

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

13 NOVEMBER 2020

DAY 306



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TRANSCRIBERS:

B KLINE; Y KLIEM; V FAASEN; D STANIFORTH



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PROCEEDINGS RESUME ON 13 NOVEMBER 2020

CHAIRPERSON: Good morning Mr Kennedy, good morning everybody.

ADV KENNEDY SC: Good morning Chair.

CHAIRPERSON: Yes are we ready?

ADV KENNEDY SC: We are ready thank you Chair. But before we call or ask leave to call the next witness Chair may I raise a point that follows from yesterday's proceedings? You will recall our first witness yesterday
10 was Mr Sadik a current acting GCEO of the Denel group and he undertook to provide by way of an affidavit the settlement agreement that was concluded between Denel and Ms Africa the former Company Secretary of Denel.

That undertaking has now been fulfilled and he has provided an affidavit. May I take you in Bundle 12 – Denel Bundle 12 the support staff have taken the liberty of inserting into Bundle 12.

CHAIRPERSON: Oh. What page?

ADV KENNEDY SC: The affidavit. It is at page 665.

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

ADV KENNEDY SC: That is a very brief affidavit from Mr Sadik.

CHAIRPERSON: Yes.

ADV KENNEDY SC: The one he promised yesterday. And attached to that is a document headed Notification of

Termination of Service. And following that from page 669 is the actual termination of employment agreement. This is the settlement agreement that he referred to.

And if I may draw your attention Chair in particular to page 676 paragraph 7.1 sets out the package equivalent to twelve months salary, an ex gratia amount of R1.6 odd million so it is R1. – yes R1.642 million.

CHAIRPERSON: Yes.

ADV KENNEDY SC: In her case.

10 **CHAIRPERSON:** Ja.

ADV KENNEDY SC: May we then ask leave to have that admitted formerly as an Exhibit in the commission? Mr Sadik's affidavit was previously admitted as Exhibit W26 we would ask the – leave for this affidavit with its annexures from page 665 to be admitted as Exhibit W26.1.

CHAIRPERSON: The affidavit of Mr Talib Sadik starting at page 665 is admitted as Exhibit W26.1 together with its annexures.

20 **ADV KENNEDY SC:** Thank you Chair. May we then ask your leave to call our next witness? It is Mr Mantsha.

CHAIRPERSON: Yes okay. Please administer the oath. Good morning Mr Mantsha. Good morning. Yes.

REGISTRAR: Please state your full names for the record.

MR MANTSHA: My names are Lungisani Daniel Mantsha.

REGISTRAR: Do you have any objection to taking the

prescribed affirmation?

MR MANTSHA: No.

REGISTRAR: Do you solemnly affirm that the evidence you will give will be the truth; the whole truth and nothing else but the truth; if so please raise your right hand and say, I truly affirm.

MR MANTSHA: I truly affirm.

CHAIRPERSON: Thank you; you may be seated.

ADV KENNEDY SC: Thank you Chair. May I direct your
10 attention to the fact that Mr Mantsha is today assisted by a legal team of our learned friend Mr Jaap Cilliers.

CHAIRPERSON: Yes.

ADV KENNEDY SC: From the Pretoria Bar instructed by attorneys Denga.

CHAIRPERSON: Yes. Mr Cilliers would you like to place yourself on record just from where you are?

ADV CILLIERS SC: As you please Chair. I am indeed the JG Cilliers I am a senior counsel from Pretoria. I am instructed by my learned attorney who is sitting on my left
20 hand side Mr Denga on behalf of the witness.

CHAIRPERSON: Yes. Thank you very much Mr Cilliers. Yes Mr Kennedy.

ADV KENNEDY SC: Thank you Chair. My learned friend has requested an opportunity for the witness to address you briefly in some introductory remarks.

CHAIRPERSON: Yes.

ADV KENNEDY SC: Where is subject to your guidance and ruling. We have no objection to that.

CHAIRPERSON: Yes.

ADV KENNEDY SC: It is our process.

CHAIRPERSON: Yes no that is fine. Mr Mantsha you may address me. Yes you may do so.

MR MANTSHA: Thank you Chair. I appear before you Chair as the former Chairperson of Denel board. So I am
10 going to speak as far as the acts, decisions of the board that I led as a Chair and I serve as a non-executive director as taken as far as it relates to issues which have been investigated by this commission.

To the best of my abilities I will try to recall. As we know this is five years ago. I might not have certain details. When you hear me talking about we I would be referring to the colleagues that I served with at the board.

And I will also deal with any matter that might relate to me in my personal capacity. So I think it is important to
20 place a number of issues into perspective to give the Chairperson the context and to give the commission legal team the context.

I think we all know the – some of the decisions taken. They were in the media and there were a lot of speculation about what could have been the motives.

I think just to start let me explain the formation of what is known as Denel Asia. And I do so Chairperson on the basis of the information within my knowledge and the information which I – it has been relayed to me.

For a start Denel went to India on its own twenty years or more before my appointment as a board chairperson and my board in 2015. But what then happened Denel got blacklisted in India and reasons being they were accused of engaging in illegal activities inter alia
10 corruption and bribery.

So ever since then there has been litigation between the authorities in India and Denel as a result of those allegations.

My understanding is of course the authorities in India and here they had discussions to try to resolve the matter. The matter was also in the Supreme Court in India and that litigation dragged for a long time.

So as far as twenty or twenty five years before my arrival Denel had targeted the Indian market They went
20 there but from what I understand they went with the wrong way.

During the February 20 – I thin 2015 as I understand the litigation and the dispute between the authorities here and India I think came to close – I might not be able to relate the date or the year whether it was

2014 or 2015.

So when that matter was resolved I think February 2015 Denel sent a delegation to India to just try to feel the situation since at that stage in February 2014 the matters were resolved. And Chair as I have taken the position from July I am not sure about the date but July 2015.

CHAIRPERSON: June/July 2015.

MR MANTSHA: Ja. So the process at that stage in February to engage that market we were not there. Then
10 during the induction as a new board the inductions are normally presented by the Executive Management of the company and the leadership of the department.

Of course the department will take you through the protocols, the regulatory environment as far as the company relates to them and of course the management will take you through the strategic issue, the direction where the company is going to go and all sorts of things.

At that point I do not remember exactly who has handed to me a document called Not Verbal. Not Verbal is
20 a diplomatic language. A communication between one state to another and that document simply say well the dispute between Denel and the Indian Authorities has been resolved.

That is fine but of course during the induction as the executives are trying to project you know the current

business, the future and everything. So Indian market has been always a very important market for Denel because even the studies at that time as presented they were showing the fastest growing market.

So that was fine. My – the meeting of my board – the first meeting was on the 10 September 2015. In that meeting of course we have been taken through discussion of the previous board and you know the strategic issues of which again the expansion of Denel into that market
10 because maybe just to give a little background.

The foreign market of the Denel it is mainly – it was at my time it was mainly in the Middle East. And that market had its own complicity. And of course the domestic market which is the South African Defence Force I think it is – it is an open secret that every budget vote I think we can go as early as ever since the dawn of democracy the defence budget vote is decreasing all the time because of course the Sovereign has got pressing issues. To a point where the domestic defence market cannot sustain the
20 company. So that is a strong argument made.

And Chair I happened to have the – the minutes but of course I do not want to hand them to you unless if you permit me to do so. Which has captured the presentation on the 10 September of my new board.

And in that presentation there is an overview.

CHAIRPERSON: And maybe – maybe before I forget do feel free to hand them to the legal team so that they can assess them and at the right time they can make them available to me.

MR MANTSHA: Well Chairperson with your direction.

CHAIRPERSON: Yes.

MR MANTSHA: I am fine to do that.

CHAIRPERSON: Yes okay alright.

MR MANTSHA: I am fine to do so.

10 **CHAIRPERSON:** Okay alright.

MR MANTSHA: I will do so.

CHAIRPERSON: Okay.

MR MANTSHA: So – so at that stage...

ADV CILLIERS SC: Mr Chair maybe if I can just interrupt it is not a situation where Mr Mantsha has any reservations of handing it in he is just worried about maybe confidentiality situations between him and Denel.

CHAIRPERSON: Oh okay.

20 **ADV CILLIERS SC:** So he has got it available and he is willing to hand it to you.

CHAIRPERSON: Yes.

ADV CILLIERS SC: It is only that he – I did not enough time to prepare on these issues.

CHAIRPERSON: Yes. Yes.

ADV CILLIERS SC: It is a question of his – worried that

he does not want to breach the confidentiality situation with Denel.

CHAIRPERSON: No, no, no that is fine. I understood him also to be feeling free to hand them in but I just thought it is better that the legal team sees them first before they get to me. Ja.

ADV CILLIERS SC: As you please.

CHAIRPERSON: Yes Okay.

MR MANTSHA: Thank you Chairperson.

10 **CHAIRPERSON:** Yes.

MR MANTSHA: Then a presentation is made of the markets that the company should go to and a resolution on the 10 September were thought by the executive that said the executive must be mandated to explore the Indian market. Basically to go and see if we cannot set a company now the formation of the company.

So a resolution was presented – I mean was approved the board as requested by the management. And ever since then work was being done by the management
20 and the management briefing the board on what was happening as far as that process is concerned.

So I must say to you Chair that that process was undertaken in terms of the PFMA. That process was undertaken in consultation with the department and in consultation with the National Treasury.

There have been a number of meetings where the executives met National Treasury and met the Department of Public Enterprise to discuss the timeframe of when to submit and what information is required.

And this a matter of standard. When a state owned company intends to form a Joint Venture or go into another market you have to get the permission from the executive authority.

But before you get that permission you must give a
 10 pre-notification to the executive authority to say look I am going to form this or I am going to this market for these reasons. The executive authority will ask you the questions; would make whatever inputs are concerned and that position was done. To a point where the formal applications were made I think they were submitted around 15 December – around somewhere – somewhere 15 December or 13 December I do not recall but before they were submitted again there was a meeting where the whole process was explained and the urgency of the matter was
 20 explained.

In terms of the context I am trying to give Chair is that the journey of Denel to Asia or to India started almost thirty or more years back. And when Denel was freed from those corruption and whatever thing it eagerly wanted to enter the market. And the urgency Chair was triggered by

a number of reasons.

One reason was at the time when we took over in July Denel debt level at that stage was very high. If I remember well the Denel had over R8 billion facilities with the banks. This relates to – because when you tender for an arms procurement whatever the thing there is always guarantee payments, bond and what have you.

So Denel was R8 billion and was left with like R2 billion in terms of the facilities it had. Denel at that stage
10 owed Nedbank and ABSA over R4.8 billion and at the point I think the creditors from just suppliers small and medium companies I think it was over R200 million debts which were over 200 days unpaid.

So there was a very serious cash problem and also compounded by the transaction which Denel just acquired LSSA for over three quarter of a billion and Denel had no funds to service that kind of transaction.

So the company was in a dire, dire need to actually find new market and try to generate some revenue. So
20 when I look at it Chair by the time my board came in Denel was already a sinking ship.

The debts level were too high. That is why in terms of the transaction which I will talk a little bit because it has triggered the suspension of CFO and the CE then. The advice at that point was Denel could not be able to service

any debt and if Denel wanted to take any debts like LSSA it must request the Sovereign to try to put the money

So we are in that situation and my board was committed to save the sinking ship. And the only way to save the sinking ship was to try to make decisions to try to get the new markets where you earn revenue.

So there was no rush to the decision of Denel Asia as I have already explained when it started. So the situation was not getting better but the applications were
10 sent. The department was sensitised on the urgency of the matter and I think Chairperson one appreciation should be Denel unlike Eskom does not get any guarantee from the state.

If the South African Defence Force wants equipment they can go to anyone else including Denel. So we do not have reserved – Denel does not have a reserved market be it domestic, be international.

So everything that it does it has to compete and as you know Chair business it is about opportunities and the
20 opportunities are not there all the time. And the business that we talking about is a very hard business. One is not selling cell phones. One is selling weapons of mass destruction and the consumption is the state – is to state to state.

So it is a very difficult business to get involved. It

has got lot of red tapes. It has got lot of regulation that is why other people call arm dealers whatever the case might be. It is not a simple business. So when you enter that business you have got no time to slip because when you look at it you compete with big defence companies coming from big countries like United State, Russia, China and others who have got more financial muzzle to – to take you off the way and political muzzle to just get deals away.

So it is a business that requires serious agility and
 10 you have to take decisions and try to execute because it is a very difficult market. So all of these is sensitised to the department but then the applications were made in terms of the law. The applications of course after thirty days the law says if you do not get an answer from the executive authority in thirty days you must assume that it is granted.

The law is there for a reason and of course as law abiding board we acted according to the provision of that Act and we even went further to try to get a declaratory order that we complied.

20 But Chair I must say to you that when you apply these commissions from Executive Authority which is Public Enterprises and National Treasury because Denel had to get approval from National Treasury on the basis that National Treasury has given a guarantee. At that stage I think it was R1.8 billion.

So whatever transaction you have to do National Treasury must see it and look at it. So from that point the company was launched. All the regulatory matters were followed and something that we did not know there was a political situation in the country and in terms of that political situation in the country certain events happened in December 2015. And those events were leaked to the establishment of Denel Asia.

All sorts of connection were made. Relationship
10 between other people to other people and this is how it happened. But I am here Chair to explain the basis upon which the board took those decisions and the information which was before the board.

This information was not only before the board but was before National Treasury and the Department of Public Enterprises. This included a proper business case, the due diligence report which have been done to all the parties.

But by that stage the partner that Denel had picked
20 to go to the Asian market with instead of looking at the business case of the formation the politics overwhelmed the business because of the leans of the partner and all the explanations which were portrayed in the media.

But that as it may it created problems for the company. We wanted to do business not to deal with all

sorts of things, political issues and other things which were playing out in the media.

We then decided as the responsible board to say look our intention to go to the Asian market was firstly and inter alia with all the other things. Our engineers are sitting idle. There is no work. We have got no cash. The young generation of engineers are not getting expertise because we have got no work. And the employment situation we will be forced to retrench many people
10 because there is no business.

So we considered many factors. I think all of it is said in the applications. We considered many factors but our conclusion was it is in the best interest of the Republic that the – the following entity would and a foreign currency to the Republic. Anywhere the Republic was 51%. Anywhere the Republic was not putting a cent into that investment. The Republic was making available the expertise of its engineers and the technology.

The partner was putting R100 million to have that
20 business work. And Chair you would know that in any business you can never give guarantee that the business is going to be successful.

