because they were linked to the Gupta's.

ADV SELEKA SC: You mentioned earlier this resulted in unintended consequences to you. What unintended
 20 consequences were you referring to?

MS BROWN: Well, I am now being said the fact that I have opened up the process is the unintended consequences that I have - and I have lived with this for the last five years that I have appointed Gupta - in fact, the Public Protector makes that point that I have appointed

Gupta appointed or Gupta linked people to the Board.

ADV SELEKA SC: Did you have any relations with the Gupta's?

MS BROWN: I know the eldest brother, and I tried to work out remember his name earlier but I know none of the others. I have met the eldest brother, Ajay Gupta, about 13 or 15 or 10 years ago when I was MSC for Finance. I was on a trip to India with the then Premier and the Minister in the Presidency, Minister then Minister Essop Pahad, I met
10 him.

ADV SELEKA SC: That was long before you were appointed as the Minister of DPE.

MS BROWN: Yes, and he in fact on the day that I was appointed. The day I was sworn in, I showed my friends who were friends of mine from my province, I showed my friends that he Ajay Gupta was phoning me. I showed it to them on the phone and of course, it became a great story in the newspaper, but I did show them that he sent me a message or not send me a message he phoned me I did not
20 take his call because I was in a public place.

CHAIRPERSON: Well let us take the lunch adjournment now.

ADV SELEKA SC: Yes, Chair.

CHAIRPERSON: Okay, you may have forgotten to keep an eye on the time Mr Seleka.

ADV SELEKA SC: Yes, Chair.

CHAIRPERSON: We will take the lunch break now. We will resume at five past two and we adjourn.

ADV SELEKA SC: Thank you, Chair.

MS BROWN: Thank you, Chair.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Before you continue Mr Seleka I just want to say something with regard to Ms Brown's various
10 affidavits that she has filed. I was looking at some of them and I noticed

1. That one of probably the first one that she filed she complained that she had not been given the full statements or affidavits of the people who had testified or whose affidavits had been filed which she was expected to deal with in this regard I think Mr Saloojee was one of them; his affidavit and I think Mr Tlagudi if I am not mistaken.

So I just want to find out whether the commission did
20 ultimately give her full documentation because if some reason she was not given she should be given so that is I.

2. I see in one of her affidavits that she mentions having applied for leave to cross-examine Mr Jonas. Now it has been a long time I cannot always remember all the applications for leave to cross-examine that I have

dealt with and those that I might not have dealt with.
But I just do not want anything to fall through the
cracks. So I just want to check either from her or the
legal team whether on these two issues there is
anything that they – is still outstanding and maybe
other issues that I might not have picked up.

ADV LUSENGA: I can – I can assist Chair.

CHAIRPERSON: Yes.

ADV LUSENGA: Insofar as the information relating to the
10 three Denel witnesses is concerned the matter has become
academic we subsequently received all the information we
needed in respect of those transcripts.

CHAIRPERSON: Okay so there is no issue.

ADV LUSENGA: And affidavits.

CHAIRPERSON: Yes.

ADV LUSENGA: That issue.

CHAIRPERSON: Has fallen away.

ADV LUSENGA: Has fallen away.

CHAIRPERSON: Okay.

20 **ADV LUSENGA:** The application for the cross-examination
of Ubaba Mcebisi Jonas that application was tabled and
heard and was not granted.

CHAIRPERSON: Oh

ADV LUSENGA: Some time in 2019 thereabout.

CHAIRPERSON: Oh okay.

ADV LUSENGA: Yes.

CHAIRPERSON: Okay. So – but otherwise there are no other issues I have not picked up which are still outstanding that she has raised in one or other affidavit.

ADV LUSENGA: There is just one loose end if I can put it that way is that in respect of the three Denel witnesses Baba Tlakudi, Baba Riaz Saloojee and Mam Van Rensburg there was an application to give evidence against their versions as it were. Nothing happened of that.

10 **CHAIRPERSON:** Oh.

ADV LUSENGA: And I suppose that has become academic as she has been I think she will testify in any way.

CHAIRPERSON: Yes, no she will testify. She will testify ja.

ADV LUSENGA: (speaking over one another). She will testify it has become really academic.

CHAIRPERSON: Yes. No, no that is final she will be given a chance to testify. Okay no I just thought because I picked these things up I wanted to make sure that we know
20 where everything is in regard to them. Okay. Mr Seleka you may proceed.

ADV SELEKA SC: Thank you Chair. Ms Brown you can hear us?

MS BROWN: I can.

ADV SELEKA SC: Thank you very much. Back again to

the board with whatever called the Collared Connections Association or dealings with the Gupta's insofar as some of the board members had those connections. The – the reason again that – that question being put to you is exactly for you to give a response in regard to – insofar as that board was being called the Gupta board. But I want to take it further because on the evidence that we have we see that the boards that became as from December 2014 at least the boards insofar as we have examined the evidence
 10 seems to have been quite sympathetic to the transactions that were in relation to the Gupta owned entities or an entity relating to Mr Salim Essa. And in this case I am talking either Regiments which was later Trillian when Mr Eric Wood established Trillian with Mr Salim Essa and on the other hand in regard to the Gupta's you have the Tegeta Company that received some transactions from Eskom and pre-payments at least one of R659 million.

We will – those facts do not pertain to you but I am raising them with you in regard to dealing with the
 20 reputation and image of this board. I do not know whether were you aware of these facts in the manner in which the board handled matters that related to Tegeta on the one hand and Trillian on the other.

MS BROWN: They would give me a PFMA application if I were in any way to be involved in procurement. I received

no PFMA application in relation to those two matters. So I do not really have enough evidence on that.

I also do not have enough evidence that the only procurement matters that they oversaw had – was exclusively about the Gupta's. So I do not have – they send a PFMA application to me if it is over a certain amount of money and it is not just in the general operational budgets that they are allowed to have.

I do say though anything over R10 million had to be
10 secured by National – had to be overseen by National Treasury so I do not get to see it and that is in terms of the PFMA.

I do not have – look I have read it in the newspapers.

ADV SELEKA SC: Yes.

MS BROWN: I have asked the board about it but as far as I know those were not the only matters that they were seized with – with at the time in relation to procurement.

ADV SELEKA SC: Yes. Insofar as this matter is ...

20 **MS BROWN:** So...

ADV SELEKA SC: Sorry carry on.

MS BROWN: So no I do not – I did not have a – I do not have insight into the procurement matters.

ADV SELEKA SC: Yes. Insofar as the matters received media attention the specific matters of Tegeta, specific

matters of Trillian and you made enquiries with the board or shall I ask you rather, did you make enquiries with the board in regard to those specific matters? Not necessarily...

MS BROWN: I did.

ADV SELEKA SC: Ja not necessarily on procurement but on why are you making a pre-payment? Why are you making a decision of R1.68 billion pre-payment overnight? Why are you paying Tegeta a pre-payment of R659 million
10 also virtually overnight? And if you did what is – what does the board say to you?

MS BROWN: I might not have asked it whether it was done overnight because I do not think I remember having read that.

ADV SELEKA SC: Yes.

MS BROWN: But I did ask them why they had the – what happened around Tegeta? As far as I am concerned it was a direct sale from Glencore selling Optimum Mine to the Gupta's. So that was a direct sale.

20 I asked the executives about the pre-payment because they were in a – no I called them – I called them up and I asked the executives about a pre-payment and I was told that pre-payments was – it is something that they did in order to secure coal and they have done it before and they have done it often before.

So if I –

ADV SELEKA SC: Ja.

MS BROWN: That is my answer.

ADV SELEKA SC: Yes now those are issues we have raised with the executives – of the members of the board in fact and some of the executives. We – we will pursue that with them. Did you see – did you find – were you troubled by the media reports? Did you have concerns about the manner in which these transactions were done?

10 **MS BROWN:** I was very troubled by the media reports and that is why I asked them.

ADV SELEKA SC: Yes.

MS BROWN: What happened...

ADV SELEKA SC: Yes.

MS BROWN: Ja I – and so it did trouble me but I also you know now would like to just go off a bit.

The media reports one thing. The issue is that we had to investigate whether those matters actually happened.

20 **ADV SELEKA SC:** Yes.

MS BROWN: And so the DVG of Energy would be seized with this matter as to whether or not the board – whether or not it was a true reflection of the transaction.

So when I do my speech at this – at a budget hearing I actually would speak to issues of the cost of coal

and so forth and I think I even in one of my speeches I think I even – because of the responses from the executives and the responses from my own department I believed that the Tegeta Mine was giving us coal at R150 per ton and eventually it was R400 per ton which was much lower than what any other – what most other companies were giving.

So whilst I was – so to say it in a nutshell I was concerned about it. I was concerned about the media
10 reports on it. I raised it with them. They have given me answers that were sufficiently good to me because they said that they have done this before. They have done it with all the other mining companies – or with most of the other mining companies and I am – would like to just leave it there.

ADV SELEKA SC: I may come back to show you certain – to just put to you certain things on that but in the interest of time let us – let us go back to the meetings that were scheduled for the board in 2015.

20 There was a first meeting of the board scheduled for the 26th of February 2015. You would recall that that was cancelled on the basis that ...

CHAIRPERSON: Mr Seleka.

ADV SELEKA SC: Yes Chair.

CHAIRPERSON: Is it oversight or is it deliberate to skip

the beginning of the board's soon after its appointment.

ADV SELEKA SC: The sub-committees?

CHAIRPERSON: Ja.

ADV SELEKA SC: It is not an oversight Chair.

CHAIRPERSON: Okay.

ADV SELEKA SC: I am waiting for a document to be printed out for you.

CHAIRPERSON: Alright. Okay alright. You see I – it is just that I like it when incidents or events are dealt with in
10 terms of the sequence in which they happened.

ADV SELEKA SC: Yes.

CHAIRPERSON: Because it makes it much more easier but if – if you need some document before you can deal with it it is fine.

ADV SELEKA SC: Yes, no.

CHAIRPERSON: Ja.

ADV SELEKA SC: It is a strategy of some sort. Yes Ms Brown I will come to that issue the Chair is drawing to my attention but there was a meeting you would recall – a
20 board meeting scheduled for the 26th of February 2015.

This meeting Ms Mokgolo would have told you about a call from the President – President Jacob Zuma at the time. Can you recall that in regard to this?

MS BROWN: Yes I recall the meeting.

ADV SELEKA SC: Yes.

MS BROWN: From her testimony. I recall the meeting from her having told me. I do not recall the same incidents that she says but I recall the meeting.

ADV SELEKA SC: Yes well you will give the Chairperson your recollection in a short while but the evidence goes along these lines.

That Mr President had – President Jacob Zuma at the time called her and told her that he was trying to get hold of you. The long and short is that he wanted the
10 meeting – the board meeting of Eskom scheduled for the 26th to be – to be either postponed or cancelled and that she should get hold of Mr Tsotsi to convey that message which is what she did and Mr Tsotsi wanted to know from her for what reason should the meeting be postponed or cancelled. She was not given an answer but she says reluctantly to him that it is the President who wanted the meeting to be postponed.

Please insofar as you can recall and particularly her reporting to you about this meeting or the cancellation and
20 the request from the President please relate to the Chairperson your recollection of the events.

MS BROWN: I returned from my trip abroad. Remember that somebody stands in for me when I am out of the country and it is never my Deputy Minister. I do not recall who it is who stood in for me that day. That I think it was a

three day trip that I was on.

When – according to Ms Mokgolo's statement she says that I said when she told me about meeting I did not look perplexed or anything. I – in fact she used the term which is not in my lexicon eish or eish or what – however you say it but she used that term she said I said.

Now I want to refute that I used that term.

ADV SELEKA SC: Ja she ...

MS BROWN: Because it is just not in my languages. I
10 never use the term. Secondly I use very few slang words. Secondly I – she said I did not – and I am assuming she did not use the word perplexed but I am assuming that she meant that I did not look surprised at all.

CHAIRPERSON: Maybe – I am sorry Ms Brown. Let me just tell you the impression I got from when she gave evidence in terms of your reaction and my impression of what your reaction was based on what she was saying maybe wrong but the impression I got was that you were thinking and this is not what she said – my impression. You
20 were thinking something like oh maybe that should not have happened. It was not something you – you were very pleased about. That was my impression.

MS BROWN: No of course not.

CHAIRPERSON: That was my impression. It is not what she said but when she gave evidence that is the

impression I got.

MS BROWN: I – Chair I was not pleased with it because firstly I do not think that any of us unless there is a good reason and when I say us I mean anyone in the executive should not be cancelling and interfering in board meetings.

I did not stress to Ms Mokgolo my view. I – because I did not think it was right to express my view of my principle to my

MS BROWN: Officials.

10 **MS BROWN:** Official.

CHAIRPERSON: Ja.

MS BROWN: So I did not express it at all. But my view is that they should not be cancelling anyone's meetings especially board meetings. It then becomes an issue of interference.

CHAIRPERSON: Well maybe – maybe I got the right impression even though she did not say – she did not say you were not pleased or anything but it looks like I got the right impression. Okay Mr Seleka.

20 **ADV SELEKA SC:** Yes.

CHAIRPERSON: Well you were still – I interrupted you while you were still saying something and I am sorry about that. If you still remember what you were still going to say you must do so but otherwise Mr Seleka will remind you of what his question was and then you can add if you want to

add.

MS BROWN: I am long winded Chair please just continue.

CHAIRPERSON: Okay Mr Seleka.

ADV SELEKA SC: Yes that is – that is alright. Okay Ms Brown you were talking more about – I mean your response was about refuting what she is saying but I would like you to tell the Chairperson what is your recollection and what you – what did you do in regard to what you heard the President had requested.

10 **MS BROWN:** I cannot remember if I did anything. I might have as it would be my nature at the next meeting that I met the President I might have said something about it.

ADV SELEKA SC: Did the President speak to you?

MS BROWN: But I cannot remember. No the President did not speak to me about the cancellation of that meeting at the time because remember he could not get hold of me.

ADV SELEKA SC: Yes.

CHAIRPERSON: But you also said that...

MS BROWN: And he could not get 00:23:06.

20 **CHAIRPERSON:** Okay please continue.

MS BROWN: And he could not get hold of my Deputy.

CHAIRPERSON: You said that you would have had a colleague in the cabinet acting in your position as acting Minister of Public Enterprises during your absence from the country and you said you cannot remember who it was. I

am just surprised that in terms of the evidence that we have been told there is no suggestion that the then President had looked for the acting Minister to speak to him or her but had looked for a Deputy instead when he could not get hold of you. But you might not be able to say anything about that but your recollection is clear that there was an acting Minister.

MS BROWN: Oh there always is an acting Minister.

CHAIRPERSON: Yes.

10 **MS BROWN:** When a Minister leaves.

CHAIRPERSON: Yes.

MS BROWN: And the assumption is that the acting Minister will work with the Deputy Minister.

CHAIRPERSON: Yes.

MS BROWN: Because the Deputy Minister does not have the same delegated authorities.

CHAIRPERSON: Yes.

MS BROWN: That the Minister would have.

CHAIRPERSON: Yes. Yes.

20 **MS BROWN:** But I do not – I really do not know what – what happened.

CHAIRPERSON: Ja okay. Mr Seleka.

ADV SELEKA SC: Yes. I think you were mentioning that in the context of what Ms Mokgolo says President Zuma said you are in charge that she is in charge if you are not

there.

MS BROWN: No but I mean she is an official. She is in charge – she is an accounting officer.

ADV SELEKA SC: Yes no.

MS BROWN: I am the executive authority.

ADV SELEKA SC: Yes no I understand I am saying...

MS BROWN: I do not – I really do not know any of the conversation that happened between the President then and Ms – the acting DG.

10 **ADV SELEKA SC:** Yes. Yes so you are correcting the statement that she says that President Zuma would have made to her which is when she said the Minister is not here the President said to her but you are in charge – you are the DG. You are the acting DG you are in charge. Is that what you are seeking to correct?

MS BROWN: No I am not. I am saying that she is an accounting officer.

ADV SELEKA SC: Yes.

20 **MS BROWN:** I do not know the conversation that the President and her have had. So I cannot say that that is what the President said at the time. And she is an accounting officer but she does not have responsibility over the board. The only person who can speak to the board is through a delegated authority given to me by the President to do one part of his large portfolio of everything

and that is to be the Minister of Public Enterprises that is the only – so I am the one who speaks to the Chair. But because the President could not get hold of me he then spoke with Ms Mokgolo.

ADV SELEKA SC: Yes.

MS BROWN: Mokgolo.

ADV SELEKA SC: But you personally leaving aside the incident regarding the President's call to Ms Mokgolo were you aware that there was a meeting of the board of Eskom
10 scheduled for the 26th of February?

MS BROWN: No. I would have known the board member – the board meetings unless it has something to do with me. The board meets regularly it meets the committees meet all the time. I do not know when they meet. They do not send me a schedule of our meetings. I do not request it from them either.

ADV SELEKA SC: Yes. Now...

MS BROWN: The board acts as a – the boards acts as an entity on its own. It actually has its own legislation as well
20 – its own Act.

ADV SELEKA SC: Yes. Okay let us – let us move on further. That meeting gets to be cancelled as the message conveyed by Ms Mokgolo to Mr Tsotsi ultimately. Mr Tsotsi then gets to be called to a meeting with the President in Durban on Sunday the 8th of March 2015. In that meeting

he finds Ms Dudu Myeni according to him.

CHAIRPERSON: Are you deliberately skipping this – the 6th Mr Seleka?

ADV SELEKA SC: The 6th?

CHAIRPERSON: Or is it oversight?

ADV SELEKA SC: No that is Mr Linnell.

CHAIRPERSON: And Ms Dudu Myeni.

ADV SELEKA SC: Yes.

CHAIRPERSON: In Pretoria.

10 **ADV SELEKA SC:** Yes I will add it Chair.

CHAIRPERSON: Ja.

ADV SELEKA SC: I will certainly add it. I was just focussing on Mr Tsotsi's version.

CHAIRPERSON: Because the discussion in that meeting.

ADV SELEKA SC: Yes.

CHAIRPERSON: Which did not have Mr – which Mr Tsotsi did not attend is important.

ADV SELEKA SC: Yes.

20 **CHAIRPERSON:** For purposes of establishing what the Minister may have known about the subject before that meeting between Mr Linnell and Ms Dudu Myeni happened.

ADV SELEKA SC: Yes. Okay. Let me – let me add that factor as well or facts Ms Brown.

CHAIRPERSON: Or maybe I can do it for you then she can deal with both.

ADV SELEKA SC: Yes.

CHAIRPERSON: Ms Brown the evidence that I have heard from a certain Mr Linnell is that on the 6th of March 2015 he was – he got a call from Ms Dudu Myeni who in effect asked her – asked him to drop everything and he was in Cape Town and travel to Pretoria because the President according to Ms Dudu Myeni to meet, have a meeting with him. He dropped everything and flew to Pretoria. Had a meeting with Ms Dudu Myeni. The understanding was that
10 the three of them were going to the meeting with – the two of them were going to a meeting with the President, and at that meeting of the two of them, because ultimately, they did not meet with the President on that day.

Ms Dudu Myeni said there needed to be an inquiry into the affairs of Eskom and the President, I think, wanted an inquiry and she had recommended that that inquiry should be done or could be done by Linnell.

Do you know whether, as at that time or prior to the 6th of May, you have any recollection whether the
20 President may have had a discussion with you about any need for an inquiry into the affairs of Eskom?

ADV SELEKA SC: The 6th of March, Chair.

MS BROWN: Are you asking about prior to the 6th of May?

CHAIRPERSON: Yes, prior to the 6th of May.

MS BROWN: Okay.

CHAIRPERSON: Yes, prior to the ...[intervenes]

MS BROWN: No, I do not.

CHAIRPERSON: And on the 6th ...[intervenes]

MS BROWN: No, I do not.

CHAIRPERSON: And on the 6th of May, you have not – you had no such discussion with the former President?

MS BROWN: No, I did not.

ADV SELEKA SC: May I correct something? It is March.

CHAIRPERSON: When... The 6th of March 2016, okay.

10 When did you hear for the first time about this supposed need for an inquiry into the affairs of Eskom in 2015 if you are able to recall?

MS BROWN: You see, Chair, I had a view that since – it did not matter what the existing board and executives wanted to do. They never – we could never – there was never a plan with strategic blocks to get us to a point where we can actually say we are going to be dealing with load-shedding and the liquidity issue. They never got into those blocks.

20 So I always had a view and initially I thought that view would be a successful view through the War Room that we should have an investigation but the investigation in the War Room seemed to be quite a technical one. It was not about dealing with the nitty-gritty of us dealing with the issue of load-shedding or Eskom

dealing with the issue of load-shedding.

So I heard from somebody's testimony, I cannot remember, that the President in the 8th Meeting then says that he will call me and I assume that he did call me. And I was quite happy to have an inquiry because I wanted an inquiry to understand what the problem was and how we get out of the problem.

And I did not want it to be with anybody that knew Eskom who did work for Eskom. So if the President
10 tells me in his discussion with me or did I tell him in the discussion with him, I cannot tell you but I did not do it before the 6th of March.

CHAIRPERSON: Okay.

MS BROWN: So ...[intervenes]

CHAIRPERSON: No, that is fine. But I hear you say that you assumed that he told you or called you after the meeting of the 8th of March. Is that because you have no recollection whether after that meeting of the 8th of March he did raise the issue with you?

20 **MS BROWN:** I do not have a recollection of it.

CHAIRPERSON: Okay.

MS BROWN: At all. I just know that the President was seized with the matter of the load-shedding.

CHAIRPERSON: Yes. Okay. But you are – what you have said is that in your own mind you did think that it

would be necessary to have some investigation of some kind into what the problems were at Eskom and how they could be addressed successfully.

And initially you thought they would – the War Room might be the right vehicle for that but then after some time, you thought that might not be working but in your mind the idea ...[intervenes]

MS BROWN: It was just... Yes ...[intervenes]

CHAIRPERSON: ...investigations was something you were
10 thinking it could be a good idea.

MS BROWN: Yes.

CHAIRPERSON: Okay alright. Mr Seleka.

ADV SELEKA SC: Yes. Ms Brown, do you recall whether in your conversation with the President there was any talk about any suspension or stepping aside of the executives?

MS BROWN: No, not at all. I do not recall that at all. In fact, I think the first time I heard about it was the – the – if - I thought a lot about this particular issue. I think the first time I heard about the suspension, the stepping aside. I
20 never heard about the suspensions. I heard about the stepping aside of the executives.

It was actually a – when mister – I do not recall a letter coming to me from the chairperson at the time to invite me to a meeting. I think what he did was call me. And one of the issues that he raised with me was the issue

of having an inquiry and he told me...

I must tell you, I was very hurt by it because I was not called and I was the designated Minister but maybe in retrospect it was not such a bad idea. But the issue is that I think...

I cannot remember but it might be that he said and in order to do this inquiry and I was happy. Look, when I heard the inquiry I was very happy because I wanted this inquiry.

10 I did to know where we would get the money. I did not know if we had the money but I was happy for the inquiry. But I think he could have told me but Chair, you know, it is seven years ago.

I do not have a – I cannot tell you exactly. It could also be that as they walk me, they meet me at the car, the chair of the portfolio – sorry, the chair of the ...[intervenes]

ADV SELEKA SC: Of the board.

MS BROWN: ...of Eskom, meets me at the car when I
20 arrived at Megawatt Park and then walks me into the meeting. He could have also told me there but somehow I must have known that there was a meeting that I was called to on the 11th of March to talk about the inquiry and the stepping aside.

Now the only person that I spoke with. Between

the 8th and the 11th, I could have spoken to the President. The 9th or the 10th or the 9th I could have spoken to the chair. I am just not sure who I spoke with but the chair must have invited me to the meeting.

I would very like if the – I mean, I am not sure if the Commission still has investigators, that they had and go and find out if a letter was written to me because I do not have – I do not have a recollection of a letter being written to be me.

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

MS BROWN: But that might just be a fact that my memory... I might – I just do not remember.

CHAIRPERSON: H'm. I think Mr Seleka will talk to you about the meeting of the 8th but at the end of that meeting, according to Mr Tsotsi and I think Mr Linnell, both of whom have testified before me, at the end of the meeting that the people concerned had with the President, the President said to Mr Tsotsi:

20 You, Mr Tsotsi, will talk to the board about these issues and I will talk to the Minister. That was the 8th. And then on the 9th there was a meeting of the board and at that meeting, as I recall, Mr Tsotsi told the board about the need for an inquiry and I think he said he did tell them that he had been to a meeting with the President where this issue was discussed.

And it seems he did not tell them about suspensions, he just told them about the inquiry at that stage. But apparently, there was some dissatisfaction on the part of some members of the board or the board or they had questions and they preferred that the Minister should be the one who comes to meet with the board and clarifies the position.

And Mr Tsotsi says he communicated with you and I do not think he says he wrote to you. I think he says
10 he must have called you and arrangements were made for you to then come and address the meeting on the 11th, the meeting of the board.

That is what he has said in brief. And then you came to the meeting. Does that, more or less, accord ...[intervenes]

MS BROWN: Ja, perfectly. It is perfectly plausible Chair.

CHAIRPERSON: Yes, yes.

MS BROWN: And it is perfectly plausible that the President could have called me.

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

ADV SELEKA SC: Yes, thank you. Thank you, Chair. In that... Then, Ms Brown, in the meeting of the 8th, which is attended by Mr Tsotsi in Durban, he says in his evidence that he is told by Ms Myeni that there should be an inquiry at Eskom because of Eskom's financial stress and poor

technical performance.

She elaborated further to say, three executives should be suspended and according to Mr Tsotsi, she mentioned the names being Mr Montana, Mr Koko and Mr Dan Marokane. Three executives to be suspended. And that is the message Mr Tsotsi comes out with from that meeting and on the request of the President has to take it to the board.

So to the extent that the President might have
10 spoken with you, can you recall whether this particular – these particular factors were part of the conversation between you and the President?

MS BROWN: I cannot remember the President speaking to me about a suspension or step asides but I do remember that somewhere from – in fact, I was in Pretoria. I remember I was in Pretoria and I think I could have...

Mr Tsotsi and I could have had a conversation about me coming to the meeting on the telephone and that he is supporting the inquiry and I was, of course, happy for
20 the inquiry with tight terms of reference.

It was the only thing that I had, tight terms of reference, short turnaround and we know we are going to be bashed by the media but at least we will know what to do.

ADV SELEKA SC: Okay.

MS BROWN: And I think it is in that context he then speaks about the... to this step aside. I might... You know, I have had a view on the liquidity matters throughout the morning. I have spoken to you about the fact that Eskom had no money. I mean, I am using just words. So that is more likely where I could have heard it because I...

Or in the presentation of whoever – Mr Tsotsi chairs the portfolio. Look, I am also speculating Chair. You can hear that because I do not know absolutely for
10 sure where I have heard about the suspensions of the members of the executives. The executives members, sorry.

CHAIRPERSON: Ja.

MS BROWN: But having said that. It could be either in the conversation when he invited me to the meeting, as he walks me to the meeting room, as he introduces the meeting. That becomes part of the conversation. It could be anywhere.

CHAIRPERSON: Well... Before you proceed Mr Seleka. I
20 just want you to double check whether it is accurate to say, if I understood you correctly, that Mr Tsotsi said Ms Dudu Myeni mentioned the names of the three executives. If it is so, that is fine.

My understanding was that he said Ms Myeni mentioned to the portfolios because he was the only one

who knew who occupied which portfolios and then he may have mentioned the names. But if it is something that you have checked, then it is okay.

ADV SELEKA SC: Yes, I am reading ...[intervenes]

CHAIRPERSON: Ja... No, that is alright then.

ADV SELEKA SC: Yes.

CHAIRPERSON: So but the ...[intervenes]

MS BROWN: Can I just say something?

CHAIRPERSON: Ja. Yes.

10 **MS BROWN:** Dudu Myeni. I did not know Dudu Myeni was involved in this meeting.

CHAIRPERSON: Yes.

MS BROWN: That I am absolutely clear of. I thought it was a meeting between him and Mr Linnell and ...[intervenes]

CHAIRPERSON: The President.

MS BROWN: ...the President.

CHAIRPERSON: Well, the evidence that has been given before me by both Mr Tsotsi and Mr Linnell is that the
20 people who attended that meeting were Ms Dudu Myeni, Mr Tsotsi, Mr Linnell and Ms Dudu Myeni's son but the son, they said, was not participating in the discussion but he was there.

Mr Linnell has also said that there was somebody else who seems to have been a Mr Jabu

Mashinghani ...[intervenes]

ADV SELEKA SC: That is right, Chair.

CHAIRPERSON: ...who was also present. I do not know whether Mr Tsotsi was initially not sure whether he could remember ...[intervenes]

ADV SELEKA SC: Yes.

CHAIRPERSON: ...that Mr Mashinghani was there but Mr Linnell was quite clear that he was there because he said he provided some documents relating to Eskom. So
10 those were the people that were there and both Mr Linnell and Mr Tsotsi say, initially, these people had a meeting without the President and discussed the various issues.

And then later on they moved into another room at the President's Durban official residence and in another room then they had a meeting with the President. So that is the evidence we have heard.

And I think in a statement to the Portfolio Committee in Parliament, Ms Dudu Myeni also confirms that she was at that meeting, I think.

20 **ADV SELEKA SC:** Yes.

CHAIRPERSON: She disputes that her son was there but she accepts that Mr Tsotsi was there and Mr Linnell was there. And I do not know, I think she disputes that the President... I do not know if she disputes that the President took part in the meeting.

ADV SELEKA SC: She disputes the President taking part but she concedes the President was ...[intervenes]

CHAIRPERSON: *And him to read(?)* or something.

ADV SELEKA SC: Yes.

CHAIRPERSON: Ja.

ADV SELEKA SC: And she disputes the purpose of the meeting.

CHAIRPERSON: Ja. So that is the just the gist of who was there. Bu the question that Mr Seleka had asked you, 10 which I think you may inadvertently not have responded to, I think was whether to the extent that the President may have spoken to you between the 8th of March and the 11th, whether you have any recollection of him talking to you about the suspensions or stepping aside. But you may have responded but somehow I thought you might not have responded. You want to confirm what your position is?

MS BROWN: I am just not sure whether he spoke to me about suspensions.

CHAIRPERSON: H'm. No, it is fine.

20 **MS BROWN:** I do not know. I cannot... As I said earlier, I have an idea that Mr Tsotsi spoke to me about suspensions ...[intervenes]

CHAIRPERSON: Ja.

MS BROWN: ...on the night when he called me because it was at night when he called me ...[intervenes]

CHAIRPERSON: Ja.

MS BROWN: ...to tell me that the board wanted to see me.

CHAIRPERSON: Well, if he called you on the 9th – if he called you to say the board wanted to see you, he must have called you then either on the 9th because the board had a meeting on that day or on the 10th. So it would be one of those but it might not matter which one of those it was but it would have been one of those.

10 **MS BROWN:** Yes.

ADV SELEKA SC: Yes.

CHAIRPERSON: Okay. Mr Seleka.

MS BROWN: Alright, Chair.

ADV SELEKA SC: Then Ms Brown, you agreed to come to the meeting on the 11th of March 2015 to meet with the board. You were there with Ms Makholo, the acting DG. And when you arrived, the meeting started. Two of the executives, after you had arrived – sometime after you had arrived, were asked to recuse themselves from the
20 meeting, for a lack of a better word, and that was the CE and the FD. The board members seemed to recall that it been you and/or you Mr Tsotsi asking them to step out. Do you recall what happened?

MS BROWN: I cannot recall. I recall what happened before that meeting.

ADV SELEKA SC: H'm.

MS BROWN: Before the meeting started. My immense irritation was in action around above *that was in the room(?)* but – and then other things, of course, as well and then... I do not whether it is me or Mr Tsotsi who asked.

ADV SELEKA SC: Who asked them to go out... Then the members said you spoke with them about the inquiry. In the discussion that they say was in accordance or confirmed what Mr Tsotsi had told them on Monday, the
10 9th of March 2015.

CHAIRPERSON: Well, maybe, what if we put it this way Mr Seleka?

ADV SELEKA SC: Yes, Chair.

CHAIRPERSON: You addressed the meeting of the board. Is that correct?

MS BROWN: I did.

CHAIRPERSON: Is it correct that in your address to the board, you supported the idea of an inquiry into the affairs of Eskom?

20 **MS BROWN:** I think Chair.

CHAIRPERSON: Is it correct that you also said that there were certain portfolios within Eskom that needed to be the subject of investigation?

MS BROWN: No.

CHAIRPERSON: You did not?

MS BROWN: I clearly dealt with certain areas.

CHAIRPERSON: Yes.

MS BROWN: The only areas that were problematic in Eskom.

