

**COMMISSION OF INQUIRY INTO STATE CAPTURE**

**HELD AT**

**PARKTOWN, JOHANNESBURG**

10

**14 MARCH 2019**

**DAY 66**

**FINAL**

20

**PROCEEDINGS HELD ON 14 MARCH 2019**

**CHAIRPERSON:** Good morning Mr Maleka, good morning everybody.

**ADV MALEKA SC:** Good morning Chair. Good morning.

**CHAIRPERSON:** Thank you. Chair today we going to briefly present the evidence of DR RAMONTJA. Fortunately we are not going to work with huge bundles of documentation.

**CHAIRPERSON:** Yes.

**ADV MALEKA SC:** He has submitted a statement which is Exhibit U3. Chair you will find it in File 2 which was part and parcel of the bundles that were presented when Mr  
10 Mabuza started his evidence.

**CHAIRPERSON:** Oh ja.

**ADV MALEKA SC:** I have been assured by your Registrar that it has been marked at the back with the name of DR RAMONTJA.

**CHAIRPERSON:** Well it is marked but it is marked on the spine.

**ADV MALEKA SC:** Yes and the last statement.

**CHAIRPERSON:** And it has got his name.

**ADV MALEKA SC:** The last statement in the doc – in that file.

**CHAIRPERSON:** But when you look for the statement itself and you look at the index you look for affidavit by Doctor Ramontje in re you see at the top something that says  
20 affidavit of Snehal Nagar.

**ADV MALEKA SC:** And the next one.

**CHAIRPERSON:** And then a lot of annexures that are marked but nothing tells you there one of those is a statement by Doctor Ramontje so I had to look and look and look and then ultimately I stumbled upon it.

**ADV MALEKA SC:** I am sorry. But Chair you remember when we explained to you

right from the beginning that U2 has separate statements.

**CHAIRPERSON:** Yes.

**ADV MALEKA SC:** Beginning with the statement of Mr Mabuza.

**CHAIRPERSON:** Yes.

**ADV MALEKA SC:** And thereafter you would go to the statement of Mr Nagar and the third one which is U3 it is the statement of Thibedi Ramontja.

**CHAIRPERSON:** Yes but I think what should happen is the index should indicate the names of statements for example just like all affidavits just like Mr Nagar's one because if all I am looking at is this file, this lever arch file so I see in the spine there is the name

10 of Snehal Nagar and Ramontja so it means their statements are in here.

**ADV MALEKA SC:** Yes.

**CHAIRPERSON:** So then I page through and then I see there is an index.

**ADV MALEKA SC:** Yes.

**CHAIRPERSON:** Then I want to see on page I will find DR RAMONTJA's affidavit.

**ADV MALEKA SC:** Yes.

**CHAIRPERSON:** Or statement.

**ADV MALEKA SC:** Yes.

**CHAIRPERSON:** I look at the index I see there is the index tells me about Mr Nagar's affidavit and it tells me where to find it and then for the rest it says it is annexures.

20 **ADV MALEKA SC:** Yes.

**CHAIRPERSON:** So I do not get to know that one of the annexures is DR RAMONTJA's one. I think the index is the one that needs to be amended or corrected.

**ADV MALEKA SC:** Yes.

**CHAIRPERSON:** Or unless or otherwise on the spine something must say annexure so and so.

**ADV MALEKA SC:** Yes.

**CHAIRPERSON:** Then I will know and look for that annexure and then find the statement.

**ADV MALEKA SC:** Yes.

**CHAIRPERSON:** But I did find it. It did not take too long.

**ADV MALEKA SC:** Yes

**CHAIRPERSON:** But I hoped I did not have to spend a few minutes looking for [indistinct].

**ADV MALEKA SC:** Well it seems as if the public lecture has failed there is a need for a  
10 private lecture.

**CHAIRPERSON:** Ja maybe.

**ADV MALEKA SC:** For the.

**CHAIRPERSON:** Ja.

**ADV MALEKA SC:** Administration responsible for ...

**CHAIRPERSON:** Ja.

**ADV MALEKA SC:** Arranging the documentation. We have tried.

**CHAIRPERSON:** Yes.

**ADV MALEKA SC:** Regretfully we have failed.

**CHAIRPERSON:** Ja I think what – what may have to happen is either maybe apart  
20 from the member from the legal team maybe the people or the leader of the people who  
do this part of the job needs to be present when maybe I explain exactly how I would  
like things to happen. But I would have thought that it should be easy but it does not  
prove to be easy.

