

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

**06 MAY 2021**

**DAY 390**



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

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TRANSCRIBERS:

B KLINE; Y KLIEM; V FAASEN; D STANIFORTH



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**PROCEEDINGS RESUME ON 06 MAY 2021**

**CHAIRPERSON:** Good morning Mr Notshe, good morning everybody. Your mic is not on Mr Notshe.

**ADV NOTSHE SC:** Good morning Chairperson.

**CHAIRPERSON:** Yes thank you.

**ADV NOTSHE SC:** Thank you.

**CHAIRPERSON:** Are you ready?

**ADV NOTSHE SC:** Chairperson we are ready to proceed.

**CHAIRPERSON:** Okay let us just place on record Mr  
10 Wakeford's legal representatives. You can do it from where  
you are if your mic is working.

**ADV WILLIS:** Good morning Mr Chair.

**CHAIRPERSON:** Good morning.

**ADV WILLIS:** I confirm my appearance once again on  
behalf of Mr Wakeford.

**CHAIRPERSON:** Thank you.

**ADV NOTSHE SC:** Chairperson we also have Mr Witz who is  
the representative of Mr Agrizzi.

**CHAIRPERSON:** Oh yes.

20 **ADV NOTSHE SC:** Can he put himself on record Mr  
Chairperson?

**CHAIRPERSON:** Oh yes – yes ja please yes.

**ADV WITZ:** Yes morning Chair.

**CHAIRPERSON:** Good morning.

**ADV WITZ:** (Inaudible)

**CHAIRPERSON:** Thank – thank you. Thank you. Okay I think then Mr Notshe for the benefit of the public you could just outline what Mr Wakeford's evidence will – will cover then we can start.

**ADV NOTSHE SC:** Thank you Chair. Chair the genesis of Mr Wakeford's appearance today is the evidence of Mr Angelo Agrizzi which he gave wherein he made references to the activities of Mr Wakeford so far as BOSASA is concerned.

10           The three main issues Chair that are involved there is

1. Mr Agrizzi's evidence was to the effect that when BOSASA had problems with SARS Mr Gavin – the late Mr Gavin Watson suggested that services of Mr Wakeford should be obtained so that he can assist BOSASA in that regard.
2. Secondly there was the issue of the renewal of the contract of BOSASA with Home Affairs – Department of Home Affairs regarding the Lindela Repatriation Centre.

Chair you will remember Lindela is – was a BOSASA was ...

20 **CHAIRPERSON:** Yes I think I do remember what Lindela was ja.

**ADV NOTSHE SC:** Yes. And then the – when they were – when they were negotiating their contract there it was then suggested that again Mr Wakeford should be – his services should be obtained and then he then got in contact with Mr

Aniel Radhakrishna who was then working for a company who was charged by Home Affairs to negotiate with BOSASA. And then thirdly there was the issue of – still with the issue of SARS Mr Wakeford – the evidence of Mr Agrizzi that Mr Wakeford then brought in Mr Papadakis who was working for SARS and the purpose was that he would then assist BOSASA in problems with SARS.

The evidence of Mr Agrizzi to the effect that all these people were paid Mr Wakeford was paid by BOSASA, Mr  
10 Papadakis was paid and also Mr Aniel Radhakrishna was also paid by BOSASA.

Chair you will see in the – in front of you there is a file. The file is – is BOSASA Bundle 4 and it is Exhibit 33. In it Chair you will find what has happened – and then Chair.

**CHAIRPERSON:** Well the files could not be an exhibit. The exhibit should be Mr Wakeford's affidavit or statement.

**ADV NOTSHE SC:** Yes.

**CHAIRPERSON:** Ja. But this is the bundle, Bundle – BOSASA Bundle 4.

20 **ADV NOTSHE SC:** Yes.

**CHAIRPERSON:** Ja.

**ADV NOTSHE SC:** And then Chair after Mr Agrizzi had testified Mr Wakeford then gave – applied to cross-examine Mr Agrizzi and then he brought an application supported by a founding affidavit. Mr Agrizzi answered to that and then

Mr Wakeford replied to that. And also Mr Vorster filed also the affidavit to which Mr Wakeford answered and there was a reply to that.

This – they are also contained in this bundle that is in front of you. Chair you will find then – then in the end in preparation for today's hearings and Mr Wakeford filed an affidavit. It was filed yesterday afternoon. The affidavit will – it will appear on item 12 of the bundle in front of you.

Unhappily Chair the – there was a problem with  
10 printing the annexures to the item to the affidavit by our office but the – the attorneys of Mr Wakeford had provided me with a hard copies of the affidavit and the annexures. I have given the – the Chair's secretary that – so that in the meantime whilst we are waiting for the bundles to be put into the file we can go on with the printed copy. Your secretary has them.

At least that is where we are. And then Chair I have also explained to Mr Wits that what is going to happen is we will proceed without the answer from Mr  
20 Agrizzi to this affidavit.

Then Mr Agrizzi is at liberty to file an answer thereto if he so wishes. Mr Wits understands that. He was also – I have also sent him the affidavit of Mr Wakeford the one that was filed yesterday.

**CHAIRPERSON:** Ja okay no that is fine. That is fine.

**ADV NOTSHE SC:** And then Mr Wakeford is here now to testify.

**CHAIRPERSON:** Yes. Please administer the oath. Good morning Mr Wakeford. Good morning. Please administer the oath or affirmation.

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

**MR WAKEFORD:** Kevin Peter Edwin Wakeford.

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

**MR WAKEFORD:** No objection.

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

**MR WAKEFORD:** I do.

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

**MR WAKEFORD:** So help me God.

20 **CHAIRPERSON:** Thank you. You may be seated. I just want to say this for what it is worth. As the commission tries to wrap up its work and with the time constraints that it has there may matters where by the time the commission wraps up its work where it feels that it has not had the benefit of all the evidence it might have wished to have or

where further investigation may need to – may have needed to be done and in those circumstances it is possible that the commission may in its report not make any findings in regard to those matters on the basis that more investigation need to be done or more witnesses – certain witnesses maybe were not heard in which case it might leave it to law enforcement agencies to see whether they want to take certain matters further.

So I am just mentioning that there is that possibility  
10 of that happening because of time constraints and particularly in matters that fall outside what we have called public protector issues.

The matters that we call public protector issues are the issues that the Public Protector had identified as the matters that should have – should be investigated by this commission.

Now those matters are matters that are largely related to the Gupta's and the former President. But as some of you would know when the terms of reference of the  
20 commission were formulated by the former President they went much wider than the issues that the Public Protector had identified as the issues that should be investigated by this commission.

So as a result of that at the end of 2019 when I applied to the High Court for the extension of this



commission's time I indicated that from then on we would try and focus more on what I call the Public Protector issues because if one were to investigate all the matters that fall under the wide Terms of Reference we would take ten years or so.

So – so I am just mentioning that it seems that we may have situations where in regard to some matters we have run out of time – we have not you know heard everybody or the investigations were not complete so we  
10 might have situations where I consider that it was not appropriate to make any findings but maybe leave it to the law enforcement agencies if they think they want take whatever we have done further and investigate further.

So I just thought I would mention that for the benefit of everybody. Okay.

**ADV NOTSHE SC:** Thank you Chair. Now Mr Wakeford you would have made a number of affidavits. You apply – when you applied to cross-examine Mr Agrizzi then Mr Agrizzi answered and replied. There was an additional  
20 affidavit you replied thereto but the latest is the affidavit that you filed yesterday. That was filed on your behalf yesterday.

Now in front of you there is a file and in that file if I can ask you to turn to what is marked as Item 12 and do you confirm that what you are – what appears there on –

there is – if you look at the top of that page where at the top of the left – or the left top of the page – top - top of the page it is BOSASA 04852, you see that?

**MR WAKEFORD:** I confirm Chair.

**ADV NOTSHE SC:** Yes that is where this affidavit begins and you will see below that there is content – there is a content page and on the other side then there is your – your full names. Right. Now before we go any further let us do some housekeeping. When we refer to pages I say it  
10 is BOSASA 04852 I am referring to the black numbers and I might not refer you to read the whole issue I might just refer to the number – I am referring the number.

And then Chair we – Mr Wakeford has got his affidavit – the original – his affidavit that he had printed – he has made some marks on the affidavit and then I have indicated to him that we might do so that we can – it does not get lost he can refer us when he is referring to his affidavit to what is printed in his affidavit and then I will be able to direct it where it sits in the file.

20 **CHAIRPERSON:** Okay. Okay.

**ADV NOTSHE SC:** Now Mr Wakeford you heard me when I was addressing the Chairperson.

**CHAIRPERSON:** Just hang on one second Mr Notshe I am just trying to think whether that is not going to be confusing to those who read the transcripts later after the

commission has finished its work because ideally when you refer to a particular document the page number should be the same for everybody. So – but I think you are doing that because you are still waiting for the annexures, is that right?

**MR WAKEFORD:** We are still waiting for the annexures but secondly Chair Mr Wakeford in his preparation he prepared on his own – on his own affidavit – the copy at home.

10 **CHAIRPERSON:** Ja.

**ADV NOTSHE SC:** He did not prepare on this. He has made marks on his own copy and he has marked it. But what I was suggesting Chair is that in the instance.

**CHAIRPERSON:** I do not want – what I want is whether it is you or him when you say page so and so we must all be on the same page. From what you are saying I got the impression that he might give a page but on mine it would be a different one or yours.

**ADV NOTSHE SC:** Yes.

20 **CHAIRPERSON:** Ja that is what I am ..

**ADV NOTSHE SC:** What I have guided him to do Chair is that I have guided him and told him that the – he will have the typed page on his document.

**CHAIRPERSON:** Hm.

**ADV NOTSHE SC:** But in the left hand corner of what – on

our file is number – that number has got a page. That is what then he might say to you Chair can I take you to page 19 but BOSASA 8704 for the record.

**CHAIRPERSON:** Ja no I do not want to hear the other page that I do not have. I want to hear only the one I have.

**ADV NOTSHE SC:** That is fine.

**CHAIRPERSON:** But there is no reason why he cannot do that. Mr Wakeford because you would know what you have  
10 in terms of your own document but you would know what page so you just tell us only the page that we also have. Is that alright?

**MR WAKEFORD:** Yes – yes Chair I will operate.

**CHAIRPERSON:** Ja it can be done.

**ADV NOTSHE SC:** That is fine then.

**CHAIRPERSON:** Ja.

**ADV NOTSHE SC:** Then that is fine.

**CHAIRPERSON:** Okay alright.

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

20 **CHAIRPERSON:** Okay.

**ADV NOTSHE SC:** Now Mr Wakeford the – you heard me when I summarised to the Chairperson – to the Chairperson why you are here and the issues that you are dealing with.

Can you in your own words just respond to those

issues that are before the commission and then we can then go to details about that.

**CHAIRPERSON:** Actually that – that – I think that is a good suggestion. It may well be that it might be quicker the way you suggesting. So in effect if I understand correct – you correctly Mr Notshe and you must tell me if I misunderstood you what you would like is that on the topics which you have given Mr Wakeford can give his side of the story.

10 **ADV NOTSHE SC:** Yes, Yes.

**CHAIRPERSON:** And finish and then you can then question him on the matters and it is the question of either we take one topic and he gives his side of the story, you question him, he finishes or whether he gives his side of the story on all the topics and thereafter you question him. Which one is the (talking over one another).

**ADV NOTSHE SC:** Chair I would like it if he gives us the whole story.

**CHAIRPERSON:** The whole story.

20 **ADV NOTSHE SC:** Yes because then..

**CHAIRPERSON:** No that is fine – that is fine.

**ADV NOTSHE SC:** And then – and then we go into details on that.

**CHAIRPERSON:** Yes.

**ADV NOTSHE SC:** Of – of the affidavit.

**CHAIRPERSON:** So basically Mr Wakeford it is an opportunity to tell your story without questions and questions come later. It might make things to go faster.

**ADV NOTSHE SC:** Yes.

**CHAIRPERSON:** Ja. Okay.

**MR WAKEFORD:** Thank you very much Chair. Chair I think what I am going to do is to firstly give you my high level response.

**CHAIRPERSON:** Okay that is fine.

10 **MR WAKEFORD:** And then we can get into the meat of the (talking over one another).

**CHAIRPERSON:** Into – okay. That is fine.

**MR WAKEFORD:** If that is okay with you Chair.

**CHAIRPERSON:** That is fine ja.

**MR WAKEFORD:** But I think it is always important for witnesses to speak to their understanding of things.

**CHAIRPERSON:** Ja.

**MR WAKEFORD:** So my understanding is this Chair that there were a bunch of false allegations made against  
20 myself and I am sure many other people.

The one allegation and if I can refer you Chair because I am going to go to part of the – the document to page it says BOSASA 04902 – 902. The top left hand number is that correct?

**CHAIRPERSON:** Okay I have – ja I have got it – I have got

that.

**MR WAKEFORD:** So it says:

“Allegations and mandate of the  
commission.”

So the allegations and I am going to read this Chair  
because this is probably the nexus of what I think you need  
to hear in particular and the broader court of public  
opinion.

The allegations made against me can only be  
10 assessed within the scope of the mandate of the  
commission in order to establish whether I am implicated  
within the mandate as alleged or not.

The mandate of the commission is to investigate  
allegations of state capture, corruption and fraud in the  
public sector including the organs of state.

The allegations made against me by Agrizzi and  
Vorster have been fabricated and the facts twisted so as to  
suggest corruption and fraud in the public sector and to  
bring me within the mandate of the commission however  
20 there is no evidence to support these fabrications.

And Chair I think you will find within my pack I am  
probably certainly with regard to the BOSASA work stream  
one of the few witnesses who speaks to facts and  
substance with evidence backing it up.

However there is no support – no evidence to

support these fabrications. On a correct assessment of the allegations the main issues in dispute in respect of the allegations made against me and within the mandate of the commission are correctly identified as

1. When Mr George Papadakis I will refer to him as Papadakis in future resolved a major tax investigation at SARS between the 10<sup>th</sup> of March 2008 when Papadakis was first employed at SARS and the 26<sup>th</sup> of February 2009 when the first order of cement alleged to have been placed with WG Wearne for delivery to Meyersdal Eco Estate.

**ADV WILLIS:** Sorry Mr Chair.

**CHAIRPERSON:** Yes.

**ADV WILLIS:** I beg your pardon.

**CHAIRPERSON:** Yes.

**ADV WILLIS:** For interrupting Mr Wakeford I am following him in the affidavit but he – I heard the first word that he read wrong which changes the context. The first word was whether.

20 **CHAIRPERSON:** Oh okay.

**ADV WILLIS:** So it poses the question.

**CHAIRPERSON:** Ja okay.

**ADV WILLIS:** Thank you Mr Chair.

**CHAIRPERSON:** Ja okay. You got that Mr Wakeford?

**MR WAKEFORD:** Thank you Chair.



**CHAIRPERSON:** Yes.

**MR WAKEFORD:** Whether I influence the Department of Home Affairs to extend the initial Lindela contract between BOSASA and the Department of Home Affairs which I will refer to as DHA beyond the tenure period ending the 31<sup>st</sup> of October 2015 or extend other financial benefits embodied in the addendums relative to the initial contract.

The second issue – the secondary issues in dispute Chair can be summarised as

- 10        1. Whether payments of R100 000.00 per month were paid to me as a fee for providing service in relation to the particular SARS investigation that Papadakis is alleged to have resolved at SARS between the 10<sup>th</sup> of March 2008 and the 26<sup>th</sup> of February 2009 or as catch-up payments of my monthly consultancy fee of R50 000.00 including VAT as I say they were.

And then the second one.

- 20        2. Whether cement to the value of R600 000.00 was provided by BOSASA to Papadakis in exchange for him influencing the alleged major SARS investigation in between the 10<sup>th</sup> of March 2008 and the 26<sup>th</sup> of February 2009.

3. Whether payments were made by BOSASA to Radhakrishna in exchange for him awarding BOSASA with a five-year extension to the initial Lindela

contract.

And Chair let me just explain the initial Lindela contract was in 2005 before my time at Home Affairs as the Minister's Project Turnaround Advisor and before Aniel Radhakrishna had arrived. So it was a good two years before that had happened.

Based on the evidence in the commission's possession the main issues in dispute can immediately be dispensed with on the basis of the following:

10           Sorry Chair my mouth is getting dry.

**CHAIRPERSON:** No, no that is fine. That is fine.

**MR WAKEFORD:** Based on the evidence in the commission's possession the main issues in dispute can be immediately dispensed with and Chair I think you will find this interesting.

20           1. Papadakis could never have assisted BOSASA in resolving any major investigation at SARS before the 26<sup>th</sup> of February 2009 as it is common cause between all parties that no SARS investigation existed before the 23<sup>rd</sup> of March 2011 with the first notification of an impending audit being made on the 18<sup>th</sup> of August 2010 thus the first SARS investigation into BOSASA commenced two years subsequent to this February 2009 timeframe.

2. No five-year extension to the 2005 Lindela contract

between BOSASA and the DHA was awarded to BOSASA within the second and third addendums to the contract while me and or Radhakrishna were affiliated with the DHA. No other financial benefits to BOSASA appear within the second and third addendums to the original Lindela contract.

So Chair the important point is 2 – 202.2. No five year extension to the 2005 Lindela contract between BOSASA and the DHA was awarded at all and we have the evidence  
10 and the contract addendums to prove that.

We also have done some number crunching to prove that in fact a lot of money was saved for the fiscus post the turnaround intervention.

The secondary issues Chair in dispute can immediately be dispensed with on the basis of the following.

1. My banking records, BOSASA financial records and email records between myself and Agrizzi all confirm that I was employed as a consultant to BOSASA from 2006 to April 2015 on a monthly retainer of R57 000.00  
20 including VAT or R50 000.00 excluding VAT. This amount never changed. The only occasions on which I was paid R100 000.00 per month for – were – when I had not been paid my retainer in previous months. It is for these reasons that the average of my receipts from BOSASA for the 107-month period was only

R58 461.57 as an average.

2. Papadakis could not have received cement in 2009 as compensation for influencing a major SARS investigation as no SARS investigation occurred over this period and indeed the first audit conducted only commenced two years later in 2011.

And Chair I think the investigators of the commission have done a very good job in assembling a lot of the evidence for us which speaks to exactly when cement was  
10 delivered.

I remain silent in previous affidavit because I was advised by Advocate Willis to do so because Mr Papadakis had not responded and he did not believe it was necessary to cooperate with this commission as – whereas my view is I had to cooperate and we had to get to the bottom of this.

I could not have facilitated any payments to Radhakrishna in return for awarding a five-year extension to the Lindela contract when verifiably no such extension was ever awarded.

20 So Chair –

**ADV WILLIS:** Sorry Mr Chair could I again interrupt at that juncture.

**CHAIRPERSON:** Yes.

**ADV WILLIS:** It is necessary with your leave.

**CHAIRPERSON:** Ja.

**ADV WILLIS:** Mr Chair Mr Wakeford has referred to both Mr Radhakrishna and Mr Papadakis he just referred to the fact that we awaited particularly Mr Papadakis' version which was promised to us as Mr Notshe will confirm some time ago – late – this – the last half of last year in fact. We received as was submitted to you yesterday informed – you were informed by Mr Notshe we received the affidavits of Mr Papadakis, Mr Radhakrishna for the first time as well as Mr Agrizzi's response to the affidavit of Mr  
10 Radhakrishna yesterday morning for the first time. They had not been worked into these affidavits but they will be before you and I hope you will have regard to them but they are both very powerful affidavits which entirely support what Mr Wakeford will testify to you today we are not going to be making oh he will not be making much reference to them because of the time constraints.

**CHAIRPERSON:** Ja.

**ADV WILLIS:** Thank you Mr Chair.

**CHAIRPERSON:** Okay alright.

20 **ADV NOTSHE SC:** Chair just on that never mind any wrong impression be created the affidavits were not made available to Mr Wakeford's attorneys because the investigators were awaiting the response of Mr Agrizzi to those two affidavits. We finally we got the response of Mr Agrizzi hence then we gave them the affidavits at this

stage.

**CHAIRPERSON:** Okay.

**ADV WILLIS:** Yes indeed so Mr Chair that I should have maybe indicated to Mr Notshe.

**CHAIRPERSON:** Yes.

**ADV WILLIS:** So there is no blame imputed to the Commission, thank you.

**CHAIRPERSON:** You may continue, sir.

**MR WAKEFORD:** So, Chair what I have done is. I have  
10 spoken to what I believe is the nexus of everything that I  
am going to say today but merely to unpack it more and to  
– some consultants would refer to it as a deep dive and to  
have a good look at everything.

**CHAIRPERSON:** Ja.

**MR WAKEFORD:** And I am happy to be stopped at any stage, Chair.

**CHAIRPERSON:** Yes.

**MR WAKEFORD:** If you feel ...[intervenes]

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

20 **MR WAKEFORD:** And Chair I am going to attempt not to  
ramble on. So I am going right back to the beginning of  
this affidavit which starts on page 85 – BOSASA 04852 but  
I – Chair, with your permission. I am going to dispense  
with the formalities.

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

**MR WAKEFORD:** So ...[intervenes]

**CHAIRPERSON:** Ja.

**MR WAKEFORD:** What I deposed to, the introduction...

**CHAIRPERSON:** H'm, ja.

**MR WAKEFORD:** Because I have spoken to a lot of that already.

**CHAIRPERSON:** Ja.

**MR WAKEFORD:** And even in the denial. Chair, just to say that for the record I deny what has been said.

10 **CHAIRPERSON:** Ja.

**MR WAKEFORD:** Then I move on Chair. I am not going to go into the prologue.

**CHAIRPERSON:** Yes.

**MR WAKEFORD:** Purely because, I think as we get into the meat of it, a lot of the substance there would be covered and I do not want to whinge and whine about my Rule 3 rights that had been abused.

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

20 **MR WAKEFORD:** Because we are all adults and we all have to sometimes – I think Advocate Pretorius referred to as there is always collateral damage.

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

**MR WAKEFORD:** But in the interest of the nation Chair and the truth, I would like to start on – I will give you the exact page number Chair.

**CHAIRPERSON:** H'm? Mr Notshe, you must remember when Mr Wakeford has finished before you start your questions that we should have his affidavit admitted as an exhibit.

**ADV NOTSHE SC:** [No audible reply]

**CHAIRPERSON:** Ja, okay. You may continue.

**MR WAKEFORD:** So, Chair ...[intervenes]

**CHAIRPERSON:** ...for the record.

**MR WAKEFORD:** At page – BOSASA 04865 and it refers  
10 to the - my relationship with Gavin Watson.

**CHAIRPERSON:** Yes.

**MR WAKEFORD:** So – the late Gavin Watson, Chair.

**CHAIRPERSON:** H'm.

**MR WAKEFORD:** So I start off. Chair, just to qualify something because my primary relationship with the Watson family was with Ronnie and Valence Watson. In fact, Chair I met them as a youngster. I was a student at the University of Port Elizabeth in the mid-80's. I was recruited into an ANC underground cell, a structure that  
20 ultimately reported into Mpom-swaye-poliso(?) [phonetically] and I was rigorously schooled in the politics of the underground at that time.

And of course, as you would know Chair, being – as the Xhosa [speaking vernacular]. It is not very easy at times to operate within a society that was heavily



brainwashed in particular against the Watson family. And you will remember Chair their house was burnt down, their businesses went bankrupt, their bank – the banks pulled the loans and required them to pay back and of course it was a disaster for the family.

But during that time, Chair, let me say that and I am speaking off the script but let me say that as a family one could never question their commitment to the struggle and democracy and non-racialism and the huge abuse that  
10 the family suffered both at the hands of fellow white citizens and at the hands of the state.

I remember them clothing and resourcing youngsters who were leaving the country just after the 76 rights and onward. They owned clothing shops, they provided shoes, clothing and usually a bit of money to get out of the country for certain ANC recruits. I do also remember taking them through Chair as a family because they had literally ran out of...

So during the period Chair, 1999 to 2002 I was  
20 the Chief Executive of the SA Chamber of Business and during that time Chair, you will also remember, I am sure, because I am sure you know Judge Myburgh, I was a whistle-blower in the rapid depreciation of our currency. I had received information from a source whom I never disclosed and I never will.

But you will remember that as a consequence of that whistle-blowing activity, my life took a very different turn and as Cees Bruggemans of FNB said on Moneyweb Radio, he said: Wakeford is now unemployed. So it was as a result of that action and maybe one day around a fire we can talk about those things if I ever have that privilege of meeting you personally, but I will not extrapolate on that now but just to say this that I had to become a consultant because I would never had survived and my harmony(?)  
10 would never have survived.

And one of the consultancies that I did get and in fact was as a result of an intervention of Valence Watson who spoke to Gavin Watson and said: Surely, you can make use of the former SACOP's CEO. Surely, he can add some value to your business. And that is when I was contracted mid-2006 to provide consultancy services which were varied and I am sure if you read the body of the evidence ranging from business opportunities submitted through to political economic analyses but really looking at  
20 the threats that the business was encountering.

Chair, let me just quickly give you an overall picture of BOSASA because it is unfortunately in my view it became the victim of a witch hunt and it started long before the Zondo Commission. And during that time Chair it, in my view, was probably at a practitioner level. It was

a company that led the pack in terms of understanding the essence of black economic empowerment and bringing dignity to people.

So it was a company in terms of its balance scorecard, top performer level one. And I heard the counter discussions around that but the truth is, if you went there everyone was proud of what they were doing. It was managed essentially with the acceptance of what I call the fifth column or a few Whitley's.

10                   It was managed, as many people would say by [speaking vernacular]. And its board was black with the exception of Gavin Watson. The shareholding was 70/75% black. The staffing throughout from bottom to top was black, African and it was not about nominal jobs either. It was about people becoming heavily involved in the day to day economic activities of that company.

                  And yes they want some state contracts but to say and I find it absolutely absurd, some people in the press claiming that billions of rands of contracts. The truth  
20 is that if you had to take Bidvest as an example Chair and I am not targeting Bidvest but Bidvest was a mainstream company with I am sure a lot of white managed but they masses state contract and they still do to this day, from gardening right through to security, to catering, to logistics, huge state contracts.

I am sure BOSASA would be a little pimple in terms of what Bidvest had in the broader political economy and I am sure that I can refer to other examples as well but for the sake of time, I will not. But to say Chair that I believe this company and that is what motivated me as a person and as a professional to see where we were under threat.

But why were we at threat? We were at threat, and I say we because I was merely a part-time consultant  
 10 but I had other clients. But I stuck with them without an increase for nine years, I stuck with them because I believed in their vision otherwise I would have walked away. And the vision was putting to practise and the vision was empowerment cannot be about passive shareholding by African people.

Empowerment has got to be about the workforce having a share and about black ownership who at least black control of the company and that is what it did have. Chair, I met a youngster the other day who was Facilities  
 20 Manager at the Krugersdorp Campus, the HQ of BOSASA and he recognised me at a hotel in Houghton. He was the Facilities Manager, today is a waiter.

It gives you an idea of what Gavin Watson and others did to uplift people. He took youngsters out of the juvenile criminal programme and brought them eventually

before judges and had them exonerated or give them some form of relieve and employed them Chair. Employed them. And they became leaders within the organisation.

So you know this picture painted of the Watson's generally and of Gavin in particular is not true. And I must say this because I believe at some stage there will be a more balanced view in our societies but the Watson's give white people credibility and legitimacy in this country. If it were not for people like that and I am sure there are others  
10 and one can name them, Neil Argot, Joe Slovo.

One can go on and on but the point is, it is those people who played township rugby and then built companies that were empowered and that treated black people as equals not as economic slaves, not as subordinates. It is people like that that we should treasure and give national awards to not treat them like they have sold out the bagging(?) system of the freedom chart. They have not.

So Chair, if I could then leap into my relationship  
20 with Agrizzi because it gives context and that is – it starts on page 04866. Chair, my relationship with this man was ten years and unproductive from the very start. My appointment has been suggested – had been suggested directly by Gavin Watson and by the Watson family in 2006 due to his personal experience with me which I believed

angered Agrizzi as he saw anyone who had a direct relationship with Watson as a threat to Agrizzi's own relationship with Watson and control of the business and I will talk about control of the business just now Chair.

Sometime after meeting Agrizzi I expressed to Watson my concerns about Agrizzi's character and attitude. BOSASA was a growing black economic empowerment business which could be become a benchmark for how black economic empowerment principles could be  
 10 successfully implemented. Agrizzi, on the other hand, appeared to view economic inclusion and Afrocentricity as a burden rather than a necessity.

I remember going to – and I am not going to read this direct – I remember going to the Silverstar Casino Conference Centre in my early days as a consultant. I had to speak about corporate governance and my experience at the commission into rapid depreciation of the rand, et cetera, and Agrizzi came to me afterwards and said to me, and I cannot remember his exact words but that he did not  
 20 really believe that or have confidence in black management or leadership in spite of trying to put portray himself as otherwise to Watson and the board of directors at the time.

And let me also say, he ingratiated himself to such an extent that my relationship with Watson was tenuous as well because I challenged him on a number of

matters and his accused was: Oh, it is the rainbow nation. Now, Kevin, everyone – you got to give everyone a chance to transform. Strangely enough Chair, he admitted to you in oral evidence that – he said: Chair, I am a racist. But he concealed it for a long time. For a long time.

Strangely enough, Agrizzi in his affidavit to the Commission on 8<sup>th</sup> of April 2019 denied my claims as to his racism in an attempt to reposition, and that is interesting. Chair, when you see my founding affidavit, my response to  
 10 his allegations and then all of a sudden he must have had an opportunity to read it but his story changed significantly and in his second affidavit in relation to the evidence, the timeframes and in relation to some of the things that he admitted to in this Commission including racism.

He says in his second affidavit which is not in the public domain:

“I was one of the persons who implemented and managed a diverse multi-cultural balance of competent black management and staff in  
 20 my role at BOSASA.

In fact, not only assisted in black management and leadership but I devoted many years in not only training but assisting the competent individuals that were employed...”

On the 2<sup>nd</sup> of September, Chair, 2018, however,

City Press had published a 23-minute recording of Agrizzi on their website, the authenticity of which they had verified. Short excerpts of this recording were played during Agrizzi's evidence before this Commission. Agrizzi attempted to suggest that the excerpts of the recording were not indicative of the whole recording which Advocate Pretorius said was not in the possession of the Commission at the time.

I had, therefore, provided a transcription of the  
 10 full 23-minute recording in my bundle Chair and I am sure you will have a copy soon under EA-18 and tender(?) providing the Commission with the authenticated recording itself. So Chair, if it is required, one of my team have it for you. In the recording which was made by Agrizzi at his home on the 24<sup>th</sup> of August 2018 he said about black people and Africans, Chair.

“They steal, they loot, they rape, they destroy...”

In reference to the black community collectively.  
 20 Agrizzi then referred a friend – to a friend of his, Romano, saying that he was not a racist, he is a realist for his view on black economic empowerment that he would not led a *bleddie* K\*\*\*\*r. K\*-word Chair, run his business. This confirmed Agrizzi's own view on black economic empowerment Chair.



This is in stark contrast to what Agrizzi said at the Commission on the 16<sup>th</sup> of January 2019 when Agrizzi said:

“The country was changing for the better and we saw that BEE credentials played a major role...”

Chair, in the same recording of Agrizzi on the 21<sup>st</sup> of August 2018, Agrizzi says, one, referred to the black directors of BOSASA as monkeys, by referring to  
10 black director, Trevor Mathenjwa as his pet monkey, Romeo.

And Chair, you – when you see the evidence later, you will also see that he has a monkey at home that he calls Romeo. Two, referred to the black directors of BOSASA as dysfunctional. Three:

“I will personally go into that company with or without permission and I will F\*\*\* each of those K\*\*\*\*’s\* out of there...”

Referring to the black directors of the company.  
20 Stated that:

“That K\*\*\*\*r needs a good hiding...”

Referring to respected attorney, Peter Tshiseve.

And stated:

““I will teach each one of those K\*\*\*\*’s\* where to get off...”

Once again referring to the black directors of the company. And six, stated that the black directors of the company were not competent. It is clearly a lie by Agrizzi to suggest to the Commission and his representation to it on the 8<sup>th</sup> of April 2019 that he is not a racist and that his belief is that these very same people he referred to as monkeys, dysfunctional, rapist, thieves and looters are suddenly a competent black management and staff in his view and that he, in fact, worked very well and had a good  
10 relationship with the black directors.

Indeed, there could be no greater proof of Agrizzi purge-ring himself in his affidavit to the Commission on the 8<sup>th</sup> of April 2019 by denying my claims as to his racism than Agrizzi specifically stating to Chairman on the 29<sup>th</sup> of January 2019 in his oral evidence: “Chair, I am a racist.” So Chair, the other thing and I am not going to talk to script now.

The – but the same page, the other thing that I think is very important for the – is that this man was the  
20 day facto CEO of the company. He had built an institutional mode of control around Gavin Watson. He even referred to and responded at – certainly at that point in time to Gavin Watson’s emails.

There are board-resolutions which you will see in the evidence where – even in terms of some of these

criminal activities where Henning van Tonder, the CFO, were – the sole(?) – that they were the guys who signed almost everything and they were empowered to by the board in terms – although there were other people who could have signed, there was a list of people, they were the two signatories in the main.

I am dealing with the banks, to dealing with issues of finance, to dealing with issues of procurement approvals and signing off payments. Gavin Watson, as we  
10 all know, was not a detailed man. In a charismatic figure, someone who loved the people, spent time at the youth centres with, you know, juvenile delinquents.

He just loved people and he managed by walking around. He did not have a desk or an office and he very rarely used a computer. Agrizzi was the CEO here Chair. As much as he denies it and there is evidence to back it up but he was not called the CEO, he was called the Chief Operating Officer and it is my view that if anything went wrong that he was inexplicable part of what went wrong at  
20 BOSASA.

And I warned Gavin Watson about him on several occasions to say this man is up to something because I would bring opportunities for the company, none of them were considered. Not one. You cannot tell me every single opportunity was not a strong business case.

Chair, onto the next page. Agrizzi actually says he denies. He says:

“I deny that I controlled Gavin Watson’s email account and that only emails that I received from Kevin Wakeford, I had given examples of the same which had been attached hereto...”

But Chair if you look at a lot of the evidence that can be considered here, certainly in my pack and I do refer to where one should go in terms of the references, it is  
10 very, very clear that there is proof where he even responds in one email to say:

“Do not bother about emailing Gavin because I am responding to it anyway...”

He actually says it. Sir or Chair, you will also know and I am sure you have read my prior affidavits but there is sufficient evidence to prove that - and the investigators even had sight of my bank details but – where he says I was paid a hundred thousand. The evidence speaks to a very different scenario. Firstly, way  
20 outside of the timeframe of the so-called SARS Investigation and secondly, Chair, those payments are proven captured payments where he, to frustrate me, deliberately did not pay me for months at times Chair.

But because of my commitment in particular to the family and what they believed in, I continued to assist

and then – and if one looks at the 741 – the Section 7- 417 minutes where him and Van Tonder contradict everything, and Foster, that they said in front of you. Everything is contradicted.

They have purge-red themselves Chair. They have committed a criminal act and those – both those activities, the one took place in front of you as a judge and the other took front – took place in front of Judge Joffe who was the Commissioner at the Section 417. So Chair, I  
10 am worried about your time. So I am trying to ...[intervenes]

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

**MR WAKEFORD:** Are you okay with the way I am doing it?

**CHAIRPERSON:** Well, we just wanted you – you were going to give an overview ...[intervenes]

**MR WAKEFORD:** Yes.

**CHAIRPERSON:** ...over the high-level and then let Mr Notshe ...[intervenes]

**MR WAKEFORD:** Okay.

20 **CHAIRPERSON:** ...directed questions to you in regard to more details. Do you need another, what, 15-minutes or how do you feel?

**MR WAKEFORD:** Oh, Chair. No, I would need more than 5-minutes.

**CHAIRPERSON:** Sorry?

**MR WAKEFORD:** I would need more than 15-minutes.

**CHAIRPERSON:** Okay how much time do you need?

**MR WAKEFORD:** Chair, I think if you could give me an hour, hour and a half.

**CHAIRPERSON:** Then you will have completed?

**MR WAKEFORD:** Ja.

**CHAIRPERSON:** Okay. Let us see how – where you are by quarter past eleven ...[intervenes]

**MR WAKEFORD:** Okay.

10 **CHAIRPERSON:** ...when we take the tea break. Preferable when we come back maybe we could look at questions because you would still be able to deal with other issues.

**MR WAKEFORD:** Okay.

**CHAIRPERSON:** Mr Notshe, is that fine with you?

**ADV NOTSHE SC:** I am happy with that Chair.

**CHAIRPERSON:** Okay. Counsel for Mr Wakeford, do you think that is fine?

**ADV REG WILLIS:** ...Mr Wakeford could - may need a  
20 little bit more time but you are – Mr Chairman, you are correct. Let us see how it goes. Thank you.

**CHAIRPERSON:** [No audible reply]

**ADV REG WILLIS:** Chairman, can I just take the opportunity of – because you do not have the bundle of annexure before you ...[intervenes]

**CHAIRPERSON:** Ja.

**ADV REG WILLIS:** Mr Wakeford is not referring to it but because ...[intervenes]

**CHAIRPERSON:** Later on.

**ADV REG WILLIS:** ...if you cannot see it, everything he is speaking to is referenced with annexures and there is about 330 odd pages ...[intervenes]

**CHAIRPERSON:** Yes.

**ADV REG WILLIS:** ...of evidence ...[intervenes]

10 **CHAIRPERSON:** Ja.

**ADV REG WILLIS:** ...that he is not speaking directly to because of time constraints.

**CHAIRPERSON:** Yes.

**ADV REG WILLIS:** Thank you.

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

**MR WAKEFORD:** Chair, I am seeing what I can skip if I can.

20 **CHAIRPERSON:** Hang on. I think the evidence leader is disturbing everybody with the gestures but he was trying to arrange for water for you Mr Wakeford.

**MR WAKEFORD:** Oh. It is very kind ...[intervenes]

**CHAIRPERSON:** The Commission staff will make sure that he has got water.

**MR WAKEFORD:** Thank you, sir. Thank you very much.

**CHAIRPERSON:** H'm. Okay alright. Thank you.

**MR WAKEFORD:** Okay. In his affidavit to the Commission on the 8<sup>th</sup> of April 2019, he said:

“I did not have a bad working relationship with Kevin Wakeford.

There was no [word cut] between us. It was the dire situation of Kevin Wakeford’s financial system.”  
And that there was one financial hiccup in my system, Chair, and that was it and that I prove and I provide you with the evidence.

10 “The Commission’s investigators had however confronted Agrizzi with an email dated the 7 March 2012 where he says:

“Carlos, this was done as agree when I reduced Kevin Wakeford...”

Talking to the amount I received.

“...for March and R50 000 for Feb. We are well behind it but I will manage expectations on his side. The consultant is using the attached vehicle to channel payments.”

20 And I am not exactly sure but clearly he reduced – he was the person who was adjusting and playing the fool with my payments, Chair.

“When asked for comment I was informed by the Commission that Agrizzi responded during this period the company was under cash flow pressure



and Mr Gavin Watson instructed me not to make further payments to Kevin Wakeford.”

So, Chair, if you go to page – BOSASA 04/873, Chair.

**CHAIRPERSON:** Yes.

**MR WAKEFORD:** It refers to the Section 417 transcripts where Advocate Lourens is questioning Van Tonder the former CFO of BOSASA.

**ADV WITZ:** Sorry, Chair, if I can make a submission in  
10 this regard?

**CHAIRPERSON:** Yes.

**ADV WITZ:** My understanding is – sorry, Chair, I have just been told just to move so you can hear me.

**CHAIRPERSON:** Ja, no, no, that is fine.

**ADV WITZ:** If I can just make a submission at this stage with the utmost of respect, Chair.

**CHAIRPERSON:** Ja.

**ADV WITZ:** The second 417 inquiry which is held before the learned retired Judge Joffe at the offices of MacRobert  
20 Adams, was a secret inquiry. In terms of that secret inquiry, I am not sure how Mr Wakeford and his legal team are now in possession of what is supposed to be a secret inquiry. That is the whole purpose of the Companies Act. So reference to this, in order to try and substantiate the whole promotion that Mr Wakeford, with respect, is giving

of the late Watson family and all their BEE credentials and what they did and now using secrete inquiry documents which should not be before this Commission or in the public because the learned judge on many occasions in that matter made it clear that it is a secret inquiry and those documents cannot be released to anybody. So I am now sure how they have come into possession, perhaps my learned friend who appears on behalf of Mr Wakeford can explain how they have come into possession of secret  
10 inquiry documents and I think the slant that Mr Wakeford, with respect, is trying to put on this in order to bolster and try and promote his relationship, his university days, the whole scenario that he has given might have a serious impact in regards to the effect of his evidence. So if we could just deal with that aspect and I would like to just raise that at this stage.

**CHAIRPERSON:** Yes.

**ADV WITZ:** Because on many occasions in that inquiry I was present the learned judge made it clear that – and he  
20 put it on record before we started, it is a secret inquiry, there were only one or two people that were privy to it and none of this can be put in the public domain. That is the very purpose of Section 417, so if we can just deal with that and get some clarify as to how this is now in the public domain from what his – then it defeats the whole

purpose of Section 417.

**CHAIRPERSON:** Yes.

**ADV WITZ:** So if we could just deal with that, with respect. Thank you, Chair.

**CHAIRPERSON:** Yes. Would you like to respond?

**MR WAKEFORD:** As you please, Mr Chairman. Chair, indeed we have put up extracts, a number of extracts, I think seven or eight, that come from the 417 transcript. In each instance we put them up because they show Mr  
10 Agrizzi and Mr Vorster to have perjured themselves and lied under oath before Judge Joffe, is – there are extracts in relation to evidence by Mr van Tonder who in fact supports the proper understanding of his evidence, Mr Wakeford's evidence. We asked the Commission to obtain ...[intervenes]

**CHAIRPERSON:** Well, I am sorry, that is the – you are dealing with the purpose of referring to it. I think counsel for Mr Agrizzi raises the legality of putting it in the public domain and ...[intervenes]

20 **ADV WITZ:** Indeed so.