CHAIRPERSON: Yes. When I ...[intervenes]

MS BROWN: And I dealt with it. The minutes is written – they are written. I dealt with it in lay person's terms.

CHAIRPERSON: No, no. That is fine. When I said portfolios.

10 **MS BROWN:** Yes.

CHAIRPERSON: That might not be the term you used but certain areas in the operations of Eskom that you were concerned about. Is that correct?

MS BROWN: Absolutely.

CHAIRPERSON: Yes. Is it correct that there were four such areas that you were concerned about?

MS BROWN: Yes.

CHAIRPERSON: Yes.

MS BROWN: Two areas.

20 **CHAIRPERSON:** Ja, do you recall which ones they were?

MS BROWN: I can list them in as I have put it to them.

CHAIRPERSON: H'm?

MS BROWN: I was concerned about the financials, the cash flow of Eskom. I was concerned about the costs overruns and under performance at Medupi and Kusile. I

was concerned about load-shedding and that had everything to do with maintenance and all of that. And there was a third area that I was concerned about that I cannot remember now.

CHAIRPERSON: Okay.

MS BROWN: But that was – it was the costs overruns on Medupi and Kusile when they decided in 2007 involve these things – power stations which would have brought online 4800 megawatts. It was now almost ten years later,
10 almost ten years later. Not a single unit has come online or even been synchronised. So. And so that – and there was a fourth area ...[intervenes]

CHAIRPERSON: Yes.

MS BROWN: ...that I also... I cannot remember the fourth area but it was the – those were the definite areas that Eskom was in crisis with as far as I was concerned.

CHAIRPERSON: Yes. And those areas were, as far as you are concerned, were supposed to be the subject of the investigation that you were in support of. Is that right?

20 **MS BROWN:** Yes.

CHAIRPERSON: Yes. Now ...[intervenes]

MS BROWN: Yes, Chair.

CHAIRPERSON: ...what has been said is that you having identified the areas which were cause for concern to you, you also said that although you could not instruct the

board what to do, you said something to the effect that the heads of those areas which might be like portfolios as far as the evidence of Mr Tsotsi is concerned, the heads of those areas should step aside or step down. He might not have used the word suspended, should be suspended but step aside or something like that.

The understanding of the members of the board who have given evidence here is that you were saying that although you could not instruct the board what decisions to
10 make, you thought that the heads of those areas should not be there when the investigation took place. Does that accord with your recollection of what you said?

MS BROWN: Not at all Chair.

CHAIRPERSON: Yes.

MS BROWN: In fact, I have been listening to quite a number of board members who says because I said that these were the areas that they had to focus on, that I in essence I told them that these are the people who are supposed to leave. I heard a number of them say that.

20 **CHAIRPERSON:** Yes, yes, yes.

MS BROWN: I... And look, I am sure the minutes and I am sure the investigators must have gone into whether I said it or not. I do not think I would have said the heads of these things must be allowed to step aside. What I did say, I think, was – and I saw it in Ms Molefe ...[indistinct –

word cut out] doubt that she is probably right in what I said. I said – and I – this must happen as quickly as possible, so it has the three months effect and what needs to – irrespective of whether you ask executives to step aside or not. I do not recall it but I am sure if – as many people have said that that is how they understand it, that might be true but I must tell you that if they were asked to step aside or not would not have mattered to me because the thing that mattered to me was that there is – without

10 interference from the executives because they were there all the time, why are we still in load shedding, why was Medupi still behind schedule? Because of that I did not want them involved in it necessarily but I did not necessarily want them to step aside or to – I just did not want – that is why I did not want any of the popular companies who normally do the work for Eskom to do the work for Eskom because we were not – we had investigation after investigation and we still had no success on it. So, I mean, that for me was the issue.

20 So those were the areas that mattered to me. Whether the executives were asked to step aside or not I do not think I had a view either way but as long as they are not involved in it, that is all. I just did not want them to be involved, I wanted a fresh eye on this. In fact I use the term a fresh eye, a quick deep dive into what the problem

is and how we can resolve it.

CHAIRPERSON: Well, I can say to you that, if I am not mistaken, almost every member of the board who has testified has said that you said you could not instruct the board what to do but that you did express I think a view that the executives who were heads of the – we called them portfolios when those board members were here giving evidence, the heads of those – the executives were heads of those portfolios, should step aside. I think what
10 you are saying is you are not certain whether you said that but you think – you are inclined to think you would not have said that but you are not certain whether you said it or you did not say you said it. So I am just saying almost every member of the board who has testified has confirmed along those lines but you have said you are not sure, you are inclined to think you would not have said it. I think, Mr Seleka is shaking his head and maybe he thinks that I am not putting it as strongly as the board members put it before me. Mr Seleka?

20 **ADV SELEKA SC:** Yes, no.

CHAIRPERSON: You go ahead.

ADV SELEKA SC: Yes. Ms Brown, it is a little bit higher than the Chairperson is putting to you because some of them have said although you did not direct them to suspend the four executives, the minister felt that the

presence of the four executives might hinder the investigation. One has said the seed of the suspensions was blunted by the minister and Mr – I am now reading from Dr Ngubane, he says:

“After the meeting with the minister it was clear that government as shareholder of Eskom required the inquiry to proceed and that the four executives had...”

And he put it in inverted commas.

10 “...step aside whilst the inquiry was underway.”

Mr Khoza in his affidavit says:

“It was clear that the minister wanted us to read between the lines.”

CHAIRPERSON: Yes, I was about to say that, ja.

ADV SELEKA SC: Yes.

CHAIRPERSON: Ja, Mr Khoza said – and it was in response to a question from me, said well, although the minister said he could not instruct the board, what are you saying, are you saying you could read between the lines
20 that what she wanted namely that the executives concerned should step aside or be suspended? He said yes, we could read between the lines, that is what the minister wanted. You might not be ...[intervenes]

MS BROWN: I heard all of that, Chair. I have heard all of that. That is why I am saying to you I have heard all the

board members say that I said what you have said. The issue for me, and I say it again, it did not matter if they were there or not. I just – look, firstly, I did not know because I did not engage with those officials. So I did not really know the officials except for the Group CEO who was the DG in my department before I left – before he left for Eskom. So I knew him quite well. Well, not well, but seven months at least.

So, Chair, I have heard all the board members say
 10 that the minister said this and the minister said that. I can – you know, I concede that as long they were not involved in the inquiry, I can concede either way. I mean, I do not know what you would like me to concede to at this point because I – if you say to me Ms Brown, please concede that you instructed the board to suspend the four executives.

CHAIRPERSON: No, no, no, we ...[intervenes]

MS BROWN: What are you asking to accede to?

CHAIRPERSON: No, no, nobody is asking you to concede
 20 to anything.

MS BROWN: I think I must go into law after this.

CHAIRPERSON: Nobody is asking you to concede anything, all we want is for you to just tell me truthfully and honestly what you remember to have happened, so – and the reason why Mr Seleka ...[intervenes]

MS BROWN: It is exactly what I said.

CHAIRPERSON: The reason why Mr Seleka wanted to refer to the specific members of the board was that he wanted you to have a clear picture that they seemed to be very clear in their minds, in their minds, what you said and I think, you know, as you might recall, Mr Tsotsi subsequently had tension with the board. But on this, both Mr Tsotsi and the board, the other board members, appeared to be on the same page. But I guess that you
10 are not able to say anything more than that, you do not – you say you do not recall for sure but I think you say you may have said so.

MS BROWN: I may have – I gave the – I can tell you for absolutely sure that the areas I outlined, that would also be the areas of the inquiry. Did I want the board – the executives involved in it? I do not think I had an express view either way. If they were there, as long as they were not involved in the investigation, that would be fine. If they were involved in the investigation it would not serve
20 us – I do not think it would have served us well. So did I want them to step aside? Not necessarily. If they stayed on it would have been fine, if they were asked to step aside for three months in the interest of stabilising the company, that would probably also have been something I could – I could have alluded to because nobody says I said

– because I listened to all of them too, nobody said I said that they must step aside for three months because that was exactly the duration of the period.

CHAIRPERSON: Well ...[intervenes]

MS BROWN: That the inquiry was going to happen.

CHAIRPERSON: Well, I think what is important to highlight, Ms Brown, in regard to what you say and what the board members say is that they are quite clear in their evidence, I think all of them, if I am mistaken, who have
10 given evidence, that whatever you said, it was clear that you wanted – you wished to have the executives suspended. I am saying you wished but maybe Mr Seleka will say you wanted the executives to be suspended. They are all quite clear on that. There is no contradiction among themselves. You say you may have said but you also say you did not want them to step aside as long as they did not interfere but they may – I think there is contradiction between what you say when you say you did not want them to step aside, there is contradiction between
20 what you say and what the various board members say because they are quite clear but I am just highlighting that so that you know what the difference is between you and the board members. They are quite clear that is what you wanted, you are saying that is not necessarily what you wanted as long as they did not interfere, the executives.

Okay, Mr Seleka?

ADV SELEKA SC: Yes. Ja, she wants to comment.

CHAIRPERSON: Oh, did you want to say something, Ms Brown, in response?

MS BROWN: No, no, I – no, I think it is something you will have to adjudicate, Chair, when you make your recommendations.

CHAIRPERSON: Okay. No, that is right. Well, that was the point why I am highlighting it so that you can see, ja.

10 **MS BROWN:** Yes.

CHAIRPERSON: Mr Seleka?

ADV SELEKA SC: Ms Brown, then there is evidence that as you were ending your discussion with the board – and sorry, I am reminded, I – and you have already said about your involvement in the operations, you accept that was wrong, so I am not going there, I want to deal with this aspect, that you were telling the board you must make the decision or hang around. Do you remember that?

20 **MS BROWN:** I find it quite an odd thing that they say that because I normally just leave but I do not know why I would have hung around to wait for them to make decisions and why it was so urgent because if – I mean, I think all I needed was an agreement from the board that they would have an inquiry, that we were going to come to the end of load shedding, that is all I wanted. So I am not sure – I

really – my habit is never to hang around because I do not want to talk to the boards individually, board members individually and it is not because I do not like them but because a new inquiry happens and they will say while I was having coffee with the minister she told me I have got to wear a gold shoe and that will be law. So I try never to hang around and I do not know why I hung around that day.

CHAIRPERSON: Well, my understanding is that one or more of the witnesses said that you said something to the
10 effect that you would hang around so that if they needed guidance you would be at hand, as it were, and it is not just the board members who said that, if I recall correctly, I think your own acting DG said exactly that as well, said that is what you said and I think she said, if I am not mistaken, you went to have coffee or something in the vicinity and she did not want to hang around – that is not the term she used to describe what she did not want to do but she did not want to stay because she said she had a lot of work, she left you and I think went back to the office
20 but you remained behind because you had said to the board you would hang around if they needed you. Mr Seleka, is my recollection correct on this?

ADV SELEKA SC: It is correct, Chair, we need to add, the hanging around actually was at Eskom itself.

CHAIRPERSON: Yes, at Eskom, ja, ja.

ADV SELEKA SC: Yes.

CHAIRPERSON: I was saying in the vicinity of the venue of the board meeting.

MS BROWN: I have no reason to deny – to doubt that they have said it, I do not know why I would hang around but if they said it then I probably did hang around. Chair, I genuinely do not know why I would hang around if they had any more questions unless somebody said in the meeting and completely forgot about it that can you please just
10 hang around so that we can discuss it in case we need – and they only person who could have said that would have been the Chair to me but if he says he did not say it, I cannot recall that I was hanging around. I mean, I have other portfolios too, so I actually do not know what to say to you. I can just say that I do not remember whether I hung around and if I did hang around, did something come and walk me out to my car? I cannot remember.

CHAIRPERSON: Mr Seleka?

ADV SELEKA SC: Thank you, Chair. The other intriguing
20 thing, Ms Brown, is that on the 10 March 2015 according to the evidence of Ms Suzanne Daniels to the Commission, is that she was called by Mr Koko to Melrose Arch into a meeting with Mr Koko and Mr Salim Essa. In that meeting Mr Salim Essa tells her – introducing himself as Minister Lynne Brown’s adviser, that – now I am skipping some of

the things because some of the questions relate to what is the process to suspend executives at Eskom but ultimately the point is, the message is conveyed to her that four executives are going to be suspended. The names are given, including the FD, including Mr Koko but that Mr Koko will return but the other three would not. Four names are given to her, four executives will be suspended. This is not the same as what Mr Tsotsi was told in Durban. The FD was not mentioned to Mr Tsotsi but it is surprising that

10 when you come to the board on the 11th you were concerned with four areas and ultimately it is these four individuals who get suspended as opposed to the three that were mentioned in the discussion with the President. Was this a coincidence.

MS BROWN: I have always held a view from the beginning of my conversation or my – since we were speaking about whether or not Eskom was liquid or a going-concern or whether Eskom was going to be bankrupt, I have always held a view that finance would be part of the

20 group of areas that would be areas that we have to focus on. So, look, I actually personally – if somebody came to tell me that Mr Essa was my adviser, I would have done exactly what I did to other people who also played themselves off as my adviser, I write to the companies, I tell that these people are not my advisers and then I go –

my department – not my department, my office would go and lay a charge against them at the intelligence officers so that if he was to say that. Ms Suzanne Daniels has always been part of the company when she came to my meetings where my officials were present and my advisers so I do not know what you want me to say any further to that.

CHAIRPERSON: Well, maybe let us – let me put it this way. There is a version, as Mr Seleka has told you, by Ms
10 Daniels but what he did not tell you is that also by Mr Abram Masango both of whom say at different times they were called by Mr Koko to come to Melrose Arch and then when they came there, they came into an office where they had a meeting with Mr Koko and Mr Salim Essa and each one of them says they were told in that meeting something they had not known before, namely that certain executives were going to be suspended at Eskom and four names were given of the executives and those were the executives who ultimately got suspended the following day.

20 So one, the question that arises is apart from the fact that it was the people who had been at the Durban meeting that had discussed the possible suspension of certain executives, Mr Tsotsi, who is the only board member who had attended the Durban meeting, had not yet told the board about the idea of suspensions, he only told

them on the – at the meeting of the 11th, as I understand his evidence.

So the question arises, if that version is true, namely that such meetings did take place at Melrose Arch and Mr Koko and Mr Essa had told Ms Daniels and Mr Masango in different meetings that there were going to be suspensions of these executives, how is it possible that somebody from outside of Eskom, Mr Salim Essa, was getting – had this knowledge and was getting involved in
10 who should be suspended and who should not be suspended and who should come back after the suspensions and who should not come back at Eskom. That is the one part.

The second part is simply the one that also Mr Seleka mentions that according to Ms Daniels, Mr Salim Essa, introduced himself as your adviser.

The third part is that at the Durban meeting, the two people who attended that meeting and who have testified, namely Mr Tsotsi and Mr Linnell, they all agreed that the
20 financial director of that portfolio was not included among the portfolios of areas that were to be investigated through the inquiry and therefore, the suspensions or stepping aside that was discussed at the Durban meeting did not include the financial director also stepping aside, so – but when you came to the board meeting on the morning of the

11th, you talked about four areas that needed to be investigated and it included the area or portfolio of the financial director. So that is where some of the issues are to say what was happening here?

So you might be able to say I can tell you or you might say look, I cannot tell you but that I came with four areas including the financial director, I knew nothing about the Durban meeting but that is what happened.

So but that is one of the areas. I mean, I will have
10 to decide whether this version that there was a meeting or these two meetings at Melrose Arch, whether it is true or not and that what is alleged to have been said in those meetings was said and if I find that those things were said, it will be quite something to say, how come at the Durban meeting the financial director is not included as one of those to be suspended but the minister comes on the 11th and she includes her portfolio.

Maybe it is a coincidence, maybe it is not but I have to apply my mind to it. So, Mr Seleka just wanted you to
20 say what you might be able to say about this.

ADV SELEKA SC: Your turn, Ms Brown?

MS BROWN: Oh.

ADV SELEKA SC: Yes.

MS BROWN: I have never missed a chance to talk. Just one part of the version that I think I must refute entirely,

that Mr Salim Essa is not – was not an adviser of mine, is not an adviser of mine and I, other than having shaken his hand at some gathering somewhere, do not know the fellow.

The second point is, I think the strongest recollection I might have about how finance is added on can only be me because I seem to be the only one in all of the conspiracies, all of the gatherings, all of the meetings, who believed that Eskom was in a financial crisis. So I
10 think in my conversation with Mr Tsotsi when he says to me we want to have a meeting with you tomorrow because of the following things because I would not be going to a meeting if I do not know what the following things are. In that meeting I could even have told Mr Tsotsi – this is just another version, Chair, it is not that I have done it, Mr Tsotsi, but what about finances? Because at this stage it seems that nobody else thought that we had a financial crisis in Eskom except to me, the Minister. So that is my - that is the only thing I can say to you about this matter,
20 Chair.

CHAIRPERSON: And maybe I can also just say that it would appear that according to the evidence of a number of the board members and board members who testified, it would appear that when the meeting of the board deliberated on the suspensions after you had left the

meeting with them, a number of them were opposed to the idea of the suspension of the financial director. One of them was giving evidence here yesterday, Mr Pamensky, he said he was strongly opposed to that. Mr Tsotsi himself said he was strongly opposed to that. I do not know if there are others who said they were opposed to it but the impression I got was that those who may have been opposed to it, may have ultimately not pursued their opposition further than they did because the minister

10 included the financial director or the financial director's portfolio among those who should step aside or should be investigated. That is the impression I had. But also yesterday Mr Pamensky said no, no, no, no, the decision of the board after the minister had left was that only three executives should be suspended and they ...[indistinct – word cut out] Financial Director, that was his evidence yesterday. So I am just mentioning this so that you have an idea of what happened, according to ...[intervenes]

MS BROWN: But Chair, that is interesting. If a board

20 member says that the board made a decision that only three people were going to be suspended, why was that decision not sent through to me? Look, I did write a strongly worded letter to them, because remember the decision of the board is actually the deciding decision.

Whether the minister or the president or anybody

instructs them, the decision remains the decision of the board. So I am surprised that the board when it is characterised as being a Gupta board, it is one matter. If it is characterised as not carrying through a decision as important as the one that they, that you are now raising with me, that they cannot carry that decision through?

CHAIRPERSON: Well ...[intervenes]

MS BROWN: So why did the board succumb to the minister's power?

10 **CHAIRPERSON:** Well, the ...[intervenes]

MS BROWN: It is just an interesting, it is an interesting issue that I would like, I am just putting on the table. I have already said to you Chair, what my version is of it.

CHAIRPERSON: Ja, no no that is fine.

MS BROWN: And ja, but I just think that I think that is an interesting point.

CHAIRPERSON: Well, I must tell you that if the board members who testified did not say so expressly, certainly my impression is that the evidence they have given here is
20 to the effect that they were not prepared to make a decision on the issue of the inquiry on the 9th, at the meeting of the 9th of March when their own Chairperson, Mr Tsotsi was proposing that they should make a decision to say there should be an inquiry, and there is, and what they insisted on in effect seemed to me to sound like we want to

hear it from the minister.

That is why you were then called to come and address them, and the evidence at least of some of the board members before me, gave me a very clear impression that after you had spoken, they felt comfortable going along with this proposal of Mr Tsotsi which he had told them about on the 9th, now that they knew that the minister was supportive of this idea of an inquiry?

Mr Seleka, you might indicate whether you had the
10 same impression of the evidence.

ADV SELEKA SC: Yes, no that is correct Chair.

CHAIRPERSON: Ja, it comes across quite clearly that they wanted to hear what the minister had to say and once the minister had said okay, this is he had addressed them, they seemed at least a lot of those who testified, this suggests that they, then they were comfortable because then they knew Mr Tsotsi was not misleading them.

I am putting this in my own words.

ADV SELEKA SC: Ja.

20 **CHAIRPERSON:** What do you say about that?

MS BROWN: Chair, I think I have more to say. I just think that if you are the board, you are in charge of your company and you know, I if there is some things that I wish I did not do, then this is one of them. Not going to that board meeting, because they are responsible for running

the company.

I am responsible for oversight over the running of that company. The fact that they have to all me in because Mr Tsotsi met with the president at the time and they therefore did not want to believe him, they then call me in, is something that really, really it is really something that I wish I did not do at the time.

I wish I never went to that meeting, because if I did not go to that meeting, I would not be in this position to
10 make the decision about whether or not and why would they call me to a meeting that they could make a decision on by themselves?

But anyway, that is just my point on this matter.

CHAIRPERSON: Well, it might raise a certain point and maybe when you said this is interesting, relating to them wanting confirmation from you or something like that, maybe this is what you had in mind. It may be raising the question of whether the board that Eskom had, had enough independence.

20 Whether they had what it would take to make decisions that fall within their purview on their own, and without wanting to know whether the minister would approve of their decision or not, or would be happy about that decision or not.

It might be raising that issue and maybe that is in

part what you may have been, you may have had in mind when you said it is interesting why they would not make a decision and call you.

MS BROWN: You know Chair, I do not know why they did not make the decision themselves, but having said that I appointed the board of very competent board members. They themselves fell under a terrible spell of having been called a Gupta board, and nothing they did they did right and that whole, I think it was Mr Molefe who said having
10 moved from, having sold optimum mine together was the way to get us all classified as Gupta people.

But that is a side Chair, they would ... they were of the most equipped, I had the Chairperson of the institute of directors in South Africa. I had electrical engineers in that board. I have had in that board lawyers, CA's, just of the most highly educated and talented people on the board.

It is, I find it if I were to go on a conspiracy I find it interesting myself. So that is where I, I have nothing more to say on the 11th March meeting Chair. That is my view.

20 **CHAIRPERSON:** Ja.

MS BROWN: But either way ...[intervenes]

CHAIRPERSON: Yes.

MS BROWN: I just wanted the inquiry.

CHAIRPERSON: Yes. Yes, Mr Seleka?

ADV SELEKA SC: Thank you Chair. Just to the extent Ms

Brown that you say this is one meeting you should not have attended, you regret attending it. Ms Mkolo says that she was hinting to this issue during the meeting that the minister should go because these are operational issues that the board should decide.

We should not be here.

CHAIRPERSON: And she said ...[intervenes]

MS BROWN: Yes.

CHAIRPERSON: She said you were agreeing with her on
10 that point, but you were not leaving the meeting.

ADV SELEKA SC: Yes.

MS BROWN: I was not leaving the meeting for no other conspiratorial reason other than the fact that I have not seen the board in a long, long time. the last time I saw them were when we had an AGM and the induction and the board was feeling, this is what Mr Tsotsi told me.

The board was feeling that they were having grave difficulties with being in a way shut out by the war room and so I wanted to, that is one of the reasons I wanted to
20 be there, so that I could get them involved in and get them to understand what is happening.

Like the people is saying we were in a crisis. We remained in a crisis where ever we had whatever war room, whatever structures we had in place, whoever we had in place. we were in a crisis and that is why I went to the

meeting, but you know, Ms ...[intervenes]

ADV SELEKA SC: Mokolo.

MS BROWN: She did send me a message ...[intervenes]

ADV SELEKA SC: Yes.

MS BROWN: Quite late in the, after the, within the meeting. Not in the beginning of the meeting, not in the middle of the meeting, but at the end of the meeting.

ADV SELEKA SC: Okay. Ja, there was a question I had, now it is missing. Oh, this is another thing I need to add
10 please. At the meeting at Melrose Arch, Ms Daniels says she was told by Mr Essa that he wants an independent firm to conduct an inquiry, and I have heard you earlier say you also wanted a fresh eye, an independent person who did not have anything to deal with Eskom prior to that, to conduct this investigation.

MS BROWN: I cannot answer that Chair.

ADV SELEKA SC: Yes.

MS BROWN: I do not know if I believe anything anyone says.

20 **ADV SELEKA SC:** Yes.

MS BROWN: So I cannot answer it. I mean, I can also say to you that somebody told me that so and so did A, B and C. I do not have, I do not want to do that.

ADV SELEKA SC: Yes.

MS BROWN: I do not know if it is true that Ms

...[intervenes]

ADV SELEKA SC: Yes.

MS BROWN: I know that I said it. I read it in the press statement that I said it.

ADV SELEKA SC: Yes, but ...[intervenes]

MS BROWN: Or not I said it, but the press statement reads that we wanted a fresh eye or not a fresh eye, we wanted a dependent, not somebody who worked with Eskom before and so forth.

10 **ADV SELEKA SC:** Yes, what ...[intervenes]

MS BROWN: Not because I thought it up but because it came up out of a conversation within the meeting. So maybe somebody else raised the fact that if we are going to do this investigation, because remember we were under a lot of, we were under a lot of pressure, and another investigation was just not going to fly.

So when we had the press conference, we I mean just putting that into the public was enough to get the public very, very irritated. So I mean, I cannot tell you
20 what anybody said about whether it is true or not.

ADV SELEKA SC: Yes.

MS BROWN: I do not know.

ADV SELEKA SC: Yes, no my point is ...[intervenes]

MS BROWN: I wish I knew.

ADV SELEKA SC: Yes, now I am raising a different point

with you. The point is there seems to have been not similarities, but the same idea or view. Idea coming from the meeting with Mr Salim Essa and ultimately what you proposed to the board, which is four people would step aside, that is number one, it is the same thing.

Number two is that there should be this independent firm that should conduct the inquiry. Now those two contrasting with what Mr Linnell had in mind, and was advising the president to do and Mr Tsotsi. Mr Linnell he
10 was given three names, and Mr Tsotsi, but on the second point is this.

He was proposing terms of reference that would include a retired judge to conduct an inquiry, an accounting or auditing firm and a law firm. Which is nowhere close to what you had in mind. Or what you had in mind seems to have been the same ...[intervenes]

MS BROWN: Yes.

ADV SELEKA SC: As what Essa had in mind.

MS BROWN: I did not have in mind any specific, I did not
20 think oh this is how it should be, or that is how it should be. I just thought the right thing to do would be to have an inquiry. I agreed with my principle that the inquiry was something that would happen.

I do not remember the issues around the suspension of the four people. I do not know if I

particularly, if one person gives that, their view and I give another view, whether which view carries. So I mean, all I am saying is that that was my view.

The fact that there should be an independent inquiry is a view that I held very strongly. That it cannot be somebody who has worked in Eskom before because we have had enough inquiries before.

ADV SELEKA SC: Okay. I have the minutes of your meeting with the board, just to mention this to you. You
10 would have seen the minutes of the 11th. There was no audio recording of the meeting. That is what the board members have said, but during the discussion according to the minutes, where you were present, during the discussion following the questions, it was clarified as follows:

“The board confirm that a letter had been sent to the minister and the minister stated that she would look at it, and then the executive who are responsible for areas which will be the focus of the investigation, must step aside for
20 the duration of the inquiry in order to, in order not to impede it.”

So that is what is captured in the minutes.

MS BROWN: Is that what I say?

ADV SELEKA SC: Well, they say during the discussion following the questions ...[intervenes]

MS BROWN: No, no is that what I say?

ADV SELEKA SC: No, they do not say you said it.

MS BROWN: Oh.

ADV SELEKA SC: They are saying in the discussions following questions, this was clarified.

MS BROWN: By who?

ADV SELEKA SC: The minute taker does not specify who.

MS BROWN: You see Chair, that is the point I am making.

The assumption is that the person who clarifies is me. The
10 person who, I mean clarified by who?

CHAIRPERSON: I think ...[intervenes]

MS BROWN: Yes.

CHAIRPERSON: I think Ms Brown, as I understand it, what Mr Seleka is doing, he is aware of course what your version is on whether you said at the meeting with the board the executives should step aside or not. he is aware of your version.

What he had not done earlier, which he is doing I think for the sake of completeness, is to refer you to the
20 minutes to say what is reflected in the minutes. He is not saying that was reflected in the minutes that you are the one who said the executive must step aside, but he is saying as I understand it, the minutes that relate to your meeting with the board reflects that at that meeting it was said that the executives concerned should step aside.

So that is all he is saying. He is not saying the minutes say you said.

MS BROWN: Yes.

CHAIRPERSON: Ja.

MS BROWN: But Chair, what surprises me, that every single meeting is recorded by Eskom. Why did they not record this one?

CHAIRPERSON: Ja, I guess Mr Seleka will not know either.

10 **ADV SELEKA SC:** We do not know.

CHAIRPERSON: Well, you see to the extent that they did not record this one, I can tell you that there are some meetings where I think there are audio recordings, but there are some meeting, maybe one, maybe two, where part of the meeting is not recorded, and then or we do not have the recording, the transcript but everyone agrees that when you listen to the audio where it starts, it is not where the meeting started, the discussion started.

20 There was a discussion prior to this point, but that part of the discussion is not covered in the audio.

MS BROWN: I find it extremely odd, because I know Chair that Eskom records all its meetings.

CHAIRPERSON: Yes.

MS BROWN: And so I find it really, really strange that Eskom records its meetings. A narrative is created and I

am not saying the commission is creating this narrative. A narrative is created. Eskom, that thing disappears completely.

There is no recording of that, my speaking in the meeting and everybody remembers seven years later that the only person that actually thought there was a liquidity crisis was actually the minister. The rest of us did not. so I just find it odd.

CHAIRPERSON: Ja.

10 **MS BROWN:** But Chair, I am in your hands again.

CHAIRPERSON: No, no, no I understand. the most or an important part of the exercise is that you get an opportunity to say exactly what you are saying you know, this is odd. You might not be able to say whether it is right or wrong, correct or not, but you say your understanding is that Eskom would record all meetings.

MS BROWN: Ja.

CHAIRPERSON: And it is strange that this one was not recorded, you know. So ja. Mr Seleka?

20 **ADV SELEKA SC:** Ja, Chair and I am going to move on but I have a recollection Ms Brown and I think this was Dr Ngubane and Mr Tsotsi. This also came out when Ms Benita Klein was testifying, that as they were debating whether or not you wanted the FD also to be part of the persons to step aside, Dr Ngubane stepped out to give you

a call.

To confirm with you whether in fact you wanted the FD and came back to tell them yes, the FD should also be included on the list. Do you have any recollection of Dr Ngubane phoning you?

MS BROWN: I do not have a recollection of Dr Ngubane phoning me and saying that I should. Not at all.

CHAIRPERSON: Do you have a recollection ...[intervenes]

MS BROWN: Was I not just in the coffee shop at the time?

10 Why did he not just walk to the coffee shop? Why did he phone me? I thought I was sitting in the coffee shop somewhere.

CHAIRPERSON: Well, my understanding is that after you had left the board meeting to go, to hang around as they said or to go to the coffee shop, the board continued with its meeting for a certain period of time and then its meeting ended, and then another meeting I think of the PMG committee was to start after the board meeting.

20 That committee was given a mandate to do certain things about the suspensions if I am not mistaken, to take the matter forward and my understanding is that what Mr Seleka is talking about, is something that was said to have happened during the PMG committee meeting and by that time it is possible that you might have left because the board meeting had ended, even if you had been hanging

around for some time.

So the understanding from the evidence is that when the board meeting, when the PMG committee meeting was carrying on in the afternoon, or after the board meeting, Dr Ngubane went out according to one of the witnesses, went out and came back and said he had spoken to you on the phone and said what Mr Seleka has said.

But I also wanted to say my recollection is that
10 when he gave evidence before me, Dr Ngubane may have admitted having called you quite a few times on that day. So I do not know whether you have any recollection of that.

MS BROWN: I have no recollection. The only recollection I have is that the Chairs of the boards called me regularly.

CHAIRPERSON: Ja.

MS BROWN: But I do not have a recollection of him calling me on that day and me saying please fire the FD.

CHAIRPERSON: Ja, ja okay. Maybe we should have an adjournment?

20 **ADV SELEKA SC:** Okay.

CHAIRPERSON: Mr Seleka, we are at four o'clock. Let us take a short adjournment, ten minutes adjournment. Maybe to the extent that everybody might wish to know, I think that we will continue at least until five maybe, because I am meant to have an evening session with other witnesses

who will testify during the evening session.

So I think we will continue with Ms Brown's evidence maybe at least until five. I thought I must just mention that so that everybody we are all on the same page in terms of how far we might go. It may well be that by then we will have finished.

It may well be that we will not have finished. If we have not finished by then, we will talk when we come to that point, as to the way forward.

10 **MS BROWN:** Thank you Chair.

CHAIRPERSON: We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay thank you, let us continue.

ADV SELEKA SC: Ms Brown we are proceeding.

MS BROWN: Yes, Chair I am here.

ADV SELEKA SC: Yes, thank you Ms Brown. Just the Mr Salim Essa factor, you know when they – when I am leading to something and I ask in regard to Mr Tsotsi's
20 evidence again before the Commission Mr Salim Essa we understand from another witness, totally unrelated to your position, that he also gets to be introduced as an advisor to a particular minister, the minister at the time was of the DMR. This must be a *de facto* advisor as opposed to *de jure* advisor.

