

COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

PARKTOWN, JOHANNESBURG

10

17 APRIL 2019

DAY 85

FINAL

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PROCEEDINGS HELD ON 17 APRIL 2019

CHAIRPERSON: Good morning Mr Pretorius, good morning everybody.

ADVOCATE PAUL JOSEPH PRETORIUS SC: Morning Chair. Chair the next witness is also testifying under the Rubric of Law Enforcement Agencies. It is Major General Johan Booyesen. He will be led by Advocate September.

CHAIRPERSON: Thank you very much.

ADVOCATE VERUSHKA SEPTEMBER: Good morning Chair.

CHAIRPERSON: Good morning Ms September.

- 10 ADVOCATE VERUSHKA SEPTEMBER: Chair before we begin with the evidence of General Booyesen I would like to take this opportunity just to orientate through the files that you find before you. There are two lever arch files. The first file being marked File – Exhibit ZA and the other lever arch file is marked Exhibit ZB.

CHAIRPERSON: Yes thank you.

ADVOCATE VERUSHKA SEPTEMBER: Chair you will also find four small blue folders. The first is Exhibit Z2 which contains the first supplementary affidavit of this witness.

CHAIRPERSON: Yes.

- 20 ADVOCATE VERUSHKA SEPTEMBER: The next is Exhibit Z3 which contains a timeline and diagrams to orientate this witness' evidence.

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: Exhibit Z4 contains his second supplementary affidavit and Exhibit Z5 contains a third supplementary affidavit plus additional documents.

CHAIRPERSON: How come you have Exhibit 2 to Exhibit Z2 to Exhibit Z5 without Exhibit Z1?

ADVOCATE VERUSHKA SEPTEMBER: Excuse me.

CHAIRPERSON: How come you have Exhibit Z2.

ADVOCATE VERUSHKA SEPTEMBER: Yes.

CHAIRPERSON: Up to Exhibit Z5 without Exhibit Z1?

ADVOCATE VERUSHKA SEPTEMBER: Chair I have been informed that ZA and B ...(intervenes).

CHAIRPERSON: Ja.

10 ADVOCATE VERUSHKA SEPTEMBER: Effectively constitutes as Exhibit Z1.

CHAIRPERSON: Okay. We will just have to try and sort that out because otherwise I could or anybody could look for where is Z1, am I missing Z1. Okay alright.

ADVOCATE VERUSHKA SEPTEMBER: As it pleases Chair. Chair there is one preliminary issue.

CHAIRPERSON: Actually why do we not fix that now? If you have got – if the lever arch files are Exhibit ZA and ZB this should be ZC to Z whatever is it not?

20 ADVOCATE VERUSHKA SEPTEMBER: I am guided by you.

CHAIRPERSON: That is more logical to me.

ADVOCATE VERUSHKA SEPTEMBER: Okay. If that is so then Exhibit Z2 as you direct would become?

CHAIRPERSON: ZC.

ADVOCATE VERUSHKA SEPTEMBER: Chair as a ...(intervenes).

CHAIRPERSON: And Z3 will be Z4.

ADVOCATE VERUSHKA SEPTEMBER: Chair if I am – if I may?

CHAIRPERSON: Ja.

ADVOCATE VERUSHKA SEPTEMBER: Would it be possible at all to propose that the Exhibit ZA and Exhibit ZB referred to Exhibit Z1 please?

CHAIRPERSON: Well you see you people need to be consistent. When we were – we had Exhibit Y we had Exhibit Y, Exhibit YA and Exhibit YB so now if we change now to have Z1 and Z2 instead of ZA and ZB it is
10 not logical. So what is the change? So if you have kept AB with the others it is better to keep it – to stick to that.

ADVOCATE VERUSHKA SEPTEMBER: Okay I am led by your direction Chair.

CHAIRPERSON: Unless there is any particular problem that I am not aware of that you want to tell me about?

ADVOCATE VERUSHKA SEPTEMBER: The only challenge while I am guided by Chair's direction – the only challenge that may encounter is through referencing to the documents based on the evidence as it is to be presented.

20 CHAIRPERSON: Are you talking about referencing that has already happened in existing statements?

ADVOCATE VERUSHKA SEPTEMBER: No Chair it is through the presentation of evidence.

CHAIRPERSON: No when we – well if we change now to whatever whether we change to Exhibit Z1, Z2 and whatever the witness will be

told and his will have been changed to that and he will give evidence using those exhibit numbers.

ADVOCATE VERUSHKA SEPTEMBER: No problem.

CHAIRPERSON: All I was simply saying is it is better to keep consistency. I have no particular liking for ZA, ZB or Z1 or Z2 all I am simply saying I must not have a situation where I look at this and I think I am missing Exhibit Z1.

ADVOCATE VERUSHKA SEPTEMBER: No problem Chair.

CHAIRPERSON: And then in fact I do not miss anything. So shall we
10 just make it – we were making them ZC which is – was Z2, is that right?

ADVOCATE VERUSHKA SEPTEMBER: Thank you Chair.

CHAIRPERSON: And Z3 becomes ZD.

ADVOCATE VERUSHKA SEPTEMBER: Thank you.

CHAIRPERSON: And then Z4 becomes ZE.

ADVOCATE VERUSHKA SEPTEMBER: Thank you.

CHAIRPERSON: And Z5 becomes ZF. Okay the witness' ones must also be marked like that so that we are all on the same page. Registrar do you want to assist the witness?

ADVOCATE VERUSHKA SEPTEMBER: Thank you Chair. Thank you.

20 CHAIRPERSON: Yes thank you. Should the Registrar administer the oath?

ADVOCATE VERUSHKA SEPTEMBER: Before ...(intervenes).

CHAIRPERSON: Are you ready?

ADVOCATE VERUSHKA SEPTEMBER: Before the oath is administered.

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: I just wish to highlight a point and that is in particular relation to the Exhibit ZF.

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: Which is the last one.

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: Chair this particular exhibit has been prepared to ring-fence a preliminary issue and the evidence in relation to the preliminary issue.

10 CHAIRPERSON: Ja.

ADVOCATE VERUSHKA SEPTEMBER: Concerning additional evidence that Mr Booyesen intends to present to this Commission regarding Advocate Mxolisi Zondo.

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: Who is your younger brother.

20 CHAIRPERSON: Yes. Well I guess you should not say ring-fenced because if you say ring-fenced it is like it is being made secret. Nobody must have access to it. As I understand the position it is – the arrangement between the Legal Team of the Commission and the witness is concerned in the light of the discussion was it last week? Is that until I have received submissions with regard to what should happen relating to in regard to evidence about certain disciplinary hearings that Mxolisi Zondo chaired we will wait until everyone who has that evidence as far as the Legal Team knows who is going to testify has it and if I am going to end up hearing it then I will hear it. If

somebody else will hear then that person will hear it. So I just wanted to say it is not like ring-fenced as if nobody must see it. It is just – it is evidence that is before the Commission like any other evidence and it is not treated in any special way. Okay.

ADVOCATE VERUSHKA SEPTEMBER: In that – thank you Chair. I therefore apologise for the use of word ring-fenced because it was actually intended to mean that the evidence in relation to the conflict issue is to be dealt with separately.

CHAIRPERSON: Yes.

10 ADVOCATE VERUSHKA SEPTEMBER: And it is certainly not secret.

CHAIRPERSON: Ja, ja, no it is just that it will be dealt with later because there is still the issue of who must hear it that must be dealt with first.

ADVOCATE VERUSHKA SEPTEMBER: And in line with the approach of the DCJ particularly in relation to McBride's evidence we will then accept that this – that particular evidence which is contained all in Annexures Exhibit ZF.

CHAIRPERSON: Ja.

20 ADVOCATE VERUSHKA SEPTEMBER: Will not be dealt with ... (intervenes).

CHAIRPERSON: Will not be dealt with at this stage.

ADVOCATE VERUSHKA SEPTEMBER: During these proceedings.

CHAIRPERSON: Ja.

ADVOCATE VERUSHKA SEPTEMBER: And it will be considered and determined once the conflict issue in relation to McBride's evidence

has been determined.

CHAIRPERSON: Ja.

ADVOCATE VERUSHKA SEPTEMBER: To set clarity for all other matters.

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: Of a similar nature.

CHAIRPERSON: Ja.

ADVOCATE VERUSHKA SEPTEMBER: Thank you Chair.

CHAIRPERSON: Thank you.

- 10 ADVOCATE VERUSHKA SEPTEMBER: If I may then request that this particular witness be sworn in please?

CHAIRPERSON: Well the Legal Team may or may not have decided it, it may be important just as an announcement was made as to what the position of the – of Mr McBride was and Mr Sesoko was it may that each witness who has something to say about evidence that will be dealt with later is also announced but it could be that it could be announced later when the evidence is given. So I leave that to the Legal Team and the witnesses concerned.

ADVOCATE VERUSHKA SEPTEMBER: Thank you Chair.

- 20 CHAIRPERSON: Okay.

REGISTRAR: Please state your full names for the record?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Johan Wessel Booyesen.

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

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No.

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

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes.

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

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So help me God.

REGISTRAR: Thank you.

10 CHAIRPERSON: Well before Ms September starts I heard her saying or rather Mr Pretorius say Major General Booyesen and Ms September said General Booyesen. I must just confess that I get very confused with police and military titles so maybe let us start by you clarifying is it Major General, is it General?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Thank you Chair I am not rank conscious but you can either address me as just General or Mr Booyesen or Johan if you want to thank you Chair.

CHAIRPERSON: Okay no that is alright I just thought I would confess my ignorance just on a lighter note talking about Major General
20 Booyesen and General Booyesen when one of my sons was much younger and I was Judge President he asked me who is higher, is it Judge President or President? So I told him that the President of the country is the highest office. So with Major General I also would not know whether it is the General or Major but I understand it must be General I do not know. But thank you very much. I wanted to say thank you for

coming forward to assist the Commission. We appreciate it. You probably know that we have been calling for people who have been heading departments or heading units and other people to come – please come forward and share with the Commission and with the nation what they know in terms of things that have happened in the past in their departments and elsewhere that relate to State Capture, that relates to serious corruption that falls within our terms of reference. So I really appreciate it that you have come forward. Thank you very much.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Thank you Chair.

CHAIRPERSON: You may proceed.

ADVOCATE VERUSHKA SEPTEMBER: Thank you Chair. May I address you as General?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: You may thank you.

ADVOCATE VERUSHKA SEPTEMBER: Thank you. If I could ask you to look at bundle ZA which is the one of the lever arch files before you? And if I can ask you to turn to page 1 of that bundle? Do you recognise this document?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I do Chair.

20 ADVOCATE VERUSHKA SEPTEMBER: If I can then ask you to turn to page 70 of the same bundle? Do you recognise the signature on that page?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I do Chair that is my signature.

ADVOCATE VERUSHKA SEPTEMBER: And is it correct that you

deposed to this affidavit on the 2nd of April 2019 before a Commissioner of Oaths?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

ADVOCATE VERUSHKA SEPTEMBER: Thank you. If I can now ask you to turn to – and please bear with me on the change of Exhibit numbers but it would be ZC. In doing so can I ask you to turn to page 1 of this affidavit? Do you recognise this document?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I do Chair.

ADVOCATE VERUSHKA SEPTEMBER: Please identify it?

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair it is a supplementary affidavit that I deposed to.

ADVOCATE VERUSHKA SEPTEMBER: If you turn to page 4 of that same bundle.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And the signature that appears there Chair is my signature and it was made under oath at the Garsfontein Police Station.

ADVOCATE VERUSHKA SEPTEMBER: And that was on the 9th of April 2019, is that correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

20 ADVOCATE VERUSHKA SEPTEMBER: Okay. This particular affidavit corrects certain typographical errors in your main affidavit. If I can ask you to turn to page 2 of it and in particular paragraph 5.1. Is it correct that at paragraph 30 of your main affidavit the date was incorrectly stated as May 2011 and ought to have been reflected May 2010?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

ADVOCATE VERUSHKA SEPTEMBER: Is it also correct that in paragraph 40 of your main affidavit the date of 8 August 2011 ought to have been 8 September 2011?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is also correct Chair.

ADVOCATE VERUSHKA SEPTEMBER: Thank you. If I can now ask you to turn to Exhibit ZE please. Likewise please turn to page 1 and kindly identify the document?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair that is a second
10 supplementary affidavit that I deposed to and which I signed on the 15th
of April at Midrand and it was commissioned in the presence of a
Commissioner of Oaths.

ADVOCATE VERUSHKA SEPTEMBER: Thank you. And that – sorry
and this particular affidavit was signed on the 15th of April 2019, that is
correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

ADVOCATE VERUSHKA SEPTEMBER: If I can ask you to turn to page
2 of the same affidavit and paragraph 6 in particular. There are further
typographical corrections that have been made. Is it correct that you
20 retired in the year of 2017 and not 2016 as recorded in paragraphs 4
and 5 of your main affidavit?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

ADVOCATE VERUSHKA SEPTEMBER: Thank you. As you would have
heard for purposes of your evidence today you need not refer at all to
Exhibit ZF. Turning to page 1 of your main affidavit in File ZA is it

correct firstly that your affidavit which is your main affidavit your first and your second supplementary affidavits are all true and correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is indeed so Chair.

ADVOCATE VERUSHKA SEPTEMBER: Thank you. In that instance can I ask you to please in your own words inform the Chair about your career in the service.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I joined in 1976 as a Constable where I was a patrol person – a patrolman and I retired
10 as I said February 2016. During my career I acquired certain academic qualifications I do not know if it is necessary to go into that?

ADVOCATE VERUSHKA SEPTEMBER: Please you are welcome to.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I obtained a National Diploma in Police Administration. I also had a degree in Policing. I also have a Post Graduate qualification in Management. I have been trained by the FBI in the United States of America. I have also received training by the FBI in South Africa. I attended the Chinese Police University – Forensic University. I done a number of internal
20 courses in South African ranging from Forensic Courses to investigative Courses to Major Case Management and also Managerial Courses. I have attended a number of high courts all over the country. I have testified in a number of high courts in the country. I have also testified at I think this is my fourth Commission of Inquiry in which I am testifying.

ADVOCATE VERUSHKA SEPTEMBER: If I can just ask you to pause

there. Please indicate the Chair which Commissions of Inquiry you gave evidence at?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair the first one I keep on forgetting the name but it relates the killing of 18 ANC members at Shobashobane in 1995. There was a subsequent Commission of Inquiry in which I testified. I later testified at the Alexander Commission of Inquiry into taxi violence. And more recently I testified at the Mogoro Commission of Inquiry.

CHAIRPERSON: Thank you.

- 10 ADVOCATE VERUSHKA SEPTEMBER: During your term serving the South African Police Services can you just at a higher level indicate the ranks that you have held and the capacities in particular that you have held during your service?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair as I said I joined in 1976 those days you had to write exams to become an Officer as opposed to today where you have to apply for a certain post so I went through the processes of writing the necessary examinations. I eventually became a Commissioned Officer in 1987. Subsequent to that your promotions are according to where you finished off on the
20 candidate officer's course. With the new dispensation in 1995 there was a different process. I held the rank of a Lieutenant Colonel just prior to the new democratic institution. A few weeks later I was promoted to the rank of full Colonel and subsequent in the new dispensation I was promoted inter alia to the rank of a Brigadier and a Major General.

CHAIRPERSON: Thank You.

ADVOCATE VERUSHKA SEPTEMBER: Thank you. You mentioned that you retired from the South Africa Police Services during February of 2017. How does that date compare to the date of your retirement?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair ...(intervenes).

CHAIRPERSON: Well before that I see in your statement that you also mentioned that you were also Deputy Provincial Commissioner in KZN at some stage?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

10 CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair if I may just clarify that?

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: When the – with the advent of the establishment of the DPCI known as the Hawks.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The Provincial Heads were appointed as Provincial Heads and also they also became Deputy Provincial Commissioners. Subsequent to that there was the Glenister
20 issue in – that went up to the constitutional court that had changed subsequently but during my time I was also the Deputy Provincial Commissioner for KZN.

CHAIRPERSON: That position of being Deputy Provincial Commissioner was it linked to the Police Provincial Commissioner or was it in relation to the Hawks? I am just trying to see whether that

puts you as either the second in command of the police in the province or one of the Deputy Provincial Commissioners in the whole police service or whether it was simply Deputy Provincial Commissioner in relation to the Hawks?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I elude to that later on in my affidavit but if I can explain it now?

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: What happened is ...(intervenies).

10 CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: We were all appointed as Deputy Provincial Commissioners and I think that was to circumvent the problem where there were other Deputy Provincial Commissioners as well that – so it obviated us reporting to them.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So at that point in time we – I had two people that I reported to.

CHAIRPERSON: Yes.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: I reported to the Provincial Commissioner and to the National Head of the Hawks.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But much later there was the Glenister challenge in the high court that eventually ended up the constitutional court where the constitutional court held that I should report directly to the National Head of the Hawks who in turn would not

report to the National Commissioner at the time but to the Minister of Police.

CHAIRPERSON: Yes thank you.

ADVOCATE VERUSHKA SEPTEMBER: Chair at this particular point it may be helpful to ask that slide 1 be placed on screen?

CHAIRPERSON: Is there a slide you want to show?

ADVOCATE VERUSHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: Okay let us see.

ADVOCATE VERUSHKA SEPTEMBER: This particular slide is in fact
10 found in your – in bundle ...(intervenues).

CHAIRPERSON: Oh we already have it I remember it ja.

ADVOCATE VERUSHKA SEPTEMBER: ZD.

CHAIRPERSON: Okay.

ADVOCATE VERUSHKA SEPTEMBER: ZD in fact contains all of the – a timeline and diagrams that will be referred to at different intervals.

CHAIRPERSON: Ja.

ADVOCATE VERUSHKA SEPTEMBER: During Mr Booyesen's evidence.

CHAIRPERSON: Okay.

ADVOCATE VERUSHKA SEPTEMBER: General Booyesen if I may? The
20 slide that you see before you, is it correct that this slide was given to you by the Commission to consider?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I am not too sure if it is the same one that I altered.

ADVOCATE VERUSHKA SEPTEMBER: Yes there is certainly another slide.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Okay.

ADVOCATE VERUSHKA SEPTEMBER: To be shown now which is ... (intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Okay I ... (intervenes).

ADVOCATE VERUSHKA SEPTEMBER: Your one in particular.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I concede this was given to me by the Commission.

ADVOCATE VERUSHKA SEPTEMBER: Okay thank you. The slide is really just to orientate the evidence that you are about to give. If I can
10 then ask for Slide 2? Is it correct that after considering Slide 1 you had highlighted certain entities within the structure that your evidence addresses?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is indeed so Chair.

ADVOCATE VERUSHKA SEPTEMBER: Just to orientate this particular diagram when we look at the police cluster if I may? Thank you. Can you for the record inform the different entities or positions that your evidence to be dealt with at this hearing will address?

CHAIRPERSON: Well you asked him whether he highlighted certain
20 entities or sections and on the slide that you were showing then we could see come some that seemed to be highlighted or darkened and in the one that you are showing now we can see some that are darkened. Do you want him to just to confirm whether the ones he highlighted are the ones that have been shaded or something?

ADVOCATE VERUSHKA SEPTEMBER: Do you confirm that

...(intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Those are my highlights Chair.

CHAIRPERSON: Okay thank you.

ADVOCATE VERUSHKA SEPTEMBER: Thank you. In particular there is a slight variation to this particular diagram as compared to the one that you were provided with which is at Slide 1?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is so Chair.

10 ADVOCATE VERUSHKA SEPTEMBER: Can you please identify the difference in structure and why you highlighted a difference?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair if one could go back to the previous slide. It actually shows the lineation of the actual command structure isolating from the National Head of the Hawks to his National Office. Under him at National Office he had certain component heads whereas in the second slide I delineated the rank structure from National Head to myself as a Provincial Head and then the different components in the Province that reported to me.

CHAIRPERSON: Under you?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is right Chair.

20 CHAIRPERSON: Thank you.

ADV VERUSCHKA SEPTEMBER: This particular slide talks to, if I could use the term cluster, various clusters. Such being Police, Justice, Intelligence, Finance, Governance, Parliament and the Presidency. To what extent are these different clusters dependent upon each other in the chain of the Criminal Justice System?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Mr Chair in my view the one cannot do without the other. They all form very important gears in this big machinery and if anyone of those are absent the whole Justice System will be compromised in my view Chair.

ADV VERUSCHKA SEPTEMBER: Thank you. It was your evidence that you were appointed as the Provincial Head of the Hawks in KwaZulu-Natal and that you held at the time the rank of Major General and that you were also the Deputy Provincial Commissioner in KZN at the time. That is correct?

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Just talking to your particular slide it was prior to this appointment or rather let me ask the question. What position did you hold before that particular appointment?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I was just prior to that appointment the then Scorpions were dissolved. I was then the Head – at that particular time I was the Head of Organised Crime in KwaZulu-Natal and prior to that I was the Head of Serious and Violent Crime. Serious and Violent Crime and Organised Crime eventually amalgamated and I was then the Head of Organised Crime prior to my
20 appointment as Head of the Hawks.

ADV VERUSCHKA SEPTEMBER: Is it correct that you were also ceased with other departments which were support functions to the core units?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is indeed so Chair.

ADV VERUSCHKA SEPTEMBER: Can you please indicate what those support functions were which is actually referenced in paragraph 11 of your affidavit?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair if I may just clarify that. In police parlour we refer to support functions Human Resources, Finance - Financial Departments etcetera which I was also responsible for.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But there were other
10 sub-components which I would rather call them that resorted under my command.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Which are inter alia Serious Commercial Crimes, Serious Organised Crime and the Asset Forfeiture Investigation Units. Although the Asset Forfeiture Units were actually run by an advocate from the National Prosecuting Authority they also had an investigative capacity which reported to me.

ADV VERUSCHKA SEPTEMBER: Thank you. Looking at the four
20 blocks in that particular diagram on your slide two under the cluster of Police, for those of us like me who may not fully understand, can I ask that you just explain the relationship in simple terms between Crime Intelligence, SAPS, the Hawks and IPID please?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair with regards to SAPS. Crime Intelligence is a component of SAPS, of the South African Police Services and so are the Hawks, the DPCI. They are an

integral part of SAPS where supposed to IPID. They are not an entity of SAPS. They are an independent entity and they work on their own.

ADV VERUSCHKA SEPTEMBER: Thank you. So from what position do you give evidence today. Is it one of a civilian or is one based on your professional experience in the service?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I regard my evidence that I will give to this Commission as being part of the police structures for about 40 years of my life until I retired and more specifically to events more recently from around about 2010.

10 ADV VERUSCHKA SEPTEMBER: Thank you.

CHAIRPERSON: Thank you.

ADV VERUSCHKA SEPTEMBER: At paragraph 12 of your affidavit you make a particular assertion in relation to the capture of individuals. Can you please explain your ...(intervenes).

CHAIRPERSON: Let him just articulate it.

ADV VERUSCHKA SEPTEMBER: Please.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair it is my view that for reasons that I will elaborate on further in my evidence.

CHAIRPERSON: Yes.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: That certain elements, and not all of them, certain elements within the Law Enforcement and the National Prosecuting Authority had been captured for ...(intervenes).

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: For reasons of own

interest and in other cases to promote or to follow a particular agenda or narrative.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: For – at the behest of political – people with political power.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Or in some instances from politicians who were directly involved.

CHAIRPERSON: H'mm, thank you.

10 ADV VERUSCHKA SEPTEMBER: Major General Booyesen how would you explain your record of work during your service since you started in 1976?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I regard myself as a born policeman. It was my passion my whole life. It was not a job for me. It was a passion. I had an unblemished career. I had received numerous national awards from the various National Commissioners in the previous dispensation and in the current dispensation. I have received a number of awards at Provincial level and I was also recognised by the previous Head of Interpol and up until the events
20 that unfolded roundabout 2010 I had an unblemished career.

CHAIRPERSON: Well in relation to the point you articulated earlier on you said you believe that the evidence you will give will support the statement you have made about certain sections of the Law Enforcement Agencies being captured?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Indeed Chair.

CHAIRPERSON: Thank you.

ADV VERUSCHKA SEPTEMBER: Thank you Chair. You said that there was a change that came about in your record. What was the trigger in your view for the change in the unblemished record that you had during your service?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I have no doubt in my mind that the trigger for the change in my experience in the police came about roundabout 2010 when I initiated a corruption investigation relating to the business of a wealthy businessman in
10 KwaZulu-Natal by the name of Toshan Panday and his links with certain Senior Police Officials.

ADV VERUSCHKA SEPTEMBER: In that instance can I ask for slide 3 to please be displayed? For your ease of reference you will find that particular slide in Exhibit ZD.

CHAIRPERSON: Can you arrange for me to get a hard copy of the same thing because I do not think I have got it here?

ADV VERUSCHKA SEPTEMBER: Chair you would find it in Exhibit ZD.

CHAIRPERSON: Oh, okay. I missed that. Thank you.

ADV VERUSCHKA SEPTEMBER: And it is page 3 of that bundle.

20 CHAIRPERSON: Okay, thank you. Yes you may proceed.

ADV VERUSCHKA SEPTEMBER: Thank you. This diagram represents a timeline of your evidence in relation to the Panday investigation or rather the investigation into the businessman, Mr Toshan Panday. Is that correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Is it also correct that this diagram in fact consolidates in time order which may not be exactly reflected in time sequence in your affidavit, but that the way in which it is described in the timeline is in fact correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is so Chair.