**CHAIRPERSON:** Ja, that is the issue he is raising.

**ADV WITZ:** Indeed so, Mr Chairman, that is the relevance of the information, firstly. We first approached the Commission last year in October, asked them to obtain a copy of the transcript and we placed that relevance before

the Commission, the secretariat. Of course we did so because this Commission has powers to obtain that transcript. We obtained no response. There may have been one response, Mr Notshe said to me yesterday that he believed that there had been a writing to say that we should obtain it ourselves. I look through the correspondence, I did not find that but certainly from Mr Notshe's side he believed he had dealt with the issue. Of course from ours it had not been dealt with.

10           We followed up in a number of written items both to the Commission and directly to yourself asking for a meeting to sort these things out and obtaining the – there were other documents, obtaining in particular this transcript because of its relevance.

In the meantime we tried to obtain that document ourselves through the Master's office, the Hawks tried to obtain a copy of that document too, we know, and for whatever reason, it was not forthcoming.

20           What the person who has given that document to us is Mr Jared Watson. He is the nephew of Mr Gavin Watson, he is also the representative of the shareholders in BOSASA liquidation. He, as of right, is entitled to the transcript and obtained that transcript. He informed our client who informed us that there were these contradictions.

**CHAIRPERSON:** That..?

**ADV WITZ:** There were these contradictions, these perjurious[sic] contradictions that I have referred to initially and the support by Mr van Tonder or the support of his evidence, should I say. And he was not willing to surrender the documentation to us to place or the extracts to place in the public domain. He wanted us to obtain the – not the permission, but a subpoena.

You will recall that this issue came before you  
10 yesterday and your attitude was that under the circumstances of pressure with us adjourning yesterday you were not at that stage prepared to issue a subpoena. When we retired from here, Chairman, we went back to my chambers and there I asked – I called for Mr Watson to attend at my chambers and out of Mr Wakeford's respect for him, he asked him one more time to consider his position.

We took the position that notwithstanding previous advice he had taken or his own belief and understanding  
20 that there is no real reason for him and that he is not properly prohibited, he is not actually prohibited on a proper understanding of Section 417. I mean, the law in relation thereto, he is not actually prohibited from giving it to us. In fact anybody can use it in criminal and civil proceedings and I say that subject to the qualifications that

are contained in Section 417 and a commentary in the various authorities that deal with it and without prevailing – without pressurising him, we did prevail on him to reconsider. He left us for a number of hours and he went and consulted his attorneys and whoever else and took advice.

He came back to us and he made the election to then allow us to publish it and that is why you find it in this format in the affidavit notwithstanding us not obtaining a  
 10 subpoena from yourself. The nub of the – sorry, might I just take an instruction?

**CHAIRPERSON:** Ja.

**ADV WITZ:** What had been taking place behind the scenes was an effort – an attempt to get through the right channels within the Master's office and I am going to read to you that we have just received that permission from the Master's office.

So as I sit now before you and as I lift this phone and give you my assurance as counsel in this matter, on  
 20 my instruction, as I have not read it, this is the authority by the Master's office. But the nub of the matter where we not to have received this, the nub of our view is that the Commissioner in a 417 inquiry does not have power to either prohibit or to entitle anybody to use it and publish it. Whatever portions and warnings were given by Judge Joffe

and the Commission, no doubt were given pursuant to Section 417 and obviously general understandings of 417, etcetera.

However, we hold the view that some of those understandings are sometimes misconstrued. I am not saying that Judge Joffe misconstrues them but certainly other persons often do. It is the Master who holds the power to order.

Yes, sometimes that can be and in many instances  
10 specific powers are delegated to Commissioners, such as Judge Joffe, but there was no real prohibition in our view. We asked Mr Watson to go and have that considered by his legal representatives, it was, he came back, I do not know what advice they gave him, I did not want to know that.

But, nonetheless, an urgent letter was again dispatched yesterday and delivered to the Master's office. Yesterday both the Master and the assistant Master were not available, either. And we can place this before you as soon as we can have it printed up.

20 We now have the permission of the Master. Nonetheless, the matter is, in our submission, now moot. Thank you, Mr Chairman.

**CHAIRPERSON:** Obviously both Mr Notshe and counsel for Mr Agrizzi would need to see the permission but I think that it may be that it might be better that we do not – that

Mr Wakeford does not refer to these extracts for now. Maybe later until I am also satisfied that it is in order to do so but also until counsel for Mr Agrizzi has looked at the permission and reflected and Mr Notshe. So I suggest that Mr Wakeford skips this part for now and then we can look at later in the day.

**ADV WITZ:** Might I just – thank you, Mr Chairman, with your leave might I just say that there is an introductory paragraph that deals with the fact that he has been reliably  
10 informed with the briefest of summary and then he can stop at that point. If I could suggest that, for his ears, and then not quote from the quotations which are set out and of course the extracts are attached but he will not quote from it. Thank you, as you please, Mr Chairman.

**CHAIRPERSON:** Is that the one at – is that paragraph 84 that you are talking about?

“However, I am informed...”

**ADV WITZ:** Chairman, if I could just get there.

“However, I am informed that Agrizzi’s  
20 accomplice...”

Etcetera, etcetera. So he would read that paragraph, then ...[intervenes]

**CHAIRPERSON:** Well, what I would prefer is that let him not read it now, let him – if later on I say no, he can go ahead and read the extracts then he can introduce the



extracts by first reading it at a later stage.

**ADV WITZ**: Mr Chair, if I could just with your leave please prevail on you and also test my understanding.

**CHAIRPERSON**: Ja.

**ADV WITZ**: In the next paragraph 85 is the actual extract.

**CHAIRPERSON**: Yes.

**ADV WITZ**: 84, to which I have alluded is merely the briefest of summary in which he says:

“However, I informed...”

10 And he is entitled to place that evidence before you as what he is informed in the briefest of terms. He is then not place the extract before you. I would, with your leave, prevail on you to allow to read the paragraphs before but not the paragraphs with the extracts. As you please, Mr Chairman.

**CHAIRPERSON**: No, my difficulty with that is that I must just look at the relevant provisions first, you know, even with the summary, it is better that I look at the relevant provisions. You have indicated that the Master must give  
20 permission.

**ADV WITZ**: Yes.

**CHAIRPERSON**: And not the Commissioner at the 417 Inquiry. Counsel for Mr Agrizzi seemed to proceed on the basis either that the statue does not allow it or the once the Commissioner has said it is secret that should be the

position. So before Mr Wakeford says – even if it is not the extracts he says what he understands has been testified to at the inquiry I would just have a look at the relevant statutory provisions and the permission so I satisfy myself that even saying what has been said there in your own words is okay.

**ADV WITZ:** As you please, Mr Chairman. Thank you for your time.

**CHAIRPERSON:** Yes. Okay, alright. So, Mr Wakeford, for  
10 now let us keep this part – let us keep this part, you proceed and then at some stage we will come back to it.

**MR WAKEFORD:** Thank you, Chair.

**ADV NOTSHE SC:** Chair, can I also make a suggestion?

**CHAIRPERSON:** Sorry?

**ADV NOTSHE SC:** Can I also make a suggestion to Mr Wakeford?

**CHAIRPERSON:** Yes, ja.

**ADV NOTSHE SC:** Mr Wakeford, I think you have demonstrated with the extracts you have referred the Chair  
20 your relationship with Mr Agrizzi, his attitude to race relations. Can we move – or before I even ask you to move, this affidavit, this affidavit is going to be admitted, the Chair is going to have the affidavit. You have told him that Mr Agrizzi's relationship with you was - you referred him to the extracts. You have told him Mr Agrizzi's race

relations. Now the Chairman has got that and if I may ask you, but I do not want you to skip what you want to place – move - for instance, your next topic is going to be your position as the CEO of Armscor, to move to that. Are you happy with that – I will ask you to move to page 877.

**CHAIRPERSON:** Oh, I think, Mr Notshe, what you mean is that when you look at what appears after the extracts up to just before the next topic it seems that a lot of that is about Agrizzi's attitude to black people and so on?

10 **ADV NOTSHE SC:** Yes, that is what I am saying, which point ...[intervenes]

**CHAIRPERSON:** So you are saying ...[intervenes]

**ADV NOTSHE SC:** Which point has been made.

**CHAIRPERSON:** Yes, okay, okay.

**MR WAKEFORD:** Chair if I could just, with your permission, speak to the end of my relationship with Agrizzi, I think it is very important for the evidence.

**CHAIRPERSON:** Ja, yes.

**MR WAKEFORD:** That would be on page – BOSASA  
20 04/876.

**CHAIRPERSON:** Ja. Okay, alright.

**MR WAKEFORD:** Ja. Chair, this all came to a head before he was exited, for want of a better word, out of the company. I was at that time a CEO of Armscor but I still retained a relationship with the Watson family, I mean,

some of their children are godchildren to me as well. So, you know, one continues with relationships, one does not just move on when you do not have a consultancy but save to say, Chair, that in late 2016 we were having coffee – it was myself, Valence Watson, Gavin Watson, Jared Watson, Daniel Watson junior, not Cheeky and Gavin got a call from Agrizzi to say can he pop in and at that coffee session, for want of a better word. In the course of discussions Agrizzi began ventilating his anger with the board of directors of

10 BOSASA and then made the following joke. There are only two things I hate – this is his words – the one is a racist and the other is a blood K. I immediately confronted Agrizzi objecting that he speak – he is speaking of our brothers, you do not speak of our brothers like that to which he said do not be so sensitive, it is just a joke. Then Agrizzi left.

When he left, we discussed the incident. This was again confirmation what I suspected of Agrizzi all these years, that he was a racist. I believe that it was shortly

20 after this that Agrizzi's employment with BOSASA was terminated in early 2017. Among the reasons Agrizzi's employment was terminated in March 2017 were:

1. His offensive and racist language towards the black board of directors.
2. His autocratic behaviour and complete disregard

for the authority of the board of directors.

It had come to light that Agrizzi had employed numerous friends of his within BOSASA without going through ordinary human resources processes and two, he had awarded substantial salary increases to acolytes of his within BOSASA without going through the Remco or remuneration committee. This is evident from the minutes of the BOSASA board meeting of the 9 March 2017 where *inter alia* the retrenchment of these employees is  
 10 discussed. His cronyism and clandestine development of a fifth column within the BOSASA group.

And, Chair, as I go on you will see that this notion of a fifth column is not conspiratorial, it is about developing a grouping within an organisation that technically pursue their own agenda within the organisation and as we go through this, a lot of that will be uncovered as well.

Chair, but if I can move on to page where Adv Notshe has asked me to speak to my position as CEO of  
 20 Armscor and some of the political machinations there. Chair, just to summarise a lot of us. I was appointed on the 1 May 2015 and contrary to some public commentary, the appointment was a rigorous process. I, for the first time in many years, had to do competency tests, etcetera, and I was told once I had been appointed that I in fact

outperformed all the other applicants.

At no stage during my employment did Watson or BOSASA try to exploit their historical relationship with us and I think have attested to the fact that during my tenure we had three clean audits as well as an unqualified audit.

But this was not the case Agrizzi and his son Giancarlo who attempted to muscle in a company of Giancarlo's on defence and security matters, policy analysis, etcetera. Even though he was a student at the  
 10 time and Agrizzi speaks about that *ad nauseam* that his son was a student but you will see the CIPC records and the LinkedIn adverts and the social media adverts where the company had been in existence for quite a while albeit with student's populating the shareholding and the board, etcetera.

Interestingly enough, as well, that company's directors were all linked to the Democratic Alliance and there is proof of that albeit that Giancarlo who attacked – and the company's name, Chair, Indlala, trading as Indlala.  
 20 But the point that I am really trying to make, Chair, was that every relationship that this man had was exploitable.

**CHAIRPERSON:** Just give that spelling of Indlala for the benefit of the transcribers. Indlala, the spelling is l-n-d-l-a-l-a. That is just for the benefit of the transcribers.

**MR WAKEFORD:** Thank you, Sir.

**CHAIRPERSON:** Ja. Okay, alright, continue?

**MR WAKEFORD:** So, Chair, I am not going to go into all the detail of the evidence ...[intervenes]

**CHAIRPERSON:** Indlala of course means famine or hunger, starvation. That is what it means.

**MR WAKEFORD:** Thank you, Chair, I did not know that. But the real point, Chair, is that Mr Giancarlo after accepting a post within the ANC for a while sustained that company and sustained his relationship with his fellow DA  
10 directors. I am not sure whether the African National Congress was aware of that but that just gives an – you get an idea of the value system, the duplicitous nature of the people involved but more so, Chair, that Giancarlo came forward before the democratic elections of 2019 and made certain claims to discredit Gavin Watson as well as the ANC even though he had worked there and then a number of months later retracted everything with the Citizen, the Citizen newspaper.

Chair, it quite a lot that I say there but even  
20 Agrizzi's relationship with the DA, there are videos of him being visited by Glynnis Breytenbach, Werner Horn, I think Breytenbach was the - or is the shadow Minister of Justice and Werner Horn the deputy shadow Minister of Justice and Agrizzi often used to brag about that relationship that he had with certain individuals including Glynnis

Breytenbach and Werner Horn but I am not going to get into more of the detail of that, Chair.

**CHAIRPERSON:** Ja.

**MR WAKEFORD:** Save to say that could I move on to why would this man perjure himself to the point of extinction by attacking me so viciously? Why would he – and I think you have asked other witnesses in other work streams as well, why would this person lie about you, why would they say all these things? So, Chair, I have tried to – and I am  
10 going to read from part of it and then from part of it I will summarise.

**CHAIRPERSON:** Ja, okay.

**MR WAKEFORD:** But just to say – and that is on page BOSASA 04/884, Chair.

**CHAIRPERSON:** Thank you.

**MR WAKEFORD:**

“Further to what I have mentioned above, which evidently motivated Agrizzi to falsely implicate me in the alleged corruption at BOSASA, namely:

- 20
1. Our contentious relationship given my historical relationship of Watson and the broader Watson family.
  2. My non-racial values versus is racist values and my questioning of his character and value system from the onset.



3. His perception of my part in the termination of his employment with BOSASA.

4. My usefulness to Agrizzi in all the circumstances to promote the interests of the Democratic Alliance.

There is an overarching context including how, when and why in fact Agrizzi manufactured these allegations and important timelines to be understood and factored in, in order to consider and weigh Agrizzi's allegations before the Commission. He confirmed in his oral evidence on the 18 January 2019 that a meeting was held with alleged whistle blowers..."

And, Chair, none of them are whistle blowers, in my view. They use the term very liberally.

"...at Agrizzi's home on the 12 November 2017. The following must be noted, calling them whistle blowers is a misnomer at the very least because they were either being coerced by Agrizzi to make false statements or were in cahoots with Agrizzi, his nefarious plans and/or were acting purely out of self-interest. This was confirmed to the Commission on the 26 March in his oral evidence and the oral evidence of Petrus Stephanus Venter, a former employee of the BOSASA auditors Darcy

Herman and Co Incorporated and who attended that meeting at Agrizzi's home when he said he has made to prepare a statement."

So he came here and told you I was coerced, it was written for me by Agrizzi and I had to fill it and sign.

10 "In his affidavit of the 11 November 2018 Venter said that Agrizzi in fact had drafted his statement on his behalf and that Venter merely had to type in his personal info. Venter says in the same affidavit Angelo made various threats pertaining to my career and personal wellbeing in an attempt to intimidate and blackmail me and to get me to sign this statement that he drafted on my behalf and I signed the statement under duress and due to the constant intimidation and blackmail from Agrizzi."

And Chair, I think that is people who visited that day in order to blow the so-called whistle, their affidavits apparently were prepared for them by Agrizzi. In Venter's affidavit to the Commission annexed, and I have got it here  
20 Chair, revealed, as he did on Carte Blanche on the 3<sup>rd</sup> of February 2019:

"Agrizzi's corrupt activities, coercion and control of people, including Venter and his plan to destroy Watson and BOSASA, I refer to Venter's affidavit to the Commission and in particular the Master Plan."

So Chair to summarise the Master Plan after a series of engagements post him leaving where he tried to take over contracts of BOSASA, and engaged them on that, then he tried to go back to BOSASA and engaged them – this is after his damician[?] experience, this is after having his tumour cut out, where he said I sat with my family and I wanted to come clean.

Well it took him more than two years to come clean Chair, it was only after Papa Leshabane and Joe Gumede  
 10 went to the police station to file criminal charges against him that he decided that he was going to interact with the Commission.

So furthermore, Chair Foster's affidavit was Commissioned the following day on the 13<sup>th</sup> of November 2017. The very affidavit he brought here in 2019, was prepared two years prior to that or was prepared to be exact Chair, on the 13<sup>th</sup> of November 2017. So Chair, I am going to skip quite a bit.

**CHAIRPERSON:** Ja, well I just want to say Mr Wakeford  
 20 that unfortunately, most of the directors of BOSASA who could have come here and said what they may have to say about Mr Agrizzi's evidence did not cooperate. They were given - including the late Mr Watson, they were given what we refer to as Rule 33 notices, as well as other people like Mr Leshabane and others, Mr Gumede.

One, they did not respond but in a way one can say in regard to responding to 33 notices, they were not obliged to but the Commission was very keen to hear what they have to say. To the extent that I issued what we call the Regulation 10.6 Directives against them, including Mr Gavin Watson, to say come and deal with this matters.

Unfortunately, they did not respond and then re Mr Gavin Watson passed away there were some discussions from the reports that I was given from his lawyers, but the  
10 approach was not really one of a being keen to come before the Commission, so that they could deal with this issue.

So it is good that to the extent that you may be aware of some of the matters yourself because of your relationship with BOSASA and with Mr Gavin Watson, you are able to deal with that to say this is the position but I just thought I would say that, you know, it is a strange situation where people out there who could come and say, that is not true what she said about us here but they do not  
20 want to come. So to the extent that you interacted with BOSASA and with Mr Gavin Watson and you know certain things, it is good that you are able to deal with them and put before the Commission what you know.

**MR WAKEFORD:** Thank you Chair, Chair if I could respond to your statement?

**CHAIRPERSON:** Ja.

**MR WAKEFORD:** Look, there are two schools of thought in South Africa about this Commission. The one school of thought is, is that it is politically weaponised and it is going for a particular caucus. The other one is that it is here to seek the truth and to establish the truth. I have opted for the second, for the latter.

**CHAIRPERSON:** Yes.

**MR WAKEFORD:** I believe you are a good man and I  
10 believe that you are someone who is just trying to clean up society in South Africa, in particular, our public institutions. But I am sure that you also would want to clean up some of our private sector institutions. Chair I have not had contact with the Board of directors for a long time and safe to say perhaps we have a different view.

**CHAIRPERSON:** Ja.

**MR WAKEFORD:** It is a pity because - and perhaps me  
appearing here will encourage some to come forward if there is enough time of course but I think it is a pity that  
20 there are these two schools of thought.

**CHAIRPERSON:** No, it is a pity – and I mean, obviously I know about the two schools of thought generally in society and obviously, people are entitled to form an opinion about a public body such as this but I always have difficulty understanding this part, if I – if the Commission wants to

make findings against you Mr Wakeford, it wants a certain outcome about you. Why would it try so much to hear your side of the story because is it not easier to come to that outcome, without your side of the story.

Because you might come here and give a very good, plausible explanations for things and therefore spoil the plan. I have not understood that part and also, I have heard – I have been told that I think it is more than 250 witnesses, if I am not mistaken over the past two and a  
10 half years or so.

Of those maybe there are 1,2 or 3 who have expressed unhappiness, that they have not been treated fairly, the overwhelming majority have not expressed any unfairness and I continue to hear some of the people who are implicated, seriously implicated and I would like to believe that I give them enough time to put their side of the story.

And when they articulate their concerns, I say let us look at those concerns. Let us look at those - some of  
20 them might have merit others might not have but let us look at look at those and when they say here is some evidence about that witness who said A, B, C about me, I say let us look at that, you know.

So but obviously, you know, people will have their views at the end and there is nothing one can do from our

side, we must just continue to do what we believe is right. Try to be as fair as possible, it does not mean that we will not make mistakes along the way but let us keep on trying to do the best we can, so ja.

**MR WAKEFORD:** Thank you Chair, and you know Chair just to respond to - for me, I was incredibly frustrated because I responded fairly quickly with my first my affidavit, my application was to cross question and I understand the process that testimony first then cross  
10 questioning.

I am not sure whether I will ever get an opportunity to cross question Agrizzi, albeit that he was recently seen in Franschoek without an oxygen tank or a mask and with no walker, and the Instagram videos flying around South Africa on that at the moment. But even if I do not Chair, I have got to do this and I have waited 28 months.

**CHAIRPERSON:** And you have got the opportunity now.

**MR WAKEFORD:** And I have got now my opportunity and I am going to use it I am not going to wince and whine.

20 **CHAIRPERSON:** Ja, okay ja, thank you.

**MR WAKEFORD:** Thank you, Chair.

**CHAIRPERSON:** Okay, thank you.

**MR WAKEFORD:** So, Chair...[intervene]

**CHAIRPERSON:** I see we are at quarter past, which is when we normally take the tea break, maybe let us go to

past and then take the tea break then, okay.

**MR WAKEFORD:** Thank you Chair, I am going to continue with my motivation, which I have summarised because it is quite long.

**CHAIRPERSON:** Ja.

**MR WAKEFORD:** And but to say this, that on page 888 without mentioning BOSASA for every time. You see his plan, when he could not - when he was exorcised as the de-facto CEO then he tried to come back, and it was  
10 upping and downing and it is all in my evidence.

His plan was, we will put you under pressure and even if we have to see you liquidated, and I was not there at the time Chair, but the evidence speaks for itself. The plan was to trigger the media, to trigger the auditors, you know what auditors do when they, even if they hear of something suspicious, even the banks in this country they just close your accounts, with a person being potentially innocent, but thank God my bank did not close mine but there are many people who had their bank accounts closed  
20 without any evidence to the effect that it was just rumour mongering and fear. And society in South Africa tends to respond at times, very similar to the Salem witches story, you know where innocent woman were hung in Salem because they were deemed to be guilty by the public gallery.



And we need to manage these things very, very carefully in South Africa, because, unfortunately, these things caused more polarisation in society. But his plan was at the very worst, the worst option for him, of course, was liquidation but he got his liquidation, he got it.

And 6500 families out of work and Venter confirmed all of this in his affidavit, Chair. Agrizzi's plan was premeditated, calculated and executed to instigate the liquidation of BOSASA so that he personally would be able  
10 to take over BOSASA's contracts, and no longer be bound by his restraint of trade. Indeed, BOSASA went into liquidation in February 2019 as per his plan.

This was not the man who was blowing the whistle, Chair with all due respect, this was a man who was greedy, he was narcissistic and he wanted to be back in the seat of the king, that is what he wanted.

Chair, I mean, even the banks panicked, the banks panicked during that time, the auditors panicked, even I think Gavin Watson panicked and went into voluntary  
20 liquidation. I am not sure whether I would have done the same thing, Chair. I would have come here as quickly as possible but the point is, I tried and I could not and perhaps we could have saved a bit of that company.

Chair, I am not going to read some of the quotes because those quotes you have not authorised that yet.

**CHAIRPERSON:** Ja.

**MR WAKEFORD:** So Chair, his fifth column even went with him to Crearis when he left BOSASA, same people followed him and what they say about him for an Italian businessman of the year - just to give you an idea of how he saw himself as the de-facto CEO.

On the website of Crearis the company that Agrizzi formed in 2017 after being terminated from BOSASA he described his influence within BOSASA as follows:

10           “Angelo's most recent accomplishments can be noted in the performance of the BOSASA group now known as African Global that he developed from a Greenfield operational unit employing only 322 people to a multinational group with 6515 employees. The website further reveals the management team of the company, this is Crearis, was comprised exclusively of former employees of BOSASA.”

Once again the fifth column Chair. Lastly Agrizzi said in  
20 an email on the 7<sup>th</sup> of March 2018 to Darcy Herman, the auditors of BOSASA that when he left BOSASA in August 2016, he was inundated with requests from Gavin Watson to ensure Agrizzi retake control of the BOSASA group of companies and there it is all in the evidence, Chair.

But just to speak to some of the control that he had

when he points fingers at the rest of the world. He says here...[intervene]

**ADV NOTSHE SC:** What page are you on?

**MR WAKEFORD:** We are now on sorry, Chair I am guilty as charged.

**ADV NOTSHE SC:** I am not charging you.

**MR WAKEFORD:** I should have told you as we moved on, we are now on page 895.

**ADV NOTSHE SC:** Thank you.

10 **MR WAKEFORD:** He says here; he tells the Commission:

“The payment regimes and protocols required numerous signatures. So you would have at least four to six signatures on a document to be able to get a payment through and to get an order through. So it would require no less than two other signatures. So you would need the originator signature the person who is placing the order plus it would need two others, one of which had to be the chief accountant and director.”

20 Chair this is verifiably false and I have provided the BOSASA company resolutions which demonstrate that Agrizzi could approve any transaction if it was counter signed by Van Tonder, someone who he worked very closely with and who left and joined him at Crearis as far as I understand.

Until 2017, when Agrizzi's employment was terminated Agrizzi and Van Tonder had the collective power to, one, sign any documents and do all things as may affect and or bind the company and or any of its subsidiary companies in any matter whatsoever. And open bank accounts and deal with financial institutions in any matter regarding the finance and to sign cheques for and on behalf of the company its subsidiaries and associates.

Venter in his paragraph 10 of his affidavit of the  
10 11<sup>th</sup> of November 2018 confirmed:

“Andries Van Tonder and Angelo Agrizzi had full control of the company and nobody questioned it.”

Except me Chair, and I think there is sufficient on the record for that already.

“It is through this authority that Agrizzi and Van Tonder were collectively able to siphon substantial amounts of funds out of BOSASA by way of an example Chair Agrizzi and Van Tonder were the sole members of Syncroprop number 8 close cooperation  
20 commonly known as CC.”

And you can see the CIPC entity search in the annexures, as the sole members, they would prepare fictitious invoices, send these fictitious invoices to BOSASA and then authorise them for payment in their capacities as Chief Operating Officer and Chief Financial Officer of the

group.

In the invoice example attached you can see that the invoice is approved with only two signatories Agrizzi and Van Tonder. Venter in paragraph 8 and 11 of his affidavit of the 11<sup>th</sup> of November 2018 confirmed his own participation in one such scheme where Agrizzi and Van Tonder with instruction to fictitiously inflate invoices, which Agrizzi and Van Tonder would then approve.

The three parties would then share in these  
 10 proceeds of crime and Agrizzi and Van Tonder would thereafter instruct Venter where to pay their commission's as he referred to them.

“In this regard payments were made to or on behalf of Agrizzi, Van Tonder and Agrizzi’s wife Debbie Agrizzi.”

It is because of schemes such as these that the BOSASA liquidated to serve Agrizzi and Van Tonder with letters of demand for R91million and R21million respectively. In June 2020 - this however came after criminal charges had  
 20 already been filed by African Global Holdings against Agrizzi and Van Tonder and Venter in November 2019 for theft, fraud and money laundering of R37.5million and apparently there is more to come Chair. These criminal charges further made reference to companies that Agrizzi used BOSASA to make payments to where his wife Deborah

Agrizzi was the director. This involvement of Agrizzi's wife in these schemes was further confirmed by Colonel Bernardus Lazarus, who opposed Agrizzi's bail application at the Palm Ridge Magistrates Court in October last year.

Here Lazarus confirmed that Agrizzi and his wife moved millions of rands offshore and into crypto currency accounts with Deborah transferring 11.9...[intervene]

**ADV M WITZ:** Sorry, sorry, Chair if I can just raise two issues here.

10 **CHAIRPERSON:** Ja.

**ADV M WITZ:** In relation to this, firstly, all that has been verified and confirmed that it was all done with Reserve Bank approval. There was nothing illegal about the transfer. Secondly, I received or I apologise I had to leave the room, I received an urgent request the liquidators of the BOSASA and African Global Group say they are very, very perturbed in regards to the fact that reference is being made to what happened at a 417 inquiry.

20 They can be here at 2 o'clock and they would like permission, if necessary to deal with it because they say as far as they are concerned, no input or permission was sought from them. The master has not asked for submissions input and they would like if necessary to make submissions in regards to references that Mr Wakeford is making in this regard to try and bolster and sustain his

attack on various issues and credibility.

And if he knew the correct facts, and his legal representatives would have approached my instructing attorney or myself we would have told them that whatever Colonel Lazarus said all this was done and the true facts were placed before a High Court Judge with regards to the bail appeal where bail was granted very recently to say that all this was done with Reserve Bank approval, nothing was spirited out the country, etcetera.

10           So the picture that h is trying to paint with respect Mr Wakeford in utilising evidence and trying to utilise extracted support his stance in regards to his obvious dislike, if one was to put it as likely as that for Mr Agrizzi we submit that this cannot be used at this stage because these are not the correct facts that he is putting before you.

          And if he wants to create fact we are happy to provide him with the correct facts and the liquidators would like that opportunity. I spoke to their counsel to approach  
20 if necessary. We do not want you to – I know what the purpose of this is, we know what you want to do, we do not want to delay it further.

          But they say they can be here 2 o'clock because they need to address - they found it very, very - and I think that affects not only liquidators and not only affect Section

417 of the Companies Act but also the presiding Honourable Judge Joffe who dealt with it, this is going to have a huge impact on future 417's that without submissions and permission, that information is now being put in the public domain which takes away the whole inference.

**CHAIRPERSON:** Let me say this, anything relating to what has been testified to in the Section 417 inquiry, I said let us for now not deal with it, okay. I said that later on Mr  
10 Wakeford could deal with it after I have applied my mind to the legal position and after I have heard everybody.

But since saying that, I have begun to think of a different way of dealing with this and that might affect the question of whether the liquidators or their counsel will come here or not.

I am going to suggest that for today, let Mr Wakeford give his evidence that he needs to give and leave out one extracts from what may be evidence in the 417 inquiry or his understanding of what evidence has  
20 been given there for now, and what I would propose is that maybe each side, your side and counsel for Mr Wakeford and the legal team, and if the liquidators want to also come in there, that's fine.

Give me some short notes of the relevant provisions, under what circumstances what can be done in



relation to evidence in a 417 enquiry but I would like to look at that without the pressure of having to allow this today. But the view, the idea would be, that can be given to me, in due course, and once I have had a look at it, I can then indicate what my position is which might not need oral argument but if I think it is necessary, we can take it from there.

But one would like to dispose of this without, you know, much unless it's really necessary in terms of oral  
10 argument. But once I have taken a view, then I can let you know and if I must make a ruling, I can make a ruling and if the ruling is such that the extracts can be written out, and the – or a summary can be given of what has been testified to in the inquiry, then we can take it from there if necessary.

It should not take long it might be less than an hour or for an hour for Mr Wakeford to come back and just deal with that or we might just arrange that his counsel can for the sake of publicly showing what they believe supports Mr  
20 Wakeford's version can then read out the extracts, obviously, if I conclude that they should not be read out and to what has been testified to in the inquiry should not be mentioned here, then obviously, that is the end of the matter as far as the Commission is concerned.  
So that is what I have in mind. So in other words, that we

do not rush to do everything today. Let me get time, we can agree maybe as to when counsel for Mr Wakeford can submit, I do not want to call it written submissions, but it is written submissions but when I say note I am just trying to indicate that is a very narrow issue, you know, but it is written submissions on the question of whether Mr Wakeford can read out the extracts that are said to be evidence that was given at 417 Inquiry, that is point 1, point 2, whether even if he doesn't read out extracts  
 10 whether he can say what he understands to be evidence given there in his own words and then I can take it from there, that is what I have in mind.

What do you say is that fine with you?

**ADV WITZ:** Chair I am more than satisfied to do it on that basis.

**CHAIRPERSON:** Ja.

**ADV WITZ:** I have got no problem at all, I think that is practical and I think that would be correct, but just to sort out for record purposes for example he now wants to give  
 20 evidence, Mr Wakeford, about crypto currency and illegal – this was all done through Luno, all the evidence is there, so he is trying to utilise and select certain parts that he thinks will support his version in regards to the veracity or the credibility or the so-called ...[indistinct]

**CHAIRPERSON:** Does that fall under – I am sorry – does

that fall under the 417 Inquiry because ...[intervenes]

**ADV WITZ:** No it is now coming to matters relating to a different charge.

**CHAIRPERSON:** Okay, let's finish on the 417 inquiry first.

**ADV WITZ:** Yes 417 I am happy with the proposal and I think the liquidators, and I will convey it, the liquidators are present and their attorneys, and I will convey it to their counsel and I think that would be a correct approach and we can then put forward, but it is just disturbing that for  
10 whatever reason secret documentation ...[intervenes]

**CHAIRPERSON:** Ja, well this affidavit is it the one that was only given to Mr Agrizzi yesterday or something?

**ADV WITZ:** No he hasn't got it yet this morning.

**ADV NOTSHE SC:** This one he got it this morning.

**CHAIRPERSON:** Oh so that is why there would not have been a chance to respond to it?

**ADV NOTSHE SC:** Yes.

**CHAIRPERSON:** Okay, alright.

**ADV WITZ:** But we will respond to it Chair with your  
20 permission and we will make sure it is very, very quick.

**CHAIRPERSON:** Ja.

**ADV WITZ:** In a time turnaround to respond so we don't delay the Commission in any way.

**CHAIRPERSON:** Ja.

**ADV WITZ:** And we would like to continue with our

cooperation and assistance, but we only got it this morning.

**CHAIRPERSON:** Yes, no, no, no that is fine. Counsel for Mr Wakeford 417 is that fine with you?

**ADV WILLS:** Thank you Mr Chairman, indeed it is although you pretty much dealt with it earlier, this has been a regretful interruption, so I am in agreement with that but let me say this – it is regrettable that my learned friend has interrupted my client's giving of testimony, questioning  
10 his evidence as giving evidence almost from the Bar.

Mr Agrizzi can come and be cross-examined, we look forward to it, we invite it, we prevail upon you Mr Chairman to find that time to deal with Mr Agrizzi under cross-examination and he can answer to all of these things thereafter. To now from the Bar to criticise Mr Wakeford is – must be objected to. Thank you Mr Chairman.

**CHAIRPERSON:** Ja, no that is what – well I want to say I understand that ordinarily if this affidavit had been given to Mr Agrizzi or his legal team quite some time back they  
20 might have been able to respond and put their version, in which case Mr Wakeford would have been aware of their response, at least at the time of giving evidence and would deal with Mr Agrizzi's version but since they got it today obviously there hasn't been enough time, but obviously it is not going to help to deal with it now, because Mr Agrizzi

will respond, but it will be important obviously that he responds, so let us allow Mr Wakeford to continue on the understanding that Mr Agrizzi might have a different version and that he will respond.

I think what may be necessary – what may be necessary is that during the break maybe that issue can be discussed among the legal teams in terms of Mr Agrizzi's response because obviously we should have it as soon as possible.

10           Okay, and then I can approve whatever timeframe can be agreed, okay, alright. Well we have gone beyond half past, let's – it is twenty to twelve, let's take the tea break now, but I had intended to say Mr Wakeford – to stop you at twelve so that Mr Notshe could then put questions up to one o'clock and then we take the lunch break, of course out of the time I had meant to give you has been taken out by the discussion, so I think when we come back I will give you maybe about fifteen minutes if you can try and deal with what remains in terms of important points the

20 I would like to allow Mr Notshe to start putting questions to you, and then we proceed, is that fine? Is that fine?

**MR WAKEFORD:** I hope it is fine Chair.

**CHAIRPERSON:** Ja but what we can do obviously when Mr Notshe asks you questions he will cover some of the things that you might not have covered and when he asks

you questions you can then take that opportunity when you respond to deal with them, but at the end of the process if there is – there are issues that you feel you have not had a chance to deal with properly you can still make the request to be given that chance, alright?

**MR WAKEFORD:** Thank you Chair.

**CHAIRPERSON:** Okay, alright, we will then take the tea adjournment, let's resume at twelve o'clock.

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

10 **CHAIRPERSON:** We adjourn.

**REGISTRAR:** All rise.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Okay Mr Wakeford let me give you up to quarter past twelve to ...

**ADV NOTSHE SC:** Chair the – the...

**CHAIRPERSON:** To wrap up.

**ADV NOTSHE SC:** Chair before you allocate the time to him

**CHAIRPERSON:** Ja.

20 **ADV NOTSHE SC:** There are little issues which are just housekeeping we need to do.

**CHAIRPERSON:** Ja.

**ADV NOTSHE SC:** During the adjournment the legal representatives of Mr Wakeford and Mr Willis and the liquidators we got together and we are trying to put together

what the timeframes..

**CHAIRPERSON:** Ja.

**ADV NOTSHE SC:** For dealing with this issue of the transcript.

**CHAIRPERSON:** Yes.

**ADV NOTSHE SC:** With your permission – with your permission we have agreed that we would exchange between ourselves the submissions – but the submissions will be submitted to you by twelve o'clock on Tuesday the 11<sup>th</sup>.

10 **CHAIRPERSON:** Ja.

**ADV NOTSHE SC:** The submissions by all parties.

**CHAIRPERSON:** Okay no that is fine.

**ADV NOTSHE SC:** And then – and then Chair it is also pointed out to me by I think the liquidators that the – but we need your guidance on this. The – Mr Watson – Gerard Watson the one who has got the transcript he got it through an application he made to the Commissioner in the 417 proceedings and then he was allowed by Judge Joffe – but Judge Joffe said it is only for – for his purpose for Mr

20 Watson's purpose.

The question is that I have been asked to put to your attention that there is a ruling by Judge Joffe as a Commissioner that this is only for Mr Watson. Now we are not certain whether Judge Joffe has an interest in the exercise of deciding whether this should now be put in public

or not but we – we were are not certain we seek your guidance in that regard.

**CHAIRPERSON:** Well I think that he can be informed of what is happening here through I think the whoever is appearing there.

**ADV NOTSHE SC:** The liquidators.

**CHAIRPERSON:** Through – no whoever is appearing there – whoever is appearing there I am looking at what is counsel for Mr Agrizzi I do not know or...

10 **ADV NOTSHE SC:** Judge the – Chairperson there are the gentlemen who are representing the liquidators.

**CHAIRPERSON:** Ja. He – well I do not know who should inform him but I am saying he can be informed of what is going on here.

**ADV NOTSHE SC:** Yes

**CHAIRPERSON:** You know and if he wishes to say anything he would be free to do so but I do not think it is compulsory for him to say something but if he wishes to say something ...

20 **ADV NOTSHE SC:** No that is fine.

**CHAIRPERSON:** That is fine ja. But that arrangement that you have made is in order so that I have all the sub – written submissions not later than Tuesday the 11<sup>th</sup>.

**ADV NOTSHE SC:** No that is fine.

**CHAIRPERSON:** Ja okay.



**ADV WILLIS:** Sorry.

**ADV NOTSHE SC:** And then Chairperson but before ...

**CHAIRPERSON:** Ja okay I think before you say somebody wants to say something.

**ADV WILLIS:** Sorry.

**CHAIRPERSON:** About this ja.

**ADV WILLIS:** Mr Chairman by agreement between the parties who had the discussions there will also be submissions from Mr Gerard Watson or should I say African  
10 Global Holdings because they are the ones.

**CHAIRPERSON:** That is fine.

**ADV WILLIS:** With the – with the transcript.

**CHAIRPERSON:** Yes.

**ADV WILLIS:** Between him and the company and the liquidators.

**CHAIRPERSON:** That is fine.

**ADV WILLIS:** Thank you Chair.

**CHAIRPERSON:** Ja that is fine. Okay.

**ADV NOTSHE SC:** That is right. So what we have done  
20 during the break we have created a sub-bundle and which only contains the affidavit of Mr Watson together with annexures. With your leave it is marked BOSASA Bundle 4(A) and it is a small bundle which...

**CHAIRPERSON:** Okay should I take it that it contains part of what I have got in this bundle but also it has stuff that I do

not have?

**ADV NOTSHE SC:** Yes what it – what it does now.

**CHAIRPERSON:** The annexures.

**ADV NOTSHE SC:** It contains the affidavit together with annexures.

**CHAIRPERSON:** Ja.

**ADV NOTSHE SC:** It contains everything that Mr Wakeford submitted yesterday.

**CHAIRPERSON:** You did not want – you did not want to just  
10 slot the annexures at the back of this one? Is there not enough space?

**ADV NOTSHE SC:** They did not – not enough – it is not enough.

**CHAIRPERSON:** Because that is much more convenient.

**ADV NOTSHE SC:** It did not – there is not enough space because Chair if we do that it is ...

**CHAIRPERSON:** No I think what we should do – no – because I think you should slot as many as you can slot into this affidavit and then go onto the next affidavit – file if there  
20 are not enough and then that file can then be A. You said this one is what? Oh this one is 4 A – is that (inaudible).

**ADV NOTSHE SC:** 4A – the main one – the main one – the big one we started with is 4.

**CHAIRPERSON:** Right.

**ADV NOTSHE SC:** And then we took the Item 12 which

contains Mr Wakeford's affidavit and we put it in 4(A) together with his annexures.

**CHAIRPERSON:** Well this is 4(A) which I have got.

**ADV NOTSHE SC:** That is – this is what we have put on your desk during the break.

**CHAIRPERSON:** These?

**ADV NOTSHE SC:** Yes. It is not what you were working on.

**CHAIRPERSON:** Oh ...

**ADV NOTSHE SC:** So we took – we took...

10 **CHAIRPERSON:** Are the annexures here now?