**ADV MALEKA SC:** Yes.

**CHAIRPERSON:** Ja okay alright.

**ADV MALEKA SC:** We suggest that a private discussion would help Chair.

**CHAIRPERSON:** Yes, ja.

**ADV MALEKA SC:** Because we tried the best we can publicly to convey.

**CHAIRPERSON:** Yes.

**ADV MALEKA SC:** Those concerns and messages and...

**CHAIRPERSON:** They do not seem to ...

**ADV MALEKA SC:** And we failed maybe it is because we are not the holders of the  
purse.

10 **CHAIRPERSON:** Yes. No, no that is fine. So maybe arrangements will have to be  
made for that.

**ADV MALEKA SC:** Yes.

**CHAIRPERSON:** Okay thank you. I had indicated that I would deal with Mr Van  
Rooyen's application for leave to cross-examine.

**ADV MALEKA SC:** Yes.

**CHAIRPERSON:** And I think I must dispose of that quickly.

**ADV MALEKA SC:** Yes. I believe that the legal representative of

**CHAIRPERSON:** Mr Van Rooyen.

**ADV MALEKA SC:** Mr Van Rooyen is present.

**CHAIRPERSON:** Ja okay. No that is fine.

20 **ADV MALEKA SC:** And also for Mr Fuzile.

**CHAIRPERSON:** Oh they are all present?

**ADV MALEKA SC:** Yes.

**CHAIRPERSON:** Okay no that is fine. Let me quickly – Mr Van Rooyen brought an  
application for leave to cross-examine Mr Fuzile. I suggested to all parties that it might  
be a good idea if I deal with the matter in chambers and therefore without oral

argument and everybody agreed to the suggestion I have considered the application and have reached my conclusion. The conclusion is that I do grant Mr Van Rooyen leave to cross-examine Mr Fuzile and I will indicate at the commencement of the cross-examination the amount of time that I will allow for that cross-examination. And I do also grant leave so far as it may be necessary for Mr Van Rooyen to give evidence himself as well. And in due course arrangements will be made to fix the date for both the cross-examination of Mr Fuzile by Mr Van Rooyen's counsel as well as for Mr Van Rooyen to give evidence. That is how I dispose of that matter. We may now proceed with today's matter.

10 **ADV MALEKA SC**: Thank you Chair.

**CHAIRPERSON**: Thank you.

**ADV MALEKA SC**: Chair can I suggest before the oath is administered to DR RAMONTJA that you also have at hand and ready the letter which we canvassed with Mr Marsden yesterday from Mr Koko to DR RAMONTJA. It is ES1502 Annexure MMK20.

**CHAIRPERSON**: In which file?

**ADV MALEKA SC**: It is part and parcel of the documents which were presented when Mr Marsden testified.

**CHAIRPERSON**: Oh okay.

20 **ADV MALEKA SC**: We have brought an extra copy in case you would need one.

**CHAIRPERSON**: Ja no I have got the two letters as well as the transcript which I do not think you will need today.

**ADV MALEKA SC**: We do not need that.

**CHAIRPERSON**: You just need this – just the two letters?

**ADV MALEKA SC**: Yes. One only. The one which is marked MMK20.

**CHAIRPERSON:** Okay. Yes.

**ADV MALEKA SC:** I believe that Mr – DR RAMONTJA is ready for taking the oath.

**CHAIRPERSON:** The oath?

**ADV MALEKA SC:** Yes.

**CHAIRPERSON:** Okay. Please do the necessary.

**REGISTRAR:** Please place your full names on record?

**DR RAMONTJA:** Thibedi Ramontja.

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

**DR RAMONTJA:** No.

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

**DR RAMONTJA:** Yes.

**REGISTRAR:** Do you swear that the evidence you 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.

**DR RAMONTJA:** So help me God.

**REGISTRAR:** Thank you.

**ADV MALEKA SC:** DR RAMONTJA good morning and welcome and let me start by apologising for delaying your evidence. We had no control over those processes. DR RAMONTJA before you there will be two sets of documents. The first is the statement  
20 which you made at the request of the legal team of the Commission. Do you have it before you?

