

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

**30 JULY 2021**

**DAY 425**



**Gauteng Transcribers**  
Recording & Transcriptions

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TRANSCRIBERS:

B KLINE; Y KLIEM; V FAASEN



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**PROCEEDINGS RESUME ON 30 JULY 2021**

**CHAIRPERSON:** Morning Ms September, good morning everybody.

**ADV SEPTEMBER:** Good morning Chair.

**DR DE WEE:** Good morning Chair.

**ADV MATEME:** Good morning Chair.

**CHAIRPERSON:** Good morning, good morning. Are we ready Ms September?

**ADV SEPTEMBER:** Yes we are Chair.

10 **CHAIRPERSON:** Okay. Good morning Dr De Wee.

**DR DE WEE:** Good morning Chair.

**CHAIRPERSON:** How are you this morning?

**DR DE WEE:** I am fine Chair, how are you?

**CHAIRPERSON:** All right thank you. Good. Ms September do you want to start? Just briefly tell the public what we will cover today. Before you do so maybe I will just mention that we will not cover anything connected with the contract – security contract relating to the commission and Sondolo. That we will not cover. That will have to be dealt with by  
20 some other processes.

I understand that the Department of Justice arranged for some invest – forensic investigation and we just do not have enough time to go into that and all the witnesses.

I became aware of – of what I am told are some of the findings in that investigation only recently. I was under

an impression – a certain impression about that investigation but we just do not have the time to deal with that. So what really is what we should be looking at relates to allegations that were made by Mr Agrizzi against Dr De Wee in regard to his time at the Department of Justice and Constitutional Development then – Correctional Services now.

But we can also look at anything connected with the Department of Justice and BOSASA during the time that has  
10 been covered by the commission. I am not sure that we are able to – we will be able to look at everything in regard to that as well but at least that we can look at. So insofar as there may be matters in which it is alleged Dr De Wee was involved in in relation to tenders and contracts between BOSASA or any BOSASA subsidiary and the Department of Justice that is fine.

But this most recent one involving the Security contract involving the commission which is not part of what we are going to deal with. Okay.

20 **ADV SEPTEMBER:** As it pleases Chair.

**CHAIRPERSON:** Ja.

As it pleases Chair.

**ADV SEPTEMBER:** So (inaudible).

**CHAIRPERSON:** But within those confines then Ms September you can just tell the public briefly what the

issues are that will be covered today.

**ADV SEPTEMBER:** As it pleases Chair. So the witness today is Mr William Khotso De Wee. He is represented by attorneys Chair who is on line and with your leave may his attorneys place themselves on record please?

**CHAIRPERSON:** Yes please do so.

**ADV MATEME:** Thank you Chair. My name is Lekoko Mateme of ML Mateme Attorneys. I will be representing Dr De Wee.

10 **CHAIRPERSON:** Yes. Thank you very much.

**ADV MATEME:** Thank you. Thank you Chair.

**CHAIRPERSON:** Thank you.

**ADV SEPTEMBER:** By your leave and direction and for the benefit of the public to locate this evidence in consolidation of the allegations against this witness it will be reminded that it was Mr Angelo Agrizzi who provided the commission with an affidavit on the 5<sup>th</sup> – dated the 15<sup>th</sup> of January 2019.

He testified to his affidavit and particularly to allegations against this witness on the 21<sup>st</sup> of January 2019.

20 If I – there is a bundle that I – that is before you and before we even deal with the bundle I would just like to read for purposes of the record the actual allegations which were placed against the secretary (inaudible) the witness.

**CHAIRPERSON:** Just before you proceed Ms September in this bundle I came across something that should not be in –

should be in this bundle because it says so itself. That is a memo that was addressed to me by the investigators and it is – it says quite clearly that it is supposed to be simply a memo to me and should not be used for any other purpose so I do not why it – it was put into the bundle.

**ADV SEPTEMBER:** Chair with your direction could you take me to the page number because I certainly do not have a memo in my bundle addressed to you.

**CHAIRPERSON:** Well I am supposed to have exactly the  
10 same thing as you have because this is the file that I am told you said we will use today. Well it sits – it is not paginated but it comes after what is that T35.

**ADV SEPTEMBER:** So my – my records show that T35 begins at page 303 and it continues until page 636. I do understand that there was a memo provided to you Chair but it is certainly not been included as part of the official bundle.

**CHAIRPERSON:** But it should not be in the official bundle if it is not meant to be public. If it is meant for me  
20 separately it should come to me separately not as part of a public bundle.

**ADV SEPTEMBER:** It is not part of a public bundle Chair. I do not know why it is included in the file before you.

**CHAIRPERSON:** Yes you see the – this is why I always say you know the evidence leader has got to be the one who

gives me the file because then she can check that what I am giving is exactly what – in the file what is in the file is exactly what should be there. That maybe it was not meant to be part of the bundle is supported by the fact that it is not paginated like the rest of the documents in the bundle but it was right in the middle of the bundle. I am taking it out now. It was just before Dr De Wee's exhibit T35. Okay all right. So you say that is not on yours and that is not on the witness's bundle.

10 **ADV SEPTEMBER**: Correct Chair.

**CHAIRPERSON**: Okay.

**ADV SEPTEMBER**: It is not part of the official bundle and I have no clue why it is included in the file that was delivered to you Chair.

**CHAIRPERSON**: Ja well – ja that is the thing. Okay let us – let us move on. Continue.

**ADV SEPTEMBER**: Chair if I could just remind the public then again about exactly what the allegations were that Mr Agrizzi had lodged against this particular witness.

20 It was in paragraph 23.7 of his affidavit dated the 15<sup>th</sup> of January 2019 where he stated in context that Mr Seopela whom he testified was a consultant of BOSASA accompanied Gavin Watson and other directors on overseas trips and to meetings and appointments with high ranking government officials.

He interacted with government departments on ministerial and director general level on how BOSASA could benefit in various lucrative tenders.

10 “Although I was aware of the fact that money was paid to Mr Seopela for unlawful payments to government officials in turn I only supplied him with cash for this purpose from 2009 onwards as will be discussed in further detail below. Seopela merely requested an amount of money from me and was not prepared to supply me with a comprehensive list of individuals and the amount per individual. I raised this with Gavin Watson who instructed to do as Seopela said. The cash handed to Seopela was distributed by him and he from time to time confirmed payments to some individuals. The money I handed to Seopela on a monthly basis from 2008 to 2016 was  
20 the following.”

Specific to this witness Mr Agrizzi then states in paragraph 23.7.2.

“2.5% of all payments received from the Department of Justice and Constitutional Development in respect of the 2013 tender



awarded to Sondolo IT Pty LTD to establish secure systems in various courts was paid to Seopela for distribution to officials of that department. This amount added up to R15 million over the period. I was informed by Seopela that these were senior officials at the Department of Justice and Constitutional Development. One of the names mentioned to me was that of the present secretary of  
10 the commission Dr De Wee. At the time he was Chief Operations Officer in the Department of Justice and Constitutional Development. Apart from this verbal report I have no information to confirm the correctness of this report.”

Chair will be reminded that when he testified to this evidence on the 21 – on 21 January 2019 he clarified in his evidence that he has no other information to confirm the correctness of what he was told by Mr Seopela.

20 Mr Agrizzi also during his testimony clarified that and I quote

“At one stage he was told that he was late with packing a delivery. The amount in excess of R2 million and he was told that Dr De Wee was very upset with him because he

was late in getting the delivery to Mr Seopela. Mr Agrizzi could not however confirm or deny whether Dr De Wee was indeed a recipient. Whether he was complaining on his own behalf or if he was complaining on behalf of someone else.”

Chair will also recall that on your probing Chair Mr Agrizzi clarified and explained that when the Department of Justice and Constitutional Development paid what would  
10 have – what would happen is 2.5% of the payment amount would be put into cash and it would be paid within that week.

On this specific incident relative to this witness the R2 million was the amount and Mr Agrizzi’s understanding was that it was going to a group of people of which this witness was one as communicated to him by Mr Seopela.

It was off the back of the evidence that was provided that this witness then filed a statement. In fact he filed two statements Chair none of which have been under oath.

20 A Rule 3.3 Notice was sent to him. He had applied to give evidence and cross-examine Mr Agrizzi and in respect – in response to that Mr Agrizzi filed an answering affidavit to which this witness again filed a statement not under oath in reply to Mr Agrizzi’s allegations or answer in his answering affidavit.

What is important to highlight Chair is that in consolidation of the allegations Mr Agrizzi in his answering affidavit to this witness's application before us today he amplified on the allegations in his answering affidavit when he states in paragraph 10.2.

10 "That I was personally aware that Dr De Wee at all material times was very supporting of Sondolo IT and as told to me by Mr Seopela that Dr De Wee had a difficult relationship with the then Director of Justice and Constitutional Development who had on diverse occasions opposed the appointment of any of the BOSASA group of companies and Dr De Wee had always supported Sondolo IT and the BOSASA group."

He did amplify as well on the Hillside contract but I accepted we will not deal with that today.

**CHAIRPERSON:** Fine.

20 **ADV SEPTEMBER:** So with your leave Chair in consolidation of the allegations against this witness may he please be sworn in?

**CHAIRPERSON:** Okay. What about other contracts or tenders? There is reference to 2008 – there is reference to 2010 and 2013. Does he – was he involved? Was he part of any committees that recommended or granted or awarded

tenders or that will be covered today?

**ADV SEPTEMBER:** Yes Chair within the confines of the time period of Mr Agrizzi's allegations if one were to look at the time period of 2008 to 2016 there were essentially four contracts that were awarded which this witness was aware of. One of which was the Hillside contract which will not be dealt with but three of which was during his term as the Chief Operations Officer of the Department of Justice and Constitutional Development which we will deal with today.

10 **CHAIRPERSON:** Ja. What is the story about files in the Department of Justice that I understand the investigators were not given because the Department said they had disappeared. What is the story there?

**ADV SEPTEMBER:** As far as I have been instructed Chair the investigators – our investigators had sought to obtain documents from the Department relative to these tenders. Some documents were provided, some documents they were not provided if they could be found at all.

20 What was received in particular was a forensic report and it is a forensic report that was commissioned by the Department and conducted by SNG Grant Thornton. It is a report dated February of 2020 and it imprudent for me to highlight now that it was only this morning that this report which is about 57 pages but including annexures over nearly 900 pages was then provided to us this morning.

It is neither here nor there Chair because the – the – this witness deals with his response to certain aspects on the transactions which he will deal with today in a document that is in the file before us.

**CHAIRPERSON:** Yes but that report that you are talking about is that not about the Hillside contract?

**ADV SEPTEMBER:** It deals with all the four transactions that...

**CHAIRPERSON:** From 2008?

10 **ADV SEPTEMBER:** 2008 to 2016.

**CHAIRPERSON:** Oh it – it excludes Hillside but it covers all the others.

**ADV SEPTEMBER:** It deals with all but according to the directions that we have received those parts which deal with the Hillside contract have been redacted and it is actually a copy of that report that this witness had provided when he provided responses to the commission on certain aspects that he was called upon to answer.

20 **CHAIRPERSON:** So – so are you saying that there is a report that deals with matters that we are going to deal with that you only got this morning or some parts of it or annexures – you only got this morning.

**ADV SEPTEMBER:** Yes.

**CHAIRPERSON:** So – so you – you will not be able to – you have not had a chance to look at those documents and

see what their relevance is and how helpful they are.

**ADV SEPTEMBER:** Correct Chair. The extent of being able to interrogate the documents was limited to what we have./

**CHAIRPERSON:** Ja.

**ADV SEPTEMBER:** And what we have was just the report which is about 57 pages.

**CHAIRPERSON:** Ja.

**ADV SEPTEMBER:** The annexures which takes the report up to 800 and – oh 80 – more than 880 pages was only  
10 received after eight o'clock this morning.

**CHAIRPERSON:** Ja.

**ADV SEPTEMBER:** It was this morning only that we received consent from the DG to make this particular report available for public disclosure at this hearing despite us asking for this request and consent for about more two weeks now.

So for purposes of this hearing I do not intend to refer to the report as such but rather just interrogate the aspects of the transactions which relates to this witness as  
20 unearthed by our investigators during the period of 2008 to 2016.

**CHAIRPERSON:** Ja, no that – that is fine. So whatever was received today is not going to be public as yet because the commission must firstly look – look at it and if there is anything that the commission can still do within the short

period of time that we have then we will do but obviously we – I mean we have finished with the hearing of oral evidence except for a few witnesses that we are wrapping up.

So we – we may – we may have to write to people to ask for affidavits and whatever but we might not be able to do much about it because it is too late in the day. It may be that it is going to be one of those things that must be referred to other bodies to take further.

**ADV SEPTEMBER:** Yes Chair.

10 **CHAIRPERSON:** Okay.

**ADV SEPTEMBER:** And in furtherance of what Chair is stating the report that we now speak of is particular to this witness is focussed around recommendations concerning the very contract that we are not dealing with today. So it interrogates various transactions specific to this witness deals with recommendations regarding the contract we will not deal with today so it is poised for further interrogation through other agencies subject to your direction Chair.

20 **CHAIRPERSON:** Yes, no, no anything that relates to the security contract involving Sondolo IT and the provision of security services to the commission we – we will not deal with simply because that has come too late and we are not able to call all witnesses who are supposed to be called and – so in all probability it will have to be a matter that will have to be referred to other agencies to investigate further

and take from – take it from there.

We simply cannot start new things at this late hour. We – we have asked for extensions and – and we cannot open a new contract completely now. The – the investigation seemed to have taken quite some time as well. Okay, all right. Let us proceed.

Mr Mateme is there anything you want to say at this stage before Dr De Wee is sworn in and we begin?

**ADV MATEME:** Chairperson thank you. I just wanted to  
10 understand the 57 pages report how are we going to deal  
with it with the annexures? I did not really get it clear to  
say that the report in its form as it was submitted to the  
commission without annexures is it going to be used to the  
extent of the questions and answers that Dr De Wee has  
dealt with or the report is not going to be used because the  
annexures were received late and they are part of the  
report. That part I did not understand properly Chair.

**CHAIRPERSON:** Yes.

**ADV MATEME:** If it can be clarified it will be (inaudible).

20 **CHAIRPERSON:** As I understand the position and Ms  
September will indicate if I misunderstood her. What will be  
done is before the annexures came to – this morning  
preparation had been based on what the commission had  
and therefore today we will proceed on the basis of the  
preparation that had been prepared with what was there.



So what came late will not be included because there simply has not been time to check what its relevance is – how important it is and so on.

But as I said after today the commission must look at those annexures and within the time constraints we have see what can be done about it. It may well be that among those annexures are annexures that support whatever Dr De Wee will say or disprove whatever he – he will say we do not know.

10 But we will do what we can today based on the documentation that the commission heard in preparing for today and then later on it might be necessary to ask Dr De Wee to furnish an affidavit dealing with some annexures that may be found to be relevant or useful.

But it may be that the commission might simply not have the time and therefore if necessary the commission might consider asking some other body to take the matter further because the commission has got to try and wrap up.

**ADV MATEME:** Thank you Chair. Thank you so much.

20 **CHAIRPERSON:** Okay all right. Thank you. Okay Dr De Wee the Registrar will now administer the oath or affirmation. Registrar please go ahead.

**REGISTRAR:** Dr De Wee will you be taking the oath or the affirmation?

**DR DE WEE:** I will take the oath my Dear Registrar.

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

**DR DE WEE:** My full names are William Khotso De Wee.

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

**DR DE WEE:** No.

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

**DR DE WEE:** Yes.

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

**DR DE WEE:** Yes.

**REGISTRAR:** If so please raise your right hand and say,  
so help me God.

**DR DE WEE:** So help me God.

**CHAIRPERSON:** Thank you. Thank you. Ms September.

**ADV SEPTEMBER:** Yes Chair.

**CHAIRPERSON:** It might be a good idea maybe to allow Dr  
De Wee to just put his side of the story to these allegations  
20 that were made by Mr Agrizzi because he has not had a  
chance to put his side of the story for over two years and  
once he is done then you can put your questions. Is that  
fine with you?

**ADV SEPTEMBER:** As it pleases Chair.

**CHAIRPERSON:** Yes. Dr De Wee Mr Mateme will that be

fine with you?

**ADV MATEME:** In the form of an opening statement  
Chairperson or just to state the case?

**CHAIRPERSON:** Just to give his side of the story as  
evidence you know to say...

**ADV MATEME:** Ja, no I do not think it is a problem with  
that Chair.

**CHAIRPERSON:** Yes I just think that sometimes it is  
helpful so that he can put – he can say, this is the – this is  
10 my side of the story and then after that then the evidence  
leader can put questions in regard to various aspects.  
Okay all right. Dr De Wee.

**DR DE WEE:** Chair –

**CHAIRPERSON:** Would you – would you...

**DR DE WEE:** Thank you. Thank you very much.

**CHAIRPERSON:** Yes.

**DR DE WEE:** Are you done Chair?

**CHAIRPERSON:** Yes I wanted to find out whether you  
would like the evidence leader to repeat the essence of the  
20 allegations or you – it is find you are – you are ready to.

**DR DE WEE:** (Inaudible).

**CHAIRPERSON:** You have (inaudible).

**DR DE WEE:** She was basically repeating what was in the  
documents.

**CHAIRPERSON:** Yes, yes.

**DR DE WEE:** So I have heard her quite clearly ja.

**CHAIRPERSON:** Ja.

**DR DE WEE:** You know Chair the – I had never really wanted to make an opening statement because the – Mr Agrizzi's baseless allegations and the extent which they lack substance.

**CHAIRPERSON:** May – may – I am sorry Mr – Dr De Wee. I am quite happy that we – you do not say – you do not say anything and we let the evidence leader ask you questions  
10 and then you respond. So I do not want you to – because you say you did not want to make an opening statement this is not meant to be an opening statement but it was simply to say you might after two and a half years of not having a chance to put your side of the story you might have wanted to just do that.

**DR DE WEE:** Yes Chair.

**CHAIRPERSON:** So I am giving you a chance to say, look I am quite happy to put my side of the story upfront or I am quite happy to let the evidence leader ask me questions and  
20 I will respond to them. So you will indicate shortly which one you choose.

But before you do that I do want to – to say this particularly because I have just heard you saying baseless – baseless allegations by Mr Agrizzi.

Now Mr Agrizzi made it clear right from the

beginning that he had no personal knowledge whether you had been given money or not. So he made that clear. He has repeated – repeated that.

**DR DE WEE**: Okay thanks Chair.

**CHAIRPERSON**: All he said was, somebody told me that is Mr Seopela. Now as I understand it you are not in a position to dispute whether Mr Seopela told him that or not because you would not have been where they were when they had that discussion. So therefore it is – it is not fair to  
10 Mr Agrizzi to say he made baseless allegations because he did not say you took money – you got money from BOSASA. He said he has no personal information about that. All he said somebody said to me he did and I do not know if it is true or not. As I understand it.

And if – all – all you might be – you might be able to say as far as I under – I see it is I do not know whether Mr Seopela told Mr Agrizzi what Mr Agrizzi says he told him. But if he did that was baseless because of ABCD. You understand.

20 **DR DE WEE**: I do Chair I do.