**ADV NOTSHE SC:** The annexures are there now.

**CHAIRPERSON:** Oh okay but that is what – the one that I had before tea was – or what?

**ADV NOTSHE SC:** We took – we took the one you had before tea.

**CHAIRPERSON:** Which was what?

**ADV NOTSHE SC:** Which was – which was Item – Item 12 in the big file.

**CHAIRPERSON:** No in terms of bundle – bundle?

20 **ADV NOTSHE SC:** It was – we took it from Bundle 4.

**CHAIRPERSON:** Yes.

**ADV NOTSHE SC:** But Item 12 in Bundle 4 we took it and put it here in this new sub-bundle.

**CHAIRPERSON:** No I do not like the new thing unless it is a continuation of the old thing.

**ADV NOTSHE SC:** Yes.

**CHAIRPERSON:** I will tell you what I think I would like – I would have liked. I would like to continue to have what I had.

**ADV NOTSHE SC:** Yes.

**CHAIRPERSON:** And then you can add but if there is no space to add then there can be another file where you then put on the other things then it is a – it is a continuation. You can then make the new file you can give it a bundle number.

10 **ADV NOTSHE SC:** Fine Chair. Chair then...

**CHAIRPERSON:** Because I want to make sure that the references we have made are the same.

**ADV NOTSHE SC:** There will be no change it is just a change of the – but it is fine Chair.

**CHAIRPERSON:** Yes.

**ADV NOTSHE SC:** Can – it is...

**CHAIRPERSON:** Let us do it that way then it is much more simple.

20 **ADV NOTSHE SC:** Can we continue now with what we have?

**CHAIRPERSON:** Ja.

**ADV NOTSHE SC:** Before us.

**CHAIRPERSON:** Ja.

**ADV NOTSHE SC:** And I will – we will move the documents.

**CHAIRPERSON:** Ja okay. Alright let us keep what we have

and then we will add if we need to add but let us not replace.  
Okay. Alright Mr Wakeford.

**MR WAKEFORD:** Chair thank you.

**CHAIRPERSON:** Okay it is ten past ...

**MR WAKEFORD:** Chair if I could work with your concession  
Chair.

**CHAIRPERSON:** Ja.

**MR WAKEFORD:** What I have to do.

**CHAIRPERSON:** Ja.

10 **MR WAKEFORD:** At – from my counsel have advised me  
that I must get through the substance of the allegations.

**CHAIRPERSON:** Of course.

**MR WAKEFORD:** And of course my response to that.

**CHAIRPERSON:** Yes. Yes.

**MR WAKEFORD:** So I am going to finish off on the  
motivation.

**CHAIRPERSON:** Ja.

**MR WAKEFORD:** Which is on page ...

20 **CHAIRPERSON:** But let us talk about – let us talk about the  
...

**MR WAKEFORD:** This one – 4901.

**CHAIRPERSON:** Let us talk about the time.

**MR WAKEFORD:** Yes.

**CHAIRPERSON:** What I was proposing giving you fifteen  
minutes to say whatever you need to say but as I said that is

not the end because when he questions you – when he questions you in relation to certain matters that you might not have dealt with or did not deal with adequately you can then answer fully.

**MR WAKEFORD:** Ja

**CHAIRPERSON:** And at the end when you are done if there are aspects that you feel are important and you have not had the chance to deal with them I will give you that chance. But your counsel will be allowed to re-examine you if he wishes  
10 to.

**MR WAKEFORD:** Okay.

**CHAIRPERSON:** You understand. So in the end I do not think you will feel that there is something that you have not had a chance to deal with properly. It is just a way of going about it.

**MR WAKEFORD:** Just understand my heart Chair.

**CHAIRPERSON:** No, no I understand.

**MR WAKEFORD:** But my heart is this that I have waited for more than two years.

20 **CHAIRPERSON:** No, no I accept that.

**MR WAKEFORD:** And the allegor of all of this had lots of latitude.

**CHAIRPERSON:** No, no I will give you that chance it is a question of when.

**MR WAKEFORD:** Thank you Chair.

**CHAIRPERSON:** Ja but in the end when you are done the idea is that you should be able to feel that you have been given adequate time to deal with issues.

**MR WAKEFORD:** Okay thank you Chair.

**CHAIRPERSON:** Okay alright.

**MR WAKEFORD:** So to sum up Chair.

**CHAIRPERSON:** Alright.

**MR WAKEFORD:** On the – the motivation of Agrizzi.

10           1. He primarily wanted and I am on page – sorry Sir – I  
              am on page 901 – BOSASA 04901 starting at 195.

**CHAIRPERSON:** Oh okay – okay – now I think I have the new file is it not?

**MR WAKEFORD:** I can give you the other number as well.

**ADV NOTSHE SC:** That – the

**CHAIRPERSON:** Hang on – hang on.

**ADV NOTSHE SC:** Chairperson the – what he did we took what you have we took it from the old file.

**CHAIRPERSON:** Ja.

20           **ADV NOTSHE SC:** You will see – you will see Chair we still  
              – if you see there is a sticker which is sticking out it says 12.

**CHAIRPERSON:** Ja.

**ADV NOTSHE SC:** It was item 12 in the old file.

**CHAIRPERSON:** Ja.

**ADV NOTSHE SC:** But it is sitting now on the new cover.

**CHAIRPERSON:** Ja but now you see you are confusing me

because remember I said let us continue with what we had – so you have taken out the – the certain parts.

**ADV NOTSHE SC:** We have taken out Item 12 that is Mr Wakeford's affidavit and put it in this new file together with its annexures.

**CHAIRPERSON:** What was wrong with keeping what we had?

**ADV NOTSHE SC:** We thought – we thought because the annexures could not fit in the old – in this old thick file  
10 instead of having the affidavit on its own.

**CHAIRPERSON:** Ja no we spending too time on this. Bring back the old file.

**ADV NOTSHE SC:** We have –

**CHAIRPERSON:** We spending too much time on it. Yes, ja okay. Bring back the old file and then – okay so that is the old file and there is a separate file which we will go to if necessary, is that right? Ja.

**ADV NOTSHE SC:** That is the file now with the exhibits.

**CHAIRPERSON:** Yes so when we need to go to exhibits we  
20 can go there.

**ADV NOTSHE SC:** Yes.

**CHAIRPERSON:** Okay no that is fine. Okay. Yes.

**MR WAKEFORD:** Thank you Chair I am going to just end off on the motivation because it is very important.

**CHAIRPERSON:** Ja.



**MR WAKEFORD:**

1. He primarily wanted to destroy.

**CHAIRPERSON:** You said we must go to 9 something –  
page 9 something?

**MR WAKEFORD:** So it is page – Chair 901.

**CHAIRPERSON:** 901. Ja okay.

**MR WAKEFORD:** Starting at point 195 the last section of it  
– it is really a summary.

1. He primarily wanted to destroy the reputations of  
10 Watson and the black board of directors at BOSASA  
guided by his racism to create the perception that the  
board of the company would have no option but to step  
down and appoint him as the CEO of the Group or risk  
the business liquidating.
2. Failing that Agrizzi would want to see the Group  
liquidate utilising his contacts within the media and  
political structures so that he may obtain the Group's  
contracts in his own entity that was Crearis and
3. When criminal charges were opened against him by his  
20 former employers however he clearly thought it would  
be politically expedient to utilise the commission to  
both repackage his own discretions while earning  
favour with the DA by implicating the ANC in corruption  
shortly before the general election only four months  
later.

So Chair that – that brings to an end the allega – the motivation, the summary of that. Chair I have gone through the allegations and some of my responses to point out – I opened with this but in summary just to say that none of the facts or the so called allegations that he presented aligned with a real time timeline and certainly did not match up with the accounting records both in my books and elsewhere including African Global or BOSASA.

So Chair the disputed allegations I am not going to  
10 read through which start on page – sorry Chair I keep forgetting

**CHAIRPERSON:** 905.

**MR WAKEFORD:** Ja – the disputed allegations – you correct Chair 905. I am not going to read through verbatim what was said.

**CHAIRPERSON:** Yes.

**MR WAKEFORD:** In January 2019 I think we all know that he alleged that I was involved in getting someone within SARS George Papadakis to fix certain things within SARS  
20 and to date there has been absolutely no evidence to that effect. Number 1.

2. He said that I was paid R100 000.00 a month to do that which is patently untrue and I demonstrate that with the accounting records and emails – strangely enough provided by him in previous affidavits which point to the

fact that I say you have not paid me for so many months when are we going to resolve this?

So all of that is provided in the evidence. By the same token the Lindela contract he states that the main reason for – for corrupting Aniel Radhakrishna was to get an extension of the contract.

Now no extension ever took place. If you read the initial contract the first addendum, the second addendum there was never any such thing.

10           So Chair I am not going to – I have given you a summary of the allegations.

**CHAIRPERSON:** Yes.

**MR WAKEFORD:** Both by Vorster and Agrizzi and in fact Agrizzi on the cement matter refers to Vorster and says well you tidy it up and give the whole story because I do not have it.

So if we move on Chair to the – now I am talking to the substance of my responses and that is on page 910 Chair at the bottom.

20           **CHAIRPERSON:** Yes I have got that.

**MR WAKEFORD:** Good. It says:

“The allegations made by Agrizzi in paragraph 43.4 of his affidavit are false in every respect. No such meeting or discussion ever occurred. Watson and Agrizzi

nor have I ever told any part with BOSASA or otherwise that Papadakis could resolve any issues at SARS. No such agreement for the provision of services in relation to SARS invest – ever existed or was entered into between me and BOSASA.”

No agreement between BOSASA and myself for R100 000.00 per month ever existed either. That – this is why neither such an agreement has been produced by  
10 Agrizzi.

As already addressed above over the period of 2006 to April 2015 I had a consultancy retainer with BOSASA through my close corporation for an amount of R50 000.00 per month. This is quite evident from all financial records.

My records reflect that inter alia I received a monthly retained of R50 000.00 plus VAT and on – on the few occasions where payments received exceeded R50 000.00 they either related to expenses incurred on BOSASA’s behalf or arrears payments of my monthly retainer.

20 At no stage was – was I ever contractually paid R100 000.00 per month whether to assist SARS investigations or for any other purpose. The only months when I received R100 000.00 was as a result of arrears payments or catch up payments on my monthly retainer from months when Agrizzi had not paid me.

The schedule of invoices sent and payments received from BOSASA companies and that is annexed in EA218 – but Chair I am not going to take you there in the interest of time I am sure your team are very able to scrutinise that as to its authenticity and correctness reflects that Agrizzi first stopped paying my monthly invoice in December 2009. Subsequently when payments to me resumed on the 24<sup>th</sup> of June 2010 double payments were processed to me as catch up payments. All amounts received by my CC have been

10 confirmed by the commission to my bank statements.

I further appointed independent auditing firm Full Serve Chartered Accountants to analyse my financial records for the purposes of this commission.

Here Full Serve reviewed. My CC bank account statements going back to 2009 and April 2015 when my services with BOSASA concluded. BOSASA's general ledger of payments to my CC from 2007 until April 2015 and my invoices and ledger of receipts of payments during that period.

20 The letter confirms inter alia that the escalated payments that I received were previously unpaid months together with the current month hence a double payment for that month and this is normal business practice. That these payments were nothing more than catch up payments for previously unpaid invoices is clearly reflected in email

correspondence between me and Agrizzi over the period.

Agrizzi provided these emails to the commission previously in an attempt to support his representations however contrarily they actually proved the truth of my own representations to the commission.

In the email correspondence of 21<sup>st</sup> August 2010 I said the following to Agrizzi.

Hi Angelo any conclusion on my July 2010 catch up payment? Is there any matters I am unaware of – if there  
10 are any please let me know - no offence.

This reason was sent – this – the reason this was sent was as Agrizzi had paid me my first catch up payment in June 2010 but then once again did not pay me an amount for July 2010.

And Chair I – I go on and on quoting different emails proving that what he said was an absolute lie. But Chair I am – I am going to speak to the fact that – that based on some of the info we have that Agrizzi purposely held back payments due to me speaks to the relationship and why he  
20 has gunned for me here. It was specifically Agrizzi's protests that prevented me from being paid on time. Payments due to me have – have had to be doubled up when they were – when they were not paid with records of this evidence stating and there is an annexure to that effect.

I am not going to read from the 417 transcripts once

again Chair and I am not going to speak to – let me just tell you what page it is – I am moving quite quickly Chair.

**CHAIRPERSON:** No that is fine.

**MR WAKEFORD:** We are on page 916.

**CHAIRPERSON:** Ja.

**MR WAKEFORD:** I am going to – to speak to this so called link because he said I was paid to assist with SARS. So at the bottom of that page I said I am reliably informed that the depths of Agrizzi's lies can be seen from other  
10 documentation which I cannot speak to now but I am sure you will make a ruling on that Chair because he has definitely purged himself on a number of different occasions.

I am not going to speak to – to Vorster's stuff because it is really a repeat of...

**CHAIRPERSON:** Ja you have dealt with that earlier.

**MR WAKEFORD:** What he said. Chair I will – I need to touch on Lindela and the DHA which was the other major issue. That is on page 927 Chair.

**CHAIRPERSON:** I have got it.

20 **MR WAKEFORD:** Thank you Chair. In paragraph 44.4 of his founding affidavit to the commission Agrizzi attempted to incriminate myself and Aniel Radhakrishna in matters of state capture by stating that we both had been party to facilitating a five-year extension to the contract between BOSASA and DHA for the operation of the Lindela

Repatriation Centre.

2. More favourable contract terms were included in the contract for BOSASA.

Again I am reliably – okay I am not going to refer to that.

**CHAIRPERSON:** Ja – yes.

**MR WAKEFORD:** And I am not going to refer to that. The review the following page under point 272 Chair. The review that Agrizzi refers to in paragraph 44.2 in his evidence relates to two addendums to the original Lindela contract of  
10 2005. These addendums the second and third addendum to the 2005 contract were concluded and signed on two different dates one being the 18<sup>th</sup> of February 2008 and the 13<sup>th</sup> of March 2009 respectively.

The original Lindela contract was for the provision of detention services for illegal foreigners at the Lindela Repatriation facility inclusive of accommodation, meals and security. This contract was concluded between Leading Prospect Trading a subsidiary of the BOSASA Group and the DHA and was for a ten-year period Chair of 1 October 2005  
20 to 1 October 2015.

So there would have been no need in 2009 to concern oneself with an extension. In 2007 the Home Affairs turnaround project was implemented involving large scale restructuring of the Department of Home Affairs. Fever Tree Consulting commonly known as Fever Tree was contracted



by the DHA to determine the scope of the turnaround project and identified a comprehensive set of transformation projects for the Department including reviewing and renegotiating existing contracts.

Chair this was a very small part of the overall turnaround – minute in fact if one had to look at the scope and scale of that project and Chair this project won international awards. We were even invited 00:27:13 of Fever Tree was invited to Princeton to deliver a paper on  
 10 this public sector project and it was granted other awards locally as well. It was in my view a shining example of how you go about transforming a state entity

In early 2007 I was contacted by the Minister of Home Affairs who at the time was Nosiviwe Mapisa-Nqakula who requested me to oversee and then to oversee the then envisaged turnaround project. This project was endorsed by cabinet under the Presidency of the former President Thabo Mbeki. This project was endorsed by cabinet giving the on-going crisis within Home Affairs.

20 Due to a lack of senior leadership numerous suspensions within the DHA a legacy of poor infrastructure and IT systems as well as poor governance – a poor governance environment Fever Tree the local part of AT Curley was appointed.

AT Curley were highly regarded due to their previous

success within the public sector in South Africa namely at the South African Revenue Service – SARS and internationally through successful execution of Home Affairs related projects in the USA, Belgium and Netherlands.

I informed the Minister at the time that I was providing consulting services to the Premier of the Eastern Cape Province as well as advising the BOSASA Group of Companies. My appointment as Ministerial Turnaround Advisor was through my Close Corporation. This lasted for  
10 two years 2007 to 2009 and ended the month before the 2009 general elections.

As stated above I continued to consult to BOSASA and other clients in the private sector.

And one can even scrutinise the hours I put in there – it was not a full day because I had other clients.

During the Turnaround Project new and improved service level agreements commonly known as SLA's were negotiated with all key suppliers to the Department of Home Affairs including SETA which was a government entity,  
20 Telkom – a government entity, SAPO – a government entity, XPS – a government entity owned by SAPO, Mtweze Double Ring, GPW or Government Printing Work and Leading Prospects Trading. Of [word cut] only Mtweze Double Ring and Lindela had existing contracts in place. All other contracts had expired or did not exist with DHA. At all

material times when in relation to BOSASA or any of my clients I was mindful of possible conflicts of interest and without exception made full disclosures and recused myself from any decisions involving or relating to my clients.

I was the minister's turnaround advisor and programme manager and indeed at the helm of the Turnaround Project. However, I oversaw 55 projects and seven work streams and was monitoring of these against contracted deliverables. I was at no stage, whatsoever,  
 10 even remotely involved in the Lindela Contract renegotiations.

I never attended or took part with any meeting with Agrizzi or Watson concerning the renegotiations of Lindela. I am going to skip a bit of that Chair and move on to ...[intervenes]

**CHAIRPERSON:** That is fine.

**MR WAKEFORD:** And move onto 283:

“I had never been party to any deal with Radhadkrishna and/or Agrizzi and/or Gavin  
 20 Watson.

Agrizzi would have met Radhakhrishna at the respective negotiations sessions between the DHA and BOSASA.

Once again, Agrizzi was at the helm...”

If you look at all these contracts and their

addendums, he was the signatory to all of them not Gavin Watson.

**CHAIRPERSON:** H'm.

**MR WAKEFORD:** “The culmination of these negotiations was the second and third addendums to the original 2005 contract as referred to above.

As already stated, I was not part of these negotiations in any way.

10 However, I have taken the time to review the contract and the two addendums concluded while I was an advisor to the Minister of Home Affairs on the overall Turnaround Project...”

Chair, that the salient points of the second addendum, that was in 2008, are:

“1. The DHA would receive a monthly saving of R 640 000,00.

20 2. The minimum monthly threshold of 3250 persons with the DHA was liable for within the original 2005 contract was reduced to 2500 persons.

Variable cost for food would only be applicable when a number of immigrants held at the facility exceeded the minimum threshold of 2500 persons.

Annual adjustments to pricing would be based

on the prevailing CPIX, that is your inflation formula.

This condition, however, was already present in the original contract.

The salient points of the third addendum, and this is even better for the fiscus:

1. The parties and the trip to meet by April 2015 before the expiry of the original contract in October 2015 to discuss the extension of the contract beyond the initial period of 2005 to 2015.

The DHA may at this time in its sole discretion extend the initial period until the 31<sup>st</sup> of October 2018.

If extended by the DHA, the contract would continue on the same terms and conditions as the current agreement.

However, the monthly charge payable by the DHA would be reduced by the capital cost of the facility of R 1,8 million per month.

A reduction of the monthly amortisation cost of the facility payable by the DHA of R 42 000,00.

If the occupancy of the facility was below 50% of the minimum threshold of any 36-month period the DHA would be able to reduce the

variable cost component of the monthly charge.

The DHA were given a CPIX holiday of 6-months...”

Which ended up, by the way Chair, of becoming 5-years because Mr Agrizzi failed to implement within his own jurisdiction and his own company where he was Chief Operating Officer and de facto CEO, he failed to remember this clause and in fact benefited the state even more.

10 “BOSASA would provide additional medical services at no additional cost and BOSASA would spend an additional R 5 million in upgrading facilities and would provide the DHA with remove access facilities.

The DHA would have an option during the full length of that contract to purchase the Lindela facility at a price determined by a registered independent valuer.

20 The DHA would have a right of first refusal on any other to purchase the facility by a third party.

Each and every individual contractual term of the two addendums above was for the benefit of the DHA and not the benefit of BOSASA.

I pause here to draw attention to the fact that

the extension referred to in the contract was only to be determined by the DHA 6-years after the signing of the third addendum.

A decision to be made 6-years after myself and Radhakrishna were no longer connected to the DHA in any way.

No extension was eventually awarded to BOSASA in 2015 anyway.

10 In fact, Agrizzi has attempted to repurpose the demands himself made on the DHA where Agrizzi had stated to the DHA at the time in 2007 that he would only consider reducing the monthly invoice to the DHA under the condition that the original contract be extended for five years.

This addressed in page 9 of the Lindela negotiations under Outcomes, Deep Dive, which is EA-295...”

20 But Chair, I am not going to take you there in the interest of time.

“At this time, the recommendation was that the DHA should only consider a three year potential renewal ultimately through Agrizzi although Agrizzi was never afforded the extension he demanded.

Regarding cost savings implemented, the report of the accounting officer in the 2008 annual financial statements...”

And you will remember Chair that he was the Director General, Mavuso Msimang, a man of great calibre and who ran that department extremely well and he knew that he was in charge, not me, not any DGB, he was in charge and he did his work properly.

10 “This was based on the annual saving of R 7.68 million as a result of the 640 000 monthly saving provided.

This would create future cost savings of R 68 million on the remainder of the Lindela contract.

In addition to the cost of the contract decreasing immediately, if the contract was extended at the sole discretion of the department the cost would be further reduced by an annual R 1.8 million per month reducing  
20 additional savings, future savings of R 112 million.

The Commission’s investigators have subsequently reviewed actual billings by BOSASA to the DHA and confirmed the following.



Before the renegotiations commenced, BOSASA invoiced the DHA 3250 persons multiplied by 30.4 days because that is the average month in a year, multiplied by R 79.90 per person which came out at R 7.8 million monthly.

After renegotiation, the two addendums concluded in February 2009.

10 BOSASA invoiced the DHA 2500 persons x 30.4 x 99.41 per person which came out at R 7.5 million monthly.

One would ask, why the increase to 99.41? That is factoring in principle inflationary increases which would have happened anyway. This amount remained the same for the following 62-months until March 2014.

This means that no annual CPIX increases were implemented over this five year period.

20 This confirms that the price paid by the DHA over the two addendums was 333 000 less than the DHA paid before negotiation, clearly a benefit to the DHA and not BOSASA.

However, this ignores the fact that the increase in price from R 79,00 to R 99,00 per day was brought about as a result of the CPIX

which I have just mentioned.

If this is considered the true price before renegotiation for comparative purposes is 3250 persons x 30.4 x 99 which equals R 9.8 million monthly.

Therefore, in reality, the price after renegotiations represents an immediate decrease in billing of R 2.2 monthly of R 27 million annually...”

10                   And Chair, you will remember when we spoke about this in January 2019, he was going on about how famous this was the money making contract of BOSASA. It constituted a small part of their total turnover, number one and number two, clearly was not after the renegotiation the real money making beast that he spoke about and Chair this is merely perusing the facts and the legal documents involved.

                          “This exercise was performed for the period 2009 to 2015 when the contract expired and  
20                   demonstrates the true financial saving by the Department of Home Affairs over this period amounted to R 325 million...”

Chair, a lot of money and table that to prove that Chair is on page ...[intervenes]

**CHAIRPERSON:** 937. Is that the one?

**MR WAKEFORD:** Ja, I think you are right. That is right, Chair.

**CHAIRPERSON:** Ja.

**MR WAKEFORD:** 937. I am going to go through it now.

**CHAIRPERSON:** Ja.

**MR WAKEFORD:** But really it differentiates between what the contract was in 2005, what it became after the 2009 second addendum and it proves beyond any reasonable doubt that there were massive savings for the state and for  
10 the fiscus and hence the awards given to this project Chair.

**CHAIRPERSON:** H'm. Well, when you said deposed what the contract was in 2005 but I see the table seems to start in 2009.

**MR WAKEFORD:** We – Chair, we are starting in 2009 but that is when the second addendum was completed.

**CHAIRPERSON:** Oh, okay.

**MR WAKEFORD:** So you get the full benefit.

**CHAIRPERSON:** Yes.

20 **MR WAKEFORD:** And we demonstrate that over a period of six years.

**CHAIRPERSON:** Okay.

**MR WAKEFORD:** so it was basically halfway through the contract.

**CHAIRPERSON:** Okay.

**MR WAKEFORD:** Taking it to the end of the contract and they could have continued with the savings and I do not know why but they did not then extent it at their own discretion. They negotiated a new contract. Now I do not know what happened with that.

**CHAIRPERSON:** Okay.

**MR WAKEFORD:** Thank you, Chair. Chair, just to get onto Radhakrishna. I am aware that Rahdakrishna himself completely denies Agrizzi's accusation of an agreement  
10 with BOSASA for the payment of R 7 million regarding the Lindela renegotiation. However, on plain logic, it appears that unlikely that a consultant would be rewarded with R 7 million having cost them for his so-called corrupt tours(?), R 325 million because that is what they did not do as a result of the sale.

“I further provided extracts of the income statement and the annual financial statements of leading Prospect Trading which demonstrates that before the renegotiation of  
20 the contract in 2007, leading Prospect Trading earned an annual profit of R 22.6 million.

After renegotiation this profit consistently decreased year on year until 2012 and 2013 when the company actually made losses.

These financial statements are indicative of

the profitability of the Lindela contract as leading Prospect Trading was a single purpose entity exclusively for the operation of the Lindela contract.

Agrizzi's representations in paragraph 44.4 of his affidavit to the Commission are false in their entirety.

1. He say the Lindela contract was not extended for...."

10 Oh, sorry Chair. I am not quite sure if this is taken from the 417. Is this taken from the 417?

**COUNSEL:** [No audible reply]

**MR WAKEFORD:** Not. Thank you. I will carry on Chair.

**CHAIRPERSON:** [No audible reply]

**MR WAKEFORD:** "The Lindela contract was not extended for five years or at all.

20 The contract had already been in place for two years prior to this review and thus this did not require National Treasury approval as alleged by Agrizzi.

The DHA has already confirmed this to the Commission.

No more favourable contract terms were included in the contract..."

In fact, Agrizzi himself no longer appears to hold

this claim and I won't say why Chair.

“The effect of the negotiations and review was to bring the cost per capita to the department to only 35% of the cost per capita of similar services provided at private prisons, and there are some in South Africa, and the Department of Social Services as addressed in the Lindela negotiations...”

And it is all attached in the evidence, Chair.

10 “As regards paragraph 44.6 of his affidavit or Agrizzi's affidavit which once more refers to the extended contract.

This statement can only be false as confirmed above, the contract was not extended.

Furthermore, I had at no time had any discussions with Agrizzi about the benefits of an extended Lindela contract.

I cannot speak on behalf of SCOPA or opposition political parties.

20 However, it is only logical to assume that anyone would look favourable upon the DHA paying less and receiving more as the terms of the addendums dictate...”

And Chair, of course, Lindela as a concept or a state policy has its opponents. There are some people

who do not believe that you should repatriate and that you should detain but in most democracies worldwide there is some form of detention and repatriation unless you are declared a refugee. And as much as people jump up and down it is a reality, it is there and we had to deal with that police reality. It is not for state departments to question government policies, they just have to implement.

10                    “It is important to note that Fever Tree Consultants operate in Home Affairs in a supportive capacity.

They performed research and analyses followed by specific recommendations.

As a support consultant working with DHA officials, Radhakrishna was only one member of a team responsible for negotiating the savings.

20                    All statutory powers, however, remained vested in their accounting authority being the director general and his subordinates in terms of the respective delegations of authority for the necessary approvals including procurement and contract.

Significant outcomes from the turnaround included reduced turnaround times for identity documents and for passports...”

And the customer centre, Chair, that answered 95% of calls in 20 seconds and resolved 90% of calls on first contact. I do not know what the situation is now and we have always spoke about making the transformation stick but I am sure that if you speak to Home Affairs they will give you an idea of what is taking place now.

“Agrizzi has attempted to manipulate reality in suggesting any surreptitious payments were made to Radhakrishna by BOSASA.

10 Subsequent to the conclusion of the Lindela negotiations...”

By the way Chair. I do have copies of Papadakis and Radhakrishna’s affidavits. We got Papadakis’ yesterday and Radhakrishna, we will receive permission from the work stream to get it directly from him.

20 “Radhakrishna is a public sector finance expert and I would imagine it was for this reason that Agrizzi approached them in regard to sent a proposal on the 8<sup>th</sup> of October 2009, detailing the works to be formed and that was for a fleet management contract in the Eastern Cape through one of their subsidiaries, Operation Phakisa...”

Chair, I am almost finished.

**CHAIRPERSON:** [laughs]



**MR WAKEFORD:** “My sole involvement in this process

was that Agrizzi asked me for input on the draft proposals of Kelly on the fleet management contract to which I informed him that he should counter the offer with more favourable terms to BOSASA.

10 Regarding Radhakrishna’s later consulting to BOSASA one needs to appreciate that an independent business consultant enjoys the same professional agility that advocates or attorneys do and no individual client owns that professional perpetuity.

Agrizzi had suggested that his relationship was deliberately hidden by some manner by Radhakrishna invoicing BOSASA in the name of Distinctive Choice Wines at some later stage.

20 The Commission, however, has confirmed that this only occurred in July 2011 two years after Kelly and Radhakrishna’s company already invoiced BOSASA directly in November 2009.

It is counter-intuitive to suggest that a relationship would be revealed in plain sight only to be hidden two years later...”

**CHAIRPERSON:** I am quickly looking at your

submissions. It looks like they would just be a repetition of what you have already said so far, at least in 9, page 942, is that not so?

**MR WAKEFORD:** Sorry, Chair. Do you want me to continue?

**CHAIRPERSON:** No, no I am saying that I am briefly looking at your brief submissions ...[intervenes]

**MR WAKEFORD:** Yes.

**CHAIRPERSON:** ...at the end and it looks like they will  
10 just be a repetition of what you have said.

**MR WAKEFORD:** Yes, Chair.

**CHAIRPERSON:** But I only looked at 942 and if they were going to be just a repetition, maybe you should not deal with them but you can round off.

**MR WAKEFORD:** Chair, I am happy to ...[intervenes]

**CHAIRPERSON:** Yes, ja.

**MR WAKEFORD:** ...to end off.

**CHAIRPERSON:** To round off.

**MR WAKEFORD:** And just to say ...[intervenes]

20 **CHAIRPERSON:** Ja.

**MR WAKEFORD:** ...just based on the evidence in relation to SARS, there was no investigation.

**CHAIRPERSON:** H'm.

**MR WAKEFORD:** Chair, if you ask me because I saw Papadakis' statement yesterday for the first time.

**CHAIRPERSON:** H'm?

**MR WAKEFORD:** My sole role in assisting Papadakis in 2008/2009 was because he was building a house. It was prior to the World Cup. There was a shortage of cement, and if you are building a house and not a factory or a shopping centre, you get pushed to the back of the queue. And as I understand it, he had meetings with the Watson's and he contacted me.

I thought that they had shares in AfriSam, so  
10 they could get it much cheaper. Clearly, they did not do that but I merely referred the builder or the construction manager or whatever he is called. He contacted me. He obviously got my number from Papadakis. I referred that through to Agrizzi and he could have referred that to Voster.

From time to time I was phoned to say: I cannot get hold of these guys. Can you follow up for me? And I did. There was nothing malicious. There was no quid pro quo. As far as I understand, he paid for the cement. It  
20 was done above board. Just helping a friend who, in fact, was one of the key investigators at the Rand Commission.

And so I have known this man for many years and I had the highest respect for him as a man of integrity and honour and as a man who has, you know, he was at the Rand Commission, he was at the Pillay Commission.

He has been a variety of commissions and done sterling work for this nation and for this country. And I would not never put him in such a compromising position.

In fact, while he was at SARS he did not need the BOSASA people, as far as I know. And yes I did, from time to time, visit him unrelated and I never asked him to influence a matter within SARS. And I did not even ask him for advice because we had some of the best advisors in the country. You know, Advocate Solomons SC. We had  
10 – I mention them in my affidavits. Some top, top ranking people. So the subsidies was also present. It was always present.

The issue for me was to keep a watching brief on threats. What threats were there, perhaps forces within SARS? Were there forces within the criminal justice system? Were there forces within the media? Were there competitors trying to undermine us? That was part of my brief and I make no bones about that.

I did – I would say to him: George – if he had  
20 time to see me, of course. I often asked for a meeting, I never got it. But I would say: George, from a process viewpoint, you know, administrative justice stuff, how should we handle this? and his – for instance, I think he got tired of me because I kept, you know: Are we not under attack here? Because I did not know a lot of the

things Agrizzi and his 5<sup>th</sup> Column were doing behind the scenes. I had no clue.

So when we were being attacked like that, I did – I felt it incumbent on myself to engage with the different players in the market, do some good business intelligence, find out what is going on, and to in fact act on that info. The letter and Advocate Notshe will show you quite a bit of emails and evidence, mostly outside of Papadakis' tenure at SARS.

10                   He will show you stuff but even during his tenure, there could be one or two, I do not think so, but even during his tenure it was administrative. You know, you got the right to object. You got the right to appeal. Those were the things that I was interested in but more importantly. Why are we being attacked all the time? And I even assisted with a letter which went ...[indistinct] the Commissioner of SARS. Firstly to the acting commissioner and then to the commissioner himself.

20                   And apparently, there was a very good meeting that resulted from it. So, Chair I have got nothing to hide. I really do not but the fallacious type of content that is being alleged against me had to be answered and that is why I want to thank you personally for making it possible for me to at least have my say today. Thank you, sir.

**CHAIRPERSON:**   Thank you, Mr Wakeford. I ended up

giving you more than the 15-minutes but I think it is okay. You have – I think you have had the opportunity to put your side of the story. We are going to adjourn for lunch now but before we do that. Counsel for Mr Wakeford, I guess you will only have an idea of how much time, if any, you might need to re-examine after Mr Notshe has finished his questioning, I guess?

**ADV REG WILLIS:** Mr Chairman, I gather you are asking that question on account of your latter session?

10 **CHAIRPERSON:** Yes, yes, yes. In the end, I do want to make sure that, you know, everybody has a fair opportunity.

**ADV REG WILLIS:** At this juncture ...[intervenes]

**CHAIRPERSON:** Ja.

**ADV REG WILLIS:** ...I do not think it is going to be very long.

**CHAIRPERSON:** Yes, ja, ja. But then see how – what comes ...[intervenes]

**ADV REG WILLIS:** It might be 15/20-minutes at this  
20 juncture.

**CHAIRPERSON:** Ja.

**ADV REG WILLIS:** Let us see.

**CHAIRPERSON:** Yes.

**ADV REG WILLIS:** So I can give you that indication.

**CHAIRPERSON:** Ja-no, that is ...[intervenes]

**ADV REG WILLIS:** [Indistinct]

**CHAIRPERSON:** That is fine. I wanted to say that my experience in this Commission has been over the years that the experienced practitioners tend to take shorter on re-examination. [laughs] So when you say 15-minutes or 20-minutes, that accord with what I would expect.

**ADV REG WILLIS:** Thank you, Mr Chair.

**CHAIRPERSON:** Ja. We are going to take the lunch adjournment now. Unfortunately, we – I have got to attend  
10 to something that relates to the Commission with the result that we will not resume at two as we normally would. We will resume at 14:30 so that I can attend to something urgent that I need to attend relating to the Commission and then we will resume at 14:30 then and then we will continue and see how everything goes.

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

**ADV REG WILLIS:** As you please, Mr Chair.

**CHAIRPERSON:** Okay alright. We adjourn.

**INQUIRY ADJOURNS**

20 **INQUIRY RESUMES**

**CHAIRPERSON:** Okay, it looks like – ja, at least mine is working now.

**ADV NOTSHE SC:** No, mine is also working.

**CHAIRPERSON:** Yes. Mr Wakeford, is yours working?  
Okay, alright. Let us continue.

**ADV NOTSHE SC:** We have reached a truce with my learned friends that no – we have reached a truce, no muti, which is going to affect the – the muti will [indistinct] but must not affect this [indistinct] agreement. Thank you, Chair. Mr Wakeford, your mic.

**CHAIRPERSON:** You can keep your mic on throughout, Mr Wakeford.

**MR WAKEFORD:** Thank you, Sir.

**ADV NOTSHE SC:** Let me start with this. As you know  
10 the Commission is investigating the issues of state capture and corruption and all that. You understand that and you understand that an initiative can start as a good initiative with the good intentions but somehow it might be spoilt. Do you understand that?

**MR WAKEFORD:** I understand that, Chair.

**ADV NOTSHE SC:** And also – I am glad you are talking to the Chair although you are referring to me. And then, Mr Wakeford, you also see that the – our constitution really is one – it promotes openness and honesty in government  
20 and including doing business with government.

**MR WAKEFORD:** Hundred percent, Chair.

**ADV NOTSHE SC:** And I am sure being involved in consultation with government departments you know that issues look tendering for government are governed by the constitution which requires fairness, openness in tendering



process.

**MR WAKEFORD:** Yes, Chair, and competition.

**ADV NOTSHE SC:** And competition, ja. And if one interferes with that it affects issues of competition and then the price gets higher for government and it increases the expenses, taking the money that have used somewhere to somewhere else. You know that.

**MR WAKEFORD:** Yes, I do.

**ADV NOTSHE SC:** And you know that the influence, what  
10 is also being investigated by this Commission, the influence can be obtained in a number of ways. In a number of ways and that influencing decision-makers and hoping that decision might be in the favour of whoever seeks a favourable decision. Do you understand that?

**MR WAKEFORD:** Hundred percent, Chair.

**ADV NOTSHE SC:** I am putting these – I am bringing this upfront because of the statements you have made how BOSASA starting assisting a true black empowerment company and to – just want us to go to some of the  
20 disturbing features I found and then I want your comment on this and we will debate it.

Now let us start with the issue of Home Affairs. Every time of a negotiation of the contracts, the Department of Home Affairs. At that stage you were the adviser to the Minister, am I right? You were the adviser

Minister, is that correct?

**MR WAKEFORD:** Turnaround adviser.

**ADV NOTSHE SC:** Turnaround adviser. But at that time you were also on retainer of BOSASA.

**MR WAKEFORD:** One hundred percent, fully disclosed, Chair.

**ADV NOTSHE SC:** Was the Minister aware of this?

**MR WAKEFORD:** The Minister was aware.

**ADV NOTSHE SC:** That you are on retainer of BOSASA?

10 **MR WAKEFORD:** Hundred percent.

**ADV NOTSHE SC:** And the Minister, was she aware of the fact that the company you were retained in had a contract with her department?

**MR WAKEFORD:** Yes.

**ADV NOTSHE SC:** Was she aware that at some stage whilst you were turnaround adviser you were on retainer of the company that was negotiating the – relooking at the contracts with her department?

**MR WAKEFORD:** She must have been aware.

20 **ADV NOTSHE SC:** You are not certain?

**CHAIRPERSON:** I am sorry, who was the Minister again at that time?

**MR WAKEFORD:** Minister Nosiviwe Mapisa-Nqakula.

**CHAIRPERSON:** Ja and that was – she was at that time Minister of Home Affairs.

**MR WAKEFORD:** Correct.

**CHAIRPERSON:** Okay, alright.

**ADV NOTSHE SC:** Nosiviwe, Chair, has no relation with me, it is just mine is Viwe. My name is Viwe, no relations. Now, Mr Wakeford, when you look at just at that issue on its own, just it not look uncomfortable that you are on retainer with a company which has a contract with the department in which you are a turnaround adviser.

**MR WAKEFORD:** Chair, if I could respond to that. Firstly  
10 to say the period of my involvement with Home Affairs was of short duration in comparison with the period that I had been with the BOSASA Group albeit that I was – it was a small portion of my total time.

In addition to that there is something in governance that is called disclosure and recusal. Both of which were applied by myself in four instances. In fact I was paranoid about it and some people even laughed every time I would get up and walk out of a room.

So I do not see the - you know, as I spoke earlier, I  
20 spoke about professional agility, you – and I am sure as part of the legal practices, counsel, those are issues that would be discussed as well. There was nothing untoward about it whatsoever and understand the turnaround was such a big project, a 55 project, seven work streams, you know, the renegotiation of contracts was very – it was

fractional and I did not participate in this. So that would be my response to that. Some people may say well, you know, but look at the positive contribution that was made in terms of, I believe, my leadership at the turnaround and look at the positive spinoffs that came from the total turnaround [indistinct – dropping voice]. So that is my response, Chair.

**ADV NOTSHE SC:** Now the FeverTree, the company FeverTree.

10 **MR WAKEFORD:** Yes.

**ADV NOTSHE SC:** And this company, I understand from affidavit of Mr Agrizzi, it was recommended by you.

**MR WAKEFORD:** No, Chair.

**ADV NOTSHE SC:** How did it get to appointed?

**MR WAKEFORD:** FeverTree was on risk when I arrived. I was appointed on the 2 May, they were appointed on the 18 May. I arrived, they were there already. They in fact came with very strong recommendation from cabinet and because they had foreign exposure to Home Affairs type projects –  
20 in fact the former Deputy President Ms Phumzile Mlambo-Ngcuka, she in fact was on the front page I think of the Sunday Times just before I arrived to say these are the guys. So my task was to manage and oversee, my task was not to decide who. Thank you, Chair.

**ADV NOTSHE SC:** Tell me, who recommended them to

cabinet then?

**MR WAKEFORD:** Who recommended them to cabinet?

**ADV NOTSHE SC:** FeverTree, ja.

**MR WAKEFORD:** Chair, I cannot answer that. I cannot answer who recommended them to cabinet.

**ADV NOTSHE SC:** And then Mr Anil...

**MR WAKEFORD:** Radhakrishna ..

**ADV NOTSHE SC:** Radhakrishna .

**MR WAKEFORD:** Yes, Sir.

10 **ADV NOTSHE SC:** Aneel Radhakrishna, who recommended his appointment by FeverTree?

