

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

03 MAY 2021

DAY 387



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TRANSCRIBERS:

B KLINE; Y KLIEM; V FAASEN; D STANIFORTH



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PROCEEDINGS RESUME ON 03 MAY 2021

CHAIRPERSON: Good morning Mr Soni, good morning everybody.

ADV SONI SC: Morning Chairperson.

CHAIRPERSON: Good morning Mr Montana. Yes.

ADV SONI SC: Mr Chairperson may I apologise we are starting about half an hour late it seems there was a bit of a miscommunication Mr Montana knew he was coming toady but thought he was on standby and did not realise it
10 would be the normal time ten o'clock.

CHAIRPERSON: Okay.

ADV SONI SC: That seems to be a misunderstanding.

CHAIRPERSON: Yes okay no that is fine. The one thing which works in your favour Mr Montana is that since you started testifying you have been very cooperative with the commission so your track record speaks for you.

MR MONTANA: Thank you – thank you Chair.

CHAIRPERSON: They always say it is good to create a good record for yourself because it speaks for you even
20 when you cannot speak for yourself. Okay alright but thank you for – for availing yourself and I know that it was short notice but we appreciate that you were able to avail yourself. Okay alright. I think let us do the oath. Ja.

REGISTRAR: Please state your full names for the record.

MR MONTANA: Tshepo Lucky Montana.

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

MR MONTANA: Not at all.

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

MR MONTANA: I d.

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
10 help me God.

MR MONTANA: So help me God.

CHAIRPERSON: Thank you. Yes Mr Soni.

ADV SONI SC: As you please Chairperson.

CHAIRPERSON: Hm.

ADV SONI SC: Mr Montana you will recall that on the previous occasion you were here we were dealing with the affidavit of Ms Ngoye you have recalled and we had dealt with the allegations she makes in paragraph 19. You recall that?
20

MR MONTANA: I recall Chair. May I – May I through you Chair just raise one thing? Go back to 15.13.

CHAIRPERSON: Okay. 15?

MR MONTANA: 15.13.

CHAIRPERSON: Okay. Yes.

MR MONTANA: And 15.13 and 15.14 I think it is just one

thing Mr Soni I did raise it the last time and requested the commission to find the copy of the letter of suspending Mr Martin Chauke and I think I said look I wanted to – to remind myself and Chair I have since come across – it is not the same letter but a draft letter by – and I will forward that to you – between the letter it is because it is apparently signed by the late Ms Hope Zinde and it had nothing to do I think the commission will see that it is has got nothing to do with (talking over one another).

10 **CHAIRPERSON:** Oh I have not seen it.

MR MONTANA: Yes, no I will forward that Chair the...

CHAIRPERSON: Yes.

MR MONTANA: The letter speaks about other things about ...

CHAIRPERSON: Oh that are not.

MR MONTANA: (Inaudible).

CHAIRPERSON: Yes.

MR MONTANA: So I wanted to just remind myself.

CHAIRPERSON: To put that to rest ja.

20 **MR MONTANA:** And – but I think a signed copy that hopefully that Mr Chauke will provide that to the commission.

CHAIRPERSON: Yes.

MR MONTANA: Because I have got the draft but I still forward that.

CHAIRPERSON: Okay.

MR MONTANA: 00:01:03 Chair thank you.

CHAIRPERSON: Okay alright. Thank you.

ADV SONI SC: Mr Montana I am grateful you pointed that out what I thought we would do is all the matters that are sought of so in dispute and where you have raised concerns we will deal with them at the end of our – Ms Ngoye’s and Mr Oellermann’s reports. Then – you know then we know that we have dealt with – we have dealt with
10 all the matters you have been called for and those will be the 00:04:41 of that affidavit. But – but we intend coming to it.

MR MONTANA: Thank you. Thank you Chair.

ADV SONI SC: Now you would recall that in paragraph 19 we dealt with the MM2 which was the letter that was sent to Mr Dingiswayo as well. Do you recall that Mr Montana?

MR MONTANA: We dealt with it Chair.

ADV SONI SC: Yes.

MR MONTANA: I spoke at length on the matter yes.

20 **ADV SONI SC:** Yes. Alright. Now I just want to go then to paragraph 20 the – and this issue too we dealt with when we considered Mr Dingiswayo’s affidavit that you dismissed Mr Dingiswayo and we have been through that. And then we know that Ms Ngoye called you and there was a conversation between you and her that did happen right?

MR MONTANA: That is correct.

ADV SONI SC: And one of the things she says if you turn to page 289 is she said to you that the dismissal of Mr Dingiswayo was similar to the matter relating to Mr Chauke. Did she tell you that on the 18th? If you look at the fourth line she says:

10 “I told Mr Montana that I am dealing with a repeat of how he had dealt with Mr Chauke when I was in inter – I was at Intersite and it was not acceptable.”

Did she tell you that?

MR MONTANA: Well Chair not in those exact – in those exact terms not mentioning Mr Chauke as it were but she was – she was unruly – she was unruly Chair – she was insubordinate. Her conduct was very bad.

ADV SONI SC: Okay. But she did not tell you that?

MR MONTANA: Not those specific words no Chair.

ADV SONI SC: Okay. Did she mention Chauke?

MR MONTANA: No not at all Chair.

20 **ADV SONI SC:** And...

CHAIRPERSON: But she – would you say she may have said in essence in different terms what she puts in this tense here?

MR MONTANA: Well I think Chair I think (inaudible).

CHAIRPERSON: Ja okay.

ADV SONI SC: As you please Chairperson I am grateful for that.

CHAIRPERSON: Ja okay.

ADV SONI SC: Now Then she says that she said she – you should have engaged with her and that she had approved of all Mr Dingiswayo’s decisions. Did she tell you that?

MR MONTANA: No, no Chair she did not say that. Chair you see we did not even discuss at length because I had
10 another scheduled meeting and I did indicate to Ms Ngoye that I am having a meeting will discuss the matter once I am done in the meeting or tomorrow and that is when she refused and she became unruly.

And – and effectively and I think I deal with that at length in my affidavit. She then was daring me to fire her – you are firing me – you fired my general manager. Well I reminded her the general manager appointed by the Group CEO and fired the Group CEO.

But I then invited her to say look come let us the
20 following day and invited her to all the issues she was raising in passing in end I ask her put them in black and white I want to see them because I was hearing some of those things for the first time.

So I think the Dingiswayo dismissal it seems to have unleashed something else Chair. I said put that in

black and white show us some cooperating and she kept on saying well I think you just fire me. And I said well you – that is what you are asking for that is what you will get and then I invited her to come and see me tomorrow and said look I will take action.

I have asked you to put the things in black and white you have still to do that. Kept on having a – she was screaming Chair she was completely disorder but this was someone who you could see that she – when someone is
10 daring you in that way she – and I knew at that time consistent with my emails and Mr Soni the emails that I had written about. So there was all that background.

CHAIRPERSON: About the campaign.

MR MONTANA: So you – about the campaign that there were all these things and here is the person who is daring her immediate boss – I even said put them in black and white let us discuss that the following day. She still defies that. If I denied her an opportunity I would understand that if she says I tried to raise the issues with Mr Montana he
20 did not want even to hear me.

I said to her and again that detail I provide in my affidavit – I said to her put it in black and white let us discuss those. And she was no she was on a warpath and her consistent thing you see in the letter that she 00:09:58 she then kept on saying then fire me then because you – it

is quite clear that you do not want me. And for the first time she says well this is – this is quite clear that I am being punished from my days at Intersite which are not – which are not even related Chair that 00:12:27 her movement from I think I have explained that move from Intersite to the PRASA Corporate Office as it were.

So Chair she was – she was completely – she was unruly, un-cooperating and she dared me to fire her and I accepted her invitation Chair.

10 **ADV SONI SC:** Alright so can I just understand when you talked to her on the phone on the 18th you had told her you are going to fire her. You had told her that she must come on the following day because you are firing her in that phone call.

MR MONTANA: Yes no, no that evening I did tell her that she – well she is asking for it. She did not say it once, she did not say it twice – every time she just kept on saying then fire me and I took a decision that here is a person who – here is an executive who – who conducts herself in
20 that way and I think Chair in my – in one of my documents I am not sure if I have attached it inside I write a letter to the chair of the – of the Remuneration and HR Committee of the board to explain the circumstances around her, Mr Dingiswayo and someone else.

So I dealt with it in that way but she – because at

that time I could not just fire her but she gave me a reason to fire her. She said fire me because she was – she was defiant, she was disorderly and it was someone who says look I am not going to actually respect your authority as CEO and she was putting me to the test.

For me she was making a clear statement I am no longer prepared to work with you. I am no longer going to respect your position. So Chair I took action on that basis.

CHAIRPERSON: Now before that discussion between the
10 two of you was the position that – in other words before she started daring you saying fire me was the position that you were going to fire her in any event because you saw her as part of that campaign – it was just a matter of time but when she said fire me and repeated that then you decided I'll do it now then? Or was the – or what was the position?

MR MONTANA: Chair probably in my mind and I want to reflect to the Chair and the commission my honest – the way – my state of mind at that point in time I had taken a
20 firm view about some of the team members who were no longer focussing on what we had agreed upon as an organisation and they were running behind the campaign and the selecting certain contracts and leaving others and doing a whole range of other things. So my mind was – was mind was fact was made Chair but I would not say

because you know when you run an organisation especially an organisation as big as PRASA you are managing different interests.

I will tell you Chair that there are many instances where I get angry with people and I take a view that they should be fired. Some of them would run behind my back and run to the chairman and at that time Mr Buthelezi – Mr Buthelezi will then invite me and say come let us have dinner. We will have dinner we talk and we talk about
10 other things and he will say there is this situation.

And then he will say to me – and give me cogent reasons and say look I think maybe chair you are over-reacting you are not dealing with the issue and will counsel me and say I think you should deal with it differently. So – so sometimes I do take a view but it does not mean that view would be realised because an organisation you have one on one meetings – people do present and tell you I did this because I thought 123.

But this one was involved in wrongdoing and I – and
20 I invited her to sit with me as an executive and she defies me and she asked me to fire her. So yes I had made up my mind that she can see the tone in my email but whether ultimately she was going to be fired or not Chair I would not say with certainty because I think that a lot of things had transpired.

So I would put – I think that will – that would have been - you are managing different interests sometimes you want to unite the organisation, you want to unite the teams that the executive is leaving and therefore – and therefore you consider all of those factors.

Is it ultimately in the interest of the organisation but we were facing a state of paralysis because of the campaign and Chair I had resolved in my head if I stayed in PRASA beyond that period probably most of these
10 people some of them will come here said a whole range of things at the commission. Some of them in fact have even done worst things that what Ms Ngoye has done. Some of them are Chair instead of firing I called the person on one on one meeting and I said PRASA 00:15:43 does not belong to me does not belong to my father and if had it – it was my father's company I would probably would have thrown you out of the company yesterday.

Mr Holele came here Chair he did wrong things but – but I had the one on one meeting I said you cannot be a
20 head – you cannot be a head of strategy located in my office if you are doing 123 and not – and you are not showing even that level of loyalty but despite that Chair I said instead of firing – throwing you into the street I think we need to find a different role for you in the business. So you still working for this company, you serve it with loyalty

but you cannot be the strategy officer who lies to me or you know I will deal with this matter and detail when we deal with the Public Protector matter Chair.

CHAIRPERSON: Ja.

MR MONTANA: Because I those issues come in that context.

CHAIRPERSON: Okay.

MR MONTANA: But I did not fire her.

CHAIRPERSON: Yes.

10 **MR MONTANA:** So it was not this thing that you have this guy who was firing everybody, who was so senseless. I follow – I listen to reason Chair and in some instances these people had access to the board and they will tell – they will lobby board members and board members would ask me and sometimes they will say to me we think you must reverse that decision or we think you must not go that route. Because the board is there is counsel you.

20 So Chair I was not this all powerful person who was pushing everybody out of the way as presented in this affidavit. No it is not correct. So I will say in a nutshell Chair my mind was made but whether she was going to leave PRASA or not...

CHAIRPERSON: Ja.

MR MONTANA: I think it was still dependent on a whole range of other factors.

CHAIRPERSON: Ja. Okay. Mr Soni.

ADV SONI SC: As you please Chair. Now in the next paragraph, paragraph 21 Ms Nyoge says:

“We met on the 19th the meeting started at 18:00 by 18:05 Mr Montana told me he was dismissing me with immediate effect.”

Is that correct?

MR MONTANA: Chair that was correct. As I said I told her yes – the reason I invited her was to fire her. I told her
10 that. She knew when she was coming to me that – she refused the opportunity to meet and discuss with me. And I said you must come tomorrow I will give you facts that – I could not have called immediately but I had another meeting. She was actually disruptive I had to go out of a meeting to be able to try and even calm her down. She was defiant Chair and I have recorded that in my affidavit.

ADV SONI SC: Okay I just want to point this out to you Mr Montana the one essential difference between your and Ms Nyoge is you are saying you told her on the 18th that she
20 was fired she is saying she only found out at six o'clock on the evening of the 19th. That is the difference between the two of you right?

MR MONTANA: But I will respect the difference Chair. Let us agree to disagree with Ms Nyoge on this one I will not dispute that. I will put my view – she will put her view and

ja.

ADV SONI SC: No, no but Mr Montana I want to emphasise this that is an essential difference because to an outsider it makes a little sense that an employee is told you are fired and comes back to receive the letter dismissing her. So I am saying it is – it is not an inconsequential difference between the two of you and I would like you to reflect – did you tell her on the 18th or only on the 19th?

10 **MR MONTANA:** No, no Chair I told her on the 18th but because I was in a meeting there was no way I would even - because the meeting was in the evening as well the previous night.

ADV SONI SC: Okay so we – we ...

MR MONTANA: I would not know...

ADV SONI SC: So we know now you told her on the 19th?

MR MONTANA: It was on the 18th.

ADV SONI SC: I am sorry on the 18th.

MR MONTANA: On the 18th Chair.

20 **ADV SONI SC:** Alright and then you gave her the letter of dismissal that ...

CHAIRPERSON: I am sorry – I am sorry Mr Soni. I think he was still saying something that might substantiate his version.

ADV SONI SC: Of course sorry.

CHAIRPERSON: Because you see there are now two versions and he is sticking to his version that it is the 18th. I think he was still substantiating. You were saying Mr Montana you were in a meeting there is no way something, something?

MR MONTANA: No, no Chair I was trying to say that there was no way in which because we did not plan to fire her. That is the issue. I think it links to the – to my explanation earlier on to you Chair that there was no plan to fire her.

10 There was no letter – with Dingiswayo as the team prepared the letter. I want to meet the – I want to meet the – I want to meet Dingiswayo – I want to indicate. So we knew there was a – there was a process leading up to that. Ms Ngoye's decision was made on the events of the 18th I made that decision and I invited her the following – the following day.

CHAIRPERSON: Okay alright.

MR MONTANA: So I am just saying.

CHAIRPERSON: Yes.

20 **MR MONTANA:** I would not have prepared a letter on that day when she was not there – we are not meeting I was meeting with other people Chair. But then we had a discussion over the phone.

CHAIRPERSON: Okay alright. Mr Soni.

ADV SONI SC: Thank you. Then let us look at MM3 this is

the letter of immediate termination that appears at page 319 Mr Montana.

MR MONTANA: 319?

ADV SONI SC: Yes. Have you got it?

MR MONTANA: I have got it Chair.

ADV SONI SC: Alright. You – in your letter – alright firstly this letter on 320 is signed and it appears to be signs by yourself, that is correct is it not?

MR MONTANA: That is correct it is my letter Chair.

10 **ADV SONI SC:** Alright. Now you – you start off at page 319 in the first paragraph referring to the phone call and the fact that the – the matter concerned the dismissal of Mr Dingiswayo and you then set out the objection that Ms Ngoye raised and you say here that you told her you were engaged in the – in another meeting just as you have told us this morning. Is that correct?

MR MONTANA: It is correct Chair.

ADV SONI SC: Then you say she began to raise her voice and demanded your objection be – her objection be heard
20 and you say that that amounted to an act of gross insubordination which may attract a drastic sanction such as dismissal. That is what your letter says, is that right?

MR MONTANA: It is correct Chair.

ADV SONI SC: And you say:

“Be that as if may in light of your daring me

to request you to fire – request you to fire her in my capacity as the Group CEO in view of your daring as an act of repudiation of your contract which I elect to accept.”

MR MONTANA: That is correct.

ADV SONI SC: That is correct?

MR MONTANA: That is correct.

ADV SONI SC: Then on the next page you say:

10 “Ms Ngoye proceeded to make numerous allegations against you in unrelated matters including an assertion that the decision to remove her as the Chief – her as the CEO of Intersite is malicious.”

She raised that with you as well.

MR MONTANA: She did Chair – she did that is correct.

ADV SONI SC: Alright.

20 “I reminded you that this had no bearing whatsoever to the issues which you called me about. I view – I with a view to address your concerns requested you put these grievances and allegations in writing. You refused to do so. Your refusal and defiance to act on my instructions again amounted to gross insubordination.”

MR MONTANA: That is correct Chair.

ADV SONI SC:

“Now during this conversation it became clear to me..”

And you obviously talking about the conversation on the 18th – that is the telephonic conversation?

MR MONTANA: That is correct Chair.

ADV SONI SC:

10 “It became clear to me that you as an executive at PRASA intentionally failed to accept my authority as the Group CEO and you addressed me with a level of resistance, defiance and great disrespect to which I cautioned you against.”

That too did happen?

MR MONTANA: That is correct Chair.

ADV SONI SC: Alright. Then you say:

20 “The level of insolence which you presented towards me is unacceptable and not in the best interest of PRASA. You have repeatedly reminded me to terminate your employment which you repeated in our brief meeting this evening.”

You see that?

MR MONTANA: Correct.

ADV SONI SC: And that – so you say that happened even

in that meeting?

MR MONTANA: Yes Chair I am referring to the 18th. Chair I cannot recall whether on that 18th I am referring to the telephonic conversation or we – we actually – I do not think we met but I am open – but I think we spoke but this – this letter correctly put on record what I said Chair.

ADV SONI SC: Then you go on to say:

“I am therefore exceeding to your demand
to terminate your employment forthwith.”

10 **MR MONTANA**: That is correct Chair.

ADV SONI SC: You see Mr Montana this would suggest that the decision was only made on the 19th not on the 18th. I am only saying to you that when one reads the letter that is what appears.

MR MONTANA: No, no Chair you remember the letter is giving effect to my decision which I had conveyed to her. I think – I think that the – the – I do not know how significant – how material it is. I am saying in my testimony I am saying to the commission.

20 **CHAIRPERSON**: Ja.

MR MONTANA: On the 18th I have made that decision. I have conveyed to her and then I put it in black and white this letter correctly captures that. I do not know whether if I had given ...

CHAIRPERSON: Well – well I was under the – well I see

that you signed it on the 20th if you look at the – now at the end of the letter if you signed it on the 20th if you signed the letter the following morning or the following day after the discussion on the phone with Ms Ngoye then that would tend to support the idea that the version that – the discussion on the phone would have been on the 19 – evening of the 19th. Unless – unless it is not a situation that the letter came the day after the conversation.

MR MONTANA: Chair I think probably that is what
10 happened.

CHAIRPERSON: Yes.

MR MONTANA: But I am saying that we did not have this matter over a three day period.

CHAIRPERSON: Ja. Yes.

MR MONTANA: So the previous night and the next day.

CHAIRPERSON: Yes okay.

MR MONTANA: So either the – the date may not be correct.

CHAIRPERSON: Yes.

20 **MR MONTANA:** Or visa versa so I...

CHAIRPERSON: Yes.

MR MONTANA: So I accept that Chair.

CHAIRPERSON: No, no, that is fine. I think that probably resolves it. If in terms of when the conversation was if you say the letter was signed the day after the telephone

conversation then it would have to be the 19th.

MR MONTANA: Yes Chair because I think in her own affidavit Chair.

CHAIRPERSON: Yes.

MR MONTANA: She starts on the 18th.

CHAIRPERSON: Yes.

MR MONTANA: And then she says we indeed met on 19 – the 19th.

CHAIRPERSON: Ja.

10 **MR MONTANA:** And I cannot recall why the date is the 20th Chair.

CHAIRPERSON: Okay.

MR MONTANA: So I think – ja.

CHAIRPERSON: Okay. I do not know Mr Soni?

ADV SONI SC: Chair.

CHAIRPERSON: Your memory is fresher.

ADV SONI SC: Yes.

CHAIRPERSON: On these things than mine.

20 **ADV SONI SC:** So – yes – the point is Chairperson what is clear from Ms Ngoye’s affidavit hers they had a telephone conversation on the 18th. The – it was unhappy conversation. Mr Montana says it was an aggressive conversation. We can accept both versions it does not matter. But Ms Ngoye says she was only told on the 19th that she was being dismissed when she met Mr Montana

face to face. And Mr Montana's version is he told her on the 18th. So that is the difference between them and I am saying Chairperson that the letter which indicates that there is a reference to the face to face meeting on the 19th would suggest that Ms Ngoye's version is correct that she was only told on the 19th not on the 18th.

CHAIRPERSON: But in the end I think you made some point earlier I just want you to remind me whether it would make any difference whether she was told on the 18th or
10 19th?

ADV SONI SC: Chairperson what – what would happen or what – what - who is this? And I accept in the final analyses not much will depend on but it would show that Ms Ngoye's version is the more probable when one has all the evidence in hand.

MR MONTANA: No, no Chair.

CHAIRPERSON: Ja-no, what I was interested in is whether it makes any difference whether she was told on the 18th or the 19th because it is accepted that she was
20 dismissed.

MR MONTANA: Yes, yes.

CHAIRPERSON: It is a question of whether she was told on the 18th or the 19th. On the face of it, it should not matter but I maybe missing something.

ADV VAS SONI SC: No, but Chairperson I was merely

highlighting the manner in which the dismissal took place.