**CHAIRPERSON**: So – so – so if Mr Agrizzi had said he knew that you got money from BOSASA and you knew that that allegation was baseless then it is – understand him to say that allegation is baseless. But all he says is somebody else told him and he has no personal knowledge

and I can tell you that there are people within the – there are people both within government and outside of government where Mr Agrizzi made it clear that he had personal knowledge that they got money from BOSASA.

He names them and then he would say, you see in regard to so and so I was not the one who – who gave him money all the time – somebody else – I would prepare the money and give it to somebody else who would take it to him. So as far as those occasions when I was not there I  
10 do not have personal knowledge.

But then in regard to some he would say, there are two or three occasions when I accompanied so and so and we met with so and so and he was given money in my presence. And in regard to those occasions when he was present he has personal knowledge and he is able to testify about that.

But when he was not present he says, I do not know whether the money ultimately got to that person or not. So I just want to – to put that perspective because certainly Mr  
20 Agrizzi has made it clear where he has personal knowledge. He says, I was there. I make an example that is close to what we are talking about.

With regard to Mr Thobane in the Department of Justice. He said that most of the time he was not the one who gave him money but he said there were some times I

think two or three where he says he was – he was present or he gave the money.

Make another example. With regard to Ms Nomvula Mokonyane. He said Mr Watson was the one who would take the money and say he was going to give it to Ms Mokonyane. But he says there were one or two occasions when he was present when money was given to Ms Mokonyane.

10 So – and there – and there are others where he says, I was not present there so I do not know but this one I was present and I do know I can say that it was given on this occasion.

In your case he has not said he was ever present when money was given to you. Okay all right. Which one do you choose? Do you choose to say something or before you are asked questions or you would prefer that the evidence leader asks you questions and you respond?

**DR DE WEE:** Chair with your permission and direction I was listening to the evidence leader I hope I can be allowed  
20 to address her as Advocate September. I do not know if that is proper – appropriate.

**CHAIRPERSON:** That is fine.

**DR DE WEE:** Is that fine? Yes.

**CHAIRPERSON:** Ja.

**DR DE WEE:** She indicated that we prepared a statement

but it was not under oath.

**CHAIRPERSON:** Yes.

**DR DE WEE:** And because she said that.

**CHAIRPERSON:** Ja.

**DR DE WEE:** I just feel a need to read that statement now that I am under oath.

**CHAIRPERSON:** Yes.

**DR DE WEE:** I think that is the one thing.

**CHAIRPERSON:** Ja.

10 **DR DE WEE:** But the second thing I want to take my cue from you and follow your advice and respond to what Mr Seopela allegedly said to Mr – to Mr Agrizzi. I do not know if you will permit me to do that.

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

**DR DE WEE:** Okay.

**CHAIRPERSON:** Ja.

**DR DE WEE:** I want to – I want to read my statement which was prepared and which was filed with the commission.

And our statement says the following:

20            “I, William Khotso De Wee hereby declare as follows. Mr Angelo Agrizzi has made several allegations both in his affidavit and in his evidence for the commission about what he had been told by Mr Sesinyi Seopela about money that Mr Agrizzi allegedly handed to



Mr Seopela.

According to Mr Agrizzi my name was mentioned to him by Mr Seopela. I record at the outset that I deny the truthfulness and correctness of what according to Mr Agrizzi Mr Seopela told him.

10 However, it is correct that as stated by Mr Agrizzi I was the Chief Operations Officer of the Department of Justice and Constitutional Development during the period which he refers.

Before responding to the allegations that Mr Agrizzi alleges were made about me I must record the following:

20 Mr Agrizzi conceded during his testimony as the Chair has rightfully indicated that the allegations he made about me are based entirely on what he had been told by Mr Seopela. Accordingly they are hearsay. In the circumstances it is difficult for me to respond in a meaningful way to these allegations.

On the basis of the foregoing I must record that I am obviously unable to dispute Mr Agrizzi's evidence in respect of what Mr

Seopela had told him about the money that Mr Agrizzi allegedly handed over to Mr Seopela.

However I strenuously deny the correctness of the allegations insofar as reference is made to me in the affidavit of Mr Agrizzi's evidence in particular I strenuously deny each of the following allegations direct or implicit or implications that emerges from Mr Agrizzi's affidavit or  
10 end or evidence.

1. That I was aware that Mr Seopela was receiving money from Mr Agrizzi and
2. That I received money from Mr Seopela.

It follows from the foregoing denials that I also strenuously deny the following further allegations direct or implicit or implications in the evidence of Mr Agrizzi.

- 20 a. That Mr Seopela had any basis for allegedly mentioning my name to Mr Agrizzi in connection with money he allegedly received from Mr Agrizzi.
- b. That I was upset with Mr Agrizzi because he had allegedly been late in

getting a delivery of money to Mr Seopela.

Aside from what is set out above I deny that I was involved in any wrongdoing either of the type alluded to by Mr Agrizzi or at all.

I also draw the attention of the commission to the fact that Mr Agrizzi's allegations have gravely harmed and damaged my dignity and reputation and the  
10 Chair I am glad has indicated that it has been two years since I have been sitting with this problem.

I accordingly respectfully aver and submit that in the circumstances fairness and justice require that of course this is an issue of cross-examination."

But I think I wanted to place that on record.

So that is the one part – that is the one part I  
wanted to deal with.

20 The second part I wanted to deal with I reject and deny what Seopela – what Mr Seopela may have allegedly told Mr Agrizzi. I know Mr Seopela. We were in the student movement together. You might know that back in the '80's there was an organisation called AZASO which after adopting the freedom charter it metamorphosed into South

African National Student's Congress and later it became SASCO. But during the SASCO period I think we had a supporting wing called Sodexo.

So I think it was during the – around the '90's or so when I might have met Mr Seopela. We disconnected – we may have met around 2010 or after 2010 but we have never, never had a discussion about security or about business related to BOSASA.

Frankly I did not even know that he was a consultant  
10 of BOSASA. I heard from Mr Agrizzi. And Mr – Mr Seopela knows my professional ethics. And he knows my professional ethics because he did not even try to pursued me about BOSASA because I think he knew at the outset that I was going to reject that attempt by him.

And Chair I have demonstrated my professional ethics to you personally by when these allegations came I took a very expensive choice and a very principled choice that because I am the first secretary of this commission I decided against all persuasion to say, I am going to step  
20 down and I am going to recuse myself and I did so because I did not want today that anybody should come here and accuse me of meddling with investigations. And meddling with the investigations was a possibility because you of all people would know that we appointed investigators, we provided them with resources that I knew their resources. I

knew how they travelled and so on.

I also – I also worked with you to hire evidence leaders. I would have known him and – and I decided way back in August 2019 that I am going to recuse myself from the commission because I do not want anybody to say the commission meddled with this thing. We tried to cover ourselves.

Unfortunately the mistake that I made because as you know I thought this matter will be dealt with within  
10 2019. It went longer than I had thought and now we are here in 2021 I am still faced with these allegations.

And they have been very painful I must tell you. They have been painful to me personally. They have been painful to my family. They have been painful to my children. Even some friends you know distanced from – themselves from me. I was – I was socially isolated because of these allegations and you know in life people do not even wait for proof. The people do not even want facts because of these allegations Chair.

20 So there have been very, very painful. But I – maybe I will – I will mention the others as closing remarks. But I wanted to put that on record Chair.

**CHAIRPERSON:** Ja okay all right. Okay Ms September you may start.

**ADV SEPTEMBER:** Thank you Chair. Sir may I call you Dr

De Wee, Mr De Wee which would you prefer?

**DR DE WEE:** I am easy either way.

**ADV SEPTEMBER:** Okay. Dr De Wee it is then. Sir since none of the versions that you provided to the commission are in fact under oath apart from that one statement which you have read now it would be of great assistance to this commission just for you to verify this – the statements that you have in fact provided to us. If I could ask you before you should be a bundle titled BOSASA Bundle 5.

10 **DR DE WEE:** Yes.

**CHAIRPERSON:** Is that the bundle we are using today Ms September.

**ADV SEPTEMBER:** Yes Chair.

**CHAIRPERSON:** Yes okay. You want us to go to what page.

**ADV SEPTEMBER:** In particular there is a tab marked T35 which is at page 3.

**CHAIRPERSON:** Ja if you give me the page number that is much easier for me than the tabs.

20 **ADV SEPTEMBER:** 302.

**CHAIRPERSON:** 302.

**ADV SEPTEMBER:** From Dr De Wee just to confirm the page numbers we refer to is that which appears on the top left hand corner.

**DR DE WEE:** Yes.

**ADV SEPTEMBER:** Of the pages.

**DR DE WEE:** 302 ja.

**ADV SEPTEMBER:** If I can ask you now then to turn to page 313.

**DR DE WEE:** Yes Ma'am.

**ADV SEPTEMBER:** Do you recognise this document to be a statement that you too provided?

**DR DE WEE:** Yes I recognise it.

10 **ADV SEPTEMBER:** Can I ask you turn over the page to page 314.

**DR DE WEE:** 314 yes.

**ADV SEPTEMBER:** Is that your signature which appears above the date of 23 January 2019?

**DR DE WEE:** That is correct Advocate September.

**ADV SEPTEMBER:** And do you confirm that the facts that is contained in this document are in fact true and correct to the best of your knowledge and belief unless stated so otherwise?

**DR DE WEE:** Yes I do.

20 **ADV SEPTEMBER:** Thank you. Can I then ask you to turn to page 320.

**DR DE WEE:** Yes Ma'am.

**ADV SEPTEMBER:** Do you confirm Sir that this is also the statement that you provided to the commission?

**DR DE WEE:** Yes.

**CHAIRPERSON:** Sorry what page – what page is that Ms September?

**ADV SEPTEMBER:** 320.

**CHAIRPERSON:** Oh okay, okay I have got it yes.

**ADV SEPTEMBER:** Thank you Chair. Dr De Wee do you confirm that this too is a statement that you provided in answer to Mr Agrizzi's answering affidavit in relation.

**CHAIRPERSON:** Yes that is – yes that is correct except that I do not know if I will be allowed. There is a point in Mr  
10 Agrizzi's affidavit I wanted to deal with. I do not know if – if I could be allowed.

**CHAIRPERSON:** Yes you – you will be – you can either make a note of it and deal with it at some stage or if you want to – if you do not want to forget it you want to deal with it.

**DR DE WEE:** Okay no that is fine. I know where it is.

**CHAIRPERSON:** Ja.

**DR DE WEE:** At the (inaudible) I will deal with it ja.

**CHAIRPERSON:** Okay all right. Okay continue Ms  
20 September.

**ADV SEPTEMBER:** Thank you. So at page 320 you confirm that that is in fact your signature above the date of 15 August.

**DR DE WEE:** Ja that is correct. That is correct.

**ADV SEPTEMBER:** Thank you so much. And that what is



contained in here is in fact true and correct to the best of your knowledge and belief unless stated so otherwise?

**DR DE WEE:** That is correct Advocate.

**ADV SEPTEMBER:** And then the last document which you provided to the commission is at page 398.

**DR DE WEE:** Yes I recognise the document. Yes that is right.

**ADV SEPTEMBER:** And you confirm that this is in fact your response which is not signed at all but continues until page  
10 417?

**DR DE WEE:** It is my response I can recognise it save to say that with the passage of time and having looked at it there may be certain things I just want to – I do not know if the concept is ameliorate or amplify.

**CHAIRPERSON:** Yes.

**DR DE WEE:** But it is my statement.

**CHAIRPERSON:** Okay.

**ADV SEPTEMBER:** And then just for the record is it correct that this particular response attach various annexures which  
20 you provided to the commission.

**DR DE WEE:** That is correct.

**ADV SEPTEMBER:** And because of the very special numbering that you have allocated the annexures for the record it is marked Annexures A, B, C, D.

**DR DE WEE:** Yes.

**ADV SEPTEMBER:** Then E, F followed by GH.

**DR DE WEE:** Yes.

**ADV SEPTEMBER:** Which is one annexure followed by IJ which is another annexure.

**DR DE WEE:** Yes.

**ADV SEPTEMBER:** KL which is a further annexure and M and N.

**DR DE WEE:** Just be slow Advocate September. I am a little bit slower than your pace. Just – just hang on – just  
10 hang on I will – I will be with you – I am just going through my file. I will be with you because there are other things I have added here.

**CHAIRPERSON:** Ms September are the annexures to Dr De Wee's response all the documents that come after her response up to the end of the file?

**ADV SEPTEMBER:** Yes Chair.

**CHAIRPERSON:** So it is annexures A up to N is that right?

**ADV SEPTEMBER:** Yes Chair there is a different style of annexure naming that this witness identifies. So just for  
20 record purposes but certainly it is all annexures from pages 115 right through until pages 333 some of which have been redacted to not deal with the issue which is not to be dealt with today.

**CHAIRPERSON:** Okay all right. Okay.

**DR DE WEE:** Ja.

**ADV SEPTEMBER:** So then lastly Dr De Wee do you confirm then that subject to any changes that you may make during these proceedings what is contained in your response which is in – which are answers to questions posed to you by the commission's investigators are in fact true and correct.

**DR DE WEE:** Yes they are – they are true and correct but I have already indicated that when I look at them there must be some small amplification that I can do during the course  
10 of this meeting. Just to clarify certain things ja.

**ADV SEPTEMBER:** Thank you.

**DR DE WEE:** Thanks ja.

**ADV SEPTEMBER:** May we then start with looking into the allegations that are in fact against you as alleged by Mr Agrizzi?

**DR DE WEE:** Ja.

**ADV SEPTEMBER:** And for that purpose we are going to look at the time period of 2008/2009 to 2016 and in particular the contracts that were awarded to the  
20 Department of Justice and Constitutional Development during that period.

**DR DE WEE:** Ja. Ja I am happy with that and I am going to try my best to answer all your – all your questions. But Chairperson there is a small point I had wanted to make with your permission.

**CHAIRPERSON:** Yes.

**DR DE WEE:** I just wanted to – to make a very, very small point if – if I could. If you can turn to – let me just go to this page. There is a small point I just wanted to make. I will tell you what page is it. If you – if you can turn to page 331 of the file.

**CHAIRPERSON:** Yes that is – that is a transcript.

**DR DE WEE:** Ja it is a – it is a transcript.

**CHAIRPERSON:** Ja.

10 **DR DE WEE:** And then you look at paragraph 20.

**CHAIRPERSON:** That is line 20 marginal line 20 ja.

**DR DE WEE:** Yes. Yes. You see – you see there the talk is of 2013/2014. Mr Agrizzi said his allegations related to 2013//2014.

**CHAIRPERSON:** Where is that I cannot see that?

**DR DE WEE:** On – on line 20.

**CHAIRPERSON:** Oh on line 20 ja.

**DR DE WEE:** On line 20.

20 **CHAIRPERSON:** That was probably about 2003/2004 if I remember correctly then he says.

**DR DE WEE:** And then 2013.

**CHAIRPERSON:** 2013/2014 maybe.

**DR DE WEE:** Ja. If you – if you go to just – just – if you go to – just give me a moment. If you go to page 338.

**CHAIRPERSON:** 338.

**DR DE WEE:** Yes. Paragraph 39.1.

**CHAIRPERSON:** Ja.

**DR DE WEE:** You see there is a line there that says:

“During approximately 2013 Sondolo IT Limited was awarded the contract secure systems at various courts across the country with the Department of Justice and Constitutional Development.”

**CHAIRPERSON:** Yes.

**DR DE WEE:** In other words the point I am trying to make to  
10 you is that the previous page we saw and this page are basically saying the same thing.

**CHAIRPERSON:** In terms of what?

**DR DE WEE:** That is the point I am making. In terms of 2013.

**CHAIRPERSON:** Ja.

**DR DE WEE:** Now – now and it is there throughout the document.

**CHAIRPERSON:** Yes.

**DR DE WEE:** Now the consequence of that – the  
20 consequence of that is that you then issued a media statement on the 18<sup>th</sup> of January with your permission I would like to read that media statement.

**CHAIRPERSON:** Yes.

**DR DE WEE:** And what it says.

**CHAIRPERSON:** Yes read it.

**DR DE WEE:** The media statement reads as follows:

10 “In his affidavit submitted to the commission  
Mr Angelo Agrizzi the former CEO of  
BOSASA and the witness currently giving  
evidence before the commission has among  
others stated that he was told that the  
secretary of the commission Dr Khotso De  
Wee was one of the senior officials of the  
Department of Justice and Constitutional  
Development who were paid bribes by  
BOSASA in regard to a tender of 2013 for  
the establishment of a security system in  
various courts throughout the country. Mr  
Agrizzi states that Dr De Wee was the CEO  
of that department at the time which is  
correct which I have not denied however Mr  
Agrizzi also states that he has no other  
information to confirm the correctness of  
this report.”

20 And then you say:

“After I had become aware of the above  
statement in Mr Agrizzi’s affidavit I brought  
it to Dr De Wee’s attention. Dr De Wee  
confirmed that he was the CEO of the  
Department of Justice and Constitutional

Development in 2013. However he has informed me that he was never at any stage paid any money by BOSASA or by anybody from BOSASA including the person mentioned in Mr Agrizzi's affidavit."

And it is a point I am repeating two years later.

"Through his investigators the commission is investigating the allegation against Dr De Wee. In the light of this and the seriousness of the allegation against him Dr De Wee has offered not to report for duty in effect to take special leave pending the outcome of the investigation of the allegation against him."

10

And you say:

"I have accepted Dr De Wee's offer. Accordingly pending the outcome of the investigation of the allegation against him Dr De Wee will stay away from work. It is envisaged that this will be with effect from Tuesday the 22<sup>nd</sup> of January 2019 next week as it is going to be necessary for me to appoint somebody else acting secretary of the commission who will perform the duties of secretary of the commission during Dr De

20

Wee's absence."

The point I am making – the point I am making is that what has been transmitted for the public for a period of two years is the idea that I was paid on the basis of a 2013 contract.

I am saying to you and I am going to speak to Advocate September about 2008 and all other issues that she wants to raise. I am saying to you I want you to record and note that whilst Mr Agrizzi has told the public about  
10 2012/2013 I have never been docu – given documents about 2012/2013. And if they are there I want to see them. I just want to make that point.

**CHAIRPERSON:** Ja.

**DR DE WEE:** In other words – in other words two years has lapsed. You know Chair I had wanted to raise this issue in the end but I might as well say it now.

**CHAIRPERSON:** Ja.

**DR DE WEE:** I have kept away from you. You are probably aware.

20 **CHAIRPERSON:** You cannot keep away from me and I am not (inaudible) Dr De Wee. If you are keeping away from me I am not aware of it. Ja.

**DR DE WEE:** And that is because I had wanted this thing to be dealt with properly and be dealt with and so on. But now you know I buried my sisters in August last year. In August



2020. And my great misfortune was that there were three of us left at home, me and my two sisters. Unfortunately in August last year they passed away at the same time. They passed away within a week of each other. I am not asking for sympathy but I am saying the way these things have happened my own sisters thought I had stolen R15 million from government and they do not understand how come I can come to Gauteng and just steal R15 million. Now this thing has taken so long this 2013 has never arisen. I have  
10 never seen memos. I have never been engaged on it. Now what is painful to me as a person my dear sisters who were worried about this who thought I had stolen R15 million of government money they passed away without getting a satisfactory explanation about this big theft I should have committed. So I am saying because of the way this thing was done 2013 was raised. 2013 is now in your statement Chair. I would have expected the investigators and the evidence leaders to stress about 2013. Now that does not mean I am not prepared to answer. I want to deal with all  
20 questions that I can possibly get. I am not running away from it. But I am saying the public perception there was about 2013 that Mr Angelo Agrizzi mentioned repeatedly throughout his evidence and there have never been any document to this date. I rest my case Chair.