**MR WAKEFORD:** His appointment to FeverTree was recommended by myself.

**ADV NOTSHE SC:** Yes.

**MR WAKEFORD:** He was formerly the Chief Operating Officer of the ECDC while I was the CEO. After my departure – because remember I appointed him even though he was recommended by the board, I had to sign his contract. He was scuppered and he did not have  
20 anything and he had moved up from Cape Town. So when Sven de Kock, the CEO of FeverTree requested a public finance sector expert who was accredited by National Treasury, I recommended him with absolutely no reservation, in the first instance.

In the second instance, I think it is very important

to mention this, that his biggest contribution at Home Affairs was to take them from a disclaimer audit to an unqualified audit. That was his intervention, he is particularly good at what he does and I have no reservations in recommending a man of that capability and stature with something like that.

**ADV NOTSHE SC:** Now tell me, when you recommended him he knew that – you recommended him to FeverTree and FeverTree was going to be part of the turnaround  
10 strategy. That is correct?

**MR WAKEFORD:** FeverTree had a variety of subcontractors, one of which was Akhile being the company that Aneel Radhakrishna worked for. FeverTree, as I understood them, firstly they had a large international contingent from abroad who were home affairs experts and, in the second instance, they had a very, very small in fact local contingent, a core, and then they would bring in specialists as they required.

**ADV NOTSHE SC:** I see. Now just tell me, did you  
20 disclose to FeverTree and the department that the Aneel recommending was someone you had worked with before?

**MR WAKEFORD:** In fact I disclosed it fully both to Sven de Kock and to the Minister and Sven de Kock did his own interrogation and assessment of the individual concerned.

**ADV NOTSHE SC:** I see. Now tell me, did you not deem it necessary that you should warn them against involving Mr Radhakrishna in negotiating with BOSASA because you are on retainer in BOSASA.

**MR WAKEFORD:** But how does that impact, Chair, I am just trying to understand? He is dealing with that project.

**ADV NOTSHE SC:** Okay.

**MR WAKEFORD:** He is part of a team, he has no power because he is a consultant. Remember, the consultants  
10 were support people, they were very, very good at what they did and they did all the analyses and made the recommendations but he no power to sign off anything.

**ADV NOTSHE SC:** I understand. But do you understand that he, while he is recommended by you and now he is negotiating with a company wherein – that has retained you, does that not look uncomfortable? You recommended him but now he is sitting and negotiating with a company that retained you.

**MR WAKEFORD:** Look, if I were in the mix of it, if I were  
20 in the mix of it, I would feel very uncomfortable, but I was not in the mix of it at all and he was probably the best person to save Home Affairs R325 million over the last six years of the contract. He was by far the most experienced person to do that and he can attest to it as others on the project and you are welcome to speak to the likes of Roelf

Meyer, to Sven de Kock, to the shareholders even of FeverTree. There was absolutely no influence garnered from me whatsoever.

**ADV NOTSHE SC:** I see. Now you saw the affidavit or you must have of Mr Agrizzi when he responded to the affidavit of Aneel Radhakrishna .

**MR WAKEFORD:** I fleetingly had a look at it last night, yes.

**ADV NOTSHE SC:** And he deals at length with the  
10 negotiations and his conclusion is that there was no savings. Instead, there was some profit hidden by BOSASA. So there was an expense instead by the department. Did you see that?

**MR WAKEFORD:** Look, whether I saw it or not, the fact that he says there was no profit speaks to the fact – speaks to the fact that their revenue stream was dropping as a result of a very good deal negotiated by Home Affairs.

**ADV NOTSHE SC:** But he - sorry.

**MR WAKEFORD:** Sorry, Chair. So I am not quite sure  
20 where we are going with this, Chair, but I am quite happy to continue responding.

**ADV NOTSHE SC:** Where I am going with this, he says although on the face of it, it looks as if there was no profit, there were hidden costs that were put in by BOSASA, but it cost the department more. So BOSASA made more money.



**MR WAKEFORD:** Chair, with all due respect, with all due respect, he has proven to be a liar and he is lying again and he is repeating [indistinct] and old stuff. He needs to prove – if he says that after the negotiation they made more money, then he needs to say how and why.

**ADV NOTSHE SC:** Yes, let us try and do that. Perhaps let us try and understand it. Can you look at the big file you have?

**MR WAKEFORD:** Sure.

10 **ADV NOTSHE SC:** Can you go to page 760?

**MR WAKEFORD:** 760?

**ADV NOTSHE SC:** Yes.

**CHAIRPERSON:** That is the beginning of his affidavit.

**ADV NOTSHE SC:** Yes. Chair, can I just stop there, something I forgot and wanted to deal with it when we come back, before we go any further. Do you have 760? That is the beginning of – there is something I forgot, I should have dealt with it. Do you confirm that the affidavit we dealt with before the lunch adjournment, that affidavit  
20 and annexures is your affidavit. Remember the affidavit you were reading from?

**MR WAKEFORD:** My affidavit?

**ADV NOTSHE SC:** Yes, the last affidavit.

**MR WAKEFORD:** Yes, it was a consolidated affidavit.

**ADV NOTSHE SC:** Yes.

**MR WAKEFORD:** Dating everything and putting it together.

**ADV NOTSHE SC:** And if you just go back to that affidavit, I think it is in the small file. On page 944.

**CHAIRPERSON:** Well, do you want to do it properly, Mr Notshe, because I think I know what you forgot.

**ADV NOTSHE SC:** Yes, yes, Chair.

**CHAIRPERSON:** Start at the beginning where the affidavit starts and then go to – before you go to the last page.

10 **ADV NOTSHE SC:** Yes, it is – Mr Wakeford, can we start on page 852?

**MR WAKEFORD:** Page 852?

**ADV NOTSHE SC:** Yes.

**MR WAKEFORD:** Top right or left?

**ADV NOTSHE SC:** Left.

**CHAIRPERSON:** Always the black numbers.

**ADV NOTSHE SC:** Black numbers.

**MR WAKEFORD:** Sorry, 8...?

**ADV NOTSHE SC:** 852.

20 **MR WAKEFORD:** Yes.

**ADV NOTSHE SC:** And if you go to 853 and your name – do you see your name appearing there?

**MR WAKEFORD:** 853. Yes, I have got you.

**ADV NOTSHE SC:** Now put your finger there and then go to 945.

**MR WAKEFORD:** 945?

**ADV NOTSHE SC:** 945.

**MR WAKEFORD:** 945, left hey?

**ADV NOTSHE SC:** Left, ja. Always left, the black numbers.

**MR WAKEFORD:** Yes.

**ADV NOTSHE SC:** Sorry, 944, sorry.

**MR WAKEFORD:** 944?

**ADV NOTSHE SC:** Yes.

10 **MR WAKEFORD:** Yes, got it.

**ADV NOTSHE SC:** There is a signature there, is that your signature?

**MR WAKEFORD:** Yes.

**ADV NOTSHE SC:** Now do you confirm that this document I have referred you starting from 852 to 944, 945 is your affidavit?

**MR WAKEFORD:** Yes.

**ADV NOTSHE SC:** And do you confirm that the affidavit – sorry, there are annexures to that affidavit and they form  
20 part of it. The annexures that go with it form part of it.

**MR WAKEFORD:** Yes.

**ADV NOTSHE SC:** Thank you. It is a formal exercise to demonstrate that this is your affidavit.

**MR WAKEFORD:** Oh, okay.

**ADV NOTSHE SC:** Ja, it is just an exercise to – just to

confirm that that is your affidavit. Okay.

**CHAIRPERSON:** Well, you must still request that be admitted, Mr Notshe.

**ADV NOTSHE SC:** Oh, sorry. Chair, can we have the affidavit of Mr Kevin Wakeford admitted as EXHIBIT T33?

**CHAIRPERSON:** Exhibit?

**ADV NOTSHE SC:** T33.

**CHAIRPERSON:** The affidavit of Mr Kevin Peter Edwin Wakeford starts at page 852 will be admitted as an exhibit  
10 and will be marked as EXHIBIT T33.

**AFFIDAVIT OF KEVIN PETER EDWIN WAKEFORD  
STARTING AT PAGE 852 HANDED IN AS EXHIBIT T33**

**ADV NOTSHE SC:** Thank you, Chair. Now, Mr Wakeford, let us go to the affidavit of Mr Agrizzi that we started on.

**MR WAKEFORD:** Page number? Oh, we were there. Okay, got it.

**CHAIRPERSON:** That is under what divider, Mr Notshe? I had it earlier.

**ADV NOTSHE SC:** It is under 8, divider 8.

20 **CHAIRPERSON:** Ja.

**ADV NOTSHE SC:** Now just turn to page 770.

**MR WAKEFORD:** Yes, Chair.

**ADV NOTSHE SC:** So 770. Where Mr Agrizzi – now he deals with the issue of whether the contract was – cost the department more and was lucrative to BOSASA. He says

this. He denies – he says:

“I deny allegations.....[intervenes]

**MR WAKEFORD:** Sorry, sir, 770, hey?

**ADV NOTSHE SC:** 770, paragraph 26.

**MR WAKEFORD:** 26, hey? Thank you.

**ADV NOTSHE SC:** Are you there? Now if you look at paragraph 26.2, Chair, he says:

10 “The turnaround – turnover billing pre the negotiation was approximately R7.8 million with a profit margin of 35% on average yielding 22.6 to 2.9 per month.”

You hear that. But he says then:

“Post the negotiations the turnaround would drop to 7.5 ...[intervenes]

**CHAIRPERSON:** The turnover.

**ADV NOTSHE SC:** Sorry.

“...the turnover would drop to 7.5 but because...”

This is important, Mr Wakeford, but he says:

20 “...but because of reduced occupancy levels and reduced costs related to the operation thereof, the profit margin increased between 55% and 61% yielding an average and net profit contribution on average between 4.1 to 4.3 per month.”

Do you see that? What do you say to that?

**MR WAKEFORD:** I do not believe it. Firstly, I do not

believe it, Chair. And secondly, I think if there is dispute around the figures, I think there should be a proper forensic and everyone should have access to that forensic report, something we have asked for repeatedly and we have never received and we are told that there is no report anymore and I do not understand that because it quoted at length in the preliminary.

But secondly, let me say, Chair, that the task team at Home Affairs, as I understand, were tasked with  
10 reducing a burden to the fiscus. Whether Mr Agrizzi and his cohorts were making a profit or not, quite frankly, anyone running a business without a profit should not be in business but whether they were making a profit or not or more profit, quite frankly has nothing to do with us. What is important was we were charged with a duty, as a turnaround, to become more efficient as a department, which we did in terms of turnaround of IDs and passports.

But secondly, on this specific project, which was one of 55, we were tasked with getting better service  
20 efficiency, in the first instance. And, in the second instance, we were required to reduce the burden on the fiscus.

Now the escalation and numbers of people attending or becoming residents at a repatriation centre is not determined by government or the private sector. Quite

frankly, it is determined on how many migrants are confronted by the authorities and taken to the repatriation centre and that is usually a duty discharged by the police and immigration control, that is it.

But to advocate that they negotiated a better deal for themselves when we have gone at great lengths to prove that in fact the benefits were miniscule and in fact in other documents, Agrizzi, Agrizzi himself, says it was about the extension of the contract. It was not about  
10 economic benefits. But hopefully we will get a ruling on that very soon so we can have that evidence disclosed.

**ADV NOTSHE SC:** So tell me, Mr Wakeford, so your answer to this, you are say well, it is difficult for you as you sitting there to dispute what he says unless there is a forensic investigation on it. Is that your answer?

**MR WAKEFORD:** Sorry, Mr ...[intervenes]

**CHAIRPERSON:** He says he does not believe it.

**MR WAKEFORD:** I do not believe it, Chair.

**CHAIRPERSON:** He does not believe it.

20 **MR WAKEFORD:** I do not believe it.

**CHAIRPERSON:** And it should be investigated and everybody should see what comes out, so...

**ADV NOTSHE SC:** Yes.

**MR WAKEFORD:** Chair, I think that is your prerogative.

**CHAIRPERSON:** Ja, so ...[intervenes]

**MR WAKEFORD:** As a Commission. If you want to do that. My view is if you investigate our figures that we have given you and go through them carefully I have no reason to believe that our figures are wrong. In fact my forensic accountant, one of the best in the country, and he went through this with a toothcomb and I cannot believe that Mr Agrizzi has any accounting service. I cannot believe that.

**ADV NOTSHE SC:** You see, this goes further on the same page, paragraph 26.4, he says this:

10            “In order to disguise the actual profits from the directors and the department, Watson created ingenuous ways to dilute the profits by raising intercompany charges from nonperforming entities and therefore profits in high value contracts such as Lindela were diluted so that although the contracts were negotiated and clients requested to see the financials, the actual profits were not reflected. These were fictitious costs relating to the following: Security costs, whereas security was provided by

20            employees on the payroll.

             Rentals were exorbitantly charged by BOSASA properties, management fees as well as software costs were built by the holding company.

             Various other costs were interposed on leading prospects trading it to disguise actual profit. This



was also done with other projects so that the actual profits were diluted excessively.”

What is your comment to that?

**MR WAKEFORD:** Chair, firstly, let me reiterate and repeat – and I understand Advocate Notshe has to do his job and he has been given something and he must ask these questions but with all due respect to the author of this document – now the author firstly ignores the fact that Home Affairs are not interested in what profits are being  
10 made, Home Affairs are interested in what service has been provided and at what cost and whether they have sufficient flexibility in their budget to do a [indistinct] for more pressing needs and issues and the savings to Home Affairs from a fiscal viewpoint, R325 million. Now whether Mr Agrizzi – he says it is Mr Gavin Watson’s ingenuous abilities. Well, let me tell you, I do not know whether Mr Gavin Watson ever read this contract and whether he was involved in it at all and if one probably goes back, it is highly likely that it was Mr Agrizzi himself, that is why he  
20 seems to know so much about the underworld of these machinations. But for me to concede to him on the basis of just a statement like that would be grossly negligent save to say that yes we did put in the financial statements to show that over time there was a shrinking of the profit margin, but if Mr Agrizzi says those – all those documents

were in fact cooked or tampered with at the time, at that point in time.

I cannot give a counter proposal to him because he was probably the person that did it, but other than to say that Home Affairs is not interested in whether you are making a profit or not, they are interested in saving money and they did save money, plenty of it.

**ADV NOTSHE SC:** So the high water mark, can someone get some water?

10 **MR WAKEFORD:** Sorry Chair my mouth is very dry.

**CHAIRPERSON:** Yes, well they must give you two bottles then.

**ADV NOTSHE SC:** No, no four Chair.

**CHAIRPERSON:** But we know Mr Notshe that this has got nothing to do with your questions because even before lunch  
it was like this.

**MR WAKEFORD:** I know.

**ADV NOTSHE SC:** No Chair, but Chair no it was long, it  
20 took longer for him to finish the bottle before lunch. Now,  
one, after two questions he finished the whole bottle. Now  
Mr Watson, the...[intervene]

**MR WAKEFORD:** Wakeford, sorry Chair, some people do call me, Kevin Watson.

**CHAIRPERSON:** Ja.

**MR WAKEFORD:** You know; I literally grew up with the family.

**ADV NOTSHE SC:** No sorry, sorry.

**MR WAKEFORD:** It does not matter it was a Freudian slip, Advocate Notshe, I do not mind.

**ADV NOTSHE SC:** I have fallen into the same thing I have been called Viwe Freeway and all. Now Mr Wakeford your case and your evidence is this that whatever - however the – however BOSASA reached the pricing they  
10 reached it did not matter. What matters is that the department made a savings, that is your high watermark.

**MR WAKEFORD:** Yes, sir, yes Chair.

**ADV NOTSHE SC:** Now I want to take you to page 779.

**MR WAKEFORD:** Yes, Chair.

**ADV NOTSHE SC:** Paragraph 43.3, Chair I am not going to read this because again, here Mr Agrizzi is showing how, despite the price event, how BOSASA managed to get to that but still make a profit. It almost – its building Chair on what I have already asked. So I do not want to delay by  
20 reading the whole paragraph but you are saying whatever calculations are here, the fact of the matter is that the department felt that they have made a savings, is that your answer?

**MR WAKEFORD:** That the department did make savings as attested to in their annual reports, Chair and as

attested to even to presentations to the Home Affairs Committee in Parliament, SCOPA etcetera. It was very evident that they were saving money.

**ADV NOTSHE SC:** And then also if you turn to page 783.

**MR WAKEFORD:** Yes, Chair 783 sorry, I have gone one too many, there we go.

**ADV NOTSHE SC:** There on paragraph 49 Mr Agrizzi would – whereas if you go to paragraph on page 784 over the page paragraph 49.3. He says:

10           “On average Lindela would reflect the low profit to appease the Department of Home Affairs for the Auditor General should they invoke the decision to evaluate the financials of leading prospect trading. However, the actual profits generated by Lindela were in excess of 4.5 per month post the negotiations. Hence, it remains a very lucrative contract and very little risk.”

Your answer is still the same as you gave.

**MR WAKEFORD:** Chair, my response would be beyond  
20 that. It would be very interesting to see if this is in fact true how the honourable Agrizzi would prove it in the first instance, but he seems to be aware of inter account – let us call it an inter account fraud perhaps that is what he is referring to. I am not aware of anything like that but let me say this, that they reflected very good profits prior to this

contract, and the two addendums, especially the two addendums and as the years went on their profits dipped massively, eventually running at a loss.

Now, that is what they provided the auditors. Those financial statements were audited but who knows what Mr Agrizzi was up to at the time, Chair I don't. I was not there to witness it, I was not there but let me say this, I am confident that Home Affairs was saving every single month.

**DV NOTSHE SC:** Whether you are saying, whether what  
 10 Mr Agrizzi says how they managed to get a profit is correct or not. You are unable to say anything we said, toward[?]  
 [06;04]

**ADV NOTSHE SC:** You know, I visited Lindela as a young consultant when I first started in 2006. I think it was 2000, yeah 2006 I have popped in there and a look and that is the only time I actually got involved with Lindela directly but safe to say that Home Affairs and if you speak to Home Affairs. The vast majority of people who I had dealings with were quite satisfied with the service that we getting.

20 And they came in well below, well below private prisons, well below social development, for youth hostels, etcetera, etcetera. So I am - you know, this top team of consultants, mostly many from overseas, and they did not have too much negative to say about it. All they did was to cut the price and to slash it from an annual budget spend

perspective and the budgets spend did drop. No one, not even the Auditor General would contest that, so I am not quite sure where Agrizzi is going with this or perhaps it reflects an ineptitude on his part, I am not sure.

**ADV NOTSHE SC:** Look, look when you look at it, when he says look we went in, we negotiated with someone brought in by Mr Gavin Watson, someone brought in by Mr Gavin Watson.

**CHAIRPERSON:** Well you will remember Mr Notshe that, I  
10 have said that the Evidence Leader who gets the witness name wrong three times, to be fined.

**ADV NOTSHE SC:** Chair, this is my first time Chair.

**CHAIRPERSON:** It is the second time. [laughing]

**ADV NOTSHE SC:** Ja, I am going to bite my tongue. Mr Wakeford remember his premise is this that we heard Mr Wakeford on a retainer, Mr Wakeford is an advisor on the turnaround strategies by Home Affairs. We have a contract with Home Affairs, we negotiate with someone brought by Mr Wakeford, no sorry let me rephrase that.

20 **MR WAKEFORD:** Yes.

**ADV NOTSHE SC:** Recommended by Mr Wakeford and on that basis we made more profits than we have been making, does it not look bad?

**MR WAKEFORD:** Chair, firstly, I will reiterate the CO of FeverTree would have had to satisfy himself.

**ADV NOTSHE SC:** The, sorry?

**MR WAKEFORD:** The CEO of FeverTree appointed Achille not a new directing Achille had variety of consultants and staff members. They specialised in public sector finance mainly as I understood it. They quite frankly Chair he and his team had to satisfy themselves that Aneel Radhakrishna was the right representative and that Achille was the right company.

I could not interfere in that, I could only recommend  
10 and I stand by my original response truth response because many would deny it, but not me I tell you the truth. He was selected by the FeverTree consultants and I see absolutely nothing wrong with a person who I by the way had no direct influence or control over. He was reporting to the CO and I had recused myself from all those processes.

So for the life of me, I cannot understand why his trying to draw a bridge or a nexus where I would in the dark shadows of Home Affairs tried to influence something  
20 like this, when I was being measured by the Minister and the DG and their team on overall performance of a much bigger turnaround project than procurement renegotiations.

**ADV NOTSHE SC:** I see, you see what is also disturbing is the fact that BOSASA goes and pays Mr Radhakrishna – not personally, but in some company, wine company.

**MR WAKEFORD:** May I respond to that Chair? Well, firstly, I think it is important that at some stage, you have a closer look at Aneel Radhakrishna's affidavit and then what I say in mine as well, but safe to say the first – and I spoke about it this morning.

The first payment made to him, according to his affidavit was near the end of 2009 for his involvement with fleet management contract in the Eastern Cape and there I also spoke about the agility of consultants that no one  
10 owns them. They can move around and be hired gun for almost anybody as some lawyers are but Chair as far as I understand it and you will have to...[intervene]

**CHAIRPERSON:** But hang on, are you saying anything about your counsel?

**MR WAKEFORD:** Well his fairly universal Chair, Chair the – you know it is an important question, even though it is I think two to three years after I had left and Aneel Radhakrishna left a bit after me. I am not quite sure exactly when but it was an extended period of time after  
20 we both left Home Affairs and I think Agrizzi took quite a liking to this guy and had used him in a variety of capacities, as an external consultant.

The nature of that relationship I cannot comment on because I was not close to it but merely to say this that if you read his affidavit, his responses that he was - he did



not want to share his consulting activity on that particular project in 2012, whenever it was with Achille because he put all the work and effort into it himself and therefore he responded in that manner.

Once again, that is for the Commission and yourselves to decide as to how you see that, whether you know more than I do but for all intents and purposes, I think it was a natural business response to doing work outside of the scope of other shareholders in another  
10 partnership.

I do not see it as - because he already accepted a payment in Achille in 2009. So why would he - he would be open about it today and he would hide about it two years later when it had absolutely nothing to do with the Home Affairs contract, I do not understand it.

**ADV NOTSHE SC:** You see what is – what I find disturbing personally, is that if the payment was made to Mr Radhakrishna, Aneel Radhakrishna I will be standing on my two hind legs in talking to you about this issue but it is  
20 made to some wine company and he does not come and say I had sold wine to BOSASA. He says there were some services but he speak to a wine company, which he did not do business.

**MR WAKEFORD:** Yeah, Chair I do not want to get into a deep dive on this because I think it is incumbent on Aneel

Radhakrishna to respond to things like this.

**ADV NOTSHE SC:** No I accept that.

**MR WAKEFORD:** But other than to say this, that if you buy a shelf company, you know, some of them are called giraffe others are called elephant, others are called whatever. This one was called Distinctive Choice, it never traded in wine as I understand it. It is a shelf company, they threw some shareholders in they have not changed the name yet, I do not know.

10 But those are the questions I would ask, those are the questions I would ask of Aneel Radhakrishna and what am what was the purpose of the company? What was it geared for? What was the intent behind it and why did you not invoice through Achille?

His response, as I said, I have read his affidavit. His response is very clear that he just needed a vehicle outside of Achille, because he did not want to share in that turnover, because he did all the work by himself.

**ADV NOTSHE SC:** And lastly on this, again, understand  
20 me I am not expecting you to answer for Mr Radhakrishna but just putting what looks...[intervene]

**MR WAKEFORD:** What I think.

**ADV NOTSHE SC:** Yeah, and what looks strange and also the other payments, I think two payments were made to his wife for having rendered services. It all looks as if some

money is being hidden, does it not?

**MR WAKEFORD:** Look, why would you want to hide money so long after a contract?

**ADV NOTSHE SC:** I have got no – then lastly – sorry it is the second last, well last, last. Remember Mr Agrizzi's was evidence is that Mr Aneel Radhakrishna wanted R7million and he was laughed off and they started to pay him in some instalments and in some instances, he says instead of paying you they paid him.

10 **MR WAKEFORD:** I see that.

**ADV NOTSHE SC:** Yes.

**MR WAKEFORD:** I see that Chair, in Mr Agrizzi's new admission, his new admission because his story keeps changing. I am not quite sure which one to believe but other than to say that sorry, Chair, could I just ask advocate not Chair to repeat question.

**CHAIRPERSON:** Ja.

**ADV NOTSHE SC:** No, no the issue the issue I was raising is that he - I think two payments were paid to his  
20 wife who had not turned that services.

**MR WAKEFORD:** Chair, that demands a response from him himself.

**CHAIRPERSON:** Ja.

**ADV NOTSHE SC:** Now let us move from that, that was the Home Affairs.

**MR WAKEFORD:** Yes, yes.

**ADV NOTSHE SC:** Now the issue about Mr Papadakis.

**MR WAKEFORD:** Yes.

**ADV NOTSHE SC:** Let me first before I asked further questions about it. Mr Papadakis has refused for now to give an affidavit regarding his involvement in BOSASA and SARS he says the Administration Act refuses him to do that, prohibits him from doing that but fortunately, the liquidators seem to agree that we can get that, to allow him  
10 to give us information of what he did regarding BOSASA when he was at BOSASA.

I am just putting it to you, to let you know. Now let us take the evidence is that the affidavit of Mr Agrizzi is that Mr Papadakis was compensated with wet and dry cement. You saw that?

**MR WAKEFORD:** I saw that Chair, yes.

**ADV NOTSHE SC:** And you agree that you did that to facilitate the cement to be delivered at Mr Papadakis's place, am I right?

20 **MR WAKEFORD:** Okay, Chair I want to - I do not want to say yes or no, I want to give a bigger a better response on that.

**ADV NOTSHE SC:** Yes.

**CHAIRPERSON:** Ja.

**MR WAKEFORD:** Firstly, let me say this that the

allegation is that he managed BOSASA problems internally in BOSASA and for that, for a major investigation apparently, he was reimbursed with wet and dry.

**ADV NOTSHE SC:** Yes.

**MR WAKEFORD:** That is the allegation, we know from the investigators reports, the prelim in particular and other evidence through other affidavits from people at RGS as well as at the other supplier I forget the name now, Chair.

That they do not agree with either Vorster or  
10 Agrizzi's quantities and that the quantities were far, much smaller and they were during January to June, I think 2009 that was the period and it was a period where there was no, whatsoever no major investment.

So, Chair, that is - I think that is an important context before we take it further. Papadakis as far as I am know is a friend of certainly some of the Watson brothers, he did not know Gavin at all but he did know, Ronnie in particular and he had met me at the Rand Commission, he was the lead investigator so he had to interview me a few  
20 times and he also met Ronnie Watson subsequent to the Commission.

And Chair, this is I think 14 or 13 years ago, so I am going to - and I only saw Papadakis thing yesterday his affidavit but it is safe to say this that there was Ronnie and George Papadakis had met. Ronnie's one of his companies

was involved in the cement sector in the Eastern Cape, George Papadakis had expressed frustration around the activities of cement supplied that time because of the World Cup, and they were massive infrastructure projects all over and Ronnie could not respond because for some reason, I think their company was no longer involved in cement by the time request had come through and a phone call came through to me because Ronnie referred the phone call to me because at least I knew Gavin and  
10 Papadakis did not.

And I spoke to Agrizzi and I said, here I the builder you guys carry on with that, so it was, as far as I can ascertain, it was an innocent transfer of relationship knowledge to say, here is a need, here is a potential supplier at that time BOSASA was involved with Afrisam and one of the empowerment partners, and the purchase from another major international company called Wholesome.

But the long and the short of it is if you look at the  
20 evidence here, the suppliers were actually external to BOSASA and the long and the short of it is that a payment was made. I do not have all the details of that, but I am sure that you can get that directly from Mr Papadakis himself.

But yes there was a supplier, it was not a quid pro

quo type situation, as I understand it, it was a simple, here and let us help and assist. And the builder dealt directly with a company and the company facilitated because obviously they were probably – BOSASA was a large company in those days so they had some sway over the supplier. That is all I have to say about that Chair.

**ADV NOTSHE SC:** Look, let us take Mr Wakeford let us take this step by step.

**MR WAKEFORD:** Yes.

10 **ADV NOTSHE SC:** Did you not want to be cautious about saying there was no investigation by SARS on BOSASA at the time of the cement issue. You do not know much of what was being investigated by SARS or do you?

**MR WAKEFORD:** Well, to my knowledge Chair, I mean, I am not - I never worked for SARS but to my knowledge there was no - what is an investigation? An investigation is where you receive an audit letter and then the audit commences.

20 In this case, the audit letter was near the end of 2010 and the initiation of the audit and if I am not mistaken, it was Pezulu[?] one of the subsidiaries involved in fencing although the word means sky if I am not mistaken.

So yes Chair the - no knowledge at all, the only knowledge I have of an investigation was the one I have

just mentioned and there would never have been a quid pro quo type relationship with Mr George Papadakis.

**ADV NOTSHE SC:** And you know, whether BOSASA or subsidiary companies had put in a claim, a tax refund claim, you know about those things?

**MR WAKEFORD:** A tax refund?

**ADV NOTSHE SC:** Yes, you do not know about those things.

**MR WAKEFORD:** Is that an investigation, chair?

10 **ADV NOTSHE SC:** I am asking the issues about SARS, you know whether they would have claimed a tax refund, you do not know that?

**MR WAKEFORD:** I would not know about that.

**ADV NOTSHE SC:** I am not expecting it from you.

**MR WAKEFORD:** Ja.

**ADV NOTSHE SC:** Hence I say Mr Wakeford the high watermark is that as far as you are concerned, you do not know whether there were any investigation or tax to file applications by BOSASA at that time, a high watermark.

20 **MR WAKEFORD:** Are you referring sir to Chair to 2000 January to June 2009?

**ADV NOTSHE SC:** From 2009 until 2013 when Mr George Papadakis left.

**MR WAKEFORD:** No, no you cannot refer to that area, Chair let me tell you why because the allegation is very



specific.

**ADV NOTSHE SC:** Yes.

**MR WAKEFORD:** And if you read Agrizzi's allegation, he says very clearly that there was a major investigation number one, and as a compensation for that investigation it must have been prior to February or January 2009. It must have been prior to that because he was reimbursed for his efforts, according to him. Chair, I somehow do not understand why would one bring anything in excess of that  
10 allegation into it, even Frans Voster speaks to it.

**ADV NOTSHE SC:** So is it your evidence then, that you are saying with certainty that there was no investigation by SARS at the time that there was a cement issue, is that your evidence?

**MR WAKEFORD:** Please repeat?

**ADV NOTSHE SC:** Is it your evidence that you are saying now with certainty that there was no investigation by SARS on BOSASA or its subsidiaries during the time of cement issue.

20 **MR WAKEFORD:** 100%.

**ADV NOTSHE SC:** I see; now only cement you know who paid for the cement?

**MR WAKEFORD:** Chair, my understanding is that Papadakis as builder paid BOSASA directly.

**ADV NOTSHE SC:** Your lawyers must have informed you,

must have shown you that BOSASA paid for it, for the cement.

**MR WAKEFORD:** From the supplier but you paid BOSASA.

**ADV NOTSHE SC:** BOSASA paid the supplier of cement.

**MR WAKEFORD:** And you paid BOSASA, who paid BOSASA Chair? In other words, when you have got a supplier you cannot expect someone else to pay the supplier, they are your supplier.

10 **ADV NOTSHE SC:** Yes.

**MR WAKEFORD:** So the supplier settles, is settled by the original client that placed the order and then the company that placed the order that has paid for a service that it had never got any benefit from then has to pay - then has to be paid by the third party.

**ADV NOTSHE SC:** Then let us use – then let us be direct to this case.

**MR WAKEFORD:** Yes.

**ADV NOTSHE SC:** BOSASA paid for the cement.

20 **MR WAKEFORD:** BOSASA paid their suppliers and then what happened after that, that is my question.

**CHAIRPERSON:** Well let us take a step by step, at this stage the question is do you accept that BOSASA paid the supplier?

**ADV NOTSHE SC:** Yes.

**CHAIRPERSON:** If you say I accept, it is one scenario. You might say no, that is not true, that is another scenario or you might say I do not know whether BOSASA paid the supplier or not, then we can take it from there.

**MR WAKEFORD:** Thank you Chair, no what has been supplied by the investigators and by former employees of the [word cut] cement. There is plenty of reading material that speaks to the supply of cement and the payment of cement, much smaller quantities within a very limited  
10 timeframe so the actual amounts and the actual receipts need to be – that needs to be dealt with by Papadakis because I would not have seen any of that other than what has been provided me in this pack. But the point remains that there was some assistance and as far as I understand there was payment for it from Papadakis's builder.

**CHAIRPERSON:** Okay. Is your answer therefore that you say you – you stood that BOSASA paid the supplier or is the position that you accept that BOSASA paid the supplier but you are saying that the person who benefitted from the –  
20 from this refunded BOSASA or – so that in the end BOSASA did not lose – use any money in the sense that if it was paying for him – if it paid for him and he refunded it?

**MR WAKEFORD:** My understanding Chair was that the builder had received the cement on site, paid for the cement at some stage. I do not know when – those things need to

be determined by other parties not by me.

**CHAIRPERSON:** Ja. Okay alright.

**MR WAKEFORD:** But I did – I did pass on the details to – or the builder to BOSASA and there was – there was definitely some communication because I was phoned once or twice to say I cannot get hold of these guys what is going on? And I made a phone call that is it.

**CHAIRPERSON:** Okay.

**ADV NOTSHE SC:** But as we speak as you are sitting there  
10 you must have seen – you must have seen proof of payment of the cement by BOSASA and the supplier of cement you must have seen it? The 00:02:39 must have shown you that.

**MR WAKEFORD:** In these packs?

**ADV NOTSHE SC:** Yes.

**MR WAKEFORD:** Yes absolutely I saw it in these packs.

**ADV NOTSHE SC:** And I am sure – but you will – there is a lot of paper here – I am sure you have not seen proof of payment by Papadakis' builder; the supplier of cement or  
20 did you?

**MR WAKEFORD:** No. No I have not ..

**ADV NOTSHE SC:** For this commission is (talking over one another)

**CHAIRPERSON:** Well let him finish.

**MR WAKEFORD:** He has only sent one affidavit in which

was last year, which I only saw yesterday.

**CHAIRPERSON:** You – okay – you...

**MR WAKEFORD:** So for me to comment.

**CHAIRPERSON:** You have not had enough time.

**MR WAKEFORD:** Ja but – but that is really for not – not for me to respond to or to validate or verify. That is for the commission to establish the payment.

**CHAIRPERSON:** Yes – from your side obviously you only say what you know.

10 **MR WAKEFORD:** Yes.

**CHAIRPERSON:** What you do not know you do not know.

**MR WAKEFORD:** Yes Chair and I am trying to do that to the best of my ability.

**CHAIRPERSON:** Yes, no that it is fine.

**ADV NOTSHE SC:** Let us deal with what you do not know. You do not know whether the builder paid cement supplier; that you do not know.

**MR WAKEFORD:** That – no Chair I did not work for the builder so I heard that the builder had paid. That is all I  
20 heard.

**ADV NOTSHE SC:** But what you know today is that BOSASA paid the supplier.

**MR WAKEFORD:** Paid the original supplier.

**ADV NOTSHE SC:** The cement supplier.

**MR WAKEFORD:** What – what needs to be verified is who

at BOSASA received the refund if at all. Who received it.

**ADV NOTSHE SC:** And again, what you do not know is whether there is a refund to BOSASA.

**MR WAKEFORD:** (talking over one another)

**ADV NOTSHE SC:** You did not come across anything to that effect?

**MR WAKEFORD:** No Chair to – you know when you are told by somebody that no it was paid – it was settled – it was refunded I – who am I to get involved or to dispute that? I

10 cannot. I must ...

**CHAIRPERSON:** Yes.

**MR WAKEFORD:** I must allow yourselves to establish the facts. That is it.

**CHAIRPERSON:** Yes from your side you – you can say this is what I was told.

**MR WAKEFORD:** Yes.

**CHAIRPERSON:** But I have no personal knowledge whether it is true or not.

**MR WAKEFORD:** Hundred percent.

20 **CHAIRPERSON:** But I believed it – if you believed it. Okay.

**ADV NOTSHE SC:** Now as we sit today – as we are sitting today, we have this situation that we have Mr Papadakis who is working at SARS at the time and his cement requirements is paid for by BOSASA. A taxpayer who had a

query – it was queried by SARS that is the situation we have today. Am I right?

**MR WAKEFORD:** Just repeat the last part of it.

**ADV NOTSHE SC:** As we are sitting here today.

**MR WAKEFORD:** Ja.

**ADV NOTSHE SC:** We are sitting here today what we have is this that we have a person who was working for SARS – Mr Papadakis his cement requirement was paid for by BOSASA. BOSASA a taxpayer who was under investigation  
10 by SARS that is what we have today, am I right?

**MR WAKEFORD:** Under investigation by SARS where – Chair.

**CHAIRPERSON:** Okay I think your answer would be I do not know anything about an investigation if that is the case.

**MR WAKEFORD:** To my knowledge there was no investigation at the time.

**CHAIRPERSON:** Yes.

**MR WAKEFORD:** No investigation.

**CHAIRPERSON:** But the balance of what Mr Notshe is  
20 saying what do you say to that? You do not know anything about the investigation but the balance of what you are saying you have no issues with namely a taxpayer namely BOSASA who had a query – a tax query or is it – was it a tax query?

**ADV NOTSHE SC:** A tax query or a refund application.

**CHAIRPERSON:** Okay.

**MR WAKEFORD:** Chair – Chair could I just respond to that?

**CHAIRPERSON:** Yes okay ja.

**MR WAKEFORD:** Because

**CHAIRPERSON:** Respond to that.

**MR WAKEFORD:** Because one has got to be very careful the allegation was major investigation and at that time there was – there was compensation. In other words, there was a  
10 corrupt act and we all know the period. We must be careful not to start talking about other things because no one has ever spoken about that before. No one has ever alleged that there was a tax refund. No one has refuted the fact that there was no investigation at the time. Now we – we getting into another – it is another chapter that quite frankly I am not sure whether I should – I can even comment on it because when you start talking refunds it was never alleged. When you start talking there was this quiet investigation, I do not know if there was a quiet  
20 investigation or not. What I do know what that which is in the public domain there was nothing. And one would even question whether Papadakis knew it was being supplied by BOSASA or not because the communication was initially with Ronnie Watson he was trying to deal with the company that Ronnie was dealing with that had cement and by the



way Ronnie is a taxpayer as well. Everyone is a taxpayer. If you are not a taxpayer then you should not be a citizen quite frankly unless you unemployed or no – or no reason that – for – a lot of people are unemployed because they cannot help it but if you are working then you should be a taxpayer and the company should be a taxpayer as well. But – but to try and – to try and say that a taxpayer who is assisting someone working at SARS is – has created a naturally corrupt relationship I do not know – I have a bit of  
 10 a problem with that interpretation.

**CHAIRPERSON:** Well maybe Mr Notshe start with the question of the investigation now because I do seem to think there may have been reference to it by either Mr Agrizzi or by some other witness. So maybe it is better if you start by clearing that issue whether there was evidence to that effect.

**ADV NOTSHE SC:** Chair in –

**CHAIRPERSON:** And then we take it from there.

**ADV NOTSHE SC:** Chair in fairness to Mr Wakeford the  
 20 issue of the existence of the investigation or not I am not going to delve into that. What I want to find out from Mr Wakeford we are talking.

**ADV WILLIS:** Sorry Mr Chairman.

**CHAIRPERSON:** Yes.

**ADV WILLIS:** Can I come in there and I...

**CHAIRPERSON:** Ja.

**ADV WILLIS:** I just feel very reluctantly and I have been very patient and I believe I have given my learned friend some – a lot of latitude. But we had to answer the allegations that were made to Mr Agrizzi by Mr Agrizzi. You have heard from Mr Wakeford there is not a shred of evidence to prove anything this man has said. That is our contention that is the case we have argued to you when we make our submissions he is giving the evidence. There – it  
10 is not for our client to prove a negative. There is – if there is evidence to be put to our client then it must be put to him  
00:10:19 for Mr Notshe to aver now or to submit he is not going to deal with that after suggesting there is something is not acceptable. That is what Mr Agrizzi has done. Suggestions, cast dispersions but no evidence. If there is something else then it must be put to Mr – the heart – the evidence – part of the direct evidence must be put to Mr Wakeford and he must be given an opportunity to deal with even if we must stand down for two minutes to assist him.

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

**ADV NOTSHE SC:** I do not – thanks for my learned friend to offer for two minutes I do not need it. I will proceed without the two minutes he wants to give me.

**CHAIRPERSON:** Yes but it is important just to make sure that if there is evidence that you want to put to him to say

there is this evidence that it be made clear.

**ADV NOTSHE SC:** Yes.

**CHAIRPERSON:** Ja. Okay.

**ADV NOTSHE SC:** Mr Wakeford I understand – I accept that I cannot expect you to respond on evidence which is not there on which you do not know about. Let us go back. You know now as a fact that BOSASA paid for the cement of requirements of Mr Papadakis, you know that. It is here in the document.

10 **MR WAKEFORD:** I have seen that.

**ADV NOTSHE SC:** Yes. You do not know whether Mr Papadakis refunded BOSASA, you do not know or do you?

**MR WAKEFORD:** Mr Papadakis refunded BOSASA.

**ADV NOTSHE SC:** Ja for the cement they paid for.

**MR WAKEFORD:** No what I...

**ADV NOTSHE SC:** You do not know that.

**MR WAKEFORD:** I have been told I have not been party to the transactions so I would not be able to provide you with the necessary evidence. At the time I do remember the  
20 builder saying that he had paid or and refunded for all the cement. Whether – and that – that should be a liaison between yourselves and the builder and Mr Papadakis.