CHAIRPERSON: H'm.

ADV VAS SONI SC: That Mr Montana, you will recall, and I just ask you to respond to this Mr Montana, and the Chairperson asked this earlier, you had already made up your mind at the time when you dismissing Mr Dingiswayo because you said so on the last occasion, that you also were going to dismiss Ngoye. That is what you said on the last occasion.

10 **MR MONTANA:** That is correct, Chair.

ADV VAS SONI SC: Okay.

CHAIRPERSON: H'm.

ADV VAS SONI SC: I was merely saying, Chairperson, that would emerge then is that what is contained in the letter is in fact an *expo facto* reflection on why Ms Ngoye was being dismissed.

CHAIRPERSON: H'm.

ADV VAS SONI SC: Because the decision had been made even before the 18th ...[intervenes]

20 **CHAIRPERSON:** H'm.

ADV VAS SONI SC: ...at the time Mr Dingiswayo was dismissed.

CHAIRPERSON: Ja, ja. Well, I am not sure why – I am still not sure why it makes any difference, whether it was on the 18th or 19th because Mr Montana says: We had a

conversation.

ADV VAS SONI SC: Yes.

CHAIRPERSON: I fired her because she was insolent, she was insubordinate, she get me to fire her, and I fire her. He says: Well, because I viewed her as part of that campaign, I had made up my mind to fire certain people including her. But whether it was going to happen, I am not sure because sometimes I would take a decision and then I would persuaded, you know. So I am saying, I am

10 not sure.

ADV VAS SONI SC: Yes.

CHAIRPERSON: Maybe that he does not ...[intervenes]

ADV VAS SONI SC: Maybe ...[intervenes]

CHAIRPERSON: Ja.

ADV VAS SONI SC: No, I accept that.

CHAIRPERSON: Ja, ja, ja. Okay alright.

MR MONTANA: Chair, can I say? No, I think the first point. Chair, the point I have made that this, for me it is not a big issue.

20 **CHAIRPERSON:** Yes, ja, ja.

MR MONTANA: I feel like I have been consistent in terms of what was...

CHAIRPERSON: Ja.

MR MONTANA: And I think my earlier response ...[intervenes]

CHAIRPERSON: H'm, h'm. In terms of what was in your mind.

MR MONTANA: What was in my mind and what would ultimately happen.

CHAIRPERSON: Ja.

MR MONTANA: But this letter is specific. And Chair, just to help Mr Soni. I am saying in the last paragraph. You see, because – and let me – and I am addressing the second part, Mr Soni, of what you are saying.

10 **CHAIRPERSON:** H'm.

MR MONTANA: Mr Soni – you will recall, Chair, and why I am not – I do not want to leave this issue hanging the way ...[intervenes]

CHAIRPERSON: Ja.

MR MONTANA: ...Mr Soni has summarised it.

CHAIRPERSON: Ja.

MR MONTANA: Ms Ngoye was saying she was been targeted and even when she was here at the Commission she said: I am being fired or being suspended – even now
20 because I am the corruption pastor(?). I am being victimised and everything. I mean, she mentioned a lot of things. Chair, I – something that I do not accept but if you look at the last paragraph on the first page it(?) say and I am describing what happened on the 18th.

He – that is – it may – in light of you daring me

to request you to fire me, I in my capacity as the Group CEO. Now that sentence continues. It captures what happened on the 18th, not on the 19th but again, Chair, for me is not a big issue. The principle is one where she is fired and I indicate the reason why. So this would have been – if we use a different word, it will be the – what do you call – the last straw, probably. I think let us just use that word.

CHAIRPERSON: Well, actually, I was thinking
10 ...[intervenes]

MR MONTANA: That was the last straw but if, let us say, she sat(?) with me, she did not then.

CHAIRPERSON: H'm.

MR MONTANA: She did not even then knew at that particular day.

CHAIRPERSON: H'm.

MR MONTANA: Would she have been fired?

CHAIRPERSON: H'm, h'm.

MR MONTANA: I think Chair that is still a question.

20 **CHAIRPERSON:** Yes.

MR MONTANA: You cannot – unfortunately, you cannot speculate about it.

CHAIRPERSON: I will offer you something and you must give me your comment. In the light of how strongly you felt against people whom you viewed as being part of the

campaign that you talked about in your email and in the light of the fact that you viewed her as part of that campaign and in the light of the fact that in your own mind you had made it – up your mind to fire such people. The probabilities that she was going to be fired what happened may just have brought forward what was going to happen in all probability. We are not saying certainly.

MR MONTANA: Indeed, Chair.

CHAIRPERSON: On... Would you think that is fair?

10 **MR MONTANA**: No, it is fair. It was the probability
...[intervenes]

CHAIRPERSON: Yes.

MR MONTANA: ...it was very high ...[intervenes]

CHAIRPERSON: It was very high, ja.

MR MONTANA: That she be fired, Chair.

CHAIRPERSON: Yes, ja.

MR MONTANA: I think my mind was very clear
...[intervenes]

CHAIRPERSON: Yes, ja.

20 **MR MONTANA**: ...on that issue, Chair.

CHAIRPERSON: Yes. Okay. I think ...[intervenes]

ADV VAS SONI SC: That resolves ...[intervenes]

CHAIRPERSON: Ja, ja, ja.

ADV VAS SONI SC: Chairperson.

CHAIRPERSON: Ja, ja, ja.

ADV VAS SONI SC: Then, Mr Montana, at paragraph 21, she continues and if I can just summarise it. We do not need to deal with it in detail because I think it is agreed that they approach the chairperson this time, not Mr Buthelezi but Mr Molefe. He asked you to reconsider. You – the determinations were ended but they were then put on suspension. That is correct? Both she and Mr Dingiswayo.

MR MONTANA: No, no Chair. It is correct but I think the
10 – she was not there. Let me just share with the Commission, Chair. We had a scheduled board meeting. It was meant to start at ten. When we arrived, of course, they did not raise the issue with the board. They lobbied Mr Molefe.

So they raised – they took those letters to Mr Molefe and say: We have been fired and everything. From myself and Mr Molefe – Mr Popo Molefe. We then had a discussion before the board. In fact, we delayed the board meeting for about two hours. This was a big fight
20 between myself and Mr Molefe and I ask him: Why are you a shop steward of these employees?

Employees were being suspended for being disciplined in this company. You do not speak for them. Why – then we had and we were holding the board meeting for a long time. We then reached a compromise. And I

said no it is fine. I am going to bring these people back but I am going to then discipline them. So I then asked our legal department – our ER team to prepare letters.

The one was for me to sign the dismissal. The other one was then to give them letters suspending them pending a disciplinary action. So we did that Chair. So it was not a meeting where the chair came and – we had a big fight for two hours. And part of the issue that I was conveying to Mr Molefe that you see these employees –
10 she is very mean(?). Precisely because you are standing behind her.

So all these wrong things are now that we have a talk but as long as I am CEO, rest assured, I am going to act against these people. If they do not follow lawful instructions from me as their immediate boss I am going to act... So the compromise was that it is fine. I said to him there is no way that I can take them back without them then facing the charges, as it were, Chair.

And that is what I did and by the time I left
20 PRASA these people were in fact still under suspension and Ms Ngoye more specifically she had charges brought against her including this one of insubordination, including many other charges, including the Siyagena matter. So they were all under – if I remember well, for example, a disciplinary case was set, the date was set, and I think that

the council...

I think if I remember well, the name was – the name came and ran away from me again. Now a date was set Chair – PRASA. And what happened Chair after I have left is ...[intervenes]

CHAIRPERSON: Could she have been legally represented at such a disciplinary hearing?

MR MONTANA: Indeed, Chair.

CHAIRPERSON: Oh, is that so?

10 **MR MONTANA**: Indeed, yes.

CHAIRPERSON: Okay, okay.

MR MONTANA: And I would not be – I would put – unless if a legal representative would say: We want the Group CEO. There are instances where, for example, whether in the disciplinary case or at the CCMA, I have been called. There is Kasim. The senior counsel, Kasim.

CHAIRPERSON: Oh, Advocate Naseer Kasim.

MR MONTANA: Indeed, Chair. It was the person who was going to preside over that particular matter.

20 **CHAIRPERSON**: Oh, to preside as chairperson?

MR MONTANA: As chairperson.

CHAIRPERSON: Oh, I thought that you were saying that Ms Ngoye was going to be legally represented.

MR MONTANA: No, no she was entitled to have that, Chair.

CHAIRPERSON: Oh, she was entitled to have that?

MR MONTANA: She was entitled.

CHAIRPERSON: It was not arbitration or was it a CCMA thing?

MR MONTANA: No, Chair. No, no it was still – you will recall Chair I withdrew the letters.

CHAIRPERSON: Internally?

MR MONTANA: It was an internal disciplinary ...[intervenes]

10 **CHAIRPERSON:** Ja, okay.

MR MONTANA: Now what happened Chair is that after I have left ...[intervenes]

CHAIRPERSON: H'm?

MR MONTANA: ...and you remember the R 57 million, it is a big to – R58 million to Siyagena matter. I speak about it during my ...[intervenes]

CHAIRPERSON: H'm.

MR MONTANA: It is a big issue, Chair.

CHAIRPERSON: H'm.

20 **MR MONTANA:** Now after I have left, what happened, I think that PRASA brought in Norton Rose, the law firm.

CHAIRPERSON: H'm?

MR MONTANA: And they declared everyone including people that were suspended in the organisation – some of them for serious transgressions, Chair.

CHAIRPERSON: H'm.

MR MONTANA: Some of them even about money. People have stolen money in the company.

CHAIRPERSON: H'm.

MR MONTANA: Now everyone was on this bandwagon that no they were fired by Montana and people that have got nothing to do with me who do not report to me ...[intervenes]

CHAIRPERSON: H'm?

10 **MR MONTANA:** ...show(?) them who are rear seats(?) who are charged because they have been caught with their hands in the cookie jar, Chair.

CHAIRPERSON: H'm.

MR MONTANA: And they would return(?) all of them on a must stay ...[intervenes]

CHAIRPERSON: H'm.

MR MONTANA: ...came back. So, and then those that remained were in fact suspended Chair.

CHAIRPERSON: H'm.

20 **MR MONTANA:** So you can see that in an organisation where there is a battle in the leadership ...[intervenes]

CHAIRPERSON: H'm.

MR MONTANA: ...particularly between the chair and the CEO ...[intervenes]

CHAIRPERSON: H'm.

MR MONTANA: ...you have that kind of a thing where the organisation is split in between. And what is the result? The result is that the operations of the business, the moral of staff, the discipline collapses. And that is what happened in PRASA, Chair.

CHAIRPERSON: Yes. Mr Soni.

ADV VAS SONI SC: Just on that point Chairperson and this is just for the record, not to place a dispute. In the last sentence of paragraph 21 Mr Ngoye says that:

10 “After the suspension was lifted, the acting Group CEO, Mr Nathi Khena, found no evidence of misconduct...”

Now I am just placing that on record. I am not – I – it is just in relation to the point you made Chairperson about whether there was an inquiry.

CHAIRPERSON: Yes, yes, yes.

MR MONTANA: Chair, I want to put on record.

CHAIRPERSON: H’m?

MR MONTANA: There was no an inquiry.

20 **CHAIRPERSON:** H’m?

MR MONTANA: And if somebody is charged for irregular approval of R 58 million and many other transgressions – one of the charges related to – because when she acted in my position in that December when I was on leave, it was not only the SA Fence & Gate matter that she approved.

There are a whole range of other matters, Chair, that were irregularly approved by her. It was part of the charge sheet.

Now you cannot say because Mr Montana is gone. The board has got an obligation to make sure that they verify and check and say we think that this one is – it stands, this one does not stand, Chair. And I think that if you look at the report of the Public Protector, you will actually see, Chair, that the people who were not
10 disciplined at PRASA, I – the heart of what the Public Protector raised.

I do not agree with the Public Protector's report but if you look at what has happened, Chair, because the report came after I have left. So they – matters in the Public Protector's report to dismiss and a whole range of other employees and then those that are actually mentioned in the report – I mean, let us take one good example. I am not going – just to mention it.

The matter we discussed about the Primedia
20 issue. Who was central to it? It is Mr Holele. And that matter is raised in the Public Protector's report. Who – there is the matter of the brand leadership. The appointment of brand leadership. Who is central to it? It is Mr Holele. It is in the Public Protector's report. He is not being disciplined.

If you look at the Werksmans' report, it mentioned the people who were part of the adjudication. It mentioned Mr Oliver and Mr Holele and Ms Ngoye, all of them in that order. Chair, those are the people who remained at PRASA. So yes she makes that statement but knowing and following up on all the details, Chair, it never happened. It was basically what you call – I used interview shop stewards, what they call no they used the word *buti-butischeme*.

10 So it was basically one of their own who is being brought in but to justify bringing her in and other people, they brought in a whole range of other people, some of the faces serious transgressions. They never faced, Chair. If this Commission were to review, for example Chair, the charges for some of the people, you will literally be shocked that they were brought back.

 So we – the board says we want to fight corruption. The board says we want to fight improper conduct. But fifty percent of the people that they regard as
20 their own people are not subjected to these kinds of things, Chair. And I think it is a separate issue. I agree with Mr Soni. Let us ...[intervenes]

CHAIRPERSON: Ja.

MR MONTANA: ...but there was not a proper inquiry that you say ...[intervenes]

CHAIRPERSON: Ja.

MR MONTANA: We brought(?) exercises fiduciary responsibilities in the – matter.

CHAIRPERSON: H'm. No, no that is fine. No, those matters, one would go into them but nevertheless it might be good to just have a look, for example, at the charge sheet against Mr Ngoye in the light of what you say Mr Montana. But also it would also just be helpful to see whether Mr Khena in concluding that there was no
10 evidence of misconduct on the part of Ms Ngoye, whether he prepared any document that showed that he had applied his mind to what was there.

And whether he had been furnished - he secured for example, statements from people who may have had information relation to the charges because if – obviously, if it was something that went along the lines: Oh, they were charged by Montana, so there cannot be a case. That would not be acceptable. But if there was a proper application of mind to look at what evidence there – what
20 witnesses have to say, were witnesses interviewed.

And one would also have thought it would have been important to get Mr Montana's version because he is the one who made the decision to dismiss. To say, before finally saying but there is no basis for charges these people, to say: What do you have to say? And what about

this? What about that? That kind of thing.

I mean, from what Mr Montana has said, it seems like he was not asked for anything. Is that correct?

MR MONTANA: No, Chair, I was no never asked.

CHAIRPERSON: Ja. So ...[intervenes]

MR MONTANA: But Chair, just for the record. The...

CHAIRPERSON: H'm?

MR MONTANA: Part of my annexures I deal with those charges ...[intervenes]

10 **CHAIRPERSON**: Those charges, yes.

MR MONTANA: ...for the Commission to see ...[intervenes]

CHAIRPERSON: Ja.

MR MONTANA: ...to show how serious those charges were.

CHAIRPERSON: Ja, ja, ja.

MR MONTANA: Ja.

CHAIRPERSON: No, no that is fine. So it would be good to see what Mr Khenha had or what he prepared which led
20 him to the conclusion because if what Mr Montana is saying, it may be that PRASA, up to a certain level, had become factionalised, as it were.

ADV VAS SONI SC: Yes.

CHAIRPERSON: Say, there are those who are Montana's ones and then there are those who are the chairperson's

people. But we do not know but that – he gives that impression that it may have been that situation. Okay alright.

ADV VAS SONI SC: Chairperson, I see it is twenty past eleven.

CHAIRPERSON: Oh. Yes.

ADV VAS SONI SC: We could go on for another ten minutes and then break for tea because we have started late.

10 **CHAIRPERSON:** Should we – we can go – we can take the break now or we can take it at half-past eleven. It depends on whether from your side ...[intervenes]

ADV VAS SONI SC: Yes, I just want to finish ...[intervenes]

CHAIRPERSON: ...the matters ...[intervenes]

ADV VAS SONI SC: ...this part of the ...[intervenes]

CHAIRPERSON: Okay. Finish it, ja.

ADV VAS SONI SC: And then we will ...[intervenes]

CHAIRPERSON: Ja, that is fine.

20 **ADV VAS SONI SC:** Mr Montana, and then at paragraphs 22, 23 and 24, Ms Ngoye raises different questions which have come about Prodigy and Swifambo and so on. We have dealt with most.

MR MONTANA: Yes, Chair. Except that I still want to put on record, especially in relation to 23. In relation to 23

because I think you will recall, we closed on the basis of me discussing Swifambo, Werksmans, and other issues. And I think you will recall my point. I just want to put it on record.

ADV VAS SONI SC: Yes?

MR MONTANA: Because here Ms Ngoye says – she describes the court, the high court and the supreme court of appeal on Swifambo. And in my affidavit, Chair, and other papers, you will recall, I said I want those members
10 of the Bid Adjudication Committee to be summonsed to explain their roles because that is where – the Bid Evaluation Committee and the Bid Adjudication Committee. Those are the people who gives cause, Chair.

They must each one explain under oath: I gave Swifambo five. I gave another company ten. Okay? Because it is easy to say it happened during the tenure. You know one thing I hear Chair so often? I read the Werksmans report. We hear it happened under the tenure of Mr Montana. I do not want that Chair. I want to hear
20 somebody say I gave company X a score of ten at the instruction of Mr Montana. But they cannot say that in the tenure of Mr Montana.

I mean, it is a – you are not – you are basically throwing my name but they are not linking me to the crime scene. So I must have this thing hanging over my head as

a cloud that it happened under mister... So you can see here Chair that all those three things that are being mentioned, the support one thing.

The conclusion is there under 24 because the issue is to show that Mr Moodley who was involved – I argued and showed for example that when we dealt with Strawberry Worx that Ms Ngoye signed the actual contract. It is part of my annexures Chair.

I show also about twelve emails between
10 Mr Chauke under Ms Ngoye and Strawberry Worx. Now the big question Chair. Why if there was such a cooperation between Ms Ngoye and the team with Strawberry, okay? They did not know Mr Moodley at that time. They only knew him – they only knew about Mr Moodley when Mr Molefe joined PRASA.

So you can see Chair that we have to ask difficult question or else people will then go home with murder just making accusations that board members – do I – Chair can read 22 and go into details but I do not think it
20 will help this particular process because in my affidavit, in my Public Protector review application I deal with it, in fact, with each of those details there.

But I do not think this is the time. I am just simply saying, I just want to put on my record that 22, 23, 24 I reject as they stand Chair.

CHAIRPERSON: Well, it is just a pity that the challenges which happened in regard to affidavit happened because I would have preferred a situation where if you are dealing with paragraphs 22, 23, 24 you deal with them fully including whatever documents you have so that when one looks at certain things at the evidence at your response to Ms Ngoye's evidence and allegations one gets the full picture but I accept that we are where we are.

In the end what may happen is that one will read
10 what you have to say about paragraph 22 to 24 somewhere and then somewhere else finds something else that belongs here as well but I think that is fine. We are just doing the best we can in the circumstances.

MR MONTANA: Chair, can I say for the record?

CHAIRPERSON: Ja?

MR MONTANA: That those issues are in fairness not a response in detail.

CHAIRPERSON: Ja.

MR MONTANA: I dealt with in my affidavit.

20 **CHAIRPERSON:** Yes.

MR MONTANA: I have interacted with the team Chair for information last week.

CHAIRPERSON: H'm.

MR MONTANA: We have discussed my affidavit. We had agreed that even sent on Friday a revised affidavit on

some of those issues. We were meant to meet on Friday to then sort out the annexures in relation to each.

CHAIRPERSON: Ja.

MR MONTANA: We have agreed tomorrow I think Chair.

CHAIRPERSON: Okay.

MR MONTANA: So that what we will do. So I think Chair, they are not being lost.

CHAIRPERSON: Ja.

MR MONTANA: I am just putting on record ...[intervenes]

10 **CHAIRPERSON**: Ja.

MR MONTANA: ...my position so that we can deal with them and the supporting evidence on each of these matters.

CHAIRPERSON: No, no that is fine. I am tempted to say something now. I am going to say it. Mr Montana, you have a right to say nothing if you do not want to say anything. You have a right to say something. There was – I was speaking with the legal team of somebody who was reluctant to testify in the absence of his counsel in the
20 Commission and I used you as an example.

I said: Well, Mr Montana comes here. He does not bring any lawyers. He has had concerns with the Commission. He has articulated his concerns but he decided to take part in the proceedings. And I said he is telling his side of the story and I doubt that if he was

asked he would say he is not heard fairly. I think he would probably concede he has been heard fairly. [laughs]

MR MONTANA: No, indeed Chair. Chair, I am quite – there are still issues that I will still raise in the process.

CHAIRPERSON: H'm.

MR MONTANA: And I think Chair when the I got the summons from the Commission I reflected deeply(?). What is the role of the Commission? What do you want to achieve?

10 **CHAIRPERSON**: H'm.

MR MONTANA: And I have used strong words Chair.

CHAIRPERSON: H'm.

MR MONTANA: I think that if the Commission, for example, on the media side on the thing. You know, I have criticised.

CHAIRPERSON: H'm, h'm.

MR MONTANA: And Chair, I still have some of those on record in my affidavit but I have made a decision. I will respect the Commission, I respect the Chair and I will go
20 there without fear or favour. I have put forward my views on these issues. And Chair, I do – I prefer to write my own affidavits.

And then I there I do consult with some of the best legal minds and they will tell me do not say this, do not say that. And there are times when I go rouge and I

say no I am not going to follow what they have said Chair. So I do seek legal advice Chair. But I think the story of PRASA is my story Chair. There was no PRASA.

I was given a mandate by government to form PRASA and it was one of the – and one of the things – it was not just forming PRASA. They said: Look, our railways are falling apart. Let us have an intervention. Let us have an investment programme. Let us modernise so that our rail can match with railways all over the world.