**CHAIRPERSON:** Ja. Well what I can say to you Dr De Wee

is it was unfortunate that the investigation took as long as it did and Ms September will deal with matters and put questions to you and deal with matters as she goes along. Obviously when these things happened I certainly thought it should not take more than three months and it ended up taking too long and during that period sometimes I would be asking why is it taking so long you know. So – but I understand. Ms September continue.

**ADV SEPTEMBER:** Thank you Chair. Aligned to the work  
10 of the commission to interrogate the allegations against you  
Sir Mr Agrizzi's evidence deals with the time period of 2008  
to 2016. Is it correct that you were appointed as the Chief  
Operations Officer for the Department of Justice and  
Constitutional Development from 1 April 2005 until 30 June  
2015?

**CHAIRPERSON:** Dr De Wee can you hear? It is like he is  
frozen. Dr De Wee. No I think he is frozen. Mr Mateme  
you – you can hear me.

**ADV MATEME:** Chairperson – yes I can hear you  
20 Chairperson. Can I maybe send the IT guy from my office  
to go and attend to it (inaudible).

**CHAIRPERSON:** Yes that is fine. Please do that ja.

**ADV MATEME:** Thank you.

**CHAIRPERSON:** Okay. I am – I wonder whether we should  
just take the tea break while the IT guy attends to that so

that – because we do not know we might wait for five minutes, ten minutes. I think let us take the tea break and then when I come back I am sure everything will be fine.

**ADV MATEME**: Thank you.

**ADV SEPTEMBER**: Thank you.

**ADV MATEME**: Thank you Chairperson.

**CHAIRPERSON**: We adjourn.

### **INQUIRY ADJOURNS**

### **INQUIRY RESUMES**

10 **REGISTRAR**: Good morning, we will resume today's proceedings, please unmute.

**CHAIRPERSON**: Let us resume, I understand the technical problem has been sorted out?

**ADV MATEME**: Yes, it has been sorted out, Chairperson, thank you.

**CHAIRPERSON**: Thank you very much. Okay, Ms September, you may proceed. You had asked a certain question which I assume Dr De Wee probably did not hear. Do you want to put the question again?

20 **ADV SEPTEMBER**: Thank you. Before I repeat that question, might I be permitted to request that the documents used for today's proceedings which is pages 302 to pages 636 be accepted as EXHIBIT T35 of BOSASA bundle 05 please?

**CHAIRPERSON**: Well, each one would have to be dealt

with on its own, so I guess as you get to each one request that it be admitted and then we take it from there. You said they start from page?

**ADV SEPTEMBER:** The exhibit bundle starts at page 303 until page 636.

**CHAIRPERSON:** Ja, we will not have a blanket thing, we will just have to - you know, 303 is an index, we cannot make an index that is an exhibit. So as you get to each do; you can then request that it be admitted then we will  
10 allocate it its number. Okay.

**ADV SEPTEMBER:** Thank you.

**CHAIRPERSON:** Alright.

**ADV SEPTEMBER:** To resume – to repeat the question I asked earlier, Sir, Mr De Wee , is it correct that you were appointed as the Chief Operations Officer with the Department of the Justice and constitutional development from 1 April 2005 until 30 June (indistinct – recording distorted)

**DR DE WEE:** That is correct, Adv September.

20 **ADV SEPTEMBER:** Can you please clarify to the Chair what were your responsibilities and deliverables as Chief Operations Officer?

**DR DE WEE:** Well, first and foremost, I came to be appointed the Chief Operations Officer of the Department of the Justice and Constitutional Development as it was

known as at the time, from my position as the Director General of the Free State. At that particular time, the Chief Operations Officer was a totally new position in government and there was a motivation for the creation of that particular post and we felt going into great detail the motivation was as follows.

**CHAIRPERSON:** Do not go into the motivation, Dr De Wee , just deal with what the functions were for the position.

10 **DR DE WEE:** Okay, well the function was basically to support the ...[intervenens]

**CHAIRPERSON:** The duties, in other words.

**DR DE WEE:** Ja.

**CHAIRPERSON:** The responsibilities.

**DR DE WEE:** Yes, to support the Director General in his administrative duties but in my particular case I was mandated to create new chief directorates, or at least I proposed to create new chief directorates. The chief directorates at the time, I think one was called Programme  
20 Support and Administration, it was a chief directorate we used to support the regional offices at the time and subsequent to that it dealt with all service delivery issues and complaints, mechanisms and donor funding and so on and so forth.

The second chief directorate that we did, that we

focused on, was strategy development, monitoring and evaluation. In other words, I was given the responsibility to develop the strategy of the department, monitor it, evaluate it and then report to the Director General, to the Minister and so on and so forth. So that was the second chief directorate that I developed.

The third chief directorate that I created was a chief directorate called Post Truth and Reconciliation Commission Unit. The essence of it, when I came in in  
10 2005 into the Department of the Justice the Minister at the time felt that we can implement it and then I later proposed a creation of the chief directorate and that work I think is still continuing. In case you do not know, Chair, subsequent to that I handed up – I have been working on a book in the last two years. I have just published a book.

**CHAIRPERSON:** Yes.

**DR DE WEE:** In which I am sharing my experiences.

**CHAIRPERSON:** Yes.

**DR DE WEE:** Of implementing the recommendations of the  
20 Truth and Reconciliation Commission in government.

**CHAIRPERSON:** Okay.

**DR DE WEE:** So at least I have been working on recording that.

**CHAIRPERSON:** Okay, that is very good.

**DR DE WEE:** Ja.

**CHAIRPERSON:** Yes.

**DR DE WEE:** But then fourthly, we then created – I think if I remember well there was a directorate for security that used to be in a branch called Court Services. And then I think we amalgamated it with risk management unit and created a chief directorate called Security and Risk Management. So I had four chief directorates with me but given the challenges of the department at the time you will notice that I also did a number of things whilst I was COO,  
10 I used to act as a head of justice calling it at some point, at some point I acted as the – I think during the process of creating the office of the Chief Justice I was then given the responsibility to act as the head of the office of the Chief Justice until a new – I think the process called Secretary General.

**CHAIRPERSON:** Ja.

**DR DE WEE:** Until a post of Secretary General was – so those are really a number of things that I did during my time back then.

20 **ADV SEPTEMBER:** So specific to the functions relating to security and risk management is it correct that – and please correct me if I am wrong, but is it correct that you would have had oversight, management and control in relation to all aspects concerning the operations within the security and risk management cluster of the department?

**DR DE WEE:** Yes, we had a chief directorate, we had a chief directorate for security and risk management and there were several people over the period who acted or who were appointed as chief directors and those were reporting to me as a COO at the time.

**ADV SEPTEMBER:** And then specific to your involvement in any procurement of service matters, what role did you play?

**DR DE WEE:** No, there were two instances that I  
10 remember in which I played a role. I think they were – I was not intimately involved with procurement because procurement was largely driven from the office of the Chief Financial Officer but there have been – there were instances where I was requested and not because I particularly had an expertise but maybe because of my seniority in the department I was requested on one or two occasions, probably two, if you look at the forensic report to chair the evaluation committee and then obviously once that is done we will make recommendations to the  
20 departmental Bid Adjudication Committee.

**ADV SEPTEMBER:** Okay. So before we turn to deal with the contracts in issue during the period alleged by Mr Agrizzi, will you agree with the general proposition that the life cycle of a public tender would include the procurement of service through the award of the tender firstly? Would



you agree with that as a general proposition?

**DR DE WEE:** Ja, generally – remember, supply chain management ordinarily is regulated by the Public Finance Management Act and the key provisions of the Public Finance Management Act is to ensure that whenever we procure we are guided by specific regulations and some of the regulations require us to test the market and the essence of testing the market is to advertise. While the advertisement has been issued, the people in supply chain management will do something called prequalification, they will check tax compliance, they will check the extent to which all the people who submitted tenders comply with the requirements of the advert and I think from there – I think before then, in fact, there will probably be a process of appointing Bid Evaluation Committees who would draft the specifications before they are even advertised and that when the advert has run its course and the prequalification has been done then the supply chain management unit will come to the Bid Evaluation Committee which ordinarily, I think in most cases, would be appointed by the Director General.

There will be letters by the Director General to appoint the Bid Evaluation Committee and then documents would come and then we will assess and then because we are a Bid Evaluation Committee we will then pass on to

the BAC.

**ADV SEPTEMBER**: And following ...[intervenes]

**DR DE WEE**: In other words, the point I am making to you and maybe this is a point that would arise as we go along you and I, Adv September, in procurement there is a relationship between Bid Evaluation Committee and Bid Adjudication Committee. The Bid Evaluation Committee will do just technical work to check compliance and so on and maybe see in terms of points who is likely to be the  
10 next – the best bidder and then submit a recommendation to departmental Bid Adjudication Committee, will then make a decision but the appointment is not made by the departmental Bid Adjudication Committee, the Bid Adjudication Committee will oversee and make an assessment of the work done by the departmental Bid Evaluation Committee and once it is satisfied with the recommendation, it will then submit, as a DBAC, a recommendation to the accounting officer, to the Director General to approve or not approve.

20 So there will be instances where the Bid Adjudication Committee would agree with the Bid Evaluation Committee and in cases where they do not agree they will send matters back to the Bid Evaluation Committee until they are satisfied with the process, until there is a point where a Director General or accounting

officer would apply.

But of course I must also say there were instances where I was asked to add as a Director General and in which case all these processes would then come to me and if I am satisfied with the matters that are being put before me, I would then consider approving or not approving.

**ADV SEPTEMBER:** Your comprehensive answer certainly presents that you were very aware of exactly how the procurement process worked within the department, is that  
10 correct?

**DR DE WEE:** I am not necessarily an expert but ja, there is some degree of awareness because of my public service experience.

**ADV SEPTEMBER:** Okay, but you certainly understood exactly the different stages within the process from the time of the – throughout the procurement process, rather.

**DR DE WEE:** Ja, I would say that is correct.

**ADV SEPTEMBER:** Thank you. And so if one were to accept that the first part of the life cycle of the tender was  
20 the procurement of the service would you agree that the next part would be the implementation of the work project where the scope of the service may change or not depending on how things unfold. Would you agree with that general proposition?

**DR DE WEE:** Sorry, can you repeat the proposition? I am

not sure I quite understand you.

**ADV SEPTEMBER**: No problem. Sir, the first part, which you accept, is that the life cycle of a public tender commences with the procurement of the service through the award of the tender?

**DR DE WEE**: That is correct, ja.

**ADV SEPTEMBER**: Following that, the next part to that life cycle would be the implementation of the work project where ...[intervenes]

10 **DR DE WEE**: Yes, I would agree, I mean, once procurement ...[intervenes]

**ADV SEPTEMBER**: If I can ...[intervenes]

**DR DE WEE**: Once procurement has been done and we went through relevant – Adv September, are you still speaking? Sorry. I do not want to speak out of turn, my apologies, Chairperson, for that.

**ADV SEPTEMBER**: Sorry, I ...[intervenes]

**CHAIRPERSON**: Okay, ja, wait for her to finish. Let us go back. Ms September.

20 **ADV SEPTEMBER**: Will you accept, Sir, that the next part of the cycle would be implementation of the project which would either include or change in the scope of the project or not?

**DR DE WEE**: Ja, what I agree to is that yes, there will be procurement and once that it went through all the stages

that I have mentioned and the bidder has been approved by the accounting officer and a letter of appointment has been issued after this implementation of the project. But you mention something that I want to react to. You mention change of scope.

Change of scope does not happen automatically, there are public service regulations that regulate how a change of scope happens because when a bidder is appointed that bidder is appointed in terms of the requirements of the tender that was issued and the requirements of the tender issued defines the scope. If there is a need for that scope to be exceeded, there is a particular process that must be followed to ratify that. Are you with me?

In other words, I am saying to you once a bidder has been appointed, a bidder is not at liberty or officials are not at liberty to change the scope as they wish because appointing a bidder follows a process. Changing a scope also must follow a particular process.

20 **ADV SEPTEMBER**: And what process is that, Sir?

**DR DE WEE**: I think ordinarily if there is a need for a change of scope there might be a need to go back to the DBAC to seek approval and for the recommendation to be given to the DG to approve.

**ADV SEPTEMBER**: Thank you for clarifying that. The last

part of the cycle, the life cycle, would then, be once implantation has taken place, payment for the services needs to be made, is that correct?

**DR DE WEE**: I would agree with that, ja.

**ADV SEPTEMBER**: Thank you. Now when we ...[intervenes]

**DR DE WEE**: But I must also just indicate to you that I guess experience may differ from place to place but ordinarily, if we appoint a service provider for a period of  
10 two or three years, normally there is an arrangement of monthly payment to the service provider.

In other words, we do not wait for the service provider to finish work first for three years and only after that three years we pay. There are arrangements that are made and simply because take security, for example, if we contract a security company who will provide security for the courts, obviously those people will have to get equipment, they will have to hire guards and those guards, because they will be doing work over a month, they cannot  
20 wait for three years, they have to be paid on a monthly basis so that they can, like you and I, take care of their needs.

**ADV SEPTEMBER**: But in line what you are saying, Sir, you would though agree that final payment for services rendered would only be done once all services have been

delivered, is that correct?

**DR DE WEE**: It will be done once serves have been delivered in terms of the agreement. It depends what the agreement say, in terms of the agreement.

**CHAIRPERSON**: Yes, I guess that – I guess that everything has got to go according to agreement and if the agreement is a service provider will be paid when they have completed the job, that is what must happen. If the agreement says although the job will take three years, the  
10 service provider may submit invoices for work already done during that period whether on a monthly basis or whatever intervals. If the department has agreed to that then payment must happen in accordance with that. That is the point you are making.

**DR DE WEE**: Yes, that is correct, Chair, yes.

**CHAIRPERSON**: Ja. Ms September?

**ADV SEPTEMBER**: Thank you, Chair. Sir, can I ask you to turn to page 478 please of the bundle which is a document that you provided to the Commission?

20 **DR DE WEE**: 478?

**ADV SEPTEMBER**: Yes.

**CHAIRPERSON**: Ms September, I want to mention that I do not expect us to take more than an hour and a half but if you think that there would be justification to go beyond that, you will tell me. So I just want you to have an idea

what my expectation is, in terms of this sitting. But if you think there is justification to go beyond that, you will let me know and we will take it from there but I do not think we should be taking more than that.

**ADV SEPTEMBER:** As it pleases the Chair. Only certain aspects of the transactions that need to be queried with the witness for his answer.

**CHAIRPERSON:** Ja, ja. No, that is fine. Let us continue.

**ADV SEPTEMBER:** Sir, at page 478 you will see that there  
10 appears to be a service level agreement concluded between the government of the Republic of South Africa through the Department of the Justice and Constitutional Development and Sondolo IT (Pty) Ltd, is that correct?

**DR DE WEE:** That is correct, Madame September.

**ADV SEPTEMBER:** Can I then ask you to turn to page 484 please?

**DR DE WEE:** Page 484.

**CHAIRPERSON:** Before you do that, Ms September, tell us what contract – that agreement was and what it was for  
20 and so on.

**ADV SEPTEMBER:** Yes, I was about to do so. At page 503 appears the signatures of this agreement which is dated 15 July 2009. If we go back to the page of 484 it describes what this contract entails and in particular paragraph 2.1 reads that:



“It concerns the principal...

Who is government.

“...requires the supply, delivery, installation, commissioning, support and maintenance of a comprehensive CCTV alarm and access control system at various nominated court buildings which is termed the facilities.”

**CHAIRPERSON:** Ja.

**ADV SEPTEMBER:** Clarifies further at clause 2.2 that:

10 “The bid was awarded to the contractor in this instance being Sondolo IT in the amount of R601 863 308.80 in respect of 1 of 127 facilities which are court buildings.”

It goes further to state ...[intervenes]

**CHAIRPERSON:** Okay. Okay, I am sorry, just start by placing on record that it is an agreement that was signed both by – or on behalf of the government of the Republic through the Department of the Justice and Constitutional Development and by Sondolo IT (Pty) Ltd on 15 July 2009  
20 and you say, from what you have read, it is was an agreement between the two parties for the provision of CCTV.

**ADV SEPTEMBER:** Alarm and access control system at 127 court facilities.

**CHAIRPERSON:** Ja, okay, alright, I just wanted to make

sure that as we proceed we know when it was, the agreement, when it was signed, what it is about and who the parties are. That has been taken care of, now you can go ahead.

**ADV SEPTEMBER:** Thank you, Chair. With the contract value of 601 – in excess, sorry, of R601 million, Dr De Wee , during your term as Chief Operations Officer at what value is it compulsory to proceed on opening tenders ...[intervenes]

10 **CHAIRPERSON:** Maybe before you do that, Ms September, Dr De Wee , at page 503, that is the page that has got signatures there, is any of those signatures your signature?

**DR DE WEE:** Absolutely no, no, Chair, it is not.

**CHAIRPERSON:** Yes.

**DR DE WEE:** My recollection is that the one signature – Chair, to what extent are we allowed to mention names because I know there is a sensitivity around people's names. I mean, to start with, there is no signature of mine  
20 here.

**CHAIRPERSON:** Ja, that is ...[intervenes]

**DR DE WEE:** I think I have an idea whose signature it is but what extent am I allowed to...?

**CHAIRPERSON:** You can mention whose signature the one is that is there for the - on behalf of the government of

the Republic through the Department of the Justice. You can mention if you know it.

**DR DE WEE**: Just a short history of this, just very brief history.

**CHAIRPERSON**: Ja.

**DR DE WEE**: After the tender has been issued I think that the then Director General requested that Mr Vusi Shabalala should be assigned the responsibility of signing this agreement on behalf of the department.

10 **CHAIRPERSON**: Yes.

**DR DE WEE**: So this signature belongs to Mr Vusi Shabalala, who at the time, if my recollection serves me well, was the Deputy Director General for Corporate Services.

**CHAIRPERSON**: Okay, okay.

**DR DE WEE**: And he was mandated – I think he was mandated and following – I think the then Director General then appointed a certain Advocate Hussain to just check the agreement and make sure that he is satisfied and once  
20 Advocate Hussain gave an indication to the then Director General that he is happy with the service. I think there were some – a bit of negotiations with Public Works and other because there was some committee that was set up to engage various stakeholders who were going to be affected by this.

**CHAIRPERSON:** Yes.

**DR DE WEE:** Once that process had run its course by Advocate Hussain doing the negotiations, I think that the then Director General then mandated Mr Shabalala to sign on behalf of the department. Deputy Director General for Corporate Services.

**CHAIRPERSON:** Okay, no, that is fine. Ms September.

**ADV SEPTEMBER:** Chair, I can assist you in turning to page 474 of the bundle where on the 1 September 2009 the  
10 DDG for Corporate Services was delegated to sign this particular SLA. It aligns also with the recordal of the designation on page 478 which is the DDG for Corporate Services representing government.