**ADV NOTSHE SC:** Who is the builder you talk about?

**MR WAKEFORD:** His name was if I am not mistaken he was an indigenous Greek type guy.

**ADV NOTSHE SC:** Is that the surname Indigenous?

**MR WAKEFORD:** No, no I am just describing him. He spoke with a broken accent and his – his name was Chris – Christos something – Christos. – I do not – I did not know him. I mean the guy phoned me – I put him in touch with Agrizzi and that is where my role ended.

**ADV NOTSHE SC:** Is it in your evidence that there is nothing wrong for someone working at SARS to have something he needs to be paid for by taxpayers – someone  
10 working at SARS – you say there is nothing wrong with that?

**MR WAKEFORD:** Well firstly Chair if there is no a quit pro quo then I mean friends do – this is friends from time to time Number 1.

2. I would say that there is nothing wrong with getting or being provided with a service if you pay for that service. Now are facts that must be established by this commission not by me.

**CHAIRPERSON:** Ja.

20 **MR WAKEFORD:** I am not your investigator.

**ADV NOTSHE SC:** No I understand. But if you do not pay for the service you still – there is nothing wrong with that?

**MR WAKEFORD:** If you do not pay?

**ADV NOTSHE SC:** Yes.

**MR WAKEFORD:** Well I would say then that could become

a problem.

**ADV NOTSHE SC:** Yes.

**MR WAKEFORD:** It certainly could

**ADV NOTSHE SC:** And you would expect that the person working for SARS would declare that to SARS – you would expect that? To say whether ...

**MR WAKEFORD:** If you do not pay for it absolutely.

**ADV NOTSHE SC:** Yes.

**MR WAKEFORD:** Yes.

10 **ADV NOTSHE SC:** Now your relationship with Mr Papadakis were you friends?

**MR WAKEFORD:** I would say we were – we were friends.

**ADV NOTSHE SC:** Was he your advisor?

**MR WAKEFORD:** His nickname – his nickname was my Advisor. Everyone – everyone who is close to me knew that Number 1.

2. That terms Advisor was used well in excess of his departure from SARS and I have emails to prove.

20 **ADV NOTSHE SC:** And tell me – tell the commission do you have his email address?

**MR WAKEFORD:** No. He worked - you know with Papadakis if you wanted to connect with him he had a PA called Chrisna Engelbrecht, his wife and Chrisna Engelbrecht coordinated his life while he was working at a corporate prior to SARS and at SARS as well and post

SARS. Up until and Chair I did prepare an affidavit in response to Chrisna Engelbrecht but I was asked to withhold it until we got all the information. I know that she claims that I was never friendly with her and that we did not really have a close relationship well that is not true Chair. In fact I was quite fond of her as a person. Unfortunately, their marriage did end and I do not want to get into that. I think it was in 2017 the last time I saw her was at Barry Sergeant's funeral at St John's College when Barry passed  
10 away of cancer. We were both friendly with Barry and Chrisna Engelbrecht was at the funeral as well and we joined them for some beverages or whatever after the actual funeral. That is the last time I saw her. But we had – and I have got emails to validate it and I will certainly send that affidavit in as soon as possible Chair. It is all ready it just needs to be paginated etcetera but the bottom line is there – there are numerous emails between myself and Chrisna that had nothing to do with George Papadakis where she for instance facilitated a dog – an Alsatian for – because I love  
20 dogs – I assisted her with some visa applications to Home Affairs through the VIP unit for a number of their clients at the time at Midland Shipping Company there is some others as well. I am not quite sure why she wants to dissociate herself from me but my view has always been that she is a – she – I considered her to be a friend as well. So yes I did

– I did send emails to her because Papadakis was running around all the time.

**ADV NOTSHE SC:** Do you have any particular reason why you did not submit this affidavit in response to her affidavit?

**MR WAKEFORD:** Because...

**ADV NOTSHE SC:** So the we could see it in time and deal with it.

**MR WAKEFORD:** Yes – sorry Chair in fact Advocate Willis can perhaps respond to that.

10 **ADV WILLIS:** Thank you Mr Chair. In fact an arrangement it is recorded I think maybe just in the moment Mr Notshe is just – it slipped his mind but there is a lot of correspondence that records us holding back on things until we get in particular the Papadakis affidavit. It was not so much the response by Agrizzi at that time it was the Papadakis affidavit and the Radhakrishna. And – well we only got the Papadakis affidavit yesterday morning and the Chrisna Engelbrecht affidavit was not required of us and it is not there. But I can confirm it was prepared it just needs  
20 to be commissioned at some stage 00:18:09. Thank you.

**ADV NOTSHE SC:** No Chair I think my learned friend – I do not know what he is talking about when he said I do not know whether he insinuating that I said there must be a delay in submitting a response to Ms Engelbrecht. There was no such an arrangement with him.

**CHAIRPERSON:** My understanding is that he is doing nothing more than saying you ought to be aware of some correspondence about them delaying.

**ADV NOTSHE SC:** There is no correspondence about delaying.

**CHAIRPERSON:** That you are aware of.

**ADV NOTSHE SC:** There is no correspondence about delaying in submitting a response to Ms Engelbrecht. The delay was only in respect of the affidavit of Mr

10 **CHAIRPERSON:** Agrizzi.

**ADV NOTSHE SC:** No Mr Aniel and Mr Papadakis because we wanted a response from Mr Agrizzi. But not Ms Engelbrecht there was never an arrangement that they would delay. In any event – in any event by yesterday after we left here the arrangement was that they are going to respond to everything – they are going to give us a comprehensive affidavit of Mr Wakeford. There was never an arrangement that something is going to be left out.

**CHAIRPERSON:** You might wish...

20 **ADV NOTSHE SC:** But Chair.

**CHAIRPERSON:** Well let him respond to that.

**ADV WILLIS:** Mr Chairman there is a 00:19:29 of correspondence that deals with these issues. There were also dealings between Mr Notshe and I on a collegial level which do not form part of that. I would like the opportunity



to refresh his mind on this particular issue.

**CHAIRPERSON:** Yes. Ja.

**ADV WILLIS:** So I understand that we – I understand that is 00:19:49 that needs to be done.

**CHAIRPERSON:** Ja.

**ADV WILLIS:** As to preparing a comprehensive affidavit for today he is here to deal – our client is here to deal with the allegations by Mr Agrizzi and Mr Vorster. If there is anything else that needs specific dealing with here is the  
10 opportunity ask him. He is here to give his evidence. Thank you Mr Chairman.

**CHAIRPERSON:** Okay. Let us say the two of you will talk and try to refresh each other's memory in the meantime I am not sure how much material ...

**ADV NOTSHE SC:** Chair – no Chair it is this issue is not really an issue that can delay us.

**CHAIRPERSON:** Ja.

**ADV NOTSHE SC:** All I was putting was just complaining to Mr Wakeford that I did not get it in time.

20 **CHAIRPERSON:** Ja okay.

**ADV NOTSHE SC:** It plays a major – a minor role.

**CHAIRPERSON:** Ja.

**ADV NOTSHE SC:** But it is part of the whole issue.

**CHAIRPERSON:** Okay.

**ADV NOTSHE SC:** Mr Wakeford you know this is my pause

before I call your name I am worried about the fine I do not want to – I am left with one strike so I pause before I call out your name. Because if I make a mistake now it will be a fine for me. Now turn to page 657. Now 657 it is an email from you – it an email from you to Ms Engelbrecht and – and then you say:

“Hi Chrisna how are you. Please see below  
and ask Advisor to comment.”

You see that?

10 **MR WAKEFORD**: I see that.

**ADV NOTSHE SC**: And the Advisor you are referring to is Mr Papadakis?

**MR WAKEFORD**: Yes.

**ADV NOTSHE SC**: Am I right? Why do you not say ask Mr Papadakis why did you not use his name?

**MR WAKEFORD**: Because that is what I always called him in every single email Chair. Both post and prior. From when I met him right through.

**ADV NOTSHE SC**: Post – post what?

20 **MR WAKEFORD**: Post his leaving SARS and prior to him going to SARS.

**ADV NOTSHE SC**: And then also...

**CHAIRPERSON**: How did he acquire the nickname?

**MR WAKEFORD**: Chair he is a – he is a very knowledgeable man but I also called him a number of other

things as well when teasing him. I called him Zorbo which is a name that has an infinity with Greek people as well as I think a term the Hellenic because his ancestry is Northern Greek where the Hellenic people lived. But in the main I called him Advisor because of his head space and his knowledge. He always has something to offer in terms of knowledge.

**CHAIRPERSON:** Mr Notshe.

**ADV NOTSHE SC:** And then on page 659 you see the same  
10 reference to the Advisor.

**MR WAKEFORD:** Hundred percent.

**ADV NOTSHE SC:** And I suppose you have got the same explanation?

**MR WAKEFORD:** Same explanation.

**ADV NOTSHE SC:** Now Mr Wakeford I would – got something which is disturbing here. I want you to deal with it please.

**MR WAKEFORD:** Sure.

**ADV NOTSHE SC:** Can you turn to page 153.

20 **MR WAKEFORD:** 153.

**ADV NOTSHE SC:** 153. Are you there?

**MR WAKEFORD:** Yes Chair.

**ADV NOTSHE SC:** Now paragraph 4.9 – you on 4.9? This is again the affidavit of Agrizzi.

**MR WAKEFORD:** Yes.

**ADV NOTSHE SC:** When he was responding to your application.

**MR WAKEFORD:** Yes.

**ADV NOTSHE SC:** He says something which is – we need an explanation. He says:

“The further email is referring to confectionary”

I am reading Chair from there.

10 “The further email is referring to confectionary and smarties was referring to money to be provided to the Minister’s Advisor Mike Ramagopa for benefit of interacting on behalf of BOSASA with the Minister Nosiviwe Noltano Mapisa-Nqakula.”

She was the Minister of – she was the Minister of Correctional Services at the time. You used the word confectionary which meant money and smarties was the nickname you gave for Mike Ramagopa. The reason for the nickname is because he always changed his mind.

20 **MR WAKEFORD:** Chair I – I did respond to this in one of my prior affidavits.

**ADV NOTSHE SC:** yes.

**MR WAKEFORD:** But just to say the following because my memory serves me very well on matters like this. Firstly my first response was that I doubt whether the email is

authentic because I honestly did not remember that email. In fact from a Yahoo address. Secondly Mike – his name Mike Ramagoma he originates from the territory of Venda. Mike is a very smart young man who was the advisor to the Minister but my relationship with the Minister as a very close colleague and friend did not require any interface or assistance Mike Ramagoma with all due respect. And I think you have heard in Agrizzi's testimony and Van Tonder's and others that the term confectionary did not  
 10 refer to money. When they were referring in money in all their testimonies, they spoke about I think it was loaves of bread – they did not refer to confectionary. If in fact that email is authentic the confectionary probably refers to the provision of some form of catering because they always spoilt their guests when they arrived at the HQ or the premises. Because Agrizzi prided himself in having some of the best chefs in the public – serving the public sector. And it was quite common for them to bake and to provide guests with eats. But Chair I did not require any services from  
 20 Mike Ramagoma. My relationship with the Minister was a direct.

**ADV NOTSHE SC:** Look he – he attaches – Agrizzi attaches two emails – copies of emails you must have seen them.

**MR WAKEFORD:** Yes.

**ADV NOTSHE SC:** It is on page 223.

**MR WAKEFORD:** Yes. Sorry his – Chair just to clarify this. His – Agrizzi's second affidavit that was never presented where he introduces a whole lot of new – probably because his previous stuff had been discredited he starts introducing new things which were not presented to yourself or to this commission. Am I required to respond to or I will respond happily but it was an affidavit sent to the commission but it was not presented.

10 **CHAIRPERSON:** Well to the extent that – to the extent that you are made to understand that it might be inconsistent with your evidence you should feel free to deal with it obviously if you need more time then you make an affidavit it can be done in due course.

**ADV NOTSHE SC:** And sorry Chair in addition to that Mr Wakeford you did reply to this. It was – this I am reading from the answering affidavit of Mr Agrizzi.

**CHAIRPERSON:** Ja.

**ADV NOTSHE SC:** In the application to cross-examine you  
20 and he filed a replying affidavit. So he did deal with it.

**CHAIRPERSON:** Respond to it.

**ADV NOTSHE SC:** Yes.

**CHAIRPERSON:** Okay.

**MR WAKEFORD:** Ja so Chair this was never presented in the public domain but other than for me to say that I stand

by what I have just said and I stand by what I said in my affidavit in response to it. And I really have nothing further to add. I think it is innocuous quite frankly and – and really does not bear any relevance to – to the allegations.

**ADV NOTSHE SC:** Look – look...

**CHAIRPERSON:** Well is the not – is not one of the points about it is that you – to the extent that we can – if we were to accept that it came from you that email and it was addressed to Angelo Agrizze to the extent – if we accept  
10 that that is correct then isn't it that it reflects that you also used this term of confectionary in your conversation with him and he provided an explanation for what it was used to mean in paragraph, I think, 4.9 of his affidavit ...[intervenes]

**ADV NOTSHE SC:** Yes.

**CHAIRPERSON:** ...that Mr Notshe read earlier on. So on the face of it, it would seem to me that if it is indeed the email that came from you and went to Mr Agrizzi, it reflects that you also used this term that he talked about in his  
20 affidavit. He gave a certain meaning in his affidavit as to what it meant and that may be important against what you said earlier, namely you doubt that the emails are authentic.

**MR WAKEFORD:** Chair, I said in my responding affidavit that I doubted whether the email was authentic but save to

say that the term confectionary could mean a whole lot of things. I do not remember the specific email in the first instance. In the second instance, he alleges that I required money to pay Mike Tshishonga.

Now quite frankly, Mike Tshishonga was not an intermediary and was not a person I needed to interact with Nosiviwe Nolutando Mapisa-Nqakula being the Minister of Corrections at the time and I was not a consultant to Correction either. That is another statement  
10 he made that I was a consultant to Correction which I was not ever. I was approached and I never took it up because I had other activities at the time.

**CHAIRPERSON:** Well, maybe in fairness to Mr Wakeford but also to get the whole picture. Mr Notshe, you should take us to his response ...[intervenes]

**ADV NOTSHE SC:** Yes.

**CHAIRPERSON:** ...in his affidavit ...[intervenes]

**ADV NOTSHE SC:** It is on page ...[intervenes]

**CHAIRPERSON:** ...response to Mr Agrizzi in connection  
20 with this.

**ADV NOTSHE SC:** It is on page 318, Chair.

**CHAIRPERSON:** 318?

**ADV NOTSHE SC:** Yes.

**CHAIRPERSON:** Yes, I am there.

**ADV NOTSHE SC:** Paragraph 56.



**CHAIRPERSON:** Have you found it, Mr Wakeford?

**MR WAKEFORD:** [No audible reply]

**CHAIRPERSON:** Yes. Yes, Mr Notshe.

**ADV NOTSHE SC:** Yes, in paragraph 56.3 where he says  
– you say:

“I never called or referred to Mr Mike  
Tshishonga as Smarties and I deny I ever refer  
to money as confectionary.

These are fabrications of Agrizzi...”

10                    That is your answer. And today you are giving a  
...[intervenes]

**CHAIRPERSON:** Well, read the next one for the sake of  
completeness ...[intervenes]

**ADV NOTSHE SC:** Yes. And then 5 point ...[intervenes]

**CHAIRPERSON:** ...point four ...[intervenes]

**ADV NOTSHE SC:** ...56.4, he says:

“I further deny that I ever paid Mr Michael  
Tshishonga money to interact with the Minister,  
Mapisa-Nqakula nor is this acquisition assisted  
20                    with Agrizzi’s own affidavit...”

In paragraph 4.9 in this affidavit, Agrizzi says  
that:

“The money was provided to Tshishonga for  
the benefit of interacting on behalf of BOSASA  
with the minister....”

However, in paragraph 4.7, Agrizzi says:

“Valence Watson and myself were communicating with the minister directly over the same period...”

**CHAIRPERSON**: Yes. Well, one. Mr Wakeford, you do say you dispute the authenticity of the emails. Would that still be the position? I think earlier on you did not put as strongly as that, namely that you disputing it. My recollection is that you said you would doubt its  
10 authenticity, because there is a distinction between the two. Are you going as far as saying you are dispute it or are you saying you doubt its authenticity?

**MR WAKEFORD**: Chair, when I first saw it, I dispute its authenticity, number one.

**CHAIRPERSON**: Ja.

**MR WAKEFORD**: Number two. The terms confectionary was never used for money and we have heard what terms they used for money. Thirdly, I did dispute because Mike Tshishonga has always been called Mike by me, not  
20 Smarties. And thirdly, I would – you know to pay Mike Tshishonga to meet the minister after I had spent two years on the project prior to that at Home Affairs, reporting to the minister. I just cannot understand why I would ever need to pay Mike Tshishonga for something like that, and in fact, I never paid Mike Tshishonga anything because I did not

need to. And I never paid a public official anything because I never needed to.

**CHAIRPERSON:** So the you talked about – you said they never used on their evidence the word confectionary for money. Did you ever use the word confectionary in your interactions with Mr Agrizzi?

**MR WAKEFORD:** If I used the word confectionary, sir.

**CHAIRPERSON:** Ja?

**MR WAKEFORD:** Mr Chair, it would not have referred to  
10 money.

**CHAIRPERSON:** Yes.

**MR WAKEFORD:** It would have referred to exactly what it is.

**CHAIRPERSON:** Ja, normal meaning.

**MR WAKEFORD:** Ja.

**CHAIRPERSON:** Okay. Mr Notshe.

**ADV NOTSHE SC:** And...hmm In – then when he deposed to the replying affidavit, why did you not explain that you think this referred to the cake that they would normally  
20 serve the guests as you are now explaining? Why did you not then in your replying affidavit?

**CHAIRPERSON:** I am sorry. Just repeat your question.

**ADV NOTSHE SC:** In your replying affidavit, why did you not give the explanation you are giving today that confectionary probably referred to the ...[intervenes]

**MR WAKEFORD:** I probably did(?), Chair. I probably did Chair.

**CHAIRPERSON:** I am sorry ...[intervenes]

**MR WAKEFORD:** I do not want to ...[intervenes]

**CHAIRPERSON:** I am sorry. You are responding differently ...[intervenes]

**ADV NOTSHE SC:** Sorry, Chair. Maybe ...[intervenes]

**CHAIRPERSON:** Finish the question. Let him finish.

**ADV NOTSHE SC:** The question is. In the affidavit on  
10 page 318: Why did you not give the explanation you are  
giving today? Today he says confectionary probably meant  
the cakes that Agrizzi would serve people but  
...[intervenes]

**CHAIRPERSON:** Well, he says. One, he – if he used the  
word confectionary in his interactions with Mr Agrizzi, he  
would have used it in its normal meaning.

**ADV NOTSHE SC:** Yes.

**CHAIRPERSON:** But he is not necessarily saying he did  
use it.

20 **ADV NOTSHE SC:** Yes.

**CHAIRPERSON:** Yes. In the affidavit – in his affidavit he  
said he disputes the authenticity of the email and then he  
said what he said.

**ADV NOTSHE SC:** The question is exactly that that  
...[intervenes]

**CHAIRPERSON:** Ja.

**ADV NOTSHE SC:** ...why did he not give the explanation he gives today to say that if I used confectionary I would have been referring to cakes and other nice things that Mr Agrizzi would serve the ...[intervenes]

**CHAIRPERSON:** Ja. Well, I do not know because it is – Mr Agrizzi's affidavit puts a certain case, you know. I asked him the question: Did you ever use it? And he says if ever he used it he seemed to be saying he did not use it  
10 or he did not remember ever using it but if he used it he would not have used it in any way other than in its normal meaning.

**ADV NOTSHE SC:** Yes.

**CHAIRPERSON:** So I am just not sure whether he would have needed to go as far as you are suggesting he should have but if you see something in Mr Agrizzi's paragraph 4.9 that suggests that he should have gone beyond or – then you can ...[intervenes]

**ADV NOTSHE SC:** No, Chair that is the high-level I could  
20 take it.

**CHAIRPERSON:** H'm.

**ADV NOTSHE SC:** Now lastly, Mr Wakeford. The ...[intervenes]

**CHAIRPERSON:** Well, maybe you are – maybe you are too quick to concede. I see in 4.9 Mr Agrizzi says:

“We used the word confectionary which meant money and Smarties was the nickname we gave to...

What is he saying about the word confectionary? Smarties was the nickname that he says was given to Mr Tshishonga but confectionary there – or earlier on he says confectionary ...[intervenes]

**ADV NOTSHE SC:** He was referring to money.

**CHAIRPERSON:** He was referring to money.

10 **ADV NOTSHE SC:** Yes. Confectionary is money. When he says confectionary was money and Smarties was the name given to mister...

**CHAIRPERSON:** Who is the we that he refers to because if that we refers to Mr Wakeford as well then the point you are making maybe one – may be a legitimate one. Who – do you know who he is referring to when he says we in paragraph 4.9?

**ADV NOTSHE SC:** Mr Wakeford – Mr Agrizzi refers to we and if you look at the emails we saw, those emails are from  
20 you. Does not mean that he – you and him, is the understanding we have about confectionary and Smarties.

**MR WAKEFORD:** No, Chair. No, Chair. I have already said that the terms Smarties is a nickname. I have never used that as a nickname for Mike Tshishonga, number one. And number two, the terms confectionary. The only

operational word for confectionary, particularly when looking at all the former evidence given in reference to the so-called piles of money that were apparently transported or whatever to others, they referred to that as loaves of bread both Van Tonder and ...[intervenes]

**CHAIRPERSON:** Well, I must tell you that my recollection that they used different words not one word to refer to money ...[intervenes]

**MR WAKEFORD:** Ja.

10 **CHAIRPERSON:** ...in terms of Mr Agrizzi's evidence but loaves of bread would have been one of the terms. Ja, ja.

**MR WAKEFORD:** No, for me confectionary means one thing.

**CHAIRPERSON:** H'm.

**MR WAKEFORD:** It is confectionary.

**CHAIRPERSON:** H'm.

**MR WAKEFORD:** Ja.

**ADV NOTSHE SC:** And Smarties between adults. I mean, you and Agrizzi are talking about Smarties. Especially if  
20 you look at 224, paragraph – page 224.

**CHAIRPERSON:** What paragraph?

**ADV NOTSHE SC:** The email on 224, page 224.

**CHAIRPERSON:** Is that the one we are looking at or another one?

**ADV NOTSHE SC:** Yes, the one we are looking – the

second email.

**CHAIRPERSON:** Is there a reference to Smarties there?

**ADV NOTSHE SC:** Yes. Page 224. KW-026.

**CHAIRPERSON:** H'm.

**ADV NOTSHE SC:** We see there ...[intervenes]

**CHAIRPERSON:** Oh.

**ADV NOTSHE SC:** ...it is an email ...[intervenes]

**CHAIRPERSON:** ...Smarties confirmed.

**ADV NOTSHE SC:** Yes. I am sure Mr Tshishonga  
10 agreeing with me. This must be a code. I mean, the two of  
you are adults. You are talking about Smarties as we know  
them. It must be a code of some kind. Am I right?

**MR WAKEFORD:** Chair, my contact with Agrizzi was  
limited. He did not particularly liked me and I think I have  
proven that beyond a reasonable doubt. I do not think we  
would have any codes between us. We did not have a  
proper relationship in any event.

**CHAIRPERSON:** H'm.

**MR WAKEFORD:** And therefore, Chair, please accept that  
20 which my responses remain my response.

**CHAIRPERSON:** Yes. You see, if the emails are  
authentic, then one would look at the context to say. In the  
email at page 223, what is that you would have been  
talking about when you said to Mr Agrizzi:

“I will be checking out the confectionary



tomorrow morning...”

And then you say:

“Would you like to check out the  
allegations(?)?...”

And then in the next page, if that email is also  
authentic, you write to Mr Agrizzi and say:

“Smarties confirmed. Thanks.”

So one would need to say. Could you be talking  
about Smarties in the ordinary sense? And in terms of  
10 confectionary, could you be talking about confectionary in  
the normal sense or could this be as Mr Agrizzi suggests, a  
code for something else? But that is if the emails are  
authentic. So there would need to be work done in regard  
to establish authenticity. Okay alright. You do not have  
anything to add to what I have said?

**MR WAKEFORD**: No, Chair. I do not see any logic or  
motivation for this. I, honestly, do not see what the value  
is here and what he is actually – he is alleging that I gave  
Mike Tshishonga money. That is basically what he is  
20 alleging.

**CHAIRPERSON**: Well, you see ...[intervenes]

**MR WAKEFORD**: I am just trying to understand, why  
would I need to do that?

**CHAIRPERSON**: You see, what he is saying, as I  
understand his affidavit, he is saying there was some

improper business going on here and in order to hide what we were talking about in the emails, we did not want to use words like money. We had to come up with some codes. We talk about Smarties, we talked about confectionary and in effect, we all knew what we were talking about. When somebody confectionary or Smarties, we all knew.

But somebody who comes across the email who does not – who is not within our circles, will not know what we are talking about. So he is taking out of these emails  
 10 to say: You see, even Mr Wakeford sent me emails where he used these codes because he knew what we were talking about. So that is what, as I understand. That is what – that is the effect of it.

So where you say: I was not involved in anything that was improper and therefore had no reason to use codes to refer to money. If we talked about money I would have used the word money because there was nothing improper. That, of course, would be your version.

But if the emails were to be found authentic,  
 20 then the question would really arise to say: Well, why did you used these words? Because if one gives them their normal meaning, they would not, for example maybe, apply. So that is as I see it. Ja.

**MR WAKEFORD**: [No audible reply]

**CHAIRPERSON**: Okay alright. Mr Notshe.

**ADV NOTSHE SC:** And Mr Wakeford, in addition to that, the emails that follow, we will take you to them, shows there are a number of interactions. You asked – you tried to get a job for some young lady from him. You did interact with him on a number of occasions.

**MR WAKEFORD:** Oh, yes. You know, unfortunately, he was running the ship. And when you are running the ship you have got to communicate with the captain. So, yes, that was a professional – I saw it as a professional  
10 relationship, certainly not as a friendship or a close relationship.

**ADV NOTSHE SC:** You are not running a – what – you are not running an employment agency of looking for jobs for people, were you?

**MR WAKEFORD:** No, I was not.

**ADV NOTSHE SC:** But you were looking for a job for someone?

**MR WAKEFORD:** Yes ...[intervenes]

**ADV NOTSHE SC:** ...says is a professional.

20 **MR WAKEFORD:** Ja, particularly if there are people who are talented. Just as I identified a number of business opportunities as well.

**ADV NOTSHE SC:** H'm.

**MR WAKEFORD:** You know, if people are talented then you would like to bring them into the organisation if there

is space and at that time or in that point in time, if I am not mistaken, it was a growing organisation that was labour absorptive rather than professional(?). So, yes Chair there would have been several occasions where I recommended people.

I remember some specifically. I remember recommending a gentleman by the name of Guy Ridge(?) who was a PA in the Office of the Premier in the Eastern Cape, a very competent gentleman. And you will find to all  
 10 of those there was no response, number one and number two, no employment opportunities were created for anyone who was part of my network clearly because there was a long list of people, I think, including family members or indirect family members that were recruited in the Agrizzi clan.

**ADV NOTSHE SC:** And just to refer to this which you do not dispute. On pages 227 and 228 and 299, 230. I am just referring this ...[intervenes]

**CHAIRPERSON:** I am sorry. Just before you do that  
 20 Mr Notshe. It may be necessary to look at these emails and the use of these terms and see whether their ordinary meaning could fit in within the context or whether it would not fit in. Of course, it may be that Mr Wakeford cannot – his affidavit maybe does not assist in that regard because in his affidavit he disputed the authenticity.

And if they are not proved to be authentic that would then support him but if they are proved to be authentic there might be nothing he puts up to say: Well, I used them to mean this and that and that. Because I think that he was saying if he used those terms about confectionary in particular. It would have – he would have used in the ordinary meaning.

**ADV NOTSHE SC:** Yes.

**CHAIRPERSON:** So it may be that the exercise cannot be  
10 done because his position is: I dispute the authenticity of the emails.

**ADV NOTSHE SC:** Chair, I take it – we can follow it up on – I can get the investigators to follow this issue up.

**CHAIRPERSON:** Ja.

**ADV NOTSHE SC:** And to check on the authenticity of these emails.

**CHAIRPERSON:** Ja.

**ADV NOTSHE SC:** Unfortunately and – well, I am not ...[intervenes]

20 **CHAIRPERSON:** Okay. No, that is fine. Maybe let us proceed but I see that we are half-past four. We should take a ten minutes adjournment. Let us have a ten minutes adjournment. We normally take a ten minutes adjournment every two hours. And then we can continue after that.

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

**CHAIRPERSON:** I do have an evening session but I think we continue and stop at a certain time.

**ADV NOTSHE SC:** Yes. Chair, I am almost done. This is ...[intervenes]

**CHAIRPERSON:** Yes.

**ADV NOTSHE SC:** When we come back.

**CHAIRPERSON:** Yes.

**ADV NOTSHE SC:** I do not think I will be more than 30-minutes.

10 **CHAIRPERSON:** Yes, okay. No, that is fine. But that – would that cover what you regarded as important?

**ADV NOTSHE SC:** Yes, I think so. I think it will cover. But it might – my estimation is 30-minutes but ...[intervenes]

**CHAIRPERSON:** Ja-no, no.

**ADV NOTSHE SC:** ...it might be a difficult part of ...[intervenes]

**CHAIRPERSON:** Ja.

**ADV NOTSHE SC:** ...questioning ...[intervenes]

20 **CHAIRPERSON:** Sometimes the Chairperson is also asking questions.

**ADV NOTSHE SC:** No, but also ...[intervenes]

**CHAIRPERSON:** And that takes time as well. [laughs]

**ADV NOTSHE SC:** I must also limit my jokes.

**CHAIRPERSON:** Okay let us take a ten minutes break.

But let me mention this part, that if – when we adjourn there is any feeling on anybody's side that are important issues that have not been dealt with, I might have to see where we can squeeze time to take care of that. I see that tomorrow is not meant for any hearing. It is meant for other matters that need to be dealt with.

It may well be that if we need an hour tomorrow or some limited time to finish and if everybody concern is available we can look at that. But if we cannot do it  
10 tomorrow and there is a need for an hour or something like that, we can – I can have a look at the time, at the days next week and then we fit in just an hour or so to make sure that we do not stop in circumstances where there is somebody who still feels there were important issues that were not dealt with.

**ADV NOTSHE SC:** Yes, thank you Chair.

**CHAIRPERSON:** Okay alright. Let us take an adjournment and we will resume at quarter to five.

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

20 **CHAIRPERSON:** We adjourn.

#### **INQUIRY ADJOURNS**

#### **INQUIRY RESUMES**

**CHAIRPERSON:** Okay, I think we should continue until half past five and then if by that time – well, if you finish earlier then we will talk and see whether counsel for Mr

Wakeford wishes to examine or failing which, we will have to make time if he wishes to re-examine in due course for him to do so. Okay.

**ADV NOTSHE SC:** Mr Wakeford, I am not going to – I do not want us to waste time. You do confirm that you sent emails trying to get employment for one Patricia Godfrey and ...[intervenes]

**CHAIRPERSON:** Sorry, what was the answer?

**ADV NOTSHE SC:** He says yes.

10 **MR WAKEFORD:** I said yes, Chair.

**CHAIRPERSON:** Okay, what was the ...[intervenes]

**ADV NOTSHE SC:** Chair, just for the record...

**CHAIRPERSON:** What page are you on?

**ADV NOTSHE SC:** Just for the record it is on page 227 and then 228.

**CHAIRPERSON:** Yes, okay.

**ADV NOTSHE SC:** And 229 and then 230. One of the reasons, Mr Wakeford, I am referring you to this, it is just merely demonstrate that you were talking to Mr Agrizzi.

20 **MR WAKEFORD:** I was – yes, Chair, I was emailing him whenever I needed to reach the pinnacle of the organisation.

**ADV NOTSHE SC:** Yes, can you just explain this, an email I could not understand, on page 257.

**MR WAKEFORD:** 257?



**ADV NOTSHE SC:** Yes.

**CHAIRPERSON:** 257. Yes.

**ADV NOTSHE SC:** And email from you to Mr Agrizzi and you say ...[intervenes]

**CHAIRPERSON:** Just indicate the date and the subject before going on.

**ADV NOTSHE SC:** Oh, the date is the 7 March 2011 and at 11.01, it is from you, Mr Wakeford, to Mr Agrizzi and the late Mr Gavin Watson. You say:

10 "Gents.."

**CHAIRPERSON:** The subject is?

**ADV NOTSHE SC:** Committee Secretary Contact Details.

**CHAIRPERSON:** Ja. Okay?

**ADV NOTSHE SC:** The he says:

"Gents, [indistinct] at this week we need to make a judgment call on this matter urgently. And if you look down ...[intervenes]

**CHAIRPERSON:** It says:

"See below, emails and then says ...[intervenes]

20 **ADV NOTSHE SC:** Yes.

"See below emails."

And then if you go down, the first email there is an email from one Belinda Trout, this seems to be the house secretary of the House Chairperson Committee's Oversight, ICT National Assembly and it is to you and he says:

“Mr Wakeford, herewith details of PC on Correctional Services.”

And then the email after that is ...[intervenes]

**CHAIRPERSON:** Hang on, Mr Notshe, I think you must just read everything.

**ADV NOTSHE SC:** Oh, sorry.

**CHAIRPERSON:** Read the content:

“Committee secretary is there for unit manager...”

I guess that is – those are people that he is referring to.

10 So the email to you, Mr Wakeford, from Ms Belinda Trout, executive secretary House Chairperson Committee’s oversight and ICT National Assembly, it is on 7 March 2011 at 11.49, the subject is Committee Secretary Contact Details. It says:

“Dear Mr Wakeford, herewith details of PC on Correctional Services.”

I take PC to be portfolio committee. It then says:

“Committee Secretary, Ms Singi Bali(?).”

And then gives the telephone details.

20 “Unit manager Keith Williams”

Gives contact details.

“Many thanks, Belinda.”

Ms Belinda Trout. That email addressed to you seems to have been sent at 11.49 on the 7 March 2011 and it would appear in the email that is in the middle of the page that

you then sent an email to Ms Belinda Trout on the same date at 10.54 and the subject is Committee Secretary Contact Details, so the same subject. You say:

“Hi Belinda, thank you. Could you send me email addresses as well? Regards, Kevin.”

Yes, you can take it from there, Mr Notshe.

**ADV NOTSHE SC:** And then this email – and you then send this email from Ms Trout to Mr Agrizzi and Mr Kevin Watson.

10 **MR WAKEFORD:** Correct.

**ADV NOTSHE SC:** Say:

“The hearings are this week.”

Were these portfolio committee hearings?

**MR WAKEFORD:** Chair, I do not recall to be frank with you but if it says PC, that is portfolio committee.

**ADV NOTSHE SC:** Yes.

**MR WAKEFORD:** That is how I would see it and, you know, from time to time, because I was a trouble shooter, I would alert them to what is taking place both in the  
20 parliamentary sphere and elsewhere. But there were hearings, the context of those hearings I would not know.

**ADV NOTSHE SC:** And you say:

“We need to make a judgment call on this matter urgently.”

**MR WAKEFORD:** Yes, I see that, Chair.

**ADV NOTSHE SC:** You see that?

**MR WAKEFORD:** I see that.

**ADV NOTSHE SC:** Now if we go back.

**MR WAKEFORD:** Yes.

**ADV NOTSHE SC:** If you go back to the email from Ms Trout, she sends you the emails the Provincial – the Portfolio Committee on Correctional Services.

**MR WAKEFORD:** Yes.

**ADV NOTSHE SC:** And you know that BOSASA had a  
10 contract with Correctional Services.

**MR WAKEFORD:** Yes.

**ADV NOTSHE SC:** So this is a portfolio committee regarding the department wherein BOSASA had a contract.

**MR WAKEFORD:** Yes, I am just trying to understand relevance, Chair.

**ADV NOTSHE SC:** The relevance is this, we see you saying at the top:

“We must make a judgment call”

About this Portfolio Committee on the department wherein  
20 we have a contract. And what was that?

**MR WAKEFORD:** Chair, I am not sure exactly what the judgment call would refer but I presume because the hearings were that particular week, I think the judgment call would be does one attend or does one not attend? And it could have been – if I am not mistaken, there were

already some utterances in the public domain and within the Portfolio Committee if I am not mistaken at that point in time about BOSASA but I do not have that immediate recollection.

**CHAIRPERSON:** Well, I can tell you this and this might assist you in terms of your memory because I have heard evidence relating to portfolio committees in particular the Portfolio Committee on Correctional Services.

**MR WAKEFORD:** Yes.

10 **CHAIRPERSON:** And BOSASA. You will recall that in 2009 there was a general election in the country so there would have been then a new parliament after elections and the new Portfolio Committee on Correctional Services. As I recall, either before the end of 2009 or at the latest towards the end of 2010, according to the evidence of Mr Vincent Smith, if I recall correctly, but also evidence of one or other MPs who gave evidence here, the SIU report into investigations at BOSASA and Correctional Services was presented to the Correctional Services Portfolio  
20 Committee and the majority if not all the members were shocked by the irregularities that were dealt with in that report.

So the Portfolio Committee on Correctional Services was aware of that report either from towards the end of 2009 or some stage in 2010. So it may or may not be that

this may have been in connection with that.

**MR WAKEFORD**: Chair, I am not – Chair, I can say with absolute honesty that the judgment call to my mind of thinking would be does one attend it, if it is an opening hearing, or does one not attend it? And I would have encouraged engagement and attendance rather than avoiding those.

**CHAIRPERSON**: Ja.

**MR WAKEFORD**: No matter how hard it may be.

10 **CHAIRPERSON**: Mr Notshe?

**ADV NOTSHE SC**: Now – and but you say you cannot recall?

**MR WAKEFORD**: Ja, well this is what, 2011, that is a good ten years ago.

**ADV NOTSHE SC**: Now can you turn to page 252?

**MR WAKEFORD**: 252?

**ADV NOTSHE SC**: Yes.

**MR WAKEFORD**: Yes.

**ADV NOTSHE SC**: Now let us start at the bottom of that  
20 page. There is an email ...[intervenes]

**CHAIRPERSON**: Sorry, what page?

**ADV NOTSHE SC**: Page 252.

**CHAIRPERSON**: 252?

**ADV NOTSHE SC**: 252, yes.

**CHAIRPERSON**: Okay.

**ADV NOTSHE SC:** Look at the bottom of that page, an email from Gavin Bradshaw.

**MR WAKEFORD:** Yes.

**ADV NOTSHE SC:** And to you and he says:

“Dear Prof Wakeford, herewith please find as attachment the position paper as requested. Please feel free to make critical comment. I will be happy to make any adjustments that time will allow. Kind regards, Dr Gavin Bradshaw.”

10 Who is this?

**MR WAKEFORD:** Dr Gavin Bradshaw at that time worked for the Institute for Conflict Resolution at the University of Port Elizabeth, today known as Nelson Mandela University.

**ADV NOTSHE SC:** What was he talking about?

**MR WAKEFORD:** Sorry?

**ADV NOTSHE SC:** What was he talking about in this?

**MR WAKEFORD:** This was a position paper on public private sector partnerships.

20 **ADV NOTSHE SC:** And then I see that at the top of that page on 252. You sent the paper to Mr Agrizzi, back to Mr Bradshaw, Gavin Watson. Do you see that?

**MR WAKEFORD:** Yes, yes.

**ADV NOTSHE SC:** Say:

“Dear Angelo, please check the attached position paper for the bid process and comment accordingly.

I am satisfied with the general approach and we want to emphasise - you want more emphasis in certain areas. Kind regards, Kevin Wakeford.”

You wanted Agrizzi to comment on this.

**MR WAKEFORD:** I wanted everyone to comment that I sent it to, yes.

**ADV NOTSHE SC:** For what purpose?

**MR WAKEFORD:** Well, at the end of the day, when you - you know, that was prior to submitting one’s bids for a private prison, which never happened, of course. And one of the key treasury instruments that are used are public private sector partnerships. So that was the approach that the team needed to understand, that if you are going to insert that in your bid, you need to understand you need a basic – you need a common point of departure.

**ADV NOTSHE SC:** So this was for – so that you understand how the bidding was going to be? This was going to regulate, the BBBEE.

**MR WAKEFORD:** This is to understand what the team needs to do to have a competent and efficient bid in terms of BBBEE and the approach to BBBEE.

**ADV NOTSHE SC:** I see.

**MR WAKEFORD:** This – there are different views within the state on what one should use. Some would advocate and absolute private entity, others would advocate a public



private sector partnership.

**ADV NOTSHE SC:** I see. Now let us move off topic and start – and go to page 231.

**MR WAKEFORD:** 231?

**ADV NOTSHE SC:** Yes. Are you there?

**MR WAKEFORD:** Yes.

**ADV NOTSHE SC:** This is an email from you – okay, if you start at the bottom. You know, I always struggle with these emails, I want to read at the top whereas they start  
10 at the bottom.

**MR WAKEFORD:** Yes, yes.

**ADV NOTSHE SC:** Now the email on the 8 October 2009 from Agrizzi to you.

**MR WAKEFORD:** Yes.

**ADV NOTSHE SC:** It says:

“Very confidential, please do not discuss.”

And then the following day on the 9 October 2009 you then say:

20 “Dear Angelo, why is this confidential? This is a genuine transparent business proposal. Rather discuss your response verbally, I hate emails. May I suggest that the costings are rather high, I will go for a fixed retainer inclusive of all costs at R100 000 per month, renewable on a six monthly basis. Regards.”

You. You remember this email?