10 Now that story Chair, I had to go through difficulties. You know that Cabinet made its decision in December 2004. We only formed PRASA five years down the line but the decision to restructure the railways was made by government in 2000. So it took an entire ten years Chair even before to this process. So I was a central person into this. And Chair I will be honest. It saddens me when I look at the PRASA I left in 2015 and the PRASA I see today.

I am not saying it was a perfect organisation. 20 The railways were still facing a lot of challenges but as I say in my affidavit. We are on a transition towards creating and delivering a modern train system for the country and I do not think anyone can tell that story than me.

CHAIRPERSON: Yes.

MR MONTANA: And that is why Chair I wrote to you on July 2019.

CHAIRPERSON: H'm.

MR MONTANA: Because I said I want to tell the story ...[intervenes]

CHAIRPERSON: I must just say because you have said that before and I have never said this. I do not have a recollection of having seen that letter but it has been two years. Maybe I did and I have forgotten but I do not know
10 whether you got any response. I think you never got a response.

MR MONTANA: No, no Chair. In fact, I wrote on the twenty – I think it was on the 26th. On the 2nd of August, the Commission responded. We had a meeting at the Commission's offices.

CHAIRPERSON: Oh, okay.

MR MONTANA: And then at the end of August, I gave you a first draft ...[intervenes]

CHAIRPERSON: Yes.

20 **MR MONTANA:** ...of my affidavit.

CHAIRPERSON: 2019, you say?

MR MONTANA: 2019, Chair. That is why ...[intervenes]

CHAIRPERSON: Oh, I thought you said 2020.

MR MONTANA: That is why Chair I said in my statement I have been trying to come to your Commission. It has taken

me two years.

CHAIRPERSON: Ja.

MR MONTANA: But because we then on the journey had a big fight Chair ...[intervenes]

CHAIRPERSON: Ja.

MR MONTANA: ...about what I should say in my affidavit, what I should not say.

CHAIRPERSON: H'm, h'm.

MR MONTANA: But the principle of it, Chair. I have made
10 a decision.

CHAIRPERSON: Ja.

MR MONTANA: I have consulted with my family.

CHAIRPERSON: Ja.

MR MONTANA: And said look – and some of the leaders have said: Look, we think you should go to the Commission.

CHAIRPERSON: H'm, h'm.

MR MONTANA: And I said no I believe the Commission is pursuing a predetermined agenda and all of those things.

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

MR MONTANA: But they said we think go there. And I said Chair if the Commission treats me bad, if they – if Mr Soni treats me badly and everything I will just carry my bags and say: Chair, I know I have been summonsed but I am – yes I do not think my story is being heard. So far

this is my fourth day, I think, Chair, the Commission has been very open, I must comment that, you have given quite a lot of assurances on the issues that we need to discuss and the big issue for me, Chair, was the acceptance of my affidavit because at some stage I got a letter from the Commission saying you can come and speak without the affidavit and I said that is unheard of, I will never, even if you put me into prison, I never testified without my story. Chair, this affidavit ...[intervenes]

10 **CHAIRPERSON**: No, no, no, no ...[intervenes]

MR MONTANA: It is my own response and I am saying, Chair ...[intervenes]

CHAIRPERSON: Your story.

MR MONTANA: Yes and I am saying, Chair – and you will see when it read it, Chair, and this will be my point. I am saying at the beginning of my affidavit because, for me, when I asked why should I go after the ANC said all of us must go before the Commission, I then said, Chair, that this would be my report-back.

20 The nation gave us a mandate about these railways and, Chair, it is big, not because for any other reason, because I said I will use this Commission to give a report-back to the nation on the important work.

And I come here walking tall, Chair, for me I heard people talking about correspondence and all of those

things and maybe, Chair, I listed to the President last week, I said when I come here I am going to make a joke and say Chair, can we put all of these accusations against me behind us because that is what the President says. But I am here, Chair, I am here.

CHAIRPERSON: Ja.

MR MONTANA: I want to be held accountable in this forum, that is also one important thing.

CHAIRPERSON: Yes, yes.

10 **MR MONTANA:** But I think the story of South African Railways and the transformation that it embarked on, not everything about correspondence, where I have made mistakes, Chair, let them be pointed out.

CHAIRPERSON: Ja.

MR MONTANA: But to project this thing that there was this grand corruption and all of those things, it is so false, I do not share that view, Chair.

CHAIRPERSON: Okay, no, no, that is fine, I thought I would just say that because I was tempted to say so but let
20 me say it and give you the freedom not to say anything or to say something.

But, look, Mr Montana, as we Commission, we – I think we try our best, we take our work seriously, we are acting in good faith.

We might be I misunderstood sometimes but we are

doing the best we can and we accept that people will have different views about our work in the Commission and we hold no grudges, we say it is fine, you know, it is a public process and we just keep on trying to do our best. That is all and ...[intervenes]

MR MONTANA: Thank you, Chair.

CHAIRPERSON: And I am happy that you made the decision to participate and as I said when we started this morning, you have – since you started appearing you have
10 been very cooperative, you have been availing yourself even at short notice to appear, so we appreciate that cooperation.

MR MONTANA: I am generally uncooperative, Chair, but respecting the Chair, I think, Chair, that – ja.

CHAIRPERSON: Ja.

MR MONTANA: But you are a getting a true reflection of who I am, Chair.

CHAIRPERSON: Yes.

MR MONTANA: When I read the newspapers, the way I
20 am described, I always ask is this me they are talking about? I do not think my mom or my dad, when they read about what is being said about me, by some of these publications, Chair. They said all sorts of terrible things, but we have got to rise above all of those and I hope that in future or the media in particular, will understand that

their job is not only the so-called speaking truth to power, they also have got the duty to inform, to enable citizens to be able to make informed decisions and participate effectively.

Now if the media mislead them, project others and take sides, then we are going to have actually in their minds democracy, Chair, we want the media that first and foremost must understand even before they speak truth to power they have a duty to inform and educate.

10 **CHAIRPERSON**: Ja.

MR MONTANA: That is an integral part of the thing. So this notion where you paid what the late Edward cite, the Palestinian intellectual when he delivered the – read lectures about speaking truth to power, you know, the media is very excellent in doing that, Chair, where you select ...[intervenes]

CHAIRPERSON: And I want to stop you now.

MR MONTANA: The ramification, so speak truth to power that informs and educates.

20 **CHAIRPERSON**: Ja.

MR MONTANA: And I think that is important for me, Chair. Thank you.

CHAIRPERSON: Okay. No, that is fine. Let us take the – or were you done or were you not done, Mr...

ADV VAS SONI SC: I just need to ask two questions.

CHAIRPERSON: Okay.

ADV VAS SONI SC: And I know we are past it
...[intervenes]

CHAIRPERSON: No, that is fine, that fine.

ADV VAS SONI SC: But I am just hoping that will hasten
things.

CHAIRPERSON: Ja, okay.

ADV VAS SONI SC: Just in regard to Swifambo, Mr
Montana, because you know all the allegations that have
10 been made. I want to ask you, Mr Makhensa Mabunda, you
have dealt with him before in your evidence. He was a
transactional adviser on the Swifambo contract?

MR MONTANA: No, not ...[intervenes]

ADV VAS SONI SC: He was not to PRASA?

MR MONTANA: No.

ADV VAS SONI SC: Definitely, not.

MR MONTANA: Not, Chair, no.

ADV VAS SONI SC: Okay. May I then ask you to please
look at bundle C1, SS4, page 214.133?

20 **CHAIRPERSON:** Well, I did not know you were going to
refer us to another bundle, maybe we should take the
adjournment.

ADV VAS SONI SC: Oh, absolutely, Chair, yes.

CHAIRPERSON: Yes, ja, let us take the adjournment. I
thought it was just going to be quick-quick.

ADV VAS SONI SC: No, no, it is just two passages from that bundle.

CHAIRPERSON: Ja. Okay, no, let us take the tea break, it is twenty five to twelve, let us resume at ten to twelve.

ADV VAS SONI SC: As you please.

CHAIRPERSON: We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay, let us continue.

10 **ADV VAS SONI SC:** As you please, Chair. Mr Montana, can I refer you to the Swifambo contract.

Now you know that there has been a finding by the High Court and the Supreme Court of Appeal that the contract was at least irregular, in certain respects corrupt. I just want to refer you to what Mr Auswell Mashaba was the Chairperson of the Swifambo Consortium.

Now Swifambo Rail has been placed under liquidation, you know that, provincially liquidation and if you look a page – sorry, let me start that the reference is
20 correct, bundle C1, SS4, page 2141.33 and what is said in respect of note 25 that I am going to read and just going to ask your comment on it.

Now let me just explain what this is. In support of his application, a more recent application for why Swifambo had to be placed under liquidation, Mr Mashaba

filed an affidavit and this is part of the affidavit and he says in note 25.1:

“Shortly after Swifambo Rail Leasing was awarded the locomotive tender by PRASA Mr Auswell Mashaba and Mr Makhensa Mabunda be approach by two individuals who held themselves out to be fundraisers with the African National Congress. The two persons were Maria Gomez and attorney George Sibelo.”

10 Do you know Mrs Gomez? I think you talked about her on some occasion.

MR MONTANA: I know Ms Gomez and I know Mr George Sibelo.

ADV VAS SONI SC: You know him as well.

MR MONTANA: I know both of them, Chair.

ADV VAS SONI SC: Okay. Now this is what Mr Mashaba continues to say. Says:

“Under pressure from MG...”

20 That is Mr Sibelo – oh sorry, Ms Gomez and GS, that is Mr Sibelo.

“...Mr Mashaba, on behalf of Leasing agreed to arrange for a donation to the ANC of an amount of R88 million and which would be dealt with as follows, he would receive a handling fee of about R8 million.”

Now I just want to, before continuing, ask you, are you aware of this allegation by Mr Mashaba?

MR MONTANA: No, Chair, I became aware of the 80 million – not even 88, 80 million that was mentioned in the media. This came from the affidavit of Mr Popo Molefe, in the Swifambo matter.

ADV VAS SONI SC: Yes.

MR MONTANA: That is when I first heard of it but previously I was aware that Mr Mashaba was talking to the
10 ANC, from what he told me but not to this level of detail, Chair, no.

ADV VAS SONI SC: When did Mr Mashaba indicate to you that he had been talking to the ANC?

MR MONTANA: No, Chair, I think it was around that time. I would assume that this was – this should have been in 2014, Chair, if my memory serves me well.

ADV VAS SONI SC: Okay, so this now you became aware – was this while you – certainly you were at PRASA at that time?

20 **MR MONTANA:** No, sorry, Chair, sorry, Chair. I am two things, I am saying that – I am saying two things in one, let me correct so that we can understand. I am saying when I heard this 80 million story, the affidavit of Mr Popo Molefe on the Swifambo matter, it happened in 2016, but left – so that was a year later, after I have left PRASA. What I am

saying, that the discussion that Mr – and I am assuming, I do not – I am assuming this – you are saying it comes from the affidavit of ...[intervenes]

ADV VAS SONI SC: It is Mr Mashaba.

MR MONTANA: Mr Mashaba. So I am saying that at the time when he was busy with this interaction I was aware of them and that was in – that should have been 2013, 2014, Chair.

ADV VAS SONI SC: This is while you were still at PRASA
10 in 2014.

MR MONTANA: Ja, no, Chair, but not 80 million, Chair.

ADV VAS SONI SC: No, no, no, I understand but you were aware ...[intervenes]

CHAIRPERSON: I am sorry, so what you are saying is to your recollection around 2013/2014, while you were still at PRASA you were aware of - based on what Mr Mashaba told you, you were aware that – or he said he was talking to the ANC, is that right?

MR MONTANA: Ja, that he was approached by the ANC.

20 **CHAIRPERSON:** Yes about the donation or something.

MR MONTANA: For him to make a donation.

CHAIRPERSON: Oh okay, alright. And you say in 2016 ...[intervenes]

MR MONTANA: Not 2016. But, Chair, we did not discuss, I did not know the details.

CHAIRPERSON: No, no, no, I accept that you say you did not know the details but I am now going to Mr Molefe's affidavit.

MR MONTANA: Indeed, Chair.

CHAIRPERSON: When that was in the media you became aware of that.

MR MONTANA: I became aware, Chair, and then I also obtained the affidavit.

CHAIRPERSON: Ja.

10 **MR MONTANA:** When after I have read the affidavit I was actually shocked with the things he was saying, that is when I applied to be a friend of the court.

CHAIRPERSON: Okay.

MR MONTANA: But I will deal with that, Chair, when it is the right time.

CHAIRPERSON: Okay, alright.

ADV VAS SONI SC: So this is what I want to ask you. When you heard that - this is in 2014, when you heard that the ANC had approached Mr Mashaba and that, I take it,
20 was linked to the Swifambo contract?

MR MONTANA: No, Chair, no. You know, Chair, can I – I do not know, can I take – can I ask Mr Soni that I perhaps answer this question now but in a much greater detail, Chair?

CHAIRPERSON: Yes.

MR MONTANA: Just to have the ...[intervenes]

CHAIRPERSON: Mr Soni?

ADV VAS SONI SC: Yes, no, no...

MR MONTANA: Is it fine, Chair?

CHAIRPERSON: Ja, okay, do that, ja.

MR MONTANA: Because I address the issue in two ways,
Chair.

CHAIRPERSON: H'm.

MR MONTANA: Let me start with the ANC fundraising
10 issue.

CHAIRPERSON: Ja.

MR MONTANA: And because, Chair, I mention in my
affidavit, I was drawn to ANC fundraising activities and in
my affidavit I deal with that at great length, Chair.

And let me be honest, Chair, I listened to the
testimony last week of the ANC President, Mr Ramaphosa,
that contrasts very strongly with what I say, Chair.

The ANC worked in a particular way and as a result
the ANC ended being defrauded because a lot of people
20 would come and say we want to raise money in the name of
the movement and they will say the movement, the ANC,
referring to themselves. And most of them, that money
does not even end up in the ANC.

When I saw this statement, Chair, I tried to meet
with the Treasurer-General of the ANC, at that time Dr

Zweli Mkhize, whom I have met.

I have worked with him in fact very closely and I described that in the affidavit and I have met with Dr Zweli Mkhize at the home of Maria Gomez. We discussed ANC finances and all of those things there.

Money, Chair, Ms Gomez is a businesswoman, involved not – Ms Gomez was never involved with PRASA, was never involved with Swifambo, was never involved in the locomotive tender, she was a businesswoman. I knew
10 her and her husband very well, Chair, through our ANC activities.

So, Chair, I would be involved in many ANC activities and the unfortunate thing, I hear the leadership of the ANC will come and say you know, this is the work of some people.

No, it is a way of life in the ANC, Chair, there is not a single state owned enterprise that the ANC has not approached, Chair. Because I was a CEO ...[intervenes]

CHAIRPERSON: I am sorry, just repeat that?

20 **MR MONTANA:** Chair, I want to repeat it and maybe it will get on record.

CHAIRPERSON: It is just that I did not hear it properly.

MR MONTANA: Chair, I am saying the African National Congress approached state owned enterprises, it had its own conferences, it had a special section, deployed cadres

including those that – the President was correct when he said not each and every person appointed in government or SOEs was appointed because he was a deployed cadre but one they are there, Chair, you will see they will be regarded as deployed cadres and there is a table there in the ANC conference.

They are approached by the ANC either as an organisation or by individual leaders of the ANC or by people who came that were raising money for the
10 movement. Half of that money probably does not go to the – and I will explain why I am taking you through this, Chair – half of that money does not even make – get through to ANC.

Now the Swifambo contract, Chair, was never a corrupt contract, it will never be a corrupt contract and, Mr Soni, I will deal with the issue as well about the – you had the liquidators here and I watched when the Commission interviewed the liquidators.

Chair, I was in stitches including when one of the –
20 Mr Sacks, who was in – who interviewed this thing, he says and it is there also in the transcript, where he acknowledge that I know nothing about this tender or this transaction. So the ANC approached these people.

The ANC would approach the CEOs of these state owned enterprises, public entities, asking for

...[intervenes]

CHAIRPERSON: And most of them, even if not maybe all of them, most of them would have been recommended by its deployment committee, I would suspect.

MR MONTANA: Who the...?

CHAIRPERSON: The CEOs of the state owned ...[intervenes]

MR MONTANA: No, not, Chair. I think not all of them, Chair.

10 **CHAIRPERSON:** No, I am saying most, maybe most.

MR MONTANA: Probably, no, Chair, because ...[intervenes]

CHAIRPERSON: Not even that, ja. Okay.

MR MONTANA: Chair, I think – I think, in fact, you know, when – I was listening to the President very carefully.

CHAIRPERSON: Ja.

MR MONTANA: And I think that – I think that – and I went as part of my review and I wrote about it on social media. The ANC leadership wants to assist this Commission.

20 They should not try and put blame on people. They must come and say we want to say to the country there is a certain way in which we did things. These things happened before the – even the law on funding for political parties, the way we funded our conferences, the way in which in which we – prior to major conferences of the ANC, there

are tables being sold and all of those things. CEOs of companies, they are either buying these tables, Chair, or that they will get suppliers to that business to come and buy tables.

People who come, Chair, are all leaders, even for their own businesses and I described that at great length in my affidavit.

So I think – and I am a member of the ANC, Chair, I have been a member of the ANC – I joined when I was a student at Mamelodi High School. I remain a member of the ANC, I have served that organisation with loyalty and probably will die as a member of the African National Congress.

But, Chair, this thing of trying to talk about state capture, these things belongs to Zuma, it is false. The ANC is a way of life and if – and I thought we lost an opportunity when the President was here.

The ANC should have said there are certain things we used to do as a party, as an organisation, and we thing, with hindsight, when we reflect on where are country is going, we are looking at the culture that is developing, the culture of corruption, we think that because we are the leading – the governing party, because of the issue of incumbency.

Yes, you will find that people who get involved in

this in one way or the other are members of the ANC. But not all of them, some of them, Chair, when they got positions, they become even very close to the ANC.

People who know nothing about the ANC, who has never worked for the ANC who most of them, some of them – I mean, I see people that I regard as sell-outs, in my own language, Chair. I think you see where I stand in the political terrain, Chair.

So these are people who become – either they get
10 appointed to positions, some of them buy their own positions, they sell even some of these things.

Now if you go back to Polokwane Conference of the ANC, the President made a joke, Chair, that you seem to know more about the ANC issues that are there. I want to link – I am coming to link it to Swifambo, Chair, but I want to deal with the bigger context because for me this issue – when I saw Popo Molefe's affidavit and say 80 million was given to the ANC, I then had a big struggle.

I was outside of PRASA, I have worked with the
20 ANC, I have worked with the Treasurer-General, I then had to - I wanted to find out this 80 million, what was it all about, where is coming from because I did not know, Chair, it was not like we paid Swifambo 80 million to pay to the ANC, there was never such a thing.

Auswell was approached and he asked me, Chair,

and say hey, do you think it is a good idea, Auswell is involved in many other businesses, Chair, he is an engineer. He says ...[intervenes]

ADV VAS SONI SC: I am sorry Mr – just for the record, when you talk about Auswell, you are talking about Mr Mashaba.

MR MONTANA: Mashaba. Mashaba, ja. Sorry, Mr Soni. And he says ...[intervenes]

CHAIRPERSON: But also I must just say, I know that you
10 said you would link what you were saying with this issue but I am not sure whether you stopped on the way. I have a feeling that you ...[intervenes]

MR MONTANA: No, I have not stopped, Chair.

CHAIRPERSON: I have a feeling that you were telling a certain story and then ...[intervenes]

MR MONTANA: No, Chair, I want to deal with the ANC.

CHAIRPERSON: Ja, okay.

MR MONTANA: Linked to Swifambo and everything.

CHAIRPERSON: Ja, okay.

20 **MR MONTANA:** But I want to deal with the – start at a broader level and narrow it down.

CHAIRPERSON: Okay.

MR MONTANA: Because last week you had the presentation, I think the President of the ANC, I am not talking about the President, the ANC was here last week.

And I want to say, Chair, without any fear, that what the ANC told the Commission can never be true, Chair.

Those of us who were in the public service before we were even CEOs, we know the ANC has a particular – had a particular way of doing things.

The ANC has come to a correct determination and this thing does not start in 2007, Chair, because Jacob Zuma is the President. If you look at the conference of the ANC, the President spoke about a diagnostic that was done
10 at NASREC.

No, Chair. Former President Kgalema Motlanthe when he was the Secretary General of the ANC, he actually gave – he dealt with this issue at length in Polokwane, he gave a detailed report and this report, he was actually warning us against these things and say we are beginning to see a disturbing trend.

CHAIRPERSON: I actually seem to think – remember from the media at the time that the reports of the media of the report he had made in Polokwane was said to have been –
20 well, I am not using the words that was used but the impression I got was that he had been brutally honest to the organisation about challenges and so on.

MR MONTANA: Indeed, Chair.

CHAIRPERSON: H'm.

MR MONTANA: Chair, I agree with that, I was at

Polokwane, the deployed cadre, I was not representing a branch.

CHAIRPERSON: This information is information I get from the media.

MR MONTANA: Well, Chair, if it is not ...[intervenes]

CHAIRPERSON: Any knowledge I have is just based on what I get from the public, ja.

MR MONTANA: Chair, it is in – sorry, Chair, it is in my affidavit and I say in my affidavit, the ANC is such a
10 massive organisation, it has got nothing to fear, it is an organisation of the people and it can say to this Commission and assist our country, we think may have created, in the way we did things, we may have created conditions for corruption, we may have created conditions for some of the things that are there.

It does not make the ANC accused number one, it is basically that it is reflecting honestly. Today you have leaders of the ANC who come because some of them, they are not in government but they will take advantage of the
20 standing of the ANC in society, even in SOEs, they will come and approach us and try to bid and push for the interest of businesses where they involved in, this in the name of the ANC, to get money, Chair. And always the movement, the movement, the movement.