But then you have when the composition of the sub-committees of the Boards is to be made, Ms Brown, the version of Mr Tsotsi in regard to the interaction between you and him – and for this reason I've asked my learned friend to tell you to go to page 12 – 13 of Eskom Bundle 7, that's where you find emails exchanged between you and Mr Tsotsi. On the electronic copy you will have to type page 1215 to get to page 1213.

MS BROWN: Okay, I...[intervenes].

10 **ADV SELEKA SC:** You on that page?

MS BROWN: So, I am in – then in an extraordinary Board meeting I have to get to 12, you say?

ADV SELEKA SC: Yes, the...[intervenes].

MS BROWN: Page 12?

ADV SELEKA SC: 1215...[intervenes].

MS BROWN: and is that the red 12?

ADV SELEKA SC: No, always the black.

CHAIRPERSON: It's Bundle 7 – Eskom Bundle 7, page 1215, is that right Mr...[intervenes].

20 **ADV SELEKA SC:** The 1213...[intervenes].

CHAIRPERSON: Oh, then she has to go to go two pages.

ADV SELEKA SC: 1215.

CHAIRPERSON: Okay.

ADV SELEKA SC: Yes, because that's the document which she had as 1213, on the hardcopy is on 1215 on the

soft copy.

MS BROWN: What's the heading of what you want me to read, Advocate?

ADV SELEKA SC: Just ask the question again?

MS BROWN: What's the heading you want me to read?

ADV SELEKA SC: Oh, it's an email...[intervenes].

MS BROWN: Because...[intervenes].

CHAIRPERSON: It's an email from Mr Zola Tsotsi to yourself and the 16th of December...[intervenes].

10 **MS BROWN:** The 16th of December?

CHAIRPERSON: Yes, 2014.

MS BROWN: Yes.

CHAIRPERSON: Have you got it?

MS BROWN: The one that I don't respond to?

CHAIRPERSON: I don't know about that but if it's 16 December 2014 at 2h08 in the afternoon from Mr Zola Tsotsi to you and it says, Dear Minister, that's the right one, does it say that is that a yes?

20 **MS BROWN:** Look I can't get it on my – I have copies of the letter because I printed this letter and I sent it to my legal advisor. So, just give me the page – I am in Bundle 7.

ADV SELEKA SC: Okay 1215.

MS BROWN: Oh, 1215, okay.

ADV SELEKA SC: Yes.

MS BROWN: Thank you, "I trust you are well", yes.

ADV SELEKA SC: Yes, that's correct, that's the one. So, Ms Brown let me give you Mr Tsotsi's version, I know you already know it.

MS BROWN: Yes.

ADV SELEKA SC: Yes. Mr Tsotsi communicates with you in regard to the composition position of the sub-committees he says, he was preparing the list that he would provide to you, in the course of that he receives a list from Mr Salim Essa for the composition of the sub-committees. He had
10 initially said to the Commission in an affidavit that he ignored that list and gave you his own list. He had subsequently come back to correct that version and he says, what we are looking at now on page 1213 of Eskom Bundle 7, is in fact, the composition that was given to him by Mr Salim Essa which he then sent to you...[intervenes].

CHAIRPERSON: Maybe I could add this Mr Seleka?

ADV SELEKA SC: Yes...[intervenes].

MS BROWN: Is that the 28th of January?

CHAIRPERSON: No, stick to the email of 16 December
20 for now, just stick with that, I think Mr Seleka may have given you a longer version, let's keep it manageable, go back to 1215.

MS BROWN: I am on page 1215.

CHAIRPERSON: Okay, alright. What Mr Tsotsi said is that he was going to send you his proposed composition of

the committees of the Board but before he could send you those or before he could finalise his composition of how the committees of the Board should be composed, he received an email from Mr Salim Essa with a composition of how the different committees of the Board should be composed and he said, Mr Salim Essa said to him he should present that composition from Mr Salim Essa to you as his own proposed composition, you understand so far?

MS BROWN: I do Chair.

10 **CHAIRPERSON:** Yes okay, and it's not about English, I just want...[intervenes].

MS BROWN: I'm not going to live that one down, I can tell you. [Laughter].

CHAIRPERSON: I just want to make sure that I don't tell you a long story, by the time I ask you to say something you have forgotten some of the things. That's what he says but then he says, he said to me previously, that is Mr Tsotsi, that he had decided to ignore Mr Salim Essa's opposed composition of the committees but when he
20 testified the last time, he did say, he did send to you the composition of the various committees of the Board, as suggested by Mr Salim Essa. It would seem that he did not send, to you, the email from Mr Salim Essa but formulated and email which is this one, on page 1215 on your side, page 1213 on the hard copy and said what he said and

then gave you the list of names under different committees as they appear here but he says, those lists were Mr Salim Essa's list not his and he concedes that in the email he presented them as his and not as Mr Salim Essa's, what do you have to say about that?

MS BROWN: Well, Chair, I'd seen this, and I've actually sent it to – when I went through my IPAD I saw the list that he sent to me and I – none of these list's matter unless it comes as a resolution of the Board. So, I say to him, I
 10 don't respond on the 16th of December, now I can't remember why I don't respond on the 16th of December but I can only imagine that it's a public holiday and all public representatives are probably speaking at some function or the other, I have my IPAD with me because all my speeches are on it and I open his thing and I don't remember to go back to it because I always respond to people's emails, that's the only thing I can remember but none of these lists really matter if it doesn't go – and I say this to him, he writes that there are small changes on the
 20 Board, I write back to him and I say, please put this – I then send it to all my staff the 28th of January list. The 16th I don't respond to him, the 28th of January I say, put this on a letterhead and formulise it through the structure of my department because I can't, on the face of it, make a decision about any lists. I don't know the people, I don't

know, looking at the lists, the expertise, the capabilities, the technicalities of any of it, go through the legal and governance of it. So, I say, send it formally, I then send that list that he sends me, I send it to Mr Tsotsi – I send that response to Mr Tsotsi, to Matsietsi Mokholo, to my real special advisor Brendan Roberts and to my office, Ken Davids. She, to put it through the registry, Brendan to look at it and to know that he's got to account for it, Matsietsi so that she can put it through the legal and governance
 10 unit, because it doesn't matter to me. I am responsible for two – I don't know if they are – those two statutory committees and it's only to do with skill and capacity. I am responsible to look at – to note for the rest of the committees. So, I am not sure why it's an issue other than the fact that he has not – he has actually given me a list from somebody from outside, that's the only issue for me. Any list that comes from anywhere, has to go through to the department so that they can actually process that list.

CHAIRPERSON: Mr Seleka?

20 **ADV SELEKA SC:** Yes Chair. Your – Ms Brown your email that you have taken us to, I think it is the email of the 28th of January 2015.

MS BROWN: Ja.

ADV SELEKA SC: I've considered that email against what you say in your affidavit. The email reads,

“Dear Mr Tsotsi, thank you for the email below regarding the composition of Board committees. Given that this is a newly appointed Board, it is my responsibility as shareholder representative to formally consider the composition of the committees”,

And I mention that specifically because it relates to, not just what you say are the two committees in respect of which you have legal responsibility for their appointment
10 which is Audit and Risk and Social and Ethics Committee, but this seems to extend to all the committees. Can you explain to the Chairperson why you casted your interest that wide...[intervenes]?

CHAIRPERSON: I’m sorry Mr Seleka that I’m interrupting you again but it may be that it’s going to tie in certain issues properly if we deal with Mr Tsotsi’s email of 26 January 2015 to Ms Brown before we come to hers to him on 28 January because in Mr Tsotsi’s email of 26 January which appears on page 1215 on the hardcopy which I
20 guess on Ms Brown’s electronic copy will be 1217, in that email of 26 January which is before Ms Brown sends hers off on 28 January Mr Tsotsi says,

“Please find the revised Board sub-committee deployment as follows”,

And he gives the composition of various

committees. Now, his version, if I recall correctly was that, initially he sent you a composition as reflected in the email of the 16th of December and then later on, which was not his composition but Mr Salim Essa's composition but then later on, sent his own composition to you. Now I don't remember whether, when he was giving evidence, we found that his composition in his email of 26 January is the same as Salim Essa's composition or whether it was not but to the extent that it might be different, it would represent
 10 according to him, his own composition that he sent to you as opposed to Salim Essa's composition that he had sent to you on the 16th of December. So, I just want to check whether you remember having received from him first the email of the 16th of December and later and before you go respond, later receiving his email of the 26th of January whereafter you then responded by way of your email of 28th of January, whether that's your recollection of the sequence.

MS BROWN: That is my recollection but Chair, hear this,
 20 so you see, this thing has bothered me a lot and you know I'm retired now.

CHAIRPERSON: Are you tired?

MS BROWN: I'm retired – well I'm also tired, I'm very tired now but...[intervenes].

CHAIRPERSON: No, I'm just alive to ...[intervenes]

MS BROWN: I can do a lot of research on my own and the issue – so I do receive a letter from Mr Tsotsi on the 16th of December which I don't respond to, for some odd reason but the thing I'm saying is, it was a public holiday, and I was probably in my constituency doing constituency work in Ritchie in the Northern Cape...[intervenes].

CHAIRPERSON: He may have said you were on holiday, I'm not sure, he may have said that you were on holiday if I'm not mistaken.

10 **ADV SELEKA SC:** Yes, that's correct.

MS BROWN: I wasn't on holiday yet but I could have been in Ritchie so I might not have been there but I – it doesn't matter...[intervenes].

CHAIRPERSON: His sequence you say, is fine?

MS BROWN: Yes, the 28th of January I write him quite a formal letter...[intervenes].

CHAIRPERSON: Yes, now but hang on, don't go to the 28th of January as yet, Mr Seleka wants to put a question with regard to that, I just wanted to make sure that before
20 we go to the email, your email of the 28th of January we have put the email, Mr Tsotsi's email of 26 January in its correct sequence. So, you have confirmed that that sequence you think is correct. Then after having received Mr Tsotsi's email of 26 January 2015 you then responded by way of your email of 28 January, Mr Seleka will then put

his question.

ADV SELEKA SC: Do you recall the question Ms Brown, why did you cast your interest wider than the two sub-committees that, in your affidavit you accept are the only two that you are legally responsible to appoint?

MS BROWN: Because I note, if you look at – it's in your documentation somewhere, I note the ones I am not – they send a resolution, the Board sends a resolution and, in the resolution, and this is all I outline for Mr Tsotsi to know
 10 and this I get from the legal and governance unit. Remember I've – I work with the legal and governance unit on the compilation of this letter. So, I say to him that for approval, I don't say to him, I look at the full combination of people within the Board. Some Board members would have three/four or two/three positions. Some members would have three/four, I look for that. My office, my department looks for expertise, technicalities and so forth. So, I take the full list and I've done that throughout and throughout all the Boards, I take the full list and I note the
 20 ones that I'm not responsible for or not responsible to appoint and I accept the ones that I am supposed – that I'm statutory responsible for, that's why I write that letter, nothing else.

ADV SELEKA SC: Do I understand you to be saying, the statement that you indicate which committees you are

responsible to appoint even though you say it now you didn't tell him that?

MS BROWN: No, I asked him to look – to send me the full list of all the people who are being appointed but he has to formally send me the lists, that's what I'm saying to you, you have to formally send me the lists as a resolution of the Board, the whole list, everybody who has been put into committees, must be a full list of the resolution of the committees, it's a resolution that gets passed in the Board
10 that resolves that this is what has to happen.

ADV SELEKA SC: Yes, no I hear what you're saying I just wanted to clarify that...[intervenes].

CHAIRPERSON: I'm sorry Mr Seleka, before I get – last time when Mr Tsotsi was giving evidence about these emails your junior was working on a document that would tell us what the differences are between the different compositions, I remember that there was a document that was put, given to me but I immediately saw that it wasn't correct. My recollection is that you and your team were
20 going to work on that and come back to say, there is a document that correctly reflects what the differences are between the different compositions that Mr Tsotsi sent to the Minister at different times. I just don't have the recollection whether that last part has happened?

ADV SELEKA SC: It's going to happen now Chair.

CHAIRPERSON: It was meant to happen a long time ago, but tell me immediately, you junior should know, whether that composition of Mr Tsotsi of the committees on page 1216 is the same as the so-called Salim Essa composition or no?

ADV SELEKA SC: It's by and large the same Chair and I would like to hand it up to the Chairperson, we have already shared it with...[intervenes].

CHAIRPERSON: Because you remember there is also
10 another one, that one at page 1216 that email was sent at 13h52 on the 26th of January.

ADV SELEKA SC: Yes.

CHAIRPERSON: The one on page 1218 was sent at – one minute after that one 26 January 2015 at 13h53 but my recollection was that one of these was the same as Mr Salim Essa's composition but another one – the other one was different, but I don't remember which one was different.

ADV SELEKA SC: Yes.

20 **CHAIRPERSON:** That's why I'm asking which one is the same as Salim Essa's one and which one is different?

ADV SELEKA SC: According to Mr Tsotsi the 16th of December 2014 is Mr Salim Essa's composition.

CHAIRPERSON: Ja, that we know yes.

ADV SELEKA SC: The 26th of January 2015, according to

Mr Tsotsi, that's Mr Tsotsi's own revised list.

CHAIRPERSON: Remember they are both 26 January, they are just different times one minute difference.

ADV SELEKA SC: Yes, I think the one that comes after is forwarding, is the Chairperson on page 1215?

CHAIRPERSON: 1215, I've got at the beginning of the email it's addressed to the email address of Ms Brown and then below that, it says sent from her IPAD and then below that begin forwarded message then it's from Mr Tsotsi to
10 Lynne Brown ...[indistinct]@me.com and then it says, "Dear Minister", then on the following page, namely 1216 on the hardcopy it has got the composition. Is that composition the same as the Salim Essa composition?

ADV SELEKA SC: Well, Chair there are minor differences.

CHAIRPERSON: And then if you look at the composition on page 1218 on the hardcopy is that the same as the Salim Essa composition?

ADV SELEKA SC: That one is the same as the – the
20 minute before this one, which is on page 1215.

CHAIRPERSON: Okay, so the position is that there is no composition among these two compositions that Mr Tsotsi emailed, there is no composition that is exactly the same as the Salim Essa one?

ADV SELEKA SC: Correct.

CHAIRPERSON: Ja, they are the same, the two of them?

ADV SELEKA SC: Yes, those two are the same.

CHAIRPERSON: Ja, it's the same one and they have certain differences even though the differences might be a few?

ADV SELEKA SC: No, the two are the same.

CHAIRPERSON: No, I mean compared to...[intervenes].

ADV SELEKA SC: Oh yes ...[intervenes]

CHAIRPERSON: That someone ...[intervenes]

10 **ADV SELEKA SC:** Yes, no correct.

CHAIRPERSON: So with regard to the two emails one on – I mean two compositions; one at 2016 page 20 – no page 1216.

ADV SELEKA SC: Yes.

CHAIRPERSON: On the hard copy and the one at page 1218 on the hard copy.

ADV SELEKA SC: Yes.

CHAIRPERSON: You say those compositions are one and same thing.

20 **ADV SELEKA SC:** Are one and the same yes.

CHAIRPERSON: Okay alright. And they are different in certain respects from the Salim Essa ones?

ADV SELEKA SC: Correct.

CHAIRPERSON: Okay alright.

ADV SELEKA SC: Yes.

CHAIRPERSON: Well that – that would tie in if that is factually correct if you have got that right.

ADV SELEKA SC: Yes Chair.

CHAIRPERSON: That would tie in with Mr Tsotsi's evidence that first he sent this composition which he said came from Mr Salim Essa but later on he decided to send his own composition.

ADV SELEKA SC: Yes.

CHAIRPERSON: Okay. Ms Brown I just wanted to clarify
10 that because there was a little bit of some confusion when Mr Tsotsi was giving evidence and that I did not have a clear recollection.

ADV SELEKA SC: Yes.

CHAIRPERSON: Okay continue Mr Seleka.

ADV SELEKA SC: Yes. Ms Brown I want to piggy back on that because Mr Tsotsi's version as you know it is that you ultimately you call him to is it your residence – official residence in Pretoria where he finds you with Mr Tony Gupta and Mr Salim Essa and you ultimately give him a list of sub-
20 committees for the composition of the sub-committees which he says was the same as the one he had received from Mr Salim Essa.

CHAIRPERSON: I am sorry Mr Seleka did you say Mr Tsotsi's version is that he was given that list at the residence of the Minister?

MS BROWN: Ja I am trying to recall whether is it the residence or the office.

CHAIRPERSON: My recollection is that Mr Tsotsi's said the Minister emailed her composition which was he said the same as Mr Tsotsi's – Mr Salim Essa's composition. That – that was my recollection and that when he – when she called him to whether it was to his residence or to his – to her office I am not sure.

ADV SELEKA SC: Yes.

10 **CHAIRPERSON:** To Ms Brown's office when she – according to Mr Tsotsi when Ms Brown called him to the place to which she called him where he says she was with Mr Salim Essa and Tony Gupta on that occasion the Minister simply said he should implement her list. That is my recollection. I may be wrong. Is it – is it different from yours?

ADV SELEKA SC: No I think yours is correct. If I read Chair from his first affidavit he says because he says until she called me to a meeting. At the meeting was Salim Essa and Tony Gupta. She merely informed me that the board
20 allocations will be the way she had sent to me. This she did in the presence of these two gentlemen.

CHAIRPERSON: Okay no I just wanted to make sure that you do not by mistake misrepresent his version.

ADV SELEKA SC: Yes Chair.

CHAIRPERSON: Yes you want to go ahead?

ADV SELEKA SC: So Ms Brown that is the evidence of Mr Tsotsi to the commission that you then called him to a meeting. Well let me take it step by step. He sends you the composition, the revised one and according to him you would have sent to him a composition which on his version it was the same as that which Salim Essa had given him. And when you called him to this meeting where Mr Essa and Mr Tony Gupta were with you according to him you informed him that the board allocations would be the way you had sent to him.

10 Your comment on that?

MS BROWN: So his – I sent him a list. I just want to – I also want to clarify something. He says the list I sent him.

ADV SELEKA SC: Yes.

MS BROWN: Was the same as Mr Essa's lists.

CHAIRPERSON: Yes.

ADV SELEKA SC: Yes.

MS BROWN: So why do I not have a copy of that list that I sent him?

ADV SELEKA SC: We have...

20 **MS BROWN:** Does the commission have a copy of that list that I sent him? Not the one he sent me.

CHAIRPERSON: Ja.

MS BROWN: The one I sent him.

ADV SELEKA SC: Yes we asked him that question.

CHAIRPERSON: Yes.

MS BROWN: Okay I refute the fact that these two people were in my house. Wherever the house might have been whether it is in Cape Town or in Pretoria I refute the fact that I have had – that they have been in my house and that I called him to a meeting to speak to him about appointing these people to this – these committees. Chair I had a board that was appointed. I wanted the committees to be largely, equally allocated technically sound and that must come to me as a resolution and that was as far as I wanted
10 to go. Around this time I – actually I do not want to get involved in coffee shop politics now. But Chair I do want to say that Mr Tsotsi has not made this – this is not the first time Mr Tsotsi has made this allegation. He has done it at the Portfolio Committee. He has done it before, he has done it again in the com – he has done it a few times in the commission and he continues to say so. I wonder if Mr Tsotsi has ever thought that he should try and allocate the day that he was at my house. Now either one of my official residences has a security or a control point that they have to
20 come in. Now if he could get the date of when all three of them were in my house then I would be happy to hear that.

CHAIRPERSON: Mr Seleka.

ADV SELEKA SC: Yes Chair.

CHAIRPERSON: What is the position by the way is there a list – there is no email that was provided to the commission

coming from Ms Brown to Mr Tsotsi with a list or was there?

ADV SELEKA SC: There was not Chair – there is not.

CHAIRPERSON: Yes.

ADV SELEKA SC: We have – we have asked Mr Tsotsi both about the email or if it is an email from Mr Salim Essa to him and then this one from Ms Brown to him.

CHAIRPERSON: But Ms Brown is my understanding correct that you do not deny that you would have sent him your list. When I say your list I accept that it might have been a list
10 that came from him and you looked at it to see whether there was a balance in the spread of skills and expertise. Maybe you may have changed here and there to say let us have a balance but would there be – would there have been a list – a composition of committees that you say you would have sent to him? It just happens that we might not have it but the – it should have – it would have been there.

MS BROWN: Chair I would only respond to Mr Tsotsi formally on any lists. Remember it is not actually a big issue who is which lists. The only issue we have is that those who
20 are on the lists are skilled people. They are skilled for that particular committee. That is the only issue that is important to me. The rest who is on which list, what they – it does not matter. All of those committees feed back into the board. So why would I make such a big song and dance about getting people onto a list, onto a particular list. The only thing is

that those lists must be equitably distri – sorry those committees must be equitably distributed and the expertise levels must be where it is supposed to be. So people with finances should try to be in the Audit and Risk Committee. I think I separated some committees in somewhere they combined Audit and Risk with either – I am not absolutely sure if it is procurement or something but I think I have – I have separated – I asked them I did not separate it I asked them to please look into it and separate it because Audit and
10 Risk is a very, very big committee. And it has not a big committee it has a big responsibility.

CHAIRPERSON: Yes but...

MS BROWN: But let me put to you this matter.

CHAIRPERSON: But my question – my question.

MS BROWN: Yes so no. Even your version Chair I have not sent him a list.

CHAIRPERSON: You did not send him a list?

MS BROWN: No.

CHAIRPERSON: Oh okay. How would he – he have known
20 whether you were happy with the spread of the skills in the composition of the committees? Would you have something to give him?

MS BROWN: I would not know it personally sitting with my iPad. I would only know that information if it went to my department. And my department assess the skills

composition. That is why on the 28th when I eventually respond to him I tell him to formally write to the department.

CHAIRPERSON: And as far as ...

MS BROWN: Not to engage me on the committees on a private emails engage the committees through the department so that we can have clarity on whether the committees are working. By February that year I remember the committees were working already.

CHAIRPERSON: So – but do you have any recollection
10 whether he did engage with your department on the composition of the committees after your email of 28 January?

MS BROWN: I absolutely believe that that would have happened.

CHAIRPERSON: Yes.

MS BROWN: Because I then get a decision memo from my department and the decision memo has the resolution of all the sub-committees. So there is no other informal conversation or no other informal way of appointing those
20 committees it comes via a decision memo and it says – and it has five people who must check whether – whether it is legally right, whether it is financially right, whether it has five people check that list and then I check it and I either amend it or I approve it and my Deputy Minister notes it. So seven of us sign that document eventually.

CHAIRPERSON: So the position...

MS BROWN: So if Mr Salim Essa gave him a list initially whatever has come to my department in the end they might even have changed the list and said no, but you cannot put Ms Klein here you should put Ms Klein in this committee because that is her skills space. So they would have been able to do that. But I have not changed any lists.

CHAIRPERSON: So on your version there would have arrived a time after the 28th of January which is your email to
10 Mr Tsotsi telling him what you would require including the resolution of the board there would have arrived a time after the 28th of January at some stage where he that is Mr Tsotsi or the board would have received a document from your department whether it was from you or from your officials that says we are happy with the following composition of the committees, is that correct?

MS BROWN: It would have come from my officials.

CHAIRPERSON: It would have come from your officials?

MS BROWN: Formerly, formerly it would have come from
20 me.

CHAIRPERSON: Yes.

MS BROWN: So after the officials have had a conversation with their officials who deal with governance matters and normally it is the Company Secretary and then that Company Secretary goes and deals with Mr Tsotsi. My officials could

deal with me or not necessarily they might say Minister we decided to change this or that. It could have happened in that way. But the formal resolution and – and Chair there is actually a formal resolution that I have seen in one of the packs, one of the bundles. There is a formal resolution where it shows to answer Mr Seleka's question that I appoint the two committees and I note the other committees.

CHAIRPERSON: Well there would still be questions around this issue but I see we are at five past five.

10 **ADV SELEKA SC:** Yes.

CHAIRPERSON: I do not know whether the next work stream of – is ready I am told they are ready. So I think we may have to stop here and adjourn but let us talk about the way forward. I – I would like us not to delay – not to take long before Ms Brown is able to come back and complete her evidence. I am going to mention some dates to all of you because I think maybe we can quickly sort it out here. If we cannot then we will sort it out later. If everybody concerned is available I can make myself available tomorrow Saturday

20 in the morning to continue with Ms Brown's evidence. If you are not available I can make myself available on Monday morning. I know that Monday morning is a public holiday and I know that you might not be available but I mention these two days so that if by chance everybody says, no let us do tomorrow morning then we could do it. If everybody

says no let us do it Monday morning we could do it. But if nobody – if there is one or more people who are not available then we will have to find some other time. Can I hear from the legal team for Ms Brown?

ADV LUSENGA: Chair both these are a bit of a problem.

CHAIRPERSON: Both days are a bit of a problem?

ADV LUSENGA: Yes.

CHAIRPERSON: Oh okay. Okay and with Ms Brown as well or not necessarily?

10 **MS BROWN:** Saturday morning is a problem for me Chair.

CHAIRPERSON: Yes.

MS BROWN: But Monday is – I am okay.

CHAIRPERSON: Yes.

MS BROWN: If – ja Monday morning I am fine.

CHAIRPERSON: You would be fine. With you Mr Seleka?

ADV SELEKA SC: I am permanently employed at the commission Chair.

CHAIRPERSON: But even those who are employed at the commission might say they are entitled to some holiday. But

20 I just check with Ms Brown's legal team whether seeing that all of us including her might be able to make a plan for Monday morning may I find out whether it is completely impossible for them to juggle things around or it is something that they can look at and maybe they can phone Mr Seleka this evening to say look we have been able to

juggle things around.

ADV LUSENGA: I am – I am mulling over the possibility of the Monday I would also want this to be rounded up quickly. In the back of my mind I am thinking of rearranging certain things. I will let Mr Seleka know in all probability we can work out something for Monday. Yes.

CHAIRPERSON: Okay no if your situation permits you to move things around and to be able to be available we would really appreciate it. As everybody knows we are running out
 10 of time as the commission so that is why we have day sessions and evening sessions. Last night I left the hearing at something to nine about quarter to nine. We are just trying to try and hear as many witnesses as possible that need to be heard and to finish so if your situation will permit and you will be able to juggle around and be available we would really appreciate that. And thank you Ms Brown for indicating that from your side you would be available on Monday morning. So I think what will happen is that once your counsel has spoken to Mr Seleka maybe later this
 20 evening even if it is tomorrow if this evening things do not get sorted out then everybody will be informed whether the arrangement is successful for Monday or not successful. If it is not successful we will have to find another time but hopefully we will cross our fingers hopefully it will be successful. But thank you very much to everybody we are

going to adjourn the day session. I will take about ten minutes – fifteen minutes break and then I will come back for the evening session. Thank you very much to everybody We adjourn.

MS BROWN: Thank you Chair.

ADV LUSENGA: Thank you Chair.

CHAIRPERSON: Thank you.

MS BROWN: Thank you very much.

CHAIRPERSON: Thank you.

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

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Good afternoon, Mr Notshe. Good afternoon everybody.

ADV NOTSHE SC: Good afternoon, Chair.

CHAIRPERSON: Or is it good evening?

ADV NOTSHE SC: [Indistinct]

CHAIRPERSON: Yes. Good evening, Mr Mantashe.

20 **MINISTER MANTASHE:** Good evening, Deputy Chief Justice.

CHAIRPERSON: Thank you, thank you. Thank you very much for availing yourself to assist the Commission, particularly, for availing yourself in the evening and thank you to your legal team for availing themselves during the

evening as well.

MINISTER MANTASHE: Thank you very much.

CHAIRPERSON: Thank you. Mr Notshe, you said Mr Mantashe's legal team will also link with us via Zoom or video?

ADV NOTSHE SC: Yes, I understand they are with him where he is now.

CHAIRPERSON: Oh, they will appear ...[intervenes]

MINISTER MANTASHE: No, no... [Speaker unclear –
10 interruption in intermission]

ADV NALANE SC: I am here, Deputy Chief Justice.

CHAIRPERSON: Okay. I understand if you speak your face will appear. So just speak again.

ADV NALANE SC: Thank you, Deputy Chief Justice.

CHAIRPERSON: Yes. I cannot see you but I can hear you.

ADV NALANE SC: Okay. I have tried to look into the camera.

CHAIRPERSON: Yes, it may well be that the technician
20 here need to... Oh, there you come. There you come.

ADV NALANE SC: Okay.

CHAIRPERSON: Yes, good evening to you.

ADV NALANE SC: Good evening, Deputy Chief Justice.
My name is Advocate Fana Nalane SC.

CHAIRPERSON: Yes.

ADV NALANE SC: I am instructed by Buthelezi Vilakazi Attorneys and I appear together with my learned junior, Advocate Sibongiseni Qagana on behalf of Mr Mantashe.

CHAIRPERSON: Okay.

ADV NALANE SC: Thank you. Thank you.

CHAIRPERSON: Thank you very much. For the purposes of the transcribers, I think, please just spell Qagana so that they will spell it correctly in the transcript. I do not think they will have a problem with your surname.

10 **ADV NALANE SC:** Yes, it is Q-a-g-a-n-a.

CHAIRPERSON: Yes, okay alright. Thank you very much.

ADV NALANE SC: Thank you.

CHAIRPERSON: And thank you to you and your junior as well and the instructing attorneys for cooperating with the Commission so that we could have this evening session.

ADV NALANE SC: Thank you.

CHAIRPERSON: Thank you. Okay Mr Notshe ...[intervenes]

ADV NALANE SC: Thank you.

20 **CHAIRPERSON:** Thank you.

ADV NALANE SC: Thanks for cooperating with us.

CHAIRPERSON: Thank you. Mr Notshe.

ADV NOTSHE SC: Chairperson, we are appearing together with Mr Refiloe Molefe.

CHAIRPERSON: H'm?

ADV NOTSHE SC: Chairperson, the genesis of today's hearing is the evidence of Mr Agrizzi and Mr Richard le Roux. It is in respect of the security installations that were done at the house of Minister Mantashe and both here in Gauteng and in the Eastern Cape. The farm in the Eastern Cape and the houses here.

And Chairperson, the then Minister Mantashe applied for leave to cross-examine Mr Agrizzi and to cross-examine Mr Le Roux.

10 So the bundle before you – the exhibit before you will contain that application and that application, you will see, it contains the affidavit of Mr Mantashe where his affairs to the evidence of Mr Agrizzi, and it also contains the responses of both Mr Agrizzi and Mr Le Roux.

And then it has also a replying affidavit of Mr Mantashe, and that Chair, appears in BOSASA Bundle 3 and then it is Exhibit T-32 of that bundle. And before that - before the Chair goes there, can we have Mr Mantashe's sworn in and then we can take it from there?

20 **CHAIRPERSON:** Well, maybe before you start doing that. Do you not want to just remind the public what the issues are that would be covered? And then the oath or affirmation can be administered and thereafter we start.

ADV NOTSHE SC: Chair, firstly the evidence of Mr Agrizzi was to the effect that BOSASA had targeted certain people

which they regarded as influential and they have done favours for those people and one of those people was Mr Mantashe, and we must mention that at that stage he was not yet a Minister.

And what they did, they did some security installations in his house in Gauteng and his house in the Eastern Cape, Chala and also his farm. And then there is evidence, that of Mr Richard le Roux who actually did the work. And it is not in dispute that the work was done at all
10 on these three premises.

The real issue, the dispute is the value of the work, and value of the work that was done, and also, the issue is whether Mr Mantashe should have allowed that work to be done for him.

And Mr Mantashe has in his application to cross-examine the two witnesses, he has given a statement explaining how he got the work to be done and his explanation being that it was done by Papa Leshabane.

These services were offered to him by Papa
20 Leshabane and his evidence is that, on the affidavit, he knew Papa Leshabane. He is a friend and a family friend and he even in his – one of the children's graduation, he was the master of the ceremony. Well, *those(?)* days a personal ceremony. It was a personal ceremony. And Mr Leshabane offered to do this free of charge.

So the issue is – the issue now is whether he should have accepted that service and that gift from Mr Leshabane.

CHAIRPERSON: Okay. No, that is fine. Then, Registrar, you can administer the oath or affirmation to Minister Mantashe.

REGISTRAR: Mr Mantashe, will you be taking the oath or affirmation?

WITNESS: I will take the oath.

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

WITNESS: My name is Samson Gwede Mantashe.

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

WITNESS: I have no objection at all.

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

WITNESS: Yes, an oath is binding.

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

WITNESS: So help me God.

SAMSON GWEDE MANTASHE: (d.s.s)

CHAIRPERSON: Thank you very much. Yes, Mr Notshe.