**DR RAMONTJA:** Yes.

**ADV MALEKA SC:** It has been placed before the Chairperson as Exhibit U3. I take it that you have had on occasion to look at that statement? Read it again. Do you confirm that that is your statement?

**DR RAMONTJA**: Yes it is my statement.

**ADV MALEKA SC**: Can I establish whether or not you stand by the contents of that statement?

**DR RAMONTJA**: Certainly so I stand by the contents of the statement except on paragraph 15 where it says “Eskom’s letter of 6 November” it should be Eskom’s letter of 6 December.

**ADV MALEKA SC**: So it is fairly clear for anyone who read the statement that you intended to refer to December and not November?

**DR RAMONTJA**: Yes because in other paragraphs I have referred to December.

10 **ADV MALEKA SC**: Yes especially paragraph 23 on page 5.

**DR RAMONTJA**: Yes.

**ADV MALEKA SC**: Yes. So subject to that amendment and Chair can I suggest that paragraph 15 we strike out November and replace it with December.

**CHAIRPERSON**: Yes. Thank you.

**ADV MALEKA SC**: Because it is quite clear from the reading of the statement in total that he intended to refer to 6 December.

**CHAIRPERSON**: Ja.

**ADV MALEKA SC**: Sadly we have not come across any letter of 6 November. What we have come across is the letter of 6 December.

20 **CHAIRPERSON**: Ja.

**ADV MALEKA SC**: Subject to that qualification do you confirm that the contents of that statement are true to the best of your knowledge and belief?

**DR RAMONTJA**: Certainly so.

**ADV MALEKA SC**: The next set of document is that letter of 6 December that you presage in the paragraph that we have just corrected. It is a statement which had not

been included in the bundle of documents made available to us, correct?

**DR RAMONTJA:** Yes.

**ADV MALEKA SC:** We have placed it before you.

**DR RAMONTJA:** Okay.

**ADV MALEKA SC:** Can I establish why you did not include this statement of 6 December in the bundle that you made available to us?

**DR RAMONTJA:** No I just thought you have the letter because the investigators just said I must respond to the letter.

**ADV MALEKA SC:** Oh I see.

10 **DR RAMONTJA:** Okay.

**ADV MALEKA SC:** DR RAMONTJA can I establish fairly quickly your background? Let me start with your qualifications that you are willing to disclose to us publicly.

**DR RAMONTJA:** Okay. I have a certificate in geology. I have a BSC Honours in geology. I have a MSC in engineering. I have PHD in mineral economics.

**ADV MALEKA SC:** And when did you obtain the doctoral degree?

**DR RAMONTJA:** During my time at the Department – during my time when I was working at the Council for Geoscience.

**ADV MALEKA SC:** And when was it more in less in terms of dates?

**DR RAMONTJA:** It was – it was around 2008 around there.

20 **ADV MALEKA SC:** 2008?

**DR RAMONTJA:** Yes.

**ADV MALEKA SC:** Yes. You seem to be a man of excellent qualifications.

**DR RAMONTJA:** No not necessary Chairperson I am a person who likes academic environment so I continuously read in fact not to distract you I had even registered for an MSC at the University of Free State this year but because of this I cancelled.

**CHAIRPERSON:** Because of the Commission?

**DR RAMONTJA:** Yes I cancelled it. I had registered the last week they said was 13 – this week you must attend I said look I am pulling out.

**CHAIRPERSON:** Oh oh. DR RAMONTJA.

**ADV MALEKA SC:** That is an extraordinary commitment to the work of the Commission which of course we welcome even at the loss of the University of Free State. But beyond your academic qualifications can I establish your work experience?

**DR RAMONTJA:** I started at the bottom of you know the career in mining. I started as a technician working for a company called Southern Sphere Mining and Development.

10 **ADV MALEKA SC:** Can you speak closer to the mic.

**DR RAMONTJA:** Working for a company called Southern Sphere Mining and Development then I went to the University of the North to go and further my studies.