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

**ADV SEPTEMBER:** And it is definitely so authorised.

**CHAIRPERSON:** Okay, go ahead.

**ADV SEPTEMBER:** Dr De Wee , at what value of contract is it compulsory for bids to go onto an open tender?

**DR DE WEE:** You know, my recollection – and I still need  
20 to check the circumstances, I recall there is a regulation that says any tender above 500 000 must go on open tender. I seem to remember something in that order.

**ADV SEPTEMBER:** So what was your role and involvement in this particular tender process?

**DR DE WEE:** I think we were – I think I was in the Bid

Evaluation Committee. Bid Evaluation Committee was really between supply chain management, which is supposed to do prequalification. Once they have done with prequalification they would then bring it to Bid Evaluation Committee to check the technical specifications. Once we are done we will hand it over to the departmental adjudication committee.

**ADV SEPTEMBER**: Were you a normal member or did you hold a position of authority in the department?

10 **DR DE WEE**: Well, I might – well, I was a COO of the department so I might have been the Chairperson of the Bid Evaluation Committee.

**ADV SEPTEMBER**: Thank you.

**DR DE WEE**: But the point I am making is that the Bid Evaluation Committee and you will remember initially I was – I differentiated between the roles of the Bid Evaluation Committee, the Bid Adjudication Committee and the accounting officer. You remember I traversed that earlier on. So we, as a bid evaluation, we were just checking the  
20 technical specifications and then hand over to the Departmental Bid Adjudication Committee to decide whether they want to recommend it to the accounting officer or not.

**CHAIRPERSON**: Would it have been the Bid Evaluation Committee or the Adjudication Committee that would award

points?

**DR DE WEE**: I think the point might be – I think sometimes it could be both, Chair.

**CHAIRPERSON**: Ja.

**DR DE WEE**: It could be Bid Evaluation Committee and then maybe check with Bid Adjudication Committee but the people who would have authority to recommend with the accounting officer will be the Bid Adjudication Committee.

**CHAIRPERSON**: Ja. Okay, alright. I just want to cover  
10 something so that I do not forget. I wanted to cover it  
much earlier. That goes back to the fact that Mr Agrizzi –  
what Mr Agrizzi said concerning you, he said was what Mr  
Seopela told him. I just want the public to know that the  
Commission did try and get information and affidavits from  
various BOSASA officials including Mr Seopela and they  
did not cooperate and they did not furnish any affidavits,  
so including Mr Seopela. Of course what the Commission  
did at a certain stage, it was the end of – I think in 2020,  
early in 2020, it began to focus in terms of its investigation  
20 on what I call the Public Protector issues.

Now the Public Protector issues are those issues that the Public Protector had identified in her report, The State of Capture, as issues that the Commission should investigate. Those issues really revolved around tenders and contracts and influence of the Gupta family on

government.

So those Public Protector issues would exclude BOSASA matters. So what I am saying is that there were attempts to obtain affidavits from BOSASA officials but at a certain stage the Commission had to focus on the Public Protector issues because what had happened was that when the terms of reference of the Commission were crafted, they were widened – the issues were widened much more than the issues that had been identified by the  
10 Public Protector.

The scope of the investigation of the Commission in terms of the terms of reference as opposed to the Public Protector issues would have involved investigating allegations of corruption even in the municipalities. So it became clear that there was no way the Commission would canvass all issues falling under the – its terms of reference and so then it then focused on the Public Protector issues but we undertook to try and complete any issues that fell outside of the Public Protector issues but within the terms  
20 of reference the Commission that we had started.

So I thought it is important to mention that so that the public does know that the Commission did try to obtain evidence from people such as Mr Seopela but there was no cooperation coming from him and other BOSASA officials other than those who came to assist the Commission after -

around the time that Mr Agrizzi testified or after. Okay, alright, I just wanted to place that on record. Okay, Ms September, Chair.

**ADV SEPTEMBER**: Thank you, Chair.

**DR DE WEE**: Chair, before...

**CHAIRPERSON**: Yes.

**DR DE WEE**: Before Ms September continues.

**CHAIRPERSON**: Yes.

**DR DE WEE**: Earlier on she asked me about who allocates  
10 the points.

**CHAIRPERSON**: Yes.

**DR DE WEE**: You remember? And I obviously have no recollection.

**CHAIRPERSON**: Ja.

**DR DE WEE**: But can I draw your attention to a memo labelled 466?

**CHAIRPERSON**: Is it at page 466?

**DR DE WEE**: 466, ja.

**CHAIRPERSON**: Yes.

20 **DR DE WEE**: If you look at that memo, the memo says in 2.1 – you see it is a memo to the departmental Bid Adjudication Committee and it is a memo that came from my – I think from the Bid Evaluation Committee at the time and from my office. It says the following, if you look at 2.1, it says:



“The bid was issued on 29 February 2008 and closed on 20 March 2008.”

In other words, the point that is made there, it says that the market was tested. I have no recollection whether was this by a closed tender or open tender but certainly it makes the point that the market was tested as provided for by the Public Finance Management Act.

Secondly, it says prequalification was done and one bidder was recommended. I had explained earlier,  
10 Chairperson, that normally the office of supply chain management will be the one who in prequalification checking all the technical requirements and so on and I think from them they indicated one bidder, right?

It then, in paragraph 2.3, it makes the point that:

“The evaluation committee evaluated bid documents on the 5 June 2008.”

And it specifically says:

“The criteria used for this phase was the price.”

So I would imagine we compared prices right across the  
20 board. As the tender was 90/10, I would imagine 90 for price, 10 for functionality and it says:

“The committee came to the conclusion that the recommended bidder’s price is fair and market-related.”

And then on that basis the evaluation committee members

including myself, we then recommended to the Bid Adjudication Committee who then decided whether they agree with our recommendation or not and if they agreed then they would take it further to the accounting officer.

I just thought given Ms September's point earlier I should draw that to your attention.

**CHAIRPERSON:** Ja, no, that is fine. I do not know why anybody decided that even a memo like this, we must not see the names of the other Bid Evaluation Committee  
10 members.

**DR DE WEE:** Well, Chair, if you do not mind me responding.

**CHAIRPERSON:** Yes.

**DR DE WEE:** This document, it comes from your office.

**CHAIRPERSON:** Ja, no, I ...[intervenes]

**DR DE WEE:** It was give to us by your office, so ...[intervenes]

**CHAIRPERSON:** No, I ...[intervenes]

**DR DE WEE:** I do not want you to get an impression that –  
20 remember the point that is made here. The point that is being made here is that we have been manipulating the process so that we can get bribes, so I am trying to ...[intervenes]

**CHAIRPERSON:** No, no, no, I have no problem with that, whether it was from within the Commission or outside, I

just do not know why the names of people serving in an evaluation committee of a government department needed to be hidden.

**DR DE WEE**: I do not know, Chair.

**CHAIRPERSON**: Ja. I mean, even I see in the memo – well, if people were involved in this memo I do not see why their names needed not to be – to be seen. Okay, let us continue.

**ADV SEPTEMBER**: Thank you, Chair. Chair, but I do  
10 confirm that the redactions were in fact done by the Commission itself in preparation ...[intervenes]

**CHAIRPERSON**: Yes. Ja, I mean, I think people might just be over-cautious for nothing. I mean, you serve in a public body, if you were part of the committee you were part of the committee, it does not necessarily mean a particular allegation is being made against you, you were part of the committee, it is a public body, you got paid for doing that job, you know, and the public – insofar as it simply gets to know you were part of the committee there  
20 is nothing wrong with that. Yes, okay. Let us continue.

**ADV SEPTEMBER**: Dr De Wee, in line with what you have drawn attention to and that is the recommendation of this Bid Evaluation Committee of which you were chair it is understood that through you, legal opinions were sought before this recommendation was made. Do you recall the

opinions that were obtained and why?

**DR DE WEE:** I am very happy that Adv September has raised with this question. Chair, with your permission, can you allow me to deal with this thing in full? I just want to respond to this in full as Adv September is ...[intervenes]

**CHAIRPERSON:** Well, do not respond to it in full as yet because she may be having other questions where you will be able to give your other answers but if at the end there is anything that you think has not been canvassed I will  
10 give you a chance to deal with it, so you can make notes as we go along so that you do not forget.

**DR DE WEE:** Chairperson, with your permission, there is an important and specific reason why I would like to do this matter in full ...[intervenes]

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

**DR DE WEE:** And it is because of your investigators, if I will be frank with you.

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

**DR DE WEE:** I just want to deal with it because  
20 ...[intervenes]

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

**DR DE WEE:** There are things that I want to show you that they did they prompt me to deal with this thing in full.

**CHAIRPERSON:** Hang on, hang on, hang on, Dr De Wee, I am telling you that let her ask questions. As she goes

along you may get a chance as you answer those questions to deal with issues and if she in her answers – her questions, she has not touched what you want to deal with, I will give you a chance to deal with it. I am saying make a note so that you do not forget.

**DR DE WEE**: Chair, let me assist you. I would like to – I am here to assist you.

**CHAIRPERSON**: You are not assisting me now.

**DR DE WEE**: Oh, okay.

10 **CHAIRPERSON**: We are spending time that we should be spending on the questions. I am saying she knows what she wants to ask you. As she asks you questions answer the questions she is asking you but there may be issues that she might not ask, of course. Then make a note. I will give a chance later on to say in regard to this topic, I did not get a chance to deal with everything because she did not ask certain things, now I would like to take this chance to say what I did not say. So I want you to make a note so that you do not forget. Is that alright?

20 **DR DE WEE**: In that context, Chair, let me respond to her question.

**CHAIRPERSON**: Yes but I do not want you to forget whatever it is you wanted to say when you said you wanted to respond in full, so please make a note, you will get a chance to ...[intervenes]

**DR DE WEE:** I guess my problem is that I waited for two years to deal with these issues.

**CHAIRPERSON:** Okay.

**DR DE WEE:** As you would appreciate.

**CHAIRPERSON:** Ja, okay. Answer the question, ja.

**DR DE WEE:** Ms September here has been confused by the investigators and I will explain why I argue that she has confused by the investigators.

**CHAIRPERSON:** Ja.

10 **DR DE WEE:** She is correct, there was a legal opinion that was requested. Okay. And her confusion arises from the manner in which the investigators dealt with this matter because in the investigators – and I can show you by way of documents, they confused and conflated two processes.

**CHAIRPERSON:** Hang on, Dr De Wee, we are going to get out of track.

**DR DE WEE:** Okay.

**CHAIRPERSON:** Her question was why was – you confirmed that a legal opinion or legal opinions were  
20 sought and I think her question was why were they sought or why was it sought?

**DR DE WEE:** I am trying to ...[intervenes]

**CHAIRPERSON:** I think just answer that question if you have an answer for it.

**DR DE WEE:** Let me simply, Chair. There were legal

opinions that were obtained.

**CHAIRPERSON**: Yes.

**DR DE WEE**: One from state advisers and another from National Treasury. So there were opinions that were sought. But the opinions that were sought, remember – remember in the Department of the Justice ...[intervenes]

**CHAIRPERSON**: But you see, Dr De Wee, as far as I am concerned there is nothing wrong with seeking a legal opinion. You see?

10 **DR DE WEE**: It is fine, Chair, let me leave it there, there were ...[intervenes]

**CHAIRPERSON**: There is nothing, so to the extent that you may be concerned about anything about seeking a legal opinion, if you are, let us wait for her to get there because ...[intervenes]

**DR DE WEE**: That is fine, Chair.

**CHAIRPERSON**: As far as I am concerned, if you need a legal opinion you must ask for a legal opinion, there is nothing wrong with that.

20 **DR DE WEE**: I will wait for Adv September to guide me.

**CHAIRPERSON**: Yes.

**DR DE WEE**: But there was a legal opinion obtained.

**CHAIRPERSON**: Yes. Alright, Ms September?

**ADV SEPTEMBER**: Dr De Wee, there were two legal opinions that were sought, one from the Department of the

Justice Law Enforcement Unit and the other from National Treasury. Please clarify why you sought these legal opinions?

**CHAIRPERSON:** Well, check first whether he is the one who sought. Did you seek one or both opinions, Dr De Wee?

**DR DE WEE:** I think we sought for – we asked for both.

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

**DR DE WEE:** I think we asked for both.

10 **CHAIRPERSON:** Ja, what gave rise to the need for the opinions?

**DR DE WEE:** Chair...

**CHAIRPERSON:** Ja.

**DR DE WEE:** This is what I was trying to clarify.

**CHAIRPERSON:** Now we – that is where – we have now reached it. You wanted to tell us before we reached it. Now we have reached it.

**DR DE WEE:** This is what I wanted to clarify. There were two processes. We in the Department of the Justice were  
20 very worried about the efficacy of physical security in our operations. Now by physical security I mean the guards, you know the guards with batons? We asked ourselves important questions about the efficacy of relying solely on that and we came to learn that the security industry has moved to modernise security by using technology. Are you



with me?

**CHAIRPERSON:** H'm.

**DR DE WEE:** So because of that – and this is why I was stopping Ms September from jumping to the 600 million. I wanted to inform her that, Ms September, it did not start with the 600 million, there was a process before.

So because we did not have capacity in the Department of the Justice, our capacity was rudimentary to say the least. We decided to seek to advertise for this  
10 (indistinct – recording distorted) consultant who will then assist us to tell us – to advise us on what specifications would be needed to be able to advertise for such a big tender of 600 million. We did not want to go into this big tender because we did not trust our knowledge, in my understanding.

So the reason we sought a legal opinion, I would like to draw your attention, Chair, to 431. If I can draw your attention to 431.

**CHAIRPERSON:** This page 431?

20 **DR DE WEE:** Page 431.

**CHAIRPERSON:** Yes.

**DR DE WEE:** I would not go into paragraph 4.12 because paragraph 4.12 does indicate what documents are not there and I am not in a position to explain why they are not there. I think you ventilated your concern earlier in the

process.

**CHAIRPERSON:** Yes.

**DR DE WEE:** But I would like to take you through paragraph 4.13 right up to paragraph 4.19.

**CHAIRPERSON:** Okay, yes.

**DR DE WEE:** Okay. Now look at paragraph 4.13, it says the following and this is not something written by me, it has been written by forensics investigators appointed by the Director General of Justice Adv Madonsela. It says the  
10 following.

“We reviewed a copy of an internal memo signed the 23 April 2008 by a project manager with a subject: prequalification for the supply, installation, commissioning and maintenance of a national security infrastructure for the Department of the Justice and Constitutional Development respectively signed and supported by myself.”

At that time I was a Chairperson of a Bid Evaluation  
20 Committee.

“...dated the 24 April 2008 and approved by the Director General on 26 July 2008. We noted the purpose of the memorandum was obtain approval from DBAC to proceed to phase one.”

In other words, to proceed with phase one once this consultant has been approved. But look at 4.14, it says the following.

“We noted that in paragraph 2 of the internal memorandum under the heading...”

The heading is mentioned.

“...a bid was issued on 29 February 2008 and closed on 20 March 2008.”

In other words the market was tested, Chair.

10 “...as per provisions of the Public Finance Management Act. 18 bid proposals were received by the Department of the Justice and no late bids were registered.”

After the pre-evaluation phase, two bidders were disqualified.”

One, the following companies were excluded for reasons mentioned.

20 (d) 16 bids were evaluated for functionality whereby a minimum threshold of 65% was specified. Four bidders scored above 50% and the remaining eleven bidders scored less than 50% and only one bidder scored 79%.”

Which is higher than the threshold of 65%. Now once we

reached this point and realised one bidder has scored this much we were wondering about it and we were not sure and I guess that is where the point of obtaining legal opinions came into the picture. Now that ...[intervenes]

**CHAIRPERSON**: Why would the score give rise to the need to seek a legal opinion?

**DR DE WEE**: We were just asking whether is it competitive enough, is it – we were just wondering, Chair, whether – we just wanted confidence in ourselves, whether is the  
10 right way to proceed.

**CHAIRPERSON**: Well, you have a number of bidders, you have a threshold.

**DR DE WEE**: Yes.

**CHAIRPERSON**: They get what they get.

**DR DE WEE**: Yes.

**CHAIRPERSON**: The one who gets 79 comma something gets what they get.

**DR DE WEE**: Yes.

**CHAIRPERSON**: Did you have reason to think the scoring  
20 might be subject to challenge?

**DR DE WEE**: I do not know, I think it – I do not know, there should have reason why it created some certainty in our mind but we wanted to make sure that when it go to the DBAC we are certain that we did the right thing.

**CHAIRPERSON**: Oh, did this one – was the gap too big

between ...[intervenes]

**DR DE WEE**: We were worried about the gap, I guess, we were worried about the gap.

**CHAIRPERSON**: Oh.

**DR DE WEE**: And that is why we went for an opinion.

**CHAIRPERSON**: Okay, alright.

**DR DE WEE**: Let me take you through paragraph 4.15.

**CHAIRPERSON**: Well, that covers at least the need – what gave rise to the first opinion, at least the one, ja.

10 **DR DE WEE**: Absolutely.

**CHAIRPERSON**: Ja.

**DR DE WEE**: It gave rise to both opinions, it gave rise to both opinions, not just one, both.

**CHAIRPERSON**: Okay, alright.

**DR DE WEE**: Now let me take you through so that we are together on this. 4.15 says:

“We reviewed a copy of an unsigned internal memo dated 15 April from myself addressed to the Director Law Enforcement.”

20 And so on. And the legal opinion obtained says the following in 416. It says:

“I am of the view...”

Because we were wondering whether this should be adjusted or what, to give other people a chance. 4.16 says:

“I am of the view that it will not be fair and just to chance the prequalification benchmark at this stage. It will in fact prejudice the bidder who did not qualify and give him grounds to take up issue with us if we change the qualification now.”

I ...[intervenes]

**CHAIRPERSON:** I am sorry, where are you reading from now?

10 **DR DE WEE:** 4.16 on page 432.

**CHAIRPERSON:** 4.16, okay.

**DR DE WEE:** 432, you should go to page 432, paragraph 4.16.

**CHAIRPERSON:** Ja, I have got it.

**DR DE WEE:** Ja. You can see there on 3 it says:

20 “I am of the view that it will not be fair and just to chance the prequalification benchmark at this stage. It will in fact prejudice the bidder who did not qualify and give him grounds to take up issue with us if we change the qualification now.”

And if further says:

“I am further of the opinion that it would compromise the process. The tender should either be withdrawn, one, and the process

started afresh. Alternatively, the bidder should be allowed to enter the next phase in respect of pricing. If possible, it would be wise not to let him know at this stage that he is the only bidder.”

And then we can go to the second opinion, Chair, in paragraph 418.

**CHAIRPERSON:** Yes.

**DR DE WEE:** In paragraph 418 – and this is the point that  
10 Ms September is trying to make about the opinion from National Treasury which was also obtained. Basically, the long and short of the opinion it says:

“When the bid was advertised with a criterion of 65% prequalification benchmark there might have been potential suppliers who refrained from submitting a bid due to this apparent high qualification score. If at this stage you should approach all bidders who submitted bids with a request to indicate  
20 whether they should have any objection to lower the prescribed threshold of 50% with the aim to promote competitive bidding. The potential supplier who did not submit a bid due to the high qualification criteria may claim that the system has become unfair and

the recommendation therefore is that the bid should be re-advertised with the new benchmark.”

Now faced with these two advices, that do not agree, you will see it is recorded that on paragraph 419, Chair, look at paragraph 419, it says:

10 “We note here that paragraph 2 of the internal directs DBAC to the responses that the DOJ received from DOJ law enforcement Unit and National Treasury.”