ADV NOTSHE SC: Mr Mantashe, do you confirm that you

have in front of you a document which is marked Exhibit T-32?

MINISTER MANTASHE: I have got the document.

ADV NOTSHE SC: Chair, for the record and may I reiterate again that this is part of BOSA Bundle 3?

CHAIRPERSON: Well, let us get the bundles here first. Which bundle were you confirming he has got in front of him?

ADV NOTSHE SC: It is an exhibit. It is Bundle 3 but
10 Exhibit T-32.

CHAIRPERSON: Okay the lever arch file is BOSASA Bundle 3.

ADV NOTSHE SC: Yes.

CHAIRPERSON: And then you will refer to his affidavit which is a particular exhibit in that file?

ADV NOTSHE SC: It is T-32 in the file.

CHAIRPERSON: Ja.

ADV NOTSHE SC: And on page – BOSASA 03187. Mr Mantashe, whilst I am on that. When we talk about the
20 pages, you will see on the left-hand of the document at the top left-hand, there are – there is a name BOSASA and then numbers in black. Do you see that?

MINISTER MANTASHE: Is it BOSASA 0319? It is the first page.

ADV NOTSHE SC: Yes. When we refer then to documents

– when we refer to pages, we are referring to that.
Understand?

MINISTER MANTASHE: [No audible reply]

ADV NOTSHE SC: So whenever I am referring you to pages, I will be referring to the page on the left-hand corner at the top.

CHAIRPERSON: So disregard the red numbers. Just regard – if there are red numbers on any page as well as black numbers, disregard the red numbers. Focus on the
10 black numbers. But on some pages, you will only have black numbers on the top left-hand corner.

ADV NOTSHE SC: Do you understand Mr Mantashe?

MINISTER MANTASHE: No, I see there are black and red, yes.

CHAIRPERSON: Yes. And also, when we refer to the pages, although it is written BOSASA-03, the number, we will not be saying BOSASA-03. We will just go to the last three digits. If it is three digits or one. So I am at page 187. So if we refer to that page, we will just say page 187.
20 So we forget about BOSASA and 03.

ADV NOTSHE SC: You understand?

MINISTER MANTASHE: Ja, I see page 187 on the covering page.

CHAIRPERSON: Yes. So when we refer to a page, we will just say 187 without saying BOSASA-03.

MINISTER MANTASHE: Okay.

CHAIRPERSON: Okay alright. Mr Notshe.

ADV NOTSHE SC: Mr Mantashe, you deposed to about three affidavits wherein you are applying to cross-examine Mr Agrizzi and Mr Richard le Roux. You remember?

MINISTER MANTASHE: I remember that.

ADV NOTSHE SC: And in those affidavits, you have set out your version of events regarding the security, the features that were installed in your three properties. You
10 remember?

MINISTER MANTASHE: I remember that.

ADV NOTSHE SC: For now, you can forget about the affidavit about the condonation. Just deal with the issue of the security upgrades. You confirm that those security were done at your three premises. Am I right?

MINISTER MANTASHE: Yes, I refer to them as cameras because security upgrade is a broader concept.

ADV NOTSHE SC: Now, but you confirm that they were installed at your premises?

20 **MINISTER MANTASHE:** The cameras were installed in all my premises, yes.

ADV NOTSHE SC: Yes. Now tell me ...[intervenes]

CHAIRPERSON: Just one second Mr Notshe. I just want to make sure. I know what is happening here. Mr Mantashe's application for leave to cross-examine

Mr Agrizzi, has that been deposed off or is that still pending? I have dealt with so many applications for leave to cross-examine. I forget. Is that still pending?

ADV NOTSHE SC: Yes.

CHAIRPERSON: Or is that been decided?

ADV NOTSHE SC: Yes, my recollection Chair is that it is still pending.

CHAIRPERSON: Oh.

ADV NOTSHE SC: Let me just...

10 **CHAIRPERSON:** Ja.

ADV NOTSHE SC: I understand from my junior that you granted the leave to cross-examine.

CHAIRPERSON: Oh, okay. But it is the actual cross-examination that has not taken place?

ADV NOTSHE SC: It has not taken place.

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

ADV NOTSHE SC: No, in all these matters, the personal ones for cross-examine, we will find that they have not testified and then we arrange for cross-examination.

20 **CHAIRPERSON:** Yes, okay, no, that is fine. Yes, you may continue.

ADV NOTSHE SC: Now Mr Mantashe, I would like you to explain to the Chairperson about the issues surrounding the installation of these cameras at your properties. How did it come about?

MINISTER MANTASHE: Well ...[intervenes]

CHAIRPERSON: Maybe just to clarify that Mr Mantashe. We will just give you a chance to put the story of how this happened in your own words and then Mr Notshe, when you are done can then put questions but to say this is how the whole thing happened and complete the story.

MINISTER MANTASHE: Yes. I had attempted break-ins in my property in Boksburg. And when I had a discussion with my security advisor who was employed by the ANC to
10 deal with my security, we agreed that we needed cameras so that whenever there will be investigations, would have ability to assist in investigations.

Then I give the work to the security advisor to deal with it because he knows the field. I do not know the field. He bought cameras to install in my property.

In that process, Papa Leshabane arrived in Boksburg. I had a discussion with him. He is available to give evidence because anything they discussed will be – I will... *the entire person(?)*.

20 And Papa Leshabane, he said he will offer to give better cameras because the cameras we got from Game, were of an *lesser(?)* quality. That is how that process got started.

CHAIRPERSON: Well, you may proceed to deal with what you may have discovered later. What was – what you say

to what has been put up or otherwise, if you prefer that Mr Notshe can start leading you from now on, he can lead you.

MINISTER MANTASHE: He can lead me from here.

CHAIRPERSON: Yes, okay. Mr Notshe.

ADV NOTSHE SC: Now you talk about the property in Boksburg but you know and it is not in dispute that you had properties in the Eastern Cape. Am I right?

MINISTER MANTASHE: Yes.

10 **ADV NOTSHE SC:** And installation was done at those properties as well?

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: How did it come about that installation was done on those properties as well?

MINISTER MANTASHE: If you look, there was a time difference between installations. You will see that the one in the Eastern Cape was informed by the success of the Boksburg installation.

We installed cameras in Boksburg in July 2013.

20 And the installation were affected in the Eastern Cape in 2016 having seen the effectiveness of the cameras in Boksburg, where we also even found a person who was actually... our property, who is working in the property and then we thought that we should put those cameras in those properties as well.

ADV NOTSHE SC: I see. So there was a three year difference ...[intervenes]

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: ...in the installation of the property in Boksburg and the Eastern Cape. Am I correct?

MINISTER MANTASHE: Yes, you are correct.

ADV NOTSHE SC: Yes. Now you have told the Chairperson about the – how it came about that the cameras were installed in Boksburg. How did it come
10 about, the installation of the property of the cameras in the Eastern Cape?

MINISTER MANTASHE: Let me repeat myself. We saw the installation of the cameras in Boksburg.

ADV NOTSHE SC: I see.

MINISTER MANTASHE: And thought that we needed them in the Eastern Cape because we are...

ADV NOTSHE SC: I see.

MINISTER MANTASHE: And then we thought.

ADV NOTSHE SC: I see. So it was in the Eastern Cape,
20 you went with that project? You decided the cameras in Boksburg are working well and therefore you must install proper cameras in the Eastern Cape as well. Am I right?

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: Where did you – who did you engage to install those cameras?

MINISTER MANTASHE: In the political settings, there is a very strict Division of Labour. I was kept out of the details of security arrangements and the security advisor handled that aspect themselves.

ADV NOTSHE SC: I see. Now you are saying to the Commission, Papa Leshabane was only involved in the Boksburg because he overheard you talking about the installations in Boksburg. Am I correct?

MINISTER MANTASHE: I did not say that.

10 **ADV NOTSHE SC:** What did you say?

MINISTER MANTASHE: I said Papa Leshabane came to the Boksburg property when Mzonke was working on the project in Boksburg.

ADV NOTSHE SC: Yes.

MINISTER MANTASHE: And offered Mzonke to give better cameras than what we got from Game.

ADV NOTSHE SC: Yes.

MINISTER MANTASHE: Now and they got into the Eastern Cape and other areas. Then that was their
20 arrangements as the security team.

ADV NOTSHE SC: Now can you explain to the Commission as to exactly how it happened? And because in your statements, you give the impression that Papa Leshabane said he is going to take over the installation and pay for the installation of all three properties.

MINISTER MANTASHE: No, I will give you a third person's *evidence*(?) in that regard. That is why Mzonke Nyakaza submitted an affidavit in that regard because it is Mzonke Nyakaza who was delivered the security details without involving me.

ADV NOTSHE SC: But did you read the statement of Mzonke?

MINISTER MANTASHE: Yes, I did read it.

ADV NOTSHE SC: Does it tell the Commission as to how
10 the – this was done, was arranged?

MINISTER MANTASHE: Uhm...

ADV NOTSHE SC: To jog your memory. Can you look at page 247, which is the statement of Mzonke Nyakaza?

MINISTER MANTASHE: Yes, I see it.

ADV NOTSHE SC: And ...[intervenes]

CHAIRPERSON: Well, page 247 is the affidavit of Mzompela Nyakaza. Is that the same as Mzonke?

MINISTER MANTASHE: That is the same as Mzonke.

CHAIRPERSON: Oh, okay alright. Mr Notshe.

20 **ADV NOTSHE SC:** Now the gist of that statement is on page 248, paragraph 3.

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: And he says ...[intervenes]

MINISTER MANTASHE: Ja.

ADV NOTSHE SC: I start reading:

“I have read the statement of the applicant...”

The applicant being you.

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: Yes.

“...and I confirm the context thereof insofar as
it relates to me...”

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: Now your statement does not say that
the person who initiated and who arranged for the payment
10 of the security installation in the Eastern Cape was him. It
does not say so. Perhaps I have missed it. Can you
perhaps take us to the part where you say he is the person
who arranged that?

MINISTER MANTASHE: No. Let me remind you what I am
saying.

ADV NOTSHE SC: Yes.

MINISTER MANTASHE: I am saying. Security details
were left in the hands of Mzonke, who apparently does it,
who was my security advisor.

20 **ADV NOTSHE SC:** Yes.

MINISTER MANTASHE: Ja. So details include Eastern
Cape or Boksburg.

ADV NOTSHE SC: Mr Mantashe, unless I misunderstood
your statement. Your statement does not say anywhere
that Mr Nyakaza also arranged for the payments of the

installation or does it?

MINISTER MANTASHE: No, no. We were not talking about payments. You have not asked me about payments. You asked me and we thought about his connection.

ADV NOTSHE SC: Yes.

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: Now is there – who then arranged for the payments of the installations?

MINISTER MANTASHE: I have given the statement...
10 apparently, it does not say. Papa Leshabane offered to pay for the cameras at his own costs.

ADV NOTSHE SC: I am sorry. I do not want this to appear and look funny for you. Mr Nyakaza does not say that I have looked(?) at his statement. He does not ...[intervenes]

MINISTER MANTASHE: Go through my statement. Where is my...? Let us go to my statement.

ADV NOTSHE SC: Yes.

MINISTER MANTASHE: I said, Mzonke explained that
20 Papa Leshabane offered to give cameras at his own costs.

ADV NOTSHE SC: I see. And perhaps I missed that. Where is that in your statement?

MINISTER MANTASHE: Let us just get the statement...

CHAIRPERSON: He wanted you to remind him where to find the statement.

ADV NOTSHE SC: Oh, yes Chair.

CHAIRPERSON: His statement starts ...[intervenes]

ADV NOTSHE SC: Your statement is at page 199.

CHAIRPERSON: Oh, I was looking at the one at page 235. 199?

ADV NOTSHE SC: Yes.

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: Chair, just... Mr Mantashe, before you respond. Chair, you have the two statements. The one
10 deals with the evidence of Agrizzi and the other deals with the evidence of Richard Le Roux.

CHAIRPERSON: Yes, okay.

ADV NOTSHE SC: At 199, it deals with the evidence of Agrizzi.

CHAIRPERSON: Okay.

MINISTER MANTASHE: Thank you. And where is the other one?

CHAIRPERSON: The other one is at 235. At least, one of the – you said there are three of his, right?

20 **ADV NOTSHE SC:** There are three of his. The one is for the condonation.

CHAIRPERSON: Alright.

ADV NOTSHE SC: Then there are these two which are the founding – in inverted commas the “founding statements” and then there is a reply. But let us deal now with the

founding, the first founding.

CHAIRPERSON: Yes, but I think he wants to see both.

The other one is at 235, Mr Mantashe.

MINISTER MANTASHE: Where is the founding statement?

ADV NOTSHE SC: Yes.

CHAIRPERSON: The founding statement, tell him Mr Notshe. Is that the one at 199?

ADV NOTSHE SC: Both are at 199. The founding statement, 199, deals with the evidence of Mr Agrizzi.

10 **CHAIRPERSON:** Yes.

ADV NOTSHE SC: And then the founding at 235, it deals with the evidence of Mr Richard Le Roux.

CHAIRPERSON: H'm.

MINISTER MANTASHE: Are they both founding affidavits?

ADV NOTSHE SC: Yes.

CHAIRPERSON: 199 or 41 and 235 for the other.

MINISTER MANTASHE: But I want my founding affidavit.

CHAIRPERSON: Have you found it?

MINISTER MANTASHE: Okay. Okay, okay, okay. Page

20 238.

CHAIRPERSON: 238.

MINISTER MANTASHE: 13, 14.

CHAIRPERSON: H'm.

MINISTER MANTASHE: And at page 15.

“I am informed by Mzonke that Papa requested

to see the cameras that would be installed and his opinion was that they were of inferior quality.

Papa then offered to provide Mzonke with their quality, CCTV footage and security system. Further that, he will bear the costs of the equipment and installation.

Mzonke informed the offer... on the basis of good relationship.

10 I had... and I have accepted the offer and I asked him, Papa, about the costs.

He confirmed that the costs will be borne by...”

ADV NOTSHE SC: Is that it?

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: Now can you just read – go back to 237 and read paragraph 12?

MINISTER MANTASHE: Paragraph 12.

20 “During the same period, Papa arrived at my house in Boksburg to find Mzonke busy with the installation of the cameras around the house...”

ADV NOTSHE SC: Yes.

MINISTER MANTASHE: And... continue from that?

ADV NOTSHE SC: Yes. Now and then you confirm in your later paragraphs that you then spoke to Papa and then he

said he will then bear the costs of the house in Boksburg.

Am I right?

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: It refers(?) in your statement, alright?

MINISTER MANTASHE: I do not think there is reference to Boksburg. There is reference to cameras. And the discussion takes place in Boksburg.

ADV NOTSHE SC: Yes, the... if, Mr Mantashe, you look at paragraph 12. Papa arrives at your house whilst
10 Mzonke is busy with installation.

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: And then Mzonke informs you that Papa says he can find better equipment. Am I right?

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: And then you speak to Papa.

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: And then he says he will do it at his costs. Am I right?

MINISTER MANTASHE: Yes.

20 **ADV NOTSHE SC:** This is the same day, same period or was it another period?

MINISTER MANTASHE: What is the material purpose of that?

ADV NOTSHE SC: Do not worry. Can you just answer the question? Is it the same ...[intervenes]

MINISTER MANTASHE: I must worry it because I must give you appropriate answers.

ADV NOTSHE SC: When you asked – when you spoke to Mzonke and you spoke to Papa about costs. Is it on the day that Papa came to your house and found Mzonke installing security cameras?

MINISTER MANTASHE: It was in 2013. I would imagine so. I cannot remember but I think it is.

ADV NOTSHE SC: Now can you tell the Commission and
10 tell the Commission where your place now where you deal with how the cameras and the costs – who pay the costs of the cameras for your houses and your farm in the Eastern Cape?

MINISTER MANTASHE: I have dealt with that.

ADV NOTSHE SC: I beg your pardon?

MINISTER MANTASHE: I dealt with that.

ADV NOTSHE SC: Yes. Is it somewhere – anywhere here?

MINISTER MANTASHE: Because I have dealt with that.

20 **ADV NOTSHE SC:** Can you deal with that now?

MINISTER MANTASHE: [No audible reply]

ADV NOTSHE SC: And tell the Commission, where and when and who paid for the installation of the security cameras in your premises in the Eastern Cape.

MINISTER MANTASHE: Let me go back. Security details

were handled by Mzonke Nyakaza that is the person who handled security details, whether it is in Boksburg or in Cala.

ADV NOTSHE SC: Did you find out from him as to who was paying for the security, to do the security installations?

MINISTER MANTASHE: I found out after there was a big issue BOSASA but we paid for [indistinct – dropping voice] and he said no, that arrangement in Boksburg continued throughout.

ADV NOTSHE SC: So when they were installed you did not
10 know who was responsible for the payments of the security in the Eastern Cape?

MINISTER MANTASHE: The arrangement between Mzonke and Papa continued.

ADV NOTSHE SC: But when they were installed you did not know about that, did you?

MINISTER MANTASHE: No.

ADV NOTSHE SC: Whom did you think was paying for the security installations?

MINISTER MANTASHE: Papa and Mzonke and had
20 arrangement that Papa would offer security that were of higher quality and he will do that his own costs.

ADV NOTSHE SC: Yes.

MINISTER MANTASHE: And that arrangement continued.

ADV NOTSHE SC: If I understand this was – the arrangement he made was in 2013.

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: And then you said in your evidence you then found that this is working well and three years later you decided that the same arrangement should be made in your properties in Eastern Cape. Am I correct or did I misunderstand you?

MINISTER MANTASHE: We used the term we because it was an outcome of a discussion with my security team.

ADV NOTSHE SC: Yes, it is now after three years after
10 Boksburg meeting, you found that ...[intervenes]

MINISTER MANTASHE: It is continuous, after in Boksburg, those cameras helped us eliminate dangers on two occasions, so as we discussed that – we in a discussion I said listen, this thing works well, it can work in Cala, it can work in the Vaal, both where there are no security fences.

CHAIRPERSON: Okay, maybe – I am sorry, Mr Notshe, just so that I understand Mr Mantashe. First Mr – your security adviser had bought security cameras for the Boksburg property, is that correct?

20 **MINISTER MANTASHE:** Yes, yes.

CHAIRPERSON: With a view to having them installed.

MINISTER MANTASHE: Yes.

CHAIRPERSON: And Mr Papa Leshabane...[intervenes]

MINISTER MANTASHE: Leshabane.

CHAIRPERSON: Leshabane, ja, had a discussion with him in which discussion he said after seeing these cameras that your security adviser had bought, he said these are poor quality cameras.

MINISTER MANTASHE: Yes.

CHAIRPERSON: And he offered to buy at his own costs good quality cameras, is that correct?

MINISTER MANTASHE: Yes.

CHAIRPERSON: In that discussion you were not there, it
10 was the two of them.

MINISTER MANTASHE: Yes.

CHAIRPERSON: But subsequently you were told about this discussion by your security adviser.

MINISTER MANTASHE: Yes.

CHAIRPERSON: And but there was a time when you had a discussion with Papa Leshabane about this offer as well, is that right?

MINISTER MANTASHE: I asked him.

CHAIRPERSON: You asked him.

20 **MINISTER MANTASHE:** Yes, I asked him.

CHAIRPERSON: And you sought to confirm who was going to be responsible for the costs, is that right?

MINISTER MANTASHE: Yes.

CHAIRPERSON: And he confirmed to you that he would be responsible for the costs.

MINISTER MANTASHE: Yes.

CHAIRPERSON: And is your recollection that those discussions were in 2013?

MINISTER MANTASHE: In my recollection I think the installation costs were around July 2013.

CHAIRPERSON: Yes and the discussion would have been sometime earlier than that but in 2013 as you recall?

MINISTER MANTASHE: It was around that time, yes.

CHAIRPERSON: Yes.

- 10 **MINISTER MANTASHE:** Now the discussion, as you understood it at that time, both when your secretary adviser told you what he and Mr Papa Leshabane had asked and when you had a discussion with Mr Papa Leshabane, was it about cameras in the Boksburg property?

MINISTER MANTASHE: Yes.

CHAIRPERSON: Or was it about cameras beyond the Boksburg property?

MINISTER MANTASHE: It was cameras in Boksburg.

CHAIRPERSON: In Boksburg.

- 20 **MINISTER MANTASHE:** At the time.

CHAIRPERSON: Okay, alright. And did you say that after the cameras had been installed on the Boksburg property a period of about three years last before they were installed in the other properties in the Eastern Cape?

MINISTER MANTASHE: Yes.

CHAIRPERSON: Is that so?

MINISTER MANTASHE: That is correct.

CHAIRPERSON: Okay, alright. Mr Notshe, take it from there. Switch on your mic.

ADV NOTSHE SC: When did then Mr Leshabane undertake to pay now for the installations of the properties in the Eastern Cape?

MINISTER MANTASHE: That question can be answered by Mr Nyakaza because at that point in time it was a security
10 operation.

ADV NOTSHE SC: And are you telling the Commission then that Mr Nyakaza might have approached Mr Leshabane without your knowledge to pay for the installations at ...[intervenes]

MINISTER MANTASHE: I do not think he would approach him with payment. He would approach him with the extension of the security arrangements to other properties.

ADV NOTSHE SC: And I am sure he did not expect that these are not going to be paid for, someone had to pay for
20 this security ...[intervenes]

MINISTER MANTASHE: I do not know if the discussion there – if they agreed on the payment to have the same arrangement, it is their agreement.

ADV NOTSHE SC: Now you read the evidence of both Mr Agrizzi and Mr Richard le Roux, am I right?

MINISTER MANTASHE: Yes, I did.

ADV NOTSHE SC: And then you, before you deposed to the affidavit, you must have made enquiries from Mzonke as to what happened and who paid for the security arrangement in your Eastern Cape properties. You must have?

MINISTER MANTASHE: No. Mzonke was responsible for my security.

ADV NOTSHE SC: Yes.

MINISTER MANTASHE: And they made arrangements for
10 security throughout and when I read Le Roux and Agrizzi's affidavits, the many things I pick up there. One, contradictions on the price, that is the first one. Then I read Leshabane's affidavit who is disputing those two prices and I would imagine that even if Leshabane was offering these cameras, he would be the person who would actually know the prices and he dispute both the prices.

ADV NOTSHE SC: Alright, let us move back a little bit. My initial question to you was this, after you read the affidavits of both Mr Agrizzi and Mr le Roux.

20 **MINISTER MANTASHE:** Yes, I did.

ADV NOTSHE SC: And now you are preparing to answer this in your founding affidavit, did you find out from Mzonke as to who paid for your properties in the Eastern Cape? Did you?

MINISTER MANTASHE: My understanding from Mzonke is

that the arrangement in Boksburg extended to the Eastern Cape.

ADV NOTSHE SC: Did you ask him who authorised him to ask Mr Leshabane for the extension of the arrangements in Boksburg?

MINISTER MANTASHE: No. I did not ask him that precisely because our arrangement, our working and relationship with Mzonke is that of a security team and security team deals with the nitty gritty of the security
10 arrangements.

ADV NOTSHE SC: I understand.

MINISTER MANTASHE: And they would come to me on a need to know basis.

ADV NOTSHE SC: I understand but they are not your financiers, they are just security people, they do not finance your security, am I correct?

MINISTER MANTASHE: No, they did not finance my security, my security was financed by the ANC.

ADV NOTSHE SC: So did you ask him whether he asked
20 the ANC then to extend ...[intervenes]

MINISTER MANTASHE: No, I did not ask that.

ADV NOTSHE SC: Why did you not ask him to find out who authorised to extend the arrangement in Boksburg?

CHAIRPERSON: May I ask this question prior to that, Mr Notshe?

ADV NOTSHE SC: Yes.

CHAIRPERSON: Mr Mantashe, at same stage you must have asked Mr Mzonke to tell you how it came about that the Eastern Cape properties were also provided with security cameras and who paid even before you could ask whether he was authorised or not authorised. Did you ask him to just tell you the story, how did it come about?

ADV NOTSHE SC: You see, there were difficulties between a legal process and a traditional arrangement. In a
10 traditional arrangement, Mr Chairperson, Mr Chairman, we help one another in dealing with a number of projects, you see? If Mantashe is going to get married we come together and [speaking vernacular] and people contribute. The questions that are legal that you are asking now do not arise because we are a group, in a family arrangement we are in a traditional arrangement, people make contributions and those contributions are not looking suspicious until years later there is a Commission..

CHAIRPERSON: No, I – when I say there must have been
20 time when you asked him to just tell you exactly how it came about, that could well be after Mr Agrizzi and Mr Richard le Roux started giving evidence but I am saying I would expect that at some stage prior to today or maybe prior to you doing your affidavits you would have said well, I knew before the security cameras were installed by Mr Leshabane at the

Boksburg property, I had to even confirm with him that the costs would be borne by him, so he confirmed to me. But now, after that, I found that the properties in the Eastern Cape have also been – cameras have been installed there but I have not been involved in any such discussion, now there is this whole issue coming out in the Commission and I want to know exactly how it came about.

So I am saying, my expectation is that at some stage at least maybe after Mr Agrizzi and Mr Richard le Roux had
 10 given evidence, you would have been interested to find out how did it come about, did Mr Leshabane just offer on his own or was he approached by Mzonke to say let us extend this arrangement that has applied in Boksburg to the Eastern Cape. That is my expectation. Did that not happen?

MINISTER MANTASHE: No. What I was told that Mzonke and Leshabane agreed to extend the arrangement in Boksburg to Eastern Cape properties. What I did not ask is whether it was Mzonke who approached Leshabane or Leshabane – I made an assumption that in their usual
 20 conversation and discussion they agreed to extend the arrangement to the Eastern Cape.

CHAIRPERSON: Okay, Mr Notshe?

ADV NOTSHE SC: Thank you. And you are saying to the Commission you did not find out how did Mr Leshabane undertake to pay for the installations in the Eastern Cape?

MINISTER MANTASHE: No, I did not ask the details of that.

ADV NOTSHE SC: Now at some stage now when you were answering the questions, you are saying that the ANC would pay for those installations ,am I correct?

MINISTER MANTASHE: No, I said – do not destruct what I said.

ADV NOTSHE SC: I apologise if I did.

MINISTER MANTASHE: But do not do that because if you
10 do that, I will suspect malice. I said the ANC was responsible for my security.

ADV NOTSHE SC: Yes.

MINISTER MANTASHE: I did not say the ANC would pay for the installation, I did not say that.

ADV NOTSHE SC: And it was – was it also responsible for paying for the security?

MINISTER MANTASHE: What does that mean? Let me give you my – let me explain to you. Maybe experience for an NGO is limited in the [indistinct – dropping voice] is when
20 you work for an NGO which the ANC is, to a great extent, is that you live in a way where you are almost living for survival but you get satisfaction in the work you do. So the ANC does not have a pile of money to pay for that and that and that, security people are mainly in the ANC by the way, do discuss and make arrangements for security. They drive

your car, they guard you, they go with you. So when you say ANC should have budgeted for security, they know that it is important for me to have security but they may not be in a position to pay you, that is why we were doing that project ourselves and Papa Leshabane did not join the ANC in that project, they join our own team in that project.

ADV NOTSHE SC: So you knew you were responsible for the payment of security instalments in your houses, am I correct?

10 **MINISTER MANTASHE:** Yes but I also knew that there was an offer by Papa Leshabane to foot the cost of cameras.

ADV NOTSHE SC: And that was in Boksburg only? You knew about Boksburg only?

MINISTER MANTASHE: Now you are supplementing(?) your family setup. I said earlier Papa Leshabane was a family friend because he was always mingling with – there are a group of young people in the family and in that process had known Mzonke and they had discussion and they made their own arrangement with that setup of a family. Okay, so you
20 want us to make a family discussion a formal meeting. It does not always work like that, they come there and say no, listen, leave those cameras, they are very poor, I will give you cameras and I would imagine Mzonke would not know where Papa would get the cameras and accept the offer because it is where the good offer in a project we were

already undertaking.

ADV NOTSHE SC: At that time 2013 what were you in the ANC?

MINISTER MANTASHE: I was Secretary General.

ADV NOTSHE SC: in 2016?

MINISTER MANTASHE: I was Secretary General. I was Secretary General for ten years.

ADV NOTSHE SC: I see. And Mzonke – and Papa Leshabane, where was he working at the time?

10 **MINISTER MANTASHE:** He was working at BOSASA.

ADV NOTSHE SC: And you knew he was working at BOSASA.

MINISTER MANTASHE: Yes and I had no problem with BOSASA at the time [inaudible – speaking simultaneously]

ADV NOTSHE SC: How much was he earning?

MINISTER MANTASHE: Because BOSASA is a group of [indistinct] 18.41 which was initiated by ANC women, so we had no tensions(?) with BOSASA at the time.

ADV NOTSHE SC: I see. And how much was he earning?

20 **MINISTER MANTASHE:** I do not know, I do not ask people's salaries.

ADV NOTSHE SC: Did he say to you this money is going to come from his pocket or from BOSASA?

MINISTER MANTASHE: He said he will carry the cost.

ADV NOTSHE SC: And you did not bother to ask him where

he would get the money to carry the cost?

MINISTER MANTASHE: Why would I do that? I do not ask people's earnings, it is not my business, I do not tell people my earnings.

ADV NOTSHE SC: I see. Now when the installations were done at your Eastern Cape properties were you satisfied with those installations?

MINISTER MANTASHE: Yes, I am satisfied [inaudible – speaking simultaneously]

10 **ADV NOTSHE SC:** And did you ever enquire – sorry, sorry, I spoke over you, I apologise.

MINISTER MANTASHE: Yes, [speaking vernacular]

ADV NOTSHE SC: I apologise, I apologise.

CHAIRPERSON: Mr Mantashe, you will have to give an English translation of that.

MINISTER MANTASHE: Yes, [speaking vernacular]

ADV NOTSHE SC: He said I am sitting on his beard.

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: No, it is unintentional.

20 **CHAIRPERSON:** Yes, you were saying something and he interrupted you and he wants you to finish.

MINISTER MANTASHE: Yes, I am saying the installation in the Eastern Cape satisfied me and I am still satisfied, they do what was intended. That is why we were able to get a [indistinct] 20.15 that went to go and steal my sheep,

because [indistinct] 20.18.

ADV NOTSHE SC: Now when you saw this installation and you were satisfied with it, did you ever ask how much it cost?

MINISTER MANTASHE: No, I did not.

ADV NOTSHE SC: I beg your pardon?

MINISTER MANTASHE: I did not.

ADV NOTSHE SC: Why?

MINISTER MANTASHE: Because the security team was
10 working on that and they were satisfied with it.

ADV NOTSHE SC: And they are satisfied with the efficacy of the cameras but did you find out how much it cost them to install those ...[intervenes]

MINISTER MANTASHE: No, I did not, I did not ask that.

ADV NOTSHE SC: And up to to date you do not know how much it cost to install those?

MINISTER MANTASHE: No, I am reading now that Agrizzi says it is 655, I read that Le Roux says it is 300, I read that [indistinct] 21.13 will say it is much less than that.

20 **ADV NOTSHE SC:** I see. When ...[intervenes]

CHAIRPERSON: I am sorry. Do you recall – okay, let me start with this question. Is the position that you never knew before the cameras were installed in the Eastern Cape you never knew in advance that they were going to be installed or did you?

MINISTER MANTASHE: Mzonke told me that we are extending the project to the Eastern Cape I knew, that is the...

CHAIRPERSON: Oh, so he told you that before the actual installations in the Eastern Cape?

MINISTER MANTASHE: Yes, almost simultaneously, they were extending the project, then he said that project we are extending to the Eastern Cape.

CHAIRPERSON: Oh, okay.

10 **MINISTER MANTASHE:** And I understood.

CHAIRPERSON: Okay, alright. And how long after the installation had taken place did you have the opportunity of seeing the cameras in those properties?

MINISTER MANTASHE: I cannot remember because I go home to that as I am – I cannot remember now.

CHAIRPERSON: But probably it might not have been a long time after that ...[intervenes]

MINISTER MANTASHE: No, I go home regularly.

CHAIRPERSON: Yes, okay. Mr Notshe?

20 **ADV NOTSHE SC:** Thank you. You have already confirmed that to the Eastern Cape you did not ask how much it cost. Did you enquire about cost of the installations in Boksburg?

MINISTER MANTASHE: No, I did not.

ADV NOTSHE SC: And at that time you knew that Papa Leshabane was working for BOSASA, am I correct?

MINISTER MANTASHE: Yes. Even if he worked for the Department of the Justice, whether he would have been working for the ANC or somebody, that is not material. Papa Leshabane offered to give us cameras of superior quality in a project we are undertaking.