**ADV MALEKA SC:** When did you start working for that company?

**DR RAMONTJA:** It was in 1980 around there.

**ADV MALEKA SC:** 1980.

**DR RAMONTJA:** Ja.

**ADV MALEKA SC:** Okay.

20 **DR RAMONTJA:** And then in 1981 I went to the University of the North. I studied BSC and after my BSC I then did my Honours in Geology. After that I then went and worked in private sector and in private sector I went – I worked as an exploration geologist. I also worked as a mining geologist going underground all those mines in Carltonville I worked on them I know all of them. I then worked as a research geologist for a company called Goldfields it is still operating. And then after some time I joined a friend of mine we worked as consultants in the geohydrology environment that is ground water looking for water for rural development. And I then joined government. That was

the time when the government was actively recruiting black professionals.

**ADV MALEKA SC:** When was it?

**DR RAMONTJA:** That was in 1997.

**ADV MALEKA SC:** 1997?

**DR RAMONTJA:** Yes.

**ADV MALEKA SC:** So it was post-independence.

**DR RAMONTJA:** Certainly so we were amongst the first black professional to join government and I worked there as a Director of Mineral Economics because mineral economics was my area when I was working on my PHD. And then I in and around  
10 2002 I was then – no in around 2000 I was promoted to Chief Director Mineral promotion within the Department of Mineral and Energy. Okay and that was one of my you know exciting times because I was even awarded a prize for being the best senior manager in the Department of Mineral and Energy by the then Minister Mlambo Ngcuka

**ADV MALEKA SC:** Yes.

**DR RAMONTJA:** And then in 2002 I was appointed the Deputy CEO Chief Executive Officer of the Council for Geoscience. The Council for Geoscience is a national research institution which does research in geology across the whole country. And then in 2003 that is a year after that I was then appointed the Chief Executive Officer of the Council for Geoscience. I served there for 8 years until 2011 when I was appointed the  
20 Director General of the Department of Mineral Resources. I did my service there.

**ADV MALEKA SC:** Who was the Minister at the time?

**DR RAMONTJA:** That is Minister Susan Shabangu.

**ADV MALEKA SC:** Yes.

**DR RAMONTJA:** And I worked under Minister Susan Shabangu I then worked under Minister Ramatlhodi and then in 2016, January 2016 I left the service of the

department. The then Minister was Minister Zwane. I really you know enjoyed my environment in public service it was one of my greatest times there and it was close to – I spent plus minus 19 years working for the public service and I worked under seven ministers all in all within the you know family the mining industry. And then I when the time came to leave I realised that I have to leave. It was sad for me but I had to leave.

**ADV MALEKA SC:** You indicate in your statement that you took a decision and communicated it to leave as the Director General of Mineral Resources sometime in October 2015.

**DR RAMONTJA:** Yes.

10 **ADV MALEKA SC:** And at that time the relevant executive authority was Minister Zwane?

**DR RAMONTJA:** Yes.

**ADV MALEKA SC:** When did he leave pursuant to that decision?

**DR RAMONTJA:** Well you know when Minister Zwane arrived that was after about five weeks or so plus minus around there I remember we were flying I cannot recall the exact time but we were flying together to Cape Town. I was next to him and – on the plane. I then said to Minister Zwane, Minister Zwane I want to step down for health reasons. Okay and we never concluded our discussion. The discussions were concluded on the 10 December. To me it was one of my saddest days in my life. I  
20 have worked in private sector. I have worked in the public service. I have worked under many, many, many bosses if I may use that word Chairperson but that day it was one of my saddest day. It teared me, I broke down. But I know that what happened that day it was not caused by the government of South Africa, it was not. It was not. I knew that I knew. I knew government. I knew the Department of Mineral Resources. I know government, I know everything. You know I know it was just some people.

**ADV MALEKA SC:** It seems to be a painful moment that you were going through at that point in time.

**DR RAMONTJA:** Yes.

**ADV MALEKA SC:** I wonder whether you find it in your heart to take us into your confidence and share with us what was the painful moment that led to your decision to leave the Department of Mineral Resources.