ADV VERUSCHKA SEPTEMBER: So if would then start in the first block and you could use then this as your guide to giving the evidence in relation to this investigation. Please explain to the Chair what happened on the 28th of April 2010 and in your own words amplify your
10 evidence?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair normally at senior management level we have management meetings every morning at provincial level. During those meetings those meetings are chaired by the Provincial Commissioner, so Deputies and then all the Senior Officers from the respective components for instance the Financial Department.

CHAIRPERSON: Okay. I am sorry. Before you proceed just remind me again as at that date as at that year 2010 what your position? Were you at that stage?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair at that stage I was Head of the Hawks.

CHAIRPERSON: You were Head of the Hawks Provincial Office?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: At the rank of General.

CHAIRPERSON: Okay, alright. Thank you. Ja, you may proceed.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: During those meetings it is first a general meeting regarding the crime in the province the previous night and the previous day and thereafter we discuss financial issues, human resource issues, supply chain management issues etcetera. On the 28th of April just before the meeting commenced I was approached by a Brigadier Lawrence Kemp who was the Head of Financial Services in KwaZulu-Natal Province and he indicated to me that they had discovered that there appears to be some irregularities with regards to an acquisition of certain services. So I asked him at
10 that meeting could he prepare something in writing for me and then give it to me. The following morning before the same meeting he came up to me and he gave me a copy of a report that he had compiled and he had also placed one in front of – at that juncture the Provincial Commissioner had not arrived at the meeting yet. So he had also placed one in front of her empty seat. For some reason I took that one away and I asked Kemp to just let me have a look at it before we actually distribute the report.

CHAIRPERSON: Did you say he had also given a copy of the same report to the Provincial Commissioner?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair he actually – she was late that morning.

CHAIRPERSON: The Provincial Commissioner?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is right.

CHAIRPERSON: And who would have been the Provincial Commissioner at that time?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That would have been Lieutenant General Mmamonye Ngobeni.

CHAIRPERSON: Oh, okay alright, but the meetings that you are talking about in the mornings are the – are meetings that in her capacity she would attend as well?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is right Chair.

CHAIRPERSON: Okay, alright.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That particular morning she was late Chair.

10 CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And what ...(intervenes).

CHAIRPERSON: So you say you took the report that was meant for her?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So while we were standing around he gave me a copy of the report.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And he placed one in front of her empty chair.

20 CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So ...(intervenes).

CHAIRPERSON: And you took it?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So I took that one.

CHAIRPERSON: Okay, yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And I said to him

Lawrence just give me a day or two to see what is going on here because I quickly read through it and I said just give me a day or two to see what is happening.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Nevertheless after that particular meeting I went back to my office and I called in Brigadier Andre Lategan who was the Head of Commercial Crime in the province at that point in time. So I gave him the report and I said to him he should have the matter investigated and then inform me what,
10 what was going on. So he – Chair also what we do is in the police normally when a case gets registered it goes on what we call the CAS system. That is when a docket is opened, but what we do in the police especially with your more covert investigations because police officers have access to the CAS System they can establish when corruption cases or any other case for that matter in which they could possibly be implicated in if a case had been registered. So what we sometimes do we register on the same system an inquiry.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Without specifying
20 what it is all about.

CHAIRPERSON: Oh, okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So once all the evidence is eventually gathered to convert it to an official docket we will then convert that inquiry into a criminal investigation docket.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Although the enquiry is actually also part of the criminal investigation.

CHAIRPERSON: And the same people who have accessed to what you called – did you say?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The CAS System.

CHAIRPERSON: How do you spell that?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: C-A-S.

CHAIRPERSON: Oh.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So Criminal
10 Administration System.

CHAIRPERSON: Oh, okay. The same people with access to that system also have access to the registration of inquiries?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: They would Chair but what ...(intervenes).

CHAIRPERSON: But they do not bother most of the time?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Because of the requirements in registering a criminal docket.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: You have to fill in
20 every aspect of ...(intervenes).

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Of what is required to have the docket registered.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: As opposed to an

inquiry.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: You do not have to go into that detail. So it is very difficult for a policeman who wants to go and see if there is a case being investigated against him or her.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: To go and fish around to see if there is an investigation.

CHAIRPERSON: Okay. No, thank you.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair so
...(intervenes).

CHAIRPERSON: So you asked a?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Brigadier Lategan.

CHAIRPERSON: Brigadier?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Lategan.

CHAIRPERSON: Lategan to investigate and report back to you on this issue?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Ja.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: So what he did Chair is he booked the investigation out. At that point it was to a Colonel Hans Van Loggenberg and Colonel Vassan Soobramoney. They were the two lead investigators in that particular investigation.

ADV VERUSCHKA SEPTEMBER: Before you continue if I could just interject there for a second. Can you just give clarity to exactly what

this investigation concerned please? What was the nature of the investigation?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair on face value and looking at the initial report from Brigadier Kemp. On face value it was clear that there had been some irregularities in supply chain management at provincial level in KwaZulu-Natal.

CHAIRPERSON: At SAPS, S-A-P-S?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Yes, okay.

- 10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: The indications were that all transactions during the World Cup period – preceding the World Cup and even after the advent of the World Cup just about every transaction had gone through the books of one particular businessman in KwaZulu-Natal which was Toshan Panday.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I work with supply chain management. It was part of my function and financial management.

CHAIRPERSON: H'mm.

- 20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: So it just looked odd and suspicious. I mean blankets, television sets, accommodation. I can give you perhaps an example. Police Headquarters – the Hilton Hotel is situated about two blocks away from police headquarters.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: When a Senior Officer

from Police National Head Office had to come and visit in KZN although the hotel was right next to – well two blocks away from where we were it still went through the books of the businessman in Umhlanga Rocks. So it just seemed out that.

CHAIRPERSON: I am sorry. I just want to understand what went into the books of somebody in Umhlanga Rocks?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So what happened is Chair the procurement process is defined in the Treasury Regulations, over and above an amount you have to get tenders.

10 CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: There is a certain amount which people at different levels can authorise themselves.

CHAIRPERSON: Can approve ...(intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And then there is also a lower level and I cannot recall what it is called. It is not tenders.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Quotations that is right.

CHAIRPERSON: Yes.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: We have to get quotations and then you need to – and then also there is a database in terms of BEE so it gets allocated. So there are certain processes.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That must be followed.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And it appeared from that initial report that those processes were not followed.

CHAIRPERSON: Yes, but you were making an example about if somebody from national was visiting the provincial offices of SAPS and you were saying something about the Hilton Hotel.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: If I can give a practical example Chair.

CHAIRPERSON: H'mm.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: In my capacity as Head of the Hawks. If I wanted to visit any place in the country I fill in an itinerary. I will send it to at the time the National Head General Anwa Dramat. He will authorise it and off I go. My secretary will do my booking at the hotel. She will do my transport arrangements etcetera. In this particular instance officers visiting from national head office their accommodation was procured and acquired via the businessman in Umhlanga Rocks.

CHAIRPERSON: Which was outside of the processes – which was not in accordance with – which would not be in accordance with the normal
20 processes?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair strictly speaking I would not have had a problem if it was one or two occasions.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Because invariably we also make use of especially when it comes to travelling.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Certain agencies.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But in this particular instance it appeared that everything from buying of television sets for police stations, blankets for the cells, cell mattresses.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Accommodation for people coming from national head office.

10 CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But the actual problem related to the acquisition of accommodation for the deployment of police officers during the World Cup, the World Cup Soccer.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That was the major part of ...(intervenues).

CHAIRPERSON: Of your concern?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Of the concern because although it went through the books of one or two close corporations.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Those close corporations were all registered in the name of one person.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Which was

Toshan Pandya.

CHAIRPERSON: Yes. Okay, thank you. I just wanted clarification.

ADV VERUSCHKA SEPTEMBER: Thank you. General what did you do once you considered the information that was given to you by Brigadier Kemp on the 3rd of May 2010?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair at that juncture he had already registered the inquiry and I was continuing with my daily tasks and there were different departments reporting to me. So obviously there are a number of investigations which are reported to me
10 but over and above that I am also seized with other matters such as human resource management like I have explained before.

ADV VERUSCHKA SEPTEMBER: Thank you and who was allocated the investigation?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The two chief investigators as I said was Colonel Hans Van Loggenberg and Colonel Vassan Soobramoney Chair.

ADV VERUSCHKA SEPTEMBER: Thank you and who registered the inquiry?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair the registration
20 is actually an administrative function. So I do not know whether it was Lategan himself or either the two investigators but that was just an administrative function although I mention in my statement or this diagram that Lategan was responsible for that.

ADV VERUSCHKA SEPTEMBER: Thank you so much. What then happened during early May 2010 as you were travelling home?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I can recall this vividly. I was driving in my car. I just exited the city and I was on the freeway on my way home in Amanzimtoti which is on the South Coast when I received a call from the then Provincial Commissioner Mmamonye Ngobeni and I could hear from her voice she was irritated and she said to me Johan what is this investigation you are busy with and I said to well General which one are you talking about. There are a number of investigations that we are busy with and then she said no the supply chain management one and then I started explaining to her but

10 she kept on interrupting me and she said to me no, no, no. We already have these problems at Mountain Rise Police Station. The police are – it is an embarrassment to the police. Now she was referring Chair to – at that point in time there was an investigation pertaining to the manipulation of police statistics which eventually culminated in the prosecution of a number of Senior Officers at Mountain Rise and it was quite prominent in the media. So she said to me no we already have this problem at Mountain Rise and now further investigation – we are just going to embarrass the police more and that you must stop the investigation.

20 CHAIRPERSON: Now when she said you must stop this investigation which one was it? Did you understand her to be talking about?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: It was clear in my mind that she was talking about this particular investigation against Toshan Panday. She then abruptly terminated the call Chair and that is basically what happened on my way home. She told me to stop the

investigation.

CHAIRPERSON: Now she referred to it when you asked her which one because there are lots of investigations that are ongoing. She said the supply chain management one.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No, no. Well ja that is what she said.

CHAIRPERSON: That is how she described it, ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is right. That is right.

10 CHAIRPERSON: At that stage was the investigation that you gave to Brigadier Lategan the only supply chain management one – investigation – that you were busy with or people under you were busy with?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair maybe at that point I had only been in that position for about two or three months.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So that was the very first.

CHAIRPERSON: Yes supply chain.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Or only supply chain management or investigation that I had been involved in.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Relating to our own department.

CHAIRPERSON: Yes. So there can be no doubt which one the two of

you were talking about?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Absolutely not.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair.

CHAIRPERSON: Thank you.

ADV VERUSCHKA SEPTEMBER: Did the Police Commissioner during that call ask you any details about the magnitude of the investigation, the role players involved or any other factual detail in relation to the investigation?

- 10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: She did not Chair. As a matter of fact she hardly gave me time to speak. As soon as I would start to try and explain she just cut me off and she was adamant. She just said no the investigation must stop. She did not ask me what it was about, what the magnitude was or what it involved. She said to me I must stop.

CHAIRPERSON: You were the Provincial Head of the Hawks at the time. Is that right?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

- 20 CHAIRPERSON: And you – at that time was it during the time where you were supposed to report both to the Provincial Commissioner as well as the National Head of the Hawks?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is indeed so Chair.

CHAIRPERSON: Yes. So technically speaking could she tell you to stop an investigation by virtue of the fact that you reported to her or is

that something that even with her ranking above you and the fact that you reported, she was one of two people to whom you reported, is the position that it was – she could not under any circumstances instruct you to stop an investigation?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair she had the right to give me instructions but most definitely not to stop an investigation. That in my view was an unlawful instruction.

CHAIRPERSON: Yes. Certainly in terms of what you had seen in the report that you were given by I think Brigadier Kemp you saw enough to
10 justify that an investigation be done at least preliminarily and then you would take it from there but she was saying stop that?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Yes and you say she did not give you a chance to respond to her instruction?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Not when we had the conversation.

CHAIRPERSON: Immediately, ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair not when we had the conversation in the car.

20 CHAIRPERSON: Yes, okay. Thank you.

ADV VERUSCHKA SEPTEMBER: Please then clarify what is the normal procedures and protocols to stop an investigation?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair it's quite simple, once a docket had been opened it can only – it can be closed in various ways, and I'm going to try and keep it as simple as possible. If

there's a housebreaking case it gets investigated, fingerprints are taken, witnesses are interviewed but if no suspects are identified and it's a dead-end case the case will be closed by a police officer as undetected, and it remains open for a period of time depending on the nature of the investigation, if it's a housebreaking case after five years they might destroy the docket, if it's a murder case it remains open indefinitely. When there's a suspect in the matter like in this particular instance where names are mentioned of people that had ostensibly committed criminal offences there is no authority within SAPS to close or stop an investigation, that docket must be referred to the National Prosecuting Authority to a Prosecutor who will then weigh the evidence and decide whether he is going to prosecute a person or an individual or not. If he so find that there are reasons – lawful reasons why a prosecution should not proceed, for instance if there was a case of assault but the person acted in self-defence that Prosecutor may then decide to noli prosecute or decline to prosecute in a manner, and he will endorse a docket as such. The docket will be sent back to the police station and the Branch Commander of a certain rank will then close that docket, so with regards with closing of dockets where there are suspects it must be by the – consequent to a decision of a prosecutor. No police officer has the authority to summarily close a docket or stop an investigation, unless if there are suspects indicated in the investigation.

ADV VERUSCHKA SEPTEMBER: So you received this call from Police Commissioner Ngobeni, what then happens the next day?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair the next day after the management meeting in the morning I called in Brigadier Lategan and I said to him Andre we've got a problem here, the PC ...(intervenes).

CHAIRPERSON: And that meeting was she there the Provincial Commissioner?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Not at this meeting.

CHAIRPERSON: Not at this one, okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So Chair so I called
10 in Lategan to my office and I said to him Andre we've got a bit of a
problem here, and in police parlour we refer to the Provincial
Commissioner as a PC, I said the PC has given an instruction that we
must stop this investigation so we need to stop the investigation and he
frowned and couldn't understand based on what and he questioned, and
I said well Andre let's – bring back the file and then let's see how
things develop and he left my office and he was obviously not happy, I
suspect at a later stage and I think Lategan and even Soobramoney and
a few other people also thought that I was in cahoots trying to suppress
the investigation, nevertheless he left the office and he later on came
20 back with a file to my office.

CHAIRPERSON: So you asked him to bring back the file?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's correct Chair.

CHAIRPERSON: Yes, okay. Did you ask him whether he knew how the
Provincial Commissioner might have got to know about the
investigation, Brigadier Lategan, did you ask him whether he had any

knowledge as to how the Provincial Commissioner got to know about the investigation?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I don't have an independent recollection of whether I asked him that or not, but what I do know is, which emerged later on was that Van Loggenberg and Soobramoney started to make enquiries in Supply Chain Management.

CHAIRPERSON: Oh those were the people who were assisting Lategan?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's right Chair.

10 CHAIRPERSON: Yes, in the investigation.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's right so it emerged during the investigations that they've made enquiries to Supply Chain Management and at the Financial Department so we suspected that ...(intervenes).

CHAIRPERSON: Somebody then ...(intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Well some of the people at Supply Chain Management formed part of the investigation and we suspected that they perhaps alerted her that we were busy with this investigation.

20 CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: Based on the evidence that you've given that the process of stopping the investigation was improper why did you proceed to inform Lategan to return the file and stop the investigation?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair as I said in my

view that was obviously an unlawful instruction and you have to understand and I saw Mr McBride also testifying about it yesterday, in the Police if something like that is going on and you go in the opposite direction you're dead in the water. Although in my mind I was never going to stop that investigation, that's why I said to Lategan let's see how this thing develops because I also know that the National Head of the Hawks at that juncture was Dramat, Anwar Dramat, and I had no doubt in my mind that he was not going to be party to having the investigation stopped.

10 CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So I was banking on his support later on, but initially I had to take the file back from him.

CHAIRPERSON: So your idea was to have the file brought back while you think about how to handle this situation?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is so Chair.

CHAIRPERSON: Yes, because if the file didn't come back Brigadier Lategan and those assisting him could be taking further steps and then the Provincial Commissioner could hear that the investigation has not been stopped and she could come back to you before you had made up
20 your mind as to how to handle the situation?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair it actually went beyond that, what would happen is, and in this particular instance it did happen, people like Brigadier Kemp, Lategan, anyone who had been involved with that investigation would be ostracised by the Provincial Commissioner and she would take it out on them and not everyone has

...(intervenes).

CHAIRPERSON: Can handle that situation.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's right Chair, so I in a way I had to protect my investigators, but that did not mean that I was in agreement that the investigation should stop not at all.

CHAIRPERSON: Yes, ja okay.

ADV VERUSCHKA SEPTEMBER: On the 8th of May, while you were at home, you received another telephone call. Can you please share with this Commission what transpired and who called you on that particular
10 day?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I was in my dining room when I received a call on my cellular phone from the same Provincial Commission Ngobeni and she was very irritated and she actually shouted at me, she said to me "Johan I told you people to stop this investigation" so I said to her but General it has been stopped and she said no what's wrong with you people, or words to that effect, and she said no the investigation – so I tried to convince her no the investigation had stopped and then I said look let me phone Brigadier
20 Brigadier Lategan and I phoned her back and I said to her look I've spoken to Lategan and he says they're not continuing with the investigation and she appeared to be happy with that response.

CHAIRPERSON: This was, I see you say this was on 8 May 2010, about how long after the first call, was it a week or a few days or two?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair the first call in

my car and then the second call?

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I would have to guess, it's about between two and three weeks.

CHAIRPERSON: Oh okay, no that's fine.

ADV VERUSCHKA SEPTEMBER: Just to clarify you mentioned that the first call happened during early May 2010 and the second call then happened on the 8th of May 2010.

CHAIRPERSON: That should be correct?

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's correct Chair.

CHAIRPERSON: Okay thank you.

ADV VERUSCHKA SEPTEMBER: Thank you.

CHAIRPERSON: And you never got to know what it is that may have made her think that the investigation was still going on?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I had no idea but I suspected at that juncture was because certain individuals from Supply Chain Management, such as a Colonel Navin Madhoe, who had a close relationship with the Provincial Commissioner, I suspected that he got wind of the story that there was an investigation and that he had
20 alerted her to the investigation. It later emerged during the investigation that there was a particular motive for her actions in that regard.

CHAIRPERSON: Thank you.

ADV VERUSCHKA SEPTEMBER: General Booyesen what was the involvement of Lieutenant General Anwar Dramat, if there was any

involvement of him at all, following the last call that you received from the Provincial Commissioner?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I don't get the question.

ADV VERUSCHKA SEPTEMBER: Okay, so after the last call that you received from the Provincial Commissioner Ngobeni on the 8th of May 2010 did you raise this issue with any of your superiors?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No I did not immediately Chair.

10 ADV VERUSCHKA SEPTEMBER: Okay, when did you raise this issue with any of your superiors?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So Chair we often have national meetings for various reasons, and I can't recall the date but it was not too soon after what had occurred that we had a National Meeting with a component – well with the Provincial Heads with General Dramat at the Burgerspark Hotel in Pretoria and we started the meeting and at the first tea break he came and stood next to me and we were having tea and he asked me what is this story about this investigation that's been stopped ...(intervenues).

20 CHAIRPERSON: Who was that coming to you to ask?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Dramat – General Dramat.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So I assumed at the time that, and I suspect, not that I blame them for that, that it is either

Van Loggenberg or Soobramoney, and Soobramoney later told me that it was indeed him, I don't know whether they phoned him or whether they went to see him and told him about what had happened, so I said to him well General I am a bit of a pickle here because the Provincial Commissioner is adamant that we stop this investigation and he wanted to know from me but why and I couldn't explain why. Then I made a suggestion to him I said, although – and I said to him there's clear indications that there are irregularities and then I said that's on the one hand and on the other hand she is adamant that we stop the
10 investigation. Then I made a suggestion to him that we continue with the investigation, that – with the same investigating officers, but that they should then report to his office ostensibly whereas I would surreptitiously remain involved with the investigation, to which he agreed.

He then appointed a Brigadier Nkosi, who at the time was working at the office of Serious Economic Offences, to "monitor" the investigation, so – but I suspect in any event that Soobramoney and Van Loggenberg had in any event continued with the investigation, because when we got together again it was clear to me that they had
20 actually continued with it.

CHAIRPERSON: Yes. So normally the monitoring of the investigation would have been done by you, but now there was Nkosi but you said he was in inverted commas, so I assume that you mean on record he was the one to monitor because on record you were not going to be officially or formally, but you would still have something to do with the

investigation is that right?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That was the case Chair and the idea with that was if I had any further problems with the Provincial Commissioner trying to interfere or to stop that I could just tell her look it's not in my hands, you have to speak to Dramat, and I knew she would never confront Dramat with something like that.

CHAIRPERSON: Yes okay.

ADV VERUSCHKA SEPTEMBER: Thank you. Just one clarity on the date as you mentioned earlier, if you turn to page 10, paragraph 30 of
10 your affidavit, is it correct that the meeting that you had with Lieutenant General Anwar Dramat happened during late May of 2010?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's correct Chair.

ADV VERUSCHKA SEPTEMBER: As it was corrected in your supplementary affidavit. Chair if I may, I understand it's time for a break?

CHAIRPERSON: It's time for the short break, okay. We will take the short break and resume at 11:35. We adjourn

ADV VERUSCHKA SEPTEMBER: Thank you Chair.

REGISTRAR: All rise.

20 INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: You may proceed Ms September.

ADVOCATE VERUSHKA SEPTEMBER: Thank you Chair. Before we proceed with the continuing evidence of this witness I need to humbly apologise to my colleagues in the audience who have not

...(intervenes).

CHAIRPERSON: Oh yes.

ADVOCATE VERUSHKA SEPTEMBER: Placed themselves on record.

CHAIRPERSON: Yes you overlooked them.

ADVOCATE VERUSHKA SEPTEMBER: I humbly apologise.

CHAIRPERSON: Yes okay I think they must just place themselves on record.

ADVOCATE VERUSHKA SEPTEMBER: Thank you Chair.

CHAIRPERSON: Yes. They did already meet with me. Thank you.

10 ADVOCATE KAVITHA BHEEMCHUND: Good morning Chairperson.

CHAIRPERSON: Good morning.

ADVOCATE KAVITHA BHEEMCHUND: My name is Kavitha Bheemchund from the Durban Bar with dual membership at the Johannesburg Bar. I represent Major General Nomfazi Ngembe.

CHAIRPERSON: Yes.

ADVOCATE KAVITHA BHEEMCHUND: Instructed by the offices of the state attorney Kwazulu Natal.

CHAIRPERSON: Yes.

20 ADVOCATE KAVITHA BHEEMCHUND: Major General Ngembe is one of the implicated persons who was served with the Rule 3.3 Notice.

CHAIRPERSON: Okay.

ADVOCATE KAVITHA BHEEMCHUND: We reserve our rights to apply to cross-examine Mr Booyen depending on the evidence presented.

CHAIRPERSON: Yes thank you.

ADVOCATE KAVITHA BHEEMCHUND: Thank you Chairperson.

CHAIRPERSON: Thank you.

ADVOCATE JOHAN EKSTEEN: Morning Chair.

CHAIRPERSON: Morning.

ADVOCATE JOHAN EKSTEEN: My name is Johan Eksteen.

CHAIRPERSON: Thank you.

ADVOCATE JOHAN EKSTEEN: Of the firm BDK Attorneys.

CHAIRPERSON: Yes.

ADVOCATE JOHAN EKSTEEN: We are here to represent Major General Jan Mabula.

10 CHAIRPERSON: Yes.

ADVOCATE JOHAN EKSTEEN: He has also received a Section 3.3 Notice.

CHAIRPERSON: Yes.

ADVOCATE JOHAN EKSTEEN: And we also reserve the right for cross-examination or ...(intervenes).

CHAIRPERSON: Thank you. Thank you very much.

ADVOCATE JOHAN EKSTEEN: Thank you Chair.

CHAIRPERSON: Okay.

20 ADVOCATE VERUSHKA SEPTEMBER: Thank you for the indulgence Chair.

CHAIRPERSON: Yes you may proceed.

ADVOCATE VERUSHKA SEPTEMBER: General Booysen before the short adjournment you gave evidence in relation to the phone call that you had with the police commissioner on the 8th of May. We are now on page 6 of your affidavit where you describe in paragraph 19 a meeting

that you had during mid-June 2010. Please describe the events of this meeting to the Chair in your own words.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I arrived at my office that morning just about after seven and then I received a call from the secretary of the Provincial Commissioner to come up to her office. To me it was strange in a sense that she was never at the office that early. She would invariably arrive late at work.

CHAIRPERSON: Around what time of the morning would it have been more or less?

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair that was about 07:15.

CHAIRPERSON: Yes okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But invariably for – even for the management meetings which started – it was supposed to have started 07:30 which she changed to 08:00 but she invariably would come late for even those meetings.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That particular morning about quarter past seven I got the call to come to her office. I
20 then proceeded – I was situated on the 14th floor and she was on the 18th floor. So I proceeded to her office and then on entering her office I found her there as well as Major General Bongani Ntanjana who is responsible for support services in the province comprising supply chain management, financial services and human resource management. He is now deceased. There was also Major General

Fannie Masemola. He was the Provincial Head of Operational Response dealing with amongst other things the deployment of police officers in the province. General Masemola is currently I think the Deputy National Commissioner at the rank of Lieutenant General. Also seated there was Brigadier Lawrence Kemp whom I referred to earlier on as the Head of Financial Services in the province as well as Colonel Navin Madhoe who was from Supply Chain Management. At the point was one of the subjects of the investigation who would allegedly colluded with Toshan Panday.