ADV NOTSHE SC: I see.

MINISTER MANTASHE: So working for BOSASA or whatever would not make material – not unless I knew it hindsight, which is an exact science to say ja, BOSASA now
10 – then once the BOSASA issue comes up, then it becomes an issue. At that time it was not an issue. So working for BOSASA, others working for that, were not an issue, amongst the [indistinct] 23.52 who used to come to my place regularly, some were working for [indistinct] 24.02, not coming as anybody else, coming as a group of young people intermingling and the place is mine.

ADV NOTSHE SC: Can we confine ourselves for now to Leshabane?

MINISTER MANTASHE: I am not confining myself because
20 I am confining to – that he was working for BOSASA was immaterial at the time.

ADV NOTSHE SC: You knew he was working for BOSASA, am I correct?

MINISTER MANTASHE: Yes, yes, he was working for BOSASA, ja.

ADV NOTSHE SC: Did you know what position he was occupying in BOSASA?

MINISTER MANTASHE: No.

ADV NOTSHE SC: At that time you knew that BOSASA had been awarded contracts by government?

MINISTER MANTASHE: I was not in government, I was not in government. The only thing I know about BOSASA in government was the West Rand Youth Centre, that is all I knew. The other projects, I was not in government.

10 **ADV NOTSHE SC:** But you knew that they had a contract with government, am I right?

MINISTER MANTASHE: I knew that BOSASA was a school for the juvenile centre in the West Rand. Other contracts were not really my business, I did not know [indistinct – dropping voice]

ADV NOTSHE SC: And at that time you were the Chairperson of the ANC, am I correct?

MINISTER MANTASHE: The Secretary General.

20 **ADV NOTSHE SC:** Sorry, the Secretary General of the ANC, am I correct?

MINISTER MANTASHE: Yes, yes.

ADV NOTSHE SC: And it is well-known – it is well-known that the Secretary General and the executive committee of the ANC is responsible for – it is very influential on government appointments and government ministers – an

appointment of ministers, am I correct?

MINISTER MANTASHE: It is well-known to who?

ADV NOTSHE SC: It is not a secret, is it?

MINISTER MANTASHE: No, well the relationship with them when you say it is well-known ...[intervenes]

ADV NOTSHE SC: No, I apologise for using the term.

MINISTER MANTASHE: Well-known by who?

ADV NOTSHE SC: Well, I thought it is public knowledge, that would be ...[intervenes]

10 **MINISTER MANTASHE:** No. If it is public knowledge, yes, I was Secretary General, I was not in public.

ADV NOTSHE SC: Yes. But you were in the National Executive Committee of the ANC.

MINISTER MANTASHE: Not the National Executive Committee, I was the Secretary General.

ADV NOTSHE SC: Yes.

MINISTER MANTASHE: Of the ANC.

ADV NOTSHE SC: Yes and in the National Executive Committee.

20 **MINISTER MANTASHE:** So you do not know that the Secretary General is part of the NEC. After – when we elect an NEC we first elect six people.

ADV NOTSHE SC: Yes.

MINISTER MANTASHE: Then elect the additional members.

ADV NOTSHE SC: Yes.

MINISTER MANTASHE: One of the six people is the Secretary General.

ADV NOTSHE SC: Yes. Now these questions, all you need to do is just to confirm it, if it is not, then you explain. Now you have explained Secretary General was a member of the National Executive Committee. The National Executive Committee ...[intervenes]

MINISTER MANTASHE: Secretary General is always a member of the NEC of the ANC, he was – he is always even
10 today, the Secretary General is a member of the NEC.

ADV NOTSHE SC: I understand. And the NEC is influential in the appointment of ministers and high-ranking government official, am I correct?

MINISTER MANTASHE: Actually, we are going to come to the Commission on that issue. We are going to come to the Commission on that issue. The Commission has asked NEC to come here and explain the issue of deployment and the way we relate, how do we relate with the caucus of the ANC and so forth and I think it would be incorrect of me to be
20 asked to give that evidence here today.

ADV NOTSHE SC: The reason I am – the only reason I am asking you that is that you were an influential person at that time, 2013 and 2016, am I correct?

MINISTER MANTASHE: I do not know influential who.

ADV NOTSHE SC: In the sense that you were the National

Executive Committee of the ANC which had a power to influence the decisions of the appointment of influential people in government.

MINISTER MANTASHE: No. If you want me to give evidence that I am going to bring here, let me give you a taste of it.

ADV NOTSHE SC: Please.

MINISTER MANTASHE: There is a deployment committee in the ANC.

10 **ADV NOTSHE SC:** Yes.

MINISTER MANTASHE: Of which the SG is not a member, okay?

ADV NOTSHE SC: Okay.

MINISTER MANTASHE: The Secretary General is not a member of the deployment committee, okay?

ADV NOTSHE SC: Okay.

MINISTER MANTASHE: But deployment of ministers is a prerogative of the President.

ADV NOTSHE SC: Yes.

20 **MINISTER MANTASHE:** Ja. But in the ANC policies is that the President must first consult first the officials and then the NEC.

ADV NOTSHE SC: Yes.

MINISTER MANTASHE: Okay, so it is not the NEC appointing cabinet, no, the President appoints cabinet. He

consults and say I am appointing X, Y and Z.

ADV NOTSHE SC: Yes.

MINISTER MANTASHE: We can express views but at the time we [indistinct] 29.24 expressed the views.

ADV NOTSHE SC: Yes. Now you were sitting at that time as a person who can express view on the appointment of ministers, am I correct?

MINISTER MANTASHE: No, no, no.

ADV NOTSHE SC: You have just said so. ANC because
10 you are venturing on an area that has nothing to do with what we are here for because Cabinet Ministers are a prerogatory[sic] of the ANC by the constitution of the Republic and the plan then as a matter of practice, does inform and consult the structures of the ANC

ADV NOTSHE SC: Yes.

MINISTER MANTASHE: Because of one, but we do not say no, no, no not that one, this one, no.

You have the prerogative to appoint, unless there is something terrible wrong with the candidate I will say but
20 president, you are going to attract yourself trouble in this one. You are not appointing cabinet members.

ADV NOTSHE SC: So you were sitting that time in a committee which I do not want to use the hard word to say instruct, but to advise the president on his appointments, am I right?

CHAIRPERSON: You might wish Mr Notshe, consider whether you want to put your final proposition that you want to put to him and then if you need to support it with certain other facts ...[intervenes]

ADV NOTSHE SC: Yes.

CHAIRPERSON: Maybe do so. Maybe you might wish to put ...[intervenes]

ADV NOTSHE SC: Yes.

CHAIRPERSON: The final proposition that you would like
10 to put.

ADV NOTSHE SC: Yes.

MINISTER MANTASHE: Mr Chairman?

CHAIRPERSON: Yes.

MINISTER MANTASHE: We have been invited to the commission ...[intervenes]

CHAIRPERSON: Yes.

MINISTER MANTASHE: As the former subcontracts.

CHAIRPERSON: Yes.

MINISTER MANTASHE: To explain the employment
20 process and other issue and other issue.

CHAIRPERSON: Yes.

MINISTER MANTASHE: I do not think it is correct to try to push me to give that evidence today.

CHAIRPERSON: Yes.

MINISTER MANTASHE: Because I am bringing that

evidence here.

CHAIRPERSON: In due course. No, no it is true that the ANC has been invited and it has accepted invitation to come and give evidence, and the person who might give evidence might well be Mr Mantashe in regard to those matters.

ADV NOTSHE SC: Yes.

CHAIRPERSON: So I think that one has got to bear that in mind.

10 **ADV NOTSHE SC:** Yes, yes.

CHAIRPERSON: That for when, if it is him who comes to give that evidence on behalf of the ANC, he will then be talking in a representative capacity.

ADV NOTSHE SC: I understand.

CHAIRPERSON: Ja, today he is here in his personal capacity.

ADV NOTSHE SC: I understand.

20 **CHAIRPERSON:** But it depends what proposition you want and maybe you should get to the proposition so that you put it, he knows what you want to, what the proposition is and you can respond, but he is right to say the ANC will be coming to deal with a lot of those matters, and he is saying maybe it might be better to leave that for that time.

ADV NOTSHE SC: Yes.

CHAIRPERSON: But it depends what your proposition

finally is, ja.

ADV NOTSHE SC: Yes. Mr Mantashe, let me cut to the chase. Here was Mr Leshabane offering to take care, to pay for your security arrangements and Mr Leshabane was working for a company BOSASA who has had a contract with government, with government.

Did you not find it strange, you were not uncomfortable with that arrangement?

MINISTER MANTASHE: I never have any [indistinct -
10 00:03:24] at the time. Leshabane was a young person coming with other young people who were in my place. So I would not say he was a representative of BOSASA.

ADV NOTSHE SC: Did it not occur to you that this undertaking, this payment for a security arrangement was to influence you because BOSASA had contract with government?

MINISTER MANTASHE: No. BOSASA had contracts with a number of departments who has had ministers, none of those ministers was myself.

20 **ADV NOTSHE SC:** Now did you know who was, or who were the directors and the owners of BOSASA at the time?

MINISTER MANTASHE: No, I did not know.

ADV NOTSHE SC: And did you know that Gavin Watson was involved in BOSASA?

MINISTER MANTASHE: No, Gavin Watson was, because

why I was ... earlier I think in my life there was a [indistinct – 00:04:31] when he wanted contact with mines and [indistinct – 00:04:36] when he was bribing shop stewards and they said no, they are not going to agree to this.

So I knew Gavin was [indistinct -00:04:44].

ADV NOTSHE SC: You say he was trying to bribe shop stewards and securities?

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: Then ...[intervenes]

10 **MINISTER MANTASHE:** Because he was not security.

ADV NOTSHE SC: What was he ...[intervenes]

MINISTER MANTASHE: [indistinct – 00:04:57], take me through your questions, please.

ADV NOTSHE SC: He was bringing them for what?

MINISTER MANTASHE: For contracts for catering at the time.

ADV NOTSHE SC: I see.

MINISTER MANTASHE: He was catering in many hostels and we fought in many of those hostels working. So I knew
20 him.

ADV NOTSHE SC: I see and you knew that he is involved in BOSASA?

MINISTER MANTASHE: I knew that he was the CEO of BOSASA, yes.

ADV NOTSHE SC: And you knew that Leshabane is

working for this company, the company whose CEO had previously attempted to bribe the shop stewards?

MINISTER MANTASHE: No, no, no. You see, you see presumptions are very dangerous.

ADV NOTSHE SC: Yes, I know.

MINISTER MANTASHE: They are very dangerous because that is why I said earlier. Young people were coming, they were working for various companies. Amongst them was Leshabane, he worked for BOSASA. Now to [indistinct –
10 00:05:55] to scrutinise BOSASA, Leshabane for Bosasa's position, now because of hind sight is unfair to me, it is unfair to Leshabane.

ADV NOTSHE SC: I do not think it is unfair to you because at the time Leshabane made the offer, you knew that he works for a company which is headed by someone, who on a number of occasions according to you had attempted to bribe shop stewards.

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: He was working for ...[intervenes]

20 **MINISTER MANTASHE:** He was running them.

ADV NOTSHE SC: He was working for a company led by this corrupt person. Were you not concerned about that this could be also a bribe?

MINISTER MANTASHE: No. There were one thing that did not worry me, is that the one thing I know, I am not

amenable to bribes.

ADV NOTSHE SC: Yes.

MINISTER MANTASHE: I am known for that then, I am known for that now.

ADV NOTSHE SC: Yes, and then in order to avoid that I am sure, you would offer ... you would not take any person that you do not pay for. Am I correct?

MINISTER MANTASHE: No. When you run a project and in a collective situation of a similar arrangement people
10 make contributions, it happens from time to time, I contribute to many of such projects. For example, if the board goes for [indistinct – 00:07:19] and I give them a cow, and this happened there, that is not a bribe.

That is how we relate with one another in a social arrangement at same level.

ADV NOTSHE SC: And even now Mr Mantashe, if someone gives you a present and you know the background of the person, you would refuse to those presents?

MINISTER MANTASHE: No, if I am having a present now,
20 whether I know the background or not, I declare now I am a minister.

ADV NOTSHE SC: And you would refuse some of the presents if you know the background of the giver, am I right?

MINISTER MANTASHE: Yes, yes.

ADV NOTSHE SC: Now you say Gavin Watson, I suppose he also had ...[intervenes]

MINISTER MANTASHE: I never dealt with Gavin Watson.

ADV NOTSHE SC: No, no I am not saying you dealt with him.

MINISTER MANTASHE: No, you are telling that Gavin Watson, in this space he does not feature. I did not have any interaction with Gavin Watson on this matter.

ADV NOTSHE SC: I have not gone there. You said you
10 have met him.

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: You knew him, you have met him ...[intervenes]

MINISTER MANTASHE: I met him many years, yes I know him.

ADV NOTSHE SC: No, I understand he also had a claim name, he adopted a claim name.

MINISTER MANTASHE: Okay.

ADV NOTSHE SC: What claim name did he have?

20 **MINISTER MANTASHE:** I do not know. If you know that he has the claim name, tell us.

ADV NOTSHE SC: Do you know whether he had a claim name or not?

MINISTER MANTASHE: No.

CHAIRPERSON: Eh ...[intervenes]

ADV NOTSHE SC: The reason I am asking this
...[intervenes]

CHAIRPERSON: Ja, do you want to focus on the issues.

ADV NOTSHE SC: Yes.

CHAIRPERSON: Ja, okay.

ADV NOTSHE SC: The reason I am asking this is,
[indistinct – 00:08:50] evidence that he met, you met him
at your farm whilst he was installing security equipment at
your farm. Remember that?

10 **MINISTER MANTASHE:** I write that in a statement, yes.

ADV NOTSHE SC: And he, you said to him that he must
thank, he must thank Gavin and you used Gavin's claim
name.

MINISTER MANTASHE: Now Le Roux should elaborate on
that evidence. That is not my evidence.

ADV NOTSHE SC: Let us concentrate on that. Did you
meet Mr le Roux at your farm whilst he was installing the
...[intervenes]

20 **MINISTER MANTASHE:** I say I have read about that in his
statement.

ADV NOTSHE SC: Yes.

MINISTER MANTASHE: If I saw him working there, then
we not [indistinct -00:09:47], but we never had a meeting
with him alone at my place.

ADV NOTSHE SC: Did you see him working there?

MINISTER MANTASHE: I read that in his evidence.

ADV NOTSHE SC: You have said that.

MINISTER MANTASHE: And I am saying I am not disputing it. I went to my place and the cameras were installed, I would have seen people watching.

ADV NOTSHE SC: Did you speak to him whilst he was at your farm?

MINISTER MANTASHE: No. I do not remember speaking to him. I read that in his evidence.

10 **ADV NOTSHE SC:** And you saw in his evidence, in his affidavit that you said you must, you should ... he ... you said to him that he must thank Gavin and he said [indistinct – 00:10:37], using his claim name.

MINISTER MANTASHE: Yes. The reason why I want to cross-examine Le Roux is because he should elaborate on that, not me.

ADV NOTSHE SC: No, he explained his side of the story.

CHAIRPERSON: Well, let me say Mr Mantashe, you may recall or you might not recall whether you had such a
20 conversation with Mr le Roux.

MINISTER MANTASHE: I do not remember that conversation.

CHAIRPERSON: Yes. So I think you are saying you are not disputing it, but you cannot remember it and you would like Mr le Roux to elaborate on it.

MINISTER MANTASHE: Yes.

CHAIRPERSON: And that is why you would like an opportunity to cross-examine him.

MINISTER MANTASHE: Yes.

CHAIRPERSON: Is that right? Okay. I think Mr Notshe wanted to establish whether you are disputing it in the sense of saying no, I have a clear recollection, I have never had such a conversation with Mr le Roux or whether you are saying I may or I may not have, but I do not
10 remember.

I would like more details.

MINISTER MANTASHE: Yes.

CHAIRPERSON: And I think what you are saying is the latter.

MINISTER MANTASHE: No, what I am saying is there is a difference between meeting Le Roux and seeing people working and I talked with them as I walked in. Big difference, and I cannot dispute that. That is what I am saying.

20 **CHAIRPERSON:** That part, ja.

MINISTER MANTASHE: Ja, but having sit together with Le Roux it never happened.

CHAIRPERSON: But is it possible that the words he attribute to you, may have been said in what you ... may have been said by you in what you do not consider to have

been a meeting that you were walking maybe to your house or out of your house, you may have said that.

MINISTER MANTASHE: I do not remember.

CHAIRPERSON: You do not remember.

MINISTER MANTASHE: Those words.

CHAIRPERSON: Okay, alright.

MINISTER MANTASHE: Yes.

CHAIRPERSON: Mr Notshe?

ADV NOTSHE SC: But you would remember whether you
10 had a red FJ Toyota Cruiser car at that time?

MINISTER MANTASHE: Come again?

ADV NOTSHE SC: But you would remember whether you
had a red FJ Toyota Cruiser car at that time.

MINISTER MANTASHE: I know that guy. I do not need to
remember. I had a car, it was my car.

ADV NOTSHE SC: You remember having a car like that?

MINISTER MANTASHE: I do not remember I had it.

ADV NOTSHE SC: I see. So Le Roux is correct that you
arrived at your premises driving a red FJ Toyota Cruiser
20 car. He is correct about that?

MINISTER MANTASHE: I arrived at my place from time to
time, driving any car that I have. I arrived at my place, I
do go home.

ADV NOTSHE SC: And do you, did you know that Mr Gavin
Watson's claim name of Scally or as I think it is Secaly.

You know something about that?

MINISTER MANTASHE: I do not know.

ADV NOTSHE SC: Now ...[intervenes]

MINISTER MANTASHE: That I do not know.

ADV NOTSHE SC: Now you do not know ...[intervenes]

MINISTER MANTASHE: [indistinct -00:14:15]

ADV NOTSHE SC: I beg your pardon, I missed that?

MINISTER MANTASHE: There will be no Gavin who is Skalie.

10 **ADV NOTSHE SC:** Oh, I see.

CHAIRPERSON: Mr Notshe, how is it spelt there?

ADV NOTSHE SC: Well, Mr Le Roux is spelling it as SCALLY.

MINISTER MANTASHE: Sorry?

ADV NOTSHE SC: SCALLY, Scally.

CHAIRPERSON: Well ...[intervenes]

ADV NOTSHE SC: And then I say, I say to the witness I read to the name Secaly.

20 **CHAIRPERSON:** Oh, well now you have raised ...[intervenes]

MINISTER MANTASHE: I am saying, Gavin was never known as Scally, not unless he has been given another claim name by other people.

CHAIRPERSON: And you do not know any name associated with him which is spelt the way that Mr Notshe

has indicated?

MINISTER MANTASHE: It is not Secaly. It is not close to that. I know that.

CHAIRPERSON: Ja.

MINISTER MANTASHE: Gavin Watson was given a claim name ...[intervenes]

CHAIRPERSON: Yes.

MINISTER MANTASHE: Not that one.

CHAIRPERSON: And, but he gave the spelling SCALLY.

10 **MINISTER MANTASHE**: Yes.

CHAIRPERSON: Does that come anywhere near what you know to be his claim name?

MINISTER MANTASHE: [indistinct – 00:15:28], claim name no.

CHAIRPERSON: Okay. Mr Notshe?

ADV NOTSHE SC: What was his claim name, Mr Watson?

MINISTER MANTASHE: People, you see you want me to give you information to use it against me, you know.

ADV NOTSHE SC: No, look you must understand Mr
20 Mantashe I am not here ...[intervenes]

MINISTER MANTASHE: I am saying, I am saying Gavin Watson had a claim name, it is not close to Secaly.

ADV NOTSHE SC: No, I am asking you what was the claim name. You have got to tell the commission. You are assisting the commission to get to the truth of things.

Assisted by telling what was Gavin Watson's claim name.

MINISTER MANTASHE: Gavin Watson was known as Radebe

ADV NOTSHE SC: As?

CHAIRPERSON: Radebe.

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: Not Secaly or something closer?

MINISTER MANTASHE: Yes, nothing close to that.

ADV NOTSHE SC: I see. Look, earlier on you said you do
10 know Gavin Watson's claim name, that you have forgotten it.

MINISTER MANTASHE: I have not forgotten it.

ADV NOTSHE SC: I see.

MINISTER MANTASHE: I did not say that.

CHAIRPERSON: Ja, I also thought he, I do not remember him saying he did not know it.

ADV NOTSHE SC: He said Watson does not have a claim name.

CHAIRPERSON: Oh, okay.

20 **MINISTER MANTASHE:** I did not say it, sorry. You can go to answer it.

ADV NOTSHE SC: Well, you ...[intervenes]

MINISTER MANTASHE: I did not say that.

ADV NOTSHE SC: Look, it does not matter now. You have admitted he has a claim name and it is Radebe.

MINISTER MANTASHE: I am not admitting, I am confirming.

ADV NOTSHE SC: You ...[intervenes]

MINISTER MANTASHE: I confirmed earlier. I am just giving you the claim name now.

ADV NOTSHE SC: I see. Now ...[intervenes]

UNKNOWN: Jessy J, may I ...[intervenes]

CHAIRPERSON: Yes.

UNKNOWN: Yes, I am trying to follow what propositions
10 are being put to Mr Mantashe, all these questions about Mr Watson's claim name, the car that he owned. You know, I am really battling to follow what is it that Mr Notshe is exploring with the witness.

CHAIRPERSON: I think what he was exploring with regard to Mr Gavin Watson's claim name and the type and colour of the car that Mr Mantashe may have used on the particular occasion, is to check whether the version put up by Mr le Roux namely of saying that Mr Mantashe came to I think one of the properties in the Eastern Cape on one of
20 the occasions that Mr le Roux and his team were working there, and he was in the car that was described by Mr Notshe, and he was also I think exploring whether Mr Mantashe disputes the version put up by Mr le Roux, that he used the word that Mr Notshe read out as the claim name for Mr Gavin, I think he was seeking to see to what

extent Mr Mantashe was disputing that version and I think Mr Mantashe has said well, I do not remember having, I do not remember meeting Mr Le Roux or I did not have a meeting, but I may have come to the property and saw, seen people installing and I may have greeted them and said something.

But, and he said well, I may have come in the car that he describes because I did have such a car and but he has said I think he did not use the name, the so called
10 claim name that has been put into the affidavit by Mr Le Roux.

So I think that is what he was doing and I think over time we, that part seems to me to be at the tail end.

ADV NOTSHE SC: Yes.

UNKNOWN: Thank you Mr Chair.

CHAIRPERSON: Yes, okay alright. Mr Notshe?

ADV NOTSHE SC: Thank you Chair.

CHAIRPERSON: Mr Mantashe, if you say something we will see you.

20 **MINISTER MANTASHE:** I am saying something.

CHAIRPERSON: Ja, you are back. Yes, Mr Notshe?

ADV NOTSHE SC: Now you confirm, you do confirm now that you do not know because of the Boksburg installation and installations at your two properties in the Eastern Cape, am I correct?

MINISTER MANTASHE: Yes, you are correct.

ADV NOTSHE SC: And you never saw any invoices relating to that, am I correct?

MINISTER MANTASHE: Nobody sent me any invoice.

ADV NOTSHE SC: I beg your pardon?

MINISTER MANTASHE: Nobody sent me an invoice.

ADV NOTSHE SC: You have never seen the invoice?

MINISTER MANTASHE: Nobody sent me invoice. I cannot see an invoice, unless they are sent to me.

10 **ADV NOTSHE SC:** I see. Now you do not know, in the end you do not know how much those installations cost?

MINISTER MANTASHE: I do not know. I am reading it in the affidavit. That was very contradictory.

ADV NOTSHE SC: Now you saw the affidavit of Richard le Roux where he gave details of the expenses.

MINISTER MANTASHE: I have seen Richard le Roux. I have also seen ...[intervenes]

ADV NOTSHE SC: Agrizzi.

MINISTER MANTASHE: Leshabane.

20 **ADV NOTSHE SC:** I see. Now let us look at that. Did Leshabane's evidence contain details of invoices and the amounts for each item?

MINISTER MANTASHE: No.

ADV NOTSHE SC: He merely says it could not have been, am I right?

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: And Le Roux gives details of invoices, of what, how much and how much each item costs, am I correct?

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: How can you then dispute the evidence of Le Roux when you do not know how much it cost and the other evidence of Leshabane does not give details?

MINISTER MANTASHE: I cannot dispute because I had no
10 dealings with Le Roux. Nor did I have dealings with Agrizzi. I had dealings with Leshabane. So if there were any statements to be sent, I would imagine that Le Roux would send it to Leshabane.

If Leshabane says it was, I would have installed these cameras as my own cost, I would imagine that the statement and invoices will go to Leshabane. So I cannot dispute anything. All I am saying is that a dispute between Le Roux and Agrizzi which almost doubled the costs, looks suspicious.

20 **ADV NOTSHE SC:** And that is the high water mark of the case, that it looks suspicious but you cannot say that is not the expense.

MINISTER MANTASHE: I cannot because I am not invoices.

ADV NOTSHE SC: I beg your pardon?

MINISTER MANTASHE: I am not invoices.

ADV NOTSHE SC: So the high water mark of your case, I am saying the high water mark of your evidence is that you do not know how much it costs, you cannot dispute the evidence of Le Roux of how much it cost. Am I correct?

MINISTER MANTASHE: I do not know ...[intervenes]

CHAIRPERSON: He has explained it Mr Notshe. He has explained exactly what you are saying. He has said he cannot dispute what Mr Richard le Roux says, because he
10 did not deal with him. He dealt with Mr Leshabane. He has noted that Mr Leshabane disputes those figures and he has noted what he says is contradictions and he says even that, it seems to him that the figures given by Mr le Roux are suspicious.

Have I summarised your position correctly?

MINISTER MANTASHE: That is the summary Mr Chairman.

CHAIRPERSON: Ja, okay.

ADV NOTSHE SC: Now you are relying on the, when you are saying Mr Leshabane disputes this, you are relying on
20 his confirmatory affidavit, am I correct?

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: I see. Now his confirmatory affidavit, will you confirm for the commission, appears on page 249 to 253. Am I correct?

MINISTER MANTASHE: 249, yes.

ADV NOTSHE SC: Then 250 that is the affidavit and then there are annexures.

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: And in paragraph 5 of his affidavit he says, I am reading paragraph 5 on page 250. He says:

“In his evidence Mr le Roux estimated the cost to be three hundred thousand. I dispute the said cost estimate. I hereby attach invoice from supplier of the security equipment as Annexures G4 to G6.”

10

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: And then the annexures, they are on 251, 252, 253. Am I correct?

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: Now is Leshabane, I know you cannot testify for him. But when he explained this to you, are these the invoices that were issued to Le Roux at the time?

MINISTER MANTASHE: I would not know the dealings between Leshabane and Le Roux.

20 **ADV NOTSHE SC:** I beg your pardon?

MINISTER MANTASHE: I would not know the dealings between Leshabane and Le Roux.

ADV NOTSHE SC: I see, but when you talked to him, was this the quotation that was given to Le Roux regarding the installations at your place?

MINISTER MANTASHE: Leshabane is making a sworn affidavit to the commission and he attaches invoices. That is his version of the submission.

ADV NOTSHE SC: You do not know about this?

MINISTER MANTASHE: I cannot know.

ADV NOTSHE SC: You never asked him what are these invoices for?

MINISTER MANTASHE: No, why should I?

ADV NOTSHE SC: Because there is evidence of the
10 amount of, that was expended on your properties and you are asking Leshabane is this expenditure correct? Leshabane produces some invoices. Did you ask him are these the invoices that were given to Le Roux?

MINISTER MANTASHE: Leshabane made a sworn statement ...[intervenes]

ADV NOTSHE SC: Yes.

MINISTER MANTASHE: To the commission.

ADV NOTSHE SC: I see.

MINISTER MANTASHE: He attaches invoices, and saying
20 the quotation by both Le Roux and Agrizzi are misrepresenting the [indistinct – 00:27:59]. Now that is his version. I am dealing with him, I am not dealing with the others.

ADV NOTSHE SC: I see.

CHAIRPERSON: Is your understanding that the invoices

that we put up, that of Mr Leshabane, related to both to all the properties, Boksburg and the Eastern Cape or only the one of them, namely Boksburg. What was your understanding of what they covered?

MINISTER MANTASHE: My assumption is that this is the cost of cameras. Whether they are installed in Boksburg, or they are installed in the Eastern Cape.

CHAIRPERSON: Yes. I see that in his affidavit, he seems to talk about residents as opposed to residences where, in
10 paragraph 4 which is at page 250, he says:

“I further confirm that Mr le Roux has misrepresented the facts about this security upgrades at the Mantashe residence, and has inflated the cost of these.”

It may well be that he might need to explain. You see that part?

MINISTER MANTASHE: I see that.

CHAIRPERSON: Ja, okay. Alright, Mr Notshe?

ADV NOTSHE SC: And I also notice that what he has put
20 up are 2019 quotations. Whereas we know that this was, the work was done in 2015 and 2016. Did you notice that?

MINISTER MANTASHE: Yes.

ADV NOTSHE SC: Did you notice that?

MINISTER MANTASHE: Yes, I see.

ADV NOTSHE SC: Did you ever ask him where are the

2015 and 2016 ...[intervenes]

MINISTER MANTASHE: No I was not in a position to cross-examine Leshabane.

ADV NOTSHE SC: I understand.

MINISTER MANTASHE: I do not cross-examine, that is not how we relate.

ADV NOTSHE SC: Oh I see. Chair I have no further questions.

CHAIRPERSON: No further questions.

10 **ADV NOTSHE SC:** Let me – before I say that, I do not want to be dismissed by Ms Molefe.

CHAIRPERSON: Ja okay, you want to consult with her?

ADV NOTSHE SC: My instructing attorney says I can stop.

CHAIRPERSON: She confirms that you are right?

ADV NOTSHE SC: She says I can stop now, thank you Chair.

CHAIRPERSON: Alright, Mr Mantashe, Mr Notshe has no further questions but it is possible that your counsel might
20 wish to re-examine if he thinks there are things that he would like to be clarified.

MINISTER MANTASHE: Yes.

CHAIRPERSON: So I am going to give him the opportunity if he wishes to, he might not have re-examination but he might have. Mr Nalane what is your

position, would you like to re-examine?

ADV NALANE SC: Thank you Chair I have a few questions just to clarify a few points with Mr Mantashe.

CHAIRPERSON: Okay, go ahead.

ADV NALANE SC: Thank you, Mr Mantashe I am sure you are familiar with the terms of reference of this Commission.

MINISTER MANTASHE: Yes, I am.

ADV NALANE SC: And at the time when the security equipment was installed at your premises you were not in
10 National Minister of government, correct?

MINISTER MANTASHE: Correct.

ADV NALANE SC: You were not an office bearer in any State institution, correct?

MINISTER MANTASHE: Correct.

ADV NALANE SC: You were not an office bearer in any organ of State or a director or a Board of a State owned enterprise?

MINISTER MANTASHE: That is correct.

ADV NALANE SC: Currently, you are a Minister of
20 government?

MINISTER MANTASHE: I am a Minister, in government now.

ADV NALANE SC: And currently, as you said, you are bound by different laws the Executive Fixed Act, for instance.

MINISTER MANTASHE: Yes, I am.

ADV NALANE SC: And you have to declare gifts that you receive, because you are a Minister?

MINISTER MANTASHE: I do declare even a pen.

ADV NALANE SC: Thank you, at the time you were, as you say, the Secretary General of an NGO called the ANC.

MINISTER MANTASHE: I cannot hear you.

ADV NALANE SC: Did you hear me?

CHAIRPERSON: No, he did not hear the question.

10 **ADV NALANE SC:** Yes, Mr Mantashe you said that at the time when this equipment was given to you, you were the Secretary General of an NGO called the ANC, correct?

MINISTER MANTASHE: That is correct.

ADV NALANE SC: Now, as I listened to some of the questions which were put to you, the suggestion is that you should have been at your guard if any of us have cameras or whatever was made by Mr Leshabane that was some of the questions put to you, correct?

20 **MINISTER MANTASHE:** Yes, that is correct the line of questions, yes.

ADV NALANE SC: Yes, you were asked, did you know how much she earned, correct?

MINISTER MANTASHE: Yes, I was asked that.

ADV NALANE SC: Yes, now, just clarify again, briefly, what your relationship with Mr Leshabane at the relevant

time was?

MINISTER MANTASHE: I described Papa Leshabane as a family friend because he was a friend to my son in law, by extension became a friend to my children and many others, and when they come to me, they will come with many other friends from Limpopo because the marriage of my daughter cut across tribes to [Bushba tribes and I was a Talla[?] and we would develop a relationship which was a family relationship in that way, you know.