**MR WAKEFORD:** I remember it. I commented on it in my – I think my second affidavit with annexures.

**ADV NOTSHE SC:** And this email, does it not confirm Agrizzi's evidence that you were paid a retainer of 100 000?

**MR WAKEFORD:** That I was repaid?

**ADV NOTSHE SC:** You were paid.

**MR WAKEFORD:** No. No, this has got nothing to do with  
10 me.

**ADV NOTSHE SC:** What has it got to with?

**MR WAKEFORD:** This email is – what you do not see and what he failed to attach, Chair, is an attachment on the fleet management contract and he did not want me to speak to Aneel about it. So what he did was he sent it to me. Aneel had sent it to him directly. I had no knowledge of it but it is all in my – I think it is my second affidavit and I actually went as far, Chair, as to get the actual proposal which he failed to send and I attached. So Aneel had –  
20 Aneel Radhakrishna had emailed him. He then emailed me to say:

“Very confidential, please do not discuss.”

And then I responded:

“Why is this very confidential?”

And I had suggested because Aneel Radhakrishna

proposal, if I remember correctly, was R18 000 a day.

**ADV NOTSHE SC:** Yoh!

**MR WAKEFORD:** And I had said I could not support that, if you want my input I would for that particular project for its duration, I would offer the company R100 000 a month. And that is the sum total of that, Chair, and I am quite happy to guide you to the actual document in one of my former affidavits.

**ADV NOTSHE SC:** Where would we find that because I  
10 looked in your affidavit, whose affidavit ...[intervenes]

**CHAIRPERSON:** Well, his counsel might be able to assist.

**MR WAKEFORD:** So if I could just ask my team if they could assist with that?

**CHAIRPERSON:** 313.

**MR WAKEFORD:** In this big pack. In my annexures?

**ADV WILLIS:** Yes, that is in the annexures that are before the Commission, placed before the Commission today, Mr Wakeford. Thank you, Mr Chairman.

20 **ADV NOTSHE SC:** I am sorry, I missed that, what is the...?

**CHAIRPERSON:** 313.

**ADV WILLIS:** 313 of the EA, evidence affidavit, 313. I do not know what the 04 numbers are, sorry.

**ADV NOTSHE SC:** 313.

**MR WAKEFORD:** So, Chair, if you go to my pack.

**ADV NOTSHE SC:** It is 1254.

**MR WAKEFORD:** Ja. Sorry, 154?

**ADV NOTSHE SC:** 1254.

**CHAIRPERSON:** Okay, no, I am sorry. Okay. This is BOSASA bundle 4(a).

**ADV NOTSHE SC:** Chair, this is the bundle with the affidavits – I am sorry, with the annexures, these are the annexures to Mr Wakeford's affidavit.

10 **CHAIRPERSON:** Oh, that is the other file that he talked about.

**MR WAKEFORD:** Chair, it is the final annexures.

**CHAIRPERSON:** Hang on, hang on, Mr Wakeford, otherwise we will not ...[intervenes]

**MR WAKEFORD:** Sorry, Chair.

**CHAIRPERSON:** ...one another. Yes.

**MR WAKEFORD:** Okay.

**CHAIRPERSON:** Okay, so Mr Notshe, so this is the other file.

20 **ADV NOTSHE SC:** The other file, yes.

**CHAIRPERSON:** That has got the ...[intervenes]

**ADV NOTSHE SC:** The annexures.

**CHAIRPERSON:** Annexures to Mr Wakeford's affidavit. That they have been using today.

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

**CHAIRPERSON:** Okay, alright. And what we were looking for was Mr – what Mr Wakeford was looking for was his affidavit but in his affidavit he was going to get the proposal, is that right? You were looking for the proposal.

**MR WAKEFORD:** So, Chair, this is the proposal that was attached to this email.

**CHAIRPERSON:** Hang on one second?

**MR WAKEFORD:** Yes, Chair.

**CHAIRPERSON:** So at page 1253 of BOSASA bundle 4 we  
10 find a document that is written draft proposal sent from Akhile to Agrizzi and it is written Akhile, it is dated 8 October 2009, it is in the form of a letter, is that what you are talking about, Mr Wakeford?

**MR WAKEFORD:** That is correct, Chair.

**CHAIRPERSON:** And that is the proposal, draft proposal.

**MR WAKEFORD:** This is the proposal, Akhile, 8 October 2009.

**CHAIRPERSON:** Ja.

**MR WAKEFORD:** And this is the email sent to me the  
20 following day with that attached on the 9 October 2009.

**CHAIRPERSON:** Okay, ja. I see it says:

“Proposal for advisory services Fleet Management Solutions.”

**MR WAKEFORD:** Correct, that is it, Chair.

**CHAIRPERSON:** Yes, Mr Notshe?

**ADV NOTSHE SC:** And actually in the email of the 8 October, the one sent to you by Mr Agrizzi, the topic is draft proposal.

**MR WAKEFORD:** Yes.

**ADV NOTSHE SC:** The heading is draft proposal, so it links with ...[intervenes]

**MR WAKEFORD:** With this.

**ADV NOTSHE SC:** With this which is a draft proposal.

**MR WAKEFORD:** Hundred percent.

10 **ADV NOTSHE SC:** I see.

**CHAIRPERSON:** Just for the sake of completeness, that draft proposal appearing at page 1253 of BOSASA bundle or was addressed to the Chief Operations Officer for [indistinct] fleet management services, for the attention Mr Angelo Agrizzi and it came from Aneel Radhakrishna, Chief Executive Officer, I think of Akhile. Yes. Okay, continue.

**ADV NOTSHE SC:** Now where I was, I was starting in a discussion – the reason I referred you to, was starting a discussion about the retainer. He is saying the retainer –  
20 your evidence is that the retainer was not 100 000, it was 50 000.

**MR WAKEFORD:** Correct, Chair.

**CHAIRPERSON:** Yes.

**ADV NOTSHE SC:** And then on page 11, 1159.

**CHAIRPERSON:** Of which bundle now? The one that has

got annexures?

**ADV NOTSHE SC:** The bundle – the additional bundle, the affidavit, herewith annexures.

**CHAIRPERSON:** That is bundle 4(a).

**ADV NOTSHE SC:** 4(a) yes.

**CHAIRPERSON:** Right, what page?

**ADV NOTSHE SC:** 1159, Chair.

**CHAIRPERSON:** Well, mine will not have – oh no, 11, not 12, 1159.

10 **ADV NOTSHE SC:** Yes.

**MR WAKEFORD:** Yes, Chair, I have got it.

**CHAIRPERSON:** Yes, continue.

**ADV NOTSHE SC:** And there you will show a schedule of invoices and payments received from BOSASA, received by you, am I right?

**MR WAKEFORD:** Yes. Yes, Chair.

**ADV NOTSHE SC:** And I have noticed – and please help me, I have noticed that there are number of payments that are for R114 000.

20 **MR WAKEFORD:** That is correct, Chair, but if you go and have a closer look at the schedule you will notice that there are certain months that are not paid. Let me give you an example. The 25 February 2010 you will see a line there, new payment ...[intervenes]

**CHAIRPERSON:** I am sorry, I am sorry, Mr Wakeford. Mr

Notshe, you said 1159?

**ADV NOTSHE SC:** 1159, Chair.

**CHAIRPERSON:** I do not have a table there, I have got Mr Venter's affidavit.

**ADV WILLIS:** Chairman, I also do not have that 1159.

**CHAIRPERSON:** Oh, no, I am sorry, I am 1059 instead of 1159.

**MR WAKEFORD:** I have got it, Mr Chair.

**CHAIRPERSON:** Okay, no, now I have got it.

10 **MR WAKEFORD:** Sorry, Chair.

**CHAIRPERSON:** Okay, alright.

**MR WAKEFORD:** Mr Chair, you will see this is a schedule which goes over to 1160 and to 1161 and 1162.

**CHAIRPERSON:** Ja.

**ADV NOTSHE SC:** But Mr Wakeford is explaining.

**MR WAKEFORD:** Chair, the way it has been constructed by my forensic accountant ...[intervenes]

**CHAIRPERSON:** But what do you want him to explain?

20 **MR WAKEFORD:** I am wanting to explain why there were certain payments for 114 000, that is a 100 000 plus VAT.

**CHAIRPERSON:** Yes but you did that in the morning, did you not?

**MR WAKEFORD:** I did explain it comprehensively, Chair.

**CHAIRPERSON:** Yes. Yes, he explained that in the morning.



**ADV NOTSHE SC:** And in total...

**MR WAKEFORD:** Yes.

**ADV NOTSHE SC:** In total how much were you paid by BOSASA.

**CHAIRPERSON:** In total over what period?

**MR WAKEFORD:** I gave an explanation this morning.

**ADV NOTSHE SC:** March 2009 to ...[intervenes]

**MR WAKEFORD:** No, it was actually June 2006, Chair.

**CHAIRPERSON:** Yes but, Mr Notshe, is there an issue  
10 about the total over a certain period? Was the issue not  
only about what he was paid per month?

**ADV NOTSHE SC:** Yes.

**CHAIRPERSON:** Ja.

**ADV NOTSHE SC:** I just want to check how much the total  
amount that BOSASA expended on him.

**CHAIRPERSON:** Yes but what are we going to do with  
that, if it is not an issue?

**ADV NOTSHE SC:** Well, it is not in dispute.

**CHAIRPERSON:** Yes.

20 **ADV NOTSHE SC:** But the issue – the only issue I would  
argue at the end that in the retainer he got x amount and  
then you link it with working with the department and – my  
argument in the end ...[intervenes]

**CHAIRPERSON:** But that can be added up in the table is  
it not?

**ADV NOTSHE SC:** As you please.

**CHAIRPERSON:** Yes.

**ADV NOTSHE SC:** That is all I have for the witness.

**CHAIRPERSON:** That is all the questions you have for him?

**ADV NOTSHE SC:** Yes.

**CHAIRPERSON:** Okay, alright. Thank you. What is your position on whether you want to re-examine?

**ADV WILLIS:** Mr Chairman, there are a couple of things  
10 that I think I would be remiss in my duty if I did not attend to it.

**CHAIRPERSON:** Yes.

**ADV WILLIS:** I would like to – I am satisfied with the evidence that Mr Wakeford has given.

**CHAIRPERSON:** Ja.

**ADV WILLIS:** But you would have noticed that the evidence did not – it was not examined in much relation to anything he testified about this morning.

**CHAIRPERSON:** Yes.

20 **ADV WILLIS:** But in relation to matters that we would say fall outside the scope of the allegations made against him.

**CHAIRPERSON:** Ja.

**ADV WILLIS:** In those circumstances, I am of the view that I need to be re-examine. I expect to be off now, I will not be asking questions of Mr Agrizzi – sorry, Mr Wakeford.

**CHAIRPERSON:** Yes.

**ADV WILLIS:** Which would require long answers.

**CHAIRPERSON:** Yes.

**ADV WILLIS:** But I have a number of points I need to pitch on.

**CHAIRPERSON:** Well, you will recall that in terms of the regulations the re-examination is for clarification, of course.

**ADV WILLIS:** Indeed, so.

10 **CHAIRPERSON:** Ja, just clarification, ja.

**ADV WILLIS:** That is all it is, yes.

**CHAIRPERSON:** Ja, we are at quarter past now. That will not give you thirty minutes to half past.

**ADV WILLIS:** I can attempt it and I think we should and in the interests of the ...[intervenes]

**CHAIRPERSON:** Well, of course, I am not saying that to say I will not give you the chance to, all I am looking at is whether it should be now or at another time.

**ADV WILLIS:** I would like to attempt to do it now.

20 **CHAIRPERSON:** Within 15 minutes.

**ADV WILLIS:** In 15 minutes, Mr...

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

**ADV WILLIS:** Thank you, Mr Chair.

**CHAIRPERSON:** Okay, alright. Thank you. Then just sanitise the podium and then you can go there.

**MR WAKEFORD:** Chair, if I may indulge you and request some humble citizen to give me some water please?

**CHAIRPERSON:** Yes, please, is there some water? Please give him some water. Well, Mr Wakeford, Mr Notshe cannot say that you did not make him drink water with your answers.

**MR WAKEFORD:** Exactly, Chair.

**CHAIRPERSON:** I saw him drinking water as well.

**MR WAKEFORD:** Chair, in Xhosa we say *galela amanzi*,  
10 *galela*.

**CHAIRPERSON:** Counsel for Mr Wakeford, you can go to the podium.

**ADV WILLIS:** Sorry, Mr Chair, I have just lost my mask in and amongst ...[intervenes]

**CHAIRPERSON:** It must have fallen onto the floor, unless it is underneath some ...[intervenes]

**ADV WILLIS:** I think that is what happened yes, but the ...[indistinct – speaking away from mic]

**CHAIRPERSON:** If somebody is able to switch off his mic  
20 please do so. Yes.

**ADV WILLIS:** Thank you Mr Chair ... and to try and work in reverse I will talk a little bit quicker than has been the practice until now, I will speed it up, if you go to BOSASA 04767 ...[intervenes]

**CHAIRPERSON:** Are we going to be at Bundle 4?

**ADV WILLIS:** Yes that is Bundle 4.

**CHAIRPERSON:** Ja, okay and the rate is?

**ADV WILLIS:** 767. While you are looking for it this relates to the last, the penultimate question or debate amongst yourself and Mr Notshe and the Chairman relating to Aneel Radhakrishna and Phakisa and the one so the pages that you ended up at were 1253 and 1254 in the proposal, do you recall that?

**MR WAKEFORD:** Yes.

10 **ADV WILLIS:** And that spoke to – part of that issue spoke the relationship between Mr Aneel Radhakrishna and Sagren Naidoo is that correct?

**MR WAKEFORD:** Correct.

**ADV WILLIS:** And if you look at paragraph 21.11, first let me tell you what this affidavit is, this is the response by Mr Agrizzi to Mr Aneel Radhakrishna which was furnished to Mr Notshe I think yesterday or the night before yesterday and we received that yesterday morning, but the latest affidavit by Mr Agrizzi, and you can just read that into the  
20 record, paragraph 21.2

**MR WAKEFORD:**

“I deny these allegations and wish to point out that Aneel Radhakrishna appointed the then Chief Financial Officer, Sagren Naidoo of Home Affairs into Achille as a consultant and he was later co-

opted into the Eastern Cape Fleet Management tender by both the Late Gavin Watson ably assisted by Kevin Wakeford but this contract did not come into place as Corana Phakisa did not perform or obtain financing to execute the contract.”

**ADV WILLIS:** Very quickly that confirms the relationship between Aneel Radhakrishna and Sagren Naidoo, any further comments?

**MR WAKEFORD:** Chair just to point out that Sagren  
 10 Naidoo was an acting Chief Financial Officer, he was on a short-term contract at Home Affairs as I understand it, he was male and not female, because I do know in previous affidavits Mr Agrizzi referred to him as a female, and that I do remember seeing Sagren operating with Aneel from time to time post and long after the Home Affairs contract that I really don't have much more, but this just confirms that Agrizzi requested Aneel Radhakrishna to participate in a fleet management contract and not ...[indistinct – dropping voice]. I think what Agrizzi was alluding to or in fact  
 20 saying emphatically that Aneel Radhakrishna was getting compensation for having an extension of a Home Affairs contract, which is absolute rubbish Chair.

**ADV WILLIS:** I noted that the date of that proposal and the Chairman specifically read into the record I think it was addressed the Chief Operating Officer which was Mr

Agrizzi, was dated the 8<sup>th</sup> of October 2009.

**MR WAKEFORD:** Correct.

**ADV WILLIS:** I would like you to comment on that in relation to the payments to Distinctive One Choice.

**MR WAKEFORD:** Distinctive One Choice as I remember was 2012 according to Aneel Radhakrishna's affidavit.

**ADV WILLIS:** Long time thereafter.

**MR WAKEFORD:** And I think the prelim report refers to that as well.

10 **ADV WILLIS:** You were at a point not too – it wasn't too long before this debate, Mr Notshe said to you following on some other discussion and he – I don't recall if he said I put it to you but he was pursuing a point, he said you were talking to Mr Agrizzi. You then said, you then spoke to the issue at hand, yes when reaching out to the pinnacle reaching up to the pinnacle, you described it as the captain previously too, have you ever denied that there are lots of emails between you and Mr Agrizzi?

**MR WAKEFORD:** No I have not, I think for that period of  
20 time there isn't a huge volume but as it spans a period Chair of 2006 ...[intervenes]

**CHAIRPERSON:** Come closer to the mic.

**MR WAKEFORD:** Sorry it spans a long period of time, it is nine years and yes of course, when you are in business and you are a professional you don't take things

personally, you deal with the man in charge, and that was Agrizzi, and I had to deal with him and in fact Gavin Watson was enamoured with Agrizzi, Agrizzi had ingratiated himself to such an extent that Gavin was a ceremonial CEO, at most, he certainly wasn't the man making the key decisions in the organisation, but I think I said that this morning Chair.

**ADV WILLIS:** Mr Wakeford you will recall the discussion around, and it took some time, it traversed a number of  
 10 different aspects of the evidence relating to Mr Papadakis ...[intervenes]

**CHAIRPERSON:** I am sorry, I think I must just mention this in response to – in relation to what you say, that is not the impression I got of Mr Gavin Watson from Mr Agrizzi's evidence, I got the impression that Mr Gavin Watson was quite actively involved in directing the business, but left issues of paperwork and other things to Mr Agrizzi and other people, but I got the impression that he had a strong personality and that he was in charge of BOSASA but in  
 20 terms of operations may have left a lot of that to other people. I didn't get the impression that his position was just ceremonial. I think I must just mention that ...[intervenes]

**MR WAKEFORD:** Chair I take that, I accept what you are saying, Gavin was an inspirational leader, he had a great



vision, but I suppose if one had to compare when President Mandela was running the country, his deputy was Deputy President Thabo Mbeki at the time, and we all know, any student of politics would tell you that Madiba was a charismatic, inspirational leader who promoted reconciliation, who inspired people, but the man running the show at the time was Deputy President Thabo Mbeki. He was making sure that the wheels of government were well oiled and were – government was moving fairly  
 10 quickly, whereas Madiba would appear at different functions, he would give inspirational speeches but the real heart or management of the State was Deputy President Mbeki at the time.

**CHAIRPERSON:** Yes, okay.

**MR WAKEFORD:** Just using that as a metaphor Chair.

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

**ADV WILLIS:** Mr Chairman I am using the bundle which was given to us [audio distorted]. Mr Wakeford I was just asking in relation to the discussions around Mr Papadakis,  
 20 there was a discussion about supplies, there was a discussion about the contractor ...[indistinct] just to remind but you said on more than one occasion, you spoke about what you were told or what you knew or what you learnt words to that effect, where did you learn that from?

**MR WAKEFORD:** I that from, if I am – Chair I learnt that

from Papadakis himself.

**ADV WILLIS:** Okay, and when?

**MR WAKEFORD:** Years ago.

**ADV WILLIS:** So if you go to BOSASA ...[intervenes]

**MR WAKEFORD:** I do remember him contacting me Chair and saying I have settled, I have paid this thing, because he was worried if I recall that he didn't want to be fingered for being naughty

**ADV WILLIS:** 04689 is the affidavit of Mr Papadakis  
10 ...[intervenes]

**MR WAKEFORD:** Sorry Chair 04?

**ADV WILLIS:** 689.

**MR WAKEFORD:** Thank you Chair I have got it.

**ADV WILLIS:** I think we can clear this up, if you read from paragraph 4.2 and if you can read a bit faster than earlier so that we can ...[intervenes]

**MR WAKEFORD:** Sorry from where, from what paragraph?

**ADV WILLIS:** Paragraph 4.2.

**MR WAKEFORD:** 4.2?

20 **ADV WILLIS:** Yes, read the words of Mr Papadakis under oath in his affidavit to the Commission, that's page 609.

**MR WAKEFORD:** Okay, he says:

"I met Ronnie and Valence Watson around this time. According to my recollection I met Gavin Watson in late 2014 after I had left the employ of SARS. I had

never met the 4<sup>th</sup> brother.”

**ADV WILLIS:** Could you stop, when are the allegations in relation to cement before this Commission?

**MR WAKEFORD:** The allegations relating to cement were in late 2008, early 2009.

**ADV WILLIS:** So here he says he only met Watson later, right, 4.3?

**MR WAKEFORD:** 4.3:

“At no stage requested ...”...[intervenes]

10 **ADV WILLIS:** It says I at no stage ...[intervenes]

**MR WAKEFORD:** Sorry.

20 “I at no stage requested or was offered or received any financial inducement or benefit from Wakeford or anyone else in relation to BOSASA. Whilst building at Echo State – at Echo State in a discussion with Ronnie and Valence they indicated that they were engaged with a major cement manufacturer at the time, they mentioned that if I ever encountered difficulties with cement supply I should let me know. They lived in Port Elizabeth and told me to communicate with Wakeford if needed. During the period of construction I was fully employed and as such the building activities were attended to by my contractors, including the ordering of materials. I cannot recall the quantities

of cement ordered, but towards the latter part of 2009 I was provided with an amount that needed to be settled which was settled.”

**ADV WILLIS:** Continue.

**MR WAKEFORD:** 4.5:

“That is why when I was implicated by ...[Indistinct] Foster who testified that delivery notes are available I immediately requested access to the same. I did so as the quantities and values  
10 attested were incomprehensible to me. The records subsequently made available to me confirmed the fallaciousness of the allegations in that no deliveries for wet cement were made by ...[indistinct] subsequent to the 10<sup>th</sup> of July 2009 and the RTC records reflect an invoice and delivery dated in February 2010 which was credited as goods not even being ordered. Other than this there is an invoice which only refers to delivery to the general Masdale area.”

20 **ADV WILLIS:** You paid tribute, I think it was in this regard to the investigators of the Commission in regard to accessing of the records from RGS I think it is and Wern, the suppliers to supply building materials to BOSASA, and you credited them accessing that information, we know that they accessed the statements by ex-employees etcetera,

you recall that?

**MR WAKEFORD:** Yes.

**ADV WILLIS:** You have regard to that evidence haven't you?

**MR WAKEFORD:** Sorry?

**ADV WILLIS:** You have regard to all of that evidence haven't you?

**MR WAKEFORD:** Yes.

**ADV WILLIS:** Does any of it bear out either the numbers  
10 or the time period in relation to the allegations against you  
and Mr Papadakis?

**MR WAKEFORD:** There is no linkage whatsoever Chair.

**ADV WILLIS:** If you could the turn in this affidavit to page  
702, this is now in relation, I want you to go through  
paragraph 8.1 of page 702, this is in relation to what Mr  
Foster had to say.

**MR WAKEFORD:** Yes.

**ADV WILLIS:** 8.1 and 8.2 of these – of this page please  
read it into the record as quickly as you can.

20 **MR WAKEFORD:** Thank you Chair.

“Foster testified that deliveries of wet and dry  
cement were made during late 2009 to 2010 for  
approximately one year. These dates are clearly  
inconsistent with the timeframe in his  
supplementary affidavit, in his zero – sorry 4<sup>th</sup> of

April 2019 supplementary affidavit Foster seeks to change the periods of the alleged deliveries to between 2009 and 2011 to the best of his recollection. The house to which the deliveries were allegedly made had been built by late 2009 which is well before 2011. This significant deviation must be considered against Foster's evidence that he maintained a book of amounts ordered. It is incomprehensible that having this book available to him Foster could testify that the delivery period was late 2009 to 2010, and then changed his version to 2009 and 2011, and that this is to the best of his recollection. His lie becomes apparent from the Google Earth image of 27 December 2009 which clearly shows that by this date the house already had a roof on. On any construction the allegation that wet cement was delivered at least subsequent to 27 December 2009 is a pure fabrication."

**ADV WILLIS:** And you recall that the testimony was that in the region of R600 000 worth of cement was supplied to Mr Papadakis. On the records as you recollect what is the closest figure that the investigators have been able to find there was evidence of?

**MR WAKEFORD:** Chair I speak under correction but it was around R200 000.

**ADV WILLIS:** You have testified you ...[indistinct] paid for it that's what you understood. If we – if I could ask you to change to page 760. Thank you Chair, just stay with me, this is the affidavit of Mr Agrizzi and there was a short discussion, debate between yourself and Mr Notshe around the veracity of figures put forward by Mr Agrizzi and if you will bear with me to find it. Now – sorry it was at this stage that – and I don't recall the pages, but my notes just indicated that it was here and that Mr Notshe put to you Mr  
10 Agrizzi's questioning of profits and the like.

Your – you have dealt with this in fact Mr Notshe put it to you in testing, as a method to test your evidence ...[indistinct] that you had given this morning and if you could go there Mr Wakeford you might find it, look at 296, paragraph 206 and then we will give everybody the reference I think it is page 83 of your affidavit I believe, yes ...[indistinct]

**CHAIRPERSON:** Are you ...[indistinct] in which bundle it is?

20 **ADV WILLIS:** It is 04, it is ...[intervenes]

**CHAIRPERSON:** ...[Indistinct]

**MR WILLIS:** This is the affidavit of Mr ...[indistinct] this morning 04934.

**CHAIRPERSON:** Okay, and the page?

**MR WILLIS:** That is 934, the paragraph is at 295.

**CHAIRPERSON:** The paragraph is 295.

**ADV WILLIS:** Can you confirm we go to 295.1 in this figure there, you go to 295. [00.20.34]

**CHAIRPERSON:** Okay, I am sorry, I think I don't think I would have paragraph 295, or is that the page number?

**MR WAKEFORD:** Sorry Chair, can I just clarify that. Is this an affidavit drafted by Angelo Agrizzi?

**ADV WILLIS:** This is your affidavit.

**MR WAKEFORD:** My affidavit?

10 **CHAIRPERSON:** The one that is under divider 12.

**ADV WILLIS:** Yes under 12, your affidavit 936.

**CHAIRPERSON:** Okay. And it starts at page 852 of Bundle 4.

**ADV WILLIS:** 852?

**CHAIRPERSON:** Ja, and you said it is paragraph 205, is that right?

**ADV WILLIS:** 295 yes.

**CHAIRPERSON:** Okay 295 is at page 23 – page 934, paragraph 295 is at page 94 and you are we are using the  
20 black pagination.

**ADV WILLIS:** 934 black pagination numbers.

**CHAIRPERSON:** Ja.

**ADV WILLIS:** These two calculations in 296.1 and 296.2 are you able to confirm that those are in fact the investigators totals that they write there.



**MR WAKEFORD:** Chair sorry, I am still struggling here.

**ADV WILLIS:** No problem.

**MR WAKEFORD:** Where are we on my affidavit?

**ADV WILLIS:** Your affidavit relates to 934 in the bundle.

**MR WAKEFORD:** 934?

**ADV WILLIS:** In the bundle yes. Your paragraph, we are now using the bundle Chair for everyone's convenience, 924, sorry Chair I know you are tired now.

**MR WAKEFORD:** I am having the slight, the same sort of  
10 difficulties because we had to this morning switch over to  
...[indistinct] and we had our own yesterday.

**CHAIRPERSON:** Okay, fine.

**ADV WILLIS:** Sorry Chair 934 I am on that page, 296, and  
296.1 and 296.2.

**CHAIRPERSON:** Oh that is 295, not 296 on mine.

**ADV WILLIS:** Sorry, 295.

**CHAIRPERSON:** Ja, paragraph number.

**ADV WILLIS:** 295 and 295.2, do you see those numbers?

**MR WAKEFORD:** Yes I see them.

20 **ADV WILLIS:** You testified to those calculations, later on  
Notshe took you to paragraphs in Mr Agrizzi's affidavit  
which disputed your figures. These figures here can you  
confirm that these come from the investigators of this  
Commission?

**MR WAKEFORD:** 100% Chair.

**ADV WILLIS:** And you have broken these calculations down, back into what they are *vis-a-vis* numbers of persons that ...[indistinct – dropping voice] catered for, gave you rates etcetera, is that correct?

**MR WAKEFORD:** 100% Chair.

**ADV WILLIS:** Thank you.

**CHAIRPERSON:** Of course you have gone beyond 20 minutes so I should mention that.

**ADV WILLIS:** Yes, then Mr Chairman, at the end, and I  
10 won't waste time now, there is a timeline which was left out of the bundle, out of our pack of documents, there is a timeline.

**CHAIRPERSON:** Yes.

**ADV WILLIS:** Mr Wakeford are you aware of this timeline that was prepared?

**MR WAKEFORD:** I am aware of the timeline that is prepared.

**ADV WILLIS:** Does this timeline speak to what is in your affidavit?

20 **MR WAKEFORD:** Sir it even has the necessary references throughout.

**ADV WILLIS:** And I will if I could afterwards I will make sure you get a copy Mr Chairman and everyone else, I won't delay with that now.

**CHAIRPERSON:** Yes, no that is fine. And of course also

when you put in your written submissions it can make use of those references.

**ADV WILLIS:** Yes, indeed.

**CHAIRPERSON:** Ja.

**ADV WILLIS:** Indeed. Mr Chairman might I just make a note, because I had made it in my notes here and I did not have the time to do it this morning in his evidence, Mr Wakeford moved on pretty fast, and there were some paragraphs there that if I had the time I would take him  
10 back to, I am not going to do that, but I know that you will have regard and as you have just said we will set that out in our submissions.

I just – you will recall this morning, it was at the time that Mr Woods objected to evidence, he spoke of amounts of money being removed from the country, there was a nine million and something else, R91million I think for Mr Agrizzi and others, he even spoke to his wife taking out the country, Mr Woods' objection was to say that well that was taken out with Reserve Bank approval.

20 What is your comment, what is it that you have an issue with here?

**MR WAKEFORD:** No Chair it is merely to demonstrate the ...[intervenes]

**ADV WILLIS:** Mr Wakeford can I just interrupt you, are you interested in how it was taken out the country, do you

dispute how it was ...[intervenes]

**MR WAKEFORD:** No I don't dispute ...[intervenes]

**ADV WILLIS:** What is it that – what was the point you wanted to make?

**MR WAKEFORD:** The point is very simple, there were huge volumes of money being taken out of the country, the source of which you can be sure was BOSASA.

**ADV WILLIS:** Very briefly, I just want to give you an opportunity I want you to keep it very short. What is your  
10 complaint in respect of Mr Agrizzi and Lord Hain?

**MR WAKEFORD:** Yes, Chair you ruled in early 2019, in particular after there was a social media release with everything that was going to be discussed here in January 2019, and you made an order as a Judge that no one may use any of this material in the media prior to it being formally presented in the public forum like this. And I have adhered to that without question Chair. In face I have made two complaints to the press on ...[indistinct], I have been awarded both in my favour, the Sunday Times  
20 and an NGO publication called New Frame, but more importantly Chair in this case he took an internal document which I have formally complained to the Commission about, that related to the preliminary report on this matter and it was sent to Lord Peter Hain ...[intervenes]

**ADV WILLIS:** Before it was sent was there a warning from

the Commission to everybody, specifically from the work stream dealing with this matter?

**MR WAKEFORD:** Yes, in fact there was a letter from ...[intervenes]

**ADV WILLIS:** Mr Nickson?

**MR WAKEFORD:** Mr Nickson, Alan Nickson, one of the investigators who indicated that if anyone distributes the prelim report that it would be regarded as a criminal act, so Chair fortunately Lord Peter Hain sits on a Board with  
10 me and he quickly responded and revealed to me what was taking place, I then reported it to the Commission, but I just you needed to see and know about that Chair just in case someone hasn't alerted you ...[intervenes]

**CHAIRPERSON:** Let me just understand that.

**MR WAKEFORD:** Yes.

**CHAIRPERSON:** You say somebody took a document that you had submitted to the Commission and gave it to people contrary to an order that I had made?

**ADV WILLIS:** Mr Chair to cut to the chase it is in the  
20 affidavit and in simple lines it doesn't form part of the evidence, it is an internal report by the investigator circulated ...[intervenes]

**CHAIRPERSON:** Oh, oh.

**MR WILLIS:** Mr Agrizzi in defiance of your order, in defiance of the warning, of the rules of this Commission

and the warning by Mr Nickson in writing ...[indistinct] an affidavit, sent that to Lord Hain in the United Kingdom on his parliamentary email address, that is the complaint that we have made, I want to ask ...[intervenes]

**CHAIRPERSON:** Yes, I was not aware of that.

**ADV WILLIS:** It will probably come to your attention at some stage again because it is in the Secretariat.

**CHAIRPERSON:** Yes.

**ADV WILLIS:** But Mr Wakeford what is complaint, what do  
10 you believe Mr Agrizzi was doing by doing that?

**MR WAKEFORD:** Chair he was, look I sit on the Board of DNG which is an energy company, I am Chairman of that company, Lord Peter Hain represents us, he sits on the Board to represent the foreign stakeholder base, because DNG is a gas company it is fairly large and it is headed up by the CEO Aldworth Mbalati, who happens to be someone who gives me hope concerning the future of this country, and I think he did it to firstly defame me, secondly to cut off my income, because it has been a fairly difficult two  
20 years for me, and thirdly I think it demonstrates his hatred for me, which I have always advocated and he has always advocated he was my big mate which he wasn't.

**ADV WILLIS:** Mr Wakeford you have referred to Mr Peet Venter's affidavit.

**MR WAKEFORD:** Yes.

**ADV WILLIS:** You gave evidence before the Chairman, there is also Mr Andre van Tonder's affidavit. Who was Mr Andre van Tonder again, what was his position?

**MR WAKEFORD:** Andries van Tonder was the CFO.

**ADV WILLIS:** And Mr Peet Venter what was his role?

**MR WAKEFORD:** Peet Venter was a tax consultant.

**ADV WILLIS:** He was a tax consultant but he wasn't employed within the company, he was ...[intervenes]

**MR WAKEFORD:** Well he was a – ja an independent  
10 contractor but virtually employed.

**ADV WILLIS:** So they dealt with the financial affairs of the company?

**MR WAKEFORD:** 100%.

**ADV WILLIS:** I note that neither of them testified against you in relation to matters of tax and BOSASA etcetera.

**MR WAKEFORD:** 100%.

**ADV WILLIS:** What do you have to say about that?

**CHAIRPERSON:** And I guess that would be the last one?

**ADV WILLIS:** One more to the last.

20 **MR WAKEFORD:** Chair those two individuals yes it is correct they did not testify that I was involved with any shenanigans with SARS and Chair quite frankly they had contracted someone [word cut] out of the country I spoke about that this morning, the substance of their SARS submissions, I am not a tax professional, never have been,

never professed to be, but they – in their affidavits they make it very clear who did what and those affidavits were all crafted strangely enough, if I am not mistaken, most of them by Agrizzi himself in November 2017.

**ADV WILLIS:** And if – if there was someone who was to assist BOSASA in relation to SARS, something, some plan of action, who at BOSASA would have been involved in that planning?

**MR WAKEFORD:** It would have been Peet Venter, the  
10 CFO.

**ADV WILLIS:** No, Andries van Tonder was the CFO.

**MR WAKEFORD:** Sorry Andries van Tonder, and then they used – I forget the guy's name, an external tax professional and then they also used Advocate – I forget the name – Solomon, Solomon.

**ADV WILLIS:** One – the last question, you spoke of the fifth column ...[intervenes]

**CHAIRPERSON:** Definitely the last one, that will be the last one?

20 **ADV WILLIS:** Yes, you spoke to the fifth column, for the benefit of the Chairman just put the names to who the fifth column suggests you say?

**MR WAKEFORD:** Chair the fifth column was Agrizzi, clearly the leader of the ...[intervenes]

**ADV WILLIS:** Just the names Mr Wakeford.



**MR WAKEFORD:** Sorry Andries van Tonder, Leon van Tonder, Peet Venter and there was one other Chair, I cannot remember now.

**CHAIRPERSON:** Okay.

**ADV WILLIS:** Mr Chair before I release this microphone we would appreciate, I have no doubt and I have not had a chance to just mention this to Mr Notshe.

**CHAIRPERSON:** H'm.

**ADV WILLIS:** And I am sure he will do it, but if from your  
10 side if that could be, a guard could be put in place that this affidavit of Mr Wakeford's is not by way of an error be uploaded onto the ...[intervenes]

**CHAIRPERSON:** Yes.

**ADV WILLIS:** ...website because it contains the 417 inquiry extracts and we would not want this matter to be blown any more out of proportion than what it needs to be and we will make those submissions by twelve o'clock on Tuesday.

**CHAIRPERSON:** Ja I was alive to that but thank you for  
20 raising it. Mr Wakeford's affidavit and I am talking about the one to which he deposed – oh – I see it has got – it doesn't have a date but where the date is supposed to be put in it is left blank but it says was signed and so on to – at Pretoria at on this the dash day of February 2019, I thought this is quite recent so I don't think it is this

affidavit.

**ADV WILLIS:** Is that his ...[intervenes]

**CHAIRPERSON:** The one that you were using this morning.

**ADV WILLIS:** The one that we were using this morning, but that was Commissioned in my presence yesterday ...[indistinct – speaking simultaneously] tomorrow.

**CHAIRPERSON:** Yes, it doesn't have a date, well it does have February 2019, so anyone reading it would think it  
10 was deposed to in February 2019.

**ADV WILLIS:** So maybe for the record Chairman if I could just go to the end of that affidavit here, yes so that wasn't corrected, unfortunately this does happen often, so Mr Chairman for the record Mr Wakeford earlier on Mr Notshe took you through this affidavit, you identified your signature to the affidavit and the last page is the Commissioner's signature and his stamp, William Richard Creighton, when did you meet Mr Creighton?

**MR WAKEFORD:** Yesterday.

20 **ADV WILLIS:** Yesterday and what was yesterday's date?

**MR WAKEFORD:** The 5<sup>th</sup>.

**ADV WILLIS:** Mr Chairman I can confirm that, this affidavit was deposed to on the 5<sup>th</sup>, I am going to inscribe it on my copy.

**CHAIRPERSON:** Yes, I actually needed the date for

purposes of identifying so that whoever might see it they must know it is the one that should not be published or put out to the public for now, so I am going to say it is an affidavit that is marked Exhibit T33, so Mr Notshe will have to make sure that it is so marked in terms of the affidavit that is in the Commission, so that affidavit is not to be published or made available to the public without the Chairperson's written consent until I have made an order allowing it to be made up and we contemplate that that  
 10 should not take too long.

**ADV WILLIS:** Yes by twelve o'clock Tuesday the submission will be before you and thereafter either it will go up as is or it will be redacted appropriately.

**CHAIRPERSON:** Ja.

**ADV WILLIS:** Thank you Mr Chairman, I think we – I say on behalf of at least the three counsel and legal teams that have been here before you today thank you for your indulgence and your patience, thank you.

**CHAIRPERSON:** Thank you very much. Thank you to  
 20 everybody for your cooperation, we will – I will now adjourn the day session of the Commission proceedings, I will take a fifteen minute adjournment and then I will come back to start the evening session with regard to evidence relating to the Free State Provincial Government, so thank you to everybody for their cooperation.

**ADV WILLIS:** Sorry Chair.

**CHAIRPERSON:** Yes.

**UNIDENTIFIED COUNSEL:** Just one aspect, just for record purposes, we will be providing besides Tuesday as agreed between myself and my learned friends, we will also be doing a responding affidavit because there is – and we will deal with the main points, but a lot of unfortunate personal attacks and venom from Mr Wakeford that we will just shortly deal with and that will also be in our  
10 responding affidavit just for record purposes.

**CHAIRPERSON:** That's fine.

**UNIDENTIFIED COUNSEL:** And Mr Agrizzi will be filing and in regards to what is now being coached on with respect we will deal with that as well in our responding affidavit.

Thank you for your time.

**CHAIRPERSON:** Thank you very much.

**UNIDENTIFIED COUNSEL:** Sorry I was requested to remove my mask, so I just hope it came out clear.

20 **CHAIRPERSON:** No, I did hear you ja, I did hear you. Thank you very much.

**UNIDENTIFIED COUNSEL:** We were going to arrange dates between the respective parties to do a response, we don't to further burden it but in view of Mr Wakeford's personal attacks and the venom that he came out with

...[intervenes]

**CHAIRPERSON:** Yes, no, no that's ...[intervenes]

**UNIDENTIFIED COUNSEL:** It has to be dealt with and we will ...[indistinct – speaking simultaneously] in the main points.

**CHAIRPERSON:** You will respond ja.

We adjourn.

**UNIDENTIFIED COUNSEL:** Thank you Chair.

**REGISTRAR:** All rise.

10 **INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Good evening Ms September, good evening everybody.

**ADV SEPTEMBER:** Good evening Chair.

**CHAIRPERSON:** Yes are you ready?

**ADV SEPTEMBER:** Yes we are Chair.

**CHAIRPERSON:** Yes.

20 **ADV SEPTEMBER:** Chair today the witness before you is that of Mr Kopung Frans Ralikontsane. He is the Director General of the Office of the Premier of the Free State. To locate his evidence it is important for me to place the following on record.

His evidence is located as arising out of the evidence of Mr Mxolisi Dukwana who testified before this commission on the 5<sup>th</sup> of April 2019 and again on the 27<sup>th</sup> and 28<sup>th</sup> of

August 2019.

Mr Dukwana's testimony was based on three affidavits. One of those affidavits dated the 27<sup>th</sup> of June 2019 referred to Mr Ralikontsane and it was pursuant to that that he received a Rule 3.3 Notice together with relevant extracts for the affidavit plus one annexure.

In a nutshell Mr Dukwana alleged – alleges rather that Mr Ralikontasane was involved in a project which he termed International Scholarship Program and which he  
10 informed is one the Free State Provincial Government projects that Mr Dukwana deemed to be an act of state capture at the behest of and I quote this

“At the behest of all politically sponsored by the then Premier of the Free State Mr Elias Sekgobela Magashule.”

The allegations against this witness are essentially centralised to this particular project termed the International Scholarship Program and the operation of that program.

This witness applied to give evidence before this  
20 commission and his application was granted. It is important to just place on record that in his affidavit which founds the application the witness initially took issue with having received only extracts of the affidavit but he appreciated that the Rules permitted.