10 ADVOCATE VERUSHKA SEPTEMBER: What then happened at this meeting?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair it was quite an uncomfortable meeting. General Ngobeni aimed her frustrations towards Brigadier Kemp and it soon became clear to me that she had either been misled or there was something seriously wrong because she went hammer and tong for Kemp and she accused him of being more concerned about finances, money than the lives of the citizen – citizens. And then the more Kemp tried to explain to her the more she interrupted him and she would admonish him and there was some
20 argument – well not argument, some discussion between the two of them relating to some reports that he had sent to national office and that – she almost out of control and then she had a go at him for communicating directly with Head Office which I could not understand what it had to do with what we were busy with. And the conversation carried on and eventually she – I just kept quiet. And the reason why I

kept ...(intervenes).

CHAIRPERSON: I am sorry when you came into the meeting had the meeting started already?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No.

CHAIRPERSON: Not yet?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No, no Chair.

CHAIRPERSON: It had not started but you found that all of those people you have mentioned were already there?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

10 CHAIRPERSON: Yes. Before the meeting started or when the meeting started was it announced what the meeting was about?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Not at all Chair I did not have a – I did not even have an idea what was going to happen when I – when she called me. I did not know what she was calling me for.

CHAIRPERSON: Yes. And you did not know about this meeting until you were – you got a phone call from her – somebody in her office?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

20 CHAIRPERSON: Yes. So the first thing that happened was she started speaking and she effectively was speaking to Brigadier Kemp?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: She was speaking to Kemp but I got the feeling she was talking to me as well.

CHAIRPERSON: Yes okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But not directing it at me.

CHAIRPERSON: Okay alright no that is fine. Continue.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair the main reason I did not want to say anything was the mere fact that one of the main suspects in the investigation Colonel Navin Madhoe was part of the meeting so I just kept quiet. Then she at one stage said to me Johan what do you say? So I said to her, General I feel uncomfortable talking – I will talk to you later. And I do not know if she sensed why I felt uncomfortable but she then excused Kemp and she excused Colonel Madhoe.

10 CHAIRPERSON: But let us – if you are able to let us get more in terms of what she said at that meeting as far as you are able to remember – what were – you have said that she if I can put it in my words. It seems that you are saying she really was attacking Kemp or she was upset with him but I would like to hear exactly what she was saying if you are able to remember?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: What I recall Chair was that she – and that is why I felt she had either been misled by someone or else she knew what was going on and tried to make this thing off as if we – well she was talking to Kemp but by implication to
20 myself as well that we were concerned about finances as supposed to that we should be concerned about the lives of citizens. And I – it did not really make sense to me and that is why I did not say anything. And then ...(intervenes).

CHAIRPERSON: But ...(intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: There was a

discussion between her and Kemp about a report that he had sent to National Head Office. I cannot recall that particular report did not have anything to do with our investigation.

CHAIRPERSON: Oh it had ...(intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No.

CHAIRPERSON: Okay. And the discussion had nothing to do with that investigation that you told us about? What she was saying at the meeting to Kemp?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is right.

10 CHAIRPERSON: Did not concern the investigation that you told us about? The supply chain management investigation.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No it did Chair.

CHAIRPERSON: It did?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Ja I think she – I do not know whether she conflated two issues intentionally.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Or whether – but that whole meeting was – made no sense to me.

CHAIRPERSON: Okay.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: But it was evident to me that it related to the investigation that we were busy with.

CHAIRPERSON: Yes, yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Because we ...(intervenes).

CHAIRPERSON: And you say she was upset?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: She was visibly upset.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: When she excused Kemp and Madhoe I said to her, General I do not think you understand what is going on here. We are not concerned about the deployment of police officers because that is the impression that was being created that we are concerned about paying for the deployment of police officers. I said to her we are not concerned about the actual deployment of these police officers what we are concerned about is
10 what concerns us as investigators it would appear that all the acquisitions of accommodation and other issues as well were going through the books of one businessman In Umhlanga Rocks. And I said to her it is clear that there is something amiss here. Her response to that was once again ...(intervenes).

CHAIRPERSON: So at this time you decided or you had already decided that if an occasion arose you would indicate your concerns about these irregularities.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Yes.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: And that is what I tried to explain to her.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Now I do not know whether she tried to pretend that she did not know what was going on or whether she – well that was – those were my thoughts at the time

whether she had been misled or whether she did not really grasp what was going on. That is why I explained to her. We are not concerned about the actual deployment what we are concerned about is the acquisition of the accommodation for the deployment. Because it all seemed to go through the books of Toshani Panday. Her response was once again the investigation must stop and then she said to General Bongani Ntanjana, who is now deceased, that he should commence with an investigation. Now it did not make sense.

CHAIRPERSON: Same investigation? Same investigation that you or
10 your people, your team, people under you were busy with and now actually were under General Dramat as well?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair.

CHAIRPERSON: But at that stage she did not know about Dramat's arrangement?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No.

CHAIRPERSON: That – ja okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So – Chair so she told
20 Ntanjana that he should take over the investigation. It did not make sense to me because General Ntanjana had not been a detective for many years number 1. Number 2 is he did not have the capacity to deal with such an investigation. He did not have the investigators to deal with such an investigation. As it would turn out later we had to employ forensic auditors. So and in my mind it did not make sense to

me that he should do the investigation.

CHAIRPERSON: But did it make sense to you that on the one hand at the same meeting and before she had said and was saying the investigation must stop but then now she was saying the investigation must be done by somebody other than the people who had already started on the investigation?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I – to me and my view that was a ruse. It was a ruse to try and pacify me to indicate well there will be an investigation we are not going to sweep this under
10 the carpet. That is my view and it was actually my suspicions were confirmed later on which I would allude to later on in my affidavit. Sorry Chair and then she gave – she said to Ntanjana he must conclude his investigation within two weeks.

CHAIRPERSON: Oh did you that strike you as a kind of normal time within which to start and finish an investigation like or there was nothing wrong with that time?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair there is no ways that even myself with the resources at my disposal at the time a number of investigators whose sole function is to do investigations.
20 Whereas Ntanjana had none of those resources. There is just – it is just impossible to conclude or finalise an investigation of that magnitude in such a short period of a time.

CHAIRPERSON: Okay thank you.

ADVOCATE VERUSHKA SEPTEMBER: So following that meeting ... (intervenes).

CHAIRPERSON: Okay maybe before we talk about what happened after. Was – did the meeting end on the basis that Ntanjana was going to do the investigation?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: That is the basis on which it ended.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Okay thank you.

ADVOCATE VERUSHKA SEPTEMBER: Following that meeting were you provided with any form of an investigative report from one of the
10 investigators in the Toshan Panday investigation?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair about two weeks later Colonel Vassan Soobramoney then provided me with a follow-up report which is much more detailed than the initial report that I had received from Kemp. And from a reading of that report it was very clear that there were irregularities and I would go as far as to say that those irregularities related to possible corruption and even fraud and perhaps other crimes as well. So he provided me with this report.

CHAIRPERSON: And this was about how long after the meeting – the other meeting?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair it was about two weeks later.

CHAIRPERSON: Okay.

ADVOCATE VERUSHKA SEPTEMBER: While you do refer to this particular report much later in your evidence I think it is prudent to consider the report at this stage. So in this regard I ask you to turn to

Exhibit ZE which is a soft blue folder. And in particular I ask you to turn to page 2 of that affidavit. In paragraph 5 on page 2 of this affidavit you mentioned that the progress report which was attached to your main affidavit was not in fact the actual report that you had intended to attach and so with this affidavit you attach the actual report which is the report that you now speak of in your evidence as the Report of Colonel Vassan Soobramoney. Is that correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: This is the report Chair.

- 10 ADVOCATE VERUSHKA SEPTEMBER: Can I then ask you to turn to page 5 of the same bundle – soft bundle and because of the importance of this report to the entire investigation and the evidence that is yet to be presented I ask you to read through certain paragraphs into the record. Can I ask you to read through the second, third and fourth paragraphs please? And before you do so for the record this particular report is titled Preliminary Report of Investigations Commercial Crime Inquiry 07/05/2010.

CHAIRPERSON: And it appears or it starts at page 5 of Exhibit ZE. Okay thank you.

- 20 ADVOCATE VERUSHKA SEPTEMBER: Thank you Chair.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I just want to confirm there are three paragraphs that are not numbered and then there are one set are numerically numbered.

ADVOCATE VERUSHKA SEPTEMBER: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Should I read 1?

ADVOCATE VERUSHKA SEPTEMBER: So if I could ask you to read out the unnumbered paragraph 2, 3 and 4 which has the sub-paragraphs in them.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Paragraph 2.

10 "It is alleged that supply chain management from PHQ which will be Provincial Head Quarters Kwa-Zulu Natal has from October 2009 to date utilised the services of Gold Coast Trading CC and settled claims in excess of R15 million. On the little information given by Brigadier

10 Lategan we were required to determine a link between Toshan Panday and members of supply chain management from provincial headquarters. However on Thursday the 6th of May 2010 we were instructed by Brigadier Lategan to return the investigation file to Provincial Headquarters after he had received instructions to halt the investigations. Thus far our investigations have revealed the following: There are three targets identified and what appears to be case – what appears to be, there is a grammatical error sorry

20 Chair. Appears to be case of fraud and corruption namely Toshan Panday the Directors of Gold Coast Trading CC, Colonel Navin Madhoe attached to supply chain management Provincial Headquarters and Captain A Narainpesad also attached to supply chain management at provincial headquarters. Toshan

Panday is also the director of eight other CC's registered in his name. In two of the CC's he has a partner. From October 2009 to date supply chain management from Provincial Headquarters have paid Gold Coast Trading in excess of R15 million for services rendered. Of these claims 99% on respect of accommodation obtained for SAPS members whilst two claims are for the procurement of blankets, one claim for two Sony Bravia 40 inch televisions, one claim for flipchart stands and one claim for the procurement of a generator. It has also been established that supply chain management had made use of United Mzansi Trading and Project CC a close corporation owned by Toshan Panday to hire 13 C Class Mercedes Benz during February 2010 at a cost of R198 000."

ADVOCATE VERUSHKA SEPTEMBER: Thank you. Paragraph 5 at the bottom of this page refers to a particular bed and breakfast, can you please identify the name and location of this bed and breakfast? It is in the actual heading.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: It is called Tozers Bed and Breakfast at Bergville Kwa-Zulu Natal Chair.

ADVOCATE VERUSHKA SEPTEMBER: And then what follows on the next page if you could start reading from the second line which begins with the first claim to give particularity to the natures of the claims that were lodged?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: "The first claim was from 24 December 2009 to 6 January 2009. The claims submitted and settled by SAP was for R113 400. However the actual cost of the accommodation at Tozers Bed and Breakfast was R29 400. The second claim from 6 January 2010 to 22 January 2010 (6 nights for 6 members) for R172 800 was settled by the SAP. Obviously the police. The actual cost of the accommodation at Tozers Bed and Breakfast was only R33 600. However with regard to the second part of the claim Toshan Panday made use of Tozers Bed and Breakfast to accommodate the members and no further members arrived as an addition to the man – probably the main power requested for the detached duties. However in the second part of the claim he submits that two late comers were accommodated at a cost of R43 200. This amount is included in the R172 800 settled by the SAP. Our investigations revealed that only six members were deployed at Eskort for the required duties. It would appear that this claim is false."

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ADVOCATE VERUSHKA SEPTEMBER: To give credence to that summary you have mentioned I ask then that you deal with reading paragraph 6 and 7 please.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Of the same report?

ADVOCATE VERUSHKA SEPTEMBER: Of the same report.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Paragraph 6.

10 “In respect of the above deployment of six members to
Eskort the total cost that the police would have
incurred had they made bookings directly at Tozers B&B
would have cost R63 000. And then it says in brackets
(R29 400 plus R33 600). However by making use of
Gold Coast Trading CC the SAP had to fork out
R286 200 and then in brackets (breakdown of R113 400
plus R172 800). An over expenditure of R223 200. A
statement has been obtained from the owner of Tozers
Bed and Breakfast who submitted that he had charged
R350 per person per night. However Gold Coast
Trading CC had billed the SAP R1 350 per person per
night for eight members and not for six as submitted by
Ms Tozer.”

Then paragraph 7:

20 “A second claim was submitted and settled for
R119 880 for six members that were accommodated at
Pinetown. According to the application for
accommodation from Captain Narain Prasad
accommodation was required for six members being
trainers from Pretoria for the training of NIU members.
NIU that means the National Intervention Unit members
at Chatsworth College from the 21st of February 2010 to

14 March 2010. Our investigations have revealed that the trainers were not from Pretoria but from KZN. One trainer stayed at his house and travelled daily to the course as he lived nearby. The course organiser Colonel Allie from the Divisional Commissions Training at Pretoria was contacted and he submitted that all trainers and trainees in respect of the abovementioned training were to be accommodated at the Chatsworth Training College. No financial authority was granted for any member or trainer to be housed in private accommodation and an allowance of R50 per day was however authorised. Colonel Allie informed that no trainer from Pretoria travelled to Chatsworth College for the training of the NIU members. It would appear that the expenses met for the – met – probably meant for the payment of this claim was utilised from KZN Provincial budget. From my investigations it appears that the trainers were accommodated at Ms Getz B&B despite being instructed to stay at Chatsworth College.

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The actual cost of the accommodation paid by Gold Coast Trading CC was R30 492 but the SAP was billed R119 800."

CHAIRPERSON: Ja I guess you are not going to require asking him to read the whole report?

ADVOCATE VERUSHKA SEPTEMBER: No Chair.

CHAIRPERSON: You can just talk to important features or what he is able to make out of the report?

ADVOCATE VERUSHKA SEPTEMBER: If – as it pleases Chair. There is just two more paragraphs if I may?

CHAIRPERSON: Which ones?

ADVOCATE VERUSHKA SEPTEMBER: Paragraph 13 which is on page 8.

CHAIRPERSON: Yes. Okay and which one?

ADVOCATE VERUSHKA SEPTEMBER: And paragraph 16.

10 CHAIRPERSON: Okay. Those are shorter.

ADVOCATE VERUSHKA SEPTEMBER: Paragraph 16 and 17.

CHAIRPERSON: That is fine.

ADVOCATE VERUSHKA SEPTEMBER: And 17 and the first sentence on paragraph 17.

CHAIRPERSON: Ja that is fine they are short.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: In paragraph 13.

20 “Our investigations has also revealed that Gold Coast Trading CC has submitted a tender of R55 million for accommodation for SAP members for the duration of the 2010 World Cup. This tender needs urgent investigation.”

 And which is the next paragraph?

ADVOCATE VERUSHKA SEPTEMBER: Paragraph 16 on the same page.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Paragraph 16.

"The invoices submitted by Gold Coast Trading CC do not have a VAT number and could possibly not be registered for VAT. This matter has to be reported to SARS for investigation as well."

ADVOCATE VERUSHKA SEPTEMBER: And then the first sentence on paragraph 17.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: "Our investigation also revealed that Gold Coast Trading is not registered as an agent to provide accommodation for, the grammar is not so, for co-operates thus
10 qualifying for a commission."

ADVOCATE VERUSHKA SEPTEMBER: And in conclusion on page 9 the requirements of the investigators is noted in the last paragraph. Can I ask you to just read that last paragraph please?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Which starts with it is our submission?

ADVOCATE VERUSHKA SEPTEMBER: Correct.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: "It is our
20 submission that we would be able to prove fraud and or corruption in this matter. We require unhindered investigation in this matter and the call up instructions for all detached duties including the written request for the accommodation and other items mentioned above that was sourced by Gold Coast Trading CC."

ADVOCATE VERUSHKA SEPTEMBER: Thank you. Is it thus correct to

just summarise what you have read. That Mr Toshan Panday was the director of the claimant for all of these claims for Gold Coast Trading CC?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: From reading the report Chair that is my interpretation.

ADVOCATE VERUSHKA SEPTEMBER: Is it also correct that there were essentially the following people who were involved in these particular transactions such being Mr Toshan Panday?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

10 ADVOCATE VERUSHKA SEPTEMBER: Colonel N Madhoe?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Navin Madhoe that is correct Chair.

ADVOCATE VERUSHKA SEPTEMBER: And Captain A Narainpersad if I ...(intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct it was Aswin Narainpersad.

ADVOCATE VERUSHKA SEPTEMBER: If I have pronounced that correctly. Is it then also evident from this report that the issues relating to the claim concerned false claims submitted to the South
20 African Police Services?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is indeed so Chair.

ADVOCATE VERUSHKA SEPTEMBER: Is it also correct that there was an inflation of costs for the claims that were submitted to the South African Police Services for payment?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I would go further than that Chair they were drastic – those prices were drastically inflated.

CHAIRPERSON: So having read the report at that time when you got it, it was clear to you that the persons who had compiled it were making some progress in their investigation and that they were getting to know that there indeed appeared to have been certain crimes that had been committed and they say at the end of their report they were confident that if they were given time to investigate more and their investigation
10 was unhindered they were confident that they could prove certain crimes including fraud and maybe corruption?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Absolutely Chair.

CHAIRPERSON: Thank you.

ADV VERUSCHKA SEPTEMBER: Thank you. If I can then ask you to quickly turn to Annexure JWB1 which is in your – in file ZA and that is at page 7 ...(intervenes).

CHAIRPERSON: What page of Exhibit ZA?

ADV VERUSCHKA SEPTEMBER: 72.

CHAIRPERSON: 72, okay. Yes.

20 ADV VERUSCHKA SEPTEMBER: Is it correct that this was in fact a follow up report that was done pursuant to the first report that was just referred to now or earlier, sorry.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Yes, but before we get there having read the report that you – parts of which you read a few minutes ago did you do

anything about the report or the request made by those who prepared the report to say we would like to have an unhindered investigation to take this forward? Is there anything you are supposed to do about – is there anything you did arising from being aware of the report?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair the first report that I have just read out from.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That was submitted to me by Soobramoney two – about two weeks after I was told to stop the
10 investigation.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The fact that he had given me the report imputes that we were still on the same score that that I was still supervising the investigation albeit surreptitiously.

CHAIRPERSON: But what was it two weeks after the first call from the Provincial Commissioner when you were on the road or was it two weeks after the meeting that you talked about?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: It was two weeks after the meeting Chair.

20 CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Where she – where Kemp and company were present and she told Ntanjana to investigate. So ...(intervenes).

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: This report came two

weeks after that.

CHAIRPERSON: Okay. So you have been given this report. It can be said to have been part of pursuing the arrangement that was made with General Dramat to say the investigation should continue and what role you would play and so on. That was part of that?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I think Advocate September had alluded to it earlier on that whilst I was preparing the statement of mine that I was writing it from my recollection of what occurred.

10 CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And sometimes things are not perfectly in sequence here.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So I – if my memory serves me correctly I only spoke to Dramat a bit later. If my memory serves me correctly.

CHAIRPERSON: Oh, okay. Okay. Ja, I remember that paragraph was in a wrong place. Alright. Ja, it was not in the right place.

ADV VERUSCHKA SEPTEMBER: Correct.

20 CHAIRPERSON: Okay, continue.

ADV VERUSCHKA SEPTEMBER: If I could perhaps assist.

CHAIRPERSON: Ja.

ADV VERUSCHKA SEPTEMBER: Due to the change of date which was rectified through a supplementary affidavit the date being changed from May 2011 to 2010.

CHAIRPERSON: H'mm.

ADV VERUSCHKA SEPTEMBER: It shifted in sequence.

CHAIRPERSON: Ja.

ADV VERUSCHKA SEPTEMBER: But it was during late May 2010 as the General had given evidence that he met with Dramat in Pretoria.

CHAIRPERSON: Yes. Okay.

ADV VERUSCHKA SEPTEMBER: Just as an update then in terms of what this progress report stated which also is necessary for the evidence to follow. Can I ask you to turn to page 75 of that particular
10 bundle?

CHAIRPERSON: This is a very poor copy. If it all possible maybe arrangements could be to get a better copy but if attempts have been made and this is the best we – that can be obtained that is okay.

ADV VERUSCHKA SEPTEMBER: As it pleases Chair. My copy is similar.

CHAIRPERSON: H'mm.

ADV VERUSCHKA SEPTEMBER: I would certainly request the investigators to assist.

CHAIRPERSON: H'mm.

20 ADV VERUSCHKA SEPTEMBER: In obtaining a clear report if possible.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair if I could perhaps just assist.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: These reports – and I will perhaps speak to this later on in my evidence.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: A number of reports and statements had gone missing from the dockets.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And a number of these reports I had to acquire from the investigators. Some of them who subsequently required a number of the documents that are attached.

10 CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Were documents that I duplicated at the time which I kept.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: In a safe location.

CHAIRPERSON: Yes, okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So the only way that we will be able to get.

CHAIRPERSON: So this might be the best that we can have?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Unless they go to the prosecutor who is currently seized with this matter in KZN and ask her.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But I understand even from her that various documents and reports have gone missing from the – those dockets.

CHAIRPERSON: Yes, okay. It may be that in the end one can read

everything that is in it which is the most important thing. Okay. That is fine.

ADV VERUSCHKA SEPTEMBER: If I can then ask you at paragraph 13 to just read the first sentence of that into the record please?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Paragraph 13.

CHAIRPERSON: Ms September I do not know whether your voice has become softer than earlier.

ADV VERUSCHKA SEPTEMBER: I apologise.

CHAIRPERSON: I do not know if the people at the back hear but
10 maybe you can try and raise it.

ADV VERUSCHKA SEPTEMBER: Apologies Chair.

CHAIRPERSON: H'mm.

ADV VERUSCHKA SEPTEMBER: General Booysen if I can ask you to read the first sentence of paragraph 13 at page 75 into the record please?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Paragraph 13.

"It has also been established that the target at Provincial Headquarters has the authority to sign off acquisitions to the maximum of R200 000."

20 ADV VERUSCHKA SEPTEMBER: And who would this target be as referred to in the report?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That could be Colonel Navin Madhoe.

ADV VERUSCHKA SEPTEMBER: If I could then ask you to read from the second sentence in paragraph 14 please to the end of that

paragraph?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Paragraph 14, the third sentence.

“The target at Provincial Headquarters manipulated the system by ensuring that the claims were split as not to exceed the R200 000 limit. In actual fact Gold Coast Trading CC submitted a weekly claim for long detached duties. A schedule of payments is available to prove this theory.”

10 ADV VERUSCHKA SEPTEMBER: And then paragraphs 15 and 16.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Paragraph 15:

“Nedbank contacted me to inform me that the Director of Gold Coast Trading CC has informed them that inquiries had been made into his account. He specifically mentioned the purchase of his new Ferrari where he paid R510 000 deposit. The information was only given to two Senior Officers from Provincial Headquarters and included in the reports submitted to Major General Booyesen. According to Major General Booyesen he had submitted the report to the PC and he has not heard anything from her with regards to returning the original investigation file that was taken from the investigation team.”

20

ADV VERUSCHKA SEPTEMBER: And that team last sentence refers to the engagement that you had then with the Provincial Commissioner to which you have already given evidence at which you provided her and

Ntanjana with a copy of the report. Is that correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Have we gone – have we actually discussed that meeting?

ADV VERUSCHKA SEPTEMBER: You – the evidence that you gave is that you gave a copy of this report to two people such being one the Provincial Commissioner and two being Ntanjana. Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I am not so sure.

CHAIRPERSON: Ja.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: I am not too sure if we have covered that yet.

CHAIRPERSON: Well I am not sure if I follow. We are presently dealing with the report at page 7 – starting at page 73 of Exhibit ZA. Now part of the report one of the paragraphs talk about a report that had been apparently given to the Provincial Commissioner. Is that what you are talking about?

ADV VERUSCHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: Okay. So what is the question?

ADV VERUSCHKA SEPTEMBER: Let me rather retract the question.

20 CHAIRPERSON: Huh-uh.

ADV VERUSCHKA SEPTEMBER: If I may. If I could then just ask you to read paragraph 16 and paragraph 18 into the record please?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Of the same report?

ADV VERUSCHKA SEPTEMBER: Of the same report.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Paragraphs 16 and

17?

ADV VERUSCHKA SEPTEMBER: Yes please.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Paragraph 16:

“At this stage all the information needed to continue with the investigation is only available at supply chain management and ORS ...”

ORS will be Operational Response Services.

“ ... at Provincial Headquarters. We cannot get any information from PQ ...”

10 Provincial Headquarters I assume that is.

“ ... owing to interference and obstacles from senior management. In respect of the two Sony Bravia TV’s supposedly purchased for Provincial Headquarters there appears to be no record in the assets of the state. The TV’s were paid from the ...(intervenes).”

ADV VERUSCHKA SEPTEMBER: Not that paragraph the next one which is paragraph 18 please.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: “In order for any success to be achieved the investigation team must be allowed to investigate this matter unhindered and also to report directly to Lieutenant General Dramat or any Senior Officer appointed by him.”

ADV VERUSCHKA SEPTEMBER: And it is correct then that this report has been compiled by Colonel V Soobramoney dated 4 June 2010?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is so Chair.

ADV VERUSCHKA SEPTEMBER: What is apparent from this report according to the evidence that you have given relative to the report is that unhindered investigation was necessary. Is that correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Okay.

CHAIRPERSON: The earlier report that we dealt with would have been given to you in May?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Ja and this was beginning of June – 4 June?

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: So were there monthly reports that were being given to you about the progress of the investigation?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair there were no prescribed.

CHAIRPERSON: Periods.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Periods on which they.

CHAIRPERSON: So it.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: We – it was done in a solitary fashion.