10 **ADV NALANE SC:** And it was suggested to you that you should have been on your guard because Mr Leshabane worked for BOSASA?

MINISTER MANTASHE: Yes, that was a question.

ADV NALANE SC: Now, did you ever meet with Mr Agrizzi?

MINISTER MANTASHE: No, I do not remember meeting Agrizzi even when I see him in pictures, I do not have any recollection of seeing the man.

ADV NALANE SC: Okay, so would it be correct that you
20 have never discussed any business or maybe have you ever discussed any business of BOSASA with Mr Agrizzi?

MINISTER MANTASHE: No, I never discussed anything with Mr Agrizzi.

ADV NALANE SC: And have you ever discussed any business of BOSASA with Mr Watson?

MINISTER MANTASHE: I never discussed business of BOSASA with Mr Watson.

ADV NALANE SC: Because you would have seen in one of the affidavits of Mr Agrizzi he suggests that you were part of what they called the special project, do you recall that?

MINISTER MANTASHE: Yes, I recall that.

ADV NALANE SC: Yes, did you have any knowledge that some people in BOSASA call you a special project?

10 **MINISTER MANTASHE:** I did not know that.

ADV NALANE SC: And then what he also suggests is that Mr Agrizzi is that Gavin Watson impressed upon him that is Mr Agrizzi the vital role that Mantashe played in assisting BOSASA. Have you ever assisted BOSASA in anything?

MINISTER MANTASHE: I never assisted BOSASA with anything, as I was recording earlier is that the only thing I recall, were running battles much earlier in my life.

ADV NALANE SC: And he also says that you Mr Mantashe were a good connection and needed to be looked
20 after. Did you know that somebody at BOSASA was looking after you as Mr Agrizzi suggests?

MINISTER MANTASHE: Nobody, was looking after me from BOSASA, there was nothing I was receiving from BOSASA.

ADV NALANE SC: And that you were a person of great

influence and regarding government sectors that were highly placed with the trade unions and in government. That is why see what Mr Watson discussed that you should be looked after, then you can comment

MINISTER MANTASHE: It was then, then they discovered that I was a general secretary, I was Chairperson of the Communist Party and therefore the influence that they think thereof is an assumption.

ADV NALANE SC: And you say upon Mr Leshabane is a
10 family friend, more a friend of your children?

MINISTER MANTASHE: Correct.

ADV NALANE SC: Have you ever made any business favour, done any business with Mr Leshabane?

MINISTER MANTASHE: I would not, I was never asked for a business favour.

ADV NALANE SC: And you have said that, and let us come to the security features. It was suggested to you but you should have known that somebody had installed this security equipment that you should therefore have asked
20 how much it cost, do you recall that?

MINISTER MANTASHE: I recall that.

ADV NALANE SC: And also, Mr Le Roux has a long list of equipment that he says he installed at your various properties, correct?

MINISTER MANTASHE: Yes, I saw the list.

ADV NALANE SC: To your knowledge insofar as you have observed what equipment was installed at your house in the form of security at the instance of Mr Leshabane?

MINISTER MANTASHE: I am not a security expert, but I know that cameras were installed and I read somewhere about intercom and I know that there is no intercom because there is no fence to install that intercom on, but cameras were installed, who gave all those cameras, I will not be in a position to explain.

10 **ADV NALANE SC:** And have you ever shown any member of the public these cameras which were installed at your premises in Boksburg, in your area?

MINISTER MANTASHE: I did take the media when the whole story emerged, I talked to the media, I said here are those cameras have a look at them and earlier that security upgrade is non-existent to this camera.

ADV NALANE SC: And you said there was some people who were looking after your security, to be Mzonke, correct?

20 **MINISTER MANTASHE:** Mzonke was the head of my security.

ADV NALANE SC: Yes, and it was suggested to you that we should have actually have probed and asked further how much do these things cost, you recall that?

MINISTER MANTASHE: I recall that.

ADV NALANE SC: Yes, any further comments you wish to make on that line of questions put to you?

MINISTER MANTASHE: No, Mzonke and Leshabane agreed I would give you cameras at my own cost so I would not go beyond that.

ADV NALANE SC: And also you were taken to your – in that context you were also asked about the affidavit which you deposed to which appears on page 238.

MINISTER MANTASHE: Yes, 238 yes.

10 **ADV NALANE SC:** It was asked of you who paid for the cameras, did you ask you recall that?

MINISTER MANTASHE: Yes, I recall that.

ADV NALANE SC: It was asked of you do you know how much they cost, do you recall that?

MINISTER MANTASHE: Yes, I recall that.

ADV NALANE SC: Yes, now in your affidavit on page 238 I just want you to read paragraphs 22 and 23.

MINISTER MANTASHE: 22 and 23?

ADV NALANE SC: Yes.

20 **CHAIRPERSON:** That is on page 239.

ADV NALANE SC: Page 238, DCJ.

CHAIRPERSON: On my bundle...[intervene]

ADV NALANE SC: Is it on 239?

MINISTER MANTASHE: Yes.

CHAIRPERSON: On my bundle it is on 239.

ADV NALANE SC: Okay fine, proceed Mr Mantashe.

MINISTER MANTASHE: Yes, in that paragraph, I am making an emphasis on the distinction between the so called special project and my project. All those special projects were given code names and my project was not given a code name, it was the called Project Mantashe. So what is in 22:

10 “That my security upgrades was the only project which was not given a secret project code. Mr Le Roux himself referred to it as Project Mantashe. This is indicative that there was no malice associated with the security upgrades at my place and further informed that there was never an agreement with the executive of BOSASA Agrizzi and Watson regarding security upgrades at my portfolio. Papa made the decision and proceeded with the security upgrade out of his own.”

20 **ADV NALANE SC:** Ja, so you are saying it is Papa out of his own volition? Who proceeded with the upgrades, correct?

MINISTER MANTASHE: Yes, Mr Nalane.

ADV NALANE SC: Mr Mantashe, can you hear me?

MINISTER MANTASHE: Yes, it is correct.

ADV NALANE SC: And you say Mr Leshabane has confirmed this under oath?

MINISTER MANTASHE: Yes. he has.

ADV NALANE SC: And at the time when the security equipment was given to you 2013, 2016 you say you had no reason to believe one day you will be answering these questions?

MINISTER MANTASHE: Correct.

ADV NALANE SC: Mr Mantashe?

MINISTER MANTASHE: Can you hear me now?

CHAIRPERSON: He heard you and he responded.

10 **ADV NALANE SC:** Thank you. Now if we look at the - I want you to turn to, I think it is page 529.

MINISTER MANTASHE: Come again?

ADV NALANE SC: 529.

MINISTER MANTASHE: Yes.

ADV NALANE SC: Yes, and this is an affidavit deposed to by Mr Richard Le Roux.

MINISTER MANTASHE: Yes.

ADV NALANE SC: Yes, and it is part of his affidavit substantiating why he thinks the cost was R300 000,00, do
20 you recall that?

MINISTER MANTASHE: Yes.

ADV NALANE SC: Now he attaches a whole lot of invoices and statements to his affidavit to try and match as he says some of this cost to you. But if you can go to page 524 of the summary.

MINISTER MANTASHE: I have got that.

ADV NALANE SC: Ja, so he says at paragraph 114. Can you read that?

MINISTER MANTASHE: It says:

“I am unable to unable to link the following work performed at present premises for invoices to the value of R227 206,00 and 18 credit notes to the value of R59 855,51 adjustment notes to the value of R300 429,39.”

10 **ADV NALANE SC:** Ja, and then paragraph 115?

MINISTER MANTASHE: “In performance of the above

exercise to arrive at an estimated per installation I have kept the technicians rate constant throughout the document for consistently purpose only, although the rates would have increased over the years. I am doing so, I have acted on the side of caution and calculated the approximate cost on a low to have an exact. Once I have to I have estimated the days taken to perform the installation

20 on what I consider to be the minimum time that it could have been taken to perform the installation and although certain invoices in the unidentified category above may have been for work done at the identified properties referred to in the affidavit. I have been cautious to only allocate the invoice to a

property where this is clear to me from the date and the invoices.”

ADV NALANE SC: Ja, so he says he is estimating, he is trying to match invoices to premises. Some invoices he cannot match to any premises, correct.

MINISTER MANTASHE: That is what he says, yes.

ADV NALANE SC: There is a bit of a delay in the audio, Mr Mantashe did you hear what I said?

MINISTER MANTASHE: Yes, I am hearing you.

10 **ADV NALANE SC:** Okay.

CHAIRPERSON: And he did respond.

ADV NALANE SC: Thank you, and then you answer?

MINISTER MANTASHE: I say that is what he said.

ADV NALANE SC: Thank you very much, and he says the cost of your premises is R300 000,00?

MINISTER MANTASHE: Correct.

ADV NALANE SC: Mr Agrizzi says it is R650 000,00?

MINISTER MANTASHE: Correct.

20 **ADV NALANE SC:** Mr Leshabane says it cannot be more than 30,40 or 50 or R70 000,00?

MINISTER MANTASHE: That is what Mr Leshabane says.

ADV NALANE SC: And they work for BOSASA?

MINISTER MANTASHE: Yes, correct.

ADV NALANE SC: I will not take you to the details of the invoices appearing from 532 but perhaps well because they

say it on its own but can we just look at one. One or two items appear in the page 532.

MINISTER MANTASHE: Yes.

ADV NALANE SC: You see the first item what is that, the first item with a date?

MINISTER MANTASHE: 532?

ADV NALANE SC: Yes, the date is 13/02/2015, do you see that?

MINISTER MANTASHE: Yes, I see it.

10 **ADV NALANE SC:** Yes, you say the security the security equipment to your premises 2013 and 2016, correct?

MINISTER MANTASHE: Yes.

ADV NALANE SC: Yes, I need not take you through out to the documents but that is just illustrative of the confusion in the estimates or whatever the called, calculations here. Now, I want to round up now Mr Mantashe I have come across a book with inscription by Mr Agrizzi and he describes the security equipment installed at your house as a bribe.

20 **MINISTER MANTASHE:** Yes.

ADV NALANE SC: But you say you have never met Mr Agrizzi in your life, correct?

MINISTER MANTASHE: Ja, I have never met him.

ADV NALANE SC: Yes, he has never spoken to you about the security equipment at your house has he?

MINISTER MANTASHE: He has never spoken to me about it.

ADV NALANE SC: And yet he writes in a book that you have taken a bribe for some cameras, your comment?

MINISTER MANTASHE: Yes, that is what he writes and obviously, he would have elaborated bribe for what.

ADV NALANE SC: And it was suggested to you that because you are the Secretary General of the ANC you had enormous influence in government in the appointment of
10 Ministers, and perhaps you would have done some favours for BOSASA, any comment?

MINISTER MANTASHE: No, I did not do any favour for BOSASA and I had no influence on the work of Ministers, I am a Minister now I know how irritating it would be to have officials from Luthili House coming to Ministers.

ADV NALANE SC: Yes, is there anything else that you wish to add to before we end off, sir?

MINISTER MANTASHE: My last comment is, and I am here before the Commission for the period I was not in
20 government, where I held no office. I was not working in a State institution but I am here now and there is a big effort to make me one of the many and reality of the matter is that my project even in their books is not co-planned because it was not a bribe, because not a special project that is all I can say.

ADV NALANE SC: Were subpoenaed to appear before the Commission?

MINISTER MANTASHE: No, I offered to come.

ADV NALANE SC: Okay.

CHAIRPERSON: Are those all your questions?

ADV NALANE SC: DCJ.

CHAIRPERSON: Yes.

ADV NALANE SC: I almost and now, but because I am not with my attorney I see she sent me a message. Can I
10 mute for just one minute and just find out if she wants me to say anything else and then I can address it?

CHAIRPERSON: Okay, no that is alright.

ADV NALANE SC: Thank you. DCJ.

CHAIRPERSON: Yes.

ADV NALANE SC: Yes, I am back and I have got one last question.

CHAIRPERSON: Okay.

ADV NALANE SC: And then we conclude. Mr Mantashe as you can appreciate, this is a State Capture Commission
20 and the suggestion and accusations and the things that have been said about you by Mr Agrizzi, Mr Le Roux might suggest that you were part of State Capture or you aided and abetted to help State Capture. Do you have any comment in that regard?

MINISTER MANTASHE: As - I can explain to you that the

concept corporate capture and the State Capture originated because we thought it right and we started a discussion within the ANC to start a process that will actually dispel this notion and try to address the depth of it.

And that is why we have repeatedly committed ourselves to supporting the Commission with replicated research so that we want the Commission because it is through this Commission that depth will be unearthed and
10 only when unearth it then you can claim it. So I could not assist State Capture in any way.

ADV NALANE SC: Thank you. DCJ, thank you for the opportunity, those are the questions for Mr Mantashe.

CHAIRPERSON: Okay, no thank you, Mr Mantashe I might have just one or few questions but before I put them, you probably are aware that sometimes people say parents should be careful when they give a name to their child because the child might end up being what the name says.

And you would have some parents who will name
20 their child maybe which [speaking in vernacular] or lawyer in isiZulu or some would call their child professor, and some would call the child doctor. So I saw that when you were muted, the initials that came up on the screen was Mr SG Mantashe so I wondered whether when you became Secretary General of the ANC it had anything to do with

your initials?

MINISTER MANTASHE: No, it nothing to do maybe it is just some sign.

CHAIRPERSON: No, I know that is what they represent but it was quite interesting and because the abbreviation for Secretary General is SG as well and your initials are SG.

MINISTER MANTASHE: Yes, Chair.

CHAIRPERSON: Ja, what seems to emerge from your
10 evidence and the evidence of Mr Agrizzi and the evidence of Mr Le Roux seems to be the following and I am going to mention this to give you an opportunity to say whether you agree that that is how the evidence seems to emerge.

It would seem to me that one, Mr Agrizzi and Mr Richard Le Roux say that it was BOSASA employees or people who were sent by BOSASA, who made installations, security installations in your properties and it seems to me that you are not in a position to dispute whether that is so, all you say is you were told that Mr Leshabane would take care of
20 the costs for the security cameras, is that correct?

MINISTER MANTASHE: That is correct though in the evidence of Agrizzi he contracted out this policy then BOSASA and other people from BOSASA dispute that.

CHAIRPERSON: Yes.

MINISTER MANTASHE: So what you are summarising is

correct.

CHAIRPERSON: Yes. And whether as a matter of fact the work done and the cameras that were installed were paid for by Mr Leshabane from his own pocket or whether the payments came from BOSASA is something that you have no personal knowledge of, is that correct?

MINISTER MANTASHE: I have no personal knowledge of that.

CHAIRPERSON: Yes.

10 **MINISTER MANTASHE:** I have no personal knowledge of that.

CHAIRPERSON: Yes. Yes. The point you make is simply that your knowledge was Mr Leshabane a family friend offered to install cameras of better quality at the Boksburg property he said that would be at his own cost. You agreed and subsequently you understood that that arrangement was extended to your Eastern Cape properties between him and your security advisor Mr Mzonke is that correct?

MINISTER MANTASHE: Correct.

20 **CHAIRPERSON:** Yes okay alright. No those are the things that I wanted to just confirm. I propose to release Mr Mantashe now

ADV NOTSHE SC: Just before that Chair can I just read two things?

CHAIRPERSON: Ja.

ADV NOTSHE SC: I just want to point them out Mr Mantashe.

CHAIRPERSON: Ja.

ADV NOTSHE SC: Or for comment.

CHAIRPERSON: Ja.

ADV NOTSHE SC:

1. Mr Montashe is, you confirm that in his – when Mr Le Roux was reply – when he has replied to your affidavit he did state that you had a code name BOSASA GM.

10 You do confirm that?

MINISTER MANTASHE: Come again I do not understand that.

ADV NOTSHE SC: You confirm that – will you confirm that Mr Le Roux filed an affidavit answering your founding affidavit, am I right?

CHAIRPERSON: Sorry I think what you should do Mr Notshe maybe put to him what Mr Le Roux says and then...

ADV NOTSHE SC: Fine Mr Le Roux in his answering affidavit said you were given a code name – you had a code
20 name GM.

CHAIRPERSON: So the question is whether you recall seeing that in his affidavit Mr Mantashe?

MINISTER MANTASHE: No in his affidavit he said they gave my project a project name, Project Mantashe. That is what they say themselves I do not know how did they code name

my project but they said they code named that project Project Mantashe.

ADV NOTSHE SC: On page 257 paragraph 10

MINISTER MANTASHE: 257 – 257.

ADV NOTSHE SC: Yes.

MINISTER MANTASHE: Okay I am almost there.

ADV NOTSHE SC: You see in paragraph 10 the penultimate paragraph, on paragraph 10 it says:

10 “I confirm that I referred to the – to it as
Project Mantashe but the correct name for
the special project was in fact Project GM.”

MINISTER MANTASHE: Oh (inaudible) there.

ADV NOTSHE SC: I beg your pardon.

CHAIRPERSON: Ja he says that is what it says.

MINISTER MANTASHE: That is what it says.

ADV NOTSHE SC: Yes.

CHAIRPERSON: Well what is your – what I think you were talking about Mr Notshe you were saying he says that is the code name.

20 **ADV NOTSHE SC:** Yes.

CHAIRPERSON: But that is not in the – in the affidavit that is the code name is – that he says so but he gives what they called it. I do not know whether when one reads elsewhere.

ADV NOTSHE SC: No it is...

CHAIRPERSON: It is consistent with the code names.

ADV NOTSHE SC: He says the correct name of the project.

CHAIRPERSON: Yes.

ADV NOTSHE SC: Was GM.

CHAIRPERSON: Okay.

ADV NOTSHE SC: Yes. He says the project was given a name GM.

CHAIRPERSON: Ja he has confirmed.

ADV NOTSHE SC: You see that.

CHAIRPERSON: Ja he has confirmed that he sees that.

10 **ADV NOTSHE SC:** And then lastly what I want to point out on page 330.

MINISTER MANTASHE: No may I respond Chair/

ADV NOTSHE SC: Yes okay please.

CHAIRPERSON: Yes.

MINISTER MANTASHE: Can I respond to that?

CHAIRPERSON: Ja

ADV NOTSHE SC: Yes.

MINISTER MANTASHE: Mr Le Roux in his affidavit says:

“My project was called Project Mantashe.”

20 Now as I am after told he is giving the name Project GM that would be my submission.

ADV NOTSHE SC: I see.

CHAIRPERSON: Okay.

ADV NOTSHE SC: Now please go to page 330 and page 330 and 331.

MINISTER MANTASHE: I am at 330 yes.

ADV NOTSHE SC: These we will get to these. These are invoices – these are documents that are attached to the affidavit of Leshabane. Now these are clearer copies. I just want to bring your notice at the foot of those pages look at the foot it says “Quote expires 28 February 2019”. You see that?

CHAIRPERSON: Where are you looking – at which page?

ADV NOTSHE SC: 330.

10 **CHAIRPERSON:** 330.

ADV NOTSHE SC: And 331.

CHAIRPERSON: Ja.

ADV NOTSHE SC: At the foot Chair at the very – the very – at the foot of – let us start at 330.

CHAIRPERSON: Ja.

ADV NOTSHE SC: At the foot of 330 the last – the last sentence is quotation “Quote expires”.

CHAIRPERSON: Ja.

ADV NOTSHE SC: You know the boxes.

20 **CHAIRPERSON:** Yes.

ADV NOTSHE SC: Are you with me Chair?

CHAIRPERSON: Well I do not see it but I think if you tell me what the point is that will be enough.

ADV NOTSHE SC: All I want to point out Mr Mantashe is that it is clear from this that this was a quotation obtained in

2019.

MINISTER MANTASHE: We have dealt with that Advocate.

ADV NOTSHE SC: You accept that it is a quotation.

MINISTER MANTASHE: No I said I am repeating what I said to you.

ADV NOTSHE SC: Yes.

MINISTER MANTASHE: I cannot deal with invoices because no invoice was sent to me. So those are internal contact issue that I see but whether that is a quotation for
10 Leshabane or it is a quotation for Agrizzi I would not have first-hand knowledge of that quotation.

ADV NOTSHE SC: I understand. Thank you Chair.

CHAIRPERSON: Thank you very much Mr Mantashe for availing yourself to assist the commission. Thank you very much we will – I will now excuse you and thank you to your legal team and they are also excused.

MINISTER MANTASHE: Thank you.

CHAIRPERSON: Thank you.

MINISTER MANTASHE: Thank you Deputy Chief Justice.

20 **CHAIRPERSON**: Thank you. Thank you. We are at nearly twenty to eight. We can take an adjournment a ten minutes adjournment. Is your other witness ready?

ADV NOTSHE SC: Mr Makwetla is here and he is ready to testify.

CHAIRPERSON: Yes. Okay we will adjourn for about ten

minutes.

ADV NOTSHE SC: Yes.

CHAIRPERSON: And then we will resume.

ADV NOTSHE SC: No fine. Thank you Chair.

CHAIRPERSON: Okay. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Are you ready Mr Notshe?

10 **ADV NOTSHE SC:** Yes, we are ready Chair.

CHAIRPERSON: H'm.

ADV NOTSHE SC: Chairperson, the next witness is Mr Thabang Makwetla. The genesis of the evidence of the witness is the testimony of Mr Le Roux wherein he testified to the effect that he – there were security installations he made to the residence of Mr Makwetla.

And also, the issue of the installations being made is not an issue. The question is the amount and the reason and the justification. Mr Makwetla, Chair, has
20 made a special requests.

One. That we will, because there is no fight about the installation, that we will just refer to residence. He says for security reasons, he would not want his place of residence to put out there in the...

CHAIRPERSON: No, of course.

ADV NOTSHE SC: Yes. And then also. Where we said, even do not mention the residence, we do not even have to go... it goes to those – that residence.

CHAIRPERSON: H'm.

ADV NOTSHE SC: But the, as I said, the issue of installation is not a – the issue – the question of installation is not an issue.

CHAIRPERSON: Ja.

ADV NOTSHE SC: The only problem is the amount and
10 then also the justification.

CHAIRPERSON: Ja.

ADV NOTSHE SC: And then, Mr Makwetla has also requested that before he gives evidence, he wishes to make a statement but that, Chair, I have explained to him will be part of the proceedings, in the sense that, he will just start giving and explain to the Commission his response to the evidence that is there.

CHAIRPERSON: Ja.

ADV NOTSHE SC: Chair, the evidence and ...[intervenes]

20 **CHAIRPERSON:** So let us get his team, his legal team to be put themselves on record.

ADV NOTSHE SC: Okay, sorry, ja.

CHAIRPERSON: You can do so from where you are if your mic is working.

ADV SEKELE: Thank you, Chairperson. My name is

Advocate *Thebogomose Sekele(?)*. I am instructed by *Mhluli Piers* and *Mzekwa Attorneys*. They go as MPM Attorneys.

ADV SEKELE: Chairperson, we are indebted to the issue around the sensitivities regarding the security of Mr Makwetla.

CHAIRPERSON: Yes.

ADV SEKELE: And the undertaking by the evidence leaders that those issues will be kept away from the public
10 as far as possible.

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

ADV SEKELE: Thank you, Chair.

CHAIRPERSON: Okay thank you. Good evening, Mr Makwetla.

MR MAKWETLA: Good evening, Deputy Chief Justice.

CHAIRPERSON: Thank you. Thank you for availing yourself to come and assist the Commission and for availing yourself, you and your legal team, to come to the Commission even in the evening to assist the Commission
20 to try and finish its work within the timeframe that has been imposed on it by the circumstances. Okay alright.

ADV NOTSHE SC: Chair ...[intervenes]

CHAIRPERSON: You want Mr Makwetla to take the oath now before you say anything ...[intervenes]

ADV NOTSHE SC: Yes, it is better. Yes, Chair.

CHAIRPERSON: Okay.

ADV NOTSHE SC: So that we can flow.

CHAIRPERSON: Administer the oath or affirmation. You may stand Mr Makwetla and switch on your mic.

REGISTRAR: Please state your full names for the record.

WITNESS: My name, it is Thabang Samson Phathakge Makwetla.

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

10 **WITNESS:** Not at all.

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

WITNESS: [No audible reply]

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

WITNESS: Yes, I do.

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

WITNESS: So help me God.

THABANG SAMSON PHATHAKGE MAKWETLA: (d.s.s)

CHAIRPERSON: Okay thank you. I am checking the technicians whether the fact that Mr Makwetla was wearing his mask, may have meant that they did not hear you

correctly and properly or not?

TECHNICIANS: [No audible reply]

CHAIRPERSON: Okay they say it is fine. They are making certain gestures to me. I read the gestures to say they... Oh, they wanted it to be redone.

TECHNICIANS: [No audible reply]

CHAIRPERSON: Okay. I am sorry Mr Makwetla, we will have to redo it. If you do not mind, please take off your mask because there is proper social distancing.

10 **MR MAKWETLA:** [No audible reply]

CHAIRPERSON: Yes, okay.

REGISTRAR: Please state your full names for the record.

WITNESS: My name, it is Thabang Samson Phathakge Makwetla.

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

WITNESS: No, no objection.

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

20 **WITNESS:** Yes, I do.

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

WITNESS: So help me God.

THABANG SAMSON PHATHAKGE MAKWETLA: (d.s.s)

CHAIRPERSON: Thank you. Okay alright. You may be seated.

ADV NOTSHE SC: Chair, I must ...[intervenes]

CHAIRPERSON: ...the chair that you are seated on is going to be comfortable. I seem to think other witnesses sit on the other one but if you are comfortable there and the mic is not far, it is fine, whichever you use.

MR MAKWETLA: It is only that it looked worn-out Deputy
10 Chief Justice.

CHAIRPERSON: Oh. No, you ...[intervenes]

MR MAKWETLA: I thought the other one ...[intervenes]

CHAIRPERSON: Ja, you can sit on the other one as long as you will be able to speak closer to the mic, ja. Okay alright.

ADV NOTSHE SC: Chair, I must declare up front.

CHAIRPERSON: H'm?

ADV NOTSHE SC: Is the fact that there are called two Samson's today.

20 **CHAIRPERSON:** Ja.

ADV NOTSHE SC: It is not meant to intimidate the Commission.

CHAIRPERSON: [laughs]

ADV NOTSHE SC: It is just a coincidence.

CHAIRPERSON: And ...[intervenes]

ADV NOTSHE SC: Chair the ...[intervenes]

CHAIRPERSON: Yes?

ADV NOTSHE SC: The – this evidence is contained in BOSASA Bundle 3 and ...[intervenes]

CHAIRPERSON: Well, hang on. I see that Mr Makwetla, you have put on your mask again.

MR MAKWETLA: I must take it off?

CHAIRPERSON: You see, if you can be heard clearly with it on, we would not mind but what has happened in the past
10 is that they say they cannot hear it clearly but we have taken it like that because there is proper social distancing. There should be no problem. Are you comfortable with that?

MR MAKWETLA: That is fine.

CHAIRPERSON: Okay alright. Yes, Mr Notshe.

ADV NOTSHE SC: Chair, as the evidence is in BOSASA Bundle 3 and it starts at page 124 and Exhibit T-31. Mr Makwetla, can I take you to that? It is Exhibit T-31. Do you have it in front of you?

20 **MR MAKWETLA:** Yes.

ADV NOTSHE SC: And at the left-hand corner, at the top left-hand corner is written BOSASA-124 in black.

MR MAKWETLA: Yes, I can see that.

ADV NOTSHE SC: So we will be using those numbers. Although you may just use the number 124 and the – at the

numbers. So when we refer to a page number, we will be using that. Now before we started – before the Commission started this afternoon, you informed me that you wish to read out the statement that you made when this issue of the installation came up before the Commission. You confirm that?

MR MAKWETLA: Yes, I confirm that.

ADV NOTSHE SC: And you have a copy thereof in front of you, you wish to read out?

10 **MR MAKWETLA**: Yes, I have the copy with me.

ADV NOTSHE SC: Can I ask you to read that out into the record. And then, can you then proceed from that to explain to the Chairperson and the Commission as to what happened.

CHAIRPERSON: Well, maybe it is better that he reads it, finishes it, and then ...[intervenes]

ADV NOTSHE SC: He explains.

CHAIRPERSON: Yes.

ADV NOTSHE SC: Chairperson ...[intervenes]

20 **CHAIRPERSON**: I have been assured by Mr Notshe that the statement that you want to read does not implicate anybody and anything. So on that assurance, I am happy to let you read it.

MR MAKWETLA: No, it does not Chair.

CHAIRPERSON: Okay alright.

ADV NOTSHE SC: Chair, I made a copy for you and to be handed up to you.

CHAIRPERSON: Okay alright.

ADV NOTSHE SC: Proceed Mr Makwetla.

CHAIRPERSON: You may proceed, ja.

MR MAKWETLA: No, thank you very much for the opportunity, Deputy Chief Justice. I just thought that it would possible to assist or to provide a premise from which, in submitting my evidence, I move from and it was
10 only because, as I was going through the files of correspondence around this matter, preparing to come before the Commission, I came across the statement, the media statement that I released just two years ago. Actually, exactly two years ago.

And I thought that it would be helpful to serve as a context, that the Commission should have in interrogating the evidence, submitted. Two years ago I made this statement to the effect that the unfolding testimonies before the State Capture Commission, I
20 indeed, a welcome relief by its very nature and magnitude that this Commission must be celebrated as a reassurance that the foundation of our democracy is strong and dependable.

Not even mature Western democracies, I believe, have expected to such as we are witnessing in the

promotion of transparency and public affairs. All those who believe in the devastation corruption can lead to and its incompatibility with development and freedom.

We must do everything to ensure that this Commission succeeds. In this regard, we must all be vigilant to guard against any attempts to abuse or hijack this Commission for other goals for which it was not established for.

I have submitted a request as far I said then to
10 appear before the Commission and I trust that this application would be granted. This is not because my name has been mentioned in the Commission's proceedings. That is important.

However, it has always been my conviction to make a modest contribution towards efforts to arrest the threads of a backward slide in our national transformation agenda. We have to combat corruption in all its manifestations, if the dream of those who gave their lives generously for this country to be free, must not lay in
20 ruins.

I wish to indicate that the evidence submitted before this Commission that an electric fence and an alarm system were installed at my home by BOSASA is not new. That is what I said then. I have previously responded to it and will deal with it again when I appear before the

Commission on the date that I am granted audience. That is what I said then.

And I thought that this would be appropriate for the Commission to note what my attitude is in relation to the Commission's work and the evidence that I have shared.

CHAIRPERSON: No, thank you, Mr Makwetla.

ADV NOTSHE SC: You confirm that you then gave a sworn statement, explaining and responding to the
10 evidence of Le Roux?

MR MAKWETLA: I confirm that I submitted, yes.

ADV NOTSHE SC: And in your previous – the evidence and the statement of Le Roux was that, there were installations, security installations made at your house in 2016. And can you – in these were done because he was contracted by BOSASA to do that. And can you explain to the Chairperson how it came about that this work was done at your place?

MR MAKWETLA: The statement by Richard le Roux
20 ...[intervenes]

ADV NOTSHE SC: Yes.

MR MAKWETLA: ...is to me accurate, generally, about the job that was done by BOSASA at my house.

ADV NOTSHE SC: Sorry, Mr Makwetla. Although I ask you questions, you addressing your ...[intervenes]

MR MAKWETLA: I am ...[intervenes]

ADV NOTSHE SC: Yes. So I... It can get confusing because I am asking you questions but you are talking to the Chairperson. But proceed.

MR MAKWETLA: The story starts in 2015. I see that in all the correspondence, including the correspondence, the first... to the Parliamentary Ethics Committee. It says this was in 2016. I have subsequently realised that that is actually inaccurate. This was in 2015, the beginning of
10 2015.

What happened is that I got a call from Gavin Watson, the CEO of BOSASA requesting an urgent meeting to which I obliged and we met.

He raised his concerns and stressed that the Department of Correctional Services been nudge to understand the industry – and this was in relation to the catering industry that was contracted to support the department or to provide services to the department, was actually on a verge of a crisis. And that the adjustment to
20 the pricing in terms of rates in their contract was such that the service they are providing was not sustainable.

At that meeting, because it was the beginning of the year, after we have discussed his concern, we proceeded, of course, to talk about the first decision that were emerging from and he asked me how I was my festive

season and I explained to him that I had a good time, I was in Cape Town.

However, there is that bad thing that I came back to a house that was a burglary, that was broken into my house here in Johannesburg. And that the other did not find company to come and install an electric fence to the house because my house has a very high perimeter wall but I felt that what there was lacking is a security fence. And I wanted a service provider that could install an
10 electric fence for me.

At the time I could find one because it was in the beginning of the year and the companies that I have tried from the Yellow Pages were all still not, you know, back in operation at the time. And then he said to me: No, we can actually sort out that for you very quickly.