You know the true heart of an entrepreneur is to take a chance and calculate the chance and I certainly tell you that the chance that was taken, the company had

worked on it for many years and even before my arrival and the arrival of my board the company has gone through that process. The company was satisfied that the proper case was made that is reasonable prospect that we going to be successful in that business.

And as responsible board we took that decision. But you might not aware Chair in terms of the governance procedures of how the things come into play. I think it is important because you – you sit with all these allegations
10 and I must as I sit here share my experience with you on certain things that the protocols that follows.

The executive of the company generate a business case. They bring the business case. Before they bring it to the board the business case goes to several committees of the board. The Social and Ethic Committee will deal with the social aspect of that business case. The Audit and Risk will deal with the business case and all sorts of things. The HR and or – so it goes to those committees and those committees look at it. It comes to the board and
20 then the board will hear the reports from various committees and deliberate on them and deliberate on recommendations of various committees.

And either say management we agree with this or we do not agree with this or go and make a follow up on this. And when you look at this the transaction that I am briefing

about there was extensive work done to try to cover certain areas. But be that as it may Chair I just want to clarify and correct the incorrect information which has been played for some time that the appointment of myself as the chair and the board was to initiate the Indian/Denel project and it is not true. The project was there before we started. Yes the project as I said was to the best interest of this country. Was going to create employment; was going to – as you know that Defence companies do lot of diplomacy, and
10 defence companies do a lot of due political work. So in totality from the due political point of view, it was great for the country. From the diplomatic point of view, it was great for the country.

But as state-owned companies, something that I am sure Chair you have observed many times from the witnesses that you have listened to. Sometimes politics overcome a business case. And with respect to the Chair.

My conclusion and my experience with this as the chair of the board in my board. The politics and the events which
20 were happening at the time, which we had no control of.

It is only when I listened to people talking in this Commission. Say: Oh, could that have been the reason why there was no answer here is because of this information. But all our interest was to push a business. That is all we are trying to do.

So it is again not correct that the suspension of the executives had anything to do with the move to go to India. The suspension of the executives had everything to do with a transaction which they presided over during our appointment as the board. And this is the transaction where Denel went to buy a company for R 855 million.

When we started our work on the 10th of September, we were then told that Denel must pay R 455 million to Nedbank on the 30th of September. That was a hell shock to us.

10 So, of course, we probed how did this happen. There was a transaction which was started before us. The acquisition of the LSSA and the manner that the transaction was structured and the information, which was presented to the board, gave rise to the suspension of the CFO and the CE.

Unfortunately, that transaction, of course, was not presided by our board. But our board, in terms of the conditions from National Treasury - when National Treasury approved that board, they put a very stringent condition.

20 And one of it was, the board should make an irrevocable undertaking that Denel will not go to the state and look for funding to finance anything might come out of this transaction. And Denel should be able to repay. I think it was R 650 million of the guarantee at the specific time.

So, of course, my board is confronted with those issues.

There was no stage we could make that irrevocable undertaking. There was no money to service that debt. We did not have the R 455 million to pay to Nedbank on the 30th of September.

And the basis of agreeing to an arrangement that you will get a bridging finance for six-months - while the approval by the executive authority and National Treasury, they were based on the fact that the loan terms were five years.

And when all of that was changed to six-months without
10 the executive authority getting involved. And the real implication of that Chair of not paying the R 455 million on the 30th of September to Nedbank, would have meant a default.

And in terms of the protocol that operates because state-owned companies, they go to the board, raise cash and some of it is guaranteed by the state. So Denel had, at that stage, I think bonds around three billion plus.

And the default would have triggered the bondholders to recall their facilities, which would mean, apart from the
20 R 455 million that we have to pay, we would then have to pay three point something billion.

And the effect was beyond Denel because then it would mean the bondholders of other state-owned companies, it would trigger a cause-default against all the state-owned companies.

So new as we were, it was – we were overwhelmed. We were complete overwhelmed to say: Well, we are the people who are going to preside over this catastrophe. We did not want to do that. So we acted. We took a decision.

We suspended them because we were convinced that was reckless lending and the protocols which they were told to be followed were not followed.

But we move there and I think towards the end, I think on the meeting of the 10th, then the resolution was made by
10 the board to say the Audit and Risk Committee should work with the then management to try to avert the situation and investigate exactly what happened.

So I then undertook a trip with the former CE, who I must say, we had a very good cordial working relationship. We undertook a trip. We had discussion about the situation. I think ...[intervenes]

CHAIRPERSON: You say, the former...?

MR MANTSHA: The former CE.

CHAIRPERSON: CE?

20 **MR MANTSHA**: Mr Salugee.

CHAIRPERSON: Oh, okay.

MR MANTSHA: So we had a very good working relationship and part of the discussions we had, of course, was the situation back at home. At that point, of course, we realised how grave the situation was and he then said to me: But

Chair, do not get us fired here. So I said: Well, let us go back home and we will hear what the Audit and Risk Committee has find.

So the point I am making again is. There was no intention to suspend anybody. The evidence which we were confronted with was such that the two executives recklessly and they have breached even the conditions of grant. Therefore, an action had to be taken.

I, as the person Chair, having experience of working with
10 lots of people who have lost jobs or representing them. So I am bias in trying to fire someone and I will do that only if there was nothing else to do.

There were a lot of efforts to try to get cooperation, to try to get more information. I think even the meeting that they had with the Audit and Risk Committee lasted for a very long time and the board meeting convened very late and certain decisions were taken.

But suffice to say to you that those decisions were taken in the best interest of the company. It had nothing personal
20 against the executives, as I have said to you. I think even the former CE would say we had a very good cordial relationship. I actually liked him. I thought he liked me too. So we were working well together. We had no issues.

But the facts were such, a decision had to be taken and they had to be suspended. Then, of course, we then moved

to the issue of a settlement.

When we were faced with that situation, overwhelmed as we were, the intention of the board was firstly. We should not allow there should be a cross-default, across all the state-owned companies. We should not allow the collapse of Denel.

Yes, we do not have the R 455 million but at that stage, Nedbank was very angry. Nedbank was angry because when the money was borrowed from the, Nedbank was informed –
 10 this is my understanding – was informed that, give us R 455 million. The four hundred will pay for my own pockets. Nedbank then realised that the four hundred which they paid to make eight fifty-five, came from ABSA and ABSA was given a security of four hundred million which was the money that was ring fenced by the company in terms of the Hoefyster Project. Whatever. So they were very angry.

And again, the specific condition of approval by the Minister of Public Enterprises was: Please, do not play the banks against one another. And here we are. Nedbank is
 20 angry that: Look, all you did to us was to put security of shares but without ABSA you have put security, real security, you put the money. So there was a tense relationship arising of that and this is when we understood that Nedbank, in fact, conducted a due diligence.

I do not have the facts to the report to anything. This is

the understanding as it was related to me that they advised Denel that: Look, we do not have money to do this transaction and you are highly indebted. So if you say this deal has everything to do with the National Defence Force, then ask them to put the money.

So the relationship with Nedbank, at that point, was not good because they felt they were misled. They were not treated equally like ABSA. So the focus of the board and the acting Executive was to try to get a deal with Nedbank to
10 extent the terms that we do not pay the money at that time.

Eventually, an agreement was reached that there was a little bit of space and I think they said: Okay, pay us half. I think it was another six-months but I am not sure.

And then, of course, we had no option. We either pay the half or we want all the money. I think then the deal was reached. The CFO, the then CFO, the then acting CFO and members of the Audit and Risk Committee, they were working full-blown on this. So that agreement was reached.

Then we had to scrape through and try to find some cash
20 so that we do not default. And at that point Chair, we had no focus on the disciplinary issues of these two executives.

The matter, of course, as you know is an administrative matter that is run by your HR and the company secretary and all sorts of things. But unbeknown to us, politically events were building up.

There were hearings and change and this and this but just to set the record straight. We were consumed to try to deal with what we considered a real matter.

But then political events overtook a lot of things to a point where we come to a conclusion as a board after we had been advised by the management that on the basis that they might not let us deal with this. It is very sensitive.

When you go out there and discuss these transactions, they want to know that you will stay tomorrow. You are the
 10 man that they will be dealing with you tomorrow. And then, of course, when you deal with the local situation like your creditors, the banks, of course they want certainty to say: Look, if we make an agreement with you today, nobody is going to come tomorrow and try to change it because you will not be there.

So the overall interest of business, they informed us as proposed by the management to say: Look, we cannot afford to have this matter being protracted because one we do not have stability internally.

20 And two, it is raising concerns in the market because the people who we are borrowing money from, they want to deal with something stable. So we considered the issues and at that stage, of course, there was full-blown litigation by the suspended employees.

And Chair, sometime in leadership you have to balance

the interest. And of course, Chair would know with your vast experience in many of these matters. And in terms of our collective wisdom, we looked at the all the factors and we considered the business stability and continuity. It is more important than any other thing because we are trying to save the ship.

We then considered the implication of all the legal costs that, I mean, we already were paying. And we felt that it will be in the interest of the company to close the chapter. That
10 is how the settlement was arrived at. And then we moved from there.

But let me get back to VR Laser, which I think clearly, with many evidence that Chair has had so far. Was a company which had a relationship with Denel and concluded certain agreements and that was before the appointment of my board.

So I am not able to tell you what was considered that influenced the management at that stage. There was a board, there were an executive at that stage.

20 I cannot talk to you about that but all I can say is, the management who were in charge of this stage of the agreement, considered whatever they have considered and they have entered into those agreements.

And linking the VR as a partner, which has been doing the work with Denel before our coming, and the VR Asia

which is owned by a majority shareholder of VR South Africa.
So, of course, a case was made to us.

A business case was made to us as I have alluded to it.
That here was substantial investment, cash-wise, that the VR
Asia was going to put and there was a proper shareholding
agreement where the state had 51.

There was a due diligence report, of course, which
raised a number of things and as a board we said let us try
and protect what e to protect.

10 So there is no link between suspension and Denel Asia.
As I have already alluded to you. I think if I can just take a
simple logic.

The evidence is that the former CE before the acting CE
that was appointed had introduced this company to Denel for
reasons by himself but I take a view Chair that I presume
that we all mean well.

And I would not sit here and speculate that other people
do not mean well. I work on the basis that he meant well for
whatever reasons. So he would have in terms of my
20 analyses of the business case, any competent Chief
Executive Officer would have been convinced about the case
which was made to go to Indian.

And anyway, the minutes that I am going to hand to your
legal team, relates to the resolution that he himself proposed
that we must give him that permission.

So again, it is factually not correct that his suspension had anything to do with Denel Asia. So I understand – I think I was here Chairperson when this Commission was – I think the first sitting of the Commission.

I have listened to the leading evidence leader, Mr Pretorius SC when he was putting the pillars of the alleged State Capture, which is put(?) new boards. My board turned into being after the previous board has run its life. So it was a natural progression because boards are given specific
10 time. So there was no removal of a board to get my board in.

And secondly, removing the Chief Executive and the CFO to match(?) a way for capture. And I say Chair, generally, there was no reason for us to even be alleged that that was the case.

The removal of these executives had everything to do with the transaction which originated before my board was appointed. Any prudent board would have taken the decision that we had taken.

20 So there is no link of their departure with whatever the allegations on the State Capture mechanism is. Is not. So , of course, it is very convenient Chair, I think. You know better than us. You have been listening to this evidence.

It is very convenient for people for reasons know to themselves to cry victim. But a political situation was

created where it was easy to say certain things and people could easily believe you. But these are the facts and I am happy Chair that also other independent people alluded to some of the things that I am saying.

So there is no link with that. So then there are issues relating to my personal travelling. And Chair I did travel to India at my own personal instance and at my own personal cost. I did travel to Dubai. I do not remember how many times in my own personal capacity. I did travel to many
10 other places in my capacity as the chairperson of the board.

And relating to information which allegedly was sent by either myself or my office, I can say that I have never sent information to people who were not supposed to see the information. I have never sent information to anybody who had no interest in the information.

So the information that they are referring to which relates to pre-notification, the PFMA application, that information would have been sent to Salim Essa who had been at many times operating from the Gupta premises.

20 So as far as my relationship is concerned with the Gupta family. I have known the Gupta family in my capacity as a ministerial advisor.

And at that stage, I was advising the Minister in Communication. And of course, the Gupta's were running the TMA. They were stakeholder in the industry. Where, of

course, a lot of discussions between, you know, the government and the stakeholders time and time.

CHAIRPERSON: Which minister was that?

MR MANTSHA: [No audible reply]

CHAIRPERSON: Which minister was that one? The Minister of Communication that you are advising? Who was it?

MR MANTSHA: Chair, this was – this was in 2014. This was around 2014.

10 **CHAIRPERSON:** Would it not have been Ms Faith Muthambi?

MR MANTSHA: Yes, indeed.

MR MANTSHA: Okay alright.

MR MANTSHA: Indeed.

CHAIRPERSON: H'm. Okay.

MR MANTSHA: Ja.

CHAIRPERSON: Okay.

20 **MR MANTSHA:** So I have known them in that capacity and, you know, we interacted in that capacity. So you know, that is the relationship I had. And beyond that, of course, I had relationships with a number of the stakeholders that I related to them, arising from that.

So in conclusion of what I have just said. Just to put the record clear. The board members that I have served with, they have served Denel and they have given everything and

they have served with integrity.

There is nothing that they have done which amount to any element of State Capture as it is, you know, put. They have suspended, yes. But they have suspended on the basis of the facts before them.

They have settled, yes, on the basis of the facts before them. They have decided, of course, to proceed with decisions to enter the new markets on the basis of the information which was presented to them.

10 Nobody told them what decision to make. I think, of course, the Commission has got access to, you know, to the records.

Because you see, a board of directors mainly acts through the meeting, through the resolution, through the deliberation and it is very clear there, that certain considerations were made which are black and white and which can be asserted(?). And those were the basis of those decisions, nothing more.

And Chair, just to add. I have travelled to our biggest
20 markets in the Middle East and I was shocked to see that the majority of people who operate in those defence companies are South Africans. And the majority of them worked for Denel.

Very competent engineers, who go there with an investing mind. So, of course, the intellectual property in

the space, it is in the head of an engineer. And the product that they were making that side were actually better than the product that we are making.

And those states have got big pockets. They had new factories. They had new infrastructure. So as a chair I could see that we had to do something because this is what we call our biggest market.

It is nothing more than people copying from us and tomorrow they would not need us. So we tried what we could
10 do. To then say, we must then get into new technologies for the company and there had been a lot of research and we got into cyber space and all sorts of things. So we tried to make sure that the ship should not sink.