So I think that when the ANC was here last week,

they must tell us each other, Chair. You said at some stage there will be a time when we have to face each other and tell each other the truth and I think the time has arrived, Chair, that the ANC hopefully it will still come back here and I think when we deal with my affidavit, Chair, I deal with what I believe the way the ANC operated. Chair, the ANC, I worked with it, they will give me a list of suppliers that the ANC owed and say we think you must assist us in this way.

10 They were not asking because I am Lucky from Mamelodi, they were doing that because they say hey, you have got networks, you have got influence, use it to help us. And, Chair, no one – I heard again the President says – and Popo Molefe said the same thing before you, Chair, said we do not want public funds to be used for party political activities. Chair, it is not true.

 You know, when I listen, Chair, and I just walk up and down in my room when I listen to these type of things. When the ANC organises events in January 8 statement,
20 the leadership of the ANC said to Minister Dipuo Peters, we do not have a transport plan, we want Lucky to come and help us, PRASA to help us organise this thing. Who pays for these things? And she is not told by one person in a corner, she is told by the leadership of the ANC when they make preparations, Chair.

So I think the organisation, the ANC, can take a bold step – currently they want to project it that it is those who are corrupt and those who are not corrupt and, Chair, when we go deeper into it – and I want to assist the Commission – because every – at least once a month, I will go to the ANC HQ at Luthuli House, if they do not burn those papers there, every time you go there you sign. If you say bring them and see the people who go there, you will see that CEOs would go there, Chair.

10 My own colleagues. I will not mention them, I do not want to speak for them, but they will tell you, Chair, that – they will even ask you, hey, we are under pressure on this thing, how do we deal with it? Because we speak amongst ourselves as CEO.

So the ANC leadership to come here and pretend that no, we have supported this Commission and everything but do not assist this Commission to solve the fundamental problems facing our society. I think it is not correct, Chair, and I am saying this not because I want to
20 attack anyone, I want to – I said I want to come and assist the Commission.

Chair, the ANC has had lots of events, the ANC has had – some of the debt the ANC had when Dr Zweli Mkhize was Treasurer-General were sorted out by me, I had to speak to these companies and say can we deal with the

ANC debt differently because some of were taking the – actually one of the days some – the sheriff of the court was on his way to attach furniture at the ANC headquarters and I was told I had to speak to a CEO of a large transport company that I knew very well and say but you do work for the country, for the government, you have this – you have got a tender and everything, can you really take furniture from the ANC headquarters for 2 000 – or rather R2 million?

10 Chair, me and Dr Zweli Mkhize, and I know that he has sent an affidavit denying all of that, but I tried to track Mrs Gomez because I wanted her to file an affidavit before this Commission, is if she is not in the country, to tell – she will say, Chair, that we were meeting all the time to look at the monies for the ANC inside the country and outside.

 Now when the 80 million came in – so I am dealing with the big part ...[intervenes]

CHAIRPERSON: Ja.

20 **MR MONTANA:** That the big part I am saying in this Commission ...[intervenes]

CHAIRPERSON: Well, before you go to the narrower part, you did refer to the fact that I said if we do not want things that according to the evidence that the Commission has heard to have happened in the past to happen again, it is

critical that we be – we reflect very honestly on what it is that made those things – that made it possible for those things to happen.

MR MONTANA: Absolutely, Chair.

CHAIRPERSON: Because if we do not know what made it possible for those things to happen we cannot put in place correct measures to prevent them from recurring in the future and so I repeat that we, as a country, and we as individuals, we as different groups have to look honestly at
10 what it is that brought us here and it probably is not a single thing, it probably a number of things.

Let us look at those and then when we know what it is that made it possible for those things to happen, we can look at what it is that we should put in place, make sure those things do not happen again.

So to the extent that you really do have information that can assist in that regard we would appreciate it. So I just wanted to reaffirm that. But you were into the R80 million thing, ja.

20 **MR MONTANA:** Deputy Chair – Chair, I wanted to read, Judge, for the record on my section on the ANC.

CHAIRPERSON: Ja.

MR MONTANA: One of the conclusions there, I just want to read them into record.

CHAIRPERSON: Ja.

MR MONTANA: They are part of my affidavit, I deal with them, I say:

“Having dealt with, looking at the 52nd National Conference and the report of Secretary General Kgalema Motlanthe...”

And I said to this Commission, I said the ANC should open about the last 25 years, should be very open, and I said the:

10 “ANC is not on trial and should not be afraid of this challenge, it should draw strength as the party of the overall majority of the people of South Africa and indeed the change it wishes to see in our own society. The ANC has in a way a special role in our society and should fulfil its mission, it is only through this that the ANC will remain a heritage of all the people of South Africa.”

Chair, I was disappointed when I listened to what the ANC told you in this Commission.

20 Our President was here and I thought that the leadership of the country will take a great leap and reflect honestly on what has happened over the past few years. We missed a big opportunity precisely because wanted to be here to say the ANC was courageous, it deal with the issue of state capture.

And if you put it in that way, you are actually

starting at a particular period, you want to ignore what Kgalema Motlanthe says about the dangers of incumbency, what it does to our own society and most – some of these things, Chair, may not be criminal but you could that it start to erode.

He was there, nothing about things that I have heard, Chair, and I said on Twitter last week as the President was testifying, I said if I was DCJ Zondo, I would rise to each and every CEO of a state owned enterprise
10 and public entity and say answer two questions, have you ever made a contribution or been approached by the ANC?

Secondly, have you been approached by leaders of the ANC for their own personal businesses, Chair?

And you also then put a provision that you do not – if you were found to have told a lie, you will be prosecuted. Okay, Chair – or even if they do under – Chair, but it has been a way of life and, you see, for me, I do not like lies, I believe in the truth and I came to this Commission to tell the truth.

20 It does not make me less committed, less of a member of the ANC. But the ANC says we must all come here and testify before you and I thought they would raise the bar, Chair, and I want to say, Chair, without any fear or favour, we missed a big opportunity to tell the country what is happening and what we need to correct.

And I think that once the Commission has heard my – I thought we spoke about – the Commission asked the President what Dr Zweli Mkhize ...[intervenes]

CHAIRPERSON: Said.

MR MONTANA: He confirmed but the ANC are asked, did the ANC get the 80 million from Swifambo, the ANC had issued a statement and said no. And you know what I said to Dr Mkhize in a text message? If the ANC did not get the 80 million – it was not coming from us, it was not coming
10 from PRASA, it was not a corrupt deal and I cannot accuse Dr Mkhize of being corrupt because when this deal happened he was not even Treasurer-General of the ANC, he became Treasurer-General of the ANC later but, Chair, I was there with him at Maria Gomez's house in Hawthorne(?) and you would come – would sit there, I would be there to discuss ANC monies and Dr – Maria Gomez, when the TG has made some of the requests and requirements, sometimes she will be given even accounts who to pay and I sit here, I listened to the President last
20 week and the ANC washes its hands.

I think, Chair, the leadership of the ANC's meeting to date must reflect honestly on it and say when we say we want to cooperate with the Commission, when we say we want to assist this Commission, and last week Chair it was not one of those.

I felt ashamed as a member of the ANC that we are not telling the majority of our people the true story, and I have recorded Chair, I have got a big section on the ANC here, including tenders that people in the ANC got and used their own positions, including some approaches Chair, and I am not saying that because I want to prove some anyone's wrong.

But I think that we should learn from it and say now that we have got the President that signed into law, this
10 legislation governing the way parties should be, but for the ANC to pretend Chair that there - its own conferences and events are not funded from public funds, it is not true Chair. I want to put it actually, let me put it as bluntly as it is not true and this Commission, maybe should not hear from only the ANC, it must extend its time – I am now urging that let us extend our time, till the end of the year, apply for that.

Get the CEO's to tell us what is their relationship, I am telling my party, you probably having scary things Chair
20 from this process. So who must said - who must provide leadership on decision, who must assist this Commission, the ANC is supposed to be the first, it's got nothing to do with winning or losing an election, it must set the basis so that when this Commission puts the recommendation, they assist our country so that some of the things - and Chair

they must abandon we started Kgalema Motlanthe reflecting at the time before Jacob Zuma was President of the Republic, but he was one of us.

Maybe, maybe he wants to come and the Commission want to invite Kgalema Motlanthe former President and say, what were you thinking, what was in your mind, what was the ANC thinking on this issue, Chair? But now we are colour coding...[intervene]

CHAIRPERSON: But his report, whether he comes or not
10 his report may be important, ja.

MR MONTANA: May be important for the Commission Chair and you will be able to assess it.

CHAIRPERSON: Ja, he will be able to say what were the challenges that he talked about in his reports in 2007. That maybe have been based on things that had happened before 2007 and then look at the SG's report in the Mangaung Conference and maybe look at the SD's reports in 2017 NASREC Conference and see - because I have a suspicion that some of the things are the same that keep
20 on being mentioned.

MR MONTANA: Chair, hear from a deployed cadre, I did not apply for a job a Luthuli House but the ANC gave me a lot of duties as one of their trusted people and it is a way of life chain in the ANC that when you are in that position, you also have to find a way whether directly or indirectly,

to assist the ANC.

It is a culture that is there and it is a culture that members of the ANC and its leaders and I am not – I am talking at the general level, I am not really – they do approach Chair, to even for their own businesses Chair and say hey man Montana, can you help us we are working with this people, they are making contribution to the movement and everything and some of it has got nothing to do with the movement.

10 It is people, cadre's enriching themselves Chair and I thought the ANC would reflect honestly on this issue, Chair but enough of that Chair, for now.

CHAIRPERSON: No, no you are right enough we will move on further but I just want to also say this. When you say as you have just said a few seconds ago, they would come to somebody who is a CEO of an SOE and say here are these people we were working with this people, would that be in the context of saying, when there are tenders remember them or what?

20 **MR MONTANA:** Chair, let me give two specific examples. When we did – we are dealing with SA Fence and Gate, there was a tender and I know that my leader gets angry when I mentioned it, but it is true. Enoch Godongwana for example, lobbied us that - for the tender to be awarded to a particular company. He denies it, it is fine, Chair, but it

happened and that company was Sondolo and this Sondolo I.T and Sondolo I.T is a subsidiary of BOSASA, okay. Chair I knew Gavin Woods very well and sometimes...[intervene]

CHAIRPERSON: Gavin Watson.

MR MONTANA: Sorry, Gavin Watson, his name is Gavin Watson.

CHAIRPERSON: Ja.

MR MONTANA: I knew Gavin Watson and you know when
10 I looked and I listened to how he was being treated, criminal and all of those things. When someone was very close to the ANC, who has done a lot of things for the ANC and I knew him a lot of comrades knew him and Gavin was a good man, a good ANC person and now people are afraid to come here and say Chair, because they want to project the particular picture.

And I was proud when I saw Jacob Zuma former President, he came and the way he spoke at Gavin Watson's funeral. So we want people of courage, that
20 when it is difficult, we do not wash our hands. The ANC was refusing to even to meet me Chair because they believed that there was his massive corruption at PRASA and for me I just stood firm.

Okay, I said you can have it, you can show it in the media is not true. An opportunity will arise when I tell the

country the truth. Yes, you cannot hide, you cannot have distance forever. Chair it is a way of life in the ANC and you will not say we are renewing the ANC without looking at these things but the ANC, the transformation of the ANC it is a much bigger issue, it has to do with changes in our own society.

It is not just a simple question about people who steal and people who do not steal, we can spend 100 years Chair, accusing each other of who stole what, who stole
10 what, some of these things are not true. Our society is changing, the ANC calls itself a leader of society and when the President was here last week I wanted to hear how we are being led, I am not referring to the President, but by the party.

It failed the biggest test of accountability and leadership last week the ANC. My own party Chair, okay so currently the model it has, is to have veterans who speaks because we respect them, we love them because of the enormous sacrifices they have made. The wisdom they
20 bring into the thing, they form themselves that they have now become a - what is it called, a blog that targets other people.

I hear people who know me very well who are part of the veterans who talk about PRASA's corruption, because I do not reply to some of them because they are

so senior, I respect them. Some of them have been there since the 60's and I sent a note to them, can I please come visit you at home and have tea because I want to show them quietly that what we are repeating such and so forth, there is no basis for it.

So Chair, I am saying that I am hoping that before you round up this Commission the ANC will then have the courage to come back and say we think we stand - I do not think ANC is accused number one but I think that a lot of
10 things has happened in the country.

CHAIRPERSON: As I understand it, and you must just confirm if my understanding is correct. What you are saying is when the Commission has to look at how the levels of corruption arose, the way they arose, and how various things happened, which are associated with State Capture, how those things happened.

You say there is a certain way of doing things within the ANC, which is part of their culture that has been there for a long time.

20 **MR MONTANA:** Yes, Chair.

CHAIRPERSON: Which in your view, must have created or contribute to the environment that made the corruption to rise the way it has arisen for State Capture to happen and if the ANC wants to assist the Commission and if the ANC wants to say going forward, these things must never

happen again it must start by acknowledging that culture and an assist the Commission.

MR MONTANA: Chair I think more than that.

CHAIRPERSON: Yes.

MR MONTANA: I agree fully Chair but I say more than that. I was as you speaking Chair, I was trying to put out - pull out two paragraphs that speaks to this issue for me. I say in my affidavit Chair, that ANC leaders in and outside of government that used their powerful positions, the huge
10 influence or standing of the ANC in society to even advance their own personal interest.

Leaders who put pressure on many CEO's of SOE's and public entities to assist the ANC or entities in which ANC leaders or members can belong to the movement. We know many of this had nothing to do with the ANC but comrades making money for themselves. The name of the ANC was used in vain.

But Chair, I am also going and I say the modus operandi is that the leader of the ANC would secure
20 meetings for businesses, and they are sometimes paid for their effort. They are paid facilitation fees and more on delivery of projects. These have been happening since the 1990's and not limited to the period under Jacob Zuma, okay.

Now Chair, then there were issues of monies going

into the ANC, okay, or accounts being presented, the Maria Gomes story Chair, when I heard Papu say R80million went to the ANC I did not know that, I was a CEO of PRASA I was already out of PRASA. Chair, I travelled I even went to see Maria on my way to Berlin, in 2016. I passed through London, and I met Ms Gomes in London and I asked her where is the money because I am now being told that you have got a corrupt deal because the money went to ANC.

10 She said two things Chair, she confirmed that she has given many monies to the ANC treasurer and that I know because I was there Chair when the accounts are provided to show transparency, that is the one thing Chair, particularly in the period leading to the 2014 election.

Chair, there were even other monies being organised from outside where the ANC would send people, even Maria Gomes travelled- Maria Gomes, I think with her husband. I cannot recall if Dr Mkhize travelled to one of the African countries there, so that we can get money for
20 the ANC 2014 election and when I look at the statement of the ANC, they denounced Maria Gomes they do not know her yet the Treasurer General of the ANC were sitting with them, were either having lunch or dinner at their house and were discussing monies that were going the ANC.

Maria then also mentioned – so she did not deny

that she put money into the ANC. She said this money was for the ANC and she did that through a Treasurer General. But the ANC issued a statement saying this money did not come to the ANC. Now I ask in my affidavit whose account had been provided to Maria Gomes to make a contribution, that is one issue there and I think that – so I am just saying that there is a lot of stuff that we can talk about which I thought the ANC would reflect upon them.

Now they may say Lucky maybe he is bitter, he is
10 angry I am not an angry man Chair, you can see I am here but that is part of the reason why I fight with many leaders in the ANC because when they wanted - when the Gupta's came to PRASA I fought with them but they wanted to do exactly what the Gupta's were doing and I said no to them, I became enemy number one.

So it was fine when I fought with the Gupta's but when I say no, no, is the same thing. Whether it is in this bottle or in that bottle it is the same water, it cannot be done. So Chair, the R80million story it is not the product
20 of corruption. If that is corruption, Chair, you are going to find a lot of organisation who for one reason or the other have won tenders in this country, and they have made contributions to the ANC.

They were not – they never influenced Dr Mkhize and I must defend him and in this particular instance, he

was not there when we did the PRASA Chair. He came there with – or rather the Swifambo transit, he came there – he was elected in December 2012 when we awarded the contract to Swifambo, he started coming to that space late in 2013/ 2014 Chair and if indeed Maria Gomes gave money to the ANC we have to check whether it comes from other businesses or it comes from Swifambo, Chair, I do not believe it came from Swifambo that is one thing that is there, but we know that that has been used as a basis to suggest corruption.

I looked at the report of the liquidators and the investigators Chair, let me say Chair they did not even know what they are talking about. Look at the transcript the guy says I do not know the transaction yet his able to say - in fact what the reports of the investigators to this Commission, or rather the liquidators and the investigators - what they are saying to this Commission, they are saying two things Chair.

They are saying PRASA did not pay R3.5billion in landing the contract, they only paid R2.6billion, trains were delivered Chair. I thought that R2.6billion about R2.2/2.3billion went to places. One, it went to Vossloh the company that built the train which the manual says to buy components and other things. Now we are satisfied that actually, when I read that report, I was satisfied that the

bulk of the money we paid went towards building these trains, that is the first issue.

And then again, the money went to SARS and that we had about R280million that went to the directors of Swifambo. Now, when you listen to the newspapers R3.5billion has been stolen, we never paid 3.5 we paid we paid R2.6billion, R2.3billion went to the company that builds the trains and money went to SARS and effectively, the issue under discussion is whether Swifambo was
10 entitled to the R280million and whether it should pay and what kind of corruption is that?

Finally, Chair, the report of the liquidators. I wanted for me when I read it, I was not interested in what I just said, I wanted to see the money flows, they said follow the money. I wanted to see who at PRASA had been paid, not even a single person has been paid. The liquidators and the forensic experts, they never found a single one. Now what kind of corrupt deals is that Chair?

It can never be; the issue is that we are now
20 thinking how the Swifambo directors used that 280. I ended up with somebody buying a house or whatever and then I can say it is proof of corruption. It is not false Chair, and I think that as a Commission we need to deal with that and all the PRASA hearings that were happening. I followed them with interest Chair because for me, I am

vested in the truth.

So the money was paid, Maria has confirmed paying some money. It is not money – she said no, no, Lucky I am involved in oil and I am involved in other things, I put money into the ANC and as an Angolan me and my husband we are the friends of the ANC, we put money. The ANC knows that I met Maria Gomes, through leaders of the ANC, not in some corners because of the PRASA deal, when we did the deal she was not there I never knew her

10 Chair.

Finally, Chair, let me say on this one. I tried to see Dr Mkhize, it is in my affidavit. Chair, you know what I put in my affidavit and people will come and say, it is true we want to be cross examined, I am ready Chair. But let me say this, I wanted to see Dr Mkhize someone that I was working with very closely. I was at Luthuli House or in some instances, and I think also we started working together when he was – because when he was elected he was still also Treasurer General, so he was still a Premier

20 and I think that is when the province was still a working mechanism.

So he was doing – so sometimes I meet him at the airport before he would fly to KZN, so he was doing all of those things. So I am not talking about things I do not know I am talking about things that I was directly involved

in. When I left PRASA Chair, because Dr Mkhize at some stage also wanted other deals for the movement, which I rejected and I became a big enemy.

When I tried to discuss the R80million Chair, did the ANC get this money, what happened? I struggled Chair, I could not see Dr Mkhize. You know I met him at the hotel, I dropped him an SMS, a text message and I said and I was being sarcastic Chair and I think Vodacom will give us this SMS's we must ask Chair that we get that SMS's. I said to
10 Dr Mkhize, I greeted him TG, this is a text message.

My name is Lucky Montana, you may not remember me, I am the former Group CEO of PRAS and I wanted to discuss with you the statement issued by the ANC that they know nothing about the moneys, the R80million and I said if the statement of the ANC and I used the word if Chair guardedly.

If the ANC did not receive this money and I said it tells me two things, also I believe that he made payments to the ANC and the ANC did not receive money. And I said
20 both the ANC and Swifambo, can it be or not Swifambo but Auswell Mashaba had actually been defrauded and I said, I wish to discuss this issue with you.

He sent me a text message and you know the beauty about text messages they are on record Chair and we can still pull them out and say here is a fact. He called

me, I struggled to see him for months but I saw him that very day that I sent him a text message.

He called me and say I am at the hotel, in Sandton come and see me. I went there, when I got there, the first thing he did was to berate me and it is again in my affidavit. How can you say these things on an SMS because you know, this information can be - then he said to me, I have received money, he confirmed that receiving money but I do not know whether it is part of the
10 R80million, and I did not receive R80million anyway. So if it was part of the R80million, I did not receive all the money, okay.

And that day Chair, I left knowing part of the truth and that is when I said the only person who is going to help is Maria Gomes - at my own cost, I was invited by railway companies, international railway companies to come to Berlin to discuss railways, during the inner term, I was no longer at PRASA Chair, but they told me we think you can could help us in Africa.

20 So I flew there, but I travelled not my usual route, train for Berlin I went via London and I sent Ms Gomes, I said, I am on my way to Berlin can I see you? she invited me...[intervene]

CHAIRPERSON: Ja, and of course you have told me what happened there.

MR MONTANA: Ja, what happened their Chair, and there Chair we spoke, she confirmed. So Chair, I am saying that I can relay all of these things and that is why I hope the ANC would be, but I want to tell the country Chair, I want to tell this Commission, I want to tell the country.

CHAIRPERSON: Ja, ja.

MR MONTANA: The Swifambo contract it is not a corrupt contract. Even Judge Francis Jay – you know Chair on civil matters we have a problem and this will be my last
10 point.

CHAIRPERSON: Ja, there have been quite a few of your last points.

MR MONTANA: Ja, so this will be the last I promise Chair, Judge Francis J – you take that, you also take the Supreme Court of Appeal. On civil matters you have courts making really unfortunate statements. When somebody says Popo, Mr Molefe goes to Court we say that we believe that there was wrongdoing and he mentioned five irregularities.