And I was pleasantly surprised because I had been to BOSASA in December, just at the end of the year but it just ended, for the first time to familiarise myself with the operations of BOSASA and the things that they were
20 doing for the Department of Correctional Services.

And I was not aware that they were in all in home security. I knew that they were involved in security and catering and their security was at a high level because with Correctional Services, their security involve for providing the technologies that were employed or

controlling movement inside a correctional services themselves.

The electronic control of access and also the design of the perimeter fences around our correctional centres much as it will be that they were not done by his company but it was his company that came with that design and the whole, you know, approach to perimeter, security around correctional services.

You will have observe, Deputy Chief Justice, that
10 on most many of our big correctional centres, they have this perimeter fences that are bent inwards. That is what they designed and he said they sent some of their, I mean, engineers to the US and they came back with that design.

So I never thought that they would be involved, you know, security for houses. So when he said to me that: No, no, no. We do home security. We can do that for you. I was very, you know, pleased and I asked him to send a team to my place to do an evaluation and to provide me with a quotation and that is when we parted.

20 I now do not remember whether it was how many weeks, a week or two weeks, when I came back to the house to come as I usually do, once I took... you know, section at the house. That I found that they had actually started installing security features at my house and they were almost at the end.

The only reason they did not finish their work is because they did not have access into the house. And I then arranged with my son, because during the week I am in Cape Town, and I live in a government house in Pretoria. I then arranged with my son to come and open the house for them so that they can finish the work.

And then, of course, I phoned Gavin Watson to say: You have started doing the work, you have not provided me with a quote. How much is this work going to
10 cost? I want to know that. And he said to me: No, that should not worry you. When we meet I will explain everything.

And when he said that I was very, you know, anxious because I could see that they were doing other things that I did not even understand what they were and I had not asked for it. And I was, you know, keen to meet with him as soon, you know, like, instant.

And when I came back at the end of the week, again from Cape Town, we met and he said to me that: No,
20 the reason why I said do not be anxious, it is because I will not charge you for that work. It is to me not much. I run a very big company. The cost of what I have done is very insignificant.

I was, you know, not just surprised, I was shocked because I thought that he would appreciate that

he could not offer me the *pre-savings*(?) for the simple reason that he was doing as a company business with a department. And I explained that to him that: No, I admire your, you know, generosity but I cannot accept a favour from your company because it is providing services to the Department Of Correctional Services.

But not only that. The other point also is that I did not expect that kind of proposal to come from him because I had heard before about BOSASA even though I
 10 did not know exactly what the issues were but there was a lot of reportage in the media and even there have been six years before the time that we are talking about at the time I was in the province, in Mpumalanga as Premier.

So I did not really pay much attention and even understand what the issues are. So I knew that there was something that, you know, is history which BOSASA would not want to find themselves involved and so.

When the offer, a pre-service, in the manner in which this whole thing had happened, I really got very
 20 worried and I did not expect that from him. But he insisted that, no, I am not going – I will not argue for this. You are my comrade and which cost too.

And it left me very frustrated because what I can say is that those who have had the, you know, the opportunity with interacting with Gavin Watson, he was a

very strong character. It was just so frustrating for me to say, you know, yes but no.

So it went on and on, continuously, trying to put pressure on him to say bill, bill me and he was saying: No, I am not going to bill you.

I realised that I am caught in a very, you know, unfortunate situation that here is a comrade who is saying I have been doing this as a favour to you and I am rejecting it and he does not want to understand that but the
10 material conflict of interest, *prima facie* case existed directly and immediate.

So I then decided that I will take the matter up with the President and I was comfortable in doing that because in our conversation he gave me an impression, a good impression that he also had access to the President and that did surprise me that he had access to the President and that he can see the President from time to time.

And I felt that if I inform the President that
20 Comrade Gavin has provided this service to me but he is refusing that I must pay but his department, company is doing business with my department and he seem not be appreciating that this to the public is going to lead to an action of conflict of interest.

And I knew that the President would find it easy

to take it up with him to say: Comrade Gavin, yes, we understand your generosity but you cannot do it. I had no doubt that the President will be able to do so and I had no doubt that to raise by the President with him he could actually back-off and understand.

The meeting with the President did not take place for the longest time. I went to the President's office, I spoke to the PA to the President at the Thuli House several times but I could not get ...[intervenes]

10 **CHAIRPERSON**: That was President Zuma?

MR MAKWETLA: That was President Zuma.

CHAIRPERSON: Ja.

MR MAKWETLA: That is right.

CHAIRPERSON: And this was still 2015?

MR MAKWETLA: This was in 2015.

CHAIRPERSON: Yes.

MR MAKWETLA: Yes.

CHAIRPERSON: When you were trying to have a meeting with ...[intervenes]

20 **MR MAKWETLA**: This was in 2015.

CHAIRPERSON: Okay.

MR MAKWETLA: And of course - and this is apparent, you will see in my statement to the Ethics Committee that that pursuance of an audience of the meeting with the President got compromised by a stance that I had taken.

I had gotten involved in initiating it within the organisation and specifically within the community of military battles to say that the positions that were taken by the leadership of the military veterans, former military veterans of MK, MKMVA. Those positions were very problematic and were very controversial.

And we made several interventions and when we were not being listened to, that is when we came up with an initiative to establish the structure of the... now know as
10 MK National Council that sought to, you know, challenge the positions that were taken by MK.

And that, of course, when it happened, it made the meeting that I was hoping that I would be granted by the President's office to meet, you know, very difficult. But to cut the story short, I mean, short.

When in 2017, December the President left the Presidency and President Ramaphosa came in, I made immediately in January that request for a meeting with the President to brief him about the matter. The President's
20 office kept on saying the meeting will take place, which took a whole year until I met the President in December. By the time I met with the President in December and I briefed him about the matter a lot of things had happened, the matter had come out in the papers about BOSASA having put security infrastructure in my place and when it

was published in the newspapers immediately Gavin phoned and apologised for what he had done only to say comrade, you were right, I am sorry. You were correct, I was wrong and I am very sorry for this, I will send you the quotation what I was confirmed about when that happened was that it was too late, the damage was done and I told him so that his apology was not of any use and if he feels he wants to make an apology, he further direct that apology to the ethics committee of parliament and that is why in the attachments you

10 will see a draft letter that he sent to me to say this is the letter I would sent to the ethics committee explaining myself and apologising to the ethics committee and in the letter he actually says that he proposes that I should pay the bill 01.47 but I should pay that money to charity organisation of my choice and I refused to do so because my rationale was that it was no point – it was not serving any purpose at that point to say, you know, pay but, you know, pay to a good cause of their choice if – and I said to him if he had raised this proposal right at the beginning when I asked for this, said – to say that I will

20 not charge you, the money will go into – I would have expressed an opinion about that and advise whether we should go that route or not and as a result of that, I refused to take his advice and insisted that he must send me the bill, he sent me the bill and the bill came as – either about 90 000, that is including VAT, it was 85 000 and about 90 000 including VAT.

CHAIRPERSON: Is that 90, or 19?

MR MAKWETLA: Sorry?

CHAIRPERSON: 90 or 19?

MR MAKWETLA: 90.

CHAIRPERSON: Okay.

MR MAKWETLA: 90. And when that bill came I queried, said to him look, I see you are saying 90 00 and the bill was not itemised, it was not – and it was just saying security installations 90 000 and of course it was very abnormal, you
10 know, the voucher, I mean that the bill of 90 is to be presented that way and I knew or let me say I had an idea of how much the work done that I have asked for was going to cost the electric fence that I wanted and the repair to be alarm system in the house because I had an alarm system that got damaged when I made renovations to the house and all I had asked for was repair to the alarm system. So I had a sense about how much that would be. Why I had a good sense it is because the security of the house when I was appointed as a Deputy Minister the first time in 2009, of Defence and Military
20 Veterans, the Department of Public Works as a matter of their conventional practice came to my house and did a security evaluation and submitted a report of the security areas of the house that needed to be [indistinct] 04.28 and specified everything to say, you know, you must put burglar bars to this French door, I mean, burglar bars to this door and that door, to

these windows on this side of the house and that kind of thing, you need to have an electric fence, all of those things, came up to 33 000, according to the report that the Department of Public Works submitted to my office to say here is a security evaluation of the Deputy Minister's house that Public Works get on – I mean, to sort them out. So I knew that what I had asked for the security fence and the repairs to the alarm system could not have even reached 33 000 because 33 000 included other things that were in that evaluation that was
10 done by the security department and I did not implement all of the elements that were there, so the 90 000, I said to Gavin, this is about things that I have not asked for, you put them, you installed them and I do not have that budget, I am only going to pay for what I had asked for and that is how we ended it. I paid that money and they never queried it, they never came back to me, said that no, we do not agree, the 25 000 that you are paying now. So that is what happened, Deputy Chief Justice with respect to this [indistinct – dropping voice]

20 **CHAIRPERSON:** So initially you sought a meeting with the former President, when he was still President, you did not actually get that meeting you say because of developments involving the MK, Military Veterans, and the establishment of another structure and issues that were being dealt with, is that right??

MR MAKWETLA: Yes.

CHAIRPERSON: Ja.

MR MAKWETLA: Although I must point out that when that happened, the political development that strained my relations with the President, it was after a long – months and months of asking for that meeting with the President's office.

CHAIRPERSON: Yes.

MR MAKWETLA: And to give you a sense of, you know, the difficulty of securing an audience with the President and I
10 would not know whether with the other colleagues it would have been the same kind of, you know, difficulties. I only met with the President twice in the nine years, almost ten years that has been in presidency and I think the Deputy Minister, I only met with him twice and not that there were no reasons that from time to time compelled me to seek an audience with the President and I would have benefitted from the audience with the President. I only met him twice so that it was that kind of environment in which there is an effort to get a meeting with his office.

20 **CHAIRPERSON:** And then when President Ramaphosa became President you say you then sought an audience with him and you were able to get a meeting with him.

MR MAKWETLA: Yes I got a meeting with him in December 2018.

CHAIRPERSON: Yes. December 2018?

MR MAKWETLA: December 2018.

CHAIRPERSON: By that time had you already made payment or not?

MR MAKWETLA: By that time I had already made payment.

CHAIRPERSON: Yes. So by that time it was a question of reporting to him what had happened.

MR MAKWETLA: I asked for the meeting.

CHAIRPERSON: Yes.

MR MAKWETLA: And he needed to know about the whole
10 story because it was also at the time now in the media.

CHAIRPERSON: Yes, yes.

MR MAKWETLA: But when I asked for that meeting it was not something that was known.

CHAIRPERSON: Yes.

MR MAKWETLA: That is why when I met with him I said our meeting has actually now been overtaken by events from the President, the reason why I have been looking to have this privilege throughout the year it what is now in the paper. Yes.

CHAIRPERSON: So are you able to remember the month
20 where you made your first approach to request a meeting with President Ramaphosa in 2018?

MR MAKWETLA: January.

CHAIRPERSON: January?

MR MAKWETLA: January 2018. He came into the office in December 2017.

CHAIRPERSON: Ja.

MR MAKWETLA: In January.

CHAIRPERSON: Yes.

MR MAKWETLA: And when we reopened the request.

CHAIRPERSON: Yes.

MR MAKWETLA: My request for that meeting was there.

CHAIRPERSON: Okay.

MR MAKWETLA: And it was not only my request for this personal meeting it also included a request for a meeting with
10 the MK National Council because we had, you know, our issues with the Presidency before the National Conference in 2017 and here we now had a President we thought would actually understand us better where we were coming from and what we needed to be assisted with which we thought, if it is done, would be able to assist the organisation. So we wanted that meeting right at the beginning in January. So he then said to the – advised the PA to say my meeting with him will take place on the back of the meeting with the MK National Council. It had always been like that to say we will meet with the MK
20 National Council and we will meet, the two of us, that has always been that – but it was from January, right from the beginning of January 2015.

CHAIRPERSON: And that was even before Mr Agrizzi went public about some of these allegations against BOSASA involving various people.

MR MAKWETLA: Through that.

CHAIRPERSON: Yes.

MR MAKWETLA: Yes.

CHAIRPERSON: Mr Notshe?

ADV NOTSHE SC: Sorry, Chair, I did not realise that I was off mic.

CHAIRPERSON: Oh, okay, I also did not realise otherwise I would ...[intervenes]

ADV NOTSHE SC: Because you have [indistinct] 11.34,
10 sorry.

CHAIRPERSON: Ja.

ADV NOTSHE SC: Mr Makwetla, let us go back to your first meeting – not your first meeting but the initial meeting with Mr Gavin Watson after the festive season, was that January 2015?

MR MAKWETLA: That was January 2015.

ADV NOTSHE SC: Yes. If I understand your evidence, was that ...[intervenes]

MR MAKWETLA: Let me say, sorry, the breaking was in January 2015.

20 **ADV NOTSHE SC:** Yes.

MR MAKWETLA: But, you see, as I sit here, I would not be sure whether it was in fact January when I took this meeting with him.

ADV NOTSHE SC: Yes.

MR MAKWETLA: But it was right at the beginning of the

year.

ADV NOTSHE SC: That is beginning of 2015?

MR MAKWETLA: Beginning of 2015, yes.

ADV NOTSHE SC: Now, if I understand, he was complaining that the Department of Correctional Services was charging – was only allowing him a small amount for his services than what was the current market prices.

MR MAKWETLA: No, the complaint he had and wanted to bring to the attention of the minister was that he wanted to
10 share the information that Correctional Services as far as catering was concerned at the time, there were three companies that were having contracts, it was BOSASA and some other two companies.

ADV NOTSHE SC: Yes.

MR MAKWETLA: That were relatively very small competitive to BOSASA.

ADV NOTSHE SC: Yes.

MR MAKWETLA: And he had – he was saying that the owners of those companies had approached him to sell him
20 their contracts, they wanted him to take over their contracts because they were not opening the contracts, the business was not a going-concern for them and he was saying these two other companies were actually in terms of their rates paid way above what BOSASA was charging per mil, per [indistinct] 13.50 and so he was saying that it is clear that the whole

contractual arrangement that the department had with these companies was actually not sustainable but of course there was in the contractual agreement with the department an understanding – not an understanding, an agreement that the rates were to be adjusted on at the beginning of every year to take into account the CPIs on the [indistinct – dropping voice]

ADV NOTSHE SC: I understand.

MR MAKWETLA: Ja, so ...[intervenes]

CHAIRPERSON: Do not speak too far away from the mic

10 Mr Makwetla.

MR MAKWETLA: Sorry.

CHAIRPERSON: Ja.

MR MAKWETLA: So he was bringing this as a crisis of catering that the department was sourcing from outside. There are correctional centres that were still and are still managed through internal labour as far as catering is concerned, their kitchens are concerned, they are not outsourced but the big ones, the big correctional centres, big five that populations of 5 000 to 10 000 are the ones that are
20 outsourced to this company and it was a matter of concern that the companies that were holding the contracts it appeared to me that they may have underpriced themselves when they bidded for these contracts in order to win the contracts but the prices were not sustainable and it was in that context that he had asked that.

ADV NOTSHE SC: So if I understand, he wanted the department to intervene either to increase the price they allowed those companies so that when he buys them he could be at a level where his company was, if I understand your evidence correctly?.

MR MAKWETLA: No, actually his request was that BOSASA must be paid at the same rate at least, must be paid at the same rate that the other two companies were paid.

ADV NOTSHE SC: I see.

10 **MR MAKWETLA:** Yes.

ADV NOTSHE SC: But the gist of the request was he needed the company – sorry, the department to intervene.

ADV NOTSHE SC: He wanted – he had made his own submission. As I am saying it was in their contract that at the beginning of every year they negotiate a new rate and it was in the course of those negotiations that they were not finding each other and he was saying that can the ministry, you know, intervene because there is a real, you know, crisis because from his side, hearing the bulk of these kitchens, BOSASA's
20 catering business was being subsidised by the other operations of BOSASA, they were not making money. So he was raising it to say we are aware that as much as the contract says this is the level at which we are to provide this service, all of us are thinking, all I am asking you to do is to consider at least with us BOSASA being paid at the same level as the

other two companies and that is what I took to the accounting office, the AG of the department.

ADV NOTSHE SC: I see. Now this person, he had come from an intervention did you not find it strange that he would then ask allow them – not ask, allow them to install services in your house when you were at that time the Deputy Minister of the department that did a contract with them?

MR MAKWETLA: Just say the question again?

ADV NOTSHE SC: I said did you not find it strange
10 ...[intervenes]

MR MAKWETLA: Having what, did not find it strange?

ADV NOTSHE SC: You.

MR MAKWETLA: Myself?

ADV NOTSHE SC: Yes. That there is a company that is rendering you services and this company had a contract with the department and it wished you to intervene on its behalf?

MR MAKWETLA: No, not at all. All I was asking for was a service that I was going to be paid for and if they are also providing home security and they were going to do it at my
20 place and I am paying for it, there was no conflict of interest that I was anticipating at that point. That is why I asked – he did not offer.

ADV NOTSHE SC: I understand.

MR MAKWETLA: Asked for the services.

ADV NOTSHE SC: I understand. But you must have realised

that he wants you to intervene, so the price he is going to give you, it must be the price that is going to be favourable to you because he needs a favour from you?

MR MAKWETLA: No. He wanted to intervene to assist me because I was at the time not getting a service provider available to do the job. That is why he said I will assist you. The request to have the department take a second look at their contracts as companies that were providing, you know, catering, was raised before he actually even knew that I would
10 be asking him if I get to know that they also do home security.

ADV NOTSHE SC: No, no, I understand.

MR MAKWETLA: Yes.

ADV NOTSHE SC: Now he raised the – he asked you to intervene, right? And thereafter you then ask him about the security services. Did it not occur to you that you were putting him under the spot because he has now got to give you a price that is favourable to you because he is also seeking a favour from you?

MR MAKWETLA: No, I did not have a concern but there
20 could arise a possibility and as I said, Gavin was a CEO as a company that I had best at the back of my mind that they had negative things said in the media about the work that they do there so I did not expect him to even – even if I had asked for a favour myself, I did not expect him to actually agree to that, favour – that request for a favour from his side just from the

caution that he would have wanted to exercise and as I am saying, it was something which also made me to raise in guard in dealing with BOSASA because I was also very clear that, you know, dealing with BOSASA everything has to be done by the book.

ADV NOTSHE SC: But, Mr Makwetla, just because – exactly because of that, why could you not ask Mr Watson to get you another company to do this for you because you knew there were problems with that, there were reports of problems about
10 his company.

MR MAKWETLA: Well, let me repeat myself. At the time I had looked around for the service and I could not have one and, you know, in the nature of the work we do, you do not get time to attend to your own personal or let me say private matters like on a daily or even on a weekly basis. When you have time to attend to your own, you know, private family matters it is, you know, where you get that, you know [indistinct – dropping voice]. So this thing about getting a service provider and Gavin telling me that his company is
20 also doing home security as I said earlier on was a big relief for me because it minimised the burden that I had that I was still going to be, you know, on the same issue for longest.

ADV NOTSHE SC: I understand.

MR MAKWETLA: Yes.

ADV NOTSHE SC: Now you wanted – initially you wanted

that they should provide with a quote first before they do the work.

MR MAKWETLA: Correct.

ADV NOTSHE SC: But then some days, weeks thereafter, you came home, you find that they had started the work without giving you the quotation first that you asked for.

MR MAKWETLA: That is correct.

ADV NOTSHE SC: Why did you not stop them then and say do not do any further work until I get the quotation, I know
10 what I am in for?

MR MAKWETLA: As I said earlier on, I could not do much about what BOSASA had already done because the project was almost complete, as I said, barring things that had to be done inside the house. That is a first reason for it. It was like – it was, you know, a *fait accompli*.

But secondly, I had a relationship of respect for – or between myself and Gavin or for him because of who he was for me and there would not have been for me an easy and reckless way of resolving any dispute between the two
20 of us that would, you know, undermine our comradeship. So it was just, you know, the right thing for me to do to seek a resolution of the, you know, the impasse that we had, in a manner which would still make him, you know, respect me as his comrade but also in a way that would not suggest anything that, you know, I am playing to the

gallery and wanting to make myself, you know, a better more disciplined person in terms of, you know, appearance, you know, to procedure. So I could not stop – I could not stop them, that is why I sought a meeting immediately with him to say where is the invoice – I mean, not the invoice, where is the quote, where is the quotation for the work, how much is it going to cost me and, you know, to understand those other things that they were doing there because I did not ask for it.

10 **ADV NOTSHE SC:** Yes.

MR MAKWETLA: Yes.

ADV NOTSHE SC: Now tell me, by the end of 2015 work had been done at your place and you had not paid for it then, end of 2015.

MR MAKWETLA: At the end of 2015?

ADV NOTSHE SC: Yes.

MR MAKWETLA: Yes.

ADV NOTSHE SC: Now we know that ...[intervenes]

MR MAKWETLA: No, no, at the – yes, at the end of 2025.

20 **ADV NOTSHE SC:** No, no, take your time, think about it.

MR MAKWETLA: Ja, ja. No, no, you are right, at the 2015, I think you are right, I was just...

ADV NOTSHE SC: Now, look, we know from the documents that you have supplied – that had been supplied to the Commission that in March – sorry, in August 2016

you submitted a declaration of member's interest to parliament, am I correct?

MR MAKWETLA: Yes.

ADV NOTSHE SC: Turn to page 167 of that.

CHAIRPERSON: Did you say 167?

ADV NOTSHE SC: 167.

MR MAKWETLA: Yes, 167, I am there.

ADV NOTSHE SC: This is now – I do not want to go through this, I am sure you know the document.

10 **MR MAKWETLA:** Yes.

ADV NOTSHE SC: This is about your – this is the disclosure in parliament.

MR MAKWETLA: That is right.

ADV NOTSHE SC: And you know the purpose of this, that you got to declare, and we will go through what you were supposed to declare.

MR MAKWETLA: Yes.

20 **ADV NOTSHE SC:** Paragraph 1 is the issue of shares and paragraph 2, the remuneration you will get outside parliament and then over the page on 168, it deals with directorship. Then 4, consultancies and [indistinct] 28.24, then 5, sponsorships and then 6, gifts and hospitality and then 7, benefits and air travel. Then you go over the page, page 170, it deals with land and property and then pensions, public contracts, price.

Now I want us to go back to 169 about gifts and hospitality.

MR MAKWETLA: Yes.

ADV NOTSHE SC: I am sure you will agree with me that a gift amounts to something you did not pay for, am I right?

MR MAKWETLA: A gift is something you have not paid for, correct.

ADV NOTSHE SC: Yes. Now I know you have told the Commission that you wished to pay for the work that had
10 been done at your premises, am I correct?

MR MAKWETLA: Not that I wished, I wanted to pay.

ADV NOTSHE SC: Yes.

MR MAKWETLA: Yes.

ADV NOTSHE SC: Sorry, my choice of English, you must excuse me, my English.

MR MAKWETLA: Okay. Okay, we are saying the same thing yes. Sorry.

ADV NOTSHE SC: Ja, in times Bantu education catches up with me in the choice of words. Here under paragraph 6
20 why did you not just declare that there was work done at your premises and by 2016 when you made this declaration you had not paid for this?

MR MAKWETLA: In my response, and I was not - and I will do much in this part of procurement through the act of performance.

ADV NOTSHE SC: Yes.

MR MAKWETLA: I have explained why I did not and I submitted that as an explanation that was sought from me by the commission.

ADV NOTSHE SC: Yes.

MR MAKWETLA: Which is that I did not accept the favour. I refused the favour. During the period that you are talking about, as I said earlier on and I repeat myself, I have been going into the president office at Lethuli house seeking an
10 audience with the president, anxiously in order to get this bill to be paid because I knew it would be paid.

Once the president raise it with Gavin I will pay this bill. So that is the first point but the second point is that to declare what is unacceptable and what is wrong, let us not condone it, because it has been declared. So this is a typical for me example of what should not be declared.

Even if I had accepted, declared and okay, if it is declared this is what should not have been accepted by the ethics committee. So declaration in that context for me,
20 actually did not occur that I should declare it, because I was in a battle to get a bill to be invoiced.

That is one, but the second point why I did not and I have raised this matter, why I did not take this matter to parliament, it is because in the members of the executive are held accountable with respect to their conduct to two

codes.

There is the ethics code for members of parliament but there is an executive code again for members of the executive in relation to conflict of interest in the cause of the execution of their work as ministers, as [indistinct – 00:02:30] ministers.

That is declared to the secretary of cabinet. It is declared to the president. It is for that reason that when this matter arose, I did not take it to parliament. I took it
10 to the president because it arose within the province or the realm of my duties as a deputy minister not as a member of parliament.

ADV NOTSHE SC: And the explanation you talk about is that what appears on page 172, the letter to the registrar of members' interest. Is that what you are talking about?

MR MAKWETLA: No, no. This is a letter to me by the registrar.

ADV NOTSHE SC: On 172?

MR MAKWETLA: On page, I am sorry I am on 171 sorry.
20 On 172.

ADV NOTSHE SC: It seems as if ...[intervenes]

MR MAKWETLA: Yes.

ADV NOTSHE SC: It seems as if it is from you.

MR MAKWETLA: Yes, it is from me this letter, yes.

ADV NOTSHE SC: Is this the letter you are referring to?

MR MAKWETLA: Just give me a second. Let me just get there. Check out the letter. No, it is not communicated in this letter. It is not in this letter.

ADV NOTSHE SC: I thought this is the letter that you wanted to address, you are addressing to the ethics committee explaining ...[intervenes]

MR MAKWETLA: There are several I think letters that were addressed to the ethics committee. It is not the only one.

10 **ADV NOTSHE SC:** Okay, no that is fine.

MR MAKWETLA: Yes.

ADV NOTSHE SC: But is it correct that in the end the ethics committee met and firstly let us go back. This matter came before the ethics committee as a result of a complaint by ...[intervenes]

MR MAKWETLA: Mr Steenhuisen.

ADV NOTSHE SC: By Mr Steenhuisen and then you responded and then on the 28th of March, ethics committee wrote and found you guilty of breach of certain provisions
20 of the code.

MR MAKWETLA: That is right.

ADV NOTSHE SC: And that letter is on page 179 to 180 of the bundle.

MR MAKWETLA: 179 I am with you, ja.

ADV NOTSHE SC: To 180.

MR MAKWETLA: Yes. I see that.

ADV NOTSHE SC: And I note here that the committee found that this item 4.13 of the code and where the code says, this is and I am reading from the letter:

“A member must act in all occasions in according with the public trust based in them.”

And it says:

10 “The committee found that you breached the public trust that is based in you as a member of parliament when you allow the company which is contracted to your department, to conduct work at your private residence which was not paid for.”

MR MAKWETLA: Yes, I actually noted that ...[intervenes]

ADV NOTSHE SC: Yes.

MR MAKWETLA: Statement from the, not the first time, now as well when I appear before the commission, that I found it actually that statement to be [indistinct – 00:0-6:49], because implied in that statement is that one is not
20 expected to get services or buy goods to any company that is doing business with your department.

There are, you know there are many companies that are doing work with the Department of Correctional Services. I only know a fraction or there could only be tenders over the companies that are doing work with the

Department of Correctional Services and I may have different time spot in your goods or whatever services they provide to the department.

That too, it does not constitute a conflict of interest.

ADV NOTSHE SC: But is ...[intervenes]

MR MAKWETLA: What I mean is ...[intervenes]

ADV NOTSHE SC: Sorry.

MR MAKWETLA: What I mean is, sorry.

ADV NOTSHE SC: No, no continue, sorry.

10 **MR MAKWETLA:** What I mean is the mere purchases of goods of services from a company that is doing business with government would not in itself constitute a conflict of interest.

ADV NOTSHE SC: But is it not ...[intervenes]

MR MAKWETLA: But this is what the ethics committee is suggesting.

ADV NOTSHE SC: But is it not different where you know that the company is doing business with government? I take it, I take your point where you do not know, but where
20 you know the company is doing business with the department in which you are a deputy minister, is there, should there not be a problem in that?

MR MAKWETLA: No, I do not believe so. Of course I mean you may have a different take on it, but I do not believe so because I can buy goods from a company that is

doing business with the department in which I am, and the transaction could be just like any other transaction.

Let me just come with that position. A small enterprise of you know, previously disadvantaged individuals that has been given a contract for purposes of affirming that company to provide whatever goods or services to the department.

Even business myself, buying from that company myself, I will do it and do it consciously and deliberately
10 because I know that this is a company, it is a young company that the department is doing business with the department because the department wants to affirm that, you know, the owners of the company.

As a public representative who is supportive of the empowerment of previously disadvantage, I would conscious and deliberately buy from them. So my point is that by buying in itself, I am not agreeing with the ethics committee that that constitutes a conflict of interest.

CHAIRPERSON: Well, let us take a case where for
20 argument's sake, let us say you are deputy minister in the Department of Settlements, Human Settlements ... Human Settlements. I think that is what it is called now. Human Settlements where it is involved in the building of houses and so on and so on.

You want to build a house, would you see nothing

wrong in asking a company that is involved in building houses for the department to build a house for you?

MR MAKWETLA: I may.

CHAIRPERSON: You may?

MR MAKWETLA: I may. I may Chairperson.

CHAIRPERSON: Yes, just elaborate.

MR MAKWETLA: I may because at times you know, exceptions are just as you know difficult to erase in people's minds as things that are actually factual. But it
10 would, it would depend. It would depend on you know, the stage of what of that business, of that transaction.

It would depend on you know, maybe a situational factor that may advertise, require that you know, you must just deliberately avoid creating perception.

CHAIRPERSON: Ja, because how would you feel if people were seeing this company that they know has contracts with your department to build houses, also building a house for you? Do you think it would be enough to say to those people what is the problem, I am going to pay them?

20 They are building a house and I will pay them. Do you think that will be good enough for the people?

MR MAKWETLA: You are right and that I have considered to say it, hence [indistinct – 00:13:43] the volume of that transaction. Building a house is you know for me a substantial you know transaction. That is why I am saying

that is a factor that you are going to take into consideration.

So yes, there may be but respectfully I submit that you may buy from a company that is also doing business with your department and there would be nothing untruthful.

CHAIRPERSON: Well, it may well be as you have been giving evidence, I have been thinking about some scenarios. It may not, it may well be that if there is a shop
10 that provides some take away foods to your department, you pass there and buy a can of Coke or something.

You pay cash.

ADV NOTSHE SC: It is just they do not talk about food.

CHAIRPERSON: You buy a can of Coke and you pay cash and there you pass, maybe that might be a different situation but it may well be that once you talk about something that will require codes, maybe there might start to be problems because there may be temptation on their part to give you a favourable quotation compared to what
20 they would give somebody else.

I am just saying there may be that situation but the way you just buy a can of Coke and pass, you do not need to negotiate with them, there is one price for every can of Coke. Maybe that might be a different situation but where there might be negotiations involved or quotations, it may

well be that it begins to be a different scenario, but I do not know what you want to say about that.

MR MAKWETLA: No, I agree with you Deputy Chief Justice. I would agree with you that there is, indeed you know that logic is valid. All I am saying is that it is ... you see, it is difficult to deal with this and this abusing ourselves from the knowledge of what happened.

We have hindsight here and the expense to which we can be objective on the matter. Maybe yes, we can but
10 you know it challenges us because we know what has happened. The point that I want to make and it is there in the statement.

I do not know which of my statements that I made, to say I wanted among other reasons to have a code because I was not sure necessarily that you are going to give me a favourable code. Although I could not say that to Gavin without offending him as a comrade, but I wanted a quote because I was still going to compare when I have the time.

20 It is not like I was going to say you know, yes you have given me a quote, proceed, no. I was still going to confirm. I just happened to be that person who has this witness. I do not part with money easy. I do not part with money easily and even people in business, even the richest, those who are [indistinct – 00:18:20], you will still

come across people who would still want to take advantage of every little opportunity to make an extra cent.

So I was not sure in business what kind of a person Gavin was. So I wanted a quote from him in order to protect myself in that respect as well. So the point I am making is that you know, procuring from him was necessary in itself, a conflict of interest, now that we know yes, but I did not know at the time that there would arise a situation like this.

10 I did not expect for the reasons I gave here.

CHAIRPERSON: Mr Notshe?

ADV NOTSHE SC: Mr Makwetla, the committee also found that if there was a doubt you should have brought this to, at least to the registrar members' interest, report it that you are doubting whether this conduct falls outside what should be reported or what should not be reported.

The question is why did you not, if there was such doubt, bring it at least to the attention of the registrar?

MR MAKWETLA: Advocate, let me repeat one of the
20 [indistinct – 00:19:54].

ADV NOTSHE SC: Yes.

CHAIRPERSON: Please go closer to the mike again so I can hear you.