Are you with me, Chair? In other words, this statement says the committee that I chaired, it brought to the attention of the DBAC that there were two opinions and on the basis of the opinions, it says:

“However, paragraph 4 of the internal memoranda indicates that the BEC decided that the benchmark stayed at 65%.”

20 Now the reason for this decision is because of the opinion we obtained on paragraph 4.16. Can you see that, Chair?

**CHAIRPERSON:** Well, what was the question that those who gave the opinions were asked to answer and what was their answer?

**DR DE WEE:** The question was, we were wanting to wonder whether were we wrong to focus on 65% as



opposed to just 50%. I think we were just wondering in our minds.

**CHAIRPERSON:** As a threshold?

**DR DE WEE:** As a threshold. But we did not want to do it arbitrarily.

**CHAIRPERSON:** Ja.

**DR DE WEE:** We wanted to be guided.

**CHAIRPERSON:** And their responses, did they give the same response or did they ...[intervenes]

10 **DR DE WEE:** No, it was different responses.

**CHAIRPERSON:** Ja, tell us about it.

**DR DE WEE:** The one response in 4.16, it gives us options

**CHAIRPERSON:** Ja.

**DR DE WEE:** And the options are saying if we change the threshold it will compromise the process.

**CHAIRPERSON:** Ja.

**DR DE WEE:** And then they proceed to give us options. It says:

“The tender should either be withdrawn...”

20 If we do so.

“...and the process started afresh.

Alternatively, the bidder should be allowed to enter the next phase in respect of pricing.”

Are you with me?

**CHAIRPERSON:** Okay, that was one.

**DR DE WEE**: Yes but the other one it says hey, if you do that, re-advertise altogether.

**CHAIRPERSON**: Yes.

**ADV SEPTEMBER**: We are [inaudible – speaking simultaneously]

**DR DE WEE**: So it is clear that we followed the one, we followed 4.16.

**CHAIRPERSON**: Okay, alright.

**DR DE WEE**: And that is why 4.19 is phrased as it is. But  
10 there is a point I want to make, Chair.

**CHAIRPERSON**: Before you make that point, the opinion dealt with at 4.14, that was – who was that from? Is that the State Law Advisers?

**DR DE WEE**: 4.14?

**CHAIRPERSON**: Ja.

**DR DE WEE**: No, the opinions are mainly in 4.16 and 4.18. 4.16 is from State Law Advisers.

**CHAIRPERSON**: You refer in 4.14(e) you say legal opinion was requested from DOJ Law Enforcement Unit and  
20 National Treasury. Okay?

**DR DE WEE**: Yes.

**CHAIRPERSON**: So those are the two people. Why would you ask for a legal opinion from National Treasury? Is it because they enforce the procurement ...[intervenes]

**DR DE WEE**: Yes because they enforce the procurement

issue.

**CHAIRPERSON**: Ja, so maybe it might be so much of a legal opinion, it is more of a procurement practitioner opinion.

**DR DE WEE**: Ja, well maybe – ja, well, pardon my language. You know my limitations on the matters.

**CHAIRPERSON**: You say okay, you are the people who are the custodians of procurement practices.

**DR DE WEE**: Yes.

10 **CHAIRPERSON**: So tell us whether if we do it this way that would accord with acceptable procurement practices?

**DR DE WEE**: Yes.

**CHAIRPERSON**: And that is why – and then from the DOJ Law Enforcement Unit, what is that? That is not State Attorney, is it?

**DR DE WEE**: I think it was State Law – I do not think it was State Attorneys, I think it was State Law Advisers within the department.

20 **CHAIRPERSON**: It would be a legal unit, I would imagine, with the department.

**DR DE WEE**: Yes, it was a legal unit within the department.

**CHAIRPERSON**: Okay, alright.

**DR DE WEE**: But the point I am going to this length, I am going to this length to make this point that I am making. I

am trying to draw your attention to the question that was asked by the investigators of the Commission and I think it is probably the question that informs Adv September. Can I draw your ...[intervenes]

**CHAIRPERSON**: That is why I want you to wait until she gets there.

**DR DE WEE**: Okay.

**CHAIRPERSON**: I think she gets to that point. But I am saying if she does not get to it make a note because you  
10 obviously would like to deal with it.

**DR DE WEE**: Alright, Chair.

**CHAIRPERSON**: Ms September, continue.

**ADV SEPTEMBER**: Thank you so much, Chair. My point is this, Dr De Wee, is that if you turn the page over to page 433.

**DR DE WEE**: Yes, Ma'am.

**ADV SEPTEMBER**: And this is the forensic report from SNG and Grant Thornton done ...[intervenes]

**DR DE WEE**: Yes.

20 **ADV SEPTEMBER**: You will see that it is recorded that the DOJ did not consider the recommendation a provided by National Treasury, that the tender be re-advertised with the new benchmark.

So in line with the two opinions, on the one hand you had an opinion which said readvertise, and that is what

National Treasury says. On the other hand you have the DOJ opinion which indicates:

“Withdraw and start the process afresh, alternatively go ahead.”

When you look particularly to the last line under paragraph 4.21 on page 432 it informs that the DBAC minutes does not refer to the recommendation from National Treasury which is the very recommendation that the tender be re-advertised and not go ahead with the BOSASA company  
10 called Sondolo IT. Why was that so, as the Chair of the BEC, who made that recommendation to the BAC that they were not aware of the opinion according to what is stated in this report?

**DR DE WEE**: You know, Advocate September, a question that puzzles me from the point of view of the Commission is that we have two opinions provided. Clearly the Commission has a preference for what is opposed to the other, I think that is the point because you want to know why we did not take into account National Treasury’s  
20 advice.

So clearly in between the two we chose one because you cannot implement the two at the same time, right? But also, we were driven by the situation in our courts. The situation in our courts was pretty bad and later on I will take you through – in fact maybe let me take

you through – let me just take you through ...[intervenes]

**CHAIRPERSON:** Well, Dr De Wee, at some point you were on the right track on this question. All you need is – I mean, if there are two opinions, one assumes or one expects that you would have applied your mind to both and that you would have a reason why you go for the one and not the other.

**DR DE WEE:** Thank you, Chair.

**CHAIRPERSON:** The question that Ms September is  
10 asking requires nothing more than simply for you to say the reason why we preferred this opinion over that over one is the following or these are our reasons. So it has got nothing to do with the Commission preferring one opinion or another. So you simply had two opinions in front of you.

If you looked at one and did not bother about another or the other one even though you knew it existed, that would be a cause for concern but one would expect that you would have look at both and you would have applied your mind to both and in choosing one, you would  
20 have had certain reasons. So her question is simply seeking to give you a chance to say here are the reasons why we preferred this one and not this one.

**DR DE WEE:** Chair ...[intervenes]

**CHAIRPERSON:** So it is not about the Commission having any preference.

**DR DE WEE:** Thank you, Chair, my apology for that, by the way.

**CHAIRPERSON:** Ja.

**DR DE WEE:** Clearly these opinions were conflicting with one another. We chose one because we were worried about the situation in the courts. And there is a full memo here and I do not want to waste your time which will give me a picture of the situation that was in our courts at the time, so we had to ...[intervenes]

10 **CHAIRPERSON:** No, you can deal with that, that is important because you are saying one of the reasons ...[intervenes]

**DR DE WEE:** Let me – ja, okay, that is fine.

**CHAIRPERSON:** You are saying one of the reasons was the situation at the courts so you can deal with that.

**DR DE WEE:** Okay, I am glad you have given me the go-ahead, just give me a moment, I will draw your attention to that memo so that you see for yourself. Just give me a moment. Can I draw your attention – ja, can I draw your  
20 attention to page 541 of our documents?

**CHAIRPERSON:** 541?

**DR DE WEE:** 541.

**CHAIRPERSON:** Yes?

**DR DE WEE:** I think at a later stage if time allows I am going to speak at length about this memo but for now I

want to bring the following to your attention so that we have a picture of the situation in our courts, Chairperson.

**CHAIRPERSON:** Ja.

**DR DE WEE:** Can I draw your attention to paragraph 2.1 of this memo?

**CHAIRPERSON:** Well, first of all, tell us who the memo was from and who it was addressed to and what subject it was dealing with and what date we are talking about, then you can draw my attention to the particular paragraph.

10 **DR DE WEE:** Well, this memo was really about the maintenance issues arising from the implementation of the national security infrastructure that has been installed and it was a memo from the Chief Directorate Security and Management to the Director General.

**CHAIRPERSON:** Yes, okay. Continue?

**DR DE WEE:** So I would like to draw your attorney to paragraph 2.1.1.

**CHAIRPERSON:** Oh, okay, ja.

**DR DE WEE:** We are still on paragraph 541.

20 **CHAIRPERSON:** Page 541. Ja, I am there, 2.1.1.

**DR DE WEE:** Ja. It says, starting from paragraph 2.1.1:

“There were a number of complaints from the judiciary, prosecutors, members of the public and officials based on the number of incidents that were occurring in many of DOJ and city



service points. Some of the incidents includes magistrates, judges, prosecutors, lawyers and interpreters being attacked inside the court premises. These incidents were so bad to such an extent that a prosecutor was stabbed to death in Pretoria Magistrate’s Court during the day and in Cape Town, the magistrate was stabbed on the face while presiding over a case.”

10 Next page:

“Violent crimes that occurred at service points also involved the attacks of witnesses, staff members, members of the judiciary and family advocates inside the justice premises.”

2.1.2 In addition to human-related attacks there were a lot of burglaries that were occurring as a result, a lot of departmental equipment, furniture, third party funds and court records went missing. The courts also became drug-  
20 trafficking zones.”

2.1.3 These incidents did not only affect the DOJ and city goals in terms of access to justice for all, the also affected the services of other stakeholders like correctional services, social development and South African Police

Services, the continued laws of deceased estate files, court records, face value forms for the vote and third party funds accounts, cash, official stamps for judges and magistrates, State Attorney records, etcetera, indicate that the traditional provision of guarding services alone not enough and not sustainable to mitigate risk faced by the department and one could associate these challenges and incidents to a number of influences like socio-economic factors increasing timeframes, inherent risks, general nature of the departmental environment and services being rendered, human error and other risk exposures.”

So at least that paints, that gives you a sense of the situation we were faced with, Chair.

**CHAIRPERSON:** Does that speak to urgency or what does that speak to?

20 **DR DE WEE:** It speaks to urgency.

**CHAIRPERSON:** Okay, so are you ...[intervenes]

**DR DE WEE:** And you have prosecutors are stabbed and magistrates are, there is nothing more urgent.

**CHAIRPERSON:** So are you saying that the one opinion would have entailed a delay?

**DR DE WEE:** Yes.

**CHAIRPERSON:** And the other opinion, implementing the other opinion would enable you to address the issues urgently?

**DR DE WEE:** That is correct, Chair.

**CHAIRPERSON:** Okay. Ms September?

**ADV SEPTEMBER:** Now that you have given the reasons why you preferred the one opinion to the other, why did you not according to the forensic reports anyway, why did  
10 the Bid Evaluation Committee – or rather, why did the Bid Adjudication Committee, sorry, not have knowledge of the National Treasury opinion which called for a readvertisement (sic)?

**DR DE WEE:** Again, I would like to draw your attention to a certain document. If you give me a moment I will just get it to you in a moment because I again want to answer Advocate September in full. Just one moment, I want to draw a certain document to your attention. Chair, can I draw your attention to a document on page 458?

20 **CHAIRPERSON:** Page 458?

**DR DE WEE:** Yes. If you look at page 460, on page 460.

**CHAIRPERSON:** Yes?

**DR DE WEE:** You will see that what I am drawing your attention to is actually the minutes of the DBAC.

**CHAIRPERSON:** Ja. Yes.

**DR DE WEE:** But I particularly want to you draw your attention to page 462 of the minutes.

**CHAIRPERSON:** Yes?

**DR DE WEE:** If you look at page 462 of the minutes, on paragraph 7.2 there is bullet one, two, three, four five. Can you see bullet 5?

**CHAIRPERSON:** Yes.

**DR DE WEE:** It reads as follows:

10           “Since it was one bidder who met the requirements  
              the department requested the advice from the  
              National Treasury and State Law Adviser.”

Are you with me, Chair?

**CHAIRPERSON:** H’m.

**DR DE WEE:** The point I am making is that the departmental Bid Evaluation Committee did bring to the attention of the departmental Bid Adjudication Committee that two opinions were sought, we never hide – we did not hide it from them, so – and remember – and later on, if we have time, I will show you the departmental Bid  
20 Adjudication Committee – and my suspicion really, is that these opinions were shared with the departmental Bid Adjudication Committee because you cannot bring this matter to the attention of the departmental Bid Adjudication Committee and not share the opinions with the departmental Bid Adjudication, so at least give us credit,

we mentioned it.

**CHAIRPERSON**: Okay.

**DR DE WEE**: It was up to the departmental Bid Adjudication Committee to say where are the opinions? Can we look at them? Can we address them. So the minutes show ...[intervenes]

**CHAIRPERSON**: Hang on Dr De Wee. The question was whether the existence of the two opinions was brought to the attention of the Bid Adjudication Committee, if I recall  
10 correctly.

**DR DE WEE**: Yes, yes, yes.

**CHAIRPERSON**: Now the document you have been reading from, you said those are minutes of – is it minutes of the Bid Adjudication Committee?

**DR DE WEE**: It is the minutes of the departmental Bid Adjudication Committee.

**CHAIRPERSON**: Yes. So what you are saying is, their minutes reveal that they were aware.

**DR DE WEE**: Thank you, Sir. Thank you, Chair.

20 **CHAIRPERSON**: Okay, alright. Ms September?

**ADV SEPTEMBER**: Thank you, Chair, if I could ask you to turn to page 466, though. It appears that this is a document dated the 10 June 2008, the purpose of the memorandum is to get the DBAC approval to proceed with the appointment of a recommended bidder and it is

accepted that at page 467 the recommendation promotes the appointment of Sondolo as the service provider for this particular contract and that the DBAC is to approve to negotiate with the supplier as recorded for the Director General – sorry, that the recommendation memorandum to the Director General be sent direct after the negotiations and that is in fact your signature on page 468, is that correct?

**DR DE WEE:** It is correct, Advocate September, but it is  
10 what I am saying – what I am agreeing to, I am agreeing to the fact that this is my signature.

**ADV SEPTEMBER:** Yes.

**DR DE WEE:** But I would like to assist the Chair and you to say you remember ago I have been repeatedly saying to the Chair there are two processes and my suspicion is that the investigators, given the way they asked their questions, they have probably confused you because the legal opinion ...[intervenes]

**CHAIRPERSON:** Hang on, Dr De Wee, Dr De Wee, please  
20 do not worry about who is confused, who is not confused. You will be asked questions, just deal with those questions. Do not think ahead of where the question is going otherwise we will spend more time than it should.

**DR DE WEE:** I apologise.

**CHAIRPERSON:** Just answer the questions that she is

putting to you.

**DR DE WEE**: I apologise, Chair.

**CHAIRPERSON**: When we get there, if we get to whatever where you think there is something you can deal with it at that stage and, as I said, if when she has finished questioning you, there is something that you think has not been covered that you believe is important, I will give you a chance to deal with it. Okay?

**DR DE WEE**: Thanks, Chair.

10 **CHAIRPERSON**: Ms September, was your question answered?

**ADV SEPTEMBER**: Yes, it is in fact his signature. Thank you so much for confirming that, Dr De Wee.

**CHAIRPERSON**: Yes, ja.

**ADV SEPTEMBER**: It is then expected that the recommendation that was made despite what you have mentioned earlier accords with what is stated in the report, in the forensic report and that is that no mention is made in here in relation to the two differing opinions and the  
20 reasons for advancing the one or adopting the one as opposed to the other on the face of it, is that correct?

**DR DE WEE**: Well, no mention is made of the legal opinions because the legal opinions were specifically for the tender to draft specifications. Remember there was a tender for 2.9 million in which consultant was appointed to

draft specifications. So the legal opinions that we spoke about earlier was specifically for that and this is the point I have straining to bring to your attention.

Now on this one, the legal opinion is not for the 600 million. There was no legal opinion obtained for the 600 million. And it was not mentioned because there was no legal opinion obtained for this, the legal opinion was obtained to appoint a consultant to draft the specifications. I have been straining to make this point.

10 **CHAIRPERSON**: Yes and I guess that the idea was that a legal opinion was required for that because when the specification is drafted sometimes that is where the corruption happens.

**DR DE WEE**: Yes.

**CHAIRPERSON**: Because then the specification might favour a particular potential bidder so that, for example, the threshold might be put too high.

**DR DE WEE**: Ja.

**CHAIRPERSON**: So that others will just not make it but  
20 only one will make it.

**DR DE WEE**: Ja. So we wanted certainty.

**CHAIRPERSON**: Ja. Ms September?

**ADV SEPTEMBER**: Can I then ask you to turn to page 484 please? Paragraph 2.2 – sorry, clause 2.2 on page 484 which is the SLA informs at the third line that – towards



the end, that:

“The parties agree that negotiations may take place in terms of the changed control policy with regards to either the bid price, the number of facilities or the specification of the services.”

**CHAIRPERSON**: Hang on, Ms September, hang on. Tell us first that you are still reading on a particular document. This is still the agreement that we dealt with earlier on, is  
10 that right?

**ADV SEPTEMBER**: Correct, Chair, the 601 million service level agreement.

**CHAIRPERSON**: Ja, okay, and you are reading from what paragraph, 2.2?

**ADV SEPTEMBER**: Clause 2.2.

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

**ADV SEPTEMBER**: Clause 2.3 identifies certain pilot sites for the project which are essentially six courts in particular paragraph 2.3.1 informs:  
20

“Due to the incomplete service specifications in the bid document the parties have agreed that the contractor will conduct a comprehensive audit at the pilot sites to establish the principal security requirements in general. The parties recognised that this

will result in additional costs to both parties and in this regard the parties have agreed that the principal will be liable for the costs of any additional equipment that may be required but that the contractor will forfeit any labour costs related to the installation of additional equipment.”

Please explain how this contract, which was initially pegged at – in excess sorry, of 601 million went out in a  
10 tender process when it was anticipated that not to be the conclusive costs to be incurred by our public purse?

**DR DE WEE**: Thank you, Ms September, again I would like to answer this question in full with your permission. If you give me a moment, there is a document...[intervenes]

**CHAIRPERSON**: Okay, just before that...

**DR DE WEE**: Ja.

**CHAIRPERSON**: Just before that. Ms September, maybe you should have broken up your question. Are you saying that – this is Ms September, is your understanding that the  
20 price of more than 601 million that was set aside for this project for this contract was for more sites than those that are set out in clause 2.3?

**ADV SEPTEMBER**: No, Chair.

**CHAIRPERSON**: What...

**ADV SEPTEMBER**: The contract purports to present that

the contract value of 601 million was specifically to 127 facilities but it certainly did not end there, it was anticipated at least in paragraph 2.3.1 that the specifications that were actually required was beyond that which had been catered for and so certainly the containment of costs for purposes of procurement is questioned as to what extent it would have been known when this procurement process began and the deviations which inevitably followed from it, Chair.