20 They may be true, they may not be true Chair and the Courts take those irregularities and they want - I heard that time it was common Chair that when we deal with PRASA you are dealing with a big Tsotsi, Lucky Montana, even when it was not before Court the judgment must be as damning as possible, okay and Mr Soni said, with this he

will accept those judgments Chair, bit a civil judgments - and you will see that when I go I deal with each and everything.

It is a Swifambo front, no Chair there was no front here. Did they - was there money paid? And if there was money paid Chair, you know who it will be paid to? It will be paid to members of the Commission Committee, Adjudication Committee, the CEO of PRASA, the Board Committee on procurement and the Board of PRASA.

10 Then why do we not call all of these guys and deal with that issue in that way?

CHAIRPERSON: Okay, let us start this – let us hold it there. I am sure that later on; it would not be necessary to go into a lot of details on issues that you have dealt with now.

MR MONTANA: Yes, Chair.

CHAIRPERSON: Mr Soni.

ADV VAS SONI SC: Now in fairness to the ANC Mr Montana at page 214.134 of SS4, Mr Mashaba says;

20 “By virtue of the full grain...[intervene]

CHAIRPERSON: I am sorry that is PRASA Bundle C1, Exhibit SS4?

ADV VAS SONI SC: Yes, Chair.

CHAIRPERSON: Ja, just to make sure that is always more convenient that you start with the bundle than one

knows whether one has got the right bundles. Okay and what page?

ADV VAS SONI SC: At page 214.134.

CHAIRPERSON: Yes, okay.

ADV VAS SONI SC: “By virtue of the four grand donations by leasing for the benefit of the ANC, never reached the ANC and Maria Gomes and Mr Sabela have unlawfully received and retained the sum of R9.4million and accordingly these amounts are refundable.”

10

MR MONTANA: Well Chair, I am happy to hear that Chair, I have not seen this, I am seeing this for the first time but if that is the position, Chair, I think that I am happy because it indicates that the noise that the ANC took R80million from Swifambo was false and it also tells us that the statement made by Popo Molefe under oath that the ANC received R80million Chair, was actually false and it did actually - he misled Judge Francis,J in this particular regard Chair, because I think some of the strong

20 statements about corruption they even emanate from this kind of thing Chair.

CHAIRPERSON: Now, when Mr Soni - when Mr Mashaba says in paragraph 6 that you just read:

“These amounts are refundable.”

Is he talking about them being refundable to whom?

ADV VAS SONI SC: From Mr Sabela and Ms Gomes, in paragraph 5 Chairperson.

CHAIRPERSON: Sorry, ja continue.

ADV VAS SONI SC: At the section 417 inquiry Mr Sabela testified that he had never been a fundraiser for the ANC and the only part that he played in leasing was to collect amounts invoiced by SIM Leasing, where after he dispersed the amount to Steve, presumably into the account of NS as directed by Maria Gomes.

10 **CHAIRPERSON:** What is NS reference to again, I am trying to look?

ADV VAS SONI SC: I do not see a reference to NS here Chairperson.

CHAIRPERSON: Because from paragraph five, it appears that Mr Mashaba says, GS that is Mr George Sabela?

ADV VAS SONI SC: Yes.

CHAIRPERSON: Gave evidence at the sections 417 inquiry to the effect that one, he had never been a fundraiser for the ANC, two the only part that he – NS, oh
20 NS would be the law firm...[intervene]

ADV VAS SONI SC: Oh the law firm, sorry Chair.

CHAIRPERSON: Ja, I think it is the law firm, E/NS played in leasing plus to collect amounts invoiced by Sim, what is Sim?

ADV VAS SONI SC: Sim is Similex's.

CHAIRPERSON: Oh, Similex's?

ADV VAS SONI SC: Yes, that is Ms Gomes's firm.

CHAIRPERSON: Entity, yes – I was to collect amounts invoiced by SIM for leasing. So Similex would have sent invoices for leasing, that is Swifambo and so he as Mr Sabela - according to Mr Mashaba's says, his role and the role of his firm was basically to claim from Swifambo.

What, the amounts that appeared in invoices sent by Similex and where after he dispersed the amounts received. So he would have known how he dispersed the amounts that he received as directed by MG, that is Ms Gomes. So he would say whether he - where he directed monies.

ADV SONI SC: So what - and I am just taking the big picture that emerges around the flow of funds.

CHAIRPERSON: Ja.

ADV SONI SC: There is that monies were dispersed by Swifambo Similex.

CHAIRPERSON: Ja.

20 **ADV SONI SC:** There they were saying that

“I received instructions from Maria Gomez to pay these amounts to Similex.”

CHAIRPERSON: H'm.

ADV SONI SC: So that is the amount of R79.4 million. But Mashaba is saying that that money never – because Sabelo

was never a fund raiser with the ANC that money never reached the ANC.

CHAIRPERSON: Yes. What I am more interested in is since Mr Sabelo says his and his law firm's role was to collect the money from Swifambo that was reflected in invoices sent by

ADV SONI SC: Similex.

CHAIRPERSON: Similex to Swifambo and he says that he or his law firm would then disperse those amounts in accordance with instructions of Ms Maria Gomes.

10 **ADV SONI SC:** Ms Gomes yes.

CHAIRPERSON: The next obvious thing is to say where did he – where was he instructed to send that to. We do not know that based on this document.

ADV SONI SC: Not – not from this.

CHAIRPERSON: Yes. Okay alright. You want to say something Mr Montana?

MR MONTANA: If I may Chair?

CHAIRPERSON: Hm

20 **MR MONTANA:** Chair the – the – when I met Ms Gomes's husband there are instances where Mr Sabelo was with them and – then I knew that the – and that is why number 5 maybe Mashaba is quoting what the George Sabelo said at the liquidation hearing but I know for example that in those discussions there was no clarity that he is a member of the ANC Fund Raising and all of those things and in some at the

initial meeting because at that point Mkhize was not there but – but I think that Vikas Sagar was part of those. So that is why I am surprised you find.

The second thing Chair that I want to say is that I worked for PRASA and I get a salary after I have rendered services whether as a train driver or whatever and I use my salaries in a particular way the problem of course for the commission is to decide what is it that it is following because here is a flow of money tells us a story but it may not tell us
10 a true story. Unless the commission would say Swifambo obtained – received money unlawfully and that is why this money was distributed. But if Chair is saying PRASA paid Swifambo within a contract R2.6 billion and the bulk of that money – that is why I said for the commission it has to then make a determination whether the directors of Swifambo after having the – and the – you know if – if they were given R2.6 billion they never even delivered a single train.

Then the commission has got legitimate interests hey that the – there is a problem here – we give you money to
20 buy – to build houses you do not build them. Swifambo is paid is delivering these trains – we use all of them and later on we are told the trains are tall.

Now I think the commission in my view Chair did come to a determination what is it that the directors of Swifambo are entitled – and if it says the 280 or whatever

amount they – they then repaid themselves – it belongs to them and they bought houses they gave to the ANC that is a different matter.

But it says Swifambo was involved in a corrupt deal and got paid monies that were not legitimately due to them then of course then the – the flow of money from – from Mr Mashaba to Similex or via George and what – and then it raises the question when Ms Gomez was putting money to the ANC is it the same money? Is it different money? Is the
 10 flow of money showing us also as the – that Sabelo also paid the ANC from part of that money?

Now these facts are very important because Chair they assist the commission to deal with – with the Terms of Reference corruption, fraud and as well as state capture. But when you do it in general we are going to have a situation where Lucky Montana earned the salary, he buy a house and we say no, no even if his salary is part of that corrupt thing and I do not think that we – I think we need to be very specific on this matter so that we can answer the
 20 right question in line with the Terms of Reference of the commission. That will be my humble submission Chair.

CHAIRPERSON: Ja. No, no that is fine. I mean obviously I think what the – what the commission is doing and the investigators and the legal team is to keep our minds open that sometimes something that may look legitimate and

innocuous might not be. And sometimes something that looks illegitimate and criminal might not be. So it is keeping that mind and – and that open mind and probing and stopping where it looks like there is no reason to go further. Okay Mr Soni.

ADV SONI SC: Can I then ask you to turn to the same bundle that is Bundle C1 SS Ford Stand documents to page 214.149. Oh sorry before you – before we go there can I just keep you at 133 Mr Montana and say that according to
10 paragraph 1 now and this is why the link to Swifambo is not all that tenuous because at paragraph 1 Mr Mashaba says:

“Shortly after leasing was awarded the tender this approach was made up.”

I am just making the point that it – in Mr Mashaba’s mind certainly the award of the tender and the approach are not unrelated. Whether that is correct or not I am just making that point. And he is saying this on oath.

MR MONTANA: No Chair I would accept that. The issue of course for the investigators have got an interesting job to
20 find out from the Sabelo and the other person when you approach were you – were they informed by PRASA people were they doing all – because we are trying to get to the bottom of corruption.

ADV SONI SC: But let me make another point you...

CHAIRPERSON: Of course – of course I can say and you

may have been aware from the media that the commission had issued summons against Mr Mashaba for him to come and give evidence and he decided to defy the summons and then not come here. His complaint was as far as I – no I gave instructions that the complaint be laid and I think it was laid with the police but that – that is just one fact you know. Of course there is the issue of Mr George Sabelo's version.

MR MONTANA: Chair on a lighter note would the commission consider – because I was also defying the
10 summonses from the commission but I changed my mind. It is not left up to the commission to contact me to convince all people who are defying the commission to be also come – of course it will come at a fee Chair but it is something that the commission – I know the Terms – the time of the commission is coming to an end Chair.

CHAIRPERSON: Yes but..

MR MONTANA: But it is not something the commission will consider.

CHAIRPERSON: That is on a lighter note. Mr Soni.

20 **ADV SONI SC:** As you please Chair.

CHAIRPERSON: I see we are at one o'clock.

ADV SONI SC: Can I just finish this Chairperson?

CHAIRPERSON: Ja that is fine.

ADV SONI SC: Then we will finish Mr Montana ...

CHAIRPERSON: That is fine.

ADV SONI SC: Ms Ngoye's affidavit.

CHAIRPERSON: That is fine. That is fine. Well I can just say on a lighter note Mr Montana that I thought that you know the commission would get very good cooperation from lots of people and it has got good cooperation but there are some who do not think that this commission is such a good idea.

MR MONTANA: Chair you do it an emergency appointment considering the time is coming to an end and that you cannot
10 go out on tender because then we award in six months. So here is a candidate.

CHAIRPERSON: You are a sole source? Yes Mr Soni.

ADV SONI SC: As you please Chairperson. Can I now ask you to turn to page 214.149 page 00:09:53 on the same bundle B1 and this is now a continuation of the affidavit that under note 32 is the 00:10:06 to leasing concluding a sub-contract agreement with Vosloo for the sale of 70 locomotives and without the knowledge of leasing and its consent Vosloo paid Mr Makhensa Mabunda – so the S
20 Group an amount of approximately R75 million. Are you aware of this payment?

MR MONTANA: No, no Chair I was not aware until I read in the newspapers that Montana's friend got paid R75 million. Chair I did not know – I did not know about it. I did not know that – the terms but Chair I think let me say that my

understanding is that when they were putting – I do not know when they were putting the NIP – what is it called – National Industrial Participation Program my understanding is that Swifambo then asked Mr Mabunda to help them. I think they had some kind of an agreement but this one is strange because he is now working with them and he also worked with Vosloo. I will not – I will not offer any explanation for that Chair but that was my understanding of the whole transaction.

10 **CHAIRPERSON:** Ja okay.

ADV SONI SC: Well we know that – and I am just saying this to you so we finish this – that Swifambo did pay Mr Mabunda or the S firm several million rand – and that is reflected in this affidavit. I did not refer to that and I purposely did not refer to that because the point you make Mr Montana is this that if Swifambo had engaged the services of the S Group for Mr Mabunda it might well be improper for Mr Mabunda to then receive a R75million payment which is the complaint that Mr Mashaba makes at
20 note 32. That is the only point I want to make.

MR MONTANA: No, no Chair I will accept that only if the R75million is related to the – their contracts. You remember my understanding of the – of what these guys should do – what Mr Mabunda was doing was actually contracted to many companies in Europe he was working with. Now the first

issue left to verify the R75 million linked to the Swifambo contract or not? Because if it is not there is no conflict – if it is part of that then clearly there is a conflict Chair so we need to look at it in a round.

ADV SONI SC: Well fortunately we will not need to look at it it will need – it will be some other forum that will. I am just saying that Mr Mashaba's mind.

MR MONTANA: Ja.

10 **ADV SONI SC:** That is the impropriety on Mr Mabunda's part.

MR MONTANA: No not that Chair.

CHAIRPERSON: Okay alright. Let us take the lunch adjournment.

ADV SONI SC: As you please.

CHAIRPERSON: It is five past we will resume at five past two.

ADV SONI SC: As you please.

CHAIRPERSON: We adjourn.

REGISTRAR: All rise.

20 **INQUIRY ADJOURNS**

INQUIRY RESUMES

CHAIRPERSON: What happened this time, Mr Montana?

MR MONTANA: Sorry, Chair I was feeling a bit cold.

CHAIRPERSON: Oh.

MR MONTANA: And I thought I was going to go and get a

vest and by the time ...[intervenes]

CHAIRPERSON: Yes.

MR MONTANA: ...I realised that it was silly. So I just abandoned and came back quickly ...[intervenes]

CHAIRPERSON: Oh, okay.

MR MONTANA: ...to be on time.

CHAIRPERSON: Okay, okay. No, that is fine. Okay.
Mr Soni.

ADV VAS SONI SC: As you please, Chair. Chairperson,
10 you will recall when Ms Ngoye gave her evidence, she dealt with the allegations that had been made in the Siyagena matter in the high court. Since then the high court has announced judgment in this Siyagena matter. So rather than put those allegations to Mr Montana, I would like to put on record what the court's findings were in regard to those allegations made by Ms Ngoye ...[intervenes]

CHAIRPERSON: Okay. H'm.

ADV VAS SONI SC: So if – what I will do is what we did
20 on a previous ...[intervenes]

CHAIRPERSON: I assume that this means we have moved away from the Swifambo matter?

ADV VAS SONI SC: Yes.

CHAIRPERSON: Ja, okay alright.

ADV VAS SONI SC: Chairperson, the intended doctrine is

just to refer to the paragraphs in which the significant findings were made.

CHAIRPERSON: Okay alright. If you could start by giving the names of the parties and the case number.

ADV VAS SONI SC: Yes, as you pleases.

CHAIRPERSON: And the high – which high court and so forth.

ADV VAS SONI SC: Yes. Chairperson, this is the judgment in the matter of *PRASA v Siyangena Technologies* and the retired Justice Goldstein and retired Justice Joffe and intervening parties when -unite behind. I am sorry. In the(?) applicant and unite behind them(?). Now, it is a judgment of the Gauteng Court, Chairperson. May I just, so that we have the full facts?

[Speaker not clear]

CHAIRPERSON: Do you want to read the case number ...[intervenes]

ADV VAS SONI SC: Oh, sorry. As you please.

CHAIRPERSON: Ja.

20 **ADV VAS SONI SC:** As you please, Chairperson. It is – the case number is 2018/14332 and 2018/11314.

CHAIRPERSON: And the judgment seems to have been handed down on the 8th of October 2020.

ADV VAS SONI SC: The 8th of October 2020 ...[intervenes]

CHAIRPERSON: Ja.

ADV VAS SONI SC: ...by the full bench, Chairperson.

CHAIRPERSON: H'm.

ADV VAS SONI SC: I just need to point out that there had been a previous application ...[intervenes]

CHAIRPERSON: I am sorry. And it is the Gauteng Division of the High Court.

ADV VAS SONI SC: It is the Gauteng Division. As you please. In Pretoria(?).

10 **CHAIRPERSON:** H'm.

ADV VAS SONI SC: What had happened Chairperson is. And this the matter that Mr Montana, I think, has referred to previously. That certain persons applied to be admitted or to be able to file affidavits and a full bench of the high court prior to this judgment had allowed them to file affidavits.

20 This court, however, looking at the law in relation to what evidence may be taken into account decided that on the basis of the Maseko(?) judgment and a judgment of the Constitutional Court that only the relevant parties, namely, PRASA and Siyagena the affidavits presented by them should be taken into account.

So I just present that because it had raised an issue that had been raised by Mr Montana. And you will recall Chairperson he also raised that in the Swifambo

matter. So this judgment does not deal with the allegations or the answers that he gave in his affidavit in this matter(?).

MR MONTANA: Can I say something quickly?

ADV VAS SONI SC: But very quickly, please, Mr Montana.

MR MONTANA: Thank you, Chair. No, no it is a fundamental matter. Chair, I just want to put on record. Mr Soni is partly right.

CHAIRPERSON: H'm?

10 **MR MONTANA**: We did not apply. PRASA went to court. I think it has lost a couple of times in these matters. I think on four times. Now their last review application that they made, it was a full bench of three judges which then wrote that it is not in the interest of justice for allegations to be made against officials and they are not given an opportunity. So it did not apply. We ...[indistinct]

CHAIRPERSON: H'm.

20 **MR MONTANA**: Chair, I filed a detailed affidavit with a lot of evidence. Two weeks before that matter, the whole bench was changed. A new bench came in. And our own affidavit that was asked by the court to put together, we were told that that evidence is no longer admissible. So our affidavit that were asked by the court. So we are not taking anything(?). But when you read the judgment, you can hear, Chair, that they, in fact, it was. But I will not

argue that. I accept what Mr Soni is saying ...[intervenes]

CHAIRPERSON: Ja.

MR MONTANA: ...for the sake of progress but I think we should record it properly, Chair ...[intervenes]

CHAIRPERSON: Yes, yes.

MR MONTANA: ...in that regard. Thank you.

CHAIRPERSON: Okay. No, that is fine. But for what it is worth. It would be good, maybe, that will be in your – maybe that is in your affidavit, should be good to get that
10 factual background that you have just outlined later on.

MR MONTANA: Chair, this – the matter is dealt with indicating my ...[intervenes]

CHAIRPERSON: Okay alright. Ms Soni.

ADV VAS SONI SC: Yes, as you please. Chairperson, Mr Montana is right. The – a full bench – and that is why there are two case numbers. A full bench had granted the persons who asked to submit affidavit but this court looked at that and based on the principle that they did not have a direct and substantial interest in the proceedings that were
20 before them, decided that they would not take the firms(?) in those affidavits... [Speaker's voice drops – unclear]

MR MONTANA: No, no Chair. Can I again? I do not want to disrupt Mr Soni.

CHAIRPERSON: H'm?

MR MONTANA: It must be put – we are putting on record

that we never applied.

CHAIRPERSON: Ja.

MR MONTANA: The court ...[intervenes]

CHAIRPERSON: Invited you.

MR MONTANA: But the second thing, Chair. I just want to say Mr Soni. I do not want to debate it but they cannot say the court decided to take because these guys do not have substantial interest. If you say in your affidavit that the Siyagena was awarded the contract in a corrupt way
10 and you mention people's names and then you ask them to come – and then you say – then, surely, Chairperson there is a big problem. I just want to say that.

CHAIRPERSON: Ja.

MR MONTANA: But I deal with it in my affidavit.

CHAIRPERSON: Ja.

MR MONTANA: So I just want to emphasise. We did not apply.

CHAIRPERSON: Ja.

MR MONTANA: The court emphasised, Chair.

20 **CHAIRPERSON:** Ja.

MR MONTANA: I did an affidavit and I said I want to assist both parties, both Siyagena and PRASA because it seems they are getting their facts wrong.

CHAIRPERSON: H'm.

MR MONTANA: I have provided those and said they can

be used.

CHAIRPERSON: Ja.

MR MONTANA: But the court rule, not from any application.

CHAIRPERSON: Ja.

MR MONTANA: To say it is not in the interest of justice. And I think that ...[intervenes]

CHAIRPERSON: Ja.

MR MONTANA: ...that judgment that the three – by the
10 three judges was for me it was the right decision because it dealt with the interest of justice.

CHAIRPERSON: H'm.

MR MONTANA: And I think in this particular case, of course I do not have an interest in ...[intervenes]

CHAIRPERSON: Ja.

MR MONTANA: But if I am referred to – I do not have an interest in the matter. Surely, Chair, but the interest of justice is being undermined. But I think let us proceed.

CHAIRPERSON: Ja.

20 **MR MONTANA:** I just wanted to record those facts Chair.

CHAIRPERSON: Ja. Mr Soni.

ADV VAS SONI SC: Chairperson, can I just finish this part?

CHAIRPERSON: Ja.

ADV VAS SONI SC: It is addressed at paragraphs 34, 35

and 39 of the judgment.

CHAIRPERSON: Yes.

ADV VAS SONI SC: On this very issue.

CHAIRPERSON: Yes.

ADV VAS SONI SC: Mr Montana, I just want to read to you relevant parts of the judgment and at the end you can comment on it. At paragraph 43 the court says:

10 “The background facts are detailed because they provide insight into how the relationship was formed...”

And he is talking about the relationship between Siyagena persons and PRASA officials.

20 “The details of the pattern of conduct show how increasingly the participants came to ignore the procurement requirements, the need to continuously act in good faith, taking the best technical outcome to meet the requirements, and at the most economic price...”

Paragraph 44, it goes on:

“The background concerns two preliminary phases, the pilot project and an extension of the pilot project.

Those phases preceded the phases presently an issue.

The phase is an issue of Phase 1, the Phase 1 extension and Phase 2...”

And paragraph 45:

“The background reveals that initially a spearing and economic approach to the installation to the equipment and issues are adopted.

10 The installations were intended to be effective and efficient and focus on the needs of PRASA.

The initial process, however, was abandoned on or shortly after the introduction of the respondent. That is Siyagena.

The scope, extent and cost of the work increased dramatically and the work was precipitously proceeded with in the absence of a budget or any planning and in utter disregard of the procurement process while the functionality of the system decreased...”