**CHAIRPERSON:** Is Mr Ralikontsane legally represented?

**ADV SEPTEMBER:** Yes Chair he is.

**CHAIRPERSON:** Ja let us allow his legal representative to place himself or herself on record.

**ADV SEPTEMBER:** As Chair pleases.

**CHAIRPERSON:** You may do that from where you are if your mic is working.

**UNKNOWN COUNSEL:** I think it is working Chair.

**CHAIRPERSON:** Yes.

**UNKNOWN COUNSEL:** Chair my name is 00:03:09 and I  
10 indeed am representing Mr Ralikontsane on instructions of  
00:03:17.

**CHAIRPERSON:** Okay, okay. Thank you.

**UNKNOWN COUNSEL:** As you please.

**ADV SEPTEMBER:** In relation to the issue that was taken it is no longer an issue based on the submissions.

**CHAIRPERSON:** What was the issue? What was the issue that was raised?

**ADV SEPTEMBER:** The witness in his affidavit took issue with the fact that he only received certain extracts of the  
20 affidavit and only one annexure. He wanted the entire affidavit. But in his affidavit itself he concedes that it was in fact within the Rules to permit him only receiving part of it and in any event Chair the entire exhibit for Mr Mxolisi Dukwana is in fact on the Chair – on the commission's website.

**CHAIRPERSON:** Ja well the question is whether he was given all that he needed to be given.

**ADV SEPTEMBER:** Yes Chair he was given the relevant extracts.

**CHAIRPERSON:** Ja he – he has no complaints at the moment about not having being given some portions of the affidavit that he might have thought were necessary as far as you know?

**ADV SEPTEMBER:** As far as I know no.

10 **CHAIRPERSON:** Okay.

**UNKNOWN COUNSEL:** Chair if I may ask this?

**CHAIRPERSON:** Yes.

**UNKNOWN COUNSEL:** The point that was raised with the lack of pull I trusted of Mr Dukwana's affidavit.

**CHAIRPERSON:** Ja.

**UNKNOWN COUNSEL:** Was that they were extracts of that affidavit that I believed – my learned colleague deemed necessary or relevant to Mr Ralikontsane.

**CHAIRPERSON:** Ja.

20 **UNKNOWN COUNSEL:** But what then appeared that we had was that we did not know what was said before any of those.

**CHAIRPERSON:** Ja.

**UNKNOWN COUNSEL:** Extracts and hence the request.

**CHAIRPERSON:** Yes.

**UNKNOWN COUNSEL:** For full affidavit which was never



provided.

**CHAIRPERSON:** Yes. But at this stage do you have any concerns that you might not have been given everything you were supposed to get or there is no concern – you accept that ..

**UNKNOWN COUNSEL:** We do not have concern in as far as if indeed the line of questioning stays within the bounds of what has been revealed to the – to the witness.

**CHAIRPERSON:** Ja okay no. Because the important thing  
10 is simple whether by virtue of the absence of whatever documents you were not given you are ambit in...

**UNKNOWN COUNSEL:** Indeed.

**CHAIRPERSON:** In being heard but probably if you were hampered you would have said look we cannot respond to this because it is clear that there is an annexure which we have not been given and then you would insisted on that I would imagine.

**UNKNOWN COUNSEL:** More so also Chair if one looks at the reply that was provided to Mr Dukwana it indeed it  
20 elicited any other issues that were not covered in the main affidavit and as I said if indeed the questioning is not confined to what is before the witness then of course that concern will be raised. One does not come here pre-empting exactly the questions.

**CHAIRPERSON:** Ja.

**UNKNOWN COUNSEL:** That you are going to be asked.

**CHAIRPERSON:** No, no that is fine. So if there are any issues we will hear and take it from there.

**UNKNOWN COUNSEL:** Indeed so Chair. Thank you.

**CHAIRPERSON:** Okay. Ms September.

**ADV SEPTEMBER:** Chair before you there are two bundles. There is one lever arch bundle which is marked on the spine as Exhibit X8 forming part of the FS22 bundle contains the witness' statement and together with...

10 **CHAIRPERSON:** There is Bundle FS22.

**ADV SEPTEMBER:** Yes Chair and that puts...

**CHAIRPERSON:** That is the – that is the only bundle I have.

**ADV SEPTEMBER:** Yes Chair.

**CHAIRPERSON:** Ja.

**ADV SEPTEMBER:** And that bundle in itself contains both the statement of the witness together with an affidavit which was deposed to one year later which is substantially the same to the statement provided together Mr Dukwana's response to that and some other documents.

20 **CHAIRPERSON:** Where is Mr Dukwana's original affidavit?

**ADV SEPTEMBER:** His original affidavit and in particular relevant extracts.

**CHAIRPERSON:** The one where he – he would have – is it the one at page 145?

**ADV SEPTEMBER:** No Chair the one at page 1- bear with

me the page – the one at page 145 is Mr Dukwana's response to the witness' application papers.

**CHAIRPERSON:** Well there is one 244.

**ADV SEPTEMBER:** The one at...

**CHAIRPERSON:** Starting at 246 which was done in 2019 that must be the one?

**ADV SEPTEMBER:** Correct Chair. And that excerpts of his affidavit.

**CHAIRPERSON:** Ja. Okay alright.

10 **ADV SEPTEMBER:** It also contains some additional information relative to the statements. What you will also find before Chair is a small bundle. It is bound with steel binder of sorts and it is this little bundle that the legal team would like to rely on in that it contains documents that was brought to the legal team's attention during the course of last week.

**CHAIRPERSON:** Well it has got a memo that is addressed to me. It cannot have something that is addressed to me and it is not given to the other – to the witness' legal team.

20 **ADV SEPTEMBER:** The bundle of documents was in fact given to the witness.

**CHAIRPERSON:** But the memo to me? If it is before me then it must be before them as well.

**ADV SEPTEMBER:** I am not sure what memo Chair is referring to.

**CHAIRPERSON:** Well it is written by you.

**ADV SEPTEMBER:** If that is the memo that Chair refers to of yesterday then that is certainly not before the witness.

**CHAIRPERSON:** It is dated 4 – 4 May 2021.

**ADV SEPTEMBER:** Yes.

**CHAIRPERSON:** But I should not have anything here that is not public.

**ADV SEPTEMBER:** I am not quite sure why that memo is there Chair but having said that following the discussions we  
10 had yesterday we have in fact prepared a condonation application.

**CHAIRPERSON:** Well ...

**ADV SEPTEMBER:** Relevant to this little bundle.

**CHAIRPERSON:** I have taken that memo out because obviously it was not meant to be part of the application.

**ADV SEPTEMBER:** Correct.

**CHAIRPERSON:** But when you put something here you have to know that it is has got – they have got to have that. You do not put here something that is meant for me only.

20 **ADV SEPTEMBER:** I was not aware of the – I was not aware that the memo was still before you Chair.

**CHAIRPERSON:** But whatever is here.

**ADV SEPTEMBER:** Yes.

**CHAIRPERSON:** You must have seen – you must make sure you see what it is in front of me as the evidence leader.

**ADV SEPTEMBER:** Okay.

**CHAIRPERSON:** Because anything that is put here must be because you have said it should be put here because you are the evidence leader you know what I am going to need.

**ADV SEPTEMBER:** Yes.

**CHAIRPERSON:** That must be before me so nobody must put before me something that you do not know because you are the evidence leader.

**ADV SEPTEMBER:** Apologies then for that memo being  
10 before you.

**CHAIRPERSON:** Okay. So when I see something here.

**ADV SEPTEMBER:** It ought not to be.

**CHAIRPERSON:** I assume you have caused it to be put here. So tell me what is the story about the small bundle?

**ADV SEPTEMBER:** Chair the small bundle contains documents that was provided to the legal team last week.

**CHAIRPERSON:** By who?

**ADV SEPTEMBER:** By one of the investigators in the commission.

20 **CHAIRPERSON:** Ja.

**ADV SEPTEMBER:** Unfortunately the legal team or not the legal team but the evidence leaders to this witness – to this evidence does not have the support of an allocated investigator. Notwithstanding that we received those documents the documents were then considered and the

relevance of those documents to the evidence of this witness was found to be critical. In considering those documents it was established that in context of the evidence it is possible that some people may be implicated in the evidence of this witness.

As a precautionary step and in being prudent to the leading of this evidence the evidence leaders decided to send Rule 3.3 Notices to six people who may be implicated by the evidence.

10 **CHAIRPERSON:** And where are those Rule 3.3 Notices?

**ADV SEPTEMBER:** The Rule 3.3 Notice – as in a copy of the 3.3 Notices Chair?

**CHAIRPERSON:** Yes.

**ADV SEPTEMBER:** If you could just bear with me.

**UNKNOWN COUNSEL:** Chair if I may?

**CHAIRPERSON:** Yes.

**UNKNOWN COUNSEL:** If I understand my learned colleague correctly. She seems to be saying that the evidence that might – is going to led might be of implicated

20 matter to some people.

**CHAIRPERSON:** Ja.

**UNKNOWN COUNSEL:** But the evidence of this evidence is already before the commission in – of answering affidavit to (speaking over one another).

**CHAIRPERSON:** No, no, she is saying it is additional

evidence that ...

**UNKNOWN COUNSEL:** I am coming to that Chair.

**CHAIRPERSON:** Yes.

**UNKNOWN COUNSEL:** The – she also has mentioned the affidavit – these documents were delivered to the commission only last week and were considered.

**CHAIRPERSON:** Yes.

**UNKNOWN COUNSEL:** This witness has not had a chance – a chance at all to consult with legal because they were  
10 only (talking over one another).

**CHAIRPERSON:** Well I am still going to raise with her. I am still going to raise that with her.

**UNKNOWN COUNSEL:** Thank you Chair.

**CHAIRPERSON:** Ja.

**ADV SEPTEMBER:** Bundle of documents was immediately sent to this witness and then it was subsequently sent to the state attorney's office who is representing this witness. That was done on Monday. Rule 3.3's were prepared and within the confines of the limited resources that we have having  
20 redactions being done to certain annexures it was then sent off on Tuesday by no later than half past one.

**CHAIRPERSON:** This appears to be letters. These appear to be correspondence and some invoices and so on. Is that right?

**ADV SEPTEMBER:** It is a ...

**CHAIRPERSON:** Emails.

**ADV SEPTEMBER:** It is a compilation of emails.

**CHAIRPERSON:** Yes.

**ADV SEPTEMBER:** Predominantly some letters.

**CHAIRPERSON:** And you want to...

**ADV SEPTEMBER:** And also a transcript.

**CHAIRPERSON:** And you want to use – to question the witness on them?

**ADV SEPTEMBER:** Correct Chair.

10 **CHAIRPERSON:** In relation to what he is going to be giving evidence about?

**ADV SEPTEMBER:** Correct Chair.

**CHAIRPERSON:** Well the difficulty is that I do not – I do not know what – what they are about. Can you tell me what they are about? I am not – you think they are critical I might not think they are even relevant I do not know you see and when you come with them so late – and is there a witness who have testified about them?

**ADV SEPTEMBER:** No Chair.

20 **CHAIRPERSON:** Ja you see.

**ADV SEPTEMBER:** And it is – it is as a consequence of the fact that we do not have an investigator we had Ms Rang – Beitseng Rangata who had provided an affidavit which just not only set the context for the evidence the relevance of the evidence, the authenticity of the evidence, the source of the



documents but certainly gave clarity to how important that evidence is to this line of evidence.

**CHAIRPERSON:** Ja. No, no I do not think you should use this evidence today. Get it done properly. If the witness – if he – if I consider it is important enough the witness might come back or the witness might be asked to depose to an affidavit to deal with whatever arises from them.

**ADV SEPTEMBER:** Okay.

**CHAIRPERSON:** Okay. It is just too short notice. I do not  
10 know what is involved. No witness has given evidence about them from what you say. They – you say you sent them – you sent this to the state attorney on what – on Monday

**ADV SEPTEMBER:** Yes to both the witness himself and to the state attorney.

**CHAIRPERSON:** Ja. Okay no I think it will have to be dealt with differently.

**ADV SEPTEMBER:** Might I even be permitted to place on record how that evidence is in fact relevant to the evidence of today?

20 **CHAIRPERSON:** No I think let us deal with that later on otherwise it is new – I have not seen it – I do not know if they have seen it – no witness has testified about it. It just needs to be dealt with in a proper way – in a different way. For now let us deal with what we can today. It is in the evening I have – we have already kept everybody waiting

because of the day session. It is twenty past seven. If we are going to take another thirty minutes about the application we will – we will not start.

So let it be looked at properly and then I can be – I can be advised – I can be informed of exactly what the story is and who – whether there should be another witness who testifies to it or whether the witness – this witness should be asked to depose to an affidavit and deal with the issues. You will have to apply your mind to that.

10 **ADV SEPTEMBER:** Well we certainly did Chair which is why we placed the bundle before you.

**CHAIRPERSON:** You did what?

**ADV SEPTEMBER:** Apply our mind as to whether or not we would like this witness to comment to those documents

**CHAIRPERSON:** You did not – it is enough notice that is the problem. I do not know what is in there and I do not want to sit here and start dealing with that instead of dealing with the issues that we called this witness for.

You see. I said this witness should come because he  
20 made an application – he made an application to adduce evidence. That application I have granted. Now you want to ask him some questions that is legitimate but it comes so late. I have not looked at it – at this.

So do not deal with it today – this evening; apply your mind as to how as it can be dealt with. I am saying one

approach is to ask him to prepare an affidavit and deal with whatever issues arise from that correspondence. Okay. There might be another way but you can deal with that later.

**ADV SEPTEMBER:** As it pleases Chair. There is one last bundle before you and that is relating to evidence that was previously presented before this commission.

**CHAIRPERSON:** I do not have a third bundle.

**ADV SEPTEMBER:** It is Exhibit X7 which is the evidence of Ms Cholotta.

10 **CHAIRPERSON:** Ja but it does not need to be given to me now if – unless you are going to start with it.

**ADV SEPTEMBER:** No we will not.

**CHAIRPERSON:** Ja okay. Let us get started with – with his evidence.

**ADV SEPTEMBER:** Unless there is anything else? If the witness could be sworn in please?

**CHAIRPERSON:** Ja please administer the oath or affirmation.

20 **ADV SEPTEMBER:** Mr Ralikontsane would you prefer the oath or the affirmation?

**CHAIRPERSON:** Well the Registrar would have checked.

**MR RALIKONTSANE:** I will take an oath.

**CHAIRPERSON:** Ja. The Registrar would have checked what he will take.

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

**MR RALIKONTSANE:** Kopung Frans Ralikontsane.

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

**MR RALIKONTSANE:** No I do not.

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

**MR RALIKONTSANE:** I do.

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

**MR RALIKONTSANE:** So help me God.

**CHAIRPERSON:** Thank you Mr Ralikontsane and thank you for availing yourself to assist the commission. Okay alright. You can then start Ms September.

**ADV SEPTEMBER:** Mr Ralikontsane – thank you Chair. Mr Ralikontsane before you is a bundle which is marked Exhibit 8 and I have just reminded myself that with your leave if Exhibit H could be admitted into the record please.

20 **CHAIRPERSON:** Well it cannot be admitted until you have done the formalities. Do the formalities first.

**ADV SEPTEMBER:** Sure Chair. Thank you. Mr Ralikontsane if I could ask you to turn to page 4.

**CHAIRPERSON:** She will be making use of the black numbers on the top left of each page Mr Ralikontsane. So

when she says page 4 it is – you will find it as 004 – FS22-004 but she will just say 4. Okay.

**MR RALIKONTSANE**: I was made aware Chair so...

**CHAIRPERSON**: Oh okay. Alright.

**MR RALIKONTSANE**: Thank you very much.

**CHAIRPERSON**: Okay.

**ADV SEPTEMBER**: Sir do you recognise this document?

**MR RALIKONTSANE**: Yes I do.

**ADV SEPTEMBER**: Can I ask you to turn to page 27 please.

10 **CHAIRPERSON**: Is it correct that that is your signature?

**MR RALIKONTSANE**: Yes that is my signature.

**ADV SEPTEMBER**: And so this document is a statement that you then signed on the 23<sup>rd</sup> of August 2019 is that correct?

**MR RALIKONTSANE**: That is correct.

**ADV SEPTEMBER**: Can I ask you to turn to page 63 please.

**CHAIRPERSON**: I am sorry this is not an affidavit but a statement is that right? I thought it was an affidavit.

**ADV SEPTEMBER**: It is in fact a statement Chair.

20 **CHAIRPERSON**: It is a statement Mr Ralikontsane and not an affidavit is that right? You did not take an oath when you signed this aff – this document, is that right?

**MR RALIKONTSANE**: Ja that was a statement Chair responding to the Rule 3.3.

**CHAIRPERSON**: Ja.

**MR RALIKONTSANE:** And then later on I deposed to an affidavit.

**CHAIRPERSON:** Oh you did and confirm what is in the statement?

**MR RALIKONTSANE:** Yes. The page 63 that we have been directed to now it is my...

**CHAIRPERSON:** Oh okay.

**MR RALIKONTSANE:** Affidavit.

**CHAIRPERSON:** Okay alright. Thank you. Continue Ms  
10 September.

**ADV SEPTEMBER:** At page 63 is it correct that you do recognise this to be your document Sir?

**MR RALIKONTSANE:** Yes I do Chair.

**ADV SEPTEMBER:** Can I ask you turn to page 79 then. At the top of 79 is that your signature Sir?

**MR RALIKONTSANE:** I confirm that is my signature Chairperson.

**ADV SEPTEMBER:** And so it is correct that you deposed to this affidavit before a Commissioner of Oaths on the 7<sup>th</sup> of  
20 August 2020?

**MR RALIKONTSANE:** That is correct.

**ADV SEPTEMBER:** Chair – no – apologies. Sir subject to any corrections that you may address during this hearing do you confirm that what is stated in your statement and the affidavit is true and correct?

**MR RALIKONTSANE:** Yes I confirm that.

**ADV SEPTEMBER:** With your leave Chair may this bundle then be admitted as Exhibit X8?

**CHAIRPERSON:** Not the bundle the statement on its own and the affidavit on its own. Does the statement have annexures?

**ADV SEPTEMBER:** Yes it does Chair both the statement and the affidavit.

10 **CHAIRPERSON:** What exhibit number must the statement be?

**ADV SEPTEMBER:** The statement subject to you Chair could be marked Exhibit X8a.

**CHAIRPERSON:** Well you see it can be just X8 because the affidavit is not an attachment to the statement is it not.

**ADV SEPTEMBER:** No it is not Chair.

**CHAIRPERSON:** It is on its own – is there – is there an Exhibit X9 that is – that already exists?

**ADV SEPTEMBER:** No not as far as I am aware Chair.

20 **CHAIRPERSON:** Then the statement will be Exhibit X8 and then the affidavit will be Exhibit X9 together with its annexures. The statement by Mr Kopung Frans Ralikontsane which starts at page 4 together with its annexures will be admitted as Exhibit X8 and the affidavit of Mr Kopung Frans Ralikontsane that starts at page 63 will admitted together with its annexures as Exhibit X9. Okay.

**ADV SEPTEMBER:** Thank you Chair. Mr Ralikontsane is it correct that when you provided your statement you provided it in response to the Rule 3.3 Notice that you received out of the evidence of Mr Mxolisi Dukwana?

**MR RALIKONTSANE:** That is correct Chair.

**ADV SEPTEMBER:** And is it also correct that in your statement itself if I may turn you or direct you sorry to page 5 of this bundle. It is page 5.

**MR RALIKONTSANE:** Oh page 5 of the [?].

10 **ADV SEPTEMBER:** Not tab 5 Sir.

**MR RALIKONTSANE:** Sorry.

**ADV SEPTEMBER:** Page 5.

**MR RALIKONTSANE:** Oh page 5 of the – page 5.

**ADV SEPTEMBER:** Paragraph 4 on page 5 informs that this is just a short statement before the commission.

**CHAIRPERSON:** Did you say paragraph 4?

**ADV SEPTEMBER:** Paragraph 4 on page 5 Chair.

**CHAIRPERSON:** I do not have paragraph 4 on page 5.

**MR RALIKONTSANE:** 1.4.

20 **CHAIRPERSON:** I have got 1.4.

**ADV SEPTEMBER:** Oh sorry I scratched over 1 – apologies it is 1.4.

**CHAIRPERSON:** Okay.

**ADV SEPTEMBER:** At page – paragraph 1.4 humble apologies.



“You were informed that this short statement is a summary of the full version that I present at a later stage. I would request the evidence leaders to draw Mr Dukwana’s attention to my version detailing events in this statement.”

And it is then pursuant to this statement that you filed the affidavit which has now been accepted as Exhibit X9. Is that correct?

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

**ADV SEPTEMBER:** If we can then work from Exhibit X9 and in doing so I will take you to parts of the statement which may not necessarily be incorporated or may differ from the affidavit in itself.

**CHAIRPERSON:** You know Ms September it might work faster this way because as far as I recall the whole issue that concerned Mr Ralikontsane is the issue of the scholarship the 00:28:32. Maybe – it might be faster if

1. We let him talk – give evidence about the role and  
20 function of the Director General in the Premier’s office which appears at page 6 and – and he can talk about the basic values which are at page 8 and then he then tells me what he would like to tell me about the scholarship scheme – the bursary scheme.

When he is done then you can put questions to him and

direct him to whatever you might wish to ask him on. I think it might be quicker that way. Is that fine with you?

**ADV SEPTEMBER:** It certainly aligns with the questions.

**CHAIRPERSON:** Yes.

**ADV SEPTEMBER:** I had planned.

**CHAIRPERSON:** Yes. So let us do that way. Mr Ralikontsane do you want to tell me about the role and function of a DG in the Premier's office?

**MR RALIKONTSANE:** Thanks Chair I have in my statement  
10 indicated that as head of the Department of Office of the  
Premier I am responsible for efficient management and  
administration effective utilisation and training of staff,  
maintenance of discipline, provide – promotion [word cut]  
relation, proper use and care of state property and then in  
addition to any power or duty entrust that was signed by or  
under the Public Service Act or any other law to the head  
of the department of the Office of the Premier. I am also  
the Secretary of the Executive Council by virtue of being  
the DG in the Office of the Premier and subject to Section  
20 85(2) and 125(e) of the Constitution.

I am also responsible for integral relations on administrative level between the relevant province and other provinces, as well as, national departments and national government components and also for intra government. I am in between the Office of the Premier and

the department in the province and I am also continue to coordinate activities of government including the legislation that might be affected. So Chair, that is basically it in terms of my responsibilities.

**CHAIRPERSON:** In terms of the values and principles of governing administration, do you want to tell me anything but obviously I can see that that comes from Section 195 of the Constitution but is there something that you want to emphasise there?

10 **MR RALIKONTSAANE:** Yes, Chair. I think I have brought them forward.

**CHAIRPERSON:** H'm?

**MR RALIKONTSAANE:** Because of the issues that were tabled, I had to indicate that in executing my responsibilities all the time, I am aligned(?) 195 of the Constitution to promote efficient, economic and effective use of resources and also to provide services importantly, fairly, equally and without bias to make Public Administration accountable and also to foster transparency  
20 between – by providing the public with timely, accessible and accurate information in terms of Section 195(1)(a) of the Constitution.

**CHAIRPERSON:** H'm.

**MR RALIKONTSAANE:** Yes, Chair. And I am also then the Accounting Officer of the Office of the Premier.

**CHAIRPERSON:** Yes.

**MR RALIKONTSANE:** As I had indicated and directed on accounting matters by the Public Finance Management Act.

**CHAIRPERSON:** Yes. And then just tell me in your own words what these bursary programme was, scholarship scheme was all about. That I have heard evidence about from Mr Dukwana and other witnesses in the Provincial Government of the Free State and particularly in the Premier's office because my understanding is that it was a  
10 programme or a programme that was driven by the Premier's Office. That is the understanding.

**ADV SEPTEMBER:** Chair, if I may?

**CHAIRPERSON:** H'm?

**ADV SEPTEMBER:** I do have a few questions of clarity in relation to the role and the responsibilities of this witness ...[intervenes]

**CHAIRPERSON:** You have come ...[intervenes]

**ADV SEPTEMBER:** ...in order to ...[intervenes]

**CHAIRPERSON:** You will come back to him when she – he  
20 is finished, then I will give you a lot of time. Then you can ask him from the role of the DG and the values and everything. Then it will be quicker.

**ADV SEPTEMBER:** As it pleases.

**CHAIRPERSON:** Ja. So you will be able – when he is done, to ask him on any aspect.

**ADV SEPTEMBER:** Sure.

**CHAIRPERSON:** Okay.

**MR RALIKONTSANE:** Chair, I have indicated where the bursary programme comes from. It is over 20-years now. It is from the nearly the year 2000 or it could be earlier when the Free State Provincial Government started an aggressive programme of bursaries to students. And it went on until in 2014 when we introduced what we call an International Bursary Programme.

10                    So the original programme from 2000 up to nearly 2014 was based on local universities and our primary focus was on our two universities in the province, the Free State students admitted at the Free State University and students that we get at the Central University of Technology. That was basically our focus but it progressed until we were able to also find students outside the province that were also in other universities in the country. That was the provincial one.

20                    So the international one started in 2014 when the Executive Council of the Free State resolved to take the students abroad. This was after an extensive visit of the Executive Council since 2011, between 2010/2011 to various countries. And every time we would visit those countries the Executive Council would also ensure that amongst are members of the Bursary Technical Committee

who are part of the team of the Premier visiting a particular country or MEC's designated so that we could...

We will always request an embassy to ensure that we have universities in that country, a visit that they are able to engage with to be part of our country in visiting those universities and starting to negotiate. So the negotiations about international bursaries started in 2012/2013 and the actual of the programme was in 2014.

**CHAIRPERSON:** Okay alright. Is that all you wanted to  
10 say about the ...[intervenes]

**MR RALIKONTSANE:** I want ...[intervenes]

**CHAIRPERSON:** ...the bursary scheme?

**MR RALIKONTSANE:** I want to mention further Chair that when we came into this programme, we started broadening our thinking not only to be confined to students that would be later on working for government. Our intention was now to broaden the Free State, a net of people that could be able to offer proper skills and therefore we were then able to understand our bursary to an extent where we would  
20 look at people that can provide scarce skills not only to government but in the province, broadly speaking.

**CHAIRPERSON:** And how long have you been Director General in the Premier's Office?

**MR RALIKONTSANE:** Since 2013, September  
Chairperson. 2013.

**CHAIRPERSON:** Okay alright. Ms September.

**ADV SEPTEMBER:** Thank you, Chair. Mr Ralikontsane, you have just confirmed that you have been there since 1 September 2013 in the Office of – in the position of DG in the Office of the Premier. It is correct thought that before that from the 11<sup>th</sup> of March 2013 until the 31<sup>st</sup> of August, you in fact acted in that position before you were permanently appointed. Is that correct?

**MR RALIKONTSANE:** That is correct, Chair.

10 **CHAIRPERSON:** Now how long Mr Ralikontsane were you – have you been working for the Free State Provincial Government?

**MR RALIKONTSANE:** I have worked for the Free State Provincial Government since – at a higher level or any other level?

**CHAIRPERSON:** When you started.

**MR RALIKONTSANE:** Ja. Maybe I *will start* when I joined the Free State Provincial Government. I re-joined it again in 2005 as Head of the Department for Corporate  
20 Governance and Provincial Affairs and Human Settlement but then it was called the Department of Housing, Local Government and Housing.

**ADV SEPTEMBER:** So you have been part of the provincial government for several years?

**MR RALIKONTSANE:** That is correct, Chair.

**ADV SEPTEMBER:** There is something that I would like you to explain to me or rather to the Chair. You have given an overview of what your role and responsibilities are. In paragraph 7.3 of your affidavit you clearly assert and I will read it to you. You say:

“I am representing the Office of the Executive Head of the Province, i.e. the Premier before this Commission...”

Now in order for us to fully appreciate the  
10 evidence you give to the Commission, I think it is important for you to explain to us the practical role and the reporting structures of the DG in the architecture of the Free State Provincial structure. To assist this discussion, can I ask that you look at the Reference Bundle before you?

**MR RALIKONTSANE:** The one I have now?

**ADV SEPTEMBER:** Yes, it would be marked FS-23.

**CHAIRPERSON:** Well, I think he would be able to answer that question without looking at anything. He knows who he reports to.

20 **ADV SEPTEMBER:** No problem Chair.

**CHAIRPERSON:** [laughs]

**ADV SEPTEMBER:** [laughs]

**CHAIRPERSON:** Who do you report to?

**MR RALIKONTSANE:** I report to the Premier of the Free State Province.



**CHAIRPERSON:** Ja.

**ADV SEPTEMBER:** If I may then refer to this document?

**CHAIRPERSON:** [No audible reply]

**ADV SEPTEMBER:** It is a document that we took the liberty of printing from the official website of the Premier of the Office of the Free State. You are welcome to follow if you so wish. It is at page 501 of the Reference Bundle.

**MR RALIKONTSANE:** [No audible reply]

**ADV SEPTEMBER:** What it highlights in here is parts of  
10 what you have already mentioned. That is – that there essentially four main roles, if I am understanding this correctly. The one is:

1.You are the Accounting Officer of the  
Department of the Premier.

2.You are the Head of the Provincial  
Administration of the Free State.

3.You are the Secretary of the Executive  
Council and you coordinate the  
implementation of Exco resolutions and  
20 decisions.

4.You are the Chairperson of the Forum of  
Heads of Departments and you coordinate  
the implementation of those decisions,  
recommendations and programmes.

Is that correct?

**MR RALIKONTSANE:** That is correct, Chair.

**ADV SEPTEMBER:** That certainly presents a broad scope of your role and responsibilities in that it, if I am understanding it correctly and please correct me if I am wrong, it deals with matters relating to the executive and the administration within the province. Am I understanding correctly?

**MR RALIKONTSANE:** That is correct, Chair.

**ADV SEPTEMBER:** Now are there any matters then that  
10 fall within the provincial government that you would not be officially informed of by virtue of these expansive roles that you hold?

**MR RALIKONTSANE:** There would be issues, matters that take place Chair in the departments and there would be matters that would be deliberated on at Forums of Heads of Departments which I will be aware of and then there would be matters that *I would have* served in the Executive Council which I would be aware of and my role would be to ensure that the decisions of the Forum of Heads of  
20 Department and the decisions of the Executive Council are carried out. That is how far I would be able to have an understanding of what is going on in government.

**ADV SEPTEMBER:** Would it be a fair statement to say that you have a general overview of the executive issues in relation to the Free State Government as well as the

administration issues in relation to the Free State Government?

**MR RALIKONTSANE:** That is correct, Chair.

**ADV SEPTEMBER:** Who reports to you? And excuse my ignorance on this. We accept that you report to the Premier of the province but who – which positions report to you, sir?

**MR RALIKONTSANE:** I have three Deputy Director Generals who report to me. One is for Planning and/or  
10 matters related to Planning and Strategy Planning and Overall Integrated Planning in the province. One would be responsible for Corporate Administration and one would be responsible for Monitoring and Evaluation. The fourth direct report would be the Chief Financial Officer who may not necessarily be at the level of the DG but reports directly to me.

**ADV SEPTEMBER:** Thank you, sir. One thing which puzzled me a little in this document is that reference is made to what is called a Special Project Unit. Can you  
20 please explain to the Chair what is this insofar as it concerns your role within the province?

**MR RALIKONTSANE:** The *integrated* planning component had a component called Special Projects and this emanated from what is called Strategically Infrastructure Programmes of government of National Government which

we adopted with the National Development Plan. So the strategic projects would actually be evaluated from that perspective in terms of the component as far as what we called - as far as the Infrastructure Projects are concerned.

**ADV SEPTEMBER:** And when was this unit established?

**CHAIRPERSON:** Ms September, remember that this whole thing is about the bursary scheme, the scholarship scheme. So as you put your questions, just bear in mind that is  
10 what I am really interested in, the bursary scheme, the scholarship scheme. Give him the evidence that Mr Dukwana gave about how the bursary scheme or scholarship scheme was being handled. So as you ask questions, I am just saying just bear that in mind. That is what I am really interested in.

**ADV SEPTEMBER:** I will certain... Thank you, Chair.

**CHAIRPERSON:** H'm.

**ADV SEPTEMBER:** Well, I will move on then. If I could ask you to turn to page 74?

20 **MR RALIKONTSANE:** Go back to the ...[intervenes]

**ADV SEPTEMBER:** Oh, sorry. Page 74 of the main bundle which is X-8.

**MR RALIKONTSANE:** Okay. Page 74?

**ADV SEPTEMBER:** [No audible reply]

**MR RALIKONTSANE:** Yes, I am there Chair.

**ADV SEPTEMBER:** At paragraph 4.18 you talk about your authorisation in terms of Regulation 77:

“To grant financial or any assistance for study training or research for part-time or fulltime activities at either local or international institutions...”

You go further to state that:

“I am also authorised to grant bursaries to both employees and non-employees...”

10 Who do you mean by non-employees?

**MR RALIKONTSANE:** Non-employees are students. That would be students that would have applied for bursaries.

**CHAIRPERSON:** That is students who are not employed by ...[intervenes]

**MR RALIKONTSANE:** That will be the ...[intervenes]

**CHAIRPERSON:** ...the government, Provincial Government?

**MR RALIKONTSANE:** Ja, that would be students who have gone through their matric and ...[intervenes]

20 **CHAIRPERSON:** Ja.

**MR RALIKONTSANE:** ...that would be non-employees.

**CHAIRPERSON:** In terms of the scholarship programme, bursary programme. Did you have employees of the Provincial Government who would be granted scholarships or bursaries to go and study and come back and continue

with their employment with the Provincial Government or were these scholarships always simply granted to people, to students who were not at that stage employed by government?

**MR RALIKONTSANE:** Most instances it has been students – I mean employees who were studying on part-time.

**CHAIRPERSON:** Employees of the Provincial Government?

**MR RALIKONTSANE:** Of the Provincial Government  
10 ...[intervenes]

**CHAIRPERSON:** Yes.

**MR RALIKONTSANE:** ...studying on part-time.

**CHAIRPERSON:** So that is why you would distinguish between employees and non-employees?

**MR RALIKONTSANE:** Yes and ...[intervenes]

**CHAIRPERSON:** ...some of the people who would be granted scholarships would be people who are not employed by the Provincial Government but others would be the employed by the Provincial Government?

20 **MR RALIKONTSANE:** Precisely. Because we had a part-time bursary for employees.

**CHAIRPERSON:** H'm?

**MR RALIKONTSANE:** And the case in point here that Advocate September is referring to is with regard to a specific employees ...[intervenes]

**CHAIRPERSON:** Ja.

**MR RALIKONTSANE:** ...that were sent outside of the country.

**CHAIRPERSON:** Okay alright. Ms September.

**ADV SEPTEMBER:** Thank you, Chair. The reason why it puzzles me a little is that Regulation 77 specifically talks to employment matters and to the extent that it refers to non-employees by cross-reference. It refers to people who have been identified as part of the operational needs, if I  
10 can call it that, within government. Would that then be the confines of non-employees as you have suggested in your paragraph?

**MR RALIKONTSANE:** Yes, but it goes further into our policy. We indicate that we would be looking also at discretion in addressing skills across the province.

**CHAIRPERSON:** Were you the official of the government who had the power to grant or refuse a request for bursaries or scholarships?

**MR RALIKONTSANE:** This only came to the Office of the  
20 Premier. This was basically centralised in education.

**CHAIRPERSON:** H'm?

**MR RALIKONTSANE:** For some time, I would say since 2009/2010 Chair that this was centralised in the Department of Education.

**CHAIRPERSON:** H'm?

**MR RALIKONTSANE:** And around twenty... it was December 2017, this was then centralised to the Office of the Premier in relieving the Department of Education to concentrate on a core mandate of basic education. And when this was looked at, it was found but the bursary programme then could be in the Office of the Premier for some employees.

**CHAIRPERSON:** Well, I am – I find – what I find interesting is your reason why it was taken away from the  
10 Department of Education. It says to allow the Department of Education to focus on its core function. But the Department of Education, if any department is the most suitable one to deal with bursaries because bursaries is about education.

**MR RALIKONTSANE:** Yes, Chair I agree.

**CHAIRPERSON:** [laughs]

**MR RALIKONTSANE:** What then happened was the portion of education for non-employees was almost seemed to be a burden in terms of the focus that education was  
20 having.

**CHAIRPERSON:** [laughs]

**MR RALIKONTSANE:** And to ensure that this was, I would say linked further with the work that we were doing in the integral *mandated* relation component in the Premier's department, the Executive Council decided that this – from



2017 this function will actually come to the Office of the Premier.

**CHAIRPERSON:** They decided that it should be the Premier's Office that should be burdened with this.

**MR RALIKONTSANE:** Sorry?

**CHAIRPERSON:** So as opposed to the Department of Education, they decided that rather than burden the Department for Education with this task they should burden the Premier's Office.

10 **MR RALIKONTSANE:** I had my own views Chair but it was resolved ...[intervenes]

**CHAIRPERSON:** [laughs]

**MR RALIKONTSANE:** ...the Office of the Premier.

**CHAIRPERSON:** Ja, okay alright. Ms September.

**ADV SEPTEMBER:** Thank you, Chair. Now may be a prudent time for us to look at the policies you provided to the Commission a little bit closer. If I could ask you to turn to page 155?

**MR RALIKONTSANE:** Yes?

20 **ADV SEPTEMBER:** Do you recognise this document?

**MR RALIKONTSANE:** I recognise this document. This is an Executive Council resolution.

**ADV SEPTEMBER:** And it is correct then that this is in relation to a provincial bursary policy which was adopted at the Cabinet meeting on the 19<sup>th</sup> of November 2008?

**MR RALIKONTSANE:** That is correct, Chair.

**ADV SEPTEMBER:** At the bottom of this page, it is noted that it has been signed off by the Premier on the 9<sup>th</sup> of December 2008 in addition to the Secretary of the Executive Council on the 3<sup>rd</sup> of the twelfth 2008.

**MR RALIKONTSANE:** That is correct, Chair.

**ADV SEPTEMBER:** Paragraph – page 161 of this bundle and in particular Clause 5. At Clause 5, 5.1 appears to identify the different methods of financial assistance which  
10 is listed as:

- fulltime bursary,
- part-time bursary,
- fulltime study aid,
- study on assignment,
- chancellor and takeover of bursary with study loan obligations.

What follows on this is that each of those methods which you obviously would know about, better than me, the criteria for each of these methods are being  
20 outlined. Is it correct that this policy does not regulate international bursaries?

**MR RALIKONTSANE:** Yes, at that time this – we later amended our policy in 2014/2015 but then signed off in 2016 to provide for international bursaries.

**ADV SEPTEMBER:** And in furtherance of what you are

saying, can I then ask you to turn to page 198, please?

**CHAIRPERSON:** What is the page number Ms September?

**ADV SEPTEMBER:** 198.

**CHAIRPERSON:** Okay.

**ADV SEPTEMBER:** Are you there, sir?

**MR RALIKONTSAANE:** Yes.

**ADV SEPTEMBER:** Mr Ralikontsane, the salient features of this document – or before we go there. Is it correct that this document is titled as Subject Amendment of the  
10 Provincial Bursary Policy?

**MR RALIKONTSAANE:** [No audible reply]

**ADV SEPTEMBER:** And is it also correct that it was signed off on the 16<sup>th</sup> of May 2016?

**MR RALIKONTSAANE:** That is correct, Chair.

**ADV SEPTEMBER:** Who signed off on this policy?

**MR RALIKONTSAANE:** It was signed off by the Director General and the Premier.

**ADV SEPTEMBER:** And would that Director General be yourself, sir?

20 **MR RALIKONTSAANE:** That would be myself.

**ADV SEPTEMBER:** So that is your signature as it appears on page 199?

**MR RALIKONTSAANE:** That is correct, Chair.

**ADV SEPTEMBER:** And who was the Premier at the time?

**MR RALIKONTSAANE:** The Premier was Premier Ace

Magashule.

**ADV SEPTEMBER:** Thank you. The salient features of this document, which hopefully you can help us unpack a little, is if we look at – if we go back to page 198 and we look at paragraph 1(b):

“The purpose of this document is to obtain approval:

10           b.           That the amended policy be applied to applications received for the 2015 and later academic years...”

That, however, appears to be in contradiction with paragraph 5 on page 199 which reads that:

“The amended Provincial Bursary Policy will be distributed to all provincial departments for implementation, for applications for the 2016 academic year onwards on approval by Exco...”

What is the correct year from which this policy applied, sir?

20   **MR RALIKONTSANE:**     The policy effectively became applicable in 2016 and I think we were actually – with point A dealing with the previous year also on matters that we would already have identified students especially those that would have been part of an internationally bursary programme for 2015.

**ADV SEPTEMBER:** Okay. What is important about this document or at least what appears to be, is that the context for this document is set out in paragraph 2 on page 198 where it informs that:

“The Provincial Bursary Policy was approved in November 2008...”

And that is the document that we referred to earlier. Is that correct?

**MR RALIKONTSANE:** That is correct, Chair.

10 **ADV SEPTEMBER:** Yes.

“Due to the changes on the allocation of bursaries it is therefore necessary to amend the policy to suit the present environment in capacitating and empowering the free status. The process to review the policy commenced during 2014...”

Are we then to understand that it took two years to finalise an amended policy?

20 **MR RALIKONTSANE:** Yes, there has been consultation around that process because the intention was to understand the operations of the international bursary in particular Chair because this was purely based on an Executive Council resolution and we wanted to bring this now into a policy. So there would have been earlier consultation late 2014 and 2015 in the department or in

government here really and it was – it only found space to be – to serve in the Executive Council for consideration and then approved finally on – in May 2016.

**ADV SEPTEMBER:** And in furtherance then of what you say it aligns to the motivation at paragraph 4(c) on page 199 which informs that:

“The major amendments made to the policy are as follows:

See in particular being the allocation [word  
10 cut] and International Bursaries.”