10 **CHAIRPERSON:** Well, I do not understand that. If you said the project – the cost of 601 million and more was for 100 courts to be covered but the contract talks about less but the price remained at more than 600 million I would understand but you seem to be saying the sites went up beyond what they had been contemplated and the price remained the same. Is that right?

**ADV SEPTEMBER:** Maybe let me ask the question differently, Chair.

**CHAIRPERSON:** Ja, break up – ja, ask them, break the  
20 questions up, Dr De Wee will you be able to give you the information.

**ADV SEPTEMBER:** Thank you. Dr De wee, were additional costs incurred over and above that which was contemplated as 601 million?

**DR DE WEE:** Advocate September, again I would like to

address this question in full because I think it needs a full response.

**CHAIRPERSON**: Yes, but let us find out first before you go further because I need to follow. The price that was placed on this project by the department, that was – was that just over 601 million? Let me start there.

**DR DE WEE**: Originally the 600 million was for 127 courts.

**CHAIRPERSON**: 127 courts.

**DR DE WEE**: 127 courts.

10 **CHAIRPERSON**: Yes.

**DR DE WEE**: But there were delays of about 13 months, that happened.

**CHAIRPERSON**: Yes.

**DR DE WEE**: And ...[intervenes]

**CHAIRPERSON**: The quotations that had been given were overtaken by inflation [inaudible – speaking simultaneously]

**DR DE WEE**: Yes, there were inflationary costs, so ...[intervenes]

20 **CHAIRPERSON**: The costs had to be adjusted.

**DR DE WEE**: Yes, Chair. So when I saw I want to respond in full it is because I want to give you a full picture.

**CHAIRPERSON**: Yes but do you think ...[intervenes]

**DR DE WEE**: Of how the picture changed in the 18 months.

**CHAIRPERSON:** But you do not need for now to tell me more than what you have told me.

**DR DE WEE:** Okay.

**CHAIRPERSON:** You see, when you say initially it was 127 courts and we are talking of about – we are talking about R601 million or thereabout but there was a delay and the delay pushed the costs high.

**DR DE WEE:** Yes.

**CHAIRPERSON:** Even if you do not tell me to how much,  
10 already that gives me an answer, you know?

**DR DE WEE:** Thank you, Chair, okay.

**CHAIRPERSON:** Or so – ja, then you wait whether we are asking you about more details about the delay and so on. Okay, alright, Ms September, continue?

**ADV SEPTEMBER:** So with the change that was done, with the additional costs that were incurred, were there proper approvals that were obtained for those additional costs, Sir?

**DR DE WEE:** If you look at the SLA and if – again I do not  
20 want to ...[intervenens]

**CHAIRPERSON:** That is the agreement we are talking about?

**DR DE WEE:** Yes.

**CHAIRPERSON:** Ja.

**DR DE WEE:** If you look at the SLA, let me tell you where

the SLA is. The SLA provided change control policy.

**CHAIRPERSON:** Yes.

**DR DE WEE:** And change control policy provided for variations to be discussed.

**CHAIRPERSON:** Ja, yes.

**DR DE WEE:** And if you look at the change control policy because of all those variations which were prompted by the sectors I wanted to take you through, Chair and because of the delays it obviously affected the price. Instead of  
10 implementing this project in 127 courts we ended up with 95 courts.

**CHAIRPERSON:** Ja, in order to stay within the costs.

**DR DE WEE:** To stay within the costs and because of the variations.

**CHAIRPERSON:** Yes.

**DR DE WEE:** But the reasons for those variations were in the outline I wanted to give you earlier but maybe with time you will allow me.

**CHAIRPERSON:** Ja, it might not be necessary, just  
20 depends.

**DR DE WEE:** Ja.

**CHAIRPERSON:** So – but you were referring to the agreement. Was there a provision in the agreement that governed delays that could impact on costs? In other words did the agreement say if there are delays which end

up affecting costs this is how we will deal with that situation.

**DR DE WEE:** Yes, the SLA does provide for a change control policy.

**CHAIRPERSON:** Ja.

**DR DE WEE:** And in addition it provide a governance structure.

**CHAIRPERSON:** Yes.

**DR DE WEE:** So that when there are such delays or  
10 difficulties, negotiations between the various stakeholders.  
In this case between the principal, which shall be the department, the service provider – remember we even went so far as appointing the IDT as an implementing agent, as a project manager. So negotiations will take place within that to discuss those variations.

**CHAIRPERSON:** Ja.

**DR DE WEE:** And by – ja, let me stop there because you have advised – ja, let me just stop there.

**CHAIRPERSON:** Ja, okay. Ms September?

20 **ADV SEPTEMBER:** Dr De Wee, what was the value of the deviations that were effected to this contract, do you know?

**DR DE WEE:** You know, from the ...[intervenes]

**CHAIRPERSON:** Hang on, hang on, Dr De Wee. Ms September, you were dealing with the escalation of cost

that were caused by delays. You are now asking about deviations and costs. Now deviation in the context of procurement has a certain meaning, are you talking about the escalation of costs or are you talking about deviation from procurement processes?

**ADV SEPTEMBER:** There was – it is understood that there were certain scope deviations which attracted a cost to the department. My question to Dr De Wee, which he has still not answered is whether or not, though change to change  
10 to the scope and the cost associated with that, was properly approved. Since he has not ...[intervenes]

**CHAIRPERSON:** No, no, hang on, hang on, hang on, do not be unfair to Dr De Wee. Ja, you are combining deviations and other things.

If you talk about a broadening or widening of the scope of the work, let us call it that. If you talk about deviations, that is normally understood in the context of procurement to say – to talk about a departure from normal procurement processes. If you talk about escalation of  
20 costs, talk about escalation of costs. So when you talked about deviation, where you talk about deviation as I – as we understand it from normal procurement processes or were you talking about something else?

**ADV SEPTEMBER:** There were two incurrences, Chair, which attracted a cost according to the report and perhaps



I could take you to page 439.

**CHAIRPERSON:** Yes but you can tell me without going to the page to say this is what you meant, that is what I want, what did you mean?

**ADV SEPTEMBER:** More costs that were incurred and ...[intervenes]

**CHAIRPERSON:** Sorry?

**ADV SEPTEMBER:** And there were also scope deviations. The scope deviations in particular attracted a substantial  
10 amount of money.

**CHAIRPERSON:** What do you mean scope deviation? Broadening of the scope of the project of the work?

**ADV SEPTEMBER:** If I could take you quickly then to page 439?

**CHAIRPERSON:** 439?

**ADV SEPTEMBER:** Yes.

**CHAIRPERSON:** Ja?

**ADV SEPTEMBER:** Clause 4.5.5, second line:

20 “We established that the cost of the 32 court buildings where no service were delivered amounts to 177 million. This implies that the actual cost overruns of the additional work performed by Sondolo amounted to 177 million. The DOJ therefore incurred unauthorised expenditure with no approval as no approval was obtained from DBAC or

the DG for the scope deviations which amounts to 177 million.”

**CHAIRPERSON:** Yes but I want to know what is your understanding of what this means, these scope deviations?

**ADV SEPTEMBER:** The scope deviations, as it is understood to be, is that of the initial 127 court buildings there were seven, for example, that were substituted with other court buildings. In relation to additional costs, there were comprehensive audits that were performed at the six  
10 pilot projects which are the six courts, four magistrate, two high courts, at an unknown additional cost to the Department of the Justice. My question is then [indistinct]

**DR DE WEE:**

**CHAIRPERSON:** No, no, no, I do not want your question yet, I just want to make sure I understand what you understand by what they say here, deviations. Are you talking about the adding of work to what had been agreed, putting in, adding more courts, for example, or are you simply talking about the fact that court A and court B were  
20 included originally but they were then excluded and court D and court E were put in in their place?

**ADV SEPTEMBER:** Both, Chair. On the one hand ...[intervenes]

**CHAIRPERSON:** Ja, let us not call it deviation. It is – if you are adding, at least talk about broadening the scope

and adding more courts and if it is replacing one court with another, let us just call it that. You know, they use deviation here – in procurement, deviation has a certain meaning. Okay, so with that understanding, what is your question?

**ADV SEPTEMBER:** Additional costs of R177 million was incurred, Dr De Wee. Was proper procedures followed to incur this expense?

**DR DE WEE:** My understanding, Chair, is that proper  
10 procedures were followed and they were followed in this manner, if I may respond?

**CHAIRPERSON:** Ja.

**DR DE WEE:** Can I draw your attention, Chair, to page 504?

**CHAIRPERSON:** Yes. 504?

**DR DE WEE:** 504. Now 504, it established the change control policy.

**CHAIRPERSON:** Ja.

**DR DE WEE:** And as you can see, schedule 1 of the  
20 service level agreement that has been signed.

**CHAIRPERSON:** Yes.

**DR DE WEE:** It provides for variations to be dealt with. I do not know if you want me to go through the entire list, but that is what it is does.

**CHAIRPERSON:** No, not really, ja. Variations, I take it,

refers to all types of variations including variation of scope.

**DR DE WEE**: Absolutely.

**CHAIRPERSON**: Yes, okay.

**DR DE WEE**: Absolutely. I also want to bring to your attention paragraph 506.

**CHAIRPERSON**: Paragraph or page?

**DR DE WEE**: No, no, page 506, my apologies, Chair.

**CHAIRPERSON**: Ja, yes okay.

10 **DR DE WEE**: You know my English is particularly bad, sincere apology for that. Page 506.

**CHAIRPERSON**: Yes.

**DR DE WEE**: Page 506 is contract government structure that has been established by SLA. Can I just quickly read through the functions?

**CHAIRPERSON**: Ja.

**DR DE WEE**:

20 “The functions of the steering committee shall be to provide a means for the joint review of issues relating to all day-to-day aspects of the performance of services pursuant to this agreement.

To provide a forum for joint strategic discussion and possible variations of this agreement to reflect more efficient

performance of this agreement.

To provide a means of agreeing change proposals and, in certain circumstances, pursuant to the dispute resolution procedure to provide a means of resolving disputes or disagreements between the parties.”

But it will be helpful, Chair, if this memo can be read – just one moment, Chair? It will be useful if it can be looked at as well. It will be useful if it can be looked at against the  
10 memo. If I can draw your attention to page 541 of the documents and this is the point I had wanted to make here.

**CHAIRPERSON**: It is 541 of the file?

**DR DE WEE**: 541, yes.

**CHAIRPERSON**: Yes?

**DR DE WEE**: And I would like to draw your attention to 543. If you can go to 543.

**CHAIRPERSON**: Page 543?

**DR DE WEE**: Yes, 543.

**CHAIRPERSON**: Okay.

20 **DR DE WEE**: Now can we start in paragraph 3.2?

**CHAIRPERSON**: This is once again the memo that was – that came from risk management in the Department of the Justice?

**DR DE WEE**: Yes, yes, yes.

**CHAIRPERSON**: And it was addressed to the DG via – to

more other people.

**DR DE WEE:** Yes.

**CHAIRPERSON:** Dealt with ...[intervenes]

**DR DE WEE:** With your permission I really would like ...[intervenes]

**CHAIRPERSON:** Hang on one second? That dealt with the maintenance and support for national security infrastructure in [inaudible – speaking simultaneously] with this.

10 **DR DE WEE:** That is correct, Chair, that is correct, Chair.

**CHAIRPERSON:** Yes, okay. Yes, now you can ...[intervenes]

**DR DE WEE:** I really want to go into – so that we have a picture.

**CHAIRPERSON:** Ja.

**DR DE WEE:** Of what motivated the variations.

**CHAIRPERSON:** Yes, okay.

20 **DR DE WEE:** And what motivated the change of scopes to the point that instead of doing 127 courts we ended up with 95 and we end up in a situation where 32 were not done amounting to the 177 million that Advocate September is talking about. So if you allow – if I may beg your indulgence.

**CHAIRPERSON:** Yes, I will allow you but just so that also whoever is watching or listening can understand. One,

originally the idea was that this project would involve 127 courts.

**DR DE WEE**: Correct.

**CHAIRPERSON**: Right. At a certain stage you had 95 courts.

**DR DE WEE**: Yes.

**CHAIRPERSON**: Was that the final number of the courts that ultimately benefited from this project?

**DR DE WEE**: That is correct.

10 **CHAIRPERSON**: That is correct.

**DR DE WEE**: Yes.

**CHAIRPERSON**: So a certain numbers of courts who originally may have been intended to benefit did not benefit.

**DR DE WEE**: 32 in particular, yes.

**CHAIRPERSON**: 32 in particular.

**DR DE WEE**: Yes.

**CHAIRPERSON**: And the price that had been originally put aside or allocated – or the budget for this project  
20 stayed the same or did not stay the same?

**DR DE WEE**: It did not stay the same.

**CHAIRPERSON**: Yes, it increased.

**DR DE WEE**: In fact there is a portion I will show you of the forensic audit report.

**CHAIRPERSON**: Yes.

**DR DE WEE:** Where it is recorded what was eventually transferred to the IDT as an implementing agent.

**CHAIRPERSON:** Yes, okay.

**DR DE WEE:** From what I saw it is certainly no long 600 million.

**CHAIRPERSON:** Yes.

**DR DE WEE:** Because of budget constraints, delays, inflationary costs and so on.

**CHAIRPERSON:** Ja, it ended up being how much if you  
10 are able to say?

**DR DE WEE:** Yes, it actually ended up being less.

**CHAIRPERSON:** Being less, okay that ...[intervenes]

**DR DE WEE:** I stand to be corrected.

**CHAIRPERSON:** That is fine.

**DR DE WEE:** But it was something in the region of 567 million.

**CHAIRPERSON:** That is fine. You see ...[intervenes]

**DR DE WEE:** Instead of 601 million.

**CHAIRPERSON:** It is important to have that framework to  
20 say this is what we ended up with, this is what we had in mind when we started, this is what we ended up with and then you can come in now to say this is how we got to that point.

**DR DE WEE:** Thank you, Chair.

**CHAIRPERSON:** Okay, go ahead, Sir.



**DR DE WEE:** Can I proceed?

**CHAIRPERSON:** Ja.

**DR DE WEE:** Thank you. Paragraph 3.2, Chair, on page 543.

**CHAIRPERSON:** Ja.

**DR DE WEE:** It states the following:

10           “Programme and project executions faces challenges and other risk-contributing factors. Even before the commencement of the project and during the project initiation, implementation and commissioning phases, there were a number of challenges experienced by the department and the appointed service provider...”

Like the signing of the service level agreement, as I indicated earlier, Chair.

20           “...took more than 18 months due to internal frustrations. As well as limited cooperation from the Department of Public Works and South African Police Services as major stakeholders. After 18 months the Director General appointed IDT to assist under the same umbrella contract covering other infrastructure projects. There were numerous meetings that were held among all the

stakeholders at DPW, South African Police Services, Independent Development Trust and departmental offices. The intervention of the Director General and Chief Operations Officer was requested and they also had meetings with them including correspondence via emails and formal letters. All the meetings were to push for the signing of the service level agreement and the project implementation thereof. All stakeholders. ISM was our ICT unit in the Department of the Justice, facilities was our facilities chief directorate in Justice. Security, National Prosecuting Authority, South African Police Service, Regional Offices, National Department of Public Works and Regional Department of Public Works, the IDT legal team service provider and the department's legal counsel and State Attorneys were represented in all meetings for the finalisation of the service level agreement. After signing the service level agreement during the approach planning meetings it was decided to conduct a rapid risk assessment because of the time that has elapsed between the request

for proposals, the tender and the signing of the service level agreement. During the ongoing rapid risk assessments that were conducted, the reassessments for each site project definition report and the meetings held with the regional heads, judiciary, prosecutors, South African Police Services, Provincial Department of Public Works, Independent Development Trust and relevant staff members in 2010/2011.”

The following was discovered, Chair:

(a) Some of the material that was originally specified would no longer suit the building design either due to new infrastructural changes, alternate installations or DPW projects or aging infrastructure, judges’ chambers, magistrates’ secure passages and chambers, doors leading to the benches, server rooms, access to the cash halls, counters in-depth trays, bulletproof glasses, protection of record rooms/libraries, Prisoners Friend areas, cell areas, inter-local floating(?) areas, consultation rooms, national and

provincial control rooms were not adequately covered for effective and efficient security. In some offices and surroundings, new risk have emerged either due to the establishment of new mines and/or population growth in the areas or new crime trends or new municipal boundaries that led to community protest. There were a number of offices where the building plans could not be supplied by the Department of Public Works or could not be found as some of them were last seen during the old TBVC states. In other words, many courts did not have building plans and these building plans had to be drawn from scratch. There were offices where Department of Public Works had changed focus in terms of REM(?) project or building...”

My apologies, Chair, I just need to take a bit of water. Now I am saying:

“There were offices where Department of Public Works had changed focus in terms of REM(?) project or building

refurbishment project which should affect security installations. There were offices that were built on rocky areas which were not initially indicated as such which would affect the designs and hence(?) tremendous in terms of costs and material thereof. The fire intrusion and detection systems were also not covered adequately to meet the building standards of safety. The department assumed there will be enough space and security for the safety of the equipment to be installed, some buildings were declared as heritage buildings and this would require other processes and special applications and material from various heritage councils throughout the country. It was noted during the implementation phase that the heritage councils do not have a standard operating model which was another twist for the department and the implementing agents, in this case the Independent Development Trust and Sondolo IT. There were offices, Chair, that took

more than nine and a half months to get heritage approvals and had specialised equipment which could not be duplicated or transferred to other courts as they are uniquely designed. The FIFA 2010 offices...”

And this was a time of preparing for the 2010 World Cup which South Africa was requested by the international community to host.

10 “The FIFA 2010 offices were to be prioritised in terms of basic safety and security infrastructure needs and presidential/ministerial agreements with the international community. The departmental air conditioners were not serviced by the Department of Public Works on time and this affected the servers and control room equipment. Some of the working air conditions need to match the specification of

20 the server room or/and control rooms and some of the departmental doors where security magnetic locks were to be installed were not high security doors to carry magnetic equipment.”

Now the point I am making, if you take these factors

and if you take the provisions of the SLA in terms of change control policy and the functions of the structure that was created(?) you can understand why there were these costs imposed by inflationary constraints, Chair. Thank you, Chair.

**CHAIRPERSON**: But your point is not that the costs went higher than originally contemplated, you say you ended up spending less than had originally been budgeted.

**DR DE WEE**: Yes, because ...[intervenes]

10 **CHAIRPERSON**: And these are some of the reasons.

**DR DE WEE**: Yes, Chair.

**CHAIRPERSON**: Ja, okay. Ms September.

**ADV SEPTEMBER**: Dr De Wee, my question is very simple. The additional work which cost R177 million, was that cost approved by the departmental Bid Adjudication Committee or even the Director General, for that matter?

**CHAIRPERSON**: Ms September, Mr De Wee says ultimately the expenditure was 500 and something million less than over 600 million. Is that something you accept or  
20 is that something you do not accept?

**ADV SEPTEMBER**: I do not ...[intervenes]

**CHAIRPERSON**: Because I want to understand, you are saying additional, I want to understand where that comes from because if you accept what he is saying, I am not sure that it would be additional but if you do not accept

then obviously it would be additional.

**ADV SEPTEMBER:** The forensic report identifies that there was certainly additional work which was not accounted for in the contract value and that additional cost amounted to 177 million. I can direct you to page 440 at clause 4.61 which informs that there was this additional cost which read together with clause 4.55 against talks about it as an additional cost.