20 Then can I refer you, Chairperson, to paragraph forty – 53, sorry.

“Despite the absence of a budget to pay for the work, concerns about the costs and suitability of the access gates, the intention to install local gates and without a procurement

process in any prior assessment of recommendations, Mr Montana acting on behalf of the applicant, directed Mr Gansho to contract the respondent...”

At paragraph 54, the court says:

“The contents of internal documents were manipulated in an attempt to justify the directive, conceal the prior commitment to the respondent and use as a basis to expand on the scope of work...”

10

Paragraph 55, the court says:

“In the final “quotation”, the respondent expanded on the scope of work, reduce the functionality of the existing work and increased price of its proposal...”

And at paragraph 55.4, the court says:

“Mr Ferreira and Mr Montana met on the same day as the final quotation, namely, the 17th of March 2010.

20

There is no record of this meeting.

Mr Ferreira required a formal acceptance of the proposal which exceeded R 225 million by no later than the 19th of March 2010.

The respondent does not disclose the response from Mr Montana...”

And paragraph 57, the court says:

“Mr Montana, according to Mr Gansho, approved the appointment of the respondent and instructed the implementation of the decision...”

And at paragraph 59, the court says:

10 “The conduct that resulted in the awarding of work to the respondent became a blueprint for the award of work in excess of R 6 billion to the respondent...”

Then dealing with Phase 1, starting at paragraph 60, the court says:

“The expansion of the ISAMS System, that is Integrated Security Access Management System, beyond the World Cup 2010 was not planned by the applicant.

There was no approval from the executive and the work was not budgeted for in the allocation of funds...”

20 Paragraph 64:

“The perception that there was no need to comply with the procurement policy in regard to the extension of the work and the appointment of the respondent was established.

The perception in resulted in the failure to implement the procurement policy and manage the procurement process.

Mr Gansho, instead, managed the procurement process...”

Paragraph 67, the court says:

10 “The documents provided to potential bidders selectively included and manipulated the contents of the broader more general SARCC’s specification to the exclusive benefit of the respondent.

The documents did not comply with the procurement policy...”

In paragraph 69, in the first sentence, the court says:

“The bids were not checked for compliance...”

And then in the last sentence of that paragraph, the court continues:

20 “The DEC reckoning that the bid by the respondent despite the bid being approximately 60% more than the competing bid and he excessive rates charged by the respondent...”

Paragraph 70 says:

“The flaws in the procurement process were

concealed, the minutes of the BEC were manipulated to remove irregularities and bolstered the recommendation of the respondent and the employees who were interviewed attempted to conceal the absence of an RFP....”

Paragraph 71:

10 “The recommendation of the BEC was rejected by the Group CEO and more importantly by the CTPC...”

I understand that to be Corporate Tender Procurement Committee.

CHAIRPERSON: There is some acronym that is also for – what cross-section or something.

MR MONTANA: Cross- function ...[intervenes]

CHAIRPERSON: Cross-function.

MR MONTANA: ...sourcing ...[intervenes]

CHAIRPERSON: This is not the one?

MR MONTANA: No, no, no.

20 **CHAIRPERSON**: Oh, okay.

MR MONTANA: The C – the one ...[intervenes]

CHAIRPERSON: CTPC.

MR MONTANA: CTPC is the Adjudication Committee ...[intervenes]

CHAIRPERSON: Okay.

MR MONTANA: ...of Mr Tiro Holele and Martha Ngoye.

CHAIRPERSON: Okay alright.

ADV VAS SONI SC: But that is, of course, in the Swifambo matter.

MR MONTANA: No, no Chair even on this one. I will come ...[intervenes]

CHAIRPERSON: Yes, okay alright. Continue.

ADV VAS SONI SC: Paragraph 72:

10 “In the aftermath of the CTPC decision, there was a concerted effort to manipulate or create documents in an attempt to conceal the decision of the CTPC and the irregularities in the procurement process...”

And then at paragraph 73:

“The CTPC was simply bypassed and a tender placed before the FCIP...”

And that acronym, Chairperson, as I understand it is the Finance Capital Investment Procurement Committee.

20 “...and that contained inaccurate, incomplete, and misleading information...”

At paragraph 74, the court says:

“The tender proceeded to the board of control. However, there is no indication that the board made a decision to contract with the

respondent...”

Paragraph 75:

“In order to conclude a contract, prior approval had to be obtained from the Minister of Transport and approval of the contract had to be obtained from the board, none of which occurred...”

And then at paragraph 75.4, it says:

10 “Mr Montana, nevertheless, signed a JPCC contract...”

And then at paragraph 76, the judgment says:

“The flawed process was concealed and it set aside the basis that is made...”

And then at paragraph 77, the court says:

20 “As regard Phase 1. The process that resulted in the awarding of work to the respondent in Phase 1 failed with the comply with the constitutional legislative and regular framework stipulated for a valid procurement process and contravened the applicant’s own procurement policy...”

And at paragraph 80 has regards to Phase 2, the court says:

“The extension of Phase 1 and Phase 2 suffers from the same flaws as those found in Phase

1...”

Paragraph 81:

“The method used to secure the appointment of the respondent was the same as the extension of the pilot project and Phase 1.

10 An unsolicited bid from the respondent, the requirement for the respondent’s specific brands, the restriction of the procurement process, deviation from the required process, ignoring of adverse decisions, misrepresentations, misinformation and concealment of the material facts...”

Paragraph 83:

“Despite the absence of any planning, an unsolicited offer from the respondent was entertained and acted upon...”

And at paragraph 84, the court says:

20 “The procurement process favoured the respondent and set aside how that was achieved...”

And at paragraph 84.7, it says:

“The Group CEO is required to consider recommendation by the CTPC.

The CTPC did not make a recommendation.

The Group CEO, nevertheless, made a

recommendation to the FCIP.

The board was required to approved the appointment of the respondent in terms of the contract.

An in subsequent variation, the board did not do so.

Mr Montana did so without authority...”

Paragraph 87:

10 “In the course of Phase 2, extending to Phase 1, documents were created that contained misrepresentations, misinformation and concealed material facts...”

And paragraph 89:

“In the course of the Phase 2 procurement processes, documents were created that contained misrepresentation, misinformation and concealed material facts...”

At paragraph 92, the court says:

20 “There was an additional allowance of R 905 million namely for maintenance and a warranty that was already included in the notes of appointment for Phase 2 were accepted by the respondent but not included in the JBEC agreement...”

That, Chairperson, as I understand it is Joint

Building Construction Contract... And then at paragraph
92.2:

“The unsolicited offer was irregularly
entertained by Mr Montana and
Mr Pongola...”

92.3:

“The respondent provided a bid...”

And 92.4:

10 “Mr Montana signed the addendum
agreement...”

93:

“The was no procurement process...”

Paragraph 94:

“The contract and its implementation
resulted in works which were not fit for
purpose...”

At paragraph 96, the court says:

20 “The applicant, meaning PRASA, discovered
that persons and entities connected to the
respondent and persons within the applicant,
Mr Montana and Mr Gansho, were involved
in various property transactions.

In the face of it, the participants must
explain these transactions.

They raise serious concerns that there was

wrongdoing that needs to be investigated.

10 The property transactions, at the very least, contravened the professional and ethical standards required to be maintained in public administrations and those obligations with its all officials and other role-players in the procurement system, including the respondent, must comply in order to promote mutual trust and respect and an environment where business can be conducted with integrity...”

Paragraph 98:

“Persons who are complicit in maladministration, impropriety or corruption did not be permitted to profit from an unlawful tender.

They should be forced to make full restitution, even if this results in financial loss to them.

20 The existence of corruption is to be inferred from the fact that a multitude of irregularities exist, that there is an absence of a candid explanation from the tender...”

And paragraph 99:

“*Fiscus aspera*(?) as it did not receive fair

value for what it had paid...”

And then at paragraph 103, the court says:

“Mr Montana was involved with property dealings which had unusual features.

An amount of R 2 million was paid by a company or no apparent purpose in one of the transactions.

10 Mr Montana did not have sufficient funds to purchase the holding(?) and property which he negotiated to buy.

It is apparent that the funds for the property were not to be sourced in the hands of Montana.

This being so, where were they sourced?

The inference is irresistible that the funds are being provided by a third party for an unknown reason.

Individuals do not normally provide funding in the millions for no apparent reasons.

20 This being so, the evidence is irresistible that the respondent was providing the backing(?)...”

And at page 104 in the middle in the third sentence, the judgment says:

“Mr Montana was involved in numerous

property dealings.

These activities are not consistent with this activity as a senior employee of the applicant.

In the ordinary course, the funding, a variable, should not readily have been available...”

And then at page – at paragraph 131, the court says:

10 “The discovery of corruption was also impeded by the tyrannical manner in which the applicant was controlled by the erstwhile Group CEO, Mr Montana...”

And at page – oh, sorry – paragraph 139. Sorry, 137. It says:

20 “We are of the considered view that although the delayed period of ten months may render the application to be inordinately delayed, circumstances under which the delay occurred, as explained by the applicant, persuade this court to grant condonation...”

And then the order, Chairperson, is set out at paragraph 170 and the effect of the order, Chairperson, if one looks at 171(a), the signing of the JGCC contract, dated 31st March 2001, is declared to be unauthorised and

(c) the signing of the addendum agreement, dated 19 September 2014, is the declared to be unauthorised.

And at paragraph 17.3, the JBCC agreement, dated the 31st of March 2011, is set aside. That is (a) and (b) is the JBCC agreement, dated the 1st of July, is set aside and (c), the addendum agreement, dated the 19th of September 2014, is set aside.

Chairperson, just for completeness sake. I should just point out that at paragraph 170.5, the – in
10 terms of what was the just and equitable order, the court said work had been done and independent engineer should be appointed to determine what the amount is that Siyagena should be allowed to redeem from the monies paid to it(?).

That Chairperson is the judgment and it is the judgment of Mr Justice Le Mont concurred in by Justice Malunga(?) and Justice Hewes(?).

CHAIRPERSON: Ja, those were the ...[intervenes]

ADV VAS SONI SC: That is the ...[intervenes]

20 **CHAIRPERSON:** ...the parts that you ...[intervenes]

ADV VAS SONI SC: Yes

CHAIRPERSON: ...considered important to read into the record.

ADV VAS SONI SC: [No audible reply]

CHAIRPERSON: Ja, okay. I think you had said that

Mr Montana could then comment if he wish to comment.

ADV VAS SONI SC: Yes. Yes, Chairperson.

CHAIRPERSON: Mr Montana, do you want to say? I know you have already commented. So I am, obviously, not inviting you to say the same thing but if you wish to say anything.

MR MONTANA: No, no Chair I am just going to ask you to give me time to reply to this.

CHAIRPERSON: H'm. Yes.

10 **MR MONTANA:** When Mr Soni was reading this judgment, part of me was sitting with anger and at some stage I was also laughing. How can the judges do this Chair? One of the most scandalised judgment, suspicion of wrongdoing, inference and all of those things. Then just two weeks before we go to court, the judges find reason – the judges are changed, Chair, new judges are brought in and then our affidavits that provides on this matter, cannot be considered and the judgments so similar, Chair, to the Swifambo judgment.

20 You remember I spoke about the SCA judgment? So the SCA judges and the judges in Pretoria think the same, they think that this thing was under control of this what was it, tyrannical Montana. The SCA judges say the same thing.

Chair, let me address this thing. I want to address

the facts and Mr Soni has raised the judgment – I do not have, I have not party to this matter, so I cannot take it on appeal and I cannot I call the judges here to cross-examine, I wish if I had the privilege.

CHAIRPERSON: Yes, just one second, before you do that, you have said that you had, at the invitation of the court, submitted a detailed affidavit, is that correct?

MR MONTANA: Chair, that is correct.

CHAIRPERSON: Ja.

10 **MR MONTANA:** Not Montana alone.

CHAIRPERSON: Yes.

MR MONTANA: All the people who participated in that process.

CHAIRPERSON: Yes.

MR MONTANA: I never participated, I was a CEO.

CHAIRPERSON: Yes.

MR MONTANA: So I think there were eight people who were mentioned by Ms Ngoye in her affidavit, Chair.

CHAIRPERSON: Yes.

20 **MR MONTANA:** Now this affidavit, I think if there is one – who is happy with this kind of judgment? Surely, Chair, that Werksmans, Ms Ngoye, Mr Molofe will be celebrating because they were able to get a judgment almost similar at the High Court, Gauteng High Court South division as well as in the North.

Chair, the changes of judges – and I do not know what the Judge President considered, one of the most scandalous things and I want to go into details, Chair, if you could allow me because I think ...[intervenes]

CHAIRPERSON: Well, I was – the reason why I was referring to you having filed an affidavit was that I was wondering whether it would not be convenient to hear what you have to say after looking at such an affidavit or not but I assume that those affidavits, Mr Soni, even though the
10 final – the ultimate court that gave this judgment excluded them, they available somewhere. At least his.

ADV VAS SONI SC: Yes. Chairperson, let me – or are you looking at the affidavit?

CHAIRPERSON: At – particularly his affidavit that he was not included.

ADV VAS SONI SC: Yes.

CHAIRPERSON: My – part of what is in my mind is that he was no longer at PRASA when the litigation was launched, is that right?

20 **ADV VAS SONI SC:** Yes.

CHAIRPERSON: He was no longer at PRASA.

ADV VAS SONI SC: He was no longer...

CHAIRPERSON: And yet he was a significant player in the transaction, is it not and affidavits were placed before the court by PRASA and I guess [indistinct – dropping

voice] but somebody who may have known quite a lot about the transaction, his affidavit was not there. I am not saying that it was a wrong decision or right decision to include or not include his affidavit, I am just thinking that, you know, a court is able to – not that it is able, this is what courts do, they decide disputes between parties, they are able to say well, both parties put your facts before the court and the court decides but an inquiry such as this one might go broader in terms of facts, you know?

10 **ADV VAS SONI SC:** Yes.

CHAIRPERSON: Because it is not deciding, it is not litigation. So I am just wondering – I was just wondering whether it might not have been convenient to listen to him knowing what the affidavit says but maybe that is something to think about and I should just give him a chance to comment.

ADV VAS SONI SC: Chairperson, let me suggest a way forward. We were obviously bound by the court judgment as the evidence leaders. Now Mr Montana says that what
20 he said in his affidavit, it was presented to court but not considered by the court, may throw a different light on some of the issues.

Now without interfering with the court judgment, of course, you as Chairperson would be able to take that into

account. In your report you would say there was this judgment but my scope is broader.

But one is looking at a legal process and I want to take the process forward to give you the maximum scope that you should exercise, be fair to Mr Montana but also not to cast aspersions on the judicial system.

CHAIRPERSON: Ja.

ADV VAS SONI SC: This the ...[intervenes]

MR MONTANA: But, Chair, can I object ...[intervenes]

10 **ADV VAS SONI SC:** No, can I please finish?

CHAIRPERSON: Let him finish and then I will give you a chance. Let him finish him finish first.

MR MONTANA: Not on the substance of the matter, Chair?

CHAIRPERSON: Ja?

MR MONTANA: Because I think we have discussed previously and I think we need to take a decision. Earlier on, Chair, I was dealing with the ANC issues. It is time for me to respond to the judgment, to what the judges have
20 said. It is for the second time Mr Soni spoke about the fact that we do not need cast aspersions.

CHAIRPERSON: Oh, you want to emphasise that you ...[intervenes]

MR MONTANA: No, no, Chair.

CHAIRPERSON: Ja.

MR MONTANA: But all of us, the only thing that is above all of us is the constitution in this country. If I need to take on the judges, as long as I do not cast on a factual basis, I address the issues.

CHAIRPERSON: Yes.

MR MONTANA: I cannot have this thing put before me to say do not case aspersions and everything.

CHAIRPERSON: Ja, no, no, no, I will let you say what you want to say, let him finish first.

10 **ADV VAS SONI SC:** Chairperson, I understand, Mr Montana's desire to put his version in regard to the Siyangena because we have now had a judgment that seems to reflect badly on him.

What we need to do, though, Chairperson, is to consider whether the best and efficient – or the most efficient use of the Commission's time should not be along the following lines. We received Montana's affidavit, the one he gave to ...[intervenes]

CHAIRPERSON: To the court.

20 **ADV VAS SONI SC:** To the courts, which is not taken into consideration. We know what that affidavit will say. You look at the affidavit in your capacity as Chairperson. We, as the legal team, look at it and then if you decide that there should be input, oral input on that, we set a time for that. It will obviously have to be limited but that would

give Mr Montana every opportunity to clear his name, if that is what he wants to do.

What, though, we need to be concerned, Chairperson, is the limited the time we have available. We spent now on this – Mr Montana's response without anybody know what the response is, it is going to take the rest of the day.

CHAIRPERSON: Oh, okay. I take what you are saying to be to say is it not better that Mr Montana gets an
10 opportunity to say what he wishes to say when we have the affidavit and therefore know in advance what he is going to say? That is what you are saying? That is, I think, consistent with what I was thinking.

So I must just say that – you see, as we look at these issues where a court has made certain findings and has given judgment, one needs to on the one hand bear that in mind but on the other hand, bear in mind that because of the different functions between the court and the Commission and as well as issues which might – for
20 the court they might be narrower, for the Commission much wider, there may be circumstances where the Commission might need to hear more than the court had before it.

I think of an example that will be – that will resonate with you, I think. You will remember during the '80's when labour law was in its infancy in this country that

when there had been a judgment by the then Supreme Court on a matter affecting a dismissal, when the employee of a trade union went to the Industrial Court to challenge the fairness of the dismissal, usually you would find lawyers for the company, for the employer, saying no, but the court has decided but what the court would have decided is well, the dismissal was lawful or whatever and the Industrial Court would look at the question of whether the dismissal was fair. So the Industrial Court could still
10 look into the matter.

So that is what crossed my mind as I think about the fact that there may be situations where there is a judgment but because it is two different forums with a different scope of inquiry it may be that there may be circumstances where the Commission has to hear something that the court did not hear but one has got to bear in mind obviously various things, the time constraints, but also the issue of fairness to somebody affected, such as Mr Montana especially where he did not get a chance to
20 his side, his facts, as he knows them, were excluded.

So it is something that one may need to tread carefully on but it is something that one might need to look at with a view to making sure that one, there is fairness but there is proper consideration for the time constraints that one is working under and then take it from there. That

is what has crossed my mind. Does what I thought resonate with you resonate with you?

ADV VAS SONI SC: I accept that fully, Chair.

CHAIRPERSON: Ja.

ADV VAS SONI SC: But it is not a question of Commission not relooking at it as would have been under different jurisdictions of legality and unfairness.

CHAIRPERSON: Ja.

ADV VAS SONI SC: The only point I want to make,
10 Chairperson, is we are going to base it on an affidavit that is not before us and it would be in the public interest to know what was before that court that it did not take into account, deliberately, for good or bad reason.

CHAIRPERSON: Ja.

ADV VAS SONI SC: But it did not take into account.

CHAIRPERSON: Ja.

ADV VAS SONI SC: And what Mr Montana is maybe saying to you, not saying is, may be different from it and so we need to be careful that when we are determining whether
20 what Mr Montana would have said in that court might have produced a different outcome, one has the necessary facts and we do not have that in the absence of Mr Montana's affidavit.

CHAIRPERSON: Mr Montana, before you – before we move further, let me ask the question. In your affidavit do

you deal with – or no, probably you do not deal with the judgment, or do you?

MR MONTANA: No, Chair, in the latest that I have provided I have added a paragraph.

CHAIRPERSON: Ja.

MR MONTANA: The affidavit that was submitted.

CHAIRPERSON: Yes.

MR MONTANA: And for Mr Soni's information, one of my annexures is my affidavit that I tabled there, Chair.

10 **CHAIRPERSON:** One of your annexures...?

MR MONTANA: To my affidavit, it is my affidavit that I placed there in the High Court.

CHAIRPERSON: Oh, okay, that is – you have given that to the legal team or not yet?

MR MONTANA: Well, Chair, we – it probably there, we have discussed ...[intervenes]

CHAIRPERSON: Previously?

MR MONTANA: Previously.

CHAIRPERSON: Ja.

20 **MR MONTANA:** But we said we are allocating tomorrow, Chair, we are getting it.

CHAIRPERSON: Oh, okay, okay.

MR MONTANA: So I am hoping that we will deal with the issue, Chairperson.

CHAIRPERSON: Okay. Well, I will tell you what I am

inclined to do. I am inclined to first see what you have to say and maybe it is that affidavit and whatever, whatever, before I let you then deal with it. Is that fine with you?

MR MONTANA: Chair, can I suggest a different approach?

CHAIRPERSON: Ja.

MR MONTANA: The judgment has been read.

CHAIRPERSON: Ja.

MR MONTANA: And, you see, the issue has nothing to do
10 with me.

CHAIRPERSON: Ja.

MR MONTANA: So I am not dealing – my entry into this issue has got nothing to do with me.

CHAIRPERSON: Ja.

MR MONTANA: There is nothing in this judgment.

CHAIRPERSON: Ja.

MR MONTANA: It talks about participants, it does not say Mr Montana did that, it infers, we believe, we think wrongdoing may have been done by someone and then
20 mention property. Chair, I am not here to defend.

CHAIRPERSON: Ja, ja.

MR MONTANA: There is nothing to defend. I do come to the Commission, Chair, I came to assist the Commission.

CHAIRPERSON: Ja.

MR MONTANA: To put facts on the table. The facts

mentioned in these judgments are false, firstly.

CHAIRPERSON: Yes, ja.

MR MONTANA: Secondly, it is not only like Montana's affidavits, all the people that were invited by the courts to file affidavits because the court said it is not in the interest of justice. Okay, Chair? To file – not to be given the opportunity to respond and of course I welcomed that opportunity, I said here is a court, we have been criticising the courts, here is a court, the judges said no but you
10 cannot be making these statements, let the people – and I responded no in each and every detail, Chair, but I filed a very detailed affidavit with annexures to prove that the allegations that were made were false. There were seven other people who were asked by the court to say file affidavits. They did the same, Chair. They were admitted.