**DR RAMONTJA:** Well when Ministers change you know it is always not a very comfortable environment. I will be lying you know. You have got to adjust to the environment, adjust to how a minister does things okay. And some time when the  
10 situation is very difficult even your health gets affected and I just realised look I have run the race let me just step down and move on with my life and do other things Okay. But the 10 December – let me explain it. I have already explained this to the investigators Chairperson.

**CHAIRPERSON:** Yes no let me encourage you to explain the circumstances surrounding your stepping down.

**DR RAMONTJA:** Okay.

**CHAIRPERSON:** Because to the extent that they may be relevant to what the Commission is investigating it is very important that we get told what happened and because we must know as much as possible. We must know the truth and we must  
20 know all that information because we may have to or we have to at some stage confront the question why did those things happen. And why did they happen at the time that they did happen? We have to confront the questions of what is it that we could have done differently? What is it that somebody else could have done? Are there circumstances that put pressure on people not to do things the way they would have like to be done and if want those things not to happen again and not happen to

anybody and not to happen in our own country, not to happen in government departments what must be done and the Commission must look at that so that if at all possible pain that may have been suffered by certain people, certain individuals, certain people who may have been committed to the right things to doing the right thing should not happen again or should not happen to others in the future. So I just want to encourage you that if it is something that is relevant to what the Commission is looking at please talk freely and inform me as much as possible of what may have happened.

**DR RAMONTJA**: Okay.

**CHAIRPERSON**: Thank you.

10 **DR RAMONTJA**: Thank you Chairperson. I think from day 1 I could see that you know we - the rapport between myself and Minister Zwane it was not as I expected. And there were advisors who came in. These advisors basically they were running the show.

**ADV MALEKA SC**: Can I interrupt you? I am sorry to do this to you but can you give us the details of the advisors?

**DR RAMONTJA**: Okay one was Kuben, Mr Kuben Moodley.

**CHAIRPERSON**: How do you spell Kuben?

**DR RAMONTJA**: K-u-b-e-n.

20 **ADV MALEKA SC**: Chair you have across this name during the course of Mr Sinton's evidence.

**CHAIRPERSON**: Okay.

**ADV MALEKA SC**: And you remember the context in which you came across this name?

**CHAIRPERSON**: No I do not remember at all.

**ADV MALEKA SC**: It is a person who Mr Sinton said that he introduced Regiments to

McKinsey.

**CHAIRPERSON**: Oh okay.

**ADV MALEKA SC**: And he was paid a fee of 5%.

**CHAIRPERSON**: Oh I remember Moodley I did not remember the name, I remember the surname.

**ADV MALEKA SC**: Yes.

**CHAIRPERSON**: Ja. Okay, yes, thank you.

**ADV MALEKA SC**: Who else?

**DR RAMONTJA**: Mr Malcolm Mabaso.

10 **ADV MALEKA SC**: And again you have come across this name when Mr Fuzile testified.

**CHAIRPERSON**: Yes I remember Mr Mabaso yes.

**ADV MALEKA SC**: Yes.

**DR RAMONTJA**: And then later on there was a third advisor Ms Zarina Kellerman.

**CHAIRPERSON**: Did you say Miss?

**DR RAMONTJA**: Miss yes. Zarina – Z-a-r-i-n-a Kellerman.

**CHAIRPERSON**: How do you spell the surname?

**DR RAMONTJA**: K-e-l-l-e-r-m-a-n-n I can just double check it later and give it to you.

**CHAIRPERSON**: Thank you.

20 **ADV MALEKA SC**: And again I am sorry to interrupt you. When did you for the first time know that these individuals were advisors to Minister Zwane?

**DR RAMONTJA**: Well on the first day at the swearing in at the Union Building I went there to receive the Minister and you know – that is what we do. We go there and the Minister is sworn in and they were already there at the Union Building.