But of course, given the fact that, you know, the sovereign is pressed(?) with lot of challenges in terms of service delivery issues.

So spending money on the defence company becomes not the most priority. And to have the sovereign, to still retain some defence capabilities, it means that the company
20 must be agile enough and try to take the opportunities.

But maybe some of the issues that, of course, you are confronted with Chair – and I must say, in terms of my own experience, the regulatory framework in which Denel operates in, it is not good for the company because the company competes at a global space. Locally, it has got no

- there is no preference that they must be given a contract by South African Defence Force.

And if you have a regulatory involvement, I think a lot of entrepreneurs will tell you that one of the big enemies of business is ridged regulatory environment because business in its nature is opportunities and they arise anytime and agility is very required.

So that has been also a frustration. And if you see where we sell(?), they say: Ja, but why did you push so
10 hard to do this? We pushed so hard because we are doing business. We are doing business because of opportunities come and go. And we are doing business in a very hard environment.

And the other issues, except regulatory framework. state-owned companies are led by politicians. And when I say politicians, I mean executive authorities are politicians who sometimes, with all respect to our politicians with the good work they do every day.

But sometimes political decisions or political interest
20 overrides commercial interest of a state-owned company. I have personally – we have experienced that. With respect to everybody else, the fantastic job that the executive authorities to do provide leadership and oversight to these companies. But there is a problem that decisions are taken politically instead of a commercial decision to be taken.

So I think Chair, I can sit here and say a lot but I think I have given the context in which my board operated, the decisions which were linked with the State Capture, why were they taken and the basis upon which they were taken. Thank you. Thank you for the opportunity.

CHAIRPERSON: Thank you. Thank you very much Mr Mantsha. I just want to say maybe two things arising out of your evidence because what you have been doing is giving evidence about your experiences and those of your
 10 board during your time and your understanding and your perspectives of what happened in regard to certain matters.

The one is the one you just mentioned namely to what extent politicians – maybe political issues might sometimes interfere with commercial decisions or with business at state owned enterprises and – so that is something that one may need to look at, what form it takes and what impact does it have on a business, when does it happen and so on.

20 A former Chairperson of one of the SOEs gave evidence here some weeks back and said to me oh, I know these politicians, oh no, these ministers, you know, they like, you know, coming into the SOEs because they look for business opportunities and he said I know them, I have, you know, been around, blah, blah, blah, blah. So one

does not know, what one wishes is that SOEs be run in a manner that would make them sustainable and profitable so that they can, you know, fulfil their roles. But that is the one part.

The other part I want to mention is, you see, it is a pity that sometimes people do not come to the Commission to give the Commission information about matters that are relevant to the Commission because if we get told one side of the story and we never get told the other side or another
10 side then we will decide on the basis of one side. We will make findings on the basis of one side of the story but we want to hear all sides of the story. Everybody knows how from 2018 I have for a long time been making public announcements to invite everybody who has got information that is relevant to the Commission to please come forward, give us information. Some people did come forward, others did not come, others came late, so there are those things. So I have no doubt that when the Commission finishes its work there would still be many
20 people who do have information that should have been given to the Commission but who did not come forward, you know, which is unfortunate but, you know, we can only do so much.

Now I am raising that because it is also relevant to your evidence in Denel because Mr Salugee gave evidence

last year, you know, and you will remember that the Commission wanted to get statements from you and information to hear the board's side of the story. You know, we said please, here are statements from Mr Salugee, see what he says about you and the board, give us your affidavit because we want to hear the whole story. I do not want to go into it but we struggled. We struggled.

Now, of course, you are here now, we are happy that you are here but the only thing that is unfortunate is if
10 we had got maybe some of the information or your side of the story last year it could have given us a lot of time to investigate certain matters. When we get it now we are close to the tail end of our work, some of the investigators have left, so it might not be so easy to do the kind of investigation that we would have liked to do into some of the matters that you may raise, you see?

For example, I may be mistaken but I do not remember that when Mr Salugee gave his evidence he talked about – I may be mistaken, he talked about the
20 issue of the loan that you are talking about was it with Nedbank?

MR MANTSHA: Yes, yes, Chair.

CHAIRPERSON: Which I think you say was at the centre of their suspension and so on. Now he may have spoken – maybe I have forgotten but it is quite an important matter

to look at because it deals with the question of were the suspensions based on allegations of wrongdoing on their part, of failure to do their job properly or were the suspensions based on something else and the impression one got when evidence was given before and when evidence gets given, you know, recently, is towards the view that it was something else, you see? But we do not hear your side of the story we will not hear about those allegations, you see? And we will form whatever view
10 based on what is before us whereas if people come forward and say here is another side of the story, that helps us because we want to hear all sides of the story. There is no such that you do not want to hear. So you understand that?

MR MANTSHA: With respect, Chair.

CHAIRPERSON: Yes.

MR MANTSHA: Thank you very much, I do understand but I think my experience in relation to the Commission, the manner in which people who manage the operations - of
20 course, this has nothing to do with the Chair – it creates an impression of other people are being accused of doing certain things and, you know, when you start a process by trying to [indistinct] 07.22 other people, they of course feel insulted, they feel angry and they do not feel they have to cooperate because they have been already judged.

So I think that is the problem that we see playing it out, I think it is the responsibility of many of us who had the opportunities to serve in different capacities to share the experience and Chair, with respect, I think if that was the approach – I am speaking for myself – if that was the approach, Chair, I am more than willing ...

CHAIRPERSON: Yes.

MR MANTSHA: ...to sit, to debate..

CHAIRPERSON: Yes.

10 **MR MANTSHA:** ...my experience in terms of the regulatory environment as I experience it, the relationship with our politician, of which I have respect to them, where I think commercial interest have been sidelined because, you know, politicians are politicians.

So with that, Chair, I think – speaking for myself, I think it is all the basis of an [indistinct] 08.42.

CHAIRPERSON: Ja.

MR MANTSHA: It was not anything but this has nothing to do with the Chair.

20 **CHAIRPERSON:** Ja.

MR MANTSHA: And I think lot of people would want to come and share their experience with the Chair.

CHAIRPERSON: Yes, yes.

MR MANTSHA: And say look, this is what I experience and, you know...

CHAIRPERSON: Yes.

MR MANTSHA: This is my account or this is the journey I have travelled.

CHAIRPERSON: Yes, yes. No, that is fine. Thank you, Mr Mantsha. Mr Kennedy?

ADV KENNEDY SC: Thank you, Chair. Chair, may we start by just requesting your leave to introduce formally into the evidence the affidavits that Mr Mantsha has provided.

10 **CHAIRPERSON:** Yes.

ADV KENNEDY SC: Mr Mantsha, do you have Denel bundle 8 in front of you?

MR MANTSHA: Yes.

ADV KENNEDY SC: Sorry, would you just speak into the microphone rather than nodding?

MR MANTSHA: Yes, this is bundle 8.

ADV KENNEDY SC: Yes, you have that.

MR MANTSHA: Yes.

ADV KENNEDY SC: Just remember it has to be recorded
20 and transcribed possibly in the future.

MR MANTSHA: Okay.

ADV KENNEDY SC: So please do not just nod, try and bear in mind that.

MR MANTSHA: Thank you.

ADV KENNEDY SC: If I can take you please to page 330

and the page numbers are printed in black at the top left hand corner. It is not the pages on the right hand corner, in red. Okay? And I am simply going to give the last three digits of this rather long number which starts Denel 08. Have you got page 330?

MR MANTSHA: I do, I do.

ADV KENNEDY SC: And that appears to be – what is referred to as a statement but in fact appears to have been an affidavit. If I can take you to page 336, is that your
10 signature?

MR MANTSHA: Ja, indeed.

ADV KENNEDY SC: Sorry, there are two signatures. The top signature, is that yours?

MR MANTSHA: Yes, it is. But may I then say something about this affidavit?

ADV KENNEDY SC: Well, let me just complete my questions first before you do that.

MR MANTSHA: Okay.

ADV KENNEDY SC: You signed this in front of
20 Commissioner of Oaths after taking the affirmation, is that right?

MR MANTSHA: Yes.

ADV KENNEDY SC: Right. What is it you want to raise about the affidavit?

MR MANTSHA: Well, I want to raise an issue just for

correction about the breakfast meeting in Melrose. I think I assumed that Stephan Burger was there but on recollection, he was not there. It was myself, Mr Salugee, Mr Ntshepe and Mr Essa.

ADV KENNEDY SC: Are you referring to page 331 paragraph 5? Mr Mantsha, are you referring to that paragraph?

MR MANTSHA: Yes, yes. Yes, yes.

ADV KENNEDY SC: Yes. You have raised this
10 presumably because there is – you have reflected on the correctness of this affidavit and picked up that there may be an error relating to your allegation that Mr Burger attended a breakfast at Melrose Arch, is that right?

MR MANTSHA: Well, somebody reminded me.

ADV KENNEDY SC: Right.

MR MANTSHA: When I was asking about that meeting.

ADV KENNEDY SC: I see. So is it incorrect where you said that Mr Burger also attended that meeting?

MR MANTSHA: Yes.

20 **ADV KENNEDY SC:** Okay. So you would need to delete the words:

“...and Mr Burger.”

Is that right?

MR MANTSHA: Yes.

ADV KENNEDY SC: May I ask you with your legal team’s

assistance please, would you be willing to sign a further supplementary affidavit to correct that?

MR MANTSHA: Indeed.

ADV KENNEDY SC: Alright and will you provide that to the Commission please?

MR MANTSHA: Indeed.

ADV KENNEDY SC: And we will then furnish that to the Chairperson through the formal processes of having it admitted. Is there any other problem that you have picked
10 up in relation to this affidavit? Have you been through this affidavit in preparation for this hearing together with your legal team?

MR MANTSHA: No. No, not really.

ADV KENNEDY SC: I see. You want an opportunity to read through it because you want to check it now?

MR MANTSHA: No, I think you can take me through it.

ADV KENNEDY SC: Yes. Is there anything else you want to draw the attention because what I am trying
...[intervenes]

20 **CHAIRPERSON:** Yes, I think, Mr Mantsha, Mr Kennedy seeks to establish whether you are in a position to answer questions based on this affidavit. So, in other words, you remember what you said or whether you need to refresh your memory or not?

MR MANTSHA: No, I think the broad thrust of the affidavit

I remember.

CHAIRPERSON: Yes, okay.

MR MANTSHA: As I said in my opening, Chair, this is five years or something ago.

CHAIRPERSON: Ja.

MR MANTSHA: There could have been other details that I omitted.

CHAIRPERSON: Ja. No, that is fine.

ADV KENNEDY SC: I understand that, I am just trying to
10 go through the formal process of getting you to confirm
under oath here that the affidavit is correct. I accept that
there may be some details you cannot always remember
but that is not my question. The affidavit was signed fairly
recently. If we look at page 336, it was signed on the 28
August 2020, is that correct?

MR MANTSHA: Yes.

ADV KENNEDY SC: Now you have, to your credit, drawn
attention to a point of detail that you felt needs to be
corrected and that is the Melrose Arch breakfast and that
20 Mr Burger was not in attendance and we thank you for that.
Otherwise, can we take it that you are – you confirm, as
you did before Commissioner of Oaths in August 2020 that
the affidavit is true and correct?

MR MANTSHA: Yes.

ADV KENNEDY SC: Right. Please do not sit too far away

from the microphone, Mr Mantsha.

CHAIRPERSON: Yes, when you are too far it will not be recorded – your answers will not be recorded.

MR MANTSHA: I just have a little bit of problem with ...[intervenes]

CHAIRPERSON: Eyesight?

MR MANTSHA: Eyesight, ja.

CHAIRPERSON: Is it the light or just eyesight?

MR MANTSHA: I think it is just the sight is failing.

10 **CHAIRPERSON:** Oh, is it?

MR MANTSHA: Ja.

CHAIRPERSON: Is it too dark there?

MR MANTSHA: No, no, no, it is, I cannot read when it is [inaudible – speaking simultaneously]

CHAIRPERSON: Oh, okay, okay.

ADV KENNEDY SC: I can understand, the documents have to be a bit of a distance from you.

CHAIRPERSON: Oh.

20 **ADV KENNEDY SC:** Can I perhaps suggest respectfully that – yes, you either move the microphone or move yourself and if you need to put the documents above the desk then perhaps that will help.

CHAIRPERSON: Or when you answer you can move forward a little bit and then move back. Okay, alright.

ADV KENNEDY SC: Alright, thank you. So do you

confirm that the affidavit subject to the correction about Mr Burger and the Melrose Arch breakfast the contents are true and correct? Mr Mantsha, you are attorney, is there a difficulty with the question? I am asking you can you confirm that the contents of this affidavit are true and correct?

MR MANTSHA: Yes, I am actually trying to read to see if there is any other detail that I [inaudible – speaking simultaneously]

10 **ADV KENNEDY SC:** I see.

CHAIRPERSON: Ja, maybe we should adjourn for ten minutes or so, I do not know. Do you need time to refresh?

MR MANTSHA: I though, Chair, I could read it as is.

CHAIRPERSON: As we go along.

MR MANTSHA: As we go along rather than to waste time.

CHAIRPERSON: Well, the only concern is whether that is not going to slow us down anyway. I think maybe let us take the tea break. Let us take tea break. What do you think, Mr Kennedy?

20 **ADV KENNEDY SC:** Yes, thank you, Chair, it is pity that he did not read it beforehand.

CHAIRPERSON: Yes.

ADV KENNEDY SC: But bet it as it may.

CHAIRPERSON: Ja.

ADV KENNEDY SC: Yes perhaps – these affidavits are

extremely brief.

CHAIRPERSON: Yes.

ADV KENNEDY SC: I think there are three affidavits he will need to read, they are all – the next one is, for example, a page and a half and the next one a few pages.

CHAIRPERSON: Yes.

ADV KENNEDY SC: Perhaps we can take a tea adjournment and you can read through them.

CHAIRPERSON: Ja.

10 **ADV KENNEDY SC:** Thank you.

CHAIRPERSON: Is 15 minutes, 20 minutes fine, Mr Mantsha, to go through them?

MR MANTSHA: Indeed, Chair, indeed.

CHAIRPERSON: Okay, let us make it twenty minutes, that takes us to twenty five past and my watch says about five past.

ADV KENNEDY SC: No, twenty five past. Thank you, Chair.

CHAIRPERSON: Ja, okay. We adjourn.

20 **INQUIRY ADJOURNS**

INQUIRY RESUMES

CHAIRPERSON: Okay, you were able to go through the affidavits Mr Mantsha?

MR MANTSHA: Yes Chair thank you.