CHAIRPERSON: Ja, okay. So what are the important features of this second report – this report that you want to highlight in terms of the reports were to you and obviously seen what progress was being made. You were to decide whether there was anything you needed to do or you simply needed to allow the investigation to continue?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I do not know whether I have covered this in my evidence or not yet with regards to the earlier report which I received two weeks.

CHAIRPERSON: Yes. If you think it links to that – to this you can talk about it.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I would just like to clarify that first before I go into this report.

CHAIRPERSON: Yes. So let us do that. How do we do that? Where do we go in order for you to testify about something that you want to
10 testify or will you be guided? Ms September do you know what he is talking about?

ADV VERUSCHKA SEPTEMBER: Yes Chair. The page number is page 7 of his main affidavit.

CHAIRPERSON: Yes.

ADV VERUSCHKA SEPTEMBER: And it is paragraph 23.

CHAIRPERSON: Paragraph?

ADV VERUSCHKA SEPTEMBER: 23.

CHAIRPERSON: Okay, alright. Yes.

ADV VERUSCHKA SEPTEMBER: Please proceed.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Mr Chair the report that I am referring to there is the report in Exhibit ZE.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Page 5.

CHAIRPERSON: So the report that you talk about in paragraph 23 of your affidavit is the report that we find in Exhibit ZE?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Yes, okay. Go ahead.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Now Chair that report – when Vassan Soobramoney gave me that report I wanted to use that report to exert pressure on the PC, Ngobeni.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So I went up to her office with this report and I said to her General I have got a follow up report from the investigating officers – from Soobramoney and it is
10 clear from this report that we cannot just sweep this under the carpet. She then asked me for a copy of this report and I specifically mention this which will become evident later why I am mentioning this now.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Unless the evidence leader wants me to deal with that now.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So she says to me give me a copy of that report.

CHAIRPERSON: Yes.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Now Soobramoney gave me – Soobramoney is the IO. He has compiled the report. He gave me a copy.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So she says to me she wants a copy of the report.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Ntanjana – by then she also summonsed Ntanjana because I said to her because I suspected that Ntanjana had not done anything.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: About the so-called investigation.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: She summonsed him
10 to her office.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Asked him how far the investigation had gone and he had some obscure.

CHAIRPERSON: Answer.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Explanation he is waiting for a document, but it was clear that absolutely nothing had been done about the investigation.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Then I told her.

20 CHAIRPERSON: And that was about two weeks after that meeting that you told us about?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is right.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So ...(intervenes).

CHAIRPERSON: The two weeks that he had been given, Ntanjana?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Ja and it was clear to me that he had not even commenced with anything whatsoever.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So – and I made it clear to them that this report from Soobramoney.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: We cannot just leave this. Then she asked me for a copy of the report and so did Ntanjana.

CHAIRPERSON: H'mm.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: I made two copies. I gave one to Ngobeni and one to Ntanjana.

CHAIRPERSON: H'mm. Yes, okay. Thank you. You asked to deal with this in response to – because I had asked you the question what you did after reading the second report from Soobramoney. The report that is in Exhibit ZA starting I think at page 73. So my question was whether arising from reading that report there was anything you did.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No not from my side Chair.

20 CHAIRPERSON: Not from your side, but the report was directed to you. Is that correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Yes and it would have been given also to General Dramat or you do not know?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I suspect and I am speculating.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I think Soobramoney at this juncture thought Booyesen is also in with the PC.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So he – I suspect that he gave this to Dramat.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Because I think they suspected that I am also involved in covering up.

10 CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The investigation.

CHAIRPERSON: Yes. Okay, but why would you not have done anything arising out of it in the light of what appears to be a repeated plea. I think starting from the previous report to say we need to be afforded an unhindered investigation. I would have thought that you would have wanted to go back to Soobramoney and I say hear that just like in the first report you gave me you are still concerned that you are not getting an unhindered investigation. This is what I have to say about it.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair various events unfolded after this which will become clear in my evidence.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And my interactions with Soobramoney.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And I do not want to pre-empt what my evidence is going to be later on.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: With regards to meetings I had with the PC and instructions that were given with regards to Soobramoney.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But.

CHAIRPERSON: But you did take certain steps is that right?

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Soobramoney knew that I had their back. All those investigators knew that I had their back.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And I made it abundantly clear to them.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That I will protect them in the investigation and I think I have proven that throughout the investigation.

20 CHAIRPERSON: Yes. Well Ms September you may have to make a judgment call. Certain things belong to certain events and the timing and so on. So I leave it to you whether the things that he is talking about should be dealt with now or later, but it is logical that if you get a report and people report to you, you should talk about what you may have done as a result of that report.

ADV VERUSCHKA SEPTEMBER: As it pleases Chair.

CHAIRPERSON: But I am – you have your own plan of how you want to deal with this. So I am just alerting you that some of the most natural questions that arise might need to be addressed earlier than how the statement has been arranged.

ADV VERUSCHKA SEPTEMBER: As it please Chair.

CHAIRPERSON: H'mm.

ADV VERUSCHKA SEPTEMBER: In fact he is about to address some of the queries that Chair has now raised.

CHAIRPERSON: Okay.

10 ADV VERUSCHKA SEPTEMBER: And to that end it was during late June 2010 that you were once again summoned to the Police Commissioner's office. Is that correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Can I just check where about we are in my statement?

ADV VERUSCHKA SEPTEMBER: You can turn to page 8 paragraph 24.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Please explain to the Chair what had then transpired at this particular meeting and who was present.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair.

20 CHAIRPERSON: I am sorry. Paragraph 28, did you say paragraph 28?

ADV VERUSCHKA SEPTEMBER: Paragraph 24.

CHAIRPERSON: 24. Okay. Tell us what happened sometime in June.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I was called to the Provincial Commissioner's office.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And so I took the lift and I went to her office and she has an office with an adjoining boardroom which are separated. There is a door between the two and I entered the office and she asked me to go with her into the boardroom.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So she goes up from behind her desk and I got up and she opened the door. We went into the boardroom and on entering the boardroom I noticed a lady who was introduced to me as Tasha Giyapersad.

10 CHAIRPERSON: Tasha?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Giyapersad.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: She was an attorney.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Then there was another gentleman whom I recognised as being Advocate Mkhize.

CHAIRPERSON: H'mm.

ADV VERUSCHKA SEPTEMBER: If I can.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I recognised.

20 ADV VERUSCHKA SEPTEMBER: Sorry, sorry to interrupt you, but just for the record can I ask you to spell Tasha Giyapersad please?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: It is G-i-y-a-p-e-r-s-a-d.

ADV VERUSCHKA SEPTEMBER: Thank you.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The one gentleman

there I recognised as being Advocate Mkhize and I had engaged with him before in police matters – in High Court matters. So he obviously knew me and he stood up and greeted me and then I was introduced to a gentleman by the name of Toshan Panday.

CHAIRPERSON: So the Provincial Commissioner asked that the two of you proceed to the boardroom?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is right.

CHAIRPERSON: And in the boardroom you met the three persons who you have mentioned. So it was now in that boardroom yourself, the
10 Provincial Commissioner, Advocate Mkhize, Ms Giyapersad and there was somebody else as well, Panday.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Toshan Panday.

CHAIRPERSON: Toshan Panday, ja. Okay, ja. Proceed and what happened?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair during this meeting and I felt very uncomfortable during this meeting because I now realised that Toshan Panday was one of the main subjects of this investigation that we were busy with and it was almost as if he chaired the meeting. He accused.

20 CHAIRPERSON: Up to the time you entered the boardroom you still did not know what the meeting was about?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No.

CHAIRPERSON: Why you were called?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Not at all.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Not at all Chair.

CHAIRPERSON: Alright. Okay tell.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Not at all.

CHAIRPERSON: Tell us what happened when the meeting started.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So after the introductions I was basically peppered with questions from Panday and Giyapersad. They accused the investigators of not having a mandate and they are investigating unlawfully and they were almost on a fishing expedition to try and I had to negotiate my way through this meeting trying to avoid answering certain questions because I was not going to give feedback.

CHAIRPERSON: But hang on. You have been called by the Provincial Commissioner and she takes you into the boardroom where there are the people who you have mentioned. The meeting is supposed to open – to be opened and everybody gets told what the meeting is about and one would expect that the Provincial Chairperson would be the person – the Provincial Commissioner would be the person who would do that. Did she do that?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair this was no ordinary meeting.

CHAIRPERSON: This was not an ordinary meeting.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is why I say it almost like Toshan Panday was chairing the meeting.

CHAIRPERSON: H'mm, but did he say what the meeting was about or did he just start asking you questions?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No they started by – obviously everyone by now knew about the investigation.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So he started by making allegations that – and his attorney started talking and then he would interrupt her and they were asking questions about the investigation what mandate do we have and they even said that ...(intervenes).

CHAIRPERSON: But had you been told why each one was here and so
10 on? You had not been told?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Chair.

CHAIRPERSON: And what their role was?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No.

CHAIRPERSON: So there was an attorney. There was an advocate. There was a suspect. There was a Provincial Commissioner and yourself.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I felt a lot like I had been ambushed.

CHAIRPERSON: Yes.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is how I felt.

CHAIRPERSON: So the attorney was Panday's attorney?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: And was Mkhize his advocate?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Okay, alright. Continue.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And they levelled these allegations and I was for lack of a better description trying to do some shadow boxing around the allegations and I just wanted to get out there. One of the allegations that they came up with was that Soobramoney was extorting money from Panday. So to my amazement the Provincial Commissioner who had already instructed me to stop this criminal investigation now tells me to investigate – she tells me to investigate my investigator, Soobramoney, for the so-called extortion. So I indicated to the people that I can only investigate if they give me
10 an affidavit which Giyapersad undertook to supply to me. She did subsequently – well maybe if I could just finish with this meeting Chair.

CHAIRPERSON: Ja, finish with the meeting, ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So during this meeting as I said I was peppered with questions and I had to negotiate my way through trying to avoid talking about specifics. I dealt with the accusations and told them well I cannot see them accessing bank statements etcetera unlawfully because they would not be able to utilise that as evidence at a later stage and that is after instruction was given that I should investigate Soobramoney the meeting was then
20 ...(intervenes).

CHAIRPERSON: That was the end of the meeting?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That was the end of the meeting Chair.

CHAIRPERSON: So let us try and get the gist of what was said. There were allegations that you people were investigating without a mandate.

Is that correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's correct Chair.

CHAIRPERSON: But what was the basis given for that allegation, was there a basis given why that allegation was being made?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair as I said Panday was carrying on there like he was the ...(intervenenes).

CHAIRPERSON: The Chairperson?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The Provincial Commissioner.

10 CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And he was going like this and he said to Giyapersad, I want you to sue them, I'm going to sue you, it was actually quite – I was actually quite annoyed with the way in which he carried on there as if he was the Provincial Commissioner.

CHAIRPERSON: Yes, did the Provincial Commissioner say anything during that meeting?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No she didn't.

CHAIRPERSON: She just sat there and listened.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: She sat there and listened to a suspect interrogating me about an investigation.

CHAIRPERSON: And Advocate Mkhize did he say anything?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I had quite a cordial relationship with Mkhize because of our previous engagements.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But he was merely a spectator and I must say – and he also passed on subsequently.

CHAIRPERSON: Oh, okay. So the one allegation that was made was that you people were investigating without a mandate, but I'm not sure if that makes sense to me, I mean that allegation, the police are there to investigate, who is supposed to give the police their mandate they are there to investigate.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair it didn't make sense to me either at the time and still doesn't make sense to me, he –
10 they said we had no mandate to investigate, I don't know what he meant by that, whether we had to seek authority from the Provincial Commissioner or whether we had to get prior authority from whomever to investigate but they said that my people did not have a mandate to do this investigation.

CHAIRPERSON: Yes so the one allegation was that you people were investigating without a mandate, another one was that Soobramoney was demanding money for them in order for them to stop the investigation extortion.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's correct Chair
20 but there was another accusation as well and that was that my investigators were accessing bank statements unlawfully.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And I made it clear to them I doubt that they would do something like that because they would then not be able to utilise those bank statements as evidence in the

Court of Law.

CHAIRPERSON: Yes and you say that you responded – you tried to respond in general without specifics?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's correct Chair.

CHAIRPERSON: Ja and then the meeting was over.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's correct Chair.

CHAIRPERSON: And the meeting ended on the basis that insofar as they were accusing Soobramoney of extortion, you said they must give you an affidavit and then you would be able to look into that.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's correct Chair.

CHAIRPERSON: Ja and after the meeting did you have a chance to say to the Provincial Commissioner what was this all about, what's going on?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair it was starting to become clear to me that something was amiss, so I – as a matter of fact I didn't even want to talk to her after that I just excused myself and went to my office.

CHAIRPERSON: Yes okay thank you.

20 ADV VERUSCHKA SEPTEMBER: On your suspicion as your evidence entails that something was amiss, can I ask you to turn to page 17 of your affidavit – main affidavit in Bundle ZA at paragraph 55.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Paragraph?

ADV VERUSCHKA SEPTEMBER: 55, so it's page 17 at paragraph 55, reference there is made to an independent forensic report can you please inform the Chair about this in the context of the evidence that

you've given so far?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I refer to a forensic audit report by Price Waterhouse Coopers which is an independent firm of accountants whom we had commissioned to do an independent forensic investigation into the financial aspects of the procurement and the payment of the money but even before I acquired this report from Price Waterhouse Cooper the investigators had reported to me – and that was during the same period that the investigation was being stopped and I think it was late May that there
10 had been a birthday party for the husband of the Provincial Commissioner, it was a surprise birthday party and the investigators informed me that this party had been paid for by Toshan Panday, it was a lavish party in a hotel in Umhlanga Rocks. So those reports had alerted me that there was something amiss here.

CHAIERPERSON: Yes.

ADV VERUSCHKA SEPTEMBER: And according to the report what was the amount of money that was spent on the birthday party for the husband of the Provincial Commissioner at the time?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair the figure
20 quoted was R30 000 but there were other statements in the investigation which indicated that the party actually cost R20 000 and when Panday paid for it with his credit card he asked for a receipt of R30 000, I don't know what his intentions were to obtain a receipt for a higher amount but it would appear that the actual amount paid was R20 000 whereas the receipt obtained by him was for R30 000.

ADV VERUSCHKA SEPTEMBER: Thank you.

CHAIRPERSON: So the – so what you're saying is there was an independent forensic audit report from Price Waterhouse which reflected that Mr Panday had paid a certain amount of money for a birthday – for the birthday party of the Provincial Commissioner's husband and that the amount mentioned was about R30 000?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair but before I had this report the investigators had already indicated to me that there was this party for which Panday had paid.

10 CHAIRPERSON: Yes so this report was confirming something you had heard?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's right.

CHAIRPERSON: Okay thank you.

ADV VERUSCHKA SEPTEMBER: And just to clarify, that birthday party happened approximately when?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I think it was towards the end of May Chair roundabout the 29th of May.

CHAIRPERSON: Oh it's something that happened during the same year when you started the investigation?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's right Chair.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: So if I can just quickly take you back to the meeting that you had in late – if we can go back now to paragraph 24 on page 8 of your affidavit.

CHAIRPERSON: I'm sorry just to connect this, if the birthday party

happened sometime late in May 2010 it means it happened – it means that when you were called for the first time by the Provincial Commissioner when you were on the road in your car and when the second call also came and when that meeting happened, in all probability arrangements for that party were happening because it's the same month?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair what I can say about that there's another witness who had deposed to an affidavit that – it's one of the secretaries of the Provincial Commissioner and she
10 made a statement, which I have a copy of and which she says, I think it was on the 26th of May, the Provincial Commissioner, during the morning meeting, I wasn't present at that meeting, then indicated there was going to be this party – surprise party for her husband and that she would invite certain individuals and she apologised to those present that she could not invite all of them for obvious reasons and she still indicated to one of the brigadiers, according to the statement, Brigadier Winkelman that it's not because I don't like you if I don't invite you it's because of other constraints but the significant part of what occurred there was what happened after the meeting because the secretary then
20 went to the Provincial Commissioner and asked her those that's going to be invited, are the spouses also invited and it's at that point where the Provincial Commissioner looked at the minutes and saw that she had recorded the issue about the party and then she remonstrated with her for having recorded that as part of the minutes and that was on the 26th. So it would appear that there had been preparations for the party

prior to that.

CHAIRPERSON: Okay thank you.

ADV VERUSCHKA SEPTEMBER: If I could then just quickly take you back to page 8 of your affidavit which then details – at which you then address the evidence that you had already given in relation to the meeting that you had late June 2010, can I just ask what exactly was the Police Commissioner’s attitude at that meeting towards continuance of the investigation?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Which meeting are
10 we referring to Chair?

ADV VERUSCHKA SEPTEMBER: The one at paragraph 24 at which you have already given evidence where Mr Panday, Mrs Tasha Giyapersad and Advocate Mkhize was present.

CHAIRPERSON: Isn’t that the one where he said the Provincial Commissioner was quiet throughout, is that not the one?

ADV VERUSCHKA SEPTEMBER: Yes Chair that is indeed.

CHAIRPERSON: Yes what’s the question then?

ADV VERUSCHKA SEPTEMBER: My question is was – did the Police
20 Commissioner indicate her attitude at all to continuance of the investigation?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Not during the meeting Chair but before we met, and I omitted to mention it before we went in she confirmed with me that the investigation had stopped before ...(intervenues).

CHAIRPERSON: She confirmed that the investigation should be

stopped?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No that it had stopped.

CHAIRPERSON: That it had stopped?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So I confirmed with her that it had stopped because it did not but that's just before we entered the boardroom.

CHAIRPERSON: Oh okay so just before you get into the boardroom she says to you the investigation has stopped.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's correct Chair.

CHAIRPERSON: And your understanding would have been that the investigation that she was talking about that she was saying has stopped, would be the investigation by Ntanjana because she had said Ntanjana was the one who was going to investigate.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Chair I think she was referring to the investigation that we were busy with that that had stopped.

CHAIRPERSON: Oh okay.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Because we were now going to enter into a meeting with Panday and company and I think she just wanted to get clarity from me before we entered there that the investigation had stopped.

CHAIRPERSON: Oh but was she asking you whether it had stopped or was she telling you that the investigation had stopped?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No by then she had

already told me on more than one occasion to stop it so before we entered she asked me has the investigation – has it stopped so I said to her yes.

CHAIRPERSON: Oh okay now I understand. Okay but then – okay when you get into the meeting she doesn't tell these people that the investigation has stopped instead the people are bombarding you with questions but you also didn't say but the investigation has stopped, you didn't say that either?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No I did not say that
10 Chair.

CHAIRPERSON: Yes but she also didn't?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No she didn't.

CHAIRPERSON: Yes okay thank you.

ADV VERUSCHKA SEPTEMBER: Thank you Chair, thank you for clarifying that point and it was then at that meeting that you were – you mentioned that Soobramoney was – or rather allegations were made against him in relation to extortion from Mr Toshan Panday, that's correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's correct Chair.

20 ADV VERUSCHKA SEPTEMBER: And what was the Police Commissioner's direction to you in relation to that allegation against Mr Soobramoney?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair then she said to me that I should investigate Colonel Vassan Soobramoney.

ADV VERUSCHKA SEPTEMBER: And did you?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I did Chair, I requested then for an affidavit and I think it was a day or two later Tasha Giyapersad, the attorney arrived at my office with a statement, just like a half page it wasn't even a full page but it was one of these nonsensical statements that – taken from Panday obviously that he had received this anonymous call and someone extorting a million rand from him but they couldn't identify the person. So I took that statement and there was nothing – no one else that I could approach to confirm so I "confronted", well if I say confronted I say that in inverted commas,
10 Vassan Soobramoney and I told him about the investigation and I obtained a warning statement from him and I presented the docket to the Senior Public Prosecutor who then went through the docket and he declined to prosecute the matter.

ADV VERUSCHKA SEPTEMBER: And this is the same Colonel Soobramoney who had authored the reports that you have submitted to this Commission ...(intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That was the same Soobramoney Chair.

ADV VERUSCHKA SEPTEMBER: Thank you, about one week later you
20 were summoned to another meeting ...(intervenes).

CHAIRPERSON: Well let him do the testifying let him testify about these events don't – yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So Chair I was – about a week later I was called to another meeting this time around same scenario, go to the office ...(intervenes).

CHAIRPERSON: Now to the – you were called to the Provincial Commissioner's office again.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's right Chair.

CHAIRPERSON: And this time who called you, did somebody phone you this time?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So what would happen Chair the Provincial Commissioner's secretary would phone my secretary would then tell me the PC wants to see you.

CHAIRPERSON: Oh okay alright you were in the same building you
10 were on the 14th floor and she was on the 18th floor.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: She was on the 18th floor so I get into the lift, go up to her office, exactly the same thing happened, go into her office, she's alone door closed to the boardroom she confirms with me that the investigation had stopped, I confirm the investigation had stopped she said come with me, we go into the boardroom, same scenario but this time ...(intervenes).

CHAIRPERSON: Hang on, hang on you just told us about a meeting that happened where you got called to her office and you went into her office she was alone and she said the two of you had to go to the
20 boardroom which is adjacent to her office or from her office you go into the boardroom, you went into the boardroom with her and found certain people there. Now are you saying that now there was another meeting where more or less the same thing was happening, you go into her office, then she says you must go into the boardroom, she asks you about the investigation whether it has stopped, you confirm it has

stopped and then you go into the boardroom, is that what you are saying?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's what I'm saying
Chair.

CHAIRPERSON: And in between from the previous meeting there had been no interactions between the two of you?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I tried to avoid her
Chair.

CHAIRPERSON: Yes but did she try to make contact ...(intervenes).

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Not that I can recall
Chair.

CHAIRPERSON: I'm just wondering why when you had told her before that the investigation had stopped she would call you up and she asked you again, has the investigation stopped and you say yes and then – it's like a repeat of the previous meeting.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I suspect what could have happened is, Panday and Madhoe are subjects of the investigation obviously had a network and they knew that the investigation hadn't stopped because witnesses are now being approached from a
20 respective bed & breakfast, so although I'm telling her the investigation had stopped ...(intervenes).

CHAIRPERSON: The truth was it had not stopped.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And it could not be concealed because we had to approach – Chair in the end there were over 200 affidavits obtained in that investigation so somehow it must

have gotten to Panday and Madhoe that, look, that in spite of the assurances given by the PC this thing is still proceeding and I think it was at their behest that she ...(intervenes).

CHAIRPERSON: Called the meeting.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's right Chair, she entertained them.

CHAIRPERSON: Okay alright so I stopped you as you were saying you went to her office and then the two of you went into the boardroom but before going to the boardroom she asked you whether the
10 investigation had stopped and you said yes and then you entered the boardroom.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So I went into a second ambush Chair, now this time around because of my engagements with a number of High Court cases, I knew most of the counsel in, especially Durban, so I walked in and there again I encountered Advocate Choudree SC whom I knew and Advocate Stix Mdladla whom I also knew. So we exchanged greetings and then with them was again Tasha Giyapersad the attorney and Toshan Panday. More or less the same scenario unfolded that had occurred previously
20 but this time around by then the investigators had reported to me that Giyapersad had been interfering with the investigation. What had happened is, statements had already been obtained and I can recall one specific one from Bongola it was at, I think, Crocodile Lodge, Crocodile Creek or something called like that ...(intervenes).

ADV VERUSCHKA SEPTEMBER: You mention it at paragraph 29 if I

can direct you there.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's right Crocodile Creek Guest House, now the owner of that Guest House was Edward Ngwenya, the investigators reported to me there were at least two witnesses – I recall this specific one which had been approached by Panday and in this particular instance when we did further investigations or the investigators did further investigation but I then phoned a captain in – so what had happened is Edward Ngwenya had already made an affidavit to the investigators and there was another
10 guy by the name of Singh, I cannot recall, so they report to me that these same witnesses who had already deposed to affidavits have now been approached by Giyapersad and I know specifically with regards to Ngwenya that I sent a captain there to confirm it and he phoned me back and he said to me no, he'd spoken to Ngwenya and Ngwenya said no, because of the dealings that he'd had with Gold Coast Trading, invoices were coming to and from and he had to sign documents, they'd send him a document which he had to sign which he did but the document that he had signed, according to the investigators was an affidavit which conflicted what he had said in his affidavit to the
20 investigators. So I took issue with that and I said at the meeting – so I thought let me have a go at them and I said to Giyapersad listen, you're not at liberty to go and interview witnesses that my investigators had already interviewed and that developed into a bit of a heated argument between myself and Giyapersad and then in the end Advocate Choudree said to Giyapersad I think the general is right just leave this

and we left it at that.

CHAIRPERSON: So at this meeting the Provincial Commissioner, once again, did not say anything?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No she did not.

CHAIRPERSON: And ...(intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair one correction at that stage I, and I cannot recall exactly at what stage I indicate, because we were running the thing on an enquiry and I think the investigators Van Loggenberg, I think it was Van Loggenberg I think
10 they were getting fed up and they went and registered – converted the thing to – the enquiry to a docket to an actual criminal docket.

CHAIRPERSON: Oh in the meantime?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: In the meantime.

CHAIRPERSON: Without your knowledge?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Without my knowledge.

CHAIRPERSON: Yes but you did ...(intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But they told me that.

CHAIRPERSON: Oh they told you ja.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: And I think it was at that meeting where I said to the PC that a docket's been opened now it's been converted to a docket and then she said, well then she can't interfere but I think she was merely stating the obvious.