And I want to say boldly here, Chair, it is my affidavit and the affidavit of the seven others who were admitted, they were admitted because the court has asked for it and then just before the hearing starts, in that court
20 Werksmans come and say there is no way they can be admitted. Say no, no, when the court took that decision, the two main parties, which is Siyangena and PRASA were to be – they should have agreed to that decision, now it is a court matter, it is the rules of the court that I do not know. I am not challenging that, Chair.

But the court has invited us and then the court – and, Chair, then court then says comes to a determination that the judges who were there before who said it is in the interest of justice for this people to come, they came back and the new judges says no, we should not.

Chair, I want to say that there is no way the court would have arrived at this judgment or penned this judgment if they agreed to accept out ...[intervenes]

CHAIRPERSON: Those affidavits.

10 **MR MONTANA:** Those affidavits that the court had asked us to give. But, Chair, I think the most - in terms of the way forward now, the fair process – because it is not only the attachment of that affidavit, it is also what I have written on this matter.

CHAIRPERSON: Ja.

MR MONTANA: Actually. Now I think that irrespective of what that affidavit said but I have got an affidavit and we have agreed on a process here that if there are issues that I should not deal with them as well, I can then refer to
20 them and deal with them now because I think, Chair, the – you see, the problem that I have and I know that this Commission cannot create a platform from which judges are attacked and everything.

CHAIRPERSON: Ja.

MR MONTANA: I understand the sensitivity.

CHAIRPERSON: Yes, ja.

MR MONTANA: But, Chair, I think that we also want robustness. I will not go and attack judges, I am not – I believe myself to be someone who – who go at things directly. I do not have an interest in attacking judges but this judgment, Chair, I want to see it and given the – before we even agree on the procedure, even elevate some of the issues that are here, Chair, you will actually be shocked. The last time you gave us a bit of guidance,
10 Chair, and you know one thing, I enjoyed being here the last few days, Chair, is that when I am about to respond, you engage that judgment and I think that probably ten minutes ago I would have said things that really – just what you and Mr Soni were trying not to hear.

But, Chair, I will tell you, this judgment, is a rotten judgment, I want to say that. This judgment and the SCA judgment actually points ...[intervenes]

CHAIRPERSON: But I will – let me say – why do you think it is not right that you reserve your comments on the
20 judgment until we have seen what we want to see?

MR MONTANA: Because I, Chair, ...[intervenes]

CHAIRPERSON: Ja, because [inaudible – speaking simultaneously]

MR MONTANA: No, Chair, I think I will agree with that as long as you deal with it at the right time.

CHAIRPERSON: Ja. Ja, ja. No, no, you will get a chance, ja.

ADV VAS SONI SC: And given what I have read, Mr Montana, must be given a chance.

CHAIRPERSON: Ja, no, he must be given – I am, myself, interested in seeing at least your affidavit. I may be interested to see more of the other affidavits but your affidavit because you have said the facts that the court was given were not true or did not give the complete
10 picture and if it had looked at the affidavits that were excluded it may have come to a different conclusion.

MR MONTANA: Chair, I said your guidance on this matter, I think that is not what I said but there are seven other people, Chair. I think that when you read the judgment, you look at what Martha Ngoye and what Werksmans said in that issued actually would – it should raise a big issue. But, Chair, I will deal with the issues at the right time.

CHAIRPERSON: Ja.

MR MONTANA: And I want to indicate to this court, Chair,
20 these issues have been read as fact are in fact false and that is why I was prepared, without that affidavit, to just go into the thing to demonstrate to this Commission.

CHAIRPERSON: Ja, ja.

MR MONTANA: And it is why I was asking how would honourable judges, how would they do this to us? You

know? Chair, can I make one point.

CHAIRPERSON: Ja.

MR MONTANA: Because I have been concerned with it for a while. The judgments on PRASA, all of them, Chair, from judgment of Mthimkhulu, the judgment on Siyangena, you will actually see, Chair, maybe there is a difference of a comma and everything, they are one judgment and, Chair, I will elaborate at the right time.

CHAIRPERSON: Ja.

10 **MR MONTANA:** When once you have seen all of that.

CHAIRPERSON: Okay.

MR MONTANA: Because I think that is where the problem is.

CHAIRPERSON: Ja.

MR MONTANA: And I will speak about this issue, ja, I will respect the judges, I promise you, Chair.

CHAIRPERSON: Yes, yes.

MR MONTANA: But at the same time to tell the truth and be honest to ourselves, Chair.

20 **CHAIRPERSON:** Ja, no, no, no, that is fine, that is fine. So, Mr Soni, you will take charge of the process of obtaining the affidavits.

MR MONTANA: Of Mr Montana.

CHAIRPERSON: Ja. Okay, alright. At least Mr Montana's one.

ADV VAS SONI SC: Yes.

CHAIRPERSON: It may be that – I do not know, I just do have a recollection that the court papers in some of these PRASA matters go into thousands.

ADV VAS SONI SC: They do, Chair.

CHAIRPERSON: So I am – so at least maybe the first – the start is to get Mr Montana's one.

MR MONTANA: Montana.

CHAIRPERSON: And then one can take it from there.

10 Okay.

MR MONTANA: Thank you, Chair.

ADV VAS SONI SC: But, Mr Montana, you will make your available to [indistinct – dropping voice] tomorrow.

MR MONTANA: Ja. I will do that, thank you.

CHAIRPERSON: Okay, alright. And if there are matters when we finish, Mr Montana, if there are matters that either the Commission has undertaken to look at, you have asked that they be looked at, which by that time it might not have looked at or come back to you, just raise them when you
20 finish all your evidence, if there are things because I just want to make sure that every issue that needs to be looked at is looked at. Ja, okay. Mr Soni?

ADV VAS SONI SC: Chairperson, then that is the last bit of Ms Ngoye's contribution and I want to deal with Mr Oellermann's report.

CHAIRPERSON: Yes.

ADV VAS SONI SC: Which appears at bundle 8. Chairperson, the information on which I want to put – the information that I want to put to Mr Montana, consists mainly of documents. Now I will just give short introductory excursus on what I want to do this afternoon in relation to this and Mr Montana know what type of questions I am going to ask.

Chairperson, Mr Oellermann gave evidence on – or
10 came and testified on his report and you will recall that he dealt with four properties. The first one is the property that Mr Montana owned in Parkwood which he then sold to Precise Trade represented by Mr van der Walt. Then there was a property in Waterfall in Pretoria ...[intervenes]

MR MONTANA: Waterkloof.

ADV VAS SONI SC: Sorry, Waterkloof.

CHAIRPERSON: Ja, Waterkloof, ja.

ADV VAS SONI SC: Waterkloof.

CHAIRPERSON: Yes.

20 **ADV VAS SONI SC:** Sorry. In Pretoria and there was a property in Sandringham in Johannesburg and then a fourth property in Hurlingham, also in Johannesburg. Now most of the information is based – or most of the report is based on documents that Mr Oellermann attaches to his report.

I just point out two other things, Chairperson. One

is, based on the documents it is quite clear that Mr Montana did sell to Mr Oellermann – I mean to ...[intervenues]

MR MONTANA: Van der Walt.

ADV VAS SONI SC: To Precise Trade, his property in Parkwood and it is also clear, Chairperson, that he purchased the property in his own name in Hurlingham.

The other two properties, Mr Montana made some enquiries about but those properties, although connected
10 to Mr Montana indirectly in the sense that he made approaches about them, either in relation to his children's trust or himself, those properties were transferred from the owners to Precise Trade.

Now based on that, what I want to do today is just to establish the relevant facts as they emerge from the documents and Mr Montana can, having regard to what I ask, can either say yes, I accept that is what is contained in there – obviously it is going to be important, and that's where I would like to spend most of my time is what
20 inference is to be drawn from the four property transactions ...[indistinct – dropping voice].

CHAIRPERSON: H'm okay no that's fine. I think because we starting a new topic it might be convenient that we take a short break.

ADV VAS SONI SC: Indeed Chief Justice.

CHAIRPERSON: Let us just take a short break, I want to say five minutes, I know five minutes might be good for me but I don't know whether – Mr Montana you said you were looking for your jersey and so on.

MR MONTANA: No, no Chair, five minutes is fine.

CHAIRPERSON: Five minutes is fine.

ADV VAS SONI SC: As you please.

CHAIRPERSON: Okay, alright, let's adjourn for five minutes.

10 **REGISTRAR:** All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay, let's continue. Your mic.

ADV VAS SONI SC: Sorry Chair. Mr Montana the first issue I would like to look at is the sale of the Parkwood property and you will find that relevant facts are set out at Bundle HSSAT Pages 34 to 39.

20 **MR MONTANA:** Chair can I suggest or rather request address you firstly on this issue because we go to the specific matters.

CHAIRPERSON: H'm, you mean in general?

MR MONTANA: No, no, no.

CHAIRPERSON: Or this particular property.

MR MONTANA: This report, this report.

CHAIRPERSON: This report, oh, okay, alright do that.

MR MONTANA: Because I think there are two things Chair, should this report be before this Commission, I think let's start there, and Chair I think you will see my affidavit I deal with all the properties, I am not even getting into that, but the Commission Chair should know what in fact he is trying to do. This report it takes the views – it takes the positions of other people who make allegations, it is compiled by an investigator at the Commission, it is put as a report of the Commission. Now these are untested
10 allegations, I am not ...[intervenes]

CHAIRPERSON: Let me say this because this might certain things might be causing confusion, before you proceed, okay so I see that so it is a report or investigator's report as opposed to being a report of the Commission, so I am just mentioning that so that that distinction is made, in other words a member of the investigation team assigned to look into certain matters is supposed to have conducted investigation and looked at documents and he then cuts to certain issues which I might
20 accept or reject, so I just want to mention that, then you can continue.

MR MONTANA: No thanks Chair, I accept that Chair and let me start by quoting a judgment, I think it was Judge J Davis ...[intervenes]

CHAIRPERSON: You see Mr Montana by coming to the

Commission you might end up being a *de facto* lawyer.

MR MONTANA: Indeed Chair I think I am having that direction Chair, and I think Mr Soni can take me under his wing Chair until I also get to the level Chair, thank you very much.

CHAIRPERSON: Ja.

MR MONTANA: Chair the – Judge Davis in a matter involving the SABC raised two important issues, and I just want to quote them quickly Chair, he says firstly this is a
10 matter that was between the SABC and a former Provincial SABC news editor, Mr Charles Matlou. He took the Joe Collier report on the SABC editorial independence, so interference with the SABC, on review and this ...[intervenes]

CHAIRPERSON: What report, I'm sorry?

MR MONTANA: This was the Joe Collier, remember Joe Collier.

CHAIRPERSON: Oh yes, yes.

MR MONTANA: He was appointed to investigate, this
20 Commission to investigate the editorial independence of the SABC.

CHAIRPERSON: Ja, h'm.

MR MONTANA: He makes two important points Chair and I just want to quickly quote, the first one he says it offends one sense of fairness, even an investigator, and I am

saying in this case, this Commission, were to only listen to the version of the complainant without considering the version of the accused before making a finding or recommendation.

He also come and say Chair in the same judgment he says and this is very important, and this is my basis for looking at this report, he says it is equally worrying when an accused person hears for the first time, for the first time recommendations which adversely affect him when they are
10 already made.

Chair I accept the distinction that you have made but this report Chair somebody in the Commission has give a – is going to investigate a particular area, to go and investigate, what he does if he does an investigation it has spoken to everyone that looked at all the statements, spoken to all the relevant people and these are my preliminary views, I want to put them before the Commission.

Chair it didn't happen, what has happened here is
20 that the Commission's investigate on PRASA when to take allegations that were made by Mr Paul O'Sullivan in the 22 page affidavit that he put in Brooklyn Police Station and the Werksmans Report, and these are now compiled into a preliminary report today to the Commission.

Chair I will answer questions, any questions

because I agreed to come and testify before you Chair, but this report Chair can never be, actually what is first because this is an investigator of the Commission, you know I listened Chair when this thing was happening, Mr Soni asked for clarification, they were clarifying and saying Mr Montana bought properties for R36million. Okay, not true Chair, but this report says that, because it takes the view, you see these people who manufacture these stories about us, they don't themselves come to the Commission, 10 they put them as if their report is in the media thing or something and then the Commission elevates – takes that, its investigators takes that and then they are channelled through the process because O'Sullivan doesn't come here and file an affidavit on his 22 and say I believe that there is corruption and I write it here, then it's a challenge, because Chair he says I have taken, I have used bank statements, I've used other things, I have also used documents that are before Court.

On the very matter we have just completed, it is not 20 only the High Court that did not what I said even on these things and my version on this issue. The Commission Chair ignored, they touched, they talked about everything, and I still make that distinction Chair that you have made I just take it and use it, they take these things, they elevate it, it is presented before the Commission.

Chair there is no reason, if I look at the litany, I wrote to the Commission Chair, you will recall I even went to the – I wrote to the Judicial Service Commission, the Commission is actually breaking the very terms of that, this is one of the issues Chair, that I raised.

Now here is the Commission where there is a dispute on even fact, it puts this report, it takes reports from other people who are ...[indistinct] they don't file them, then they elevate, the Commission then enters the
10 arena, in favour of particular people and then I come to the Commission, so the questions I should be answering I am going to answer now, I should be answering those Commission during, I should have answered during the investigation.

Now I am having a preliminary report on this issue okay, where myself and I have checked with other people, did they speak to you, the answer is no, Mr Oellerman is not here, so if you ask him he was able to say Mr Montana bought properties for R36million, okay, which is false, but
20 they were presenting it as fact.

I also mentioned something else Chair that the Commission went and presented to the Chair that there is only report of the Public Protector and all other things even about how we deal with court judgments. This report Chair the Commission should say we have got the

information, we want to ask, we want to ask you certain questions and then we are also going to deal with it in that. This report Chair I think if we were procedurally diligence of earnest we deal with the issue that Judge Davis has said that it is quite, it is extremely worrying. This report should not be accepted by this Commission, not because it contains the lies that it contains, but precisely because the process before it was tabled here Chair I should have been spoken to, four/five other people should have been spoken
10 to, the documents that Mr Oellerman says he places reliance on he actually ignored them Chair, Mr Oellerman ignored documents on a whole range of fronts on the PRASA issue which has put into me into dispute with the Commission Chair.

Chair if there was time I would actually put an application, maybe it has not been done, applying to you Chair to say I am asking for this chap to be fired because he has actually misled the Commission, undermined its mandate to reach to the truth.

20 What he is doing sir he is fighting a battle on behalf of particular vested interested in these matters. Chair you remember I mentioned the issue about the NPA and the Hawkes, again the PRASA investigating team ignored the fact and presented the Commission with the facts that PRASA was fighting the Hawks to investigate these

matters, when we know that the facts are in fact the opposite and in my affidavit I have attached a lot of things,

Chair I wrote to the Secretary of the Commission, why would this Commission or rather why would the investigators in this Commission pursue certain things, align themselves with certain people and the facts that I put including public statement, including some of them under oath like the affidavits they ignored them and they want to pursue, so this Chair what we have before you is
10 this report, it is basically Mr Paul O'Sullivan taking his affidavit, which the police in Brooklyn they are not acted upon, which Werksmans says there is actually no support evidence for this, Werksmans said about it, but somehow they are getting to be investigators at the commission to say accept this and do not accept this, so Chair I am prepared to answer everything, but I am saying this report is not worth the paper it is written on, it should not be accepted by this Commission, and I think that in fact if you are going to deal with my properties Chair the Commission
20 must have investigators to come and speak to me, prepare a proper preliminary report, and then the facts are casted here.

What we have is these things are elevated, the Commission has done work which ...[indistinct] and I am supposed to come here and respond to matters that the

Commission should have sat with me on the side and then start to question me and verify the facts, so this is you are actually saying Chair if you accept this report, and I am not saying the Chair has accepted, but the fact that it is before us you are basically saying the Commission is coming to the ring, the people are making accusations, they don't want to box with me, they are now putting Judge Zondo and the Commission to box with me, so if I hit them I still have people standing behind the Judge.

10 I think Chair it is not only unfair but it actually fundamentally undermine the terms of reference of this Commission, especially cite for the truth Chair and I think that this is what has happened, and I take strong exception Chair, Mr Soni can continue asking me, but I am urging Chair that a report of this nature which is showing so partisan this report and if Mr Oellerman was writing this report and having his own dreams it is fine Chair, he went to take people that I am challenging, some of them have said they want to cross-examine me, he has elevated their
20 version and it is elevated there, but fortunately I am here and fortunately I am glad that you will give me the chance I will deal with these issues but this report Chair shouldn't have been, when the country was being told Montana bought the R36million properties worth R36million, and my family asked me hey you are so loaded Montana, where do

you get this money from.

So these are the things that they do Chair, so Chair I think that I want to put it, I will answer specific questions that Mr Soni wants to ask.

CHAIRPERSON: No, no that is fine.

MR MONTANA: But I do not expect this report Chair and I will never accept it, even tomorrow.

CHAIRPERSON: No, no, no Mr Soni will be able to say something in response if he wishes to, but what you say Mr
10 Montana is you have said that this report is based on Mr O'Sullivan's affidavit so I am keen to see that affidavit and then I think you said something else also based on something else.

MR MONTANA: So in fact it is based on three things, which are attached, are part of my attachment that I discussed with you.

CHAIRPERSON: Ja, okay.

MR MONTANA: The first one is the 22 page affidavit by
20 O'Sullivan, Paul O'Sullivan, the second one is the report of Werksmans, the same matter.

CHAIRPERSON: Ja.

MR MONTANA: And the third one Chair there is a chap who worked for PRASA who worked with Mr Molefe who compiled and knowing the chap Chair I can see that he wouldn't write an affidavit of that nature so all of them I

have attached them so that the Commission can see all of those documents, and I have attached them Chair, I want us to have a look at them.

ADV VAS SONI SC: No, no that is fine, but also another point I wanted to make is one which I think I have made before, namely it is good that you came to participate because then you can raise these things and say here is something that is flawed as far as I am concerned, here is my side of the story, and with other people do that the
10 Commission has been trying to say come let's hear, it is to afford them exactly this opportunity to say so and so is saying these things to me because of A, B, C, D or he is basing this on E, F and G you know so that we have the full perspective so that in the end obviously one would look at really what the evidence reflects, but it is good that you are here, you can raise your – raise those matters.

Mr Soni?

ADV VAS SONI SC: As you please Chair. Mr Montana I don't want to enter into a dispute about – with you about
20 this, I would rather ask the question. I just make two points, that you do not see a single reference in this report to Mr O'Sullivan. Secondly you will see in reference in this report at many levels a Mr van der Walt and payments that he made in respect of these properties together with a bank account that his partner supplied to the Commission,

so for you to say that this is Mr O’Sullivan – I have read Mr O’Sullivan’s affidavit or report or whatever it is, I can say to you that Mr Loubser’s affidavit came last year and it was the first time that anybody in the country knew how payments for the properties were made and that was made, that came about because Mr van der Walt had provided two letters to Mr Loubser which are part of Mr Loubser’s affidavit.

I just make that point.

10 **MR MONTANA:** No, no Chair, no, I think – I will accept your guidance that you have given Chair.

CHAIRPERSON: Yes, yes.

MR MONTANA: That the Commission will have a look at that, I am glad that Mr Soni had seen the letter.

CHAIRPERSON: Ja.

MR MONTANA: But you will see there, or rather the letters and what they mention Chair, so you will see when you see the affidavit, the affidavits, the concerned affidavits that this has got nothing to do, I have read Mr
20 Loubser’s affidavit and I have read also the affidavit of Mr Andre Wagner, which the Commission by the way Chair let me mention before we proceed.

CHAIRPERSON: H’m?

MR MONTANA: You see Chair the Commission engages with someone, Mr Oellerman he goes and interviews

somebody, and this is Mr Andre Wagner, the man who is involved in a partnership with me through a company called Midtown Brace, he files an affidavit, he says this is my money, I have a partnership for development of property or properties with Mr Montana, okay and he explains, he was interviewed, I think he spoke to the Commission, he explained and he filed an affidavit Chair, he signed it, this affidavit he doesn't support it in this preliminary report in respect of this property – one of the properties we are
10 talking about.

What happened? We saw Sally de Beer, Ms de Beer was here, we saw Louis Green who in fact was in my view, I subjected ...[indistinct] who was here because he contradicted what was said, and Chair, and Chair Mr Wagner was not even brought here because he says I don't do tenders with government, I am not involved with PRASA, I have got a property deal with Mr Montana, and it is a good property deal, okay, and what do they say? No, no, no we don't need you, because you are not articulating this
20 version that we want, so Mr Soni with due respect I hear what you are saying, but this report Chair once you have seen for yourself the affidavit of Mr Paul O'Sullivan and the first affidavit comes from Mr I think he is called Mr Philemon Mamaholo, Paka Mamaholo.

Chair the enormous lies but fortunately I am here, I

am going to confront the lies Chair and deal with them one by one, we are here, but the Commission can't be – it belongs to all of us, it cannot be abused by people, if Mr O'Sullivan he will only go to Brooklyn, he must file an affidavit here and defend it and make those accusations and be open to cross-examination.

Now it is hidden under the Commission's investigator, now what do they do, do they cross-examine each other and statements that are made to the nation, a preliminary report Chair, a few days it was a full report, then we got a thing that is now a preliminary report. The damage that was done now I must come afterwards to respond to lies but it has been dealt with at the Commission in this particular way Chair.

CHAIRPERSON: H'm.

MR MONTANA: Now I am going to leave it at that Chair because you have ...[intervenes]

CHAIRPERSON: No, no that is fine, yes, yes.

MR MONTANA: Let's go into the issue but the principle of it I don't want us to be cracks over cracks, put plaster over cracks this thing was wrong in a very fundamental way, if I say it was unfair it is an understatement Chair.