CHAIRPERSON: Okay, alright, thank you. Mr Kennedy?

ADV KENNEDY SC: Thank you Chair. Thank you for doing so Mr Mantsha. So if we're looking at page 330 – I'm sorry just give me a second, yes page 330, have you been through that affidavit?

MR MANTSHA: Yes I have been through this page.

ADV KENNEDY SC: And apart from the correction you have already made reference to on the next page, paragraph 5, to Mr Burger, having to be deleted there, apart from that, can you confirm now under oath that the
10 contents of this affidavit are true and correct?

MR MANTSHA: I just wish to point on specific paragraphs.

ADV KENNEDY SC: Yes, Chair can I just so that we have some bit of framework for how we are going to deal with it, are you going to add to something?

MR MANTSHA: Yes, I am going to ...[intervenes]

ADV KENNEDY SC: Okay I prefer you not to add to anything at this stage.

MR MANTSHA: No I am not adding.

20 **ADV KENNEDY SC:** Oh I thought you said yes when I asked you.

MR MANTSHA: I just want to make a correction on.

ADV KENNEDY SC: Make a correction, that's fine, yes, paragraph?

MR MANTSHA: I have already indicated paragraph 5.

ADV KENNEDY SC: Yes we have dealt with that, what else?

MR MANTSHA: And then I have got paragraph 7 again.

ADV KENNEDY SC: Paragraph 7, yes?

MR MANTSHA: Yes of course it is many years ago, the correct position is who called who I have no recollection, and then I have paragraph ...[intervenes]

ADV KENNEDY SC: Sorry, before you move from that I don't understand, you said you wanted to make a
10 correction rather than adding something, is there a correction here, is there something wrong here?

MR MANTSHA: Well ...[intervenes]

CHAIRPERSON: I am sorry, maybe let's do it this way Mr Kennedy and Mr Mantsha. Maybe let us say, let us do it this way you asked Mr Mantsha whether the – once you have confirmed his signature and he deposed to the affidavit before a Commissioner of Oaths you ask him whether the contents are true, then he can say, Mr Mantshe you can say they are true and correct except
20 certain corrections that you will make in due course, during your evidence. Then when Mr Kennedy deals with that then you can say in that paragraph here is what should be corrected and this is what it would say.

ADV KENNEDY SC: Thank you Chair.

CHAIRPERSON: I think let's do it that way, in that way

we can get the affidavits submitted and then we start with questions.

ADV KENNEDY SC: Yes, we can then make some progress, thank you Chair.

CHAIRPERSON: Ja, ja.

ADV KENNEDY SC: Thank you for the guidance. Mr Mantsha are you happy to proceed on that basis?

MR MANTSHA: Indeed.

10 **ADV KENNEDY SC:** Right, so subject to any changes you may want to indicate in the course of your oral evidence at this stage are you happy to confirm that subject to that the contents are true and correct?

MR MANTSHA: Indeed.

ADV KENNEDY SC: Right thank you. Chair may we then ask leave to have this affidavit at page 330 admitted as an exhibit in Bundle Denel 8 as Exhibit W22.1.

CHAIRPERSON: The affidavit/statement of Mr Lugisani Daniel Mantsha starting at page 330 is admitted as Exhibit W22.1.

20 **ADV KENNEDY SC:** Thank you Chair. May we then proceed Mr Mantsha to the next affidavit in the bundle, it is at page 337 to 338, it is a two page affidavit. Is that your signature as the first signature on page 338?

MR MANTSHA: Correct Chairperson.

ADV KENNEDY SC: And that was signed in front of a

Commissioner of Oaths on the 28th of August 2020, correct?

MR MANTSHA: Correct Chairperson.

ADV KENNEDY SC: Have you been during the tea adjournment through this affidavit?

MR MANTSHA: I did look at it.

ADV KENNEDY SC: Are there any corrections you want to draw attention to now or will you deal with anything further in the course of your oral evidence that you would like to?

10 **MR MANTSHA:** I would deal with corrections.

ADV KENNEDY SC: You will deal with corrections later?

MR MANTSHA: Yes.

ADV KENNEDY SC: Subject to that do you confirm that the contents are true and correct?

MR MANTSHA: Indeed.

ADV KENNEDY SC: Right and your third affidavit I believe is at page 342.

CHAIRPERSON: You don't want us to finish with this?

20 **ADV KENNEDY SC:** I beg your pardon, quite so Chair, thank you.

CHAIRPERSON: Ja.

ADV KENNEDY SC: May we ask then leave to have that admitted as Exhibit W22.2.

CHAIRPERSON: The statements/affidavit of Mr Lugisani Daniel Mantsha starting at page 337 is admitted as Exhibit

WW22.2.

ADV KENNEDY SC: Thank you Chair, and there is a third affidavit Mr Mantsha that you will find at page 342. At page 345 it appears to be your signature at the top, is that correct?

MR MANTSHA: 340?

ADV KENNEDY SC: Two, sorry, five, 345 there appears to be your signature at the top. 345 Mr Mantsha, do you have 345 on the top left.

10 **CHAIRPERSON:** Look at the black numbers.

MR MANTSHA: I can see it.

CHAIRPERSON: H'm.

ADV KENNEDY SC: Is that your signature at the top Mr Mantsha?

MR MANTSHA: Indeed.

ADV KENNEDY SC: Thank you. Again subject to the same qualifications that you may want to add or correct at a later stage subject to that you confirm the contents of this affidavit?

20 **MR MANTSHA:** Indeed.

ADV KENNEDY SC: Thank you. Chair may we then ask formally for leave to admit this affidavit from page 342 in Bundle 8, as Exhibit W22.3.

CHAIRPERSON: The affidavits/statement of Mr Lugisani Daniel Mantsha starting at page 342 is admitted as Exhibit

W22.3

ADV KENNEDY SC: Thank you Chair. Now Mr Mantsha in the opening statement that you gave you indicated that at a certain stage in 2015 you were appointed as Chairperson of the Board of Denel, correct?

MR MANTSHA: Correct Chair.

ADV KENNEDY SC: And you served for how long?

MR MANTSHA: I resigned around 2018 I think it was, towards the end of February.

10 **ADV KENNEDY SC:** Your appointment, can I take you in this bundle to page 422, this is Minister Lynne Brown's public statement relating to your appointment as part of the new board. Do you have that?

MR MANTSHA: 420?

ADV KENNEDY SC: Two.

MR MANTSHA: I do.

ADV KENNEDY SC: So it was on the 24th of July 2015 the Public Enterprises Minister Lynne Brown made the following, made a public announcement where she says
20 following cabinet approval, she has rotated the Board of Denel, Mr Daniel Mantsha is appointed as the non-executive, as a non-executive director and as the Chairperson of the Board with effect from 24 July 2015 for a three year period.

So you would ordinarily in terms of the three year

appointment have carried on until the 23rd of July 2018, is that right?

MR MANTSHA: Correct.

ADV KENNEDY SC: But you didn't – sorry may I just ask you please not to sit too far back from the microphone. Thank you. I know these things can be a bit tedious but I am afraid I just have to remind you otherwise we could have problems with the recording.

MR MANTSHA: Thank you Counsel.

10 **ADV KENNEDY SC:** Thank you very much. So did you resign, I think you said in February 2018? Is that right?

MR MANTSHA: I think so.

ADV KENNEDY SC: Right, so you didn't serve out the full period of the three years, you resigned a few months before the end of that three year period, is that right?

MR MANTSHA: Correct.

ADV KENNEDY SC: And why was that?

MR MANTSHA: Well personal reasons.

ADV KENNEDY SC: Was it personal reasons?

20 **MR MANTSHA:** Yes.

ADV KENNEDY SC: And then Lynne Brown, the Minister then sets out at the foot of the page a brief summary of the profiles of the non-executive directors being as follows;

“Mr Mantsha obtained a BJuris in 1991 and LLB in 1993, both from the University of Venda. He is an

attorney who has acquired valuable experience over the years in Corporate Finance, Transactional Advising, Business Management, Commercial Law, Media and Communication Law, Administrative and Constitutional Law.”

Does that accurately provide the facts as to very briefly your background?

MR MANTSHA: Well Chairperson this is not a statement from me, this is what they wrote.

10 **ADV KENNEDY SC:** Yes so I am asking you whether it is accurate?

MR MANTSHA: I cannot comment on that.

ADV KENNEDY SC: You can’t comment on whether she has been correct in saying for example you have got a B Juris and an LLB, surely you would know.

MR MANTSHA: No, of course I do have.

ADV KENNEDY SC: Well is there anything wrong in what she has said?

20 **MR MANTSHA:** Well I don’t want to comment on the statement issued by her department, yes I have got experience in these kind of things.

ADV KENNEDY SC: These kind of things?

MR MANTSHA: Yes.

ADV KENNEDY SC: Right, and in addition to what she has set out of course you had acted as an advisor to the then

Communication Minister, Ms Faith Muthambi, correct, you told the Chair that earlier.

MR MANTSHA: Correct.

ADV KENNEDY SC: Right, it refers to you having apart from your experience and ...[intervenes]

CHAIRPERSON: I am sorry Mr Kennedy, well I am not sure Mr Mantsha whether there was any misunderstanding between yourself and Mr Kennedy in terms of what he sought to establish. I understand you Mr Kennedy to seek
10 to establish whether Mr Mantsha was confirming that what Minister Brown told the public about him was correct?

ADV KENNEDY SC: Yes I did ask that question.

CHAIRPERSON: Yes, now that may be important Mr Mantsha because this was a statement where you were being appointed to a State owned entity, the public wants to know the people who are being appointed and the Minister tells the public certain things about those people and the public might say well those people are experienced so we have comfort, or they might say but these people
20 have no experience, so I think it is important for you to be able to say if there is something that is not accurate that the Minister said in the statement about you, or if you say no there is nothing inaccurate then it is fine, but I think the public would be concerned if the Minister has told them who you are and what experience you have and then you

are not able to either confirm or say no she got something wrong.

MR MANTSHA: I think it is correct.

CHAIRPERSON: Correct, okay, alright.

ADV KENNEDY SC: Alright thank you. Of course this was a very brief summary of some of the main points, no points there are other facts relating to your experience and so forth, one being that you had been the advisor to the previous communications minister, Faith Muthambi. Were
10 you the legal advisor or a special advisor or a policy advisor to Minister Muthambi?

MR MANTSHA: Well I was appointed a legal advisor but when you advise legally there are policy matters, there are political matters, so I advise across the board.

ADV KENNEDY SC: I see, and just by way of background, have you ever previously managed a commercial business or a State owned business or served as Chairperson of the Board of any such business?

MR MANTSHA: No I have been always managing my own
20 business.

ADV KENNEDY SC: Your own business meaning what – your attorneys firm or commercial businesses?

MR MANTSHA: No my attorneys practice.

ADV KENNEDY SC: Right, okay and then she refers to some of your areas of expertise such as communication

law, media law, administrative and constitutional law. Have you also had experience in labour law? Have you also had experience in labour law?

MR MANTSHA: Chairperson a lot, a lot.

ADV KENNEDY SC: Thank you. Alright while we are at this page I would just like to note something that Minister Brown has referred to earlier, in the 4th paragraph it says:

10 “I would like to thank the outgoing Board led by Acting Chairperson Martie Janse [it should be I think van Rensburg] for an outstanding job. They handed over a company that is truly on a path to positive sustainability. I commend them for their professionalism in ensuring the handover report was of such a quality that it will be a critical guide to the new board.”

Now you did not serve on the previous board when it was chaired on an acting basis by Ms Janse van Rensburg, is that right?

MR MANTSHA: Correct.

20 **ADV KENNEDY SC:** So you arrived as a new broom as it were in Denel as the Chairperson at Denel.

MR MANTSHA: Correct.

ADV KENNEDY SC: There were some others that had crossed over from the previous board to the new board, Minister Brown refers to that earlier on, it is actually Mr

Johannes Motseke being reappointed for purposes of continuity.

So you arrive at somebody new in the organisation of Denel. Are you able to tell the Chair please overall what was the state of Denel both as a business in general and in particular in relation to financing when you took over as its Board Chairperson in 2015?

MR MANTSHA: Chairperson I think I have already alluded to it, when the new Board, which I was part of, Denel was
10 already a sinking ship. Denel was already owing creditors, mainly small and medium enterprises over 200million and these invoices were more than 200 days. Denel at that stage was owing Nedbank and ABSA over probably I think it was R4.7billion. Denel facilities with financial institutions which was mainly used for issuing guarantees in contracts was at that stage R8billion plus and Denel was left with around R2billion.

So the financial state was dire at the time, compounded with a transaction that Denel has spent
20 R855million of which Denel did not have that money. So it was catastrophic.

ADV KENNEDY SC: Thank you. Now may I take you in the same bundle, bundle 8, to page 330 which is your first affidavit.

CHAIRPERSON: I am sorry Mr Kennedy. It will be

important in due course to compare Mr Mantsha's description of Denel's position when the Board that he chaired came in with for example what I was told by Mr Mhlontlo, because I did ask him what the position of Denel financially was when he and the other executives were suspended, because they were suspended within about three months or so after the new board had come in.

ADV KENNEDY SC: Yes.

CHAIRPERSON: That would be important in due course to
10 compare and see if it sit he same.

ADV KENNEDY SC: We will do so thank you Chair.

CHAIRPERSON: Ja, okay.

ADV KENNEDY SC: Mr Mhlontlo – I beg your pardon, Mr Mantsha if I can direct your attention please to page 330 that's your first affidavit, that you signed as we saw on the 28th of August 2020, was that at the request of the Commission? Did you sign the affidavit at the request of the Commission?

MR MANTSHA: Yes.

20 **ADV KENNEDY SC:** Right and that is after as I understand it that the Commission sent you a Rule 33 notice directing your attention to what Salugee had said in his affidavits, correct?

MR MANTSHA: Yes.

ADV KENNEDY SC: Right thank you, and if you look at

page 330, paragraph 3 actually makes that point:

“I have read the statements of Mr Riad Salugee and wish to respond to the allegations he made relating to me.”

And then you do make a response and then for example at page 331 you refer at paragraphs 89 to 90 that is a reference to the paragraph 89 to 90 of Mr Salugee’s affidavit, correct?

MR MANTSHA: 89 to 90?

10 **ADV KENNEDY SC:** Yes.

MR MANTSHA: Okay, yes.

ADV KENNEDY SC: Sorry I am not sure that you followed the question, we are at page 331, correct?

MR MANTSHA: Yes.

ADV KENNEDY SC: In your affidavit, this is what you signed, you say 4 at paragraphs 89 to 90, do you see the heading?