**CHAIRPERSON:** Ja, let us take it this way, cost will be  
10 additional if there is more work added to work that had originally been agreed or there might not be additional work but the cost might be additional while the work remains the same. Is what you are talking about a situation where there was additional work which fell outside of the original scope that was added which came with additional costs or are we talking about additional costs in relation to the same amount of work?

**ADV SEPTEMBER:** The former.

**CHAIRPERSON:** The former? Okay. The additional work,  
20 was it because courts were added?

**DR DE WEE:** There was additional audits that were done, Chair, there were swapping out of certain buildings, so there were certain changes that were made to the contract itself. The contract as contemplated at the time of signing it was for 601 million, that is the amount that went through



the process. There was an additional cost incurred of 177 million which I am asking Dr De Wee to clarify as to whether or not that went through another procurement process as such because it was not contemplated ...[intervenes]

**CHAIRPERSON:** I want to understand it first, I want to understand. Let us say the original amount was 601 million.

**ADV SEPTEMBER:** Yes, Chair.

10 **CHAIRPERSON:** Okay. If ultimately they used less than 601 million it cannot be additional costs, there cannot be additional costs. If, however, what has happened is that they were supposed to spend 601 million on five courts and those courts were a, b, c, d, e, but what has happened is that d and e, courts d and e fell out and then they brought in f and going and it did not affect the costs, maybe it would not be an issue but maybe it would, which situation of these are we talking about?

20 **ADV SEPTEMBER:** It is understand, according to the report, Chair, that it is the latter. There is differentiation that has been made regarding the contract value versus the amount of money that would have in fact been paid.

**CHAIRPERSON:** Yes but let us leave out the contract value for now. Is it certain courts that were in the list were excluded and new courts were put in, were brought in in

their place, is that what the report is saying?

**ADV SEPTEMBER:** There was a certain swapping out.

**CHAIRPERSON:** Ja.

**ADV SEPTEMBER:** There was also additional work that was done and ...[intervenes]

**CHAIRPERSON:** Okay, let us talk about the change of courts. Is that problematic in terms of procurement?

**ADV SEPTEMBER:** Chair, could I please ask for indulgence?

10 **CHAIRPERSON:** Ja, okay, you need five minutes? Okay, I think Ms September needs to attend – I think there is something in your eye. Ja, okay, let us take five minutes adjournment.

**ADV SEPTEMBER:** I am sorry.

**ADV MATEME:** Thank you, Chair.

**CHAIRPERSON:** Okay.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

20 **CHAIRPERSON:** Let me allow you to continue. I propose to give you about ten minutes to complete. Is that fine?

**ADV SEPTEMBER:** No, it is not, Chair. There are certainly other aspects that need to be dealt with in relation to at least one of the other contracts.

**CHAIRPERSON:** Tell me what they are.

**ADV SEPTEMBER:** The other contract is one which has

already been alluded to by the witness and it relates to the maintenance contract and particularly his involvement in the reprioritisation of funds which was costed at about R 373 million in addition to the R 601 million contract.

**CHAIRPERSON:** No, I will give you ten minutes. Anything that you have not been able to cover, you can send questions to Dr De Wee and he can answer by way of an affidavit. So, let us try and finish within ten minutes. Then I will give him, after that, I will give his attorney if he  
10 wants to re-examine, time to re-examine and I will give Dr De Wee time to deal with whatever he has not been able to deal with.

In other words. Any other questions that you might not be able to cover here orally, can be put to him in writing after today and he can answer by way of an affidavit.

**ADV SEPTEMBER:** As you wish, Chair.

**CHAIRPERSON:** H'm.

**ADV SEPTEMBER:** Just to then put the particular issue  
20 before the short adjournment to be had.

**CHAIRPERSON:** Ja.

**ADV SEPTEMBER:** The questions that have been made are reliant on a forensic report which informed that we spoke particularly of the R 601 million by virtue of there being an – by virtue of there being a failure to ensure

proper and unbiased specification when it was compiled for advertisement. Additional costs were incurred to the tune of R 177 million for which proper procedures were followed. And that is essentially what the forensic report had informed which this witness appears to have a different version to.

**CHAIRPERSON:** Ja. Put your questions. As I say, I am giving you ten minutes. So, put your questions. Note questions that you have not been able to put so that you  
10 can put them in writing to Dr De Wee and he can depose to an affidavit and give answers.

**ADV SEPTEMBER:** Dr De Wee, 127 facilities were contracted. Only 95 were complete. Why did Sondolo IT received full payment for services done?

**DR DE WEE:** Chair, with your permission.

**CHAIRPERSON:** Ja.

**DR DE WEE:** Can I draw your attention to page 439?

**CHAIRPERSON:** [Indistinct] [distortion present]

**DR DE WEE:** And in page 439 ...[intervenes]

20 **CHAIRPERSON:** Yes ...[intervenes]

**DR DE WEE:** Can I ...[intervenes]

**CHAIRPERSON:** Just first tell us what document – what the document is and then proceed to tell us what part of – what paragraph we must look at.

**DR DE WEE:** The report I am referring you, Chair, is the

forensic audit report commissioned by the Department of Justice that Advocate September has been referring to.

**CHAIRPERSON**: Oh, okay. Yes, okay. Page 439.

**DR DE WEE**: Yes.

**CHAIRPERSON**: What paragraph?

**DR DE WEE**: If you can focus on paragraph 4.54?

**CHAIRPERSON**: Yes, okay.

**DR DE WEE**: Can I read that paragraph for you?

**CHAIRPERSON**: Yes, sure.

10 **DR DE WEE**: Okay.

“We noted from the IDP programme project report under Item 7 under the subheading knows, the following under paragraph 1 which states:

Security installation

The IDT has submitted trenches requested for installation for the overall amount of R 601 863 632.22.

However, the monies that have been transferred by the Department of Justice and Constitutional  
20 Development under NSI...”

I think NSI stands for National Security Infrastructure Programme.

“...is R 567 649 108.29 and currently the overall total expenditure is R 5569 04...”

And so on. Remember the point I was making earlier that

because of inflationary costs and for the many reasons I raised relating to the findings of the Rapid Risk Assessment and so on. Ultimately, it looks like R 600 million was not spent. It was this amount that was spent. It is the forensic auditors themselves saying that.

**ADV SEPTEMBER:** And so, is this amount then the amount used ...[indistinct] to be what was paid for the 95 courts as supposed to the 127 originally contracted?

**DR DE WEE:** I said that is what the forensic auditors are  
10 confirming.

**ADV SEPTEMBER:** Okay. Can I then quickly? For the additional ...[intervenes]

**DR DE WEE:** And again, maybe the point I want to make, again on the R 177 million. My understanding is that, on the R 177 million, is the cost of 32 courts as captured in paragraph 4.55. And maybe – I do not know. I understand that to be an opportunity cost rather than the actual payment. I do not know. And on the question – ja, let me stop there, Chair.

20 **CHAIRPERSON:** H'm.

**DR DE WEE:** I think I have made my point.

**CHAIRPERSON:** H'm.

**ADV SEPTEMBER:** Can I ask you to turn to page 605, please?

**DR DE WEE:** [No audible reply]

**CHAIRPERSON:** Yes?

**ADV SEPTEMBER:** Can you confirm, sir, that at page 605, it is the bid evaluation and recommendation regarding the 24-hour security guarding and special services for a period of 24-months at various offices within 9 provinces which is dated 9 December 2010.

**DR DE WEE:** Through you, Chairperson. Advocate September, what page are you referring to?

**ADV SEPTEMBER:** Page 605.

10 **DR DE WEE:** 605? Okay.

**ADV SEPTEMBER:** H'm.

**DR DE WEE:** Yes, Advocate September?

**ADV SEPTEMBER:** And then, can I ask you to turn to page 630?

**DR DE WEE:** 630?

**ADV SEPTEMBER:** Yes.

**DR DE WEE:** Six, three, o?

**ADV SEPTEMBER:** Yes.

**DR DE WEE:** Oh, six, three, o. Okay.

20 **ADV SEPTEMBER:** Are any of these signatures on this page yours?

**DR DE WEE:** Advocate, just a moment. I am trying to get there. I apologise for not being as quick as you are.

**ADV SEPTEMBER:** [No audible reply]

**DR DE WEE:** Yes, the signature on that page is definitely

mine, Advocate.

**ADV SEPTEMBER**: Which signature is that?

**DR DE WEE**: The last one. The last one under acting Director General, is definitely mine.

**ADV SEPTEMBER**: So, at this particular date, you were the COO of the Department of Justice but you were acting as the Director General and in so doing approved this particular contract?

**DR DE WEE**: That is correct, Advocate September.

10 **ADV SEPTEMBER**: To whom was the contract awarded?

**DR DE WEE**: Let me see.

**ADV SEPTEMBER**: May to help you. You can turn to page 627.

**DR DE WEE**: Ja, I will be with you in a moment, Advocate September.

**ADV SEPTEMBER**: [No audible reply]

**DR DE WEE**: 627. Yes, 627. Yes, what is your questions, Advocate September?

20 **ADV SEPTEMBER**: The name of the company that got the award.

**DR DE WEE**: The name of the company that got the – h'n-'n, h'n-'n, h'n-'n. There is something wrong here. There is just something definitely wrong. Chairperson?

**CHAIRPERSON**: H'm?

**DR DE WEE**: There is a... [laugh] No, Chairperson.



The...

**CHAIRPERSON:** H'm?

**DR DE WEE:** If you look on page 626.

**CHAIRPERSON:** 626.

**DR DE WEE:** Ja, go to page 626.

**CHAIRPERSON:** Ja?

**DR DE WEE:** Under... You see under paragraph 8, under options available.

**CHAIRPERSON:** Ja?

10 **DR DE WEE:** You see what has happened there? My former colleagues in the Commission.

**CHAIRPERSON:** H'm?

**DR DE WEE:** They have blotted out other companies here and left the name of one company.

**CHAIRPERSON:** Ja?

**DR DE WEE:** You can see that? And it gives ...[intervenes]

**CHAIRPERSON:** Ja.

20 **DR DE WEE:** And it gives an impression ...[intervenes]

**CHAIRPERSON:** Ja?

**DR DE WEE:** ...that only BOSASA was awarded the tender.

**CHAIRPERSON:** H'm?

**ADV SEPTEMBER:** And that is the question ...[intervenes]

**DR DE WEE:** Just ...[intervenes]

**ADV SEPTEMBER:** [Indistinct] [distortion present]

**CHAIRPERSON:** Let him finish. Let him finish.

**ADV SEPTEMBER:** Okay.

**DR DE WEE:** Can you see that, Chair?

**CHAIRPERSON:** Ja?

**DR DE WEE:** Now I am saying the blotting out does not give the full picture because you have blocked out other companies. And the point I am just making. When this  
10 tender was awarded, 2010 tender, we operated on the basis of various service providers sharing the contracts, it specific provinces.

**CHAIRPERSON:** Yes.

**DR DE WEE:** Certainly, if you read the memo, you will see Option 3. Option 3 was where BOSASA was going to be very dominant. If I remember well. It was going to get 7 out of  
20 9 provinces.

**CHAIRPERSON:** H'm.

**DR DE WEE:** 1, 2, ,3, 4, 5, 6, 7. Ja, it was going to get 7 out of 9 provinces but if you ...[intervenes]

**CHAIRPERSON:** [Indistinct]

**DR DE WEE:** Option 2 was going to... So when Advocate

September asked me to which company this was given. Logically, because other companies have been blotted out, the hope and the aspiration of advocate is that I will say BOSASA.

**ADV SEPTEMBER:** No ...[intervenes]

**DR DE WEE:** And I am saying this is ...[intervenes]

**CHAIRPERSON:** Oh, no, no, no. Dr De Wee, do not be unfair to Ms September and do not be unfair the investigators because you give the impression as if they  
10 have devious motives for blocking here. I do not think they had devious motives. You remember earlier on I was complaining, saying they blocked even the names of people who were in the Evaluation Committee with you?

**DR DE WEE:** Yes.

**CHAIRPERSON:** And give your name only.

**DR DE WEE:** Yes.

**CHAIRPERSON:** That even your name is blotted.

**DR DE WEE:** Yes.

**CHAIRPERSON:** And I was saying there is no need.

20 **DR DE WEE:** Yes.

**CHAIRPERSON:** You remember me saying that?

**DR DE WEE:** Yes, you did say that, yes.

**CHAIRPERSON:** Yes, and I think this is what has happened

here too. I think that the thinking must have been

something  
along these lines. Maybe those people have not been  
given  
notice.

**DR DE WEE**: Oh, okay.

**CHAIRPERSON**: So, their names, maybe, should not be  
mentioned and therefore – because this is going to be  
public, let us block out their names.

**DR DE WEE**: I see.

10 **CHAIRPERSON**: Now also here. I suspect that that is the  
thinking that, you know, BOSASA is the subject of the  
investigation. So there is no problem. But maybe these  
other entities have not been given notice. Therefore, let  
us

block their names. You understand? That is what I think.

**DR DE WEE**: Okay.

**CHAIRPERSON**: That is what I think.

**DR DE WEE**: Ja.

**ADV SEPTEMBER**: Yes, Chair.

20 **CHAIRPERSON**: I do not think it is because they wanted  
to... [laughs] ...have a motive to say it must look like  
BOSASA is the only one but what you are supposed  
...[intervenes]

**DR DE WEE**: Ja.

**CHAIRPERSON**: What you are supposed to say when the

question is. To whom was that tender given? If it was given to one. You are supposed to say it was given to this entity. If it was given to two or whatever the number is because they are supposed to share, you say it was given to this one and another company. You might mention it, you might not mention it but you say they were sharing. You say the name of the other company is blocked; you know.

**DR DE WEE**: Thank you Chair for that clarification.

10 **CHAIRPERSON**: Yes.

**DR DE WEE**: It is just when Advocate September was raising the question, it did not come out that way but ...[intervenes]

**CHAIRPERSON**: Yes, but you could it put it that way.

**DR DE WEE**: Okay. [laughs]

**CHAIRPERSON**: If you could say, the position is the following, the tender was given to so and so, either alone or with so and so but so and so's name is not here, or another company, they were supposed to share, that name  
20 has been blocked. That kind of thing. So...

**DR DE WEE**: Okay.

**CHAIRPERSON**: Ja.

**DR DE WEE**: Ja.

**CHAIRPERSON**: Okay, so ...[intervenes]

**DR DE WEE**: I am saying the following.

**CHAIRPERSON:** H'm?

**DR DE WEE:** My recollection of this is that it was not BOSASA alone that was given this tender. If you look at the memo – and I know you spoke about time constraints.

**CHAIRPERSON:** Ja.

**DR DE WEE:** If you read the memo.

**CHAIRPERSON:** Ja?

**DR DE WEE:** What happened in this memo was that ...[intervenes]

10 **CHAIRPERSON:** Ja.

**DR DE WEE:** ...there were three options given.

**CHAIRPERSON:** Ja.

**DR DE WEE:** In fact, I remember the DVAC ...[intervenes]

**CHAIRPERSON:** Ja?

**DR DE WEE:** ...prevailed over DEBC.

**CHAIRPERSON:** Yes.

**DR DE WEE:** And said to DEBC: Hey, do not give us these two options. We do not like them.

**CHAIRPERSON:** H'm.

20 **DR DE WEE:** Because they represent some kind of monopoly.

**CHAIRPERSON:** H'm.

**DR DE WEE:** Let us go with three options so that the department can have – can be able to exercise its options about what to do. And I know that Option 3 was

particularly not chosen because BOSASA was going to be dominant in 7 provinces out of 9. And the consequence was that the memo recommended Option 2. So – and there are a number of reasons. I can go into them.

**CHAIRPERSON:** Ja.

**DR DE WEE:** But I am saying, certainly it was not BOSASA alone.

**CHAIRPERSON:** Ja.

**DR DE WEE:** There was sharing. If you can allow me? I  
10 may find a memo somewhere.

**CHAIRPERSON:** Ja.

**DR DE WEE:** Giving detail. But that is the point I am making.

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

**DR DE WEE:** I can find the memo and elaborate on this.

**CHAIRPERSON:** Yes.

**DR DE WEE:** But I am guided by your time.

**CHAIRPERSON:** No, no that is fine. But – well, if  
Ms September says no but the position is that what the  
20 answer you are giving is not correct, then we can go to the  
memo.

**DR DE WEE:** No, sure.

**CHAIRPERSON:** Ja ...[intervenes]

**DR DE WEE:** I am happy, ja.

**CHAIRPERSON:** If there is no issues with the fact – your

evidence that there was sharing, then there might not be a need.

**DR DE WEE**: Ja.

**CHAIRPERSON**: But what you must feel free to do after today. If you want to. Is to, through your lawyers, send in any document that can direct attention to any documents in this file which make or support points that you think should be highlighted.

**DR DE WEE**: Thank you, Chair.

10 **CHAIRPERSON**: Ja. Okay. Ms September.

**ADV SEPTEMBER**: Just to contextualise your answer then, Dr De Wee. Your recommendation was off the back of other recommendations of, be it the Bid Evaluation Committee, the Bid Adjudication Committee, and the CFO. Is that correct?

**DR DE WEE**: That is correct, Advocate September.

**ADV SEPTEMBER**: And the option that was then elected was not focused solely for the benefit of BOSASA but for BOSASA and other companies as spread along Option 2 in  
20 – as indicated in this document. Is that right?

**DR DE WEE**: That is very important. If... Through you, Chair, can I say something?

**CHAIRPERSON**: Ja, ja.

**DR DE WEE**: This was very important because what I particularly like about this memo.



**CHAIRPERSON:** H'm?

**DR DE WEE:** It counters the narrative that BOSASA was privileged in the Department of Justice and everything was biased towards BOSASA. But this particular memo... [laughs] In fact, if you read Option 3 as opposed to Option 2. You can see, actually, it disadvantage BOSASA. It says we are going to share. We want to manage our risk as a department. So, let there be sharing.

**CHAIRPERSON:** H'm.

10 **ADV SEPTEMBER:** Is ...[intervenes]

**DR DE WEE:** And the narrative would make sense if we could have approved Option 3. You see, it will be consistent with the narrative created by Mr Agrizzi and so on to say we all favoured BOSASA but in this particular case BOSASA, in fact, was not favoured.

**CHAIRPERSON:** H'm.

**DR DE WEE:** Option 2 was basically to share with all our other people which has been the direction in which the Department of Justice and Constitutional Development has  
20 been moving towards to say: Let us move away from monopoly's. Let us make sure that we give as many service providers as possible an opportunity. Thank you, Chair.

**ADV SEPTEMBER:** So, let us move in the direction of page 386.

**CHAIRPERSON:** I give you only five minutes more from now on Ms September.

**DR DE WEE:** Chair, 386?

**ADV SEPTEMBER:** Yes. You will note that this document which is titled Budget Growth(?) – Boat(?), sorry. Briefing by the Department of Justice and Constitutional Development.

**DR DE WEE:** Sorry, I am lost. I am lost. I am lost. You say three? Three what?

10 **ADV SEPTEMBER:** Three ...[intervenes]

**DR DE WEE:** 326?

**ADV SEPTEMBER:** No, 386.

**DR DE WEE:** 386.

**ADV SEPTEMBER:** Yes.

**DR DE WEE:** Okay, just give me a moment.

**ADV SEPTEMBER:** [No audible reply]

**DR DE WEE:** Yes, I am there.

**ADV SEPTEMBER:** Okay. You confirm that you attended this meeting?

20 **DR DE WEE:** Yes.