The conduct of this chap, this investigator by the Commission was unlawful Chair and if the Chair had known probably a few months ago I would have written and asked

for this chap to be fired because now I have been made to believe it is the position of the Commission, but now it is quite clear that the – here is someone who is going – I asked the question, how was this chap appointed, I had to ask that question Chair because I have never seen an investigator at this Commission who aligns himself with the version he wants to put on the table Chair.

Chair the reason why I didn't come for two years here is because I have been fighting to say no, no, no, it cannot be done, I said either you deal with the truth or I
10 won't come and testify but I am glad I am here ...[intervenes]

CHAIRPERSON: Ja, ja ...[intervenes]

MR MONTANA: Maybe we proceed, and I want I think Mr Soni should not defend it but should note my view until we have now confirmed that with the affidavits that are there.

CHAIRPERSON: Ja, no that is fine, I wanted to say something about Mr Wagner I think, I don't remember that name but I do recall that on one of the occasions when you
20 were appearing here you did refer to a witness and I think it was in the context of the property, of the issues of the properties that you said as I understood you had deposed to an affidavit or had said something that you said were – did not accord or support a certain narrative, and I think you said he was not called to give evidence.

Subsequent to hearing you saying that I did ask I think I hope I am not mistaken, I did raise it with the legal team to say follow up on this, what is Mr Montana is talking about, because it may be that sometimes somebody expects a certain witness to be called and the witness is not called for reason A, but when that person sees that this witness is not being he or she thinks it is reason B, you know, sometimes there is a good reason but when you know there is not communication and discussion it is easy
10 to think differently, so I am just saying that when you previously mentioned something like that I raised it with the legal team to say they must look into that.

Mr Soni did I raise it with you?

ADV VAS SONI SC: Yes no you did Chairperson, I am going to address it.

CHAIRPERSON: Yes, yes, I do recall that you told me I think a certain answer, ja.

ADV VAS SONI SC: Yes. Mr Montana can I ask you to please look at - we are still dealing with Bundle H, please
20 look at page 198.

MR MONTANA: 198?

ADV VAS SONI SC: Yes.

MR MONTANA: I am there.

ADV VAS SONI SC: So paragraph 24 the report says:

“One of the directors of Midtown Brace, Mr Andre

Wagner, has undertaken to provide an affidavit setting out how it came about that the R11.5million in respect of the Hurlingham property came about.” It is referred to in paragraph 23 and at paragraph 24 the report continues:

“At the time this report was compiled the affidavit had not been furnished to the Commission.”

So that is the answer.

MR MONTANA: Ja, I must ...[intervenes]

10 **CHAIRPERSON:** Well you must read the last sentence as well, I think it is important.

ADV VAS SONI SC: Yes.

“Once it is submitted a decision will be made whether to supplement this report.”

Now Chairperson can I – can I make Mr Andre Wagner’s affidavit available to all of us.

CHAIRPERSON: Okay.

ADV VAS SONI SC: To understand why no decision was made to supplement the report.

20 **CHAIRPERSON:** Okay.

ADV VAS SONI SC: Chairperson this is the affidavit that Mr Wagner eventually submitted to the Commission, now he deals with the, in paragraph 3 with the Hurlingham property, well firstly he says:

“he is a representative of Midtown Brace, it is a

company registered in Botswana and then in paragraph 3 dealing with the Hurlingham property he says Mr Riaan van der Walt and I have known each other since 1992, we are good friends. We have engaged in joint venture agreements during this time, The Elements Golf Estate and property in Keurboom Strand. Riaan van der Walt introduced me to M L Montana which presented a property development proposal. I have never met Mr

10 Montana prior to this introduction. The parties Midtown Brace and Mr Montana agreed to the terms and conditions of such a development and entered into an agreement during 2015. The development encountered several obstacles that resulted in delays and redirection of the original development and agreement. The company is satisfied with the current agreements in place to secure its investment.

To cover the company against any losses we have

20 issued summons against Mr Montana and awaiting default judgment if he defaults again.

I further confirm that the full investment amount was paid over to Mr Montana totalling R11 500 000.”

Then he deals with Midtown Brace and what its dealings

are. He says Midtown Brace was a shareholder in Wetlands Country Retreat, Midtown Brace sold its shares in Wetlands to TMM during 2014 as per a sale of share agreement and in terms of the shareholders agreement. This was my only dealings with Mr Mario Ferreira, the sale of share agreement, preparation and receipt of payments was handled by Mr Riaan van der Walt through an Investec account, you will see two things here does not annex the agreements when he refers to agreements his agreement
10 with Mr Montana and his agreement with Mr Ferreira that – those agreements are not there but what also emerges is there was in fact now a legal dispute between him or his firm and Mr Montana.

Now nothing in the report because when I go through the Hurlingham property Chairperson you will see that that is exactly what he says that mid-town brace aid the R11.5 million in respect of the property. This is what Mr Van Der Walt said in his letter. So based on that and I was one of the decision makers thought that it was not necessary
20 because it does not take the matter any further in relation to the report itself and throwing any further light on the purchase of the Hurlingham property.

CHAIRPERSON: Okay alright. The – the agreement – well the agreements he refers to in 3.1 or 3.2 must be agreements.

ADV SONI SC: With Mr Van Der Walt.

CHAIRPERSON: With Mr Van Der Walt.

ADV SONI SC: Yes. It is 3.5 that the agreement with Mr Montana.

CHAIRPERSON: Okay, okay, alright. Yes okay. Mr Montana do you – I think Mr – what Mr Soni was doing was just to explain why Mr Wagner was not called but the affidavit is here. Do you want to say something on that?

MR MONTANA: Yes Chair I want to say two quick things.

10 **CHAIRPERSON:** Ja.

MR MONTANA: In fact this affidavit remember why – why are we here? Why are we discussing these issues? This commission – the commission investigated property. They did not investigate all my properties. It investigated certain properties where allegations of wrongdoing were in. Okay. Now they mentioned four and I am glad it seems you are making progress.

20 His affidavit okay says no, no, no I am 00:02:55 I am not involved in that and that I have entered into a property transaction with Mr Montana. I gave him R11 million – R11.5 million. He had to put and advertise by the way for your information Chair the agreement I have attached as part of my – to my affidavit.

Now we are looking at properties that Mr Montana all properties for R36 million according to this report. Okay.

Now this affidavit by Mr Wagner he has proved that Chair. It confirms the fact that me and him had a property development and he says I knew Riaan Van Der Walt and I knew Mario Ferreira there but I have got a transaction with Mr Montana and I am not involved in PRASA – I am not involved in anything.

Now when Chair you are – you asking me Mr Soni confirmed Montana bought properties from stolen money effectively that was being said. He has an affidavit Chair I
10 am not dealing with – I will deal with – we are coming to the others. We are dealing with – here is an affidavit it tells us that someone who is involved in farming, in mining get involved in a property deal with me – we buy a property Chair and I will explain the details of that transaction. Okay.

Now by association when they find that ay this guy knows somebody else they say no the money for buying this thing should come from that side is the relationship that we set up to pay Montana corruptly. And Chair the reason why – because you want to hear both sides – you want to hear
20 when I am accused that I bought properties.

But here is the man who is saying to the commission I am deposing to an affidavit and I am saying that the allegation that I brought I bought a property with Montana as part of a corrupt deal. It is false I am not even involved in those – in those kind of transactions. Chair there is no – the

commission interested in the truth there is no way that it will invite Ms De Beer and ignore – because the biggest – probably one of the biggest pro – monies in that R36million comes from Mr Wagner and I wanted the commission to pursue and say we want to – who draws Mr Wagner Chair it is Mr O’Sullivan okay.

Now – now today we are told that this thing does not add value. This thing add value. You know what the value it adds Chair it says the narrative about all these properties is
10 actually false. There it is Chair.

And so – and so Chair I want us to go into detail. I am raising this principle that when the commission says there is no need to pursue okay no I want to prove Chair that the story about R36 million worth of houses bought by Montana is so false it is in the preliminary report and that is why I even looked at the accounts Chair what one of the things that O’Sullivan did was to provide the accounts and you will see that this R36million how that – it does not come from anywhere else – it does not come from an independent
20 investigation by this commission.

Someone was trying to extort money from me I refused again it is in my affidavit and then they decided to go to me and they created a story and I am simply saying Chair that – that this affidavit if somebody makes an accusation that Montana stole money and bought properties

it must also be this affidavit that says no, no, no Montana did not steal money he entered into a property development with me. His contribution to that – I mean when you look at this report Chair let me read the last – the last thing.

The last sentence there. Not the last sentence – the one before – the one before where they are mentioning that – oh no there it is Chair it says:

10 “This man paid R11.5 million and Mr Montana did not even pay a cent. That – that money the R2 million was paid by Mr Riaan Van Der Walt.”

Chair it is false. So here we deal we stand in front of the nation some of us who wake up in the early hours of the morning to go and work for this country they are then being tarnished that we are thieves. I enter into a property deal I put – I sell one of my – one property I put the money into another property okay. This guy if he had – if he had come and inves – and interviewed me Chair or he probably the other people he would have realised that Montana sold 20 property X he did not take that money he paid the bank and I instructed Van Der Walt.

The balance of that money it must go as a deposit into that property or pay for that property that is what I will demonstrate here today Chair. So this story about Montana being rich, stealing from PRASA and buying R36 million

worth of properties and I think we must deal with it and I think Mr Soni you said you are going to deal with – you want to deal with the facts I want to assist you with the facts..

CHAIRPERSON: Ja.

MR MONTANA: But these things that we have before us it is not a fact it is fiction Chair.

CHAIRPERSON: Now Mr Soni or Mr Montana in your affidavit that is saying that in terms of the annexures is there a distinct section where you deal with the issue of
10 properties?

MR MONTANA: No, no Chair in great detail.

CHAIRPERSON: In great detail.

MR MONTANA: I know this is one of the accusations that have been made against me in public.

CHAIRPERSON: Yes.

MR MONTANA: I would not come to this commission and not talk about my properties.

CHAIRPERSON: Yes.

MR MONTANA: Chair I deal with each and every property
20 how each of – each one of them was funded.

CHAIRPERSON: Ja.

MR MONTANA: Precisely because I wanted to put this lie to rest for the last time we do not deal with it Chair.

CHAIRPERSON: You know what I am thinking Mr Soni it may be convenient that Mr Montana gets questioned on the

properties when one has seen what he has to say about each of the allegations connected with all his properties because without that he might spend – we might spent a lot of time because one he is not looking at what he has already written and we could take maybe half the time if we were to do it that way.

ADV SONI SC: No I agree.

CHAIRPERSON: Yes.

MR MONTANA: Chair I have got – I have got everything I
10 have written on this thing it is a...

CHAIRPERSON: Yes.

MR MONTANA: If the commission asks me to read them into record.

CHAIRPERSON: Ja.

MR MONTANA: I can do that now Chair.

CHAIRPERSON: No I think I would prefer to read it before you give evidence because then...

MR MONTANA: Okay Chair.

CHAIRPERSON: Then I would be in a position and Mr Soni
20 would be in a position too – I would be in a position to say in the light of your response the only issues are really ABCD. So let us focus on those issues then we do not have to spend too much time.

ADV SONI SC: Chairperson may I augment that and that we must do because Mr Montana must be entitled to (inaudible).

CHAIRPERSON: Yes, ja.

ADV SONI SC: One of the purposes of the 10.6 directive was to say tell us what you admit and what you do not? So if I am just giving an – that is in addition to what you said Chairperson.

CHAIRPERSON: A background.

ADV SONI SC: It will shorten things a lot more. If I could just take and I am doing it for Mr Montana's sake at page 34 if we are – that is of SS18 Bundle H. Because it says

10 **MR MONTANA:** 34?

ADV SONI SC: Page 34. Paragraph 2 says Mr Montana purchased the Parkwood property on the 4th of July for R1.85 million. Mr Montana can say yes or no. So one then knows that when one is dealing with the – and those are just facts.

CHAIRPERSON: Ja.

ADV SONI SC: I am not asking him to deal with the inference.

CHAIRPERSON: Ja.

20 **ADV SONI SC:** Just the facts. Then we say that in paragraph 3 there – there is a – an email from Mr Montana's private banker which says the property is valued at R3.5 million. It does not mean he accepts the valuation it merely says yes I accept that that is what my client (inaudible). Then at paragraph 4 we say Precise Trade and Mr Montana entered into a purchase and sale contract whereby the

property was sold. So that would just eliminate all the factual disputes and we will get into the real disputes as to where did the money come from.

CHAIRPERSON: Ja.

ADV SONI SC: Mr Montana's explanation being sought. So it is not amending what you are saying it is augmenting Chair.

CHAIRPERSON: Ja. So – so for example – I mean you said already you have got this story. You have your – what you
10 have to say in your affidavit. So when one has regard to whatever the documents say here and what you have to say one ought to be able to say there is no disputes in terms of facts on the following issues. The disputes are only in regard to ABCD.

ADV SONI SC: Correct.

CHAIRPERSON: And...

ADV SONI SC: And it will save us plenty of time.

CHAIRPERSON: Yes. So – ja you want to say something.

MR MONTANA: Chair I have accepted your guidance.

20 **CHAIRPERSON**: Yes, ja.

MR MONTANA: But I also do not want because we are going to now lose purpose – you see Mr Soni – Chair we must not forget what we are dealing with.

CHAIRPERSON: Hm.

MR MONTANA: The investigators know that the property in

Parkwood was bought by me was paid for by me. I do not want to go into detail about it. And – and they are talking about an evaluate – they are talking about the valuation when I bought the property they are not talking about when I bought the – when I sold the property. Okay. Now – now Chair and I think – I think that – I think that the issue while we are discussing the private – the Parkwood property let us remember why we are discussing it it is because they are saying I sold it for R6.8 million above the valuation. They
10 are not telling you what the valuation – the valuation was – they are taking the valuation that I got when I bought the property because the bank had to finance me so it did a valuation of the property and it says no we can finance it because the value of the property it is far above the value of the bond you are requesting.

So the grant – they give me a bond but to – that story is created that no Montana he sold it for R6.8 this property is worth R3.3 or R4 million okay. They are not telling you Chair that the property was – I am not being asked how did he
20 develop this property? How much did you spend on it and everything?

Chair I have got pictures fortunately I have got pictures of this property then and now. I bought a wreck Chair. The bank financed us because of its location it is far above that. I modernised the property. What these people

want Chair you do not even evaluation – they said they heard their neighbour saying this property should be R4. - a neighbour who has not even been inside my house he knows the value of this property.

And then Chair they are saying he sold it for R6.8. You know what the R6.8 is saying? So they are saying between the R3.3 that the bank evaluated when I bought the property and when I sold it they then say it is a bribe from Riaan Van Der Walt. Okay Chair so I do not want us to deal
10 with this thing as if – as if...

CHAIRPERSON: No, no I – that is important. In the end – in the end you are right to say to the extent that this is on the basis of suspicion that it is a bribe this is my answer. It is not or it cannot be because of these facts. So – so we must not forget that – that is important.

MR MONTANA: No Chair I will keep on reminding the commission

CHAIRPERSON: Ja.

MR MONTANA: Respecting progress and I think Mr Soni
20 and I agreed.

CHAIRPERSON: Ja.

MR MONTANA: That we must move with speed.

CHAIRPERSON: Ja.

MR MONTANA: But Chair again Mr Soni when he augment he said Regulation 10.6 Chair I do not want to go back. I

have said it on record.

CHAIRPERSON: Ja. Ja.

MR MONTANA: Chair and I have said to the commission I wrote a – to the commission you as a commission issuing a 10.6 against me you are going to the Chair to ask for a 00:16:52 2.6. You know it is unlawful to ask the chairman to do that because I have already agreed – I have already put a draft affidavit and so Chair go back my first draft I gave to this commission in 2019 – August 2019 I am already writing
10 about my properties.

I never Chair I am not hiding anything. The commission was trying to manipulate things and I said no I stick my ground I refused and that is why Chair when he look back and I spoke to some people within the commission I asked how do you after I have given a draft and make a commitment respond to all Rule 3.3 Notices and all the allegations that have been made against me why would you go and ask the Chair to issue a 10.6?

And I said we are going to fight because I am not
20 going to accept it and actually I know what you guys are – because Chair the commission's legal and investigating teams they were trying to impose – and they were trying to get certain things that they want for this commission in respect of me. And that I want 00:17:55 Chair was to refuse I say we are going to put the total picture so I want to

answer these questions okay but I am going to at various stops – stages ask the Chair with your permission Chair (speaking in vernacular).

Chair can I come in there because I am giving this example Chair if you listen to people like Montana has been paid a bribe I want to put before the Chair this property when I bought it the wreck it was and the value by the bank – what work I did and what was the end product and then ask.

But if I am told I do not even know which neighbour
10 tells Paul O’Sullivan that I bought a property – that this property should have been R4.8 the neighbour who cannot even develop his own property yet he can – he can provide an opinion on the value of my property then this commission come and ask me and say no, your property should have been R3.3. Chair it is shocking. But I leave it at that – answer the questions.

CHAIRPERSON: Ja.

MR MONTANA: And then Chair as long as you are admit me where I feel very strongly on these things.

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

MR MONTANA: And then you can correct the facts you allow me to come in.

CHAIRPERSON: Ja.

MR MONTANA: In that respect.

CHAIRPERSON: How far – how far are you and the legal

team to finalising the annexures for the affidavit?

MR MONTANA: No, no tomorrow Chair. I think we have now – we have even identified areas that the commission should focus on.

CHAIRPERSON: Ja.

MR MONTANA: So Chair I think we are one – I think the fight is gone.

CHAIRPERSON: ja.

MR MONTANA: We are no longer fighting – I am here.

10 **CHAIRPERSON**: Ja.

MR MONTANA: I will testify Chair.

CHAIRPERSON: Ja.

MR MONTANA: So tomorrow I give them all the evidence.

CHAIRPERSON: Yes.

MR MONTANA: And then we move forth on that basis Chair.

20 **CHAIRPERSON**: The reason I ask Mr Soni you remember that – and Mr Montana would remember that I did say previously what we will do with the affidavit once it has – it is ready it is something we decide – that I will decide then because of the time constraints.

Now if Mr Montana's assessment that tomorrow whatever is left we finalise – should be finalised if that is correct then it may be that all we need is that it gets finalised tomorrow and then one can look at it with special reference to the section relating to the properties and then

take it from there.

It may well be that when his response to the issues of properties is looked at is considered it may well be that it might be necessary to maybe do some further limited investigation of some issues.

ADV SONI SC: Yes.

CHAIRPERSON: I do not know. Or it may be that it is not necessary. But certainly in relation to properties I – it is going to be important that or I hear what he has to say and
10 as I say I want to hear when there is something in writing and then what one does with the balance of the affidavit might also be something to look at.

If the position is that the section on the properties is – has got to be dealt with because that is part of what he was asked to respond on but maybe he is not going to get a chance to give all the evidence about other matters that has – the affidavit it may well be that – you might consider whether there should be a separate affidavit that just extracts from the – from his affidavit the section that deals
20 with properties you know.

So – so it seems to me that – but let me find out is it your understanding too that tomorrow the issue of annexures and whatever in regard to his affidavit might be sorted out?

ADV SONI SC: Chairperson let me say I have for various reasons have not involved myself.

CHAIRPERSON: Ja.

ADV SONI SC: In dealings with Mr Montana outside the commission.

CHAIRPERSON: Yes.

ADV SONI SC: Ms Gatanga is ...

CHAIRPERSON: Yes do you want to find...

ADV SONI SC: Is – they have arranged that already.

CHAIRPERSON: Yes.

ADV SONI SC: It was supposed to happen on Friday it did
10 not. As I understand it that is the arrangement for tomorrow.

CHAIRPERSON: Oh but in terms of whether it can be finalised the process can be finalised tomorrow? Is she in agreement as well?

ADV SONI SC: She thinks by Wednesday Chair.

CHAIRPERSON: By Wednesday. Okay. In any event that is quite close.

ADV SONI SC: Quite close.

CHAIRPERSON: I think ja. So I think therefore what we should do is not move forward on the issue of properties for
20 now.

ADV SONI SC: As you please Chair.

CHAIRPERSON: Let us get that part sorted out and then once I have seen what he has got to say on the properties then we can take it from there. Okay. Is that fine Mr Montana?

MR MONTANA: No Chair I think it is fair I am happy with that.

CHAIRPERSON: Ja it is fine. Ja. I think what – what the effect of that arrangement for present purposes is therefore I guess that if there are other matters but I think the – you know the Oellermann document was the last.

ADV SONI SC: It is yes.

CHAIRPERSON: The one that you wanted – ja so from your point of view you have nothing further.

10 **ADV SONI SC:** No nothing further Chair.

CHAIRPERSON: For today.

ADV SONI SC: No.

CHAIRPERSON: Okay. And I guess that to the extent that Mr Montana has throughout indicated that he deals with certain things in his affidavit – in his affidavit we cannot deal with those either because the affidavit must still be finalised in terms of annexures.

ADV SONI SC: Yes.

20 **CHAIRPERSON:** So that being the case I think it would mean we should adjourn on the understanding that soon another date will be given maybe another evening and then we take it from there. Is that alright?

ADV SONI SC: Yes.

CHAIRPERSON: Okay alright. We are at seventeen minutes past four so I think let us adjourn then and then we will

arrange a date but the sooner the process of sorting out the annexures to his affidavit is finalised the better.

ADV SONI SC: Yes.

CHAIRPERSON: Okay alright. I think we adjourn. Ja. Okay we are going to adjourn for the day. We do not have an evening session today. We were going to probably have it if we were continuing with Mr Montana. Tomorrow for the benefit of the public I will be hearing Mr Koko's evidence in regard to Eskom. Ja. Okay alright. We adjourn.

10 **ADV SONI SC:** As you please Chair.

REGISTRAR: All rise.

INQUIRY ADJOURNS TO 4 MAY 2021