MR MANTSHA: Yes.

ADV KENNEDY SC: And you say:

20 “I have no knowledge of this allegation.”

I’m simply asking you when you refer ad paragraph 89 to 90 as we as attorneys like you and counsel like me use the terminology *ad paragraph* it means referring to paragraph 89 to 90, correct?

MR MANTSHA: Yes.

ADV KENNEDY SC: And it is 89 to 90 I am simply wanting to establish, that is 89 to 90 as numbered in Mr Salugee's affidavit, correct?

MR MANTSHA: Yes.

ADV KENNEDY SC: Right, and so it goes on for the rest of your affidavit. So – and the Commission thanks you, or the legal team thanks you for providing this affidavit in response to the Rule 33 Notice, and then if I can take you please – and sorry, then at page 335 of the same affidavit
10 you are referring to a further statement of Mr Salugee and you give your response to that, correct?

MR MANTSHA: Yes.

ADV KENNEDY SC: Right. Then your next affidavit, we will get back to the contents, some of the contents of that at a later stage, I am just getting out of the way some – just the sequence of how it was done and the formalities.

337 is your next very brief affidavit, again also signed on the 28th of August 2020, and this time in paragraph 3 you say:

20 "I have read the statement of Mr Ratatso Klakude and wish to respond to the allegations he made relating to me."

So is that the same as the last affidavit, your attention was drawn by the Commission to another affidavit that came from Mr Klakude and you were asked to respond to that

and you did so.

MR MANTSHA: Correct.

ADV KENNEDY SC: Right, then we have at page 339 a letter from the Commission itself in the person of its Secretary, Professor Musala, you see that at page 341?

MR MANTSHA: I do.

ADV KENNEDY SC: And that was dated as recently as 7th October 2020 so about five or six weeks ago and that requested you to provide by the specified dates you will
10 see in paragraph 2 an affidavit to respond to the questions set out in paragraph 4 below, and give your full version in relation thereto, and then there are a number of questions set out at page 340, paragraph 4A to G, do you see that?

MR MANTSHA: Yes.

ADV KENNEDY SC: And just by way of example paragraph A says:

“You are requested to give your full version justifying the decisions that were taken by the Board to [a] suspend Riad Salugee who was the
20 CEO, Fikile Mhlontlo who was the CFO, and Elizabeth Africa who was the company secretary.”

And then likewise in [e] for example the decision what motivated you to form Denel Asia and [f] to partner with VR Laser and [g] to litigate against Treasury.

So they raise these specific questions?

MR MANTSHA: Yes.

ADV KENNEDY SC: Is that right? And you responded to that in your latest affidavit at page 342, is that right?

MR MANTSHA: Yes.

ADV KENNEDY SC: And we see at page 345 that that was signed by you in front of the Commissioner of Oaths on the 14th of October 2020, which is about a week after the letter was dated?

MR MANTSHA: Yes.

10 **ADV KENNEDY SC:** Right, so it was specifically a response to that request, correct?

MR MANTSHA: Yes.

ADV KENNEDY SC: While we are at it you were asked of course to provide a full version to justify the decisions. Now we looked at the affidavit at page 342, am I correct in suggesting to you that this is a very brief affidavit?

MR MANTSHA: Correct.

ADV KENNEDY SC: Yes. And it gives very little detail not so? For example let's take you to page 343, paragraph 7,
20 you were asked to justify the decision relating to the formation of Denel Asia and you simply say it is set out in both the PFMA Section 52, 54[2] pre-notification of Section 51[1][g], you had nothing to add to those documents is that right?

MR MANTSHA: Correct.

ADV KENNEDY SC: Yes, and then you attached, helpfully you attached the documents that you referred to as Annexures A and B to your affidavit, correct?

MR MANTSHA: Correct.

ADV KENNEDY SC: And we find those from page 347, is that right?

MR MANTSHA: Correct.

ADV KENNEDY SC: Now an indulgence was granted to you at your and your learned counsel's request and with
10 the approval of the Chair to allow you to give an opening statement, which you did, over some fair period this morning and we are grateful to you for providing detail to the Commission. What I just want to raise very briefly with you is the concern that the learned Chair raised with you earlier which is – is there any particular reason why the considerable detail you have given to us at your own request in your detailed fairly lengthy opening statement was not provided in the form of the affidavits which you were specifically requested to give, not just a version but a
20 full version, any reason for that?

MR MANTSHA: I think Chair I have already responded to the Chairperson that the approach that investigators and officials of the Commission they use when it comes to people like myself who were in the service of the country and that we have acquired certain information and we have

– we should provide the Commission with the information. I think as I have explained the approach of trying to accuse certain people of being either a nebulous of State Capture, either being involved with the State Capture because either by association of – or otherwise, it doesn't send an incentive to people to come and talk because the question that Counsel is asking me you would assume that the Commission is obviously very conscious with its own timeframes, you would assume that if for example these
 10 are actions of the Board, the Board acts through its meetings and the actions of the Board by law are recorded in the minutes and in the resolutions.

So you would expect investigators to ask questions because they cannot find the answers, but when you are being asked things that if it is being investigated it should be easy for the investigator to find that I must say Chair I am actually indebted with explanation that you have given to me but of course unfortunately Chair we are not dealing with the Chairperson, we are dealing with the people who
 20 are employed to do this kind of work and indeed if the approach from the beginning is that the Chairperson has explained to me and what my – I mean Counsel is conveying now it would have been a different approach, completely.

ADV KENNEDY SC: May I take your Mr Mantsha and I am

encouraged to hear that you feel a measure of reassurance from the remarks made by the learned Chairperson in that regard, but may I just ask you to look again at the letter, the recent letter at page 339. Page 339 says:

“The investigations of the Commission reveal that you were a member of the Board of Directors of Denel SOC Limited.”

Now that is not an accusation, that is simply a statement of fact, which is either correct or not.

10 **MR MANTSHA**: That is correct.

ADV KENNEDY SC: And then the Chair – sorry not the Chairperson, the secretary of the Commission, Professor Mesala says, paragraph 2:

“I write to you at the direction of the Commission’s legal team in order to request that you furnish the commission on or before Wednesday 14 October with an affidavit in which you respond to the questions set out in paragraph 4 below and give your full version in relation thereto. If you require
20 assistance etcetera ...”

We don’t need to go through that, there was a suggestion that if you needed assistance that would be provided by the commission with no cost to you, and then the questions are put; paragraph 4:

“In your capacity as a director at Denel you are

requested to give your full version justifying the decisions that were taken by the Board in 2015 and 2016.”

Two, and then we see A to G and I gave you some examples of that. I don’t think we need to deal with the remainder of the letter in detail it indicates to you the legal basis on which it is said that the commission is entitled to issue a directive and/or summons any person to submit an affidavit or appear before the Commission etcetera, and it
 10 gives a deadline. There is nothing in this letter would you concede that says the following has already been – you have already been found guilty of something, or the following findings have already been made, not so? It is simply is neutral it is saying the Commission would like you to answer certain questions, correct?

MR MANTSHA: Well with respect Chairperson both act through High Courts.

ADV KENNEDY SC: I am sorry just speak up please.

MR MANTSHA: Both acts through the Courts and
 20 Chairperson I don’t want – I am not here to justify anything, I am here to explain what has happened, what I have experienced and when a question comes to me to say justify the decision, the decisions of the board are contained in minutes in the board resolutions and it is simple and easy for the commission to understand the basis upon which all

these decisions were taken. Sorry Chair. That is why for me because these were not my personal decisions. It was fair enough to refer to those documents which has contained these decisions. It was not to say I am not cooperating.

If you ask me questions in my capacity as a Chair I will then give you the actions of the board which are contained in the minutes and in the resolution. So that is why I attach this document because then you see this was the reasoning and that is why these decisions were taken. If
 10 Counsel wants to get to a point that I was not cooperating that I reject is not correct.

I have already expressed to the Chairperson that the message out there – not only to me but to many other people. It is different it is not the Chairperson who is communicating with us. It is not the Chairperson who is telling us this that the message out there is accusation and accusation and lambastes people as enablers of state capture and given all sorts of names. But if the idea from Counsel is to say you were not cooperating that is not
 20 correct.

ADV KENNEDY SC: I was simply asking you to look at the document in light of your earlier evidence that – that people had made findings against you that you had been tainted by state capture and a simple point is that is not apparent from this letter, not so?

MR MANTSHA: I think Chair I – I think I have already explained myself.

ADV KENNEDY SC: Thank you the...

MR MANTSHA: The reason why I reacted the way I have reacted. I do not think it is – I have to repeat because otherwise I would be repeating what I have answered.

ADV KENNEDY SC: No we are not asking you to repeat anything – please do not Mr Mantsha we have precious little time and we would like to move on. So if you want to say
10 anything you have not said already you welcome to do so subject to the Chair's guidance but I certainly do not want you to repeat anything. Thank you. Can I now take you to page 321. This is a further letter from an official of the commission. This is dated earlier than the one we looked at earlier and that is the 19 February 2020, do you see that?

MR MANTSHA: I do.

ADV KENNEDY SC: And that was issued by – on the following page 322 by Ms Bridget Tshabalala the then acting secretary of the Judicial Commission, correct?

20 **MR MANTSHA:** I do.

ADV KENNEDY SC: Did you receive this letter?

MR MANTSHA: Yes the letter was received.

ADV KENNEDY SC: Yes you received it in February did you?

MR MANTSHA: Ja – yes it was received in February.

ADV KENNEDY SC: Right. And thereto the commission's official then says in paragraph 2.

10 "This letter serves to confirm that the commission is looking into allegations of state capture, corruption and fraud involving several public entities and other organs of state pursuant to the commission's terms of reference. As part of the investigations into the affairs of Denel SOC Limited and the greater scope of the state capture inquiry we are investigating various matters involving yourself."

 Would you agree that they are not saying we have made any findings? They simply investigating allegations that have been made by other, correct?

MR MANTSHA: Correct.

20 **ADV KENNEDY SC:** Yes. And would you appreciate particularly as an experienced and qualified attorney with knowledge of constitutional, administrative law and the like that of course is a matter of law. Nobody can make findings that have any binding force in any event in relation to the commission's work other than the learned Chairperson of the commission, Correct?

MR MANTSHA: It is correct.

ADV KENNEDY SC: Right. And then the – the acting

secretary says this – paragraph 4.

“We have compiled a list of questions attached hereto as annexure A which you are required to respond to in the form of an affidavit detailing information required including supporting documents where possible.”

And it says:

10 “The commission urgently requires the affidavit to be delivered within ten...”

I see it say ten in the word and then the – in numerals in brackets 15 calendar days. Be that as it may. What then follows at page 323 is an eight page – sorry it is in fact a six page document that runs to page 329 setting out a number of questions, correct?

MR MANTSHA: Indeed.

ADV KENNEDY SC: And you received these questions at the time you received the letter that came with it?

MR MANTSHA: Yes.

20 **ADV KENNEDY SC:** Right. And I am just going to look at the headings so that we see what the questions relate to. Paragraph 1 on page 323. It is the Gupta’s and Associates relationship and then it says for example:

“Who introduced you to the Gupta family and what was the purpose of the introduction.”

The next topic at page 324 paragraph 2 is the Denel VR Laser Joint Venture and as an example 2.1

“How and when did you become aware of the Denel Asia Joint Venture based on your knowledge who introduced the idea or concept to the Denel board provide evidence.”

And then on page 328 there is reference in paragraph 3 to the Pakistan deal and paragraph 4 to the Chad's deal.

10 Now did you reply to this?

MR MANTSHA: Chairperson I did not reply. It was purely a matter of oversight. The moment in time when this letter was received by my office there were very serious matters that I was handling for other people that relates to the work of this commission. It was an oversight on my side. The letter received; the letter is put in the file and at this time there were matters that...

ADV KENNEDY SC: Sorry please speak into the microphone.

20 **MR MANTSHA:** There were matters that of course preoccupied and it was an oversight on my part and I omitted. And to that Chairperson of course I am sorry that there was an oversight on my part and I did not respond to this.

ADV KENNEDY SC: So we should not read into it any

deliberate refusal to cooperate?

MR MANTSHA: Not at all Chairperson. I think the next minute I got into this is when now the bundles are being sent.

ADV KENNEDY SC: Yes.

MR MANTSHA: And as preparing with my legal team of course we then picked this was not answered. But as I explained Chairperson my apologies to that but it was clearly, clearly oversight. Sometime we forget about our own
10 personal matters and focus on ourselves – on other matters and this was a very difficult time in my – in my life.

ADV KENNEDY SC: Yes.

MR MANTSHA: When that was received.

ADV KENNEDY SC: No I understand and I empathise as a legal practitioner. It is true that sometimes we – we tend to give more time and attention to clients' interests and sometimes our own. But this was not something like a plumber's bill that you had to pay. Although plumbers are also important to deal with. This was – this was something
20 very serious that came on behalf of the Chairperson of a Judicial Commission of Inquiry appointed no less than by the President and relating to huge matters of public importance it just seems to me a little problematic that you confirm having received this and overlooking it.

MR MANTSHA: Well Chairperson I cannot say more than

the apologies that I have given.

ADV KENNEDY SC: Okay.

MR MANTSHA: And the reasons for me not to react and to [00:08:41].

ADV KENNEDY SC: Okay thank you. Alright thank you Mr Mantsha can I just before we leave this. Were you dealing with clients in your professional capacity as an attorney to assist them in relation processes of this commission concerning those clients?

10 **MR MANTSHA:** Well amongst other things yes.

ADV KENNEDY SC: Right. Okay thank you. Now is it also correct that we as the legal team requested you to cooperate with the legal team in preparation for this hearing by consulting with us?

MR MANTSHA: Well I got that request Chairperson true but I am sufficiently represented a very senior attorney on my side and a very experienced senior counsel. My attorney responded to say no whatever you want you can tell us and then we can look at that. There was no idea of trying not to
20 cooperate. There have been correspondences between my attorney and the commission as far as that request is concerned.

ADV KENNEDY SC: Yes. I would like to ask you one final point about the level of cooperation or the level at which you may have cooperated or not cooperated and that is this.

When you look at the fact – these facts you do not respond at all due to an oversight you say to a very detailed list of questions which as the Chairperson – sorry dealing with matters which the Chairperson has already referred to as something that the commission would have welcomed if you had assisted from the beginning. It could have saved some time.