CHAIRPERSON: Ja well – so was she not surprised that just before you entered the boardroom you had confirmed that the investigation

had stopped but now in the meeting you're saying actually the investigation had been upgraded to the opening of a docket it was no longer an inquiry. I would have expected that if she had believed you when you said the investigation had stopped, if now at the meeting you say actually a docket has been opened she should have been surprised.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I suspect she was surprised Chair because she said, well there's a docket open then I cannot interfere but my take on that was she was merely stating the
10 obvious, she knew she could not have interfered from the word go.

CHAIRPERSON: Yes so what impression did you get of what the purpose of this meeting was from what was discussed?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I'm going to speculate as a detective it was evident to me that there were communication between the PC, Panday and Madhoe, now Madhoe being the middleman within the same building that we work he's involved with the dealings of Toshan Panday, I think he's the in between person between Panday and the PC, so they were alive to the fact that we were – the investigation was ongoing. I think there were –
20 it was either they wanted to put pressure on us to stop with the investigation and as I will explain later on in my affidavit they went to other measures as well. Some less drastic others more drastic to try and either thawed or compromise the investigation.

CHAIRPERSON: So – but at this meeting what allegations or what was said really by the Panday side if I can call it that by the attorney or

the two Advocates were there or him ...(intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: It was the same as at the first meeting, that we're investigating unlawfully, we're making use of unlawful methods, it was repetition of the previous allegations.

CHAIRPERSON: Yes and how did this meeting end or what was the basis on which it ended?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Obviously Chair, after my heated discussion with Giyapersad the atmosphere was a bit thick and the meeting was called off by the PC and I left.

10 CHAIRPERSON: Yes and did you do as you had done in the previous meeting in the previous similar meeting that after the meeting you didn't want to speak to the Provincial Commissioner, you left or did you have some discussion with her about this meeting?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Chair I didn't but what was obvious to me after those engagements with her, the PC had a very aggressive behaviour in management meetings and General Ntanjana, General Masemolo, General Jula whose another PC in Cape Town will bear me out here, the way she sometimes spoke to them, I would cringe and me being the only white general there I – from that
20 time onward I basically got away with murder. I would sometimes – because her meetings could carry on for hours and hours and I would just stay away from the meetings, they dared not stay away from a meeting or come later at a meeting and she would have a go at them and she basically left me and – what I sense from that is, I think she was scared of what we were busy with.

CHAIRPERSON: Okay that's why she treated you differently?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I was treated much better than any of the other generals.

CHAIRPERSON: Yes, yes, she wouldn't shout at you like ... (intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Chair and if I stay away from a meeting she wouldn't even ask me where you were like she would do with the rest of the generals.

CHAIRPERSON: Yes that's quite strange yes.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Just one last question to close up this point. You mentioned that at this particular meeting you were accused of unlawful methods of investigating. Paragraph 28 of your affidavit alludes to a method of investigating; can you please explain what you meant by unlawful methods that you were accused of?

ADV VERUSCHKA SEPTEMBER: They were accusing the investigators Chair, of accessing their bank documents and other documents that could possibly incriminate them unlawfully. Now Chair what happens is in practice it does happen from time to time where
20 investigators would, through their contacts in the banks, acquire information and then ex post facto obtain 205's. When they accused my investigators initially of doing that I engaged with them, I called them to my office and I said to them, chaps I don't want any of this and they assured me 100% that every single cell phone record, bank statement that they had acquired were lawfully done by means of

Section 205 subpoenas from the Criminal Procedure Act. They were saying that my detectives did not have 205's and hence they were – because the reports, and it will become clear later why they would say that because the information in the reports contained information that could only have been acquired from the banks by means, either from a 205 or unlawfully but they were saying we acquired – or my investigators acquired it unlawfully.

CHAIRPERSON: I see that in your statement at paragraph 27 one of the advocates that you say were present at the meeting that you talked
10 about just now is written as Advocate Stix Madlala, I think it's Mdladla.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Mdladla, thank you Chair.

CHAIRPERSON: That would be M-d-l-a-d-l-a, I can't remember if he writes it without an h but if he writes it with an h then it would be M-d-l-h-a-l-h-a, but I don't know what your recollection is how it's written but it's not Madlala, it must be Mdladla.

ADV VERUSCHKA SEPTEMBER: Thank you for the correction Chair.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Thank you Chair.

ADV VERUSCHKA SEPTEMBER: Chair I note the time, and I have
20 been informed that it may be prudent ...(intervenes).

CHAIRPERSON: Oh yes, we need to take the lunch adjournment, it's already 13:05, and we will resume at 14:05. We adjourn

ADV VERUSCHKA SEPTEMBER: Thank you Chair.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Thank you. Ms September you may proceed.

ADVOCATE VERUSHKA SEPTEMBER: Thank you Chair. General Booyesen you mentioned that there is a certain correction that you need to make in relation to evidence that you had given earlier on the Soobramoney Report.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is right Chair it relates to the second report.

CHAIRPERSON: Yes.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: The longer version.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The Chair asked me if that report was directed at me.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Which I confirmed.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Although I am not a hundred percent sure whether it was written for me.

CHAIRPERSON: Yes.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Or written for Dramat.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But be that as it may I only obtained that report at a much later stage.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: From Soobramoney.

CHAIRPERSON: Okay long after it had been written?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is right Chair.

CHAIRPERSON: Okay which makes you think it might not have been prepared with you in mind? It might have been prepared for somebody else and then that is why you got it much later?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I am not sure.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I will have to speculate Chair.

10 CHAIRPERSON: Yes. Okay.

ADVOCATE VERUSHKA SEPTEMBER: I did say earlier on it was directed at me but I am not a 100% sure whether it was for me or for Dramat.

CHAIRPERSON: Yes well when I asked you the question I was asking you precisely because of that because my understanding and it may have been a mistaken understanding because of how some of the events are dealt with in the new affidavit. My understanding was that it – because of the role that you were supposed to play at a formal or official level after your discussion with General Dramat in Pretoria that
20 it may be the report was meant for General Dramat and you were just being given it at a – on an unofficial basis. That is what I was thinking and you are not sure?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I am not a 100% sure of that Chair.

CHAIRPERSON: Okay thank you.

ADVOCATE VERUSHKA SEPTEMBER: If I may then – if we could go back to where you ended off just before the long adjournment. You were speaking about a Section 205 subpoena that was sought in relation to information that was required to be obtained. Can you please in very simple terms explain to the public at large exactly what is a Section 205 subpoena?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair a Section 205 subpoena is which we acquire normally. If – and I think it is originally written for recalcitrant witnesses who do not want to testify so basically
10 that Section 205 subpoena means you subpoena a person to come and answer questions to a prosecutor in a court of law. But normally we also use the same Section 205 to acquire bank statement and also telephone records and whatever records we might need to legitimise the institution handing over those documents or files to us we have to obtain a Section 205 certificate – subpoena in terms of The Criminal Procedure Act.

ADVOCATE VERUSHKA SEPTEMBER: Thank you very much. And that is in fact the procedure that was followed in order to access Mr Toshan Panday's bank accounts in relation to the investigation against him?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is so Chair.

ADVOCATE VERUSHKA SEPTEMBER: Now for the evidence going forward I am going to ask you to just bear with me I am going to hop around a bit in the affidavit itself with no disturbance to the sequence of events or the timeline.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Okay.

ADVOCATE VERUSHKA SEPTEMBER: Okay. If I can take you to page 10 paragraph 32 please.

CHAIRPERSON: So just to summarise to see where we are. You got a report from Brigadier Kemp which he intended to give to you and to the Provincial Commissioner but you took the one that was meant for the Provincial Commissioner before she arrived and you subsequently instructed, is it Brigadier Lategan, to investigate after you had had a look at this report that you got from Brigadier Kemp. And Soobramoney and Kemp were to assist Lategan, is that correct or only Soobramoney?

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Soobramoney – it was Soobramoney and Van Loggenberg. Soobramoney was the lead investigator that stage.

CHAIRPERSON: Oh okay. Okay so Lategan was not the lead investigator?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No he was not Chair Soobramoney was.

CHAIRPERSON: Oh but he remained part of the investigation team or not really?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair he was actually
20 the direct commander of the Commercial Crime Investigations so he was – he reported to me.

CHAIRPERSON: Oh okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So I did not at – it was like following the protocol.

CHAIRPERSON: Yes okay, okay, okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Okay that is what you did and then they began to investigate and at a certain stage while you were driving you got a call from the Provincial Commissioner who was quite upset and did not give you much time to respond to what she was saying but effectively she wanted you to stop the investigation relating to the investigation that you had asked Lategan and the people under him to investigate. And then subsequently you got or you told Lategan that the investigation should stop because that is what you had been told but in your own
10 mind you wanted more time to think about how to handle the situation. And then – and thereafter the file was returned to you by Lategan and a week or two after that you got another call from the Provincial Commissioner, is that right?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: And that is when you were or on that occasion she asked whether the investigation was still going on or that is what she talked about.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is right Chair.

CHAIRPERSON: And you told her the investigation had been stopped
20 and then after that you – a week or two later you got a call you were asked to come to her office – to the Provincial Commissioner's office, is that right? And that is where you found that she took you to the boardroom and there were some people there.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair there is just something that I think ...(intervenes).

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: You missed out.

CHAIRPERSON: I have missed out yes.

ADVOCATE VERUSHKA SEPTEMBER: And that is the – that is the one meeting that she had with Kemp, Madhoe, Ntanjana.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Masimolo and myself.

CHAIRPERSON: Oh that is the one I want to talk – I am talking about. Is it before where I am?

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: That was the first meeting.

CHAIRPERSON: Yes that was the first meeting. But it was after the second call from the Provincial Commissioner?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is right Chair, that is right.

CHAIRPERSON: Yes, yes, yes. And then – oh that was the first meeting? And then later on there was another meeting. You were called to her office and from her office you went into her board – the boardroom with her. Before you got into the boardroom she asked
20 whether the investigation had stopped. You assured her it had stopped. That is when you met Panday, his attorney and Advocate Mkhize and you told us what happened on that occasion. After the meeting you went away. Sometime later you were called and there was a similar meeting. You were called to her office, she took you to the boardroom. There was a similar meeting but the participants now were Panday, his

attorney and two advocates who had not attended the previous meeting and Advocate Mkhize who had attended the previous meeting was no longer there. So the advocates now were Advocate Chaudhary and Advocate Sticks Mdladla. And you have told us what happened and the argument that you had with Mr Panday's attorney. That is how far you told us so far?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Thank you.

ADVOCATE VERUSHKA SEPTEMBER: Thank you Chair. Following the
10 last meeting that the Chair has just eluded to where you had an exchange of words with Tasha Giyapersad did you take any further steps subsequent to that specific to Tasha Giyapersad?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I did Chair. Between myself and some of the investigators that worked with me I cannot recall exactly who drafted the letter but we did report her conduct to the Law Society at the time.

CHAIRPERSON: And did anything come out of that or you cannot remember?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair subsequent to
20 that she did something else which I perhaps sequentially talk about later on.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Which was also reported to the Law Society and it is now a couple of years ago I was informed about a month ago to come and testify in Durban. Two days

before I had to go to that hearing I was told no they have remanded it indefinitely.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Because of the new ...(intervenes).

CHAIRPERSON: The changes to the Law Society?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Okay and nothing happened after that?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Nothing happened
10 after that Chair.

CHAIRPERSON: H'mm okay.

ADVOCATE VERUSHKA SEPTEMBER: If I can then take you to page 10, paragraph 32 of your main affidavit. Mention is made in your affidavit of an engagement that you had with national police Commissioner General Bheke Cele, can you please inform this Commission about that engagement?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair at the time the current Minister of Police Mr Bheke Cele was the National Commissioner of Police. I received a phone call from him and he
20 enquired from me as to the interference that I was experiencing with the investigation. So I briefly told him but I did not go into any detail because we were still busy with the investigation and he said to me that I should not entertain any interference and that I should continue with the investigation and he also said that the reporting lines should be the way it is defined in the police structures and that the investigator

should report to me. I suspect that General Dramat perhaps had brought that to his attention that there might be interference. And that phone call gave me a lot of reassurance that I can – we can continue with the investigation unabated.

CHAIRPERSON: So the effect of what General Cele was saying to you was that one the investigation should continue?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: And the investigation he was talking about was the one that the Provincial Commissioner had said should stop?

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is the same.

CHAIRPERSON: So you stopped?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is the same investigation Chair.

CHAIRPERSON: And he was saying that the investigators should report to you?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: And not to the National office. Not to General Dramat?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

20 CHAIRPERSON: Is that was what he was saying?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Is your understanding that what he was saying in terms of the investigators reporting to you and not to General Dramat was your understanding that he was insisting that the reporting lines be the way they are supposed to be?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That was the impression I gained Chair.

CHAIRPERSON: Okay. Thank you.

ADVOCATE VERUSHKA SEPTEMBER: Turning over to page 11 paragraph 33. Did Mr Toshan Panday challenge the Section 205 subpoena's that were sought against him?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is indeed so Chair.

CHAIRPERSON: I am sorry and I know Ms September that you said
10 some parts of the statement are not where they are supposed to be. I do not know whether what you are asking him about is a way from what he may have done subsequent to receiving these instructions from Commissioner – from General Cele whether what General Cele said should happen was effected – implemented?

ADVOCATE VERUSHKA SEPTEMBER: I leave it.

CHAIRPERSON: So I am saying I do not know whether you are moving
away from that because I would like to know that whether as a result of maybe let me ask him. As a result of or subsequent to the instruction from General Cele was he – were his instructions then implemented in
20 terms of 1. The continuation of the investigation. 2. The reporting lines.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair the investigation bar the week or so that the file was lying on my table and in cognisant of the fact that the investigators were still continuing the investigation never really stopped.

CHAIRPERSON: Had never stopped ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Never stopped.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But what did change was the reporting lines.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But as I said those were for just to get the pressure off me from the Provincial Commissioner.

10 CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That they reported to Brigadier Nkosi.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And the instruction from Mr Bheki Cele at the time who was the National Commissioner number 1 the investigation must continue that I should not entertain any interference and number 2 that we should adhere to the reporting lines within the police.

CHAIRPERSON: Okay alright. Thank you.

20 ADVOCATE VERUSHKA SEPTEMBER: In that instance during the continuing investigation did Toshan Panday challenge the Section 205 subpoena's at all?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair at some juncture during the investigation obviously that was after the issue about the Section 205 subpoenas had come up he challenged the

validity of the Section 205 subpoena's in the high court in Kwa-Zulu Natal. We obviously between myself and the investigating officers we opposed it in the high court and the court ruled in our favour that the Section 205 subpoenas were legitimately acquired. Upon the initially filed notice of intention to appeal but he never prosecuted the appeal.

CHAIRPERSON: After the instruction you got from General Cele saying the – about reporting lines and the continuation of the investigation did you speak to the Provincial Commissioner to say I have actually received an instruction from the National Commissioner of the Police to
10 say the investigation must continue or did you talk to her about it now at all?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No I did not Chair.

CHAIRPERSON: You did not.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I did not.

CHAIRPERSON: Okay. Okay.

ADVOCATE VERUSHKA SEPTEMBER: If I could then take you to page 12 paragraph 41. Did the investigation result in any search warrants being obtained and if so against whom?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair that is indeed
20 so. So what happened is as a result of the information acquired via the Section 205 subpoenas the investigators were in a position to obtain – to apply for search warrants for the residences of Toshan Panday, the businessman, Colonel Navin Madhoe, Captain Aswin Narainpersad and also for the Provincial Headquarters in which I was based namely for the Financial Department, for the Supply Chain Management

Department and for the department responsible for the deployment of police officers for instance in the World Cup soccer. Those search warrants were obtained and I realised that if we were going to execute those warrants with the Provincial Commissioner and the building that all hell might break loose so I – we devised a strategy and Chair it was very difficult with this investigation because information kept on leaking out. No matter what precautions we tried to take. So I instructed the investigators to assemble a team because we wanted to do all the premises simultaneously. Because once you start with one by the time
10 you get to the last one all the incriminating evidence had been disposed of.

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: Can I just interrupt you and ask you to clarify which premises were then being targeted for search and seizure?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So it was the business premises of Toshan Panday, his residence – his – where he lived. The residence of Madhoe, the residence of Narain Prasad and also their offices. But as I said Chair also the financial department where we
20 wanted to seize documents and also at the ORS that were responsible for the deployment of police officers.

CHAIRPERSON: So you had obtained search and seizure warrants, is that right?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: In respect of the people and the premises that you

have talked about?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Okay thank you.

ADVOCATE VERUSHKA SEPTEMBER: Can you please explain then the circumstances of how those search and seizure warrants were executed?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair as I said that I was a bit concerned that if this whole team descended upon Provincial Headquarters and started searching the offices it – there might be a
10 small little nuclear explosion in the building so we devised this plan and what we did is we assembled a group of detectives from the DPCI and I instructed the investigators not even to tell them what was going to be searched the following day. They assembled the night before and we targeted a specific day on which the Provincial Commissioner wanted me to accompany her to a Parliamentary Lekgotla. So the plan was ...(intervenes).

CHAIRPERSON: That is the Provincial Legislature?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The provincial one
Chair.

20 CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So the plan was that I would accompany her the following morning and on entering the building I would get wind of the story that the offices are being searched but that was a plan that we had decided upon beforehand.

CHAIRPERSON: As you – the plan was that as you were entering the

building of the Provincial Legislature?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct.

CHAIRPERSON: That is when you would so to speak get the wind of the offices being searched that was the plan?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That was the – that is correct Chair.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So I would then inform her.

10 CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And I knew by then it would be too late because she cannot tell the politicians I am going now.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I have better things to do.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So what happened is the night before in spite of the fact that I told the guys not to tell them
20 who we are going to search, whose residences we going to search the following day they assembled the following morning at 06:00. They waited for me to give them the ...(intervenes).

CHAIRPERSON: An instruction?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The sign that we are about to enter the Lekgotla and that is when they started with the

search. I then informed the PC that there was a search underway but by then we were both bogged down with the politicians.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So she could not do anything.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But in spite of the fact that we tried to keep it secret somehow and I had instructed the night before that they do not tell the searchers who was going to searched
10 and in spite of that they told him although the people were selected. The following morning it was clear that at least Mr Toshan Panday had been alerted that there was going to be a search executed on his premises. In any event Chair all those premises were searched. When they came to Panday's premises he was nowhere to be found at his residence. They then phoned him and he said to them no he was in Newcastle. Chair Newcastle is probably about three and a half to four hours' drive from Umhlanga Rocks. When the investigators indicated to him that they are going to wait there for him he arrived there about a half an hour later. So he must have been in the vicinity and that is why
20 we suspect he got wind of – well someone must have informed him that we were going to do those searches. But be that as it may Chair a number of documents were seized from the respective premises, files, documents and computer files were confiscated from SAPS, from the various departments but one of the concerning matters was that the report that Vassan Soobramoney gave me, the – that is now the first

one which I had given to the PC. She had asked me for the copy and I had also given a copy to Ntanjana. That same document was found on the – at the premises of Colonel Navin Madhoe.

CHAIRPERSON: One of the suspects?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: One of the suspects
Chair.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But Chair as I said earlier on I was – Soobramoney had given me the ...(intervenes).

10 CHAIRPERSON: The reports?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The report.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: He was not going to give it to the suspects. I most certainly did not give it to the suspects. The only two people I gave it to was ...(intervenes).

CHAIRPERSON: Ntanjana and the Provincial Commissioner.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And the Provincial Commissioner that is correct Chair.

CHAIRPERSON: Yes.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: I then first I approached the – Ntanjana and he assured me that he had nothing to do with it and even showed the copy that he still had. I then went to the PC and I said to her look this is what transpired and I feel very unhappy about it. And she was very dismissive and she said ag anyone could have given it to them and she just like dismissed me as if

...(intervenes).

CHAIRPERSON: Ja as if this was nothing serious.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Okay thank you.

ADVOCATE VERUSHKA SEPTEMBER: In that regard can I quickly take you to soft file Exhibit ZE. And in particular JB1.1 which is – starts at page 5. Is this in fact the report that you were now referring to in your evidence?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is the report
10 Chair.

ADVOCATE VERUSHKA SEPTEMBER: Can I ask you ...(intervenes).

CHAIRPERSON: I am sorry. By the way is that the first report the one that you got from Soobramoney?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Yes okay. That is the report a copy of which was found at one of the suspect's premises – residence?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Thank you.

ADVOCATE VERUSHKA SEPTEMBER: Some important facts that were
20 investigated obtained through investigation is referred at paragraph 3 to paragraph 7 of that report. At page 10 of that same bundle.

CHAIRPERSON: What is the question?

ADVOCATE VERUSHKA SEPTEMBER: There were certain facts that were discovered through the investigation which went to the gravity of the investigation itself. Can I ask you to please from paragraph 2 to 7

to read that into the record?

CHAIRPERSON: Well he might not need to read but just to say if he knows but if he does not know he can read it to simply say some of the new facts that were – that I referred to are the following 1, 2, 3,4 but if he does not know then he can read.

ADVOCATE VERUSHKA SEPTEMBER: Are you aware of these facts Sir?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair as I said earlier on this second report ...(intervenes).

10 ADVOCATE VERUSHKA SEPTEMBER: This appears to be the first report.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Sorry?

ADVOCATE VERUSHKA SEPTEMBER: This is the first report.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Okay.

CHAIRPERSON: Ja that was my understanding from what you said as well.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Okay.

ADVOCATE VERUSHKA SEPTEMBER: Please proceed.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Okay so Chair what is contained in this report I cannot recall the detail.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But I was aware of this.

CHAIRPERSON: Yes you were aware of it.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Okay alright.

ADVOCATE VERUSHKA SEPTEMBER: Can you please then place this detail on record by reading in paragraphs 2 to 7?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: In paragraph 2:

10 “Mr Toshan Panday owing to the vast amounts of profit generated from his dealings with the SAP managed to purchase a 2009 model Ferrari California at a purchase price of R2.5 million. He paid a deposit of R510 000 the purchase of his car was done in the first week of
20 May 2010. A brief perusal of the Nedbank bank statements of Gold Coast Trading obtained via Section 205 reveals startling activities. The bank account was opened in 2007 but the request for the statements from January 2009 to 17 May was done. The activity between January 2009 to October 2009 shows that Gold Coast Trading was actually struggling financially with several cheques returned unpaid or deliberately cancelled by the drawer. However from the first payment received from the SAP on 20 November 2009
the financial woes of Gold Coast Trading came to an abrupt end. It appears so profitable that from the 20th of November 2009 to the 24 December 2009 the SAP paid R275 043 million into the account of Gold Coast Trading. The accommodation for during this period from the Nedbank account totalled R475 188. On the

5th of January 2010 the SAP paid the total in one payment of R1 303 460, that must be million, into the account of Gold Coast Trading CC. On the 1st of March of 2010 the SAP paid a total in one payment of ...(intervenenes).

CHAIRPERSON: I am sorry. I am sorry. Did you mention that figure there? I think it is 1 894 or is it 18 million?

ADV VERUSCHKA SEPTEMBER: H'mm.

CHAIRPERSON: Number 5.

- 10 ADV VERUSCHKA SEPTEMBER: Chair the number that he sought to clarify at paragraph.

CHAIRPERSON: Ja.

ADV VERUSCHKA SEPTEMBER: Appears to be 1 303 460.

CHAIRPERSON: Yes.

ADV VERUSCHKA SEPTEMBER: And the number at paragraph 5 if I am reading correctly is R1 894 million.

CHAIRPERSON: Ja.

ADV VERUSCHKA SEPTEMBER: 200.

CHAIRPERSON: Ja, okay. You may continue.

- 20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Thank you Chair. Then paragraph 6.

"On 28th of April 2010 the SAP made two payments into the account of Goal Coast Trading for R5 million and R536 780 respectively. On 11 May 2010 the SAP made two payments of R1 795 million and R108 000

respectively into the account of Gold Coast Trading. The back statements have to be analysed in order to trace all the funds received and transfers are paid out as there appears to be a great deal of activity on the account. At this stage the only income into the account of Gold Coast Trading CC has been received from SAPS. All other accounts of Gold Coast Trading the personal accounts of Toshan Panday and his spouse have to be obtained and further analysed.”

- 10 ADV VERUSCHKA SEPTEMBER: Chair I am not sure if it is – if it was stated correctly but just to err on the side of caution the number at paragraph 7, the first number which is on the 11th of May SAP made two payments R1 795 million and R108 000 respectively into the account of Gold Coast Trading.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is how I read it Chair.

ADV VERUSCHKA SEPTEMBER: Thank you.

CHAIRPERSON: Were you concerned about whether we got the – whether he got the number correct?

- 20 ADV VERUSCHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: Okay. Well it is written – the first one or the second one on seven?

ADV VERUSCHKA SEPTEMBER: The first one Chair.

CHAIRPERSON: Ja.

ADV VERUSCHKA SEPTEMBER: Which is one million.

CHAIRPERSON: It is R1 795 million.

ADV VERUSCHKA SEPTEMBER: Yes.

CHAIRPERSON: Ja.

ADV VERUSCHKA SEPTEMBER: Thank you Chair

CHAIRPERSON: Okay. That is how it looks. Why is there a problem with this?

ADV VERUSCHKA SEPTEMBER: I am ...(intervenes).

CHAIRPERSON: What is your leader saying?

ADV VERUSCHKA SEPTEMBER: I understand that reference was
10 made to 1 795 million.

CHAIRPERSON: Oh.

ADV VERUSCHKA SEPTEMBER: Which is.

CHAIRPERSON: By the witness?

ADV VERUSCHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: Oh, okay well I think he does say now that whatever he may have said the amount is R1 795 million. Is that correct sir?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Ja, okay.

ADV VERUSCHKA SEPTEMBER: Thank you Chair.