**ADV MALEKA SC**: Yes.

**CHAIRPERSON:** Did you know them before – were they people that you knew of or that you had met before?

**DR RAMONTJA:** Not – I have never interacted...

**CHAIRPERSON:** You have never met them before.

**DR RAMONTJA:** It was the first time I saw them.

**CHAIRPERSON:** Yes.

**DR RAMONTJA:** Yes.

**CHAIRPERSON:** Okay, okay. Yes you may continue.

**DR RAMONTJA:** And Chairperson as I say you just see it if – you know Minister and  
10 the DG they have got to really be close. They have got to work very closely. But during  
that time I want to be honest I had to work through advisors. Can you see? I had to  
work – got messages from advisors. And I just felt marginalised in the way. There are  
many things whereby advisors were talking to my staff okay or the staff in the  
department and you do not know what is happening. You are basically lost. You  
operating in the misty environment and every time you try to connect the dots you know  
that is what you are doing it is one of the most frustrating environment because  
advisors are not supposed to run departments. Advisors are not supposed to get in  
there and call officials of the department. If they had an issue they should go the DG  
and say DG Minister want this and this and this okay. Then I interact with the minister  
20 that is how it is supposed to be. I do not report to the advisors as a DG. I report to the  
minister and also politically to the Deputy Minister okay. Advisors are there to advise  
the Minister that is all, okay. Getting into the department issues, admin what is  
happening, no. It is not supposed to be that way Chairperson. I have been in the  
department which is responsible for mining for 19 years. I have worked under seven  
Ministers. I know how things are done. I worked under Minister Ramatlhodi. He had

an advisor, Mr Morphie. I know how they interacted. Mr Morphie would not go and just interact and not with my staff. He did not come to me and say you know DG, how do you see this and this and this. Then he goes to the Minister and we used to talk, Minister Ramatlhodi to say you see DG that advisor you are not reporting to that advisor. You report to me. He used to tell me that and that is how it should be.

**CHAIRPERSON:** And that was reassuring?

**DR RAMONTJA:** Yes.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** It was reassuring.

10 **CHAIRPERSON:** Hm. Yes. Yes, continue.

**DR RAMONTJA:** *Ja*.

**CHAIRPERSON:** In terms of telling us the circumstances around your stepping down.

**DR RAMONTJA:** So.

**CHAIRPERSON:** If there is still more to tell.

**DR RAMONTJA:** *Ja*, so that whole environment Chairperson I just realised that look, this is the end. My health will be compromised and let me just leave the environment as it is. There will be other things which I can do in my life and then on 10 December I was called to the office of the Minister and.

**CHAIRPERSON:** Was that December 20?

20 **DR RAMONTJA:** 2015.

**CHAIRPERSON:** 2015, *ja*.

**DR RAMONTJA:** Yes.

**CHAIRPERSON:** Okay.

**DR RAMONTJA:** I was called to the office of the Minister. When I arrived there I was led into the office of Mr Mabaso, the advisor, okay and he said.

**CHAIRPERSON:** When you were called the impression or your understanding was that you were being called by the Minister?

**DR RAMONTJA:** By the Minister.

**CHAIRPERSON:** Okay.

**DR RAMONTJA:** Yes.

**CHAIRPERSON:** Yes.

**DR RAMONTJA:** Okay. So when I arrived I was led into the office of Mr Mabaso and I sat there with him. We chatted, we always chatted with him now and again. Then he said to me the Minister says you must resign. I said what. He said you must resign.

10 He wants his resignation within 20 minutes, okay.

**CHAIRPERSON:** This is the 10<sup>th</sup>?

**DR RAMONTJA:** The 10<sup>th</sup>.

**CHAIRPERSON:** Of December 2015?

**DR RAMONTJA:** Yes.

**CHAIRPERSON:** And he had been sworn in when? He had been back for some time.

**DR RAMONTJA:** 23 September.

**CHAIRPERSON:** Oh, of 2015?

**DR RAMONTJA:** 2015, yes.

**CHAIRPERSON:** Okay.

20 **DR RAMONTJA:** Then I said what is this. Where is the news that the Minister.

**CHAIRPERSON:** It was a shock to you?

**DR RAMONTJA:** Yes.

**CHAIRPERSON:** *Ja.*

**DR RAMONTJA:** Okay. Where is the Minister? The Minister was in his office. About five metres, plus/minus five metres from the office of Mr Mabaso.