Secondly the fact that when you did cooperate and we thank you for that by providing the three affidavits that
10 we have taken you to they are extremely brief. In fact very sparse. I can give you as an example at the other end of the spectrum for example a witness who testified yesterday Mr Burger who – who himself has been the subject of a number of allegations and he felt – he felt he was innocent and wanted to clear his name. He put in an affidavit. I believe it was the main affidavit was 188 pages just the affidavit let alone many pages of annexures. That may be an extreme example because others have given more like 30/40 pages whatever.

20 That the third point is that when we as the legal team asked to consult with you you did not consult. It is true that your attorney wrote back – did give a response at least that was not overlooked and indicated if there was anything specific we could raise it with them but not to have a consultation. It just seems to – sorry I will give you a chance

to respond may I just finish the question.

Can I just suggest to you that unlike many other witnesses not all...

MR MANTSHA: My apologies Counsel.

ADV KENNEDY SC: Not all witnesses in this commission both in relation to the Denel stream and other streams. The commission has had a range of varying responses or non-responses from witnesses it just seems that your response appears to have been very patchy. Please respond.

10 **MR MANTSHA:** Chairperson what is happening I think Mr Burger eluded in his affidavit. What these investigators who are employed by the commission they interrogate people to accept whatever narrative they are coming with.

So I of course do not want to subject myself in unfair process. It is not correct that there was no reason for me not to consult with the commission. The reasons given by the commission were not such that we can form a conclusion that look the commission is out here; it is asking us this information because of very good reasons.

20 So there has been nullified, there has been people being put under very serious interrogation. And of course I did not want to subject myself to that. I have got a legal team which is capable of whether it is 500 pages of an affidavit we can do but in conclusion Chair if all of this is meant to show that I disrespected this commission that is not

true.

I cooperated to an extent on the basis of the information that I have. I did not of course want to expose myself to what I regard as unfair tactics by some of the commission's investigators. So I did not want to get involved. But at no stage as I said Chair when you explained to me and if that was the message that everyone out there is getting as the Chair has explained we would have been the first day came here with loads and loads of
10 things and say Chairperson I want to share this with you.

So again if Counsel is trying to say I did not cooperate with the commission it is not correct. On the face of other documents that I might not have responded to I profoundly apologise Chairperson. Here I am. I am here to engage. I am here to explain the part of my board. I am here to explain my part. I am here to share whatever experience that I have that might be relevant to what the commission is looking for. And I am here in good faith. That is what I can say Chairperson.

20 **ADV KENNEDY SC:** Well on behalf of the legal team may we say we commend you at least for coming today and we thank you for that. And can you confirm that you will cooperate fully with the questionings – the questioning that we are going to put to you?

MR MANTSHA: Well with respect Chairperson I mean I do

not think I have to answer that.

ADV KENNEDY SC: Okay. When you refer to interrogation of course that is a term that for example in the apartheid era had terrible connotations of torture and so forth. You in fact have never been interviewed by the investigators, not so?

MR MANTSHA: Ja but I...

ADV KENNEDY SC: Is that correct?

MR MANTSHA: It is correct.

ADV KENNEDY SC: So you have not actually been
10 interrogated. In fact you said you did not want to subject yourself to interrogation, correct?

MR MANTSHA: But yes I have read the evidence of people who have been subjected like Burger who described.

ADV KENNEDY SC: Yes but that is not your own personal knowledge, is it?

MR MANTSHA: Well I would not – I would not – it is not my personal knowledge.

ADV KENNEDY SC: Yes.

MR MANTSHA: But he would not have said that if that was
20 not correct.

ADV KENNEDY SC: And just a final point on this. The request for the consultation that I was referring to earlier that was made by the legal team was not made by the investigators. There is an investigation team and a legal team In fact that will be clear if not to your own legal team

it would have been clear very easily from a – any casual look at the – at the commission's website.

Now we were the ones as the legal team asking you to cooperate by way of a consultation which did not take place. So surely any perceived – any perceived heavy handedness on the part of investigators that you yourself had not personally received should be surely irrelevant to a legal team three members of the Bar wanting to consult with you. And instead we are simply told in an email well if
 10 you want to raise anything specifically do it by way of email but we are not going to join you in a consultation even if as we permitted they had come along to the consultation. We were quite happy.

We had plenty of consultations with various witnesses where they have accompanied by their legal representatives and we have heard out the legal representatives if they had any difficulties. It just seems to us as the legal team to be a little disappointing and concerning that the attitude on your part has been so
 20 resistant and so suspicious about the commission and its work.

MR MANTSHA: Well Chairperson I cannot say more than what I have said.

ADV KENNEDY SC: Alright thank you.

MR MANTSHA: I – I have cooperated to an extent where I

thought my legal position is and I have not obstructed the work of this commission. I am here. I am here to explain what I know to the commission.

I have already told you Chairperson that the manner in which things have been done is such that it – people resent it because either lack of the reasons or a proper explanation was [00:18:39]. So I do not think I should come here and try to go to your things. It is suffice Chairperson to say I have been here also representing
10 other people.

So I am not – I am not saying I do not recognise the commission or undermining the authority of the commission or the Chairperson. I have represented people in this commission. I am still representing people in this commission. And there have been affidavits we have been sending, there have been correspondence that they have been sending in my capacity as an attorney so there is no anything.

If I disagree with a request Chairperson and we
20 look at the request and by the way for a legal team to be in this commission somebody has to pay. For a legal team to be in consultation with the commission legal advisors somebody has to pay it. So I – that cannot be used to say I am obstructive or I am not cooperating. So I cannot say more than what I have explained Chairperson.

ADV KENNEDY SC: Alright thank you Mr Mantsha. May we now deal with some of the events that took place in relation to your chairpersonship of the board of Denel. If we can take you to one of your affidavits – if we can take you to page 331. You there are dealing as we have established already with a response to various statements made by Mr Salugee in his affidavit and what you say if I may quote into the record paragraph 6 you say:

10 “I was appointed by the then Cabinet of the Republic of South Africa as a chairperson and I deny that I was appointed to capture Denel for the benefit of the Gupta family. Long before my appointment as the board chairperson Mr Salugee had already signed an agreement on behalf of presumably Denel to partner with VR Laser a company associated with the Gupta family.”

Now there are you referring to the partnership between Denel and VR Laser in relation to the Asia deal? Is that
20 right?

MR MANTSHA: No.

ADV KENNEDY SC: What are you referring to then?

MR MANTSHA: Well Chairperson what I am referring here is VR Laser had already signed an agreement or a memorandum with Denel and VR Laser was already

involved in Hoefyster Project which was like – is it eleven

ADV KENNEDY SC: Sorry involved with? Just please try and speak up a bit?

MR MANTSHA: The South African Defence Force appointed Denel to execute a project called Hoefyster.

ADV KENNEDY SC: Yes.

MR MANTSHA: And this was of course long before my appointment.

ADV KENNEDY SC: So are you referring to the contract –
10 there has been a great deal of evidence we do not need to cover again.

MR MANTSHA: Yes.

ADV KENNEDY SC: Unless it is necessary. There was a – there were three contracts that we have been dealing with primarily in evidence the past few weeks. The one is the Hoefyster Platform Hulls contract. The second was a single supply contract between DLS and VR Laser and the third was a similar single supply contract between DVS and VR Laser. You aware of those three contracts?

20 **MR MANTSHA:** Yes.

ADV KENNEDY SC: Right. Are you referring here to the agreement relating to the Hoefyster Platform Hulls?

MR MANTSHA: I am referring here to the first agreement.

ADV KENNEDY SC: Yes which one?

MR MANTSHA: That I have been told. The first

agreement which Denel has entered with VR.

ADV KENNEDY SC: Yes which one does that relate to of the three Mr Mantsha try and help me?

MR MANTSHA: Well I think Counsel if we take the sequence of this relationship.

ADV KENNEDY SC: Yes.

MR MANTSHA: Between Denel and VR Laser.

ADV KENNEDY SC: Yes.

MR MANTSHA: You will then see that the first agreement
10 which was signed between VR Laser and – sorry
Chairperson – between VR Laser and Denel was signed
some time before our appointment. I am referring to that
first agreement which Denel and VR signed.

ADV KENNEDY SC: Right.

MR MANTSHA: That is the agreement I am referring to.

ADV KENNEDY SC: I fully understand that I am simply
quickly trying to get to the point. Was that the agreement,
the first agreement that related to the Hoefyster Platform
Hulls? Is that what you referring to? That is my
20 understanding of the facts but it is your evidence not mine.
So if I am wrong the answer is no it is xyz. If the answer
is yes the answer is yes. Is it the Platform Hulls contract
or is it the single supply contracts?

MR MANTSHA: Well my understanding of the agreement
which was signed it was a relationship agreement

partnership agreement. Yes it covered the Hoefyster Project. This is my understanding as we entered into the company.

ADV KENNEDY SC: And when you entered into the company you saying that had already been concluded some time before?

MR MANTSHA: Yes indeed.

ADV KENNEDY SC: And we are in agreement with you the Hoefyster contract was signed in 2014 before you started
10 in July 2015. Right thank you. Now when you say you were appointed as chairperson by the then Cabinet of the Republic that was when the Cabinet was chaired by the then President Mr Jacob Zuma, correct?

MR MANTSHA: President Zuma yes.

ADV KENNEDY SC: Yes. Now reference has been made to the fact that and if it is not a fact you must correct it please that at a certain stage you have acted or may still be acting for former President Zuma, is that correct as an attorney?

20 **MR MANTSHA:** I think it is a public knowledge.

ADV KENNEDY SC: So you confirm it?

MR MANTSHA: Of course it is [00:25:06].

ADV KENNEDY SC: Right. Were you acting as Mr – former President Zuma as his attorney at this stage when you were appointed as the chairperson of Denel?

MR MANTSHA: No.

ADV KENNEDY SC: Not. When did that come about?

MR MANTSHA: Well I – I acted for former President as from 2018 if I...

ADV KENNEDY SC: 2018?

MR MANTSHA: Yes.

ADV KENNEDY SC: So that was some years after you were appointed as chairperson of the Denel board?

MR MANTSHA: In fact after I have left them.

10 **ADV KENNEDY SC:** After you had left the board right and that was in February that you left.

MR MANTSHA: Yes. 2018. Right. Did you know the former President Zuma before your appointment?

MR MANTSHA: Well knowing him how?

ADV KENNEDY SC: Or in any way? You were not as his attorney. Did you know him socially or through business?

MR MANTSHA: Of course I knew President Zuma. I know any other business to do with him.

ADV KENNEDY SC: I see. And what was the nature of
20 your knowing him? Was it a social contact or business contact?

MR MANTSHA: Well I met the President in political meetings.

ADV KENNEDY SC: Right.

MR MANTSHA: And ja that was it.

ADV KENNEDY SC: Okay and then former President Zuma's son Duduzane have you acted as his attorney?

MR MANTSHA: No.

ADV KENNEDY SC: At any stage? Not at all.

MR MANTSHA: No.

ADV KENNEDY SC: Okay thank you. Alright now I would like to – you to please then refer to your paragraph 7 at page 331. You say:

“I do not re – I did not request to meet Mr Salugee I did not
10 direct him that the meeting would take place at the Gupta residence. My recollection of the event is that Mr Essa convened the meeting and he requested me to attend.”

Now this is referring to evidence that Mr Salugee gave previously relating to a particular meeting at the Gupta residence in the suburb of Saxonwold. Now do you confirm that you went to a meeting at the Gupta residence in Saxonwold?

MR MANTSHA: Well Chairperson firstly let me correct the wording of this statement.

20 **CHAIRPERSON:** Yes this is what...

ADV KENNEDY SC: Of your affidavit.

MR MANTSHA: Yes.

CHAIRPERSON: Because the paragraph you wanted to correct here.

ADV KENNEDY SC: Yes. Right.

MR MANTSHA: Who requested who Chairperson. I do not recall I will make a supplementary affidavit on that despite many years ago. Whether I attended this meeting yes I did. I attended this meeting at the Gupta's residence.

ADV KENNEDY SC: Alright thank you. So when you said in your affidavit

"I did not request to meet Mr Salugee"

Is it possible that you may have you just cannot recall?

MR MANTSHA: Of course it might have been possible that
10 I am the one who conveyed.

ADV KENNEDY SC: Okay.

MR MANTSHA: The meeting to him or he is the one who conveyed the meeting to him.

ADV KENNEDY SC: Fine.

MR MANTSHA: Or Mr Essa could have been the one who conveyed the meeting.

ADV KENNEDY SC: Okay thank you. At this stage were you already the chairperson of the Denel?

MR MANTSHA: At this stage I think I was.

20 **ADV KENNEDY SC:** I see. So then I would like to go back right to the very beginning before you became Chairperson did you know Mr Salugee at all?

MR MANTSHA: No I did not know Mr Salugee.

ADV KENNEDY SC: Did you meet him for the first time when you became chairperson?

MR MANTSHA: Well I think when we were in London and when we were trying to share experiences we then got to a possibility that we could have been met – we could have met each other around 1992 in a particular political event.

ADV KENNEDY SC: Right.

MR MANTSHA: So when I was sharing my recollection of the event so he also described his and said I was there. And there is a high probability the person I have met him in 1992 it is him. So – but beyond that no.

10 **ADV KENNEDY SC:** And had you prior to your appointment as chairperson of the Denel board had any dealings with social or business or political or anything with any of the Gupta family or their business associates?

MR MANTSHA: Well Chairperson as I have already indicated I did met the Gupta family. They are stakeholders – they were stakeholders in the media industry.

ADV KENNEDY SC: The media industry?

20 **MR MANTSHA:** In the course – in the course of my advising the then Minister of Communication yes I did meet them before.

ADV KENNEDY SC: And that included their ownership of the New Age ...[intervenes]

MR MANTSHA: Yes, yes.

ADV KENNEDY SC: And also ANN7 Television Station. Is

that right?

MR MANTSHA: Yes.

ADV KENNEDY SC: Okay. So you had met them.

CHAIRPERSON: Would you remember, more or less, when you met them for the first time?

MR MANTSHA: Well, Chairperson I would not remember.

CHAIRPERSON: Yes.

MR MANTSHA: I would not remember exactly the month, the date.

10 **CHAIRPERSON:** Maybe just the year.

MR MANTSHA: No, the year, it is around 2014.

CHAIRPERSON: Oh, around 2014?

MR MANTSHA: Yes.

CHAIRPERSON: Okay.

ADV KENNEDY SC: Okay thank you. And at that stage or any stage before you assumed the chairpersonship of the Denel Board, had you had any dealings social or business or political or otherwise with Mr Salim Essa?

20 **MR MANTSHA:** I have known Mr Salim Essa, I think, as early as, probably, 2014. And I did not have any dealings with him except, you know, social conversation and how are you and what have you.