**MR RALIKONTSAANE:** That is correct.

**ADV SEPTEMBER:** Now in the context of the allegations in relation – rather, in the context of Mr Dukwana’s allegations regarding the international scholarship programme we are then to understand that there was no policy that applied to international bursaries before this policy.

**MR RALIKONTSAANE:** I would say so. As I have indicated, Chair, the resolutions of the executive council  
20 do serve as guidance until a policy is finalised.

**CHAIRPERSON:** So the answer is yes to the question but you then add the resolutions of the executive committee provide guidance when there is no policy.

**MR RALIKONTSAANE:** Yes.

**ADV SEPTEMBER:** Following your evidence given earlier

which informed the international bursary scheme was initiated in 2014, which you recorded in your affidavit, please help us to understand how international bursaries were then granted when there was no policy in place until 2016?

**MR RALIKONTSANE:** I had indicated that this issue of providing international bursaries Chair – the discussions started around 2012. With the 2011/2012 with visits to various countries and in 2014 we already had an  
 10 opportunity to send a few students to Turkey and I think a few students to China at a particular time which were the countries that already – universities that were already visited by the team of the Premier and members of the executive council and some members of the bursary technical team and with that, after that visit and reports received, Exco resolved that we could actually start with the international bursary programme.

**ADV SEPTEMBER:** So what selection or qualification criteria, for example, would have been applied on the  
 20 awarding of an international bursary? Who would be eligible to apply for an international bursary? How was it regulated?

**MR RALIKONTSANE:** Almost – the criteria was almost similar to the local bursary, I would say, broadly speaking. The fact was only that now students are going to be abroad

and the second aspect that we had to bring in was that we are looking at Indian students and if we were looking at Indian students, how are they going to survive broad if we have only paid for tuition, accommodation and all other related issues, how are they going to survive on a purchase of necessities that are needed and that we brought in what we called a stipend into that part.

**CHAIRPERSON:** That talks to the amount.

**MR RALIKONTSANE:** That talks to the amount.

10 **CHAIRPERSON:** But her question is on how – what criteria you used.

**MR RALIKONTSANE:** We applied the same criteria as what we do with the local bursaries, Chairperson.

**CHAIRPERSON:** Ms September?

**ADV SEPTEMBER:** Can you please then take us to where we would find an outline of what those criteria would be?

**MR RALIKONTSANE:** Just go back to policy, your pages are confusing me. Let us go back to the policy.

20 **ADV SEPTEMBER:** No problem. Which policy are you looking for, Sir?

**CHAIRPERSON:** Well, the policy is at page 157, Bursary Policy Framework for the Free State Provincial Government.

**MR RALIKONTSANE:** Yes, 157.



**ADV SEPTEMBER:** That was the first one and then the second one, if I may just add to that, would start on page 170.

**MR RALIKONTSANE:** Ja, fulltime bursary holders, that is the criteria. That would be selection criteria ...[intervenes]

**CHAIRPERSON:** I am sorry, is it the one at 157 that helps you or is it the other one?

**MR RALIKONTSANE:** The 1.163, Chair.

**CHAIRPERSON:** 163. Well, that is the page.

10 **MR RALIKONTSANE:** Ja and we could also go to the amended one if that is helpful to the Chairperson.

**CHAIRPERSON:** Okay. So the criteria are set out at page 163.

**MR RALIKONTSANE:** Yes.

**CHAIRPERSON:** Yes.

20           “The selection criteria are included in the Persal computer programme, get determined the point and where to be allocated to each category of the following criteria and disability, the state resident income of parent.”

Do you know whether that – I guess that income, R40 000, R70 000 obviously has to be per annum?

**MR RALIKONTSANE:** That would be per annum, Chair.

**CHAIRPERSON:** Yes because if it was not then they would not be indigent. Number of children.... Yes, okay,

that is where the criteria are to be found.

**MR RALIKONTSANE:** Yes, Chair.

**CHAIRPERSON:** Okay. Ms September?

**MR RALIKONTSANE:** If we go further, if it is on internationally bursary, it can then – that is why I say the criteria remains almost the same. We had brought in the international bursaries in our new policy in 2016, Chairperson, and bursaries for international students are awarded to the Free State citizens to address the shortage  
10 of skills in the province, to identify deserving student in terms of the criteria approved by Exco, which is the criteria that is in the policy.

**CHAIRPERSON:** Okay.

**ADV SEPTEMBER:** But with respect, Mr Ralikontsane, if you are referring to page 184 – unless...

**MR RALIKONTSANE:** I am in page 184.

**ADV SEPTEMBER:** Were you referring to page 184?

**MR RALIKONTSANE:** 184.

**ADV SEPTEMBER:** And in particular clause 7.1.4?

20 **MR RALIKONTSANE:** Yes, 7.1.4.

**ADV SEPTEMBER:** Is that where you were. Okay.

**MR RALIKONTSANE:** I was talking about the new policy now that came into place.

**ADV SEPTEMBER:** Indeed. I was particularly interested to know the criteria that was being applied in relation to

international bursaries where the policy which was signed off in 2016 did not exist and in answer to that you took us to the old policy.

**MR RALIKONTSANE:** The old policy, that was applicable in terms of identifying students.

**ADV SEPTEMBER:** So just to make sure I understand what you are saying correctly, before the new policy came into place in 2016 the criteria that was used in relation to the awarding of international bursaries was exactly the same as that which is listed under clause 7.2 of the old bursary.

**MR RALIKONTSANE:** That is correct.

**ADV SEPTEMBER:** In relation to full time bursary holders excluding identified achievers.

**MR RALIKONTSANE:** That is correct.

**ADV SEPTEMBER:** Okay. And the Chair highlighted that the income is certainly one of the considerations in considering the awarding of a bursary.

**MR RALIKONTSANE:** That is correct, you would see that the criteria, Chair, goes up to – that would be 7. It would not be 5, 6, 7. V3 in terms of the Roman figures used, I mean it goes up to ix. Roman figure ix.

**UNKNOWN COUNSEL:** Chair, if I may assist. The question related to the criteria that was used before the international bursaries came into being.

**CHAIRPERSON:** Yes.

**UNKNOWN COUNSEL:** That will be found in page 18. I think the witness is a bit unsure about – not unsure, as such, but that goes with the question as it was posed because in the affidavit it clearly states as to how before this international bursary scheme into operation what criteria was then used and that will be found on FS22.013.

**CHAIRPERSON:** You say 2.13?

**UNKNOWN COUNSEL:** Yes, 13, zero one three.

10 **CHAIRPERSON:** Zero one three?

**UNKNOWN COUNSEL:** 013 at 7.6, Chair. It reads:

“Student participating in international bursary programme were selected through a number of methods which included...”

Because the question relates mainly to before the scheme that was adopted in 2016 came into effect.

**CHAIRPERSON:** Oh, yes, yes, I see that, ja.

**UNKNOWN COUNSEL:** Yes, thank you, Chair.

20 **CHAIRPERSON:** Well, I do not think that is assisting in the sense in which you use that but let us leave it at that. Mr Ralikontsane?

**UNKNOWN COUNSEL:** Chair, if I may say the question related to a period before ...[intervenes]

**CHAIRPERSON:** No, no, no, I accept that, I do not know – I do not want to say why I am saying what I am saying, it is

okay. Mr Ralikontsane, you see – have you looked at paragraph 7.6?

**MR RALIKONTSANE:** Yes, Chairperson, it is part of the statement.

**CHAIRPERSON:** Yes. What do you say about paragraph 7.6 in relation to the answer you have given? What do you say about paragraph 7.6?

**MR RALIKONTSANE:** Ja, I do indicate that the – we requested nominations from well-performing schools and  
10 requesting nomination from community doing outreach programme and considering application from prospective students approaching the Free State Provincial Government directly. We also distributed advertisements inviting prospective students to apply for international bursaries and both programmes were initially managed by the Department of Education, as I have indicated, and in accordance with the resolution by the executive council the management of both programmes were transferred to the Office of the Premier with effect from the 1 December  
20 2017. 17.6, Chair, if you may allow?

**CHAIRPERSON:** Ja.

**MR RALIKONTSANE:** Whilst the indicate the recruitment process but the criteria would actually remain the same in terms of finally now identifying the students.

**CHAIRPERSON:** Did you give the criteria to the schools

to say when you select use this criteria or did you apply the criteria yourselves and all you needed from the schools are well-performing candidates?

**MR RALIKONTSANE:** We needed well-performing candidates from schools. Those, the well-performing candidates, like the local bursaries, would not be subjected to a quantum of guardian's income or so.

**CHAIRPERSON:** Oh, okay.

**MR RALIKONTSANE:** It will be like your top 100 in  
10 education where we do not determine quantum.

**CHAIRPERSON:** Ja.

**MR RALIKONTSANE:** It is just top 100, we allocated ...[intervenes]

**CHAIRPERSON:** So the top performers.

**MR RALIKONTSANE:** Top performers.

**CHAIRPERSON:** If you fell within the category of top performers it was irrespective of whether you were indigent or not.

**MR RALIKONTSANE:** That was ...[intervenes]

20 **CHAIRPERSON:** Was granted a bursary.

**MR RALIKONTSANE:** You would be granted a bursary to study.

**CHAIRPERSON:** Okay, so – and then if you did not fall under that category then ...[intervenes]

**MR RALIKONTSANE:** You would be subjected to the

criteria.

**CHAIRPERSON:** Okay. Okay, Ms September.

**ADV SEPTEMBER:** Please clarify confusion that may be on my part insofar as you are referring to the top performers versus the application of the criteria. But before we get there, 7.6 appears to be the process methodology in terms of which people would be – students would be selected. Is that understood correctly?

**MR RALIKONTSANE:** That is correct.

10 **ADV SEPTEMBER:** But it does not detract from your earlier evidence and that is that the criteria that was used to select the individuals is the same as the fulltime bursary holders under the old policy.

**MR RALIKONTSANE:** That is correct.

**ADV SEPTEMBER:** Which applied to the awarding of local bursaries.

**MR RALIKONTSANE:** Which applied to the awarding of local bursaries.

20 **ADV SEPTEMBER:** Okay. Now when you talk about the top 100 performers did that apply to international bursaries as well because according to the policy it appears to only apply to the local bursaries.

**MR RALIKONTSANE:** No. One can say we would identify, Chairperson, the top 100 from school and then they will then be subject because you do not – you would not get a

number that would be equivalent to what a particular country or a particular university in a foreign country has agreed to. So we would have to do assessment.

**CHAIRPERSON:** Ja.

**MR RALIKONTANE:** Even if they are the top performers.

**CHAIRPERSON:** Ja. Okay, Ms September, just remember we do not have – to bother ourselves about the bursary or scholarship scheme unless there seems to have been something corrupt about it or the way in which it was run  
10 so – or connected with state capture. So we are not interested in just seeing how they ran it unless this is what appears to be the case. So that is what is important.

Let me ask you this question. Before there was a policy for granting scholarship of bursary student, international students or students who would study at international universities, what was the legal basis for granting bursaries or scholarships to students who study at international universities?

**MR RALIKONTANE:** We relied basically on the  
20 executive council resolution and obviously the discretion that is there given to the accounting officer then who was in education ...[intervenes]

**CHAIRPERSON:** Yes but the executives council cannot – the executive council are not the law, they are not the law, is it not?



**MR RALIKONTSANE:** Yes.

**CHAIRPERSON:** There needs to be a legal framework.

**MR RALIKONTSANE:** Yes.

**ADV SEPTEMBER:** To say this may be done, this may not be done. The executive council itself must operate within the law.

**MR RALIKONTSANE:** That is correct.

**CHAIRPERSON:** Its own resolutions must fall within the law. If there is no law allowing for something to be done,  
10 they cannot themselves. It cannot be lawful because they decide it should be done. You understand that?

**MR RALIKONTSANE:** Yes, Chair.

**CHAIRPERSON:** Yes.

**MR RALIKONTSANE:** I am saying – maybe I should say we would, in particular, be looking at the Section 27 of the Public Service regulation. It would actually empower the head of the department to take decisions consistent with the resolution of the executive council.

**ADV SEPTEMBER:** Ja, I think what I am looking for is  
20 this. Looking at your affidavit it would appear that you – there was a legal framework for the DG, the head – I think yourself, to grant bursaries, is that correct? Or maybe each head of department?

**MR RALIKONTSANE:** Each head of the department and that is why it happened in education.

**CHAIRPERSON:** In education, yes, yes. At the time when it was – this scheme was based or located in the Department of Education, would the DG in the Premier's office have any power to grant any bursaries at all or only the head of department in the Department of Education.

**MR RALIKONTSANE:** No, the head of Department in Education would responsible for that.

**CHAIRPERSON:** Yes.

**MR RALIKONTSANE:** Yes.

10 **CHAIRPERSON:** And then when it was moved to the office of the Premier then did the DG and the Premier's office have the power to grant these bursaries?

**MR RALIKONTSANE:** Yes. Remember, the power has always been inherent in terms of Section 77 of the Public Service Act.

**CHAIRPERSON:** Yes.

**MR RALIKONTSANE:** But the resolution of the executive council these were centralised at education.

**CHAIRPERSON:** Yes.

20 **MR RALIKONTSANE:** None of heads of department were allowed to ...[intervenes]

**CHAIRPERSON:** To grant bursaries.

**MR RALIKONTSANE:** To grant bursaries.

**CHAIRPERSON:** Okay. Well, that is important. Section 77, did it grant the power to the DG in the Premier's

office?

**MR RALIKONTSANE:** At the time when I made allocations, Chair, it granted me that power.

**CHAIRPERSON:** When the bursary scheme placed or located in the Premier's office?

**MR RALIKONTSANE:** In the Premier's office.

**CHAIRPERSON:** And before that?

**MR RALIKONTSANE:** The head of the Department of Education also exercised that responsibility.

10 **CHAIRPERSON:** Not the – was the source of that power, say ...[intervenes]

**MR RALIKONTSANE:** Inherent from the same...

**CHAIRPERSON:** Have you got Section 77 here? Did you refer to it?

**MR RALIKONTSANE:** I referred to it.

**CHAIRPERSON:** Oh no, there is the Public Service Act here. Or was it in the other bundle?

**ADV SEPTEMBER:** Is Chair perhaps referring to Regulation 77?

20 **CHAIRPERSON:** Is it regulation or Section 77?

**MR RALIKONTSANE:** Regulation 77 of the Public Service Act. Regulation.

**ADV SEPTEMBER:** Regulation.

**CHAIRPERSON:** Oh, I have got that. Just read it if you have got it. Or what did it say as you understood, as you

remember it? Regulation 77, what did it say?

**MR RALIKONTSANE:** It empowers the head of department to allocate bursaries.

**CHAIRPERSON:** For each department?

**MR RALIKONTSANE:** For each department, for employees.

**CHAIRPERSON:** Ja, in that department.

**MR RALIKONTSANE:** And nonemployees.

**CHAIRPERSON:** Okay, so -and then the DG in the  
10 Premier's office, would he have had that power as well?

**MR RALIKONTSANE:** The DG would have had that power inherent as well.

**CHAIRPERSON:** As well. Okay, alright. So each head of department had that power and the DG in the Premier's office also had that power.

**MR RALIKONTSANE:** Yes. It was only through a resolution that it was agreed that this would be managed in education and at an appropriate time shifted to the office of the Premier.

20 **CHAIRPERSON:** Ja. Now that regulation did it make any distinction in terms of where the students would study that would be granted? In other words, did it make a distinction between students who study locally in the country or within the province of the Free State or those who study outside of the country?

**MR RALIKONTSANE:** There was no distinction, Chair.

**CHAIRPERSON:** There was no distinction.

**MR RALIKONTSANE:** There is no distinction.

**CHAIRPERSON:** It said you can grant powers to I guess deserving students or those meet certain criteria.

**MR RALIKONTSANE:** Ja, to employees and nonemployees.

**CHAIRPERSON:** Nonemployees but they needed to be residents of the Free State.

10 **MR RALIKONTSANE:** They needed to be residents of the Free State.

**CHAIRPERSON:** Okay.

**MR RALIKONTSANE:** That is what we brought into policy.

**CHAIRPERSON:** Okay, alright. So is the position therefore that before there was a policy relating to international bursaries, bursaries for students who studied outside of South Africa, there was no policy but Regulation 77 was there, is that correct?

**MR RALIKONTSANE:** That is correct, Chair.

20 **CHAIRPERSON:** It was always there.

**MR RALIKONTSANE:** It was always there.

**CHAIRPERSON:** And you say it was wide enough to enable the head of a department to grant a bursary.

**MR RALIKONTSANE:** Yes, Chair.

**CHAIRPERSON:** To a student who is a resident of the

Free State province without restricting as to where they would be studying.

**MR RALIKONTSANE:** Yes, Chair, but it was – we were very clear in terms of the 208 policy.

**CHAIRPERSON:** Ja.

**MR RALIKONTSANE:** That it will be students in the Free State and in particular they will study at the universities of the Free State which I mentioned earlier on.

**CHAIRPERSON:** Ja. It was the general rule Free State  
10 universities but there could be exceptions.

**MR RALIKONTSANE:** There could be exceptions because top 100 students would have to go to any of the universities, maybe Free State would only offer a hundred and they would go anywhere else for study.

**CHAIRPERSON:** Okay, alright. Is there anything useful that you find in Regulation 77?

**ADV SEPTEMBER:** In fact the regulations are before us, Chair.

**CHAIRPERSON:** Yes.

20 **ADV SEPTEMBER:** Regulation 77 that you referred to, Mr Ralikontsane, is dated 2016. So in fact it only applies as from 2016 as it would then apply in alignment with the second policy which you mentioned earlier.

**CHAIRPERSON:** Where do we find it first, let us find it first.

**ADV SEPTEMBER:** No problem, Chair. The 2016 – what we realised just before the hearing started with that, we did not have a full copy but it has since been placed on file, it just does not have – it is not properly paginated. So apologies for that, Chair. At page 53 – after 535 in the reference bundle Chair should find a copy.

**CHAIRPERSON:** Just read it in the meantime.

**ADV SEPTEMBER:** No problem, Chair.

**CHAIRPERSON:** Is that in terms of content? Is there  
10 anything different from what he has told me?

**ADV SEPTEMBER:** Somewhat, Chair.

**CHAIRPERSON:** Ja?

**ADV SEPTEMBER:** Paragraph 77 which is specific to training assistance and which falls under the chapter that deals with employment matters, informs:

“That for the purposes of enhancing the performance of the work of the department, a head of department may grant financial or other assistance for any study training or research where  
20 an employee ...[intervenes]

**CHAIRPERSON:** Where are you reading from? Oh, this is not paginated.

**ADV SEPTEMBER:** Unfortunately.

**CHAIRPERSON:** Public Service Regulations, then I must go to 77?

**ADV SEPTEMBER:** Yes, Chair, apologies for that, we just discovered it was not included in the ...[intervenes]

**CHAIRPERSON:** Training assistance?

**ADV SEPTEMBER:** Yes.

**CHAIRPERSON:**

For the purposes of enhancing the performance of the work of the department, a head of department may grant financial or other assistance for any study training or research where an employee undertakes the study, training, research on the initiative of the department or the employee as requested. Any such assistance for the study, training, research is related to the employer's skills requirements, a head of department may grant financial or other assistance to employees for part-time or fulltime activities at either local or international institutions. The head of department may also grant assistance for studies in training through training interventions. A head of department may [indistinct] any reasons for extra expenses [indistinct] treasury regulations."

Ja, okay, you were saying – you are putting to Mr Ralikontsane that this was promulgated in 2016?

**ADV SEPTEMBER:** Only from 2016, Chair.

**CHAIRPERSON:** What do you say to that, Mr



Ralikontsane?

**MR RALIKONTSANE:** Chair, I wanted to see where  
...[intervenes]

**CHAIRPERSON:** Where to find it.

**MR RALIKONTSANE:** Where to find that.

**CHAIRPERSON:** Okay. Has he got the reference bundle?  
Have you not got a reference bundle for the witness?

**ADV SEPTEMBER:** He does have a reference  
...[intervenes]

10 **CHAIRPERSON:** Somebody must go and assist him if  
...[intervenes]

**MR RALIKONTSANE:** Because in the 208 policy, already  
referring to that.

**CHAIRPERSON:** While they are looking there, Ms  
September, how much more time do you think you need?

**ADV SEPTEMBER:** We have some to get through.

**CHAIRPERSON:** Well, I do not propose to give you more  
than 15 minutes unless you really persuade me that I  
should...

20 **ADV SEPTEMBER:** Well then let me start persuading  
you, Chair.

**CHAIRPERSON:** Well, first let us deal with the  
regulations thing but we – you see, as I was saying to you,  
we are looking at this bursary scheme simply in terms of  
the terms of reference of the Commission, whether it was

being implemented for corrupt purposes, state capture purposes and so on. So we are not looking at it just to see how they were implementing this, there is that purpose and I am – so when you ask, use the time that I am going to give you, that needs to be the focus. Okay, but let us deal with the regulation. Have you found it Mr Ralikontsane?

**MR RALIKONTSANE:** I found it Chair.

**CHAIRPERSON:** Yes, okay.

**MR RALIKONTSANE:** Chair I am unable to confirm  
 10 whether this is an amendment because this Government Gazette the 29 July, Public Service Regulation 2016, Chair I may not – I do not have at the moment information at my disposal to immediately ...[intervenes]

**CHAIRPERSON:** Answer the question.

**MR RALIKONTSANE:** Answer the question.

**CHAIRPERSON:** Okay.

**COUNSEL FOR MR RALIKONTSANE:** Thank you Chair,  
 Chair in fact I was about to say I also share the Chair's sentiments in as far as my learned colleague started off by  
 20 saying that there are allegations of an incriminating nature and so far there has not been any.

**CHAIRPERSON:** Ja.

**COUNSEL FOR MR RALIKONTSANE:** And the other problem is, if you look at the statements that were made by Mr Dukwana nowhere is Mr Ralikontsane implicated and

also they start off by – it start off by saying that, in other words, Mr Dukwana has not laid a *prima facie* case against Mr Ralikontsane but started off by saying we suspected this, it was more speculative and hence the difficulty in trying to get a response from Mr Ralikontsane.

**CHAIRPERSON:** Ja, no, you see, the idea is that Mr Ralikontsane applied for leave to give evidence about the scheme. So I have allowed him because Mr Dukwana gave evidence about the scheme, in part or mainly to get  
 10 somebody within the provincial government to come and give me a certain perspective about the scheme.

Now, in doing that, my eyes are on whether there seems to be anything corrupt about it, or the way it was implemented. So but first and foremost, it was to give him and the provincial government, the opportunity to explain the scheme because Mr Dukwana gave evidence about this bursary scheme in a certain way.

So but I am just alerting Ms September that that must be the focus - I do not want us to spend too much  
 20 time if that is not the focus, okay.

**ADV SEPTEMBER:** I am happy to move on Chair, but the questions are really to understand, perhaps and – to understand the possible context within which Mr Dukwana gave evidence, and if I may, his evidence specifically talks to...[intervene]

**CHAIRPERSON:** Let us start with Mr Dukwana.

**ADV SEPTEMBER:** Yes.

**CHAIRPERSON:** I know that the manner in which he gave his evidence was suggesting to say the least, that the bursary scheme was being used in a certain way. I do not know whether he seemed also to be saying, service providers hope who got tenders would then be asked to contribute to the bursary scheme. That is the - I think that is the context, you know. So I do not know if you went  
10 beyond that but if that is the context, that is what we must look at.

**ADV SEPTEMBER:** I am happy to just define it with reference to his affidavit in fact, if we turn to page 266, he informs at paragraph 110:

“I suspect that this program is a way of taking money out of the country, under the guise that the government is paying for students to study abroad.”

**CHAIRPERSON:** Ja, you see...[intervene]

**ADV SEPTEMBER:** He goes further...[intervene]

20 **CHAIRPERSON:** You see if it is just suspicion, that is what counsel for Mr Ralikontsane was saying, you know, if it is just a suspicion. So but you can ask questions aimed at clarifying what the position is whether or not there is anything that falls within our terms of reference with regard to it as a scheme or two to its implementation, how it was

implemented.

**ADV SEPTEMBER:** Okay, in that case, let us move along to how this program was funded. If we look at what you stated in your statement and your affidavit, maybe for the benefit of time you have informed that during 2019, a student who was awarded a local bursary cost **R85 066,06**. In 2019 an international student cost R202 thousand...[intervene]

**CHAIRPERSON:** Just hang on Ms September I would like  
10 your earlier question, as general as it was, before you go into any specifics about specific students. How was the bursary scheme or scholarship funded? Was the money all coming from government or was the money coming from the private sector and individuals, how was it...[intervene]

**MR RALIKONTSANE:** There was money appropriated Chair, for local and international bursaries

**CHAIRPERSON:** Yes, from governments?

**MR RALIKONTSANE:** From government.

**CHAIRPERSON:** Ja, budgets.

20 **MR RALIKONTSANE:** From governments budgets.

**CHAIRPERSON:** Yes.

**MR RALIKONTSANE:** Yes, so it was a clear appropriation.

**CHAIRPERSON:** Yes, but was the money that was obtained from service providers or individuals outside of

government that was used to also assist the students?

**MR RALIKONTSANE:** Chair, I had this when evidence was led here about some of the officials who were working in Premiers office with regard to students that were being assisted.

**CHAIRPERSON:** Yes.

**MR RALIKONTSANE:** But in our initial process, especially built up to 2010, we established what was called the Operation Hlasela Fund, this was registered as a non-  
10 profit organisation. This was basically to help students that were not allocated bursaries and were indigent in the sense that they did not - the budget was confined to a particular number and then you would then have to assist other students for purposes of their accommodation where their parents now are unable to afford, the fitting at the university and so on.

And in the process, we were cautioned that this - although this NPO is operating, it could cause some conflict with what program that we are running at that  
20 moment, which was a methodology of engaging our community is called Operation Hlasela. So that was basically what that that basically meant.

**CHAIRPERSON:** Well, let us try and get clarification. There was an official government bursary scheme, okay.

**MR RALIKONTSANE:** Appropriate.

**CHAIRPERSON:** And the money used for that bursary scheme was in the budget of the provincial government?

**MR RALIKONTSANE:** That is correct, Chair.

**CHAIRPERSON:** Yes, and once the scheme was shifted to the office of the Premier, you were the accounting officer in regard to that money as well?

**MR RALIKONTSANE:** The budget was then also shifted to the office of the...[intervene]

**CHAIRPERSON:** To your office, yes. When the bursary  
10 scheme was located in the Department of Education, the Head of Department at the Department of Education was the accounting officer in regard to that money as well?

**MR RALIKONTSANE:** And the budget was appropriated to the Department of Education.

**CHAIRPERSON:** Yes, yes okay, alright. Now, you would have kept records, I would imagine, of all the students who you had granted bursaries under the government's official bursary scheme.

**MR RALIKONTSANE:** Yes, Chair.

20 **CHAIRPERSON:** Yes, how much was given to whom and in which institution that student was studying. What the student was studying, and whether they were making good progress, you would have all of those reports I would imagine.

**MR RALIKONTSANE:** Yes, Chair.

**CHAIRPERSON:** Yes, now you have told me about Operation Hlasela and from what you have told me it appears that Operation Hlasela may have been meant to be a parallel bursary scheme. Is that correct?

**MR RALIKONTANE:** Not necessarily, it was meant to be an intervention to assist students, the needy students who may not have qualified for government bursary scheme.

**CHAIRPERSON:** Yes, when I say parallel bursary scheme, I mean it served the same papers as your official,  
10 provincial government bursary scheme, but to a category of students who did not qualify under the official provincial governments scheme, is that correct?

**MR RALIKONTANE:** That is correct, Chair.

**CHAIRPERSON:** Yes, and who – you said it was run by an NPO, is that right?

**MR RALIKONTANE:** It was an NPO.

**CHAIRPERSON:** Yes, and who was running the NPO?

**MR RALIKONTANE:** It was an officials...[intervene]

**CHAIRPERSON:** A government person?

20 **MR RALIKONTANE:** It was officials of the Department of Social Development, there were outsiders.

**CHAIRPERSON:** Ja.

**MR RALIKONTANE:** It also had people from the banks as part of the NPO.

**CHAIRPERSON:** Okay, alright but was the NPO a



government initiative?

**MR RALIKONTSANE:** Yes, it was basically a government initiative.

**CHAIRPERSON:** A government initiative?

**MR RALIKONTSANE:** Yes.

**CHAIRPERSON:** Okay, and how was money raised that was used by the NPO to give bursaries to students?

**MR RALIKONTSANE:** There were quite a number of people that were donating to the NPO in various ways,  
10 Chairperson and then the banks, some of these banks also contributed, I think to the fund, in one or the other to assist some of it.

**CHAIRPERSON:** Is that NPO still in existence at the moment?

**MR RALIKONTSANE:** It is dormant I would say that.

**CHAIRPERSON:** When did they stop operating?

**MR RALIKONTSANE:** I think in 2018.

**CHAIRPERSON:** In 2018?

**MR RALIKONTSANE:** Yes.

20 **CHAIRPERSON:** How long had it been operating by that time?

**MR RALIKONTSANE:** From 2010, it was called earlier on Friends of the Poor and then Operation Hlasela Fund, and then it was – it then became Friends of the Free State.

**CHAIRPERSON:** Oh, okay.

**MR RALIKONTSAANE:** Yes.

**CHAIRPERSON:** Why does it look like the moment the then Premier was no longer there it became dormant?

**MR RALIKONTSAANE:** Chair, I would say...[intervene]

**CHAIRPERSON:** Was it not the driving force behind it?

**COUNSEL FOR MR RALIKONTSAANE:** Chair, I am sorry to interject. Chair, the evidence that was led and I need to caution here between the use of the word as Mr Ralikontsane tried to explain earlier on, he used a word  
10 intervention rather than bursary, when it relates to Operation Hlasela and the NPO. And He further said, that scheme was designed to assist students that were already in studies, and their parents came short on many matters.

**CHAIRPERSON:** Yes, but hang on, he must give evidence not you.

**COUNSEL FOR MR RALIKONTSAANE:** Correct, that is what he already said Chair so I was just cautioning about the understanding of the word bursary in relation to the NPO. He might try to confuse the issue.

20 **CHAIRPERSON:** No, no, no, that is fine you could re-examine him later on to clarify if necessary. So I was just saying was the Premier the driving force behind it because now, it looks like when he was no longer the Premier, it died,

**MR RALIKONTSAANE:** Not necessarily Chair because we,

in 2018, there was then a decision taken that we are going to reduce our budget and our allocation to student and that was even the time we now agreed that we will stop allocating international students.

**CHAIRPERSON:** Yes, but I was talking about the NPO, not to the official provincial government bursary.

**MR RALIKONTSANE:** Yes, I am saying maybe that is why it later on became dormant. It might have been the issue that we were now in full control of almost everything that  
10 the provincial government was to fund.

**CHAIRPERSON:** Okay, I am not sure if I have followed that. At a certain stage, you had the NPO which was running a bursary scheme for students who did not qualify under the official government, bursary scheme, is that right?

**MR RALIKONTSANE:** Yes, the NPO was not basically only meant for bursaries it had other responsibilities of which the Board would decide upon.

**CHAIRPERSON:** Yes, but one of them was the bursary  
20 scheme?

**MR RALIKONTSANE:** Yes.

**CHAIRPERSON:** Yes, and while that bursary scheme was being run by the NPO, the government was running its own bursary scheme as well.

**MR RALIKONTSANE:** Yeah, I had that responsibility to

run.

**CHAIRPERSON:** It was operationally at the same time.

**MR RALIKONTSANE:** I had the responsibility to run the government one.

**CHAIRPERSON:** Yes, but you say the NPO and its bursary scheme or the bursary scheme of the NPO came to an end in 2018, they stopped.

**MR RALIKONTSANE:** Yeah, they basically stopped engaging and I think there was a time where it became  
10 dormant and obviously it may have in one or the other become deregistered.

**CHAIRPERSON:** Now the awarding of bursaries by the NPO, did that happen separately from the government?

**MR RALIKONTSANE:** No, it happened through the Board.

**CHAIRPERSON:** Through the Board?

**MR RALIKONTSANE:** Through its to own Board.

**CHAIRPERSON:** Ja, well there was evidence given here, if I recall correctly, including evidence, I think given by Mss Cholota who was PA to the Premier then which  
20 suggested that or at least emails which suggested that certain service providers or individuals were asked to provide funding for students, but at least some of those appear to have been asked to do that after getting some tenders, or some contracts, government contracts. Do you know anything about that?

**MR RALIKONTSANE:** No, that part I heard when evidence led here.

**CHAIRPERSON:** But you do not know anything about it?

**MR RALIKONTSANE:** No, as I say, we had a bursary scheme, and our intervention was through the NPO.

**CHAIRPERSON:** Yes, but during the asbestos projects, were you the DG in the Premier's office?

**MR RALIKONTSANE:** Yes, Chair.

**CHAIRPERSON:** Because I think part of that evidence  
10 related to the time of the asbestos project, and it related to somebody who was a partner to the - one of the directors or partner, the one who passed on I think, I cannot remember his name.

**MR RALIKONTSANE:** Yes.

**CHAIRPERSON:** It related to that, and the emails were being exchanged between him or his office, and the office of the Premier and they have been directed to the PA to the Premier, and the PA to the Premier was sending emails, and I think when she gave evidence here, she said she was  
20 sending those emails, if I recall correctly, because the Premier had asked her to do that, so you knew nothing about that?

**MR RALIKONTSANE:** No, I have absolutely, I had absolutely no knowledge of that I read when I say evidence was led I was able to read the statements that were made

here, Chair.

**CHAIRPERSON:** But to the extent that this may have happened for quite some time - I am wondering why somebody who is the DG in the Premier's office, would not have known about it, unless there was a deliberate intention to keep it away from him.

**MR RALIKONTSANE:** I do not know Chair whether this was kept away from me deliberately, I had heard...[intervene]

10 **CHAIRPERSON:** You know it is money.

**MR RALIKONTSANE:** Yeah.

**CHAIRPERSON:** And you are the accounting officer.

**MR RALIKONTSANE:** Yeah, but that had nothing to do with our bursary program.

**CHAIRPERSON:** Yes.

**MR RALIKONTSANE:** Which I had a control of, Chair.

**CHAIRPERSON:** Of course, I think the suggestion may have been made that the service providers were asked to direct the money straight to the students or to the  
20 universities, I am not sure without the money coming to the office of the Premier, I think there may have been something along those lines.

**MR RALIKONTSANE:** But that is basically that is why we would not - if the money was not with us, we would not be able to know about that, Chairperson.

**CHAIRPERSON:** Ja, okay, Ms September.

**ADV SEPTEMBER:** Thank you Chair, Mr Ralikontsane are you - as the Chair has mentioned, these are third variants to this financial assistance concept. On the one hand, you are talking about the official bursary scheme, on the other hand, you are talking about the NPO and then the third scheme as such is the one which was referred to by Ms Cholota and clearly differentiating that from the official one, when she says:

10            “That she must draw a differentiation between the bursary scheme run by and disseminated by the Free State Department of Education and financial assistance disseminated to students in need by the office of the Premier.”

By virtue of the role that you played, having been involved in the Free State Province for several years, are you informing the Chair that you had absolutely no knowledge of this financial assistance program being run out of the office of the Premier?

20    **MR RALIKONTSANE:** No, Chair I would not say no, because the – I would not have been approached in any way by the needy students, I was running a bursary program and funding was a particular amount, Chair, and when that amount is exhausted, there is nothing that we are able to do anymore.

**CHAIRPERSON:** Ja, okay.

**ADV SEPTEMBER:** Okay, and then, if we – what we have done Chair that in the reference bundle, we have extracted all of the Appropriation Act relative from the period of 2014, up until – 2014, 2015, 17, 19, and 2020. We have consolidated that though, into a short document, by your leave my I hand it up?

**CHAIRPERSON:** Ja, but what is significant about it, what does it prove or what does it show?

10 **ADV SEPTEMBER:** It informs Chair that there was, one absolutely no funding in the office of the Premier up and until 2017, where there was very incremental increase, specifically allocated to bursaries and I would like the DG just to comment on that.

**CHAIRPERSON:** Just repeat that.

**ADV SEPTEMBER:** Chair, the evidence before us through the witness's affidavit, talks, specifically to a bursary scheme and in doing so, it talks to the office of the Premier mentioned has also been made of the Department  
20 of Health, the Department of Agriculture, and the Department of Education.

It is in the context of that, that the Appropriation Acts were looked at to establish what the trends were in the allocation of funds to the provincial, to the Free State Provincial Government.



The office of the Premier has not been allocated any funding until 2017 and so it is important to understand where exactly the funding came from, by virtue of the scheme that this witness had been managing before then.

**CHAIRPERSON:** Well maybe put the question first and let us see what the DG says because before we can look at the documents. You heard what Ms September says?

**MR RALIKONTSANE:** I have heard what she has been saying and that is correct because we were not running a  
10 bursary scheme until the function was transferred to us in 2017.

**CHAIRPERSON:** What were the years that you talked about?

**ADV SEPTEMBER:** 2014, 2015, 2016, 2017 and then 2019 and 2020, relative to the affidavits of the witness.

**MR RALIKONTSANE:** Yes, Chair.

**CHAIRPERSON:** Well, she is saying even 2019 there was not any allocation.

**MR RALIKONTSANE:** No, there has been an allocation.

20 **CHAIRPERSON:** From 2018?

**MR RALIKONTSANE:** From 2017.

**CHAIRPERSON:** Oh, but she mentioned 2017 and 2019.

**ADV SEPTEMBER:** There has been an allocation from 2017 and beyond.

**CHAIRPERSON:** Ja, we do not want the ones where there

was allocation. So, he has got an answer for you, because he is saying there will be no allocation to the office of the Premier before 2017 because the bursary scheme had not been shifted to the office of the Premier, is that right?

**MR RALIKONTSANE:** Yes, all the funding was in education.

**CHAIRPERSON:** Ja.

**ADV SEPTEMBER:** And accordingly, we just wanted to get clarity as to where exactly the funding was coming from  
10 before 2017?

**CHAIRPERSON:** Have you looked at the Department of Education because she says that is where it was.

**MR RALIKONTSANE:** Chair, we had allocated money to the Department of Health for the Cuban programs, for bursaries the Cuban programs that started in 2012. It was an international program run throughout all provinces. So we had allocated money to them for that purpose. We allocated money to the Department of Education to run the bursary program.

20 Only beyond 2017, when some part of agricultural students were sent to Belarus and Portugal was then agriculture given some funding to be able to specifically focus on agriculture students.

**CHAIRPERSON:** Ja, no that is fine. I want us to stop. What - how much time did you feel you wish to have?

Well, so far, there is very little, if anything that goes into what I am looking for, but the main thing was to give Mr Ralikontsane as the representative of the provincial government to come and explain how the bursary scheme happened.

So if there is anything that the investigators or the legal team wants to investigate, let them investigate first and then let us look at it if necessary, Mr Ralikontsane can come back but it would have to be something quite weighty.

10 **ADV SEPTEMBER:** Chair, it is regrettable that we cannot rely on the additional documents to that extent you only restricted now.

**CHAIRPERSON:** But you can still use them later if I allow it, so it is just that you got them late that is the - but those whatever questions arise from that, from them can be put to him, he can depose to you an affidavit and we can look at the affidavit and take it from there.

**ADV SEPTEMBER:** May I just have a second quickly? Regrettably our hands are tied at this stage and we will  
20 have to explore what options there are in order to address the additional documents but there is nothing further within the confines of what we can do.

**CHAIRPERSON:** Yes, what we can do is also look at what you have, and then prepare a memo for me that indicates what you suggest you should – you would like to do in

terms of taking whatever issues forward and if a request must be made to Mr Ralikontsane to put up an affidavit and answer certain questions that could be looked at as well.

If necessary, he can be asked to come back, then I am sure he can come back but I would have just have to see because as I say the main purpose for granting his application was to give an opportunity to the provincial government of the Free State to explain the bursary scheme, which he has done in the affidavit here but to also  
10 put questions.

But what we are interested in is really to see whether the scheme was – if there was anything corrupt about it or whether it was implemented corruptly or in any illegal way that falls within our terms of reference, so you can work on that.

But I think we can stop now. If necessary we will take it further like that but it seems to me that when we have spent about two hours, and there is nothing that so far seems concrete, let us stop.

20 **ADV SEPTEMBER:** As it pleases Chair, within the confines of what we can deal with we have no more questions.

**CHAIRPERSON:** Ja, I do not think that you would be needing to re-examine, or do you wish to?

**COUNSEL FOR MR RALIKONTSANE:** No, no we do not

need to re-examine Chair with the evidence as is, thank you.

**CHAIRPERSON:** Yes, know that it is fine. So you understand Mr Ralikontsane, you have been given a chance, you have explained what you have explained. You have been asked questions, but you understand what the Commission is looking at in terms of State Capture and corruption and – but you may be asked, you might get a request to say, can you answer the following questions or  
10 can you explain the following?

There are some documents that Ms September wanted to use probably, though you might get questions or copies of some of the correspondence that she wanted to use, and you may be asked to give explanation or information by way of an affidavit, is that alright?

**MR RALIKONTSANE:** That is correct, Chair.

**CHAIRPERSON:** Okay, alright and then if necessary you might come back but if not, you would just supply information under oath, okay.

20 **MR RALIKONTSANE:** Thank you, Chair.

**CHAIRPERSON:** Alright, thank you very much to everybody. Thank you, Ms September and your team.

**ADV SEPTEMBER:** Thank you, Chair.

**CHAIRPERSON:** Thank you to the technicians and the staff. Thank you, Mr Ralikontsane and your counsel. We

are now going to adjourn for the day, for the benefit of the public tomorrow the Commission will not be sitting but it will sit on Monday.

We adjourn.

**INQUIRY ADJOURNS TO 10 MAY 2021**