20 CHAIRPERSON: Thank you.

ADV VERUSCHKA SEPTEMBER: If I can then take you to paragraph 47 which is on page 14 of your statement. Apologies, your affidavit. During the investigation were any monies paid to Mr Toshan Panday?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair the investigators indicated to me that the total sum that appears to have

been fraudulently procured/acquired was R60 million of which R45 million had already been paid out to the company of Toshan Panday and there was R15 million which was about to be paid out to him.

ADV VERUSCHKA SEPTEMBER: If I can then take you to page 15 paragraph 48.

CHAIRPERSON: I know that you did say that you would be jumping around in the statement.

ADV VERUSCHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: But it is a little frustrating because one is not able to
10 follow exactly what the story is. I do not know whether it is because I do not have something that says these are the events that we are going to be following because if there is a statement you just look – one looks there. I am not sure whether you would be able to help me or not but the jumping around seems to be making it difficult to follow the story.

ADV VERUSCHKA SEPTEMBER: No problem Chair.

CHAIRPERSON: H'mm.

ADV VERUSCHKA SEPTEMBER: The approach of jumping around
Chair.

20 CHAIRPERSON: H'mm.

ADV VERUSCHKA SEPTEMBER: Was on the direction of
...(intervenens).

CHAIRPERSON: Ja, okay. Well.

ADV VERUSCHKA SEPTEMBER: Farida but having said that Chair.

CHAIRPERSON: Okay. Maybe you might just – I do not know if it

would help just to say these are the events that we will follow then from this event we go to this and we go to that. That might help if I know, but you might not have that ready. So that might make it difficult. Do the best that you can?

ADV VERUSCHKA SEPTEMBER: As it pleases. Chair if I may the timeline that was prepared which has been Exhibit ZD.

CHAIRPERSON: Huh-uh.

ADV VERUSCHKA SEPTEMBER: In fact consolidates all of the events in sequential order.

10 CHAIRPERSON: H'mm.

ADV VERUSCHKA SEPTEMBER: Relevant to the affidavit that has been given and the supplementary affidavits that have been given.

CHAIRPERSON: This?

ADV VERUSCHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: Ja.

ADV VERUSCHKA SEPTEMBER: So if I could point you in the direction with your leave to the third block on the far-right hand side. It talks to during the investigation.

20 CHAIRPERSON: Would it be more convenient if we gave these blocks numbers? Then you can say.

ADV VERUSCHKA SEPTEMBER: No problem.

CHAIRPERSON: You go to block to number so and so then we all know.

ADV VERUSCHKA SEPTEMBER: No problem Chair.

CHAIRPERSON: Somebody will need – I think you need to explain

what you are doing to the witness but I guess we will mark one with the first one that says timeline Panday investigation.

ADV VERUSCHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: And then we go on that line to the left. Major General Booyesen maybe you – I am sure you will be able to.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair.

CHAIRPERSON: To follow because we might use.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes to make.

CHAIRPERSON: Number so and so later on.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair maybe I can explain what happened here.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: When I drafted the statement.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: A lot of it comes from recollection and my memory.

CHAIRPERSON: Yes.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: And in sourcing the documents.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So I spent quite a period of time preparing these statements.

CHAIRPERSON: Yes and it is quite comprehensive.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And while you are

doing the statement there are a number of issues that happens simultaneously.

CHAIRPERSON: Crop up.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So when I ... (intervenes).

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Consulted with the advocate.

CHAIRPERSON: Yes.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: She suggested that we put up this timeline.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Which is our display.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So in the statement.

CHAIRPERSON: Yes.

ADV VERUSCHKA SEPTEMBER:

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The sequence are not exactly.

20 CHAIRPERSON: The way it should be.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: According to the dates.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Whereas the ... (intervenes).

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: This document here gives the exact sequence.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: In terms of timelines.

CHAIRPERSON: No, I think probably this will help. It is just that I did not understand then that it would form the guide of what we start with. So- but I am just marking them – the blocks one, two, three so that you can say we are now at block whatever. Then I know which one it is.

- 10 ADV VERUSCHKA SEPTEMBER: So to just ensure my block numbering is exactly the same it would be six blocks on top. Is that correct Chair?

CHAIRPERSON: Yes.

ADV VERUSCHKA SEPTEMBER: Thank you.

CHAIRPERSON: So it would be one, two – one up to six and then the second line starts from seven to 12.

ADV VERUSCHKA SEPTEMBER: In ...(intervenes).

CHAIRPERSON: And then they continue.

ADV VERUSCHKA SEPTEMBER: Would that be in reverse?

- 20 CHAIRPERSON: Yes.

ADV VERUSCHKA SEPTEMBER: Thank you Chair.

CHAIRPERSON: I have ended up on block 30.

ADV VERUSCHKA SEPTEMBER: 30?

CHAIRPERSON: Is that correct? Okay, alright.

ADV VERUSCHKA SEPTEMBER: Thank you.

CHAIRPERSON: Thank you.

ADV VERUSCHKA SEPTEMBER: Thank you Chair.

MAJOR GENERAL JOHAN WESSEL BOOYSEN:

CHAIRPERSON: Okay. Now we can proceed at least. I will – I should be able to – yes.

ADV VERUSCHKA SEPTEMBER: Thank you so much Chair. So now you are on block 19.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: In relation to the R15 million.

10 CHAIRPERSON: Is that because we have covered all the other blocks before that?

ADV VERUSCHKA SEPTEMBER: Correct Chair.

CHAIRPERSON: Okay, alright. Thank you.

ADV VERUSCHKA SEPTEMBER: Correct. In relation to the R15 million payment that had not been made at that time. Do you have any comments in relation to the payment of those monies?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair. What happened is my secretary told me that she had received a call from according to her the brother of the then State President Mr Jacob Zuma who wanted to meet with me. So I said to her in connection with me and she did not know in connection with what. So I said to her where, where does – where do they want to meet me and she said know she will find out from them but it sounded like they wanted to meet me away from the office or he wanted to meet me away from the office. So I said to my secretary look if I am going to have a meeting with anyone it is

going to happen in my office. Subsequent to that she told me that there had been another call but she then took ill and she was admitted to hospital and I think she was off sick for probably about a month or so and no sooner had she returned she received another call from which she said was the brother of the then State President Mr Jacob Zuma. So I said to her Elaine look if they want to see me they can make an appointment and it has got come through the office to make it legitimate which she did. I do understand that she did record that in her diary as well. I think it was roundabout the beginning of June then.

10 CHAIRPERSON: 2010?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: 2010 Chair.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: She set down the meeting for I think it was the first week in June and then the gentleman arrived at my office. Another friend of mine was present at the office at the time. He just happened to drop by this friend of mine and then a gentleman came in and introduced himself as Edward Zuma who I then realised was not the brother of the then State President. It was actually the son of the then State President, Edward Zuma. Now after
20 we had exchanged greetings and incidentally Edward knew the friend of mine who happened to drop by in my office and they joked about a few things and so eventually we got down to business and we started talking and he started talking about the R15 million which I had frozen and then he asked me if it is possible for me to unfreeze the money. So I said to him but what is your interest in this money. He said to me

no he is a silent partner with Toshan Panday and he is not getting his dividends because I had frozen the money. So I said to him but did you invest into the business of Toshan Panday and he said yes. I said how much did you invest. He said no he had invested R900 000. So I said to him look let me give you some advice and go and approach Mr Toshan Panday and tell him you want your R900 000 back and take your money and walk away and never look back again and we laughed and he said no that is what he was going to do and I made it clear to him I cannot unfreeze the money because I will make myself complicit
10 in the Commission of a crime and that will be corruption in itself. Unless it is – there is legitimate documents to release. I cannot do that and we spoke awhile about generalities and after that he left.

CHAIRPERSON: As the conversation between you and Mr Edward Zuma was taking place your friend was there present?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: He was present Chair.

CHAIRPERSON: Okay, thank you.

ADV VERUSCHKA SEPTEMBER: Has there ever been any issues since that visit by Mr Edward Zuma about him attending your office on that particular day?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair a couple of months later there was a traditional or cultural/traditional event at Nkandla and this very friend of mine who happened to be in the office he was invited to the cultural event. I got a phone call – well from the event but I did not know it was from the event and it was this friend of mine and he said to me hold on someone wants to speak to you.

CHAIRPERSON: Who was it from?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So ...(intervenes).

CHAIRPERSON: You got a call from somebody. Who was that?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: From the same friend of mine.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Who was in my office on the day.

CHAIRPERSON: Yes, okay.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: When Edward Zuma visited me.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So it was a couple of weeks later it could have been a month or two later. I received this call. He said to me I here at Nkandla where I am attending this cultural event. So he said hold on someone wants to speak to you. So he handed the phone to someone else and it was Edward Zuma and he said hello Booyesen and we laughed and joked and I said I hope you heeded my advice and he laughed and he said no, no I heeded your
20 advice. So we joked and laughed about it but it became clear afterwards he never heeded my advice and then we said goodbye to each other.

CHAIRPERSON: So it appears that the call was just about him wanting to greet you?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I do not know who

initiated the call.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: If it was my friend or whether it was him Chair.

CHAIRPERSON: Yes, but ultimately the discussion was nothing more?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No.

CHAIRPERSON: About – nothing more than just greeting?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is it Chair.

CHAIRPERSON: Okay.

- 10 ADV VERUSCHKA SEPTEMBER: Has Mr Edward Zuma ever denied having visited you on that day?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair what happened is at some stage this thing leaked into the media – the main. So initially he admitted that he had been there and denied the conversation. Then later on he denied emphatically that he had been to my office. So I do not know which one of the two but the last time that I heard him going public he denies having been to my office.

ADV VERUSCHKA SEPTEMBER: Can I ask you to turn to page 88 of your main affidavit?

- 20 CHAIRPERSON: So maybe before we proceed. Just to go back to the R15 million. Before Mr Edward Zuma's visit to your office there was – you said there was an amount of about R15 million which you had discovered was about to be paid out by SAPS?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Had to be paid out to Mr Panday's company?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Yes and you had given instructions that that should not happen?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is right. I wrote to our Financial Department Chair and I told them not to release the money.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Because it is subject to a corruption investigation.

10 CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And I indicated that if the money should be paid out that that could be another form of corruption.

CHAIRPERSON: Oh, okay. Thank you.

ADV VERUSCHKA SEPTEMBER: If I can take you to page 88 if you are there?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Which page?

ADV VERUSCHKA SEPTEMBER: Page 88 of your main affidavit. It is Annexure JWB4. Is it correct that this is an affidavit that the

20 Commission's investigators obtained?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Please identify the document.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair it is a statement by Elaine Regina Latchanah who at the time was my secretary.

ADV VERUSCHKA SEPTEMBER: And if you could read from this

paragraph 3 second sentence which starts with:

“According to ...(intervenes).”

MAJOR GENERAL JOHAN WESSEL BOOYSEN: This is.

ADV VERUSCHKA SEPTEMBER: I will appreciate that.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So this is the statement from Elaine Latchanah.

10 “According to my recollection a person who identified himself as Mr Edward Zuma requested an appointment with Major General Booyesen. Mr Zuma called several times to secure an appointment. A date which I do not recall was agreed upon after consulting with Major General Booyesen. Mr Edward Zuma did not inform me as to what the meeting was about. Mr Edward Zuma did arrive on the day agreed upon and me with Major General Booyesen in General Booyesen’s office. I do not recall how long the meeting was and after the meeting Mr Zuma left.”

ADV VERUSCHKA SEPTEMBER: Now this is in fact an affidavit that was deposed to on the 23rd of November 2018. Is that correct?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Just for the record Elaine is spelt E-l-a-i-n-e. The second name which is Regina is spelt R-e-g-i-n-a and the surname which is spelt L-a-t-c-h-a-n-a-h. There was – okay. There is one particular event which is not included in this particular timeline and to that extent I would like to take you to Exhibit ZC and in

particular page 3 of this bundle. Paragraphs 7 to 10 documents/events that took place after Mr Edward Zuma attended your office. Can you please inform the Chair of such events?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair what happened is this friend of mine who I had mentioned earlier I requested him to seek an audience with the then State President to enlighten him to what his son was up to. So he arranged this meeting and I travelled with him to Nkandla. I had two meetings. So I will describe the first meeting. So the first meeting we arrived there at Nkandla. I was asked to wait
10 outside and my friend obviously being privy to what Edward was up to he went in and he spoke to the then State President Mr Zuma. A while later he came out and I greeted the President and I did not have any discussions with him. So we got into my friend's car and we left – departed for home. So I said to my friend what happened. He said not the President does not want to get involved. So I left it at that. Much later I again said to my friend I want to have another meeting with the President. He arranged a meeting again and if I recall correctly I think it was a Sunday. We left very early in the morning. So we arrived at Nkandla and this time around I entered the actual house where we
20 found the then State President Mr Zuma. We exchanged greetings but there were no discussions about any formal issues. He and my friend then excused themselves. They went into an adjacent room and I got up but I walked outside and had a look at the area there. About 15 minutes later they came back. They called me back into the lounge. In the lounge we sat and the Edward Zuma matter was not discussed at all

by myself. So we sat around and once again we spoke about the politics of the day and a few other issues and I think we still – I think I still posed with a photograph with the then State President and we left. When we got into my friend's car he said to me look he had spoken to the President about it – about his son's toys and we should go and speak to Khulubuse.

CHAIRPERSON: And who was that, Khulubuse?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct.

CHAIRPERSON: Okay. Yes.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: The nephew.

CHAIRPERSON: That was the nephew?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct.

CHAIRPERSON: That is your understanding, yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But I have met Khulubuse before that Chair.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: On social occasions. I have met him once or twice.

CHAIRPERSON: H'mm.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: So I said to my friend okay but where is Khulubuse. He says no he is in one of the places here in Nkandla. So we drove there and it was like a big rondavel and we knocked on the door and he was busy also with a cultural story where he had to seclude himself from society. He was laying on a mattress on the bed and we walked inside. We greeted him and my

friend explained to him what the President had said and then Khulubuse said look he will speak to Edward to stop his nonsense.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But the reason why suspects the President did not want to engage Edward himself is number one they were not on good terms at that point in time. For two reasons the one being that Edward was drinking too much. I assume drinking too much alcohol and the second reason being that Edward had bought a house in the Durban North area and he had not invited his
10 father to the cultural opening of the residence and then he said no he will go and speak to Edward to stop his nonsense, but that is where it ended.

CHAIRPERSON: H'mm.

ADV VERUSCHKA SEPTEMBER: What informed your insistence to seek an audience with former President Jacob Zuma?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I think it was important. Here you have the son of a State President getting involved with serious corruption issues within the police and I felt it incumbent upon myself rightly or wrongly so to alert the State President what his
20 son was busy with.

CHAIRPERSON: H'mm. Did your friend who accompanied you know what the purpose of the visit was? Let us talk about the first visit.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: He did both – on both occasions he did Chair.

CHAIRPERSON: Yes and - and you had asked him to facilitate the

meeting?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I did Chair.

CHAIRPERSON: And when you left for Nkandla your understanding was that the meeting had been facilitated and that the former President was expecting you or would be expecting you to arrive?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Yes, but when you arrived at his residence, in Nkandla, you said you never entered the room or you did enter?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The first time?

10 CHAIRPERSON: The first time you did enter?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No the first time I did not enter. I waited outside Chair.

CHAIRPERSON: You remained in the yard or?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: In the yard Chair.

CHAIRPERSON: In the yard and your friend entered a certain room?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: He entered.

CHAIRPERSON: And he emerged later on?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

20 CHAIRPERSON: And made a certain report to you about what his discussion inside the room was? How it went?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Yes, but you left without meeting the former President yourself?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Yes and the report that you got from your friend was

that the former President did not want to get involved?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is the case
Chair.

CHAIRPERSON: Yes and then sometime later you – there was another
– you made another trip to Nkandla another visit?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: And that one had been facilitated by your friend again
as well?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The same friend
10 Chair.

CHAIRPERSON: Same, yes. On that occasion you did enter the room
and at some stage in the room were yourself, your friend and the
former President but for a set period of time the former President and
your friend move into another adjacent room?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: And you were left in the other room?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is so Chair.

CHAIRPERSON: And then they came back later on and you talked
about other things but not about the purpose of your meeting?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is an accurate
description Chair.

CHAIRPERSON: Ja and later on your friend told you that the former
President did not want to be involved and said maybe you people could
speak to Khulubuse?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: That is the report you got?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: And then you went to see Khulubuse?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is so Chair.

CHAIRPERSON: And Khulubuse's attitude towards that he would talk to Mr Edward Zuma but from what you said it is like he was disapproving of something about Khulubuse. Is that right? I thought you said something like nonsense. I thought you said something that he must stop his nonsense or whatever?

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Yes. Was that coming from Khulubuse?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair it was a discussion between us.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I might have used it that he must stop his nonsense.

CHAIRPERSON: Oh, okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So he agreed to that.

CHAIRPERSON: Okay, but now you had gone to – you had wanted to
20 see the former President because you believed that he should know about this – the involvement of Mr Edward Zuma?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is right Chair.

CHAIRPERSON: I assume with Mr Panday?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is right.

CHAIRPERSON: That is what you wanted to?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is right Chair.

CHAIRPERSON: To alert him to.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is right.

CHAIRPERSON: So you ended up alerting Khulubuse and he said he would talk to Edward Zuma?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Was your understanding that he was going to talk to him with the idea that he must stop something or stop being involved with somebody or what was your understanding of what the purpose
10 was going to be of talking to him?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: You see Chair what happened is in that period there was a lot of speculation in the media. He had been to my office no he had not been.

CHAIRPERSON: Huh-uh.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Then he started making public statements and I wanted him to back off. That was now Edward and stop his nonsense, if any, if he still had any connection with Toshan Panday.

CHAIRPERSON: H'mm.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: So my understanding with Khulubuse was that he will tell Edward.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Leave this nonsense alone.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That was my understanding.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: Did anything result from your visits to Nkandla?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Chair.

ADV VERUSCHKA SEPTEMBER: If you can then move on did Mr Toshan Panday do anything to try to derail the continuing investigation, and we are now on block 20?

10 CHAIRPERSON: I'm sorry before you get an answer to that, I think you have got the spelling for Khulubuse Zuma incorrectly there, there is no "a" instead of the "a" there, there should be "u" and the "h" before the "e" at the end should not be there.

ADV VERUSCHKA SEPTEMBER: Yes thank you so much Chair apologies for that.

CHAIRPERSON: Yes.

ADV VERUSCHKA SEPTEMBER: At paragraph 20 of our timeline my question to you is, did Mr Toshan Panday do anything to try to derail the continuing investigation against him?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: He did Chair.

ADV VERUSCHKA SEPTEMBER: Please provide details in relation to it ...(intervenes).

CHAIRPERSON: It's quite leading when you ask him that in that way but it's okay, what did Panday do in regard to these investigations?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I was busy

attending a seminar in Kempton Park on domestic violence when I received a call from one of the warrant officers at the Cato Manor Unit, Warrant Officer Paul Mostert. Mostert informed me that he had received a call from a person by the name of Toshan Panday who wanted to meet up with him and he had told Toshan Panday he was a bit busy, he says an hour or so later he received another call from this person, introducing himself as Toshan Panday who said to him, no he's close to their office, Mostert's office, and that he should meet him at the garage which was just around the corner, which he then did. He

10 then arrived there where he met the gentleman, Toshan Panday. Toshan Panday then said to him, look there's been a search on our premises and the police confiscated some files and he referred to one specific file being the most important file but he knew exactly how many files had been confiscated and he said to him, these files are being kept in an office in Field Street and then he said to Mostert, I would like you to steal those files, failing which you have to set the building alight and if you do that you can name your price. So Mostert said to me, he then told Panday no he couldn't get involved in something like this, so I still said to – we call him Mossie, I said Mossie you should

20 have actually engaged him and we could have gotten Section 252(a) authority, by that I mean authority from the Director of Public Prosecutions to proceed with an ostensible unlawful activity. I said to him, look why don't you phone him back and say to him, you thought about it, you've got a price and then let's see if we cannot organise a Section 252 operation.

I then immediately phoned the DPP's office, what I normally do is – the Captain – Captain Hennie Pelser at my office who co-ordinates all the Section 252(a) operations in the province, so I phoned him and I said, look you should immediately get authority, 252 authority from the DPP, I'm flying to Durban from Johannesburg and they should get all the paperwork done. I then also phoned Colonel Karl van der Vyfer from Crime Intelligence and I said to him, I'm flying back, we've got Section 252 authority, that they should rig up one of the vehicles, by that I mean, they should wiretap it so that we can record the
10 conversations, which they did and the following day Mostert phoned Panday back to tell him, look here, he re-thought his position and he'd like to meet him – they did meet again but I think Panday must have gotten suspicious, he wouldn't get into the vehicle and the way he spoke to Mostert then, according to Mostert was that he was almost like – he couldn't even remember that the previous meeting had taken place so I suspect he knew we were up to something, so nothing came of that Section 252 operation.

CHAIRPERSON: But when the person you referred to – did you say Moses?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Mostert we call him Mossie Chair.

CHAIRPERSON: Oh Mostert.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's right Chair.

CHAIRPERSON: That was a colonel in the SAPS?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: A warrant officer

Chair.

CHAIRPERSON: A warrant officer in Gauteng?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No, no in KZN at the Cato Manor Unit.

CHAIRPERSON: Oh okay so he got a call from Mr Panday at a time when he was with you?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No.

CHAIRPERSON: No he was not with you when he got the call?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Ja he was at the
10 office in Cato Manor which is just outside Durban and I was here in
Kempton Park.

CHAIRPERSON: Oh so he just reported to you about this call?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's correct Chair.

CHAIRPERSON: And when he reported to you, he had already met with Mr Panday, oh okay so you say that after he told you what – after his discussion with Mr Panday had gone, you said he should actually have handled it differently so that you could possibly do a Section 205 subpoena?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No, no Chair we
20 wanted to do a Section 252(a) operation.

CHAIRPERSON: Yes okay and what does that involve?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair normally we get Section 252(a) authorisation to engage in a criminal activity, for instance if I can give you an example, if we want to buy drugs from a drug dealer we have to apply for a Section 252(a) authorisation from

the DPP – there's a designated Advocate from the DPP's office who will then give us that authority and the reason for that being, policemen would sometimes engage in criminal activities and when they get caught they say, no I was busy with an operation.

CHAIRPERSON: Yes so this is to make sure that if it is legitimate there is proof.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Ja so it legitimises which ...(intervenies).

CHAIRPERSON: That which otherwise is criminal?

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's right Chair.

CHAIRPERSON: Yes, yes okay because if you don't have it then you can't say it was legitimate.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's indeed so Chair.

CHAIRPERSON: Ja okay so – but – so that was arranged and in order for this to work Mr Panday and Mostert were supposed to meet and Mr Panday was supposed to get into the car that would have been wired, I think you said, and then the conversation that they would have had, would have been recorded but that recording didn't take place because

20 Mr Panday didn't want to get into the car?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's indeed so Chair.

CHAIRPERSON: Ja and you say that they did engage in a conversation outside of the car but Mr Panday was speaking on the basis that he had no recollection of the previous discussion.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's right Chair.

CHAIRPERSON: Ja okay, alright.

ADV VERUSCHKA SEPTEMBER: So it's your evidence that Mr Toshan Panday must have suspected something, is that correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's what I suspect what happened and that's why he would not engage with Mostert on that particular day Chair.

CHAIRPERSON: And was this a few days after the first encounter that the two of them had, had when Mr Panday had made this request to Mostert?

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: No it was the following day Chair, I immediately flew back, I excused myself from the seminar and I immediately flew back to be here.

CHAIRPERSON: So there's no way that Mr Panday would have genuinely forgotten about that conversation?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Chair.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: General Booyesen did ...(intervenes).

CHAIRPERSON: And if that is so clearly he had either got wind of something or he had looked at the whole thing and thought that there
20 was something that Mostert was up to.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair later on in my evidence I will – Panday was always very suspicious of certain events that took place and I'll perhaps elaborate on that bit later in my evidence.

CHAIRPERSON: Okay thanks.

ADV VERUSCHKA SEPTEMBER: General Booyesen did you establish any reason for how Mr Toshan Panday may have suspected something?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair what happened is – and during the investigation we applied for Act 70 interceptions and for the benefit of the public Act 70 interceptions is where we as investigators through Crime Intelligence apply to the designated Judge, of which there's one, I think he's based in Pretoria where we have to put in a motivation to legally intercept the communications of a suspect under investigation. At the time there were investigations – there was

10 an application for such interceptions and Panday's communications were intercepted at the time and Crime Intelligence who dealt with these interceptions, then informed me, that a certain conversation had taken place in which they intercepted a call between a colonel that had worked under my command, Colonel W S Mahlangu and I actually listened to some of the conversations and I in fact, at a later stage had confronted W S Mahlangu, the colonel with certain discussions that took place between him and Toshan Panday. He obviously knew he couldn't deny it because I mentioned specifics to him and he said to me no he had phoned him because they were comrades in the ANC but as

20 far as I'm concerned that was nonsense. So W S was one of the colonels that reported to me but he had also worked in the same building where the investigators had worked. The significance of that Chair is, the exhibits that were seized, I did not even know where they were kept. I only established much later that they were kept at – because the colonels that were involved with this investigations some

of them were ex-Scorpion members so they still had an office in Field Street, and that's where they kept the exhibits. So I didn't even know that the exhibits were kept there until Mostert had told me the exhibits were there. So we concluded from our investigations that the only person that could have told Panday where those exhibits were kept, must have been colonel W S Mahlangu. There were other communication intercepts between the two as well which related to compromising this very investigation.