ADV KENNEDY SC: Okay. Would you describe as your relationship as a friendly one?

MR MANTSHA: With Mr Essa?

ADV KENNEDY SC: Yes.

MR MANTSHA: Well, I did not have a friendship with him. Yes, he is – Mr Essa is a very friendly guy. So he would greet, he would engage people in a conversation. So. Ja, that is all I can say.

ADV KENNEDY SC: Were you aware that Mr Salim Essa was a close business associate of the Gupta's at that stage?

MR MANTSHA: Well, the time I met him, of course, he was already related with them.

10 **ADV KENNEDY SC:** Right. Now, I have referred you to the passage in your affidavit where you deal with the meeting at the Gupta residence in Saxonwold.

MR MANTSHA: Yes.

ADV KENNEDY SC: Was that one of – was that the only one that ever took place at their residence or were there others that you attended meetings at their residence in Saxonwold?

MR MANTSHA: This was my first and last meeting.

ADV KENNEDY SC: So you only went to the Saxonwold
20 residence once?

MR MANTSHA: No, no, no. I am referring to this matter.

ADV KENNEDY SC: Yes.

MR MANTSHA: I have been there several times. I cannot tell you how many times but I have been there but ...[intervenes]

ADV KENNEDY SC: Sorry, then I do not quite understand what you meant when you said it was the first and the last ...[intervenes]

MR MANTSHA: No.

ADV KENNEDY SC: ...meeting at the residence.

MR MANTSHA: This was the only meeting and the last meeting where there was a discussion which indirectly related to Denel.

ADV KENNEDY SC: I see.

10 **MR MANTSHA:** Yes.

ADV KENNEDY SC: And when was that? Was that before or after you had assumed the chairpersonship of Denel?

MR MANTSHA: Well, of course, it was after I was appointed. I am not sure which month, whatever the things but I think it was after I was appointed.

ADV KENNEDY SC: So you started, as we have seen, in July 2015.

MR MANTSHA: Ja.

ADV KENNEDY SC: One of the people who attended was
20 Mr Salugee, correct?

MR MANTSHA: Yes, Mr Salugee.

ADV KENNEDY SC: And he was there as the then DCEO of Denel, correct?

MR MANTSHA: Indeed.

ADV KENNEDY SC: Now we know that you started in

July 2015. We also know, unless you correct me, that Mr Salugee was suspended in September 2015.

MR MANTSHA: Correct. I think so.

ADV KENNEDY SC: So barely three months after you had started as chairperson at Denel. Presumably, you say you think it was after you started your chairpersonship. And I am not trying to trick you up on there. It could not have been after Mr Salugee was suspended, not so? It must have been before his suspension.

10 **MR MANTSHA**: This meeting?

ADV KENNEDY SC: Yes.

MR MANTSHA: Okay. I think, let me just put something in perspective here. How I understand the relationship between Mr Salugee and Mr Essa. My understanding of the relationship is, they come from the same locality.

ADV KENNEDY SC: Sorry, you say, they come from?

MR MANTSHA: They come from the same locality.

ADV KENNEDY SC: Yes.

20 **MR MANTSHA**: From the same area. They were friends and friends way before from where they come from. And as I understand, Mr Salugee with his exposure to the defence business helped Mr Essa to negotiate the sale of the VR Laser South Africa.

So there was that cordial relationship according to my understanding of where they come from and where they were

going.

And again, I repeat Chairperson. I assumed that the friendship and everything meant well. I, of course there is a rebuttable presumption that we all meant well until we proved otherwise.

So that is the context of the relationship, as I understood it, between the two. A long relationship, from the same area. Mr Salugee helped Mr Essa to acquire the VR Laser business. That is my understanding Chairperson.

10 **ADV KENNEDY SC:** Now Mr Mantsha, did Mr Salugee ever disclosed to you anything that might have been improper coming from the Gupta family or their associates conveyed to him in that prior relationship he had with them?

MR MANTSHA: Well, I think – I should say that I got along very well with Mr Salugee and we had number of one-on-one discussions. We would make, we would have coffee. I was supporting him, he was supporting me. I did not, as I said, I mean, the relationship I assumed it meant well. So was not suspecting that people are meeting because there is
20 anything. I was not suspecting Mr Salugee of anything.

ADV KENNEDY SC: I would like to read to you ...[intervenes]

CHAIRPERSON: I am sorry. I am not sure that your answered the question. I think the question was whether Mr Salugee ever disclosed to you anything improper that

Mr Salim Essa may have or the Gupta's may have asked of him.

MR MANTSHA: Chairperson, I do not remember anything like that.

CHAIRPERSON: Yes, okay.

MR MANTSHA: Yes.

ADV KENNEDY SC: If I may draw your attention to one of the affidavits that Mr Salugee has provided to this Commission. Is it correct that you were asked by the
10 Commission to have regard to his affidavits and in particular to particular passages, to pay particular attention to that? Is that correct?

MR MANTSHA: It is correct.

ADV KENNEDY SC: And that is why you, in fact, responded to some of those in the affidavit that I have take you to that you have signed, correct?

MR MANTSHA: Yes.

ADV KENNEDY SC: Okay. I would just like to read to you, I am not going to take you to the actual affidavit. But Chair,
20 it is at the Denel Bundle 10 at page 801. I do not believe it is necessary for your registrar ...[intervenes]

CHAIRPERSON: Oh, okay. Then ...[intervenes]

ADV KENNEDY SC: ...to bring it out.

CHAIRPERSON: Ja, okay.

ADV KENNEDY SC: I do not want to waste time and I do

not think this should be remotely controversial. This is what Mr Salugee said. I am simply going to ask Mr Mantsha if – when he says this, if that was ever conveyed to him, Mr Mantsha.

This is what Mr Salugee said Mr Mantsha.

“It was Rajesh Tony Gupta who asked me why I did not “take money like everyone else”.

As I have indicated, I rejected his advances.

I assumed he meant that there were individuals who
10 at request, this was contained in my original statement.”

Did he relate to you at any stage, particularly while you were chairperson of the organisation, that Mr Gupta had specific – Mr Tony Gupta had specifically asked him, Salugee: Why do you not take money like everyone else? Had he ever told you that?

MR MANTSHA: No, no.

ADV KENNEDY SC: What do you think about it now, now that you have heard about it? Presumable, you must have
20 seen that in his affidavit. Am I right? Or am I telling you this for the first time?

MR MANTSHA: Well, of course, the allegation relates to Mr Gupta. It does not relate to me. So. Of course, I really do not have to answer that. But all I can say, it was never conveyed to me.

ADV KENNEDY SC: Yes. With respect, I think it is really for the Chairperson to decide whether you can be expected to answer the question. Why I suggest to you that perhaps you should is this.

And here, I am not putting to you, for example, that the Gupta's said to you: Why do you not take mosey? Let alone that the Gupta's paid you any money. That is not the focus of mu question remotely.

What I am saying is, that Mr Salugee has given evidence
 10 in the Commission that this is what he was told by one of the Gupta's. The evidence has also been heard by this Commission that the Gupta's were heavily involved in the VR Laser business.

The omission has also heard evidence and you, in fact, touched on this and we are going to come back to it but there was also a particular meeting at the Gupta residence in which you and others participated, discussing business deals.

The Commission has also heard various evidence that a
 20 number of transactions were concluded between VR Laser, owned by Mr Salim Essa, one of the business associates and controlled as part of the Oak Bay Group of Companies.

But a number of very lucrative contracts were concluded between Denel and VR Laser. Some of them may well have been concluded outside the time that you were the

chairperson. I accept that Let us not go into that.

May we please go into, really, the thrust of my question which is this. Does it not concern you now that, particularly where the spotlight of the Commission is now being placed on, what happened at Denel, that behind the scenes of these various transactions, one of the Gupta's had, according to Mr Salugee, approached him to try and encourage him to personally benefit by receiving money, which Mr Salugee says he resisted.

10 But at least, are you not concerned with the benefit of hindsight, knowing that Mr Salugee had said this, that apparently, according to Mr Salugee, he was directly encouraged by Mr Gupta to accept money. In other words a bribe.

Does that not give you concern that transactions that were being presented to you and reported on to you at the level of the board which you chaired may have been tainted by offers of bribes? Not to you but to others. Does that concern you?

20 **MR MANTSHA**: Well, I think Chair. Let me reply as follows. It is my concern irrespective of anyone for officials of public entities to accept bribes. I am completely against that. So if indeed a situation like that had occurred, of course, I am concerned about it.

But just to go further. There was no situation under my

leadership of the board, in my board, where there was a contract which was presented to us and we were supposed to approve that contract. Never.

Of course, there is a Denel Asia matter which relate to Mr Essa as a shareholder of that company. And just to put it into proper context.

I am not here to speculate Chairperson about what other people said that other said to them. I think it is up to the Chairperson to look at that kind of evidence, whether in
10 terms of the mandate of the person is something that the Chairperson should express anything.

So I am not going to speculate, other than to say, I am completely against it. Have I known about that, I would have sharply raised that matter but I cannot comment in a matter like that as a matter of fact that it happened.

I do not know it happened. I think Mr Gupta must be given that benefit of doubt to actually put his version.

CHAIRPERSON: I... Certainly, we do not want to speculate, number one but number two, the question or your
20 previous question that Mr Kennedy had asked, I think was legitimate to say, did Mr Salugee ever share with you or report to you what he has told this Commission had happened, namely that Mr Tony Gupta sought to get him to agree to take money. So that was a legitimate question, to say: Did he ever report something like this to you?

MR MANTSHA: No, Chairperson.

CHAIRPERSON: Okay alright.

ADV KENNEDY SC: Thank you, Chair. Would you not agree Mr Mantsha that you as the Group Chief Executive Officer... Oh, sorry the Group Chairperson of the board would have expected Mr Salugee, if this had happened, in his capacity as Group CEO, to have reported to you?

MR MANTSHA: Well ...[intervenes]

ADV KENNEDY SC: Surely, this is the sort of thing you that
10 you would expecting to report.

MR MANTSHA: Chairperson, firstly. We all have got a legal obligation to report crime to the police. The first thing I would have expected Mr Salugee to do, was to go to the police and report that so and so has attempted to bribe me and these are the reasons and opened a police case. I would have expected that.

And of course, I would have expected Mr Salugee to raise it with me, to say look this is what is what is happening.

20 But what I know Chairperson is that the only meeting that I have attended when Mr Salugee was present and Mr Essa was present in the Gupta residence. There was a discussion about Mr Salugee assisting Mr Essa to buy out the private shareholders of LMT. At that stage Chairperson, I did not even know what LMT stood for. So.

And that discussion was fairly in terms of what I was listening there. The discussion started to that Mr Essa wanted to buy out the shareholders of LMT who were private shareholders and Mr Salugee was assisting him as he assisted him, according to my understanding Chairperson.

I was not there when it happened but my understanding is. Yes, he assisted him with VR Laser. My understanding is, he is assisted. In that meeting, they were discussing assisting Mr Essa with LMT shares.

10 **CHAIRPERSON:** Well, let me ask you this question. I have seen how you have dealt with that meeting in your affidavit. I think you said you were asked to make comments and you had no comments because you did not even know what LMT was at that stage and all of that. Did you have any appreciation of why you were asked to attend that meeting?

MR MANTSHA: Well, I think, I understood why I had to attend the meeting. You know out of the private discussion that I had with Mr Salugee was: Chair, look we worked together and we then agreed that if the exposure to external
20 people is no good and then I would try as much as possible to be a buffer in terms of him not engaging in the external forces because it always create pressure to a Chief Executive. So we had that kind of understanding. And I went there, blank as I was.

Of course, I could not comment because I would

otherwise be very stupid because I did not know the issue. But for me, it was more for my Chief Executive Officer that I agreed that external pressures, we will deal with it. Let us avoid meetings which might put pressures to you. And that was the way we wanted to work.

CHAIRPERSON: So, I just want to make sure I understand this. Are you saying that there had been a discussion between yourself and Mr Salugee along those lines on how to handle these requests for meetings by certain people from
10 the outside people? Or are you saying there had been a discussion between the two of you?

MR MANTSHA: Well, Chairperson the state-owned companies operate within a political environment. And we discussed that look ...[intervenes]

CHAIRPERSON: We, being yourself and Mr Salugee?

MR MANTSHA: And Mr Salugee.

CHAIRPERSON: Okay.

MR MANTSHA: But I would deal with the politics of it and concentrate on the business. So we were working on that
20 basis to say, I would deal whomever the politician is, I will deal with that rather than for you to have pressure.

CHAIRPERSON: Now I may be misunderstand. I thought that that meeting was quite early in your term. Actually, when Mr Salugee gave evidence, the impression I have of his evidence is that the meeting – I think he spoke about two

meetings if I am not mistaken that he said he had attended at the Gupta residence in which you were present. I may be mistaken.

But the first one, at least, if there were two. He said Mr Salim Essa was the first person to tell him about you being the new chairperson of the new board.

I think he said, actually, Mr Salim Essa put it to him on the basis that he wanted Mr Salugee to meet the new person or somebody who is going to be the new chairperson of the
10 board or a new chairperson of the board.

But certainly, I gained the impression that one, he did not know, heard of being told by Mr Salim Essa that you were going to be the new chairperson or you were already the new chairperson of the board. That is the impression I got from his affidavit which you have read. I do not know whether you got the same impression.

MR MANTSHA: Well, Chairperson the reality is. The appointment was made by cabinet. I am not sure if it was May or April, whatever the case. That cabinet decision, I
20 think 24 May or whatever the case may be.

So, of course, people in the space new that the cabinet has approved a new board. I cannot confirm the discussion between Mr Essa and Mr Salugee. I was not there. All I can say is what came to my knowledge. Immediately, when the former, Mr Salugee knew that I was appointed, we started to

have interactions.

CHAIRPERSON: Even before the meeting in which involved Mr Salem Essa, yourself and Mr Salugee?

MR MANTSHA: Chair ...[intervenes]

CHAIRPERSON: Or you might not recall?

MR MANTSHA: Sorry, Chair.

CHAIRPERSON: Or you might not recall the sequence.

MR MANTSHA: I cannot recall the sequence, which meeting came first. That I cannot recall. We had our
10 introduction meetings and we discussed where we want to work, what we expect from one another and we really struck a very good relationship. I liked Mr Salugee. I think – I respect him. I think he did the same to me. So we were getting well together.

CHAIRPERSON: Is your recollection that your first interaction of him was independent from Mr Salim Essa?

MR MANTSHA: Yes.