MR MAKWETLA: I was saying, maybe I should repeat one of the things I have said, the points I made earlier on.

CHAIRPERSON: Yes.

MR MAKWETLA: To say I did exactly that, and I did that to an authority which I was very clear that in relation to these matters, this matter there within its province, and that is the president, because I am responsible or I am held accountable by the executive code.

I did not, that is why I did not even expect the ethics committee in parliament to make this an issue because as far as I was concerned, it fell within the realm
10 of my duties as a deputy minister.

ADV NOTSHE SC: Now Mr Makwetla, just to round up some of this. Is it correct that the, then after the ethics committee had found you guilty, the matter was escalated to what they call the joined committee on ethics, and it found you, it confirms the finding of the joined committee confirmed the finding of the ethics committee.

Am I correct?

MR MAKWETLA: I have no knowledge of the development that you are talking about.

20 **ADV NOTSHE SC:** Look at page 181.

MR MAKWETLA: Yes.

ADV NOTSHE SC: 181 is, it contains the announcements but it also importantly contains the reports of committees, and then on 182, the report of the joint committee on ethics and members interest on the complaints against you

if I understand.

You see that?

MR MAKWETLA: Yes.

ADV NOTSHE SC: So I do not want to waste much time, but on page 185 it deals with the, paragraph 5 deals with the findings and then paragraph 6 the penalty and then most importantly on 186, paragraph 6.4 it then the joined committee recommends to the house and then it recommends the following, and then being that the
10 sanction that there must be a fine equal to 30 days salary and then but you must apologise to the house.

Do you see that?

MR MAKWETLA: Yes.

ADV NOTSHE SC: You confirm this was a finding of the joined committee?

MR MAKWETLA: I confirm what I can confirm to you is that I was not aware of this at all.

ADV NOTSHE SC: I see.

MR MAKWETLA: Because parliament had adjourned.

20 **ADV NOTSHE SC:** Okay.

MR MAKWETLA: Parliament had adjourned and just the logic, there was such documentation generated after parliament had adjourned, is itself a matter for investigation because as you would see in the letter that I addressed to the ethics committee, expressing my deep

reservation about how my case was dealt with, I referred to the violation, complete violation of procedure that were committed by the ethics committee itself.

The ethics committee followed no rule that governs investigations and findings on matters that are brought before it. The book, the rule book, ethics committee, has seven pages that details what the committee must do when it receives a complaint.

None of those, not a single page of those seven
 10 pages was [indistinct – 00:24:23] by the ethics committee. Now secondly, I think it is in this committee report somewhere, which I only saw now because I only saw now because in January this year ... [intervenes]

ADV NOTSHE SC: This year?

MR MAKWETLA: This year. This year in January, a few weeks ago I decided to get legal intervention to get my legal representative to file papers with parliament to produce documentation of the record of parliament around this thing.

20 Then I thought that you know that is correspondence that would have been shared with yourself, with the commission by my legal representatives. If they have not done so it was just an omission.

ADV NOTSHE SC: No, they did.

MR MAKWETLA: They have?

ADV NOTSHE SC: There are letters.

MR MAKWETLA: And to say that none of those letters were responded to. None of those letters were responded to. My point is that this, and we are talking about parliament. It is not a statement that I make lightly, but to me raises a serious problem of possibilities of malicious, malicious contrary decisions taken by a committee of parliament because in one of the attached documents that you have there with you advocate, it says at the end there
10 that this was to be, it is a report that was to be placed before plenary.

ADV NOTSHE SC: Yes.

MR MAKWETLA: Parliament had adjourned for the term. We were going to elections. Parliament had adjourned for the term. So when this was put as a report on which there was finality on the wrongdoing that member Makwetla had done, what was the logic?

It was on the basis of that when actually the report had not served and was not going to serve before
20 parliament. Parliament has not rectified this report.

ADV NOTSHE SC: No, look what you are ...[intervenes]

MR MAKWETLA: Sorry. That is, yes. That is for me a very important point, but secondly the committee announced, released a public statement on the day they finished the deliberation. They released a public statement

to say they have found member Makwetla guilty.

Even as in the report themselves, they say this was to be put before the plenary of parliament and parliament was not the parliament that adjourned.

ADV NOTSHE SC: Just explain this.

MR MAKWETLA: Yes.

ADV NOTSHE SC: Just explain this. As you know I have not been a member of parliament so I do not understand ...[intervenes]

10 **CHAIRPERSON:** Just one second. Mr Notshe, do you think if we aim to finish at half past nine that might be fair?

ADV NOTSHE SC: It might be fair Chair.

CHAIRPERSON: Mr Makwetla?

ADV NOTSHE SC: Chair, it is just a few ...[intervenes]

CHAIRPERSON: You are comfortable with that?

MR MAKWETLA: No, I am ...[intervenes]

CHAIRPERSON: Okay.

ADV NOTSHE SC: Chair, it is just a few issues.

CHAIRPERSON: Yes, no that is fine.

20 **ADV NOTSHE SC:** You are raising an important issue which we need to, when you say parliament had adjourned, you mean the parliament for that term had dissolved? Come to its end?

MR MAKWETLA: It has come to its end, not adjourned. It had come to the end of its term.

ADV NOTSHE SC: When did it come to an end in 2019?

When did it come to ...[intervenes]

MR MAKWETLA: It came to an end on Thursday, the 28th.

The very same date that is put here. The very same date that is put here.

ADV NOTSHE SC: 28th of March?

MR MAKWETLA: 28th of March. On that very same day parliament was rising for the term.

ADV NOTSHE SC: Well, I am looking here ...[intervenes]

10 **MR MAKWETLA:** Yes.

ADV NOTSHE SC: On page 179. If you look at 179, this is the report of the ethics committee on 28 March 2019. You see that?

MR MAKWETLA: Yes.

ADV NOTSHE SC: And the letter is to you.

MR MAKWETLA: Yes.

ADV NOTSHE SC: When you go over the page, two pages at 181.

MR MAKWETLA: Yes.

20 **ADV NOTSHE SC:** It seems as if then the joint committee sat on the same day as the committee and then made a finding that I referred you to. Do you have an explanation for that?

MR MAKWETLA: No, I have no explanation.

ADV NOTSHE SC: What is your comment?

MR MAKWETLA: My comment is that there is something highly irregular in the manner in which, in the manner in which this matter was proceeded with and this actually confirms that because you see, this matter was a matter that was raised in 2018.

It came right in the beginning of September. When the ethics committee wrote to me in 2018 to say there's this papers, can you provide us with an expenditure, and I give exactly that, 2018. From there nothing happened until
 10 the following year, in 2019. A week before Parliament again, when I got a letter, the date would be around, I think on the 15th, that said within 48 hours give us in your explanation you provided, it was the year before, you had said that you made an effort to meet the President, can you adduce that. You said that you paid BOSASA, can you show us proof of payment. I provided those within – they gave me 48 hours on a matter that had been dealt with a year before and Parliament was again in the following week, I get this letter on Friday. That time it was Tuesday
 20 I give them that letter, I mean the proof – sorry I give them the proof of my ...[intervenes]

CHAIRPERSON: Proof of payment?

MR MAKWETTA: Payment and proof of attempts to meet with the President, I provided them with that.

CHAIRPERSON: H'm.

MR MAKWETTA: From there that was it, nothing said to say, we are not happy with what report – the evidence you’ve provided with for the following reasons, nothing said to me, nothing. Instead, I got the letter that you going – a one and a half page letter that says, we have sat, and we have found you guilty. Found me guilty without being allowed to appear before the committee, I was shocked, I was shocked.

ADV NOTSHE SC: Then just before we step off, is the
10 President Parliament the sixth Parliament?

MR MAKWETTA: It’s the sixth Parliament.

ADV NOTSHE SC: Has this – this is all, have they taken a resolution on this?

MR MAKWETTA: Nothing, I’ve never had – that’s why we’ve written to the speaker that’s why I took legal action and my attorneys have written to the people – to Parliament, they’ve written to the Speaker to say, can you provide us with a record on this matter, before we can, you know, declare any dispute, can you just provide us with the
20 record, the minutes of this meeting, who were in this meeting and all of that. That has not been provided and that was in January, we are now in March, Deputy Chief Justice, we are now in March, this was raised with the Speaker’s office it has not been responded to.

ADV NOTSHE SC: Chair, just for the record, to put the

record properly, on page 153, because I just wanted to confirm this, page 153.

MR MAKWETTA: Thank you very much, I'm there.

ADV NOTSHE SC: Is this the letter, you say you wrote complaining?

MR MAKWETTA: Exactly, this is the letter that I wrote to them complaining about this decision that was communicated to say, I have been found guilty and as you can see, this is 2019. This letter was written to the
10 registrar of the Ethics Committee and this letter never received any acknowledgement of receipt, there was never an acknowledgement of receipt and it was never like – and as you can see in was in 2019.

ADV NOTSHE SC: Now, on page 156, pages down the line there, to page 160.

MR MAKWETTA: 156 to 160?

ADV NOTSHE SC: Yes.

MR MAKWETTA: Yes.

ADV NOTSHE SC: Are these the letters
20 you...[intervenes].

MR MAKWETTA: Yes, I referred to.

ADV NOTSHE SC: You referred about your attorneys.

MR MAKWETTA: That's right.

ADV NOTSHE SC: Now, the one thing I want to raise with you is, did you get quotations to compare the quotations

against the invoice you got from Gavin Watson?

MR MAKWETTA: No, the quotation of the work was R90 085 ...[indistinct – audio distorted].

ADV NOTSHE SC: Yes, no but I'm saying is, did you then, when you disputed this, on what basis do you dispute this, ...[intervenes].

MR MAKWETTA: I repeat myself – sorry I repeat myself, I based myself on the report that had the quote of the security work that must be done on my house which was
10 done by Government.

ADV NOTSHE SC: But if I understand your evidence that was some years back.

MR MAKWETTA: Yes, that was...[intervenes].

ADV NOTSHE SC: Not in 2015/2016.

MR MAKWETTA: Yes, and yes you are correct.

ADV NOTSHE SC: Why didn't you get quotations for – and ask the industry for quotation for that year or subsequent years?

MR MAKWETTA: Well, I can say that the wisdom of doing
20 so was not obvious to me that I should present BOSASA with quotes which I argue that this is what I'm paying them from when it was not their quote. I thought that I was raising a matter which they may logic have an argument, but I felt that using a report with the quotes that were done by the Government security was for me, enough for me to

argue the case with BOSASA and I felt that to have somebody else quote as a basis on which I was paid would not, actually be, you know, necessarily a correct way of going about it. I felt that I would have this report of, you know, Government to fall back on as what I used to average what I expected to spend on that security fence in the ...[indistinct - distorted].

ADV NOTSHE SC: If you can just bear with me one second. I'm going to just do first things, at the meeting,
 10 I'm going back, the meeting you had with Mr Watson in early 2015 when he was complaining about – he was, immediately intervention of the department about the pricing were there any officials with you from the Department of Correctional Services?

MR MAKWETTA: No, it was just myself and Gavin, it was just the two of us there was no other PT...[Intervenes].

CHAIRPERSON: Sorry, just repeat your answer and come closer to the mic.

MR MAKWETTA: In the meeting with the PT Chief Justice
 20 with Mr Watson, it was just the two of us, I didn't take the officials of the department, I took the department's officials on my first visit to BOSASA which was in the December 2014. We had a whole delegation of officials then.

ADV NOTSHE SC: Now, I just also notice – we have noticed that when you paid the money, paid them the

money you paid in two tranches, what is the reason for that?

MR MAKWETTA: Because I could not afford to pay R25 000 at once and I reasoned that R15 000, according to my estimate was an appropriate amount for the security fence and R10 000 for the repairs to my home that's I worked out the figure of R25 000 but I could not pay at once, R25 000, I did not have it and that is why I made the point, I said, when BOSASA started doing work without my permission,
10 without providing me with the quotation, it caused me a lot of anxiety.

ADV NOTSHE SC: Now the person you are dealing with in BOSASA was Gavin le Roux – sorry, firstly Gavin Watson then how did you get to know Gavin Le Roux – sorry Richard le Roux?

MR MAKWETTA: Richard le Roux was the person in charge for the work done at my place and my understanding he was the team leader but not only that he appeared to be the technician who was there, more
20 knowledgeable about everyone else because he was the one who was telling me what is it that they put there and how does it work.

ADV NOTSHE SC: Did you try to get the invoice from him?

MR MAKWETTA: No.

ADV NOTSHE SC: Why?

MR MAKWETTA: I had nothing to do with le Roux as far as the services that I asked for. Le Roux was sent by his company with a team to come to work. I asked for a service from the company, and I must pay the company.

ADV NOTSHE SC: Chairperson, I have no further questions.

CHAIRPERSON: Just a few questions Mr Makwetta. I've heard evidence here, by a number of people, some of
10 whom are members of Parliament or were members of Parliament at some stage, including Mr Vincent Smith, whom you would know, that Mr Vincent Smith was Chairperson of the Portfolio Committee of Correctional Services after the general elections 2009 and that that committee was given a report of the SIU which had investigated allegations of corruption involving BOSASA and the Department of Correctional Services. The documents that have been placed before the Commission in regard to how that committee dealt with that report, I
20 think, includes minutes, prepared by, if I'm not mistaken, it's called Parliamentary Monitoring a certain NGO.

MR MAKWETTA: Yes.

CHAIRPERSON: Ja, and Mr Vincent Smith confirmed what was written in those summaries or minutes that he was one of the people, if it's not the whole committee, who were

shocked at the kinds of findings that the SIU had made or allegations of corruption involving BOSASA at Correctional Services at that time. They said, I think the word used was, shocking but they may have used another word but I think it would amount to shocking and the SIU, I think, had been conducting that investigation from around, I don't know whether 2007/2006 but it had been conducting that investigation for a few years but it had completed by then and there's the question of what that committee did to stop
 10 or address these issues at Correctional Services in the relationship involving BOSASA and Correctional Services and it appears that there is not much that they give and I'm saying that because I think that's what was put to Mr Vincent Smith and he said what he had to say. Now, I would have thought that when you became Deputy Minister of Correctional Services, I assume that was 2014?

MR MAKWETTA: 2014.

CHAIRPERSON: Yes, that these things would have come to your attention, that there were serious allegations of
 20 corruption involving BOSASA in its dealings with Correctional Services and that you may even have been aware of the SIU report which Mr Vincent Smith accepted, it was shocking and of course in the public domain I think there were lots of allegations of corruption associated with BOSASA in its dealings with Correctional Services, maybe

with other Government Departments as well but certainly with Correctional Services. So, I would have expected that with that knowledge, whatever the position is, you would never have wanted to have any business dealings involving you personally, with BOSASA because of their own reputation, the fact that you are Deputy Minister for Correctional Services, what do you say about that expectation that I would have had? In other words, I would have thought that you would avoid, just in case, you might
 10 be mired with allegations of corruption and conflict of interest to say, I better have no dealings with them, what do you say about that expectation on my part?

MR MAKWETTA: Deputy Chief Justice what you are raising, it's a very pertinent question. The SIU report didn't just say the – from what I – if I heard you correctly, you're saying that Mr Vincent Smith was the Chair of the committee from 2009 to 2014.

CHAIRPERSON: To 2014, I think ja.

MR MAKWETTA: Okay that it's likely to have been the
 20 case, I do not know because I was not...[intervenes].

CHAIRPERSON: He might not have been Chairperson throughout the term, I may be mistaken but certainly for some years, starting from 2009 after the general elections he was Chairperson of that committee and when that SIU report was discussed in that committee, he was Chair of

that committee.

MR MAKWETTA: Let me just, quickly go to the last point and then I'll come back to it. It was to me, a mystery that when we were appointed to the Ministry of Justice and Correctional Services, was as it is mentioned, a hand over report in the Ministry that gives whoever comes in an idea of what the issues and the challenges of the Department were. Nowhere was the SIU report mentioned there and throughout my term in the Ministry of Justice and
10 Correctional Service I was totally – and I must confess, you know, that ignorance is not, you know, an excuse for not – I was not aware that there was an SIU report on BOSASA that was ...[indistinct – dropping voice]. The report of the SIU we got it in 2019 a month if not two months before we left, before I left that Ministry as we were going to the elections and I even remember the venue where that meeting took place, extraordinary meeting took place where extreme big volumes of the SIU were being tabled, March/April and, if you want – March/April 2019 as
20 we were winding up work going to the elections of 2019. It was never mentioned anywhere that there was a SIU report on BOSASA that carried the kind of challenges and problems that are talked about here and I asked myself, okay, the Deputy Minister's Office is not, you know, the place that will always be cited about everything in a

Ministry. I wonder whether the Minister of Justice and Correctional Services who I served with there, Advocate Masutha was ever favoured with this report, was he aware of the SIU report for the whole five years that we spent there because as I am saying, the report only got tabled in 2019, two months before we were leaving the office and what made that to happen was the work of this Commission and because in the disclosures that were made by Agrizzi there was then mention of these things that happened.

10 You'll appreciate that these are things that happened quite a while ago, about six years before we were in that department and as I said earlier on, I was not in National Government I was in the Province. So, one had no sense of, you know, that kind of massive problem that was contained in those people and I must confess that they are sitting, those - that SIU report, in three volumes in my study. I only browsed through them I've not had time to read them because as I'm saying it was at the end of our term of office there and I got appointed into the new
20 department after the elections, I had now to quickly familiarise myself with a lot of information of the new Ministry, the Department of Defence, so I did not have time to read those – that SIU report, I just browsed through but that's what happened. In relation to Vincent Smith when I came ...[intervenes].

CHAIRPERSON: And the fact that, in the public domain there was a lot of allegations that BOSASA was involved in allegations of irregularities, tender irregularities, corruption with – at Correctional Services so I'm just reminding you that there's that flag about the question as well.

MR MAKWETTA: Ja but I know...[intervenes].

CHAIRPERSON: But you can continue with what you wanted to say which relates to Mr Smith then you can deal
10 with the other.

MR MAKWETTA: I was just saying that, in relation to Mr Smith, what I know is that he was one of the members of – and the committee on Public Accounts COPA who I found very useful and knowledgeable about the wrong – the wrong things that were happening in the department because as I was grappling with the challenges of the department on 2014 when I got there, I found that each time we went to SCOPA there were a lot of things that I was getting educated about and that thing unsettled me
20 because, you know, in your duties, if it's time you go to Parliament their oversight committee members who are more knowledgeable about what is happening in your department than yourself, it's not a good thing. So, I always made it a point that I listened very carefully to what Vincent and Mnyamezeli Booi who were members of that

SCOPA committee who were very useful in the dealing, very aggressively with the challenges that were there in the department and it could be because in the previous term he was in the responsibility that the Deputy Chief Justice...[indistinct – dropped voice].

CHAIRPERSON: Well one of the things that emerged when Mr Smith gave evidence last time was that at the end of the term, the five year term in Parliament, committees prepare what, I was told are called legacy reports, which I
10 was told, is simply a document that – where the committee or it's Chairperson records issues that they want to bring to the attention of the incoming committee that will come after the elections, to say, here are issues that need to be followed up as far as we are concerned so that they can take it from there. Then it's up to the new committee whether it takes them up or doesn't take them up, but they would be informed. So, one of the things that emerged is that in the legacy report that he prepared he said nothing about this SIU report or the allegations or findings that had
20 been made by the SIU in relation to allegations of corruption and irregularities involving BOSASA and Correctional Services. So I just mention that for the sake of completeness but of course, one of the things I raised with you is, apart from the SIU report, in the public domain, you know, the understanding is that, over the

years there had been a lot of allegations in the media associating BOSASA with allegations of corruption in tenders, in general, but particularly Correctional Services and one would have expected that you would be aware at least that this is a company that just got all kinds of allegations against it. Well, I don't know, maybe you will say, I don't know if the allegations are true or not but that might – that knowledge might have enabled you to say I won't have anything to do with them in terms of my own
10 personal things but will because then all deal with the department in the ...[indistinct] Minister. So, to avoid all possible allegations I would rather go and look for another entity, what would you say to that?

MR MAKWETTA: Deputy Chief Justice, as I said earlier on, I have a recollection of reports in the media and I am even very sure of which paper I saw those reports, it was the Mail & Guardian way back then and as I'm saying, this would probably have been just around 2008/2009. I was not in the National space, National Government I was the
20 Senior of Mpumalanga at the time and there was enough, you know, occupying and challenging me in the office in which I was. I took note of those reports in the papers that here is a massive thing. I did not, even technically understand exactly what were they saying was the problem with this BOSASA. That's why I said, when I came to the

Ministry this recollection was there, but I was surprised that no one was talking about it, no one, no one, actually in the department I observed that people will only mention BOSASA outside the meeting, you know, in hushed voices in the corridor and some, to the extent would – suggesting that ...[indistinct – word cut off] should not get jobs from the department. I did not know where they were coming from okay. All I know is that there was reports that were negative at some point and that is where it ends.

10 **CHAIRPERSON:** The talk that you had in – within Correctional Services that BOSASA should not get jobs which you say people were saying outside of meetings would that have been prior to this already – prior to your transaction with BOSASA or – in other words you hear those things or...

MR MAKWETLA: When I got there in 2014.

CHAIRPERSON: Yes. Yes.

MR MAKWETLA: Now of course the first time of interacting when I interacted with BOSASA was at the end of 2014. I
20 would not be sure whether this you know talk in the corridors would have been before or it had been after our visits. But I was clear that with everything that I heard into my – that I knew about the need for me to go to BOSASA was actually even. Though I was initially reluctant but I felt that no, actually I was strategically wrong. I must go there and see

for myself what is this and you know what is it that people think to be tend you know – people seem to be negative.

And when I went there with the delegation from the facilities branch of the department who had proposed this we spent almost you know the whole day there. Went there in the morning we left at just early afternoon because we were shown almost every element of the operation of the company.

And I could not but ask myself the question at the
10 end of the – that – as such – to say but I even asked Gavin he question. Gavin where does this negativity about BOSASA arise from because from what I have seen here I would not be surprised if there are very few companies in South Africa's corporate that had that kind of excellence in relation to empowerment of their workforce that their workforce was permanently previously disadvantaged young people. That they only did not end it there. They had a corporate university. They were providing training of the Department of Correctional Services feature and you know
20 financial management in Human Resources and 00:03:30. Their technology division young black youth that were involved and of course at the level of equity he says in this company I am the only white. So I was keen to ask the question, why is it that this company being the best corporate citizen I have at least ever been exposed to

generating this negativity?

Of course his answer was something which I anticipated was that no these are legacy issues it is the hostility towards the legacy issues of hostility towards the family in South Africa's white corporate and which I knew that there may be you know hangovers of that problem and the other thing of course was that it was just business 00:04:34. It did not for me suffice. It was not enough. And I even proffered my opinion to him to say maybe there are
 10 other issues but what I suspect is that you are paying as a company sufficient attention to publicity and marketing of the positive best practice that you have here because all of the things that I have seen I was seeing that I was hearing them and seeing them for the first time. I would never have associated in BOSASA that they had a corporate university that was doing all of these things for black kids. I would not have associated – BOSASA knew that it was the function that (inaudible) Chair.

CHAIRPERSON: That visit when was it?

20 **MR MAKWETLA:** It was in December 2014.

CHAIRPERSON: 2014.

MR MAKWETLA: Yes.

CHAIRPERSON: Well what do you say to – what would you say to a proposition that by the time you made this arrangement with Gavin Watson there was enough to have

served as red flags for you to say do not – do not get BOSASA to do the job for you because one you had – you had – you were aware of media allegations of corruption, irregularities. One when you became Deputy Minister. You heard people within Correctional Services speaking in hushed tones saying BOSASA should not get jobs or whatever and then you know you – you – you – ja basically you were aware of these negativities. What would you say to the proposition that there was enough to serve as a red flag
10 to say I should not have anything to do with – should not have anything to do with – should not have any business personally because some Deputy Minister of Correctional Services and they had business, they have contracts with Correctional Services and yet there all these allegations. What would you say to that?

ADV NOTSHE SC: Ye.

MR MAKWETLA: No Chief Justice the allegations were there.

CHAIRPERSON: Hm.

20 **MR MAKWETLA:** To me they – at the back of my mind registers – registers as negative.

CHAIRPERSON: Ja.

MR MAKWETLA: Things that are alleged against these companies. What exactly the issues are I – just did not
00:17:18 to. Just did not happen. And that is why even as I

got into that – we got into that ministry I think it should have been in May if I am not mistaken but it was in the first half of the year. I only went to BOSASA leading this delegation in December the last week in that – I think we were closing it was the last assignment. And the reason for it is because of two things actually. During the course of the year of that 2014 as part of my familiarisation forum I visited the – the regions which is what they are called in the Department of Correctional Services – of the Department first to see what
10 the 00:08:10 was and just what kind of organisation this department was. And I discovered that in Correctional Centres where there was good practice and this is in relation to catering the kitchens, the food that was served to the offenders and the security infrastructure systems the electronic controls that were – that was work that was done by BOSASA. I remember I recall very well that actually at Pollsmoor what struck me is that Pollsmoor was the only correctional centre which had a whole warehousing of farm produce that had warehouses at – could you know
20 warehouses and they had machines of cutting these vegetables as they are coming from the farm. It is the only correctional centre and I was impressed that they had such infrastructure and when I asked why is – why is it that the other correctional centres do not have this they said no this was not procured by us this is a donation from BOSASA.

This is what we need. This is really where the department should be going because they are encouraging the utilisation of – of in the labour in order to sustain – to support the food supply to this correctional centre. But as you would know correctional centres they would produce more than what they need and what is left and has to be you know shared with the nearby places. But the condition of that produce whether it is meat and what have you by the time it reaches other correctional centres it is no longer of good quality. So this

10 warehousing was an important infrastructure and the departments finances were under – that is another challenge the department had but they did not have the requisite budget to do the things that they were doing at least from the books but I was clear that they needed this infrastructure – this warehouse where cold storage and the BOSASA was providing this 00:10:55 and I said but if this BOSASA is doing things like this I wonder what is this all about. Not only the Deputy Chief Justice there are other correctional centres where I went to and in the interactions just with the

20 offenders at those centres is to hear whether they are happy with what the – what it – how they are looked after some of them would say (African language) BOSASA. They wanted BOSASA to be in charge of their kitchens because you know the practices that these offenders they are moved around especially I am talk – I am talking about those who are

having long sentences they do not serve a sentence just in one place. By the time a person finishes ten years he has been – he has stayed in about three or four. So they would say (African language) BOSASA because they would have been ...

CHAIRPERSON: Ja.

MR MAKWETLA: In the centres where BOSASA is in charge.

CHAIRPERSON: Ja.

10 **MR MAKWETLA:** So the department was also under that pressure in terms of that. And so I said I need to...

CHAIRPERSON: You wanted to go and see.

MR MAKWETLA: Understand this thing.

CHAIRPERSON: Ja.

MR MAKWETLA: But the facilities division itself said Deputy Minister you have been here for now a day the day is ending you do not know the industry that is supporting the work that we do. We will organise a program where we will take you to all the companies that is how it happened.

20 **CHAIRPERSON:** Okay no that is fine. Just one last question. Sitting there in 2021 looking back to the arrangement with BOSASA in 2015.

MR MAKWETLA: 2021.

CHAIRPERSON: You are sitting in 2021.

MR MAKWETLA: Yes.

CHAIRPERSON: Looking back at what happened in 2015. What would you say? Would you say you think it was – you think there was nothing wrong with it – it was fine or you say look maybe at that time I did not see it that way but with what I know now I would do things differently.

MR MAKWETLA: Put in the same position I was in 2015.

CHAIRPERSON: Yes.

MR MAKWETLA: I would done things very differently.

CHAIRPERSON: Very differently.

10 **MR MAKWETLA:** No the same.

CHAIRPERSON: Oh the same okay.

MR MAKWETLA: Put in the same...

CHAIRPERSON: Yes.

MR MAKWETLA: Position I was in then.

CHAIRPERSON: With what you know – you knew then.

MR MAKWETLA: What I knew then.

CHAIRPERSON: Ja.

MR MAKWETLA: And what I was looking forward to achieve.

CHAIRPERSON: Yes.

20 **MR MAKWETLA:** When I led that delegation of officials to Krugersdorp

CHAIRPERSON: Yes.

MR MAKWETLA: I would have done the same.

CHAIRPERSON: Oh maybe we are talking at cross purposes.

MR MAKWETLA: Yes so...

CHAIRPERSON: I am talking about the transaction in – about the security.

MR MAKWETLA: Oh the transaction.

CHAIRPERSON: In your house. Yes that is what I am talking about.

MR MAKWETLA: It is something which Deputy Chief Justice I find most regrettable and I have said it – verbalised this in different places in the documentation possible.

10 **CHAIRPERSON:** Yes.

MR MAKWETLA: And statements that I have seen. You see I never even suspected that Gavin would do what he did. I never suspected it. It really took me by complete – you know surprise. And I must say that it is a lesson. It is a lesson that you know you never know what you are dealing with and I am saying this because now there are the disclosures that we now know that were shared with this – with this commission. For me some of those allegations are just I cannot – I try to understand the things – the
20 sophistication that was here to the commission I do not want even to lie to say that I understand what or how the system that are put in place into – that alleged you know tax implication – there is the (inaudible) you know. Out – if I knew that sitting now here with what I know I would definitely not have come anywhere near – anywhere near 00:16:05.

CHAIRPERSON: Thank you. I have taken longer than I thought I would but I think – let me check we – we are – after – it is after ten. If Mr Makwetla's counsel wish to re-examine we might have to arrange for another time but I hope he does not – he does not wish to re-examine.

MR MAKWETLA: No as long as it...

CHAIRPERSON: Yes.

MR MAKWETLA: Sorry Deputy Chief Justice.

CHAIRPERSON: Yes, yes.

10 **MR MAKWETLA:** As long as it is not going to involve me paying the gentleman across the floor.

CHAIRPERSON: Oh okay, okay. No that is fair enough. Because if he – if he has to come back maybe you have to pay. But let me hear.

UNKNOWN COUNSEL: Chairperson I do have fortunately questions that I want to put to Mr Makwetla in re-examination.

CHAIRPERSON: Did you say a question?

UNKNOWN COUNSEL: Questions.

20 **CHAIRPERSON:** Oh just one?

UNKNOWN COUNSEL: No questions Chairperson.

CHAIRPERSON: Oh questions included ja.

UNKNOWN COUNSEL: Yes I want to – I want to cover certain topics that were canvassed with him.

CHAIRPERSON: Were covered.

UNKNOWN COUNSEL: I would – I would indulge Chairperson for as at least to be given at least thirty to forty five minutes Chairperson.

CHAIRPERSON: Hey it is difficult – difficult now.

UNKNOWN COUNSEL: Yes.

CHAIRPERSON: I think – I think we will need to – if it was like five minutes or even ten minutes I think it would be easy. I think because we are – we have gone past ten it would be difficult. I think we would have to arrange for another time
10 and if – and if Ms Makwetla would like to appear via Zoom or you wish to appear via Zoom that can be arranged if that can help with cutting down on costs and so on. So – so I think we will have to do it on another time and please do not judge Mr Makwetla too much.

UNKNOWN COUNSEL: I will take that to note Chairperson when I send my quotation to – invoice. We are indebted Chairperson for that indulgence. We – even if it is via Zoom.

CHAIRPERSON: Ja.

UNKNOWN COUNSEL: We will try to keep it very short and
20 very straight to the point.

CHAIRPERSON: Ja.

UNKNOWN COUNSEL: But we just want to come

CHAIRPERSON: No, no that is...

UNKNOWN COUNSEL: 00:18:46 Chair.

CHAIRPERSON: That is fine. So an arrangement will be

made for – for the re-examination to happen as soon as possible.

UNKNOWN COUNSEL: : And Chair if this re-examination for more than – less than an hour I think we can do it even piggyback on some other hearing.

CHAIRPERSON: Ja, no, no it is easy we do not have to find a clear day. We will find time – we will find time. Okay. Let me thank everybody for their cooperation. Thank you Mr Makwetla, thank you to your legal team, thank you Mr Notshe
10 and your team. Thank you to the technicians and to the staff and everybody for having been able to – having been prepared for us to sit until this late. Thank you very much. We will now adjourn. Just for the benefit of the public next week the commission will hear evidence that relates to SARS on Tuesday, Wednesday and Thursday and on Friday it will hear the evidence relating to Denel and on Monday it is a public holiday but there is a possibility that the commission will sit on Monday morning. If all parties which were
20 involved in the day session are available but otherwise it will sit on Tuesday.

Thank you. We adjourn.

ADV NOTSHE SC: Thank you Chair.

REGISTRAR: All rise.

INQUIRY ADJOURNS TO 22 MARCH 2021