ADV VERUSCHKA SEPTEMBER: Did colonel Mahlangu have any
10 relationship with Advocate Nomgcobo Jiba?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair yes, when I became the Head of the Hawks in KZN there was a project, and I cannot recall what it was called exactly, where I had to authorise his secondment to the National Prosecuting Authority where they were going to try and find people that were murdered in the Apartheid dispensation which I authorised. So he spent quite some time working with the NPA but it was common cause amongst the investigators that he had a close relationship with Advocate Moipone Noko who was the DPP or she later became the DPP she was first acting and later then
20 became the DPP. During – well much later in events that would follow, at the time that Advocate Mxolisi Nxasana was appointed as the NDPP I was informed that W S Mahlangu was clandestinely trying to find dirt on Advocate Nxasana and that information of mine was confirmed in a statement which I obtained from a person by the name of Terrence Joubert from the National Prosecuting Authority. If my memory serves

me correctly, I think that statement was attached to an affidavit deposited to by Advocate Nxasana in a High Court matter in the Western Cape, I speak under correction but in that statement Terrence Joubert states that W S Mahlangu had approached him to find dirt on Advocate Nxasana at the behest of Advocate Jiba.

ADV VERUSCHKA SEPTEMBER: In that regard could I take you then to page 78 of your affidavit please – main affidavit. Do you recognise this document?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I do Chair.

10 ADV VERUSCHKA SEPTEMBER: Please identify the document?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair it's an affidavit by Terrence John Joubert and it was signed – it appears to be his signature, I don't know him personally, it was signed in Durban on the 25th November 2013.

ADV VERUSCHKA SEPTEMBER: For the benefit of the record, can I ask you to read paragraph 3 and 5 into the record please?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Paragraph 3:

20 “On the 18th of September 2013 I was on duty and was supposed to fetch Advocate Jiba from the Ushaka International Airport, after making the arrangements I got a call from Advocate Jiba's secretary to say that she would be fetched by colonel Mahlangu on instructions from the DPP KZN. Colonel Mahlangu is currently seconded to the NPA's Missing Persons Unit that is headed by Debra Quinn in the Province and by

Shaun Abrahams at VGM. Their job is to assist members of the NPA to obtain information by interviewing witnesses to conclude the investigations. Shortly after the meeting between Advocate Jiba and Colonel Mahlangu he, Colonel Mahlangu, came to me in my office and told me that the new guy, referring to the new NDPP, Mr Nxasana does not like Advocate Jiba and Advocate Mogwebe. His aware that I do have a great relationship with Advocate Mogwebe and he was playing on my emotions. I asked why he thought so and he said that he was sent by Jiba as she's convinced that this guy is not the right person for the job and that we should try and find something on him as they did against Mr Gumede. Mr Gumede was the first person that we had heard about who would have been appointed the NDPP, the DPP had then insisted that Advocate Makosi (Prosecutor) make a statement against Mr Gumede concerning the matter in which he, Mr Gumede, had ill treated her. This instant gave us indications as to the kind of people we were dealing with and to what lengths these people would go to get their way. Mahlangu was instrumental in immobilising people to gang up against Mr Gumede."

ADV VERUSCHKA SEPTEMBER: And the last paragraph being paragraph 5 please.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: “I told him that this would be playing with fire as we are all small fries, when elephants fight the grass suffers was my comment to his suggestion. Mahlangu ensured me that their efforts would not be in vain as Jiba had said if this man (Mr Nxasana) is removed then she would be appointed again. The plan was not whether Mr Nxasana is guilty but the mere fact that they wanted to embarrass him and insist that he be removed”.

10 ADV VERUSCHKA SEPTEMBER: Thank you and just for the avoidance of doubt, this is the affidavit of Terrence John Joubert?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That’s correct Chair.

ADV VERUSCHKA SEPTEMBER: Thank you, moving on to block 21 of our timeline and if I may perhaps start off, my understanding is that Section 252(a) processes are referred to a “sting operations” is that correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That’s correct Chair.

ADV VERUSCHKA SEPTEMBER: Okay was there – or rather what happened on the 24th of August 2011?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I was approached by one of my warrant officers at the time, warrant officer – well he was a sergeant then he’s a warrant officer now, Dina Govender and he indicated to me that Colonel Navin Madhoe, the guy that we’re investigating sought an audience with me, he wanted to see me. So I said to him, I don’t have a problem with him, he can come and see me

...(intervenes).

ADV VERUSCHKA SEPTEMBER: And if I can interrupt you, Colonel Madhoe is the person who was being investigated in the Toshan Panday investigation is that correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's correct Chair.

ADV VERUSCHKA SEPTEMBER: Please proceed.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So Chair the following day he again phoned me and he said to me that Colonel Madhoe would want to see me, actually he sounded a bit agitated
10 because he said that Madhoe had phoned him and accused him of not – for not wanting to facilitate a meeting between the two of us, so he said to me, can I meet Colonel Madhoe, I said no I'm fine I can meet him. So I asked him, where would they like to meet and he said to me no at Jaipur Palace which is halfway between Durban and Durban North.

ADV VERUSCHKA SEPTEMBER: Is that a restaurant?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: A restaurant, that's right Chair.

ADV VERUSCHKA SEPTEMBER: Thank you.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So I said to him no
20 let's rather meet at the Elangeni Hotel which is pretty close – walking distance from my office and we agreed. So I immediately got in my car and it took me about two minutes to get to the Elangeni Hotel and on my arrival there they hadn't arrived yet. So I went upstairs, one floor up where I could see down into the reception area of the hotel. I waited a while and I didn't see them coming so I phoned Govender back

– Dina Govender back and I said to him are you guys still coming but as I was speaking to him he said, no we've just arrived and I saw them coming, him and Colonel Madhoe. Madhoe was dressed in a leather jacket and he had a laptop bag in his hand. So they came up to – up the staircase and exchanged ...(intervenes).

CHAIRPERSON: And just remind me again, I think I may have missed the name, who is the person that was coming to you together with Madhoe?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: It was Warrant Officer
10 Dina Govender, he also worked under my command at the time but he had nothing to do with them, I think he was friends with Madhoe.

CHAIRPERSON: Oh okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair so once we had sat down there was a bench and the two of them sat across from me and we spoke for a while and then Madhoe said to me he wanted to speak to me on my own, now I don't know ...(intervenes).

CHAIRPERSON: In private.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: In private so I don't know if it was pre-arranged between Madhoe and Govender that
20 Govender would then excuse himself but when he said that Govender just got up and he walked away out of earshot distance from where we were. Madhoe then took out his laptop and opened his laptop in front of me, started setting it up and he switched it on and he turned the laptop and – now if you look at files, those little red squares there then he would prompt one of those little squares and up came a picture of a

person that's obviously dead and then he'll press another one, another person dead but it was obvious to me that all those photographs came from police files they were people ...(intervenes).

CHAIRPERSON: Did you say that the pictures that he was showing were pictures of dead people?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair.

CHAIRPERSON: Oh okay so he opened this laptop before he could say anything after the other person had left the two of you?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's right Chair.

10 CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So he would go to a couple of photographs like that but then it didn't make sense to me because all those photographs were photographs that clearly came from police files, from police dockets because you could see the police cordoned tape was there and the cones were there and the circles and the spray where they marked exhibits.

CHAIRPERSON: Was he opening the laptop in such a way that you should see the pictures or you just happened to see the pictures, they were not meant for you to see?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: No he showed me the pictures.

CHAIRPERSON: Oh he was showing you the pictures.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: He showed me the pictures.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Then I said to him but these are normal police photos, what's this all about, then he said to me, no, no but he can get more pictures, I said, well get more pictures and then he said to me – he started by saying there's a lot of stress at home, obviously referring to the ongoing investigation and then he said to me is it possible for me to assist them in the investigation. So I said to him, how do you mean assist you in the investigation – I was taken aback because, I mean, in my position for a colonel to approach me to – and he's a suspect and the subject of the
10 investigation to approach me to assist them in the investigation was unheard of. So I said to him and how can I help you in the investigation. He then said to me that I'm in – myself, I'm in possession of a report by the investigators, Chair so what happens in the police ...(intervenes).

CHAIRPERSON: So he was saying that you are in a possession of a certain police investigation report?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's correct Chair.

CHAIRPERSON: Ja okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair if I can just
20 explain, normally in the police it's a police habit, especially if you're in a management position, when you get a document on your table we normally take the date stamp, stamp it and initial it, that's an indication in the future when you received it, when it landed on your table. So he said to me I've got this report – a progress report and he actually named the report that was the same one that Vassan Soobramoney had

given me.

CHAIRPERSON: The first or the second?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The first one Chair, so he said to me that document hasn't got that stamp and that signature of mine on.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And he said to me – and the report itself is not dated, he said if I would take that report of mine and anti-date it to a date before the application for the Section
10 205 subpoenas went in, that would mean that the information in that report was acquired before the Section 205 subpoenas were authorised and at the same time they had this – that was more or less at the same time that they had the High Court application for the 205's to be set aside.

CHAIRPERSON: That's now him and who, Mr Panday?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Listen ...(intervenues).

CHAIRPERSON: You say that is when they had an application to set aside the 205's?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's correct Chair.

20 CHAIRPERSON: Ja so I'm asking who they are?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I cannot remember who deposed to ...(intervenues).

CHAIRPERSON: But he was one of them?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Ja he was one of them, I cannot remember who deposed to the founding affidavit and

who made a supplementary I cannot recall that but be that as it may there was this application to have the 205's set aside ...(intervenes).

CHAIRPERSON: And Mr Panday was one of the people who were behind the application or you don't know?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair as I said I cannot recall who deposed to the founding affidavit and who made a supplementary.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So Chair so the idea
10 was for me to anti-date this which would have invalidated the actual 205's and when we had the 205's that put the investigators in a position to acquire the search warrants and the seizure of those exhibits, so it had the potential, if I'd done that, it had the potential to compromise the entire investigation.

CHAIRPERSON: But was he not asking you to put a date on the report that would have been prior to the 205's.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's what he did
Chair.

CHAIRPERSON: But how would that invalidate the 205's?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: So Chair the information on the report itself was information about that you could only have acquired by means of a 205 because it was ...(intervenes).

CHAIRPERSON: Oh okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: It was information pertaining to the bank statements.

CHAIRPERSON: Oh okay, okay, okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So if they gave me a progress report with their bank details and I received it before the date of the application for the 205's.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That means they already had the information.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And then they applied
10 for the 205's.

CHAIRPERSON: Yes okay thank you.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So I said to him I do not know how far this investigation had gone but what I will do I will speak to the investigator officer. And that was the agreement and then we left.

CHAIRPERSON: But what was the point about these pictures of dead people that he was showing you? Was he trying to intimidate you or threaten you, what was the point?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I think it was a
20 subtle means of trying to intimidate me. He comes from supply chain management so I do not know. I have seen plenty dead bodies I do not know how many he has seen being from supply chain management but I – like I say the photographs that I saw were all people that had been either shot by police or that were normal murder scenes.

CHAIRPERSON: Okay so in the end the request he was making to you

was that you assist him and whoever by putting a date on the report that on the second – on the first report that you got from Soobramoney put a date that would have been prior to the Section 205's and if you had agreed to do that that could have led to the invalidation of the 205's?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Yes okay. But you parted on the basis that you said you would speak to somebody – to the investigators?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I told him I will speak
10 to the investigating officer Chair.

CHAIRPERSON: Yes okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair when I left that meeting ...(intervenes).

ADVOCATE VERUSHKA SEPTEMBER: If I can just ensure I too understand the evidence that you have given. Is it correct then that it was Mr Toshan Panday's bank details which founded or rather was important to the investigation at hand?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I think it was both Panday and Madhoe's bank details that was important.

20 ADVOCATE VERUSHKA SEPTEMBER: Thank you. Is it then correct that a Section 205 was necessary in order to obtain such bank details?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair.

ADVOCATE VERUSHKA SEPTEMBER: Is it then also correct that the request that was being made to you by Colonel Madhoe to predate the report would have had the effect to invalidate those Section 205

subpoenas?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

ADVOCATE VERUSHKA SEPTEMBER: And would it then be correct to say that the invalidation of the Section 205 subpoenas would have compromised the entire investigation?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is my view Chair.

CHAIRPERSON: Yes when you talk about invalidation all you mean is because there was a court application pending.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Ja.

10 CHAIRPERSON: It would have helped the case of those who wanted the court to set aside these 205 applications that is the point you are making?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Ja that is one point Chair and another point is in terms of the doctrine of the fruit of the poisonous tree. Once a 205's failed the search warrants would have failed and the seizure of those exhibits would have been – we would have had to return those exhibits.

CHAIRPERSON: Yes.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Which were vital to our investigation.

CHAIRPERSON: Yes. Okay.

ADVOCATE VERUSHKA SEPTEMBER: Thank you Chair. What then transpired once you had this meeting with Colonel Madhoe?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair when I left the meeting and as I said my office was basically two minutes away from

there I immediately phoned the investigating officer well the – Soobramoney and Van Loggenberg and asked them to come to my office. I also phoned Captain Pelser but Captain Pelser sits on the same floor that I – which I am sitting. He is the coordinator for the Section 252(a) authorities. So I told him meet me in my office I am on my way. So on my arrival at the office Pelser was already there and the investigators joined soon afterwards. I explained to him exactly what had transpired at the Elangeni Hotel. So I said to Pelser go and contact the DPP's office so long and get us authority for in terms of

10 Section 252(a) of the CPA. Now Chair what normally happens with sting operations with the drug related matters we normally get verbal authority and then invariably I will get a call from the DPP's office they still waiting for the affidavits. In this particular instance I immediately went and sat down and drafted my affidavit as to what had occurred at the hotel. It was sent through to the DPP's office Advocate Nel who then authorised 252 engagement with Madhoe onwards. I also told ... (intervenes).

CHAIRPERSON: 252 being the operation that you and Mostert tried with Panday and it did not work?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: A very similar one.

CHAIRPERSON: Ja a similar kind of operation.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is right. Because I did not know what would come of those initial discussions about me assisting them.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I also said to the investigating officer that he should document everything that had transpired at the hotel in the actual docket for later references. That same afternoon the DPP had authorised the Section 252 authorisation – it authorised the engagement with Madhoe. Chair the following day I had a meeting at National head office and I first went ...(intervenes).

CHAIRPERSON: That is in Pretoria now?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes in Pretoria.

CHAIRPERSON: Ja.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: I am now still in Durban. So the following morning I first went to my office and cleared my desk and then to go to the meeting when I received a call and one of my other warrant officers from my office picked up the phone – my phone – my cell phone and he gave it me and he said to me it is Colonel Madhoe. So I took the phone and Madhoe said to me I must come down to the basement of the building where our cars are parked. So I went down and when I arrived there he was there in his car. So I got into the car with him and he then said to me did I find my report? And I lied to him, I said no I cannot find my report. The one that they
20 wanted me to alter. So he lent over backwards and took an envelope from the backseat, a big brown envelope which he handed to me and he said to me the report – that report that you are looking for is inside this envelope. The one I now had to put the date stamp on.

CHAIRPERSON: Just before you proceed. Was it strange that somebody at his level would call you to come to him downstairs or was

there some previous discussion?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: It is – no Chair that is – it just does not work like that in the police.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Where a Colonel calls a General down to the basement.

CHAIRPERSON: That is what I thought was strange.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Ja.

CHAIRPERSON: But you went anyway?

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: I played along Chair.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Because we had the 252(a)'s in place.

CHAIRPERSON: Because I assume you were still going to contact him in order for you to make arrangements where you would meet so that you could execute your 252(a)?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Ja Chair the meeting happened on the day.

CHAIRPERSON: Ja.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: And early the following morning I was preparing for a national meeting so that was not forefront in my mind.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I intended engaging him when I get – when I got back from Pretoria.

CHAIRPERSON: When you came back. Yes so – but when he called you and asked you to come downstairs you were ready to use your operation already or not really?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Well Chair depending what emanated from there a lot of things could have happened. I did not know why he had called me down there.

CHAIRPERSON: But you went there.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But be that as it may we had a 252 in operation so.

10 CHAIRPERSON: Okay. Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: It would have covered any eventuality that would have flowed from there on.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair ...(intervenes).

CHAIRPERSON: So he gave you a brown envelope and said that report that he was talking about is inside the envelope?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is right Chair.

CHAIRPERSON: Okay.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair then I – we had a general discussion I said to him you know things does not always come for free or so – words to that effect and then he said no, no ...(intervenes).

CHAIRPERSON: Who was saying that now?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I said that.

CHAIRPERSON: Ja okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Then he said to me, no Panday had – I think he said – ja Panday had two bar available for me for my cooperation. Oh no he did not say that at that stage. First what he said is, he said to me how much do I want? Now Chair in my whole police career no one has ever asked me what I want or something like that.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And it was very difficult to say the words. So I said to him look what I am going to do
10 is I am going to send you a text message and then I am going to put a figure there and then you can add a couple of noughts to which we agreed. And then I left. I then phoned the investigating officer and I said to him to come to my office immediately and I gave – because I had my report. I had lied to him about not having had it. So I said to the investigating officer this Van Loggenberg I said to him, Hans take this thing send it to forensics see if you can find DNA or fingerprints on the envelope or what is inside the envelope which he did. About a week later Van Loggenberg phoned me that the fingerprints found on
20 the envelope was not those of – well now the fingerprints found inside on the document were not those of Madhoe the Colonel who had given it to me. So I said to him, look where can we get a set of fingerprints from Toshan Panday? And he said to me come to think of it when they searched his premises earlier on there were a set of fingerprints lying there because he had applied for a firearm licence and they had taken that. So I said to him well send that to the fingerprint department let

them compare that. And I think it was about a week after that he phoned me back and he said to me – it was late in the afternoon he said to me the report had come back. The fingerprints on the document – my progress report which was in the envelope the fingerprints matched those of Toshan Panday.

CHAIRPERSON: Yes. So you had opened the envelope that Colonel Madhoe had given you? At some stage you opened it?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No.

CHAIRPERSON: You did not open it?

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Chair I never opened it I gave it ...(intervenenes).

CHAIRPERSON: You gave it to ...(intervenenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Just like that.

CHAIRPERSON: Yes as it was?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Ja I never opened it.

CHAIRPERSON: Oh okay but somebody did open it at some stage?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: It was opened at the local criminal record centre by the fingerprint experts.

CHAIRPERSON: Yes okay. Okay. So they actually found the report
20 that he was talking about inside or what?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The same report
Chair.

CHAIRPERSON: The same report ja okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The same report.

CHAIRPERSON: Thank you.

ADVOCATE VERUSHKA SEPTEMBER: Your discussion with Colonel Madhoe entailed you providing a number can you please give more detail in relation to what transpired thereafter?

CHAIRPERSON: Did you send Madhoe the figure that you had promised to send?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Chair so what happened the followed morning I then left to go home and back my bags and fly to Pretoria. I flew to Pretoria and then the following morning I was actually sitting with General Dramat at – in the venue
10 where we were having the meeting when I received a text message from Colonel Madhoe and he typed like the kids type nowadays with these short abbreviations. Hi General did not know you had gone when you back that funny language and he said – and then he ended off the conversation with a 2 in brackets. And then I – by then General Dramat was – had been alerted to my engagements with Madhoe so I still went and showed him the text message that I had just received. And we actually joked about it because I thought they thought I was cheap because they were going to give me R20 000,00 for a R60 million investigation. Chair okay after that I went back to Durban after the
20 meeting. I do not know if you want me to proceed after that?

CHAIRPERSON: Oh you did not respond immediately to the message from Madhoe?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I did and all those conversations have subsequently been captured.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Between him and myself it forms part of the evidence in the docket.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The actual SMS's, the timelines have all been captured.

CHAIRPERSON: Okay thank you.

ADVOCATE VERUSHKA SEPTEMBER: Please proceed.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I am trying to find out where I am now.

10 ADVOCATE VERUSHKA SEPTEMBER: You are on page 12 paragraph 39. Alternatively we could look to ...(intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Okay. So Chair after that I ...(intervenes).

ADVOCATE VERUSHKA SEPTEMBER: Block 23.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Sorry?

ADVOCATE VERUSHKA SEPTEMBER: I say it is block 23 or that particular paragraph but please continue.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So Chair and another engagement that I had with Madhoe and I must mention now
20 simultaneous to my engagement with him we are also running the Act 70 interceptions. So Colonel Padiachi from Crime Intelligence is telling me exactly how they discussing – how they have ...(intervenes).

CHAIRPERSON: Okay I am sorry I know that you said that the interaction between the two of you is captured and is in some docket. Do we have that anywhere here or it is somewhere else and we will get

it some other stage?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair the docket that I am talking about ...(intervenes).

CHAIRPERSON: Is current?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is the – and I am going to talk about that later in my evidence because that docket became a big issue eventually.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That docket as we
10 speak is with Advocate Wendy O'Brian from the Specialised Commercial
Crime Court in Durban because my understanding is that they are now
preparing after seven years a prosecution in these matters and Chair it
is vast volumes.

CHAIRPERSON: Yes. Okay well we – we need to find a way of leaving
out what we get and what we might not get out of that. We just need to
find a way of connecting the story. You had received a message from
Colonel Madhoe and at some stage I assume you reverted to him and
then something happened. Are you able to say, I did revert to him and
subsequent to that we have had another engagement or something like
20 that? I just want to see even if we are not going into the contents
...(intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Okay.

CHAIRPERSON: Of the messages.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So Chair the first
meeting is at the hotel.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The second meeting is the following morning where he gives me the report in the envelope.

CHAIRPERSON: In the building?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I then go to Pretoria.

CHAIRPERSON: Yes. You get the message.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Subsequent to that we had another engagement. Most of the engagements were initiated by him. And at a follow up engagement when we discussed now
10 ...(intervenes).

CHAIRPERSON: The engagement is in a meeting form or just talking on the phone?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No it is in cars.

CHAIRPERSON: Sorry?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: It was always in cars
Chair.

CHAIRPERSON: Oh okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Clandestine there in the basement. These meetings took place in the basement.

20 CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: There were other subsequent meetings that took place at McDonalds but this particular one took – also took place in the basement.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: After I had returned

from Pretoria I engaged with him again also in the basement. He then gave me another hard drive in which he said there are more photos on the thing.

CHAIRPERSON: Of dead people?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Oh and I guess this time do you ask him what is the point about this or you still do not ask him?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No, no I was playing along with them there Chair.

10 CHAIRPERSON: Yes, ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: In terms of the 252.

CHAIRPERSON: Did you pretend you were scared?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Sorry Chair?

CHAIRPERSON: Did you pretend you were scared by this?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No not really Chair I just ...(intervenes).

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair and at one of these subsequent engagements he said to me, no Toshan Panday had
20 two bar available for my cooperation in this matter.

CHAIRPERSON: Two bar?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Two bar. So I know what two bar is.

CHAIRPERSON: Ja what was your understanding of what that ...(intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So two bar in my mind is R2 million.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But I thought he does not know what two bar is because I mean no-one gives you R2 million. So I thought maybe he is thinking R200 000.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So my understanding from the beginning was that they were going to give me R200 000 to
10 sign that document and put a date on.

CHAIRPERSON: Ja.

CHAIRPERSON: Chair it continued I had a number of meetings with him and the day before we did the actual sting operation one of my detectives was shot and killed and I attended the funeral. He also came to the funeral.

CHAIRPERSON: Around those days?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: It was all in the space of a week, week and a half Chair.

CHAIRPERSON: And we are around mid-2010 or where are we now?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: The 2010 August 2010
Chair.

CHAIRPERSON: August 2010 ja.

ADVOCATE VERUSHKA SEPTEMBER: If I could ...(intervenes).

CHAIRPERSON: Just to go back if I may. The message that you had received from Colonel Madhoe when you were with General Dramat

where there was a two is that the one that made you think he was talking about R20 000.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Then I thought it was R20,000.

CHAIRPERSON: At that time.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Only put the 2 there Chair.

CHAIRPERSON: Oh okay, okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But then when he
10 subsequently told me 2 bar then I thought no this man does not know what 2 bar is.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Maybe he is meaning R200 000.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Just one correction this is now in 2011.

CHAIRPERSON: Oh 2011 ja okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair on the day
20 before we did the actual operation which I will refer to as the sting operation or two days before that I cannot remember I met him at the funeral. Well he came to the funeral. And after the funeral he came up to me and he said to me I must not forget to write and he gave me the date.

CHAIRPERSON: To backdate the report?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Ja but he wanted a specific date. And I took this very pen which I always carry with me and I took it out and I said to him give me a piece of paper. So he took out his wallet and he gave me a piece of paper and he gave me the date which I wrote down on the piece of paper. So he said okay no that is fine. Okay so now I will not forget. When I left – when he left turned the piece of paper around and it was an ATM slip from his bank account.

CHAIRPERSON: H'mm.

- 10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: So on my return back to my office I called the investigator and I said to him take this ATM slip and we can use it as an exhibit later on because where would I have gotten his ATM slip? So the investigators took that. Chair the day before the actual sting operation I met him for the last time at McDonalds at Gateway in Durban North. I think we sat in my car and then we had a discussion as to where we going do this now? Where they going to give me the money and I am going to give him this document.

CHAIRPERSON: The backdated report?

- 20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is right Chair.