CHAIRPERSON: Or you cannot remember?

MR MANTSHA: Yes.

20 **CHAIRPERSON**: It was independent of Mr Salim Essa?

MR MANTSHA: Look, I think... Chair, you are asking me a very difficult question because, as I have already said to you.

CHAIRPERSON: Yes.

MR MANTSHA: Mr Essa and Mr Salugee ...[intervenes]

CHAIRPERSON: They knew each other.

MR MANTSHA: They knew each other.

CHAIRPERSON: Yes.

MR MANTSHA: And he was strangely(?) ...[indistinct]
...[intervenes]

CHAIRPERSON: Yes.

MR MANTSHA: What they were talking between
themselves, I do not know.

CHAIRPERSON: Yes, yes.

10 **MR MANTSHA:** I do not know.

CHAIRPERSON: Yes.

MR MANTSHA: But when I met Mr Salugee for the first
time, he has never mentioned to me that he has requested to
meet me because of Mr Essa.

CHAIRPERSON: Ja.

MR MANTSHA: I took it, he is meeting me as the new
chairperson of the board.

CHAIRPERSON: H'm.

MR MANTSHA: And even the discussions we had were
20 confined to the truth.

CHAIRPERSON: Ja.

MR MANTSHA: How are we going to work together. He
briefed me about certain challenges that the company was
going through. It was not about other people.

CHAIRPERSON: H'm.

MR MANTSHA: Ja.

CHAIRPERSON: Okay. Mr Kennedy.

ADV KENNEDY SC: Thank you, Chair. I just want us before we get to the time where we are going to adjourn. Just to pick up a point that you have raised earlier.

And that is that Mr Salugee did not tell you that he had been told by Tony Gupta that why do you not take the money like the rest of you, and you confirmed that that was not told to you and you only discovered that in the course of what
10 has come out in this Commission.

Can I just ask you hypothetically? If you just put yourself in this situation just to assist the Commission. If you had known that from Mr Salugee, if and when you assumed your position as chairperson of the board and the CEO had disclosed, as he should have, that he had been made this improper approach by Mr Tony Gupta in the context of VR Laser a Gupta associated company doing business with Denel.

Presumable, you would have taken that seriously. And
20 secondly, quite apart from what Mr Salugee should have done by laying a criminal charge or a complaint to the South African Police.

Presumable, it would have affected your attitude as Denel chairperson as to whether any business should be done by Denel with VR Laser or any associative of the

Gupta's if this sort of improper offer was being made. Would you agree?

MR MANTSHA: No, of course I would have been opposed to that.

ADV KENNEDY SC: Yes.

MR MANTSHA: Vigorously.

ADV KENNEDY SC: Yes.

MR MANTSHA: And I would not want the business to be associated with those kinds of things.

10 **ADV KENNEDY SC**: Exactly. Particularly, because, number one, legally you should not be doing business as a state-owned institution with anybody who is offering bribes to your most senior member of management, correct?

MR MANTSHA: Well, true but I think where you are getting to ...[intervenes]

ADV KENNEDY SC: Well, do not worry where I am getting to.

MR MANTSHA: Ja, but let me answer you because ...[intervenes]

20 **ADV KENNEDY SC**: Just answer the question where I was at not where I am getting to.

MR MANTSHA: Yes. Because I have already answered you.

ADV KENNEDY SC: Okay.

MR MANTSHA: Whether a bribe was offered by Mr Gupta or

anybody to Mr Salugee.

ADV KENNEDY SC: Yes.

MR MANTSHA: I do not know.

ADV KENNEDY SC: Yes.

MR MANTSHA: You are asking me to a hypothetical situation.

ADV KENNEDY SC: Exactly.

MR MANTSHA: I have already explained to you that I am opposed of those activities.

10 **ADV KENNEDY SC:** Right.

MR MANTSHA: And anyone where those activities happened, if that person is law-abiding, would go to the police before he goes to anybody else.

ADV KENNEDY SC: I understand that but ...[intervenes]

MR MANTSHA: That person would report it to the authorities and that person would report it to the board.

ADV KENNEDY SC: Exactly.

MR MANTSHA: Yes. My board has got no record of that report.

20 **ADV KENNEDY SC:** No, I understand your evidence and frankly, with respect, you do not need to repeat it.

MR MANTSHA: Yes.

ADV KENNEDY SC: We have heard your evidence that it was not reported and my question is put in a hypothetical basis. What if he had done that?

So the one thing would be that legally it would not be appropriate for a state institution to do business with any entity that is offering bribes to its senior employees or to any employee for that matter.

There was a second aspect, not so? And that is this. That surely you do not want to reputational damage to the person... Oh, sorry. To the entity of which you were the chairperson because that could be hugely damaging, correct?

10 **MR MANTSHA**: True.

ADV KENNEDY SC: Of course, we know exactly that exactly that type of damage has happened to Denel because of the allegations of State Capture, not so?

MR MANTSHA: Yes. Chairperson, just to add on that. The internal protocol of the company. There is a whistle-blower mechanism.

ADV KENNEDY SC: Right.

MR MANTSHA: There is internal audit. And of course, Denel operating in the environment it does, where there are
20 a lot of attempts of underhanded matters. There are vigorous mechanisms to try to enforce non-corrupt practises.

So internally, the mechanism – he, of course, did not even have to disclose the whistle-blower. A very protective system within the company. It would processed by Internal Audit.

Internal Audit had outside people and all sorts of things. Yes, side activities cannot be tolerated and we would not have tolerated it had we known an activity like that indeed took place or it was reported to us.

ADV KENNEDY SC: Alright. Thank you. May I just conclude, if I may Chair with just a question or two on a further aspect you have raised in the opening statement. And that is that you yourself did not receive anything improper from the Gupta's or their associates, correct?

10 **MR MANTSHA:** Indeed correct.

ADV KENNEDY SC: And you did not receive any inappropriate benefit from them?

MR MANTSHA: Correct, Chairperson.

ADV KENNEDY SC: And you complaint that false allegations were made about your travelling overseas at their expense and you told the Chair, as I recall in your opening statement, you did travel a number of times overseas in your official capacity as chairperson but that was always at your own expense, correct?

20 **MR MANTSHA:** Well, Chairperson let me just correct. I did not travel at their expense. I have travelled at my own expense. As far as the – any benefit is concerned. No benefit I have received. And those travelling that he is referring about, I did so in my own personal capacity. The ...[intervenes]

ADV KENNEDY SC: Your personal capacity or – I understood you earlier to say, I may have wrong, I understood you earlier to say in your official capacity as the Chairperson. Was it in your personal capacity?

MR MANTSHA: Well, that is absolutely very wrong. I think I was very specific.

CHAIRPERSON: I think he said there were some that he – there are occasions when he travelled in his personal capacity ...[intervenes]

10 **MR MANTSHA:** Indeed, Chair.

CHAIRPERSON: And there were occasions when he travelled in his capacity as Chairperson of the board.

MR MANTSHA: Yes.

CHAIRPERSON: Is that right?

MR MANTSHA: Indeed, Chairperson.

ADV KENNEDY SC: Then I missed that and I apologise. As I say, as I recall. So there was some on your own personal behalf and others in your official capacity as Chairperson. Let us just deal with the – when you were
20 travelling in your official capacity. Presumably Denel should have paid for those costs, correct?

MR MANTSHA: Well, they have always covered those costs.

ADV KENNEDY SC: So they did. Right and when you travelled for your own personal benefit, who paid those

costs, the travel costs?

MR MANTSHA: I have always covered my costs.

ADV KENNEDY SC: So you paid that yourself.

MR MANTSHA: I have covered my costs.

ADV KENNEDY SC: Okay, can I take you please in the same bundle 8 to page 465?

CHAIRPERSON: What page?

ADV KENNEDY SC: 465. This is an invoice, it appears, where Travel Excellence, apparently a travel agency, was
10 invoicing West Dawn Investments in October 2015 for certain travel arrangements on Emirates. Now October 2015 was a few months after you assumed the Chairpersonship of Denel, correct?

MR MANTSHA: Indeed.

ADV KENNEDY SC: Right. And this appears to invoice West Dawn Investments. West Dawn Investments was a shareholder in VR Laser, correct?

MR MANTSHA: Yes.

ADV KENNEDY SC: and West Dawn Investments was part
20 of the Oakbay Group of companies, part of the Gupta business empire, not so?

MR MANTSHA: Yes, it seems so.

ADV KENNEDY SC: It seems so?

MR MANTSHA: Ja.

ADV KENNEDY SC: You cannot dispute that, is that

right?

MR MANTSHA: No, no, no, I am not disputing that.

ADV KENNEDY SC: Okay.

MR MANTSHA: Yes. Can I just qualify the question? I knew that West Dawn ...[intervenes]

ADV KENNEDY SC: Well, please do not qualify my question, you can qualify your answer.

MR MANTSHA: Okay. No, no, no, I will qualify my answer.

10 **ADV KENNEDY SC**: Yes.

MR MANTSHA: Yes, Chairperson, I knew in December that West Dawn is a part of the VR. And how did I know this? I knew this, Chairperson, as a result of a due diligence report which was conducted on VR in the process of the work of Denel Asia who are the shareholders, how much is this shareholder receiving. Yes, I knew.

ADV KENNEDY SC: So are you saying – you said December, did you?

MR MANTSHA: December 2015.

20 **ADV KENNEDY SC**: 2015?

MR MANTSHA: Ja.

ADV KENNEDY SC: Are you saying you only learnt for the first time in December 2015 that West Dawn was involved in VR Laser and that the Guptas were involved in West Dawn?

MR MANTSHA: Well, Chairperson, I knew for the first in 2015 as a result of the due diligence.

ADV KENNEDY SC: Yes, I am not asking you where you got that from, I am just trying to – indulge me, please.

MR MANTSHA: Yes.

ADV KENNEDY SC: I will just take you step by step.

MR MANTSHA: Yes.

ADV KENNEDY SC: You did not know before December 2015 ...[intervenes]

10 **MR MANTSHA:** Yes.

ADV KENNEDY SC: That West Dawn had an interest in VR Laser and that the Guptas had an interest in West Dawn.

MR MANTSHA: Correct.

ADV KENNEDY SC: So, in other words, the time that this invoice was issued in October 2015 you were not aware that West Dawn had an interest in.

MR MANTSHA: Yes, Chair ...[intervenes]

ADV KENNEDY SC: Okay, thank you.

20 **MR MANTSHA:** Chairperson, can I just explain about...

ADV KENNEDY SC: Yes.

CHAIRPERSON: Yes.

MR MANTSHA: About what counsel is getting to.

ADV KENNEDY SC: No, Mr Mantsha, please, you should, with respect, know that lawyers tend to ...[intervenes]

MR CILLIERS: With respect, Mr Chairman, the witness has the right to explain an answer and that is all asked and Mr Kennedy should [inaudible – speaking simultaneously]

CHAIRPERSON: Well, I think the problem, Mr Cilliers, is that the witness did not say he wanted to explain his answer to this question, he said he wants to explain about I think where he is getting to, or something like that. I think that is where the problem lies. If he wants to explain his answer to that question, it is fine and if then he later
10 on asks a question that he thinks where he is going, then at that time he can answer and explain and, of course, in due course in re-examination you can pick it up and get him to explain whatever might not have been clarified. I think – unless I did not hear him correctly, I think that is where the problem is. If he wants to clarify his answer to this question, no problem, but I think he nods, I think that is – if that is that, there is no problem, but I think he was saying I think I know where Mr Kennedy is going and I want to clarify it before he gets there.

20 **MR CILLIERS:** But, Mr Chair ...[intervenes]

CHAIRPERSON: But in the end he will get a chance to clarify whatever he wants to clarify, it is just a question of timing.

MR CILLIERS: Mr Chair, if I may respond. A witness has the right to put an answer and/or a situation in context and

I know there is time constraints and it seems to me Mr Kennedy attempts to get to certain point before we have to take the adjournment but, with great respect, the fact that we have limited time left, only a minute or, we are already over out time, should not force a situation where the witness is not afforded a fair opportunity to put in context whatever he wants to put in context.

CHAIRPERSON: Let me go back to the witness. What did you want to do, Mr Mantsha?

10 **MR MANTSHA:** Chairperson, I wanted to give context following from the answers that I have given which ...[intervenes]

CHAIRPERSON: You wanted to give context to your answer?

MR MANTSHA: To my answer.

CHAIRPERSON: To the question.

MR MANTSHA: To the question that was asked.

CHAIRPERSON: Okay, alright. I think you can do that.

MR MANTSHA: Ja. And, Chairperson, what I am saying
20 here is, as far as West Dawn is concerned, I have already explained when did I know that they were the shareholders but in terms of my travelling arrangements, I have arranged my travelling through Ashu(?) who runs a side business and Ashu works for the Guptas, he runs a side travel business.

CHAIRPERSON: That is Ashu who?

MR MANTSHA: Ashu – I think Ashu Trowler(?) Something like that.

CHAIRPERSON: Trowler.

MR MANTSHA: Yes.

CHAIRPERSON: Okay.

MR MANTSHA: And how did this happened? This first happened with my trip to India. The first trip to India and I have arranged through him, he told me the cost and I have
10 settled with him. So the information that appears, West Dawn who or what, of course for the first time when these documents are given to me, that is where I see this. So I cannot say how was he running his business. But all I can say, is I pay for what I was supposed to pay.

CHAIRPERSON: Okay.

MR MANTSHA: And he was assisting me with that.

CHAIRPERSON: Okay.

MR MANTSHA: So but I cannot really take the Chairman any further.

20 **CHAIRPERSON:** Ja.

MR MANTSHA: About whether West Dawn or no West Dawn or which account, I cannot take the Chairperson further.

CHAIRPERSON: No, no, that is fine. I think that related to the question, it was a context to the question.

ADV KENNEDY SC: Thank you, Chair.

CHAIRPERSON: We are five past, Mr Kennedy.

ADV KENNEDY SC: Are we at...

CHAIRPERSON: Ja.

ADV KENNEDY SC: Thank you, Chair. Would this be a convenient time?

CHAIRPERSON: Ja, I think we should adjourn. I am sorry to everybody that we cannot continue and finish but I have spoken to Mr Kennedy and to Mr Cilliers, we will
10 make arrangements for Mr Mantsha to come back and to continue and finish. That will be arranged in due course.

ADV KENNEDY SC: Thank you, Chair.

CHAIRPERSON: Thank you very much, we are going to adjourn for the day.

MR CILLIERS: As you please.

CHAIRPERSON: We adjourn.

INQUIRY ADJOURNS TO 16 NOVEMBER 2020