**ADV SEPTEMBER:** [Indistinct]

[Parties intervening each other – speakers unclear]

**CHAIRPERSON:** ...and so on. Deal with that Ms September so that we all understand what meeting it is, what it was supposed to deal with and then you can talk

about who attended.

**ADV SEPTEMBER:** Thank you, Chair. So, at page 386 appears a meeting note which from Parliamentary Monitoring Group, titled Budget Boat(?), Briefing by the Department of Justice and Constitutional Development. It particularly dealt with the department's 2011 to 2016's strategic plan and budget briefing at which the Director General was present in addition to others including Dr De Wee, and there are various discussions that take place at  
10 this meeting.

If I could ask you to turn to page 391, please? Paragraph 6. I will read for the benefit of the record. It informs:

“Ms Smuts asked the department to respond to ...[intervenes]

**CHAIRPERSON:** Sorry. I am sorry. You initially said 386. Have you moved to another page?

**ADV SEPTEMBER:** Yes, Chair.

**CHAIRPERSON:** Okay.

20 **ADV SEPTEMBER:** The page I am referring to now is 391.

**CHAIRPERSON:** Okay, alright. Continue.

**ADV SEPTEMBER:** At paragraph 6, it reads:

“Ms Smuts asked the department to respond to City Press and the Rapport media reports that the department had given a contract to BOSASA

in December 2010 to the value of R 391 million over 24-months and another for R 333 million related to court security, particularly in view of the statement that the SANDF might now be asked to assist in securing courts.

10 She pointed out that BOSASA was being investigated by the SIU being the Special Investigating Unit, following allegations of corruption and the awarding of the Department of Correctional Services tenders to this company.

This matter was apparently now with the NPA.

She asked why the department appearing to be awarding contracts to the same company...”

If I can ask you to turn over to page 392 at the second paragraph? It records:

“Dr Khotso De Wee, Chief Operations Officer, DOJ and CD answered questions around the BOSASA tenders and said that:

20 “This was recently of concern to the department as well. The contract followed the normal processes of tender advertising establishment of the Bid Evaluation Committee who then made recommendations to the Bid Adjudication Committee and selecting a final bidder out of

three recommendations. The department, at one stage, had considered cancelling the contract. However, it did not do so because this company was not blacklisted, none of its directors had been charged, and a number of departments had either renewed or awarded contracts to BOSASA. The department, thus, continued with the contract”...”

It is, therefore, correct that based on this recordal that as  
10 at March 2011, you were well-informed that BOSASA was  
under investigation by the SIU for allegations relating to  
tender corruption and that the matter was with the NPA.  
Do you confirm that?

**DR DE WEE**: Well, yes, the record suggest so, Chair.

**ADV SEPTEMBER**: Okay. Then can I ask you to please  
turn to page 485? Let me just...

**CHAIRPERSON**: Is that connected with paragraph,  
Ms September, or not connected?

**ADV SEPTEMBER**: Sorry?

20 **CHAIRPERSON**: Is your next question connected with this  
paragraph or not connected?

**ADV SEPTEMBER**: It is connected with the next tender  
which followed this particular date.

**CHAIRPERSON**: Okay, alright. Ja, what is the page?

**ADV SEPTEMBER**: ...in the spirit of time.

**CHAIRPERSON:** Ja, what is the page? Ja?

**ADV SEPTEMBER:** [No audible reply]

**CHAIRPERSON:** What is the page number that you gave us?

**ADV SEPTEMBER:** I am just checking something quickly. At page 485.

**CHAIRPERSON:** Yes?

**ADV SEPTEMBER:** Actually...

**CHAIRPERSON:** Ja?

10 **ADV SEPTEMBER:** Actually, Chair. Absent – more time. I think, let us go then to page 541 instead.

**CHAIRPERSON:** 541?

**ADV SEPTEMBER:** H'm.

**CHAIRPERSON:** Ja?

**ADV SEPTEMBER:** This is a document that the witness actually referred to earlier.

**CHAIRPERSON:** Yes?

**ADV SEPTEMBER:** But it relates to the subsequent tender.

20 **CHAIRPERSON:** Ja?

**ADV SEPTEMBER:** The document is dated – an internal memorandum, dated 8 February 2015.

**CHAIRPERSON:** H'm.

**ADV SEPTEMBER:** It speaks to the Director General from the CFO and the subject title is; Request for Funding for

Service, Maintenance and Support for National Security Infrastructure in 95 Offices, the National Control and Summary of Business Case. Dr De Wee, is it correct that this maintenance contract related to the R 601 million tender that we spoke off this morning?

**DR DE WEE:** Yes, that is correct.

**ADV SEPTEMBER:** Okay. And is it correct that there was a query in relation to whether the original contract included or excluded maintenance for which this contract  
10 concerned?

**DR DE WEE:** Yes, I think the then Director General wanted clarification on that.

**ADV SEPTEMBER:** Yes. And if I can then take you ...[intervenes]

**DR DE WEE:** Chair, can I just say something with your permission?

**CHAIRPERSON:** Ja, ja.

**DR DE WEE:** You know there was a question that was raised earlier on the parliamentary question by the  
20 Honourable Ms Dene Smuts.

**CHAIRPERSON:** Ja.

**DR DE WEE:** I am just worried that I might forget.

**CHAIRPERSON:** Ja?

**DR DE WEE:** Is it not – can I, with your permission, just respond to that?

**CHAIRPERSON:** Ja, ja. Well ...[intervenes]

**DR DE WEE:** So that as we move to other areas, at least I would have exhausted ...[intervenes]

**CHAIRPERSON:** Ja-no, that is fine because I also have a question arising out of that but start.

**DR DE WEE:** Ja.

**CHAIRPERSON:** H'm.

**DR DE WEE:** I indicated in the response when I was in Parliament already that as far as we are concerned proper  
10 processes have been followed. And I can take you through the memo if you time permits to show what processes were followed. And by processes, I basically mean there was a proper advertisement, the BEC looked at it, the Bid Adjudication looked at it and after that, the CFO recommended it via the Office of Deputy Director General Corporate Services and then it came to the Office of the DG where I was acting at the time. And I looked at the various options, I applied my mind, and I thought it made sense, and I approved. So, basically that. But I want to  
20 draw your attention to page 412.

**CHAIRPERSON:** Is it connect with this because I ...[intervenes]

**DR DE WEE:** It is connected with.

**CHAIRPERSON:** 412?

**DR DE WEE:** Yes.



**CHAIRPERSON:** Okay, alright.

**DR DE WEE:** In 412, below paragraph C, I basically making a point that:

10 “I do not recall the SIU report being shared with me and consequently I have not read it but I am making the point that the department simply advised and insisted that relevant prescripts such as the PMFA and relevant Treasury regulations must be followed in the department’s procurement processes.

In this regard, the National Treasury’s guidelines of 2004 titled Supply Chain Management, a Guide for Accounting Officers and Authorities, provides, amongst others, in paragraph 253 that:

- In dealing with suppliers and potential suppliers, institutions should preserve the highest standards of honesty, integrity, impartiality, and objectivity.
- Be fair, efficient, firm, and courteous, achieve 20 the highest professional standards in the awarding of contracts so as to maximise value for money while adhering to international standards.
- Provide clear specifications for requirements which encourage innovation and refer, where

appropriate, to relevant technical and other standards.

- Make available as much information as suppliers need to respond to the bidding process and to define and publicised procurement contact points.
  - Manage the bidding process so that genuine competition is preserved and discrimination is avoided.
- 10
- Make available the broad criteria intended for the evaluation of bids.
  - Re-evaluate bids objectively and to notify the outcome promptly within the bounds of commercial confidentiality.
  - To debrief unsuccessful bidders of the outcome of the bidding process so as to facilitate better performance on future occasions.
  - Achieve the highest professional standards in the management of contracts.
- 20
- Paid promptly for work done in accordance to standards as set by legal and binding contract.
  - And respond promptly, courteously and efficiently to suggestions and enquiries and complaints...”

I am saying this is the Treasury guidelines on how to deal with this matter in addition to the Public Finance Management Act and its regulations. And I was saying:

10                    “If the abovementioned contracts were blocked on the basis of the SIU report and hearsay alone without any substantial evidence, there is a risk the above provisions pertaining to impartiality, objectivity, fairness, genuine competition and avoidance of discrimination were likely to be violated...”

Thank you, Chair.

**CHAIRPERSON:** Well, it connects with my question which I have raised at different hearings when we have dealt with – the Commission has dealt with BOSASA. The evidence that the Commission has heard suggest that BOSASA began to have all kinds of allegations of corruption involving it and the government departments or government entities, particularly the Department of Correctional Services long before 2010. It was in the media. It  
20 continued to be in the media, but it continued to get government contracts.

And I have been asking the question. How was it possible that an entity that was known to have all kinds of serious allegations of corruption against it – how was it possible that for so long, for so many years even with

those allegations, it continued to get contract after contract from government departments.

Now you were in a leadership position within the department. You were COO. And the issue that was raised by Ms Smuts, that we are dealing with, raises this question in a way. Why did the department continue to give contracts to an entity that is publicly associated – was publicly associated with serious allegations of corruption?

**DR DE WEE**: You want me to respond, Chair?

10 **CHAIRPERSON**: Yes.

**DR DE WEE**: Chair, I think your – I share your concern and your concern is well-placed but responding for myself and only for myself in this case because I do not have a mandate to respond to on behalf all other people or even the state. I am saying if we knew then what we know now, a different set of considerations were going to be made. But at that time, what we know now was not as clear as it is now.

20 And for me as a COO I was very concerned that we should not prejudice people merely on the basis of media perceptions because quite frankly, Chair, the media can also get it wrong.

**CHAIRPERSON**: Ja, the media can get it wrong but the media can get it right too.

**DR DE WEE**: Yes.

**CHAIRPERSON:** You agree?

**DR DE WEE:** Yes.

**CHAIRPERSON:** And in case the media is right and you continue to give contracts and tenders to this entity. Can you see what would ultimately happen? Which is what, I think, has been revealed. I mean, there is – on the evidence that has been placed before the Commission, there is absolutely no doubt that BOSASA was involved in grand corruption. It was involved in corruption of another  
10 level.

It had no qualms about using a lot of money to bribe government officials. It also, on the evidence before the Commission, bribed officials in the private sector when it was dealing a lot with the private sector in the early 2000's or thereabout or late 90's when it was, may have been known by another name then but it is the same entity. There is absolutely no doubt.

I mean, you are aware, we were shown during Mr Agrizzi's evidence, we were shown even cash. I mean,  
20 we might not be – there might only be a few government officials in respect of whom the evidence is direct that has been placed before the Commission but there is no doubt that there are many for whom provision was made for bribes.

We just do not have the evidence that they

received it but if you look at the evidence given by Mr Agrizzi and other BOSASA officials, you can see how much was been put aside just for bribes, you know. There might not just be evidence whether the people who were supposed to deliver the money to the people who have been mentioned, whether they actually delivered the money all the time, or at all. We do not know but it was involved in a lot of corruption. That is BOSASA.

And one ask the question. But when all of these  
10 allegations were in the media, should this not have been of concern to government officials? Should they not have said but you know what, really, what if these allegations are true? So, that is of concern. And of course, looking at where we are.

Another question is that should concern the Commission is. What is it that should be put in place to make sure that what BOSASA did does not get repeated by any other company in the feature? And of course, that government officials are not going to be able to keep on  
20 giving contracts to companies that face serious allegations of corruption. So...

But I put this question to you because you were senior and you were dealing with these matters to try and understand what was the situation. Now you have said, I think, if you knew then what you know now, you may have

dealt with the matter differently. That is just your answer and not the answer for other people.

But were these concerns, were these issues discussed within, for example, the Department of Justice? The concerns about BOSASA continuing to get contracts from the Department of Justice in circumstances where there were these allegations against it.

**DR DE WEE:** Chair, there were concerns but the difficulty that all of us were confronted with was that we did not  
10 have a clear legal basis to act on this matter. And like I say, if we knew then what we know now, I am sure a different set of considerations would have been made because we share your concern.

**CHAIRPERSON:** Ja. Well, at a certain level, one might say: Okay, one – maybe one should have understanding up to a certain point about that but if you were an official given the power to appoint people to the department, if you are faced with an applicant for a job who had no serious allegations of corruption against him or her and you had an  
20 applicant – another applicant for the same job who had serious allegations of corruption. Would you say it does not matter?

**DR DE WEE:** I will not say so, Chair.

**CHAIRPERSON:** Ja, you would not say ...[intervenies]

**DR DE WEE:** I would – no, I will not say so.

**CHAIRPERSON**: Yes.

**DR DE WEE**: It will again depend on the substance of the allegation because ...[intervenes]

**CHAIRPERSON**: [laughs]

**DR DE WEE**: ...one would also be careful that some people can be very malicious.

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

**DR DE WEE**: And here there are other people's image – without any substance and without any base.

10 **CHAIRPERSON**: No, no I understand that completely. But what I am thinking is that you would not appoint the person who has serious allegations of corruption over their head even if they were just in the media when they are competing with somebody for the same job who has no such allegations. Why was this – why was it different with a bid for a tender with regard to BOSASA?

**DR DE WEE**: Can I respond, Chair?

**CHAIRPERSON**: Yes. Yes, please do.

20 **DR DE WEE**: My view is that this is a question for reflection from all of us and this is where we hope that your report will guide us on this matter.

**CHAIRPERSON**: H'm.

**DR DE WEE**: Because I would imagine we have all learnt our lessons.

**CHAIRPERSON**: H'm.



**DR DE WEE:** We have all learnt. And that is where the importance of this Commission has always been to me because this Commission is going to give a response to serious questions that have been of public concern for many, many years.

**CHAIRPERSON:** H'm.

**DR DE WEE:** And I can also say that I am sure my colleagues in the Public Service are looking forward to the report so that they can get guidance on how to deal with  
10 such matters.

**CHAIRPERSON:** H'm. Well, I do not want us to stay too long on the matter but you know I would simply would have thought that faced with that kind of situation one would not wait for a report, you know. Here is this entity. It keeps on wanting contracts. It sends bids.

Okay, it is entitled to send bids but you are not obliged to give it work when it has got these serious allegations of corruption in the public domain about it when there are others who have no such allegations hanging over them.  
20 But I guess you have made the point that you have wanted to make.

**DR DE WEE:** Thank you, Chair.

**CHAIRPERSON:** Is that right?

**DR DE WEE:** Ja.

**CHAIRPERSON:** Okay, alright. Ms September, I think we

have run out – way out of time. Do you have one or two questions to wrap up?

**ADV SEPTEMBER:** Yes, Chair. I got my clock stopped when the discussion was being had.

**CHAIRPERSON:** [laughs] Well, let us – maybe let us take it as having stopped. But I give you the chance that you can send questions to Dr De Wee to cover any other issues that you have not covered. I ask you, Dr De Wee, and your legal representative to respond to such questions by way  
10 of Dr De Wee deposing to an affidavit.

And in addition, I give Dr De Wee an opportunity to say if there any other issues that he wishes to deal with by way of a written document, or highlight any parts of this file, this bundle, that he would like to highlight, he must feel free to do so.

But having said that. I do want to give you an opportunity to re-examine if you wish to but if you have no re-examination, then there is no problem.

**ADV SEPTEMBER:** Might I be permitted to just ask two or  
20 three questions off the back of what Chair has placed on record now?

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

**ADV SEPTEMBER:** ...agreement that we were dealing with.

**CHAIRPERSON:** Ja, you want to ask questions or

clarification?

**ADV SEPTEMBER:** Just very quickly, Chair.

**CHAIRPERSON:** Ja?

**ADV SEPTEMBER:** For what Chair has raised. And so  
...[intervenes]

**CHAIRPERSON:** I guess you want to ask me, not the  
witness?

**ADV SEPTEMBER:** No, not the...

**CHAIRPERSON:** [laughs] No, no. I do not want you to  
10 ask the witness. Put that in your written questions. Put  
that in your – include that in your written questions. I want  
to give Mr Mateme the opportunity to re-examine Dr De  
Wee if he wishes to re-examine. If he does not wish to re-  
examine, they would be free to clarify anything they wish  
to clarify in a supplementary affidavit. Would you like to  
re-examine, Mr Mateme?

**ADV MATEME:** Chairperson, thank you. I think there are  
two aspects.

**CHAIRPERSON:** Yes?

20 **ADV MATEME:** The one is on maintenance and the other  
one on the status and the extent of authority of  
...[indistinct] [distortion present – speaker unclear]  
...appointed by the department.

**CHAIRPERSON:** Yes.

**ADV MATEME:** But I think those issues, we can

...[intervenes]

**CHAIRPERSON:** Yes.

**ADV MATEME:** ...could be in writing.

**CHAIRPERSON:** Ja, in writing.

**ADV MATEME:** Because I did not hear them, you know, put ...[indistinct]

**CHAIRPERSON:** Absolutely.

**ADV MATEME:** ...that – yes.

**CHAIRPERSON:** Ja.

10 **ADV MATEME:** It is a question of maintenance and the question of ...[indistinct] [distortion present – speaker unclear]. Those are the two aspects that I would re-examine on but ...[intervenes]

**CHAIRPERSON:** Ja.

**ADV MATEME:** ...we can put it in the affidavit.

**CHAIRPERSON:** In an affidavit, ja. Okay. No, that is fine. So any issues that you would have liked to re-examine on, you can clarify in an affidavit that can be send through. I will ask that any affidavit or affidavits that can  
20 be put through should be with the Commission not later than the 10<sup>th</sup> of August. Ja, yes.

And to the extent that Ms September, you will want to put questions to Dr De Wee, other questions that you would like him to deal with in written form, you must send in those questions not later than this coming Monday.

**ADV SEPTEMBER:** Chair, I really only have two questions.

**CHAIRPERSON:** That is fine but do it in writing.

**ADV SEPTEMBER:** [No audible reply]

**CHAIRPERSON:** Do it in writing. Okay, thank you very much everybody. We are going to stop now. We have taken much more than I had intended we should take. Thank you very much, Mr Mateme. Thank you very much, Dr De Wee. Oh, Dr De Wee. I had promised you that when  
10 we come to the end, I will still give you some chance to deal with whatever you might think was not emphasised.

Of course, I said that can be done in writing but there may be some important issues that you would like to deal with and I can give you some time, maybe five minutes if you want to deal with anything that you think is quite important for you to deal with that has not been covered.

**DR DE WEE:** No, Chair. I am happy with your ruling. I would like to abide by your ruling.

**CHAIRPERSON:** Oh, okay, okay.

20 **DR DE WEE:** Ja.

**CHAIRPERSON:** No, that is fine. Okay, that is fine. Thank you, Ms September. Thank you very much. Thank you.

**ADV SEPTEMBER:** Thank you, Chair.

**CHAIRPERSON:** We are going to adjourn then for the

day. Thank you to everybody. We adjourn.

**DR DE WEE**: Thank you, Chair.

**ADV SEPTEMBER**: Thank you, Chair.

**ADV MATEME**: Thank you, Chair.

**HEARING ADJOURNS FOR THE DAY**