CHAIRPERSON: At that stage you had not backdated it?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Not yet Chair, not yet Chair.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So he wanted again

he said to me I think he said we should go to the Japanese Gardens which is right next to Hyper by the Sea where the Jaypore Restaurant is. So I said to him no let us rather go to the casino in the basement of the casino. And the reason why I did that is because I know the people at the casino and I knew that they would be cooperative for us to use their CCTV footage. And he agreed to that. Then I said to him okay now how are we going to do this? Now first of all he indicated to me that during one these discussions they could put the money in my kids account or put it in my friends account and I knew if we do a sting
10 operation and money gets transferred to my account there is going to be no direct link. So I still said to him no I wanted cash. And I said to him at one stage I want it in R200 notes. He later came back and said to me no they – there is a problem with the R200 notes at the bank which at the time was indeed so but I established later on that there was a different reason why they could not give me R200 notes. So he said no they could only get R100 notes and R50 notes so I said it is fine. And then the day before we said okay how are we going to do this? I said – he said to me he is going to put it in a duffle bag. I said no, no do not put it in a duffle bag why do you not rather get some
20 photocopy boxes from your office put the money inside there. And that is what we agreed to do. And then I said to him okay what I will do is I will give you the document in the morning then you give me the 150 and ...(intervenes).

CHAIRPERSON: You are now having this conversation at the basement of ... (intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No, no this is now at McDonalds.

CHAIRPERSON: You are still in the car?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: In the car Chair.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So I said to him give me – you give me the 150 I will then give you the document then if you are happy with it you can pay me the balance of the 50 in the afternoon. Then he said to me hey I said R2 million what did you
10 think? Then it dawned upon me he is actually talking about R2 million. Then I said no, no that is what I thought. But I really thought it was R200 000. Then it really dawned on me it is actually R2 million. So Chair then we departed. I left from there I went straight to the casino where I spoke to a Mr Christo Van Rooyen who is in charge of surveillance there. I told him look we are busy with an operation they must make sure that those cameras are all working and we agreed everything. Chair the ...(intervenes).

CHAIRPERSON: This now the arrangement between the two of you that is yourself and Colonel Madhoe was that you were going to go to the
20 casino the following day?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So after I had arranged with Mr Van Rooyen at the casino I went home. During that week the Provincial Commissioner was away in Pretoria and I was the –

being the Deputy she had appointed me as the acting Provincial Commissioner so I was wearing two hats in the – during that week. I have to add Chair every single meeting that I had with Madhoe was done by prior arrangement with the DPP's office. They were informed except the one time when he called me down to the basement there was not time to – but I immediately informed them afterwards. But every other engagement before I would go I would inform Pelser – Captain Pelser he would inform the DPP's office they would record it accordingly and I would inform the investigating officer in the main
10 corruption docket. After I had engaged with Madhoe I would once again phone Pelser back and gave him feedback verbally on the phone and I would phone the investigating officer and tell him to diarise in his diary exactly what had happened on that day. On the day that the sting operation was set to be done that – I think that was the one and only time that I engaged him, the initiative came from me. So I phoned him in the morning I said to him look I am ready for this now, meet me in the basement. So I met him in the basement of Provincial Headquarters – Police Headquarters.

CHAIRPERSON: And you cannot at this stage remember the date or
20 you have got the date somewhere?

ADVOCATE VERUSHKA SEPTEMBER: If I could take you to paragraph 40.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Ja it is on the 8th of September Chair.

CHAIRPERSON: 8 September 2010?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: 2011 now Chair.

CHAIRPERSON: 2011 ja okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So Chair now I had to play with time because I had to get people in position and unfortunately – well why I had to get people in position we were ready to go to the casino. He then tells me all of a sudden no, no, no he does not want to go to the casino because there might be cameras. So it put – I was off guard now because now I had to change my plans very quickly. So he once again suggested the Japanese – I said – the Japanese Gardens. I
10 said hey why do we not just do it here in the basement? And he said to me are you okay with that? I said no I am okay with that. So I said to him look I am the acting Provincial Commissioner I am very busy so let me go up and just sort out the correspondence and the meeting and then I will phone you when I am ready. But the idea was for me now to get all the detectives in place.

CHAIRPERSON: Ja redeploy the people.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair. So in the building where I work if you stand across the road you can look up into the basement area. It is not closed off. So I said to him I
20 am going to reverse my car in so that would make it easier for whoever is going to observe us from the bottom to see what was happening. So I said I am going to reverse my car in and then you reverse in next to me and then we can do the business in the basement. And he agreed. I went upstairs at that stage Colonel Len Sheriff he dealt with that particular operation. I phoned him I said to him Len you guys need to

get in place we are not going to the casino any longer this is going to happen in – at Provincial Headquarters– in the basement. So they hurriedly had to change their plans. They got people into position on the fire escape, at the exit to the building and they also had people across the road to observe now how the transaction takes place and then it was roundabout 12:00 when the Sheriff phoned me and he said to me they are in place now. So I phoned Madhoe and I said to him okay I am ready to come down and meet you and I thought he – I thought he was still some distance away and he said to me no, no, no.

10 I am here already. So I thought I hope he did not see all the activity around the building but fortunately it is a very business/business area. So he did not pick up the activity of the people getting into position. So Chair just before I left the office my brother who is a private detective walked in and he said to me – I said Marius I cannot talk now. I am busy with a sting operation and he is one of these gadget guys and he said to me have you got a camera and I said no. He said do you want one. I said yes and he gave me a key holder with a camera in and there was no time to do a crash course in how the camera worked. I just said switch it on and leave it on. So I took this thing and I
20 walked obviously now with the document which I had endorsed which I put in an envelope. Got into the lift and one of the Generals was in the lift with me. One of the ladies not the PC and she was talking to me on the way down and my mind was somewhere else and we both exited on the same floor and we walked out but as I walked out I noticed my car is standing there and his car is not next to mine. So as I got into the

basement I looked to my left and his car was standing there and he was halfway out of the car. So he alighted from the vehicle and the General walked to her right and he said to me it is safe here and I knew if we were going to do it there the people across the road would not see us because I was going to touch my head as a signal for them to pounce. So I just carried on walking towards my car and I said no, no come and park your car next to mine and I had this camera on the whole time and so he reversed in next to my car and he waited for this other General to disappear from our sight. He then got out of the car, walked to the
10 boot of his car, opened the boot of his car. I opened the boot to my car. He then took out which appeared to be a brand new suitcase. So he put it in the boot of my car and because the arrangement was that he would come with boxes I still asked him and that is all recorded. I said where did you get this and he said I bought it and the way he spoke I could not. I said what. He said I bought it. He bought it. I said okay but now I am scared that they were going to try and bamboozle me. So I said to him he must open the suitcase I want to see the money because I was scared there might be bricks or something else in the suit – he had a little lock and he opened it – he
20 opened it and it was packed with notes. So I said to him okay close it, closed my boot and I took the envelope and I opened and I slid the piece of paper out like that and it is all on camera and I am actually holding the camera in his face now and I read the date and the stamp there to him and he said to me hundreds as we ...(intervenes).

CHAIRPERSON: He said?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: He said hundreds meaning 100%.

CHAIRPERSON: Ja, okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And I handed him the document. He then got into his car and I started walking towards the lift now and I was expecting – I never realised that they had placed detectives on the fire escape. I thought they were going to arrest him or block him when he emerged from the building with his car. So I ...(intervenes).

10 CHAIRPERSON: Then the indication.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I touched my head and then I thought I hope these people and I was actually slapping myself of frustration but I carried on walking and then as I am about to get in the lift I just heard this shout "wow" and then I looked to my right and the guys had jumped from the fire escape. So they took him out of the vehicle. I carried on walking.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Got into the lift, went upstairs. At that stage I had never done something like this before. I
20 was shaking a little bit. So I composed myself and I went down again. I did not go – by then they had taken him out of his vehicle and taken documents out of his vehicle.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And I called, I think it was Sheriff, and there was a beehive of activity around his vehicle and

I said to him there is the key to my car. Do all the forensics that is necessary in the car.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And I went back to my office.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I think they counted the money that evening and although the arrangement was that they would give me 1.5 million the money actually counted in the suitcase
10 was 1.3 – just under 1.4 million.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Rand in cash.

CHAIRPERSON: H'mm.

ADV VERUSCHKA SEPTEMBER: On that score can I just direct you to paragraph 40 of your affidavit which informs of the actual amount you may be referring to.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair. It was R1 372 million in cash.

ADV VERUSCHKA SEPTEMBER: And just one point for clarity. You
20 mentioned now that there was one 1.5 million that out to have been paid but your earlier evidence was two bar which you understood to be 2 million. Can you please clarify?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair as I said the day before the agreement was that they would give me 1.5 million.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: In exchange for the document.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And then when they are happy with the document that same afternoon they would pay me the balance of ...(intervenes).

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Half a million Rand. The R500 000. The problem with that scenario was once I had allowed
10 them to get away with the document.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And they did not keep their side of the bargain. They could have used that document and compromised the whole investigation. That is why I arranged that we arrest him there and then.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I could not allow him to get away with that document.

CHAIRPERSON: H'mm. Yes.

20 ADV VERUSCHKA SEPTEMBER: Thank you.

CHAIRPERSON: Of course even if he had gone away with the document and when – and he was not arrested there and then on the spot with you having taken photos with – you had a camera with you. You would have been able to show the circumstances under which you had backdated that document and his picture would have been on the

camera when he showed you the money in the basement and all of that.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair that is indeed what happened.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: My main concern was and I have dealt with a number of High Court cases.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Keep it as simple as possible to have gone to a second transaction.

10 CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I knew that there was enough evidence.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: To arrest him at that juncture. I did not want to take a chance to let him get away with that document.

CHAIRPERSON: Yes. No, no I understand, ja. I am just saying it does not look like it would have been the whole operation would have been defeated but obviously you were better off having him arrested there
20 and then?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Ja, okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I could just perhaps add here. Simultaneous to this where the ...(indistinct) is running. So listening to the intercepts afterwards and we had this done

scientifically where we plotted exactly where they were at different times. So it is clear from that that Toshan Panday and Navin Madhoe had met at the Japanese Gardens. That is where the money was transferred from Panday to Madhoe's vehicle.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Madhoe then proceeds to my office.

CHAIRPERSON: Huh-uh.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: About 10 minutes into
10 the process of going to my office and I would say about a half a kilometre to a kilometre away from my office Panday phones Madhoe and he says stop the vehicle. So Panday stops the vehicle and he says okay I have stopped he vehicle. So he says okay go and open the boot and take a cloth and wipe the suitcase. So that is obviously to wipe off his fingerprints if any were on.

CHAIRPERSON: Huh-uh.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: On the suitcase.

CHAIRPERSON: This is now on the same day?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Same day Chair. So
20 what happened Chair.

CHAIRPERSON: Oh, before he came to the building, before Madhoe?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is right Chair.
That is right.

CHAIRPERSON: So he got this call on his way to the building?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is right.

CHAIRPERSON: To meet you?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is right Chair.

CHAIRPERSON: Ja, okay and you hear this conversation subsequently?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Well subsequent when we listen to the intersects.

CHAIRPERSON: Yes, okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: He says to Madhoe stop the vehicle.

10 CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Wipe the suitcase.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: To wipe any possible fingerprints there.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Of his that could be on the vehicle.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: On the suitcase.

20 CHAIRPERSON: Okay. Thank you.

ADV VERUSCHKA SEPTEMBER: Chair if I may. Two points, my attention is being drawn to the time.

CHAIRPERSON: Yes.

ADV VERUSCHKA SEPTEMBER: Which is now 16:15.

CHAIRPERSON: H'mm. I guess that we should at least go up to half

past. Would that be fine with you?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I am fine Chair.

CHAIRPERSON: Yes. Let us go up to half past I think.

ADV VERUSCHKA SEPTEMBER: Chair if I may.

CHAIRPERSON: Yes.

ADV VERUSCHKA SEPTEMBER: The next segment of his evidence would likely take longer than 15 minutes.

CHAIRPERSON: H'mm.

ADV VERUSCHKA SEPTEMBER: But if you are happy for us to
10 proceed on that basis that is fine.

CHAIRPERSON: No, let us use the – let us the 15 minutes. We will stop whatever and then we will proceed tomorrow.

ADV VERUSCHKA SEPTEMBER: As it pleases Chair. I have also been handed a better copy of.

CHAIRPERSON: Of the second report?

ADV VERUSCHKA SEPTEMBER: Correct Chair.

CHAIRPERSON: Ja, okay. Thank you.

ADV VERUSCHKA SEPTEMBER: Which is JWB1.

CHAIRPERSON: Registrar.

20 ADV VERUSCHKA SEPTEMBER: With your leave if I may hand it up. Thank you.

CHAIRPERSON: Thank you. I just want to – oh that is much better. So I will just replace this one with the new one. Thank you. You may proceed.

ADV VERUSCHKA SEPTEMBER: Thank you. We are now block 24 of

the timelines. On the very day that Colonel Madhoe was arrested on the 8th of September 2011 a certain telephonic exchange took place.

CHAIRPERSON: I am sorry. You say September. I see that in paragraph 40 he has got 8 August 2011.

ADV VERUSCHKA SEPTEMBER: Correct Chair. That was in fact corrected through one of his supplementary affidavits.

CHAIRPERSON: Oh, okay. So it is September?

ADV VERUSCHKA SEPTEMBER: Yes Chair. It is September.

CHAIRPERSON: Okay, thank you.

10 ADV VERUSCHKA SEPTEMBER: And that was actually corrected in paragraph 5.1 of his first supplementary affidavit.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: Exhibit ZC.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: I had mentioned that on the very day that Colonel Madhoe was arrested a certain telephonic discussion took place to which you were made aware of. Can you please inform the Chair about such exchange?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair subsequent to the engagement we listened to some of the telephone conversations intercepted conversations of Panday. So obviously he had now sent Madhoe with just under R1.4 million to my office.

CHAIRPERSON: Huh-uh.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And he is now waiting for Madhoe to return with this document that is going to assist them.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And he does not come back.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So he makes a number of frantic calls. Some to the Provincial Commissioner who does not take his call and we suspect she might have been busy in Pretoria. He phones a number of senior police officers ...(intervenes).

CHAIRPERSON: It is like he is getting worried now?

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: He is getting very worried. You can hear he is frantic. He cannot – he does not know where Madhoe is.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The money or the report.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And then one particular conversation I think it was late in the evening Chair was between him and a person by the name of Deebo Mzobe.

20 CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Deebo Mzobe from my understanding is a nephew of the – or a cousin, I am not too sure, of the then State President Mr Jacob Zuma.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And there is a

conversation between Panday and Deebo where Deebo Mzobe – where Panday says that I am acting – Booysen now – I am acting like the mafia and ...(intervenes).

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But I am now standing in the way of everything – words to that effect.

ADV VERUSCHKA SEPTEMBER: If I could perhaps just take you then in line with the conversation that you now speak of to page 82 of your main affidavit.

10 CHAIRPERSON: 82?

ADV VERUSCHKA SEPTEMBER: 82.

CHAIRPERSON: It is page 82 of Exhibit?

ADV VERUSCHKA SEPTEMBER: Z.

CHAIRPERSON: ZA?

ADV VERUSCHKA SEPTEMBER: A.

CHAIRPERSON: Rather than 82 of his affidavit.

ADV VERUSCHKA SEPTEMBER: Apologies Chair.

CHAIRPERSON: Yes. His affidavit goes up to 70 something. Okay, thank you. 82.

20 ADV VERUSCHKA SEPTEMBER: Thank you.

CHAIRPERSON: But the document actually starts at 83. Is that right?

ADV VERUSCHKA SEPTEMBER: Yes. On 80.

CHAIRPERSON: Or not really, at 82 ja.

ADV VERUSCHKA SEPTEMBER: On page 82 is a transcriber's certificate which appears to be dated 8 September 2011 and it has been

transcribed by Shweta Typing and Transcription Services. Is that correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Apologies. It in fact appears to relate to ...(intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes.

ADV VERUSCHKA SEPTEMBER: The transcription of an event that took place on the 8th of September 2011.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

10 ADV VERUSCHKA SEPTEMBER: And is it correct that that is in fact the same date on which Colonel Madhoe was arrested?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is right Chair.

ADV VERUSCHKA SEPTEMBER: If I can then ask you to turn to page 83 which runs until page 86. Is this in fact the conversation that you were referring to?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is the conversation I am referring to Chair.

ADV VERUSCHKA SEPTEMBER: Okay.

CHAIRPERSON: Huh-uh.

20 ADV VERUSCHKA SEPTEMBER: Can I ask you to then identify – or rather the document talks to male one and male two – can I ask you to please identify who male one is and who male two is?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair male one in this conversation will be Toshan Panday and male two will be Deebo Mzobe.

CHAIRPERSON: Huh-uh.

ADV VERUSCHKA SEPTEMBER: In that instance I am going to ask you to read this transcript into the record, but in doing so to identify what male one says relative to what male two says.

CHAIRPERSON: Hang on one second. Are you asking him to read the whole transcript?

ADV VERUSCHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: I do not think that is really – he should read the whole transcript. He had listened to the conversation and he has read this. He should just tell us what the main features of the conversation
10 is and one can read this later.

ADV VERUSCHKA SEPTEMBER: Okay.

CHAIRPERSON: Okay. Let me ask him. You listened to the conversation. Did you not?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I did Chair.

CHAIRPERSON: And you have read this transcript, have you? This transcript have you had a chance to read it?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I did Chair.

CHAIRPERSON: Yes. What are the main features of the conversation between the two people?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair with your permission I would like to read this because this is the nub.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Of where I think my problem started.

CHAIRPERSON: Okay. Okay, alright.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: If the Chair would allow me to read it.

CHAIRPERSON: No that is fine then, okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Thank you Chair.

CHAIRPERSON: Ja, okay. Read it then. It is, is it four pages? Okay, read.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Thank you Chair. Male one - that is now Toshan Panday.

CHAIRPERSON: H'mm.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: "Howzat. Male two: (Inaudible). Male one: But can you talk? Male two: (Indistinct)."

CHAIRPERSON: Huh-uh.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: "Male one: Okay. You know I told you our pressure was denied. Male two: H'mm. Male one: The PC (?) sent a parcel with one of the boys who is a Colonel. Male two: H'mm. Male one: Of some cash. Male two: Sorry. Male one: 2 million cash. Male two: Yes? Male one: 20 Because Booyesen wanted that. Male two: Sorry. Male one: Can you talk? Male two: Yes, yes. Yes, I can hear you now. Male one: This is our situation right. Our guy went to Booyesen with the cash of 2 million cash. Male two: Yes. Male one: That is what Booyesen wanted and then Booyesen made it into a trap. Male

two: (Whistles). Male one: They arrested the guy.
Male two: Do no tell me. Male one: Honest my
brother that is why I did not answer your calls today. I
was running around to help that brother out. I got the
General in Pretoria phoning me because she went some
stats or out of crime stats or whatever ...(indistinct).
She was busy. (Indistinct) go and help the brother out,
but the bottom line is how can Booyesen do that. Male
two: How, how, how come on man how. Male one: You
10 see if you are playing ball you are playing ball. You
know what I am saying. He went against. You reckon
no. I mean I do not know what went into him. He
arranged a trap and he sorted it out and the guy he
took the bag of money. There is no doubt about the 2
million in R100 notes. Male two: How man. I do not
believe this. Male one: That is what happened. It will
be in the paper tomorrow morning. So it is a big thing.
Male two: What means that your name is not there?
Male two: My lady is not there. She is in
20 Johannesburg but this was our boy. Male two: Now I
am saying that you name is not there. Male one: No,
my name is not there. No it is not there, but obviously
they know my name is there because we arranged that
you know what I am saying. (Speaking simultaneously
the two of them). They suspect we did this but this

thing is getting out of hand with Booyesen. Booyesen thinks he is a mafia now you know. Male two: (Indistinct). Male one: I said Booyesen thinks he is a mafia now. Male two: H'mm. Male one: You know for him to behave in this manner he thinks he is above everyone else now. Maybe even need to clip him a bit. Male two: How, how, how I do not believe this man. Male one: Ja, he did that."

And I will not use the word Chair.

10 CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: It is being televised.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: "That whatever White bastard and I told my sister do not trust this White bastard but she said no send it through because he is going to play ball. He will do this. He will do that and whatever. (Speaking simultaneously the two of them) and that is what he does. He wants, he wants.

Male two: But your aunt she is not involved? Male one: No she and I are not involved. You see we used someone else to go there and sort it out. You know what I am saying. Male two: Okay. Male one: Ja, but we will meet and we will have a briefing and we will decide how we are going to take care of this guy because he is obviously going to stand in the way of

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everything. Male two: Ja. No is it fine. It is fine, but okay. No, it is fine. It is fine. Male one: (They speak over each other). I said I must get bail for this boy. I cannot tell him I said no I do not want what you are talking about because I do not know whether it is a trap or not a trap, you know. Male two: Yes. Male one: But then I phoned him back from the call box. He says no just help him whatever you can because he is a good man. You said the guy that got arrested is a
10 Colonel. He said he is a good man. Just help him wherever you can help him."

Chair I think that is perhaps the part that I would like to.

CHAIRPERSON: Important part okay.

ADV VERUSCHKA SEPTEMBER: Thank you. Just to reiterate, please identify again for the record who male one is.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Male one will be Toshan Panday and male two will be Deebo Mzobe.

ADV VERUSCHKA SEPTEMBER: Do you know what the relationship is between Toshan Panday and Mr Deebo Mzobe?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair it emerged from the investigations that the investigators were doing that Toshan Panday and Deebo Mzobe are two – are both registered partners to different close corporations.

CHAIRPERSON: So some of the close corporations which were the subject of the investigation were – or two of them – were close

corporations in which both Mr Panday and Mr Mzobe were involved.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: Reference in this discussion is made to a person who appears to be a woman.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: In your understanding who was that woman that they were referring to?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair the inescapable
10 conclusion that I come to is that they were referring to the PC.

CHAIRPERSON: The Provincial Commissioner?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Yes. Is there something you can point out in the conversation that ...(intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Oh Chair the mere fact.

CHAIRPERSON: That you say suggest that it was the ...(intervenes)?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Because I am – sorry
Chair for interrupting you.

20 CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair was indeed in Pretoria.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: With a meeting with crime stats.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And he refers to our lady being in Pretoria with the crime stats.

CHAIRPERSON: Yes, okay. Thank you.

ADV VERUSCHKA SEPTEMBER: The conversation also refers to "the guy who was arrested". Who was the guy they refer to?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That could only have been Navin Madhoe Chair.

CHAIRPERSON: H'mm.

10 ADV VERUSCHKA SEPTEMBER: And then mention was also made in the conversation on page 85 in particular and I read:

"Maybe we need to clip him a bit."

What does that mean?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair my interpretation of that is that I need to be clipped.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I do not know having been a member of the Hawks whether they want to clip my wings, but they wanted to clip me somehow.

20 CHAIRPERSON: H'mm. Which you understood to mean what? What did you understand them to be meaning when they say you needed to be clipped?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair at that juncture it could have meant anything, but subsequently it was clear to me what that clipping meant.

CHAIRPERSON: Huh-uh. So at that juncture you were not sure. Is that correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I was not sure.

CHAIRPERSON: But subsequently you attached a meaning to it?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I did Chair.

CHAIRPERSON: And what is the meaning that you attached to it subsequently?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair subsequent to that events unfolded that led to myself being targeted.

10 CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Ostracised.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Eventually arrested.

CHAIRPERSON: Yes. So you could link that to this clipping of wings that the – that was referred to in the conversation?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Definitely Chair.

CHAIRPERSON: Okay, thank you.

ADV VERUSCHKA SEPTEMBER: Were any subsequent arrests made after Colonel Madhoe was arrested?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is indeed so Chair. I think about a week or two later after further evidence had been gathered by the investigators they managed to apply for a warrant of arrest for Toshan Panday. At the time he happened to be out of the country. He was flagged at movement control and on his return from abroad, if I say abroad I think he had gone to the DRC, and on his

return at OR Tambo Airport he was arrested at the airport and brought to Durban.

CHAIRPERSON: And this was still 2011, second of half of 2011?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Okay. Thank you.

ADV VERUSCHKA SEPTEMBER: Do?

CHAIRPERSON: By the time he was arrested, that is Mr Panday Colonel Madhoe was out on bail or not yet or you cannot remember?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I cannot
10 remember. I suspect he was still in custody.

CHAIRPERSON: Okay. Thank you.

ADV VERUSCHKA SEPTEMBER: Do you recall the charge against Mr Toshan Panday for which he was arrested?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I think it was for corruption Chair.

CHAIRPERSON: H'mm.

ADV VERUSCHKA SEPTEMBER: Okay.

CHAIRPERSON: Okay. Okay. We are – we have just gone past 16:30. I think we may – we can – we should adjourn now and then tomorrow
20 Mr Pretorius shall we start at 10:00 tomorrow as well?

ADV PAUL JOSEPH PRETORIUS: Chair we did discuss it during the adjournment.

CHAIRPERSON: Yes and we talked about 09:30.

ADV PAUL JOSEPH PRETORIUS: The choices are 09:30 for two hours.

CHAIRPERSON: Yes.

ADV PAUL JOSEPH PRETORIUS: Or 10:00 for two hours.

CHAIRPERSON: Yes. I think maybe let us start at 10:00.

ADV PAUL JOSEPH PRETORIUS: As you please Chair.

CHAIRPERSON: Ja. Okay. We will adjourn at this stage then and we will start at 10:00 tomorrow morning. We adjourn.

ADV VERUSCHKA SEPTEMBER: As it pleases.

REGISTRAR: All rise.

INQUIRY ADJOURNS TO 18 APRIL 2019

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HELD AT
PARKTOWN, JOHANNESBURG

DATE HELD : 2019-04-17

DAY: : 85

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