**CHAIRPERSON:** Yes.

**DR RAMONTJA:** You see the office of the Minister is a big office with sub offices.

**CHAIRPERSON:** Yes.

**DR RAMONTJA:** So the Minister would have his own there. A secretary there.

**CHAIRPERSON:** Yes.

**DR RAMONTJA:** A PA and then the advisors there.

**CHAIRPERSON:** Yes.

**DR RAMONTJA:** So the Minister was in his office.

**CHAIRPERSON:** Yes.

10 **DR RAMONTJA:** Maybe five metres.

**CHAIRPERSON:** *Ja.*

**DR RAMONTJA:** From where I was.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** So here am I and getting fired just like that. Then I said to Mr Mabaso, Mr Mabaso I want to leave then. I will leave now immediately. You said you want a resignation, the Minister wants a resignation within 20 minutes. I will give it, but I am taking my things. I am going home today, okay and he said no, no DG. Can you not just wait and so things will fall apart, you know. Let us make sure that things are smooth when you leave. I then looked at it. I thought about it. Once more I said  
20 let me do it for my country. Let me stay. It is not about some people. It is about my country. It is the department I have worked for, for 19 years and I said okay. I will go and sign that letter. I went to my office there and put it together. I have one of my colleagues in my office helped me type it together, put it together. Then we finalised it. I signed the letter. Then I went there. Within that 20 minutes I made sure that I do it within 20 minutes and Chairperson I knew my rights. I would have said no. I would

have gone to CCMA after going to the, I would have taken legal advice, but I just said you know what this is good riddance for me. Let me do it in that 20 minutes of theirs. Then from there I said okay I will service notice until 31 January 2016 and I will see what I can do, assist them and I did it. Even after I had left, okay. Some of the staff members would call me and say Dr Ramontja can you assist us with this and this. I would drive to Pretoria with my own petrol, never ask any cent. I did it, because I was doing this thing for the country and I just made peace with the situation and say one day, one day things will be fine, okay and I used to go there. Remember I think in some speeches, they saved some speech I could look at it, work on it. After I had left and  
10 therefore I sent it back to them. I said look it is fine, but then I was never bitter. Even today I am not.

**CHAIRPERSON:** And those would have been speeches for the Minister or what?

**DR RAMONTJA:** *Ja*, I think, I cannot recall properly.

**CHAIRPERSON:** Yes.

**DR RAMONTJA:** I have got some emails.

**CHAIRPERSON:** Yes.

**DR RAMONTJA:** If you want some of the things I looked at they sent to me.

**CHAIRPERSON:** *Ja*.

**DR RAMONTJA:** The acting.

20 **CHAIRPERSON:** DG.

**DR RAMONTJA:** DG.

**CHAIRPERSON:** *Ja*.

**DR RAMONTJA:** He used to communicate with me.

**CHAIRPERSON:** Yes.

**DR RAMONTJA:** Yes.

**CHAIRPERSON:** Did you ever speak to Minister Zwane on that day when his advisor told you that he wanted your resignation letter within 20 minutes?

**DR RAMONTJA:** Not at all. After he was given my letter and I was going out. As I said it is just in his office. He was walking. I saw him there. He had a phone something like that, if I can recall. I think he just said DG, DG and that is it.

**CHAIRPERSON:** *Ja.*

**DR RAMONTJA:** That is it. Not even saying to me DG I want us to part ways.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** That is it.

10 **CHAIRPERSON:** And prior to this day when his advisor said the Minister wanted your resignation letter had there been any discussion between the two of you at all about a possibility of you stepping down?

**DR RAMONTJA:** Yes. As I said I was, we were flying to Cape Town and I was seated next to him.

**CHAIRPERSON:** Yes.

**DR RAMONTJA:** I told him that I want to step down.

**CHAIRPERSON:** Yes.

**DR RAMONTJA:** *Ja.*

**CHAIRPERSON:** Yes, but do you recall about when that flight was in relation to?

20 **DR RAMONTJA:** I.

**CHAIRPERSON:** The date when you were asked to put in a resignation letter? Is it a month or a week's time?

**DR RAMONTJA:** No, it is about a month. I think it was around October.

**ADV MALEKA SC:** In your statement you said October.

**DR RAMONTJA:** Yes. I said in around October there.

**CHAIRPERSON:** Oh, okay.

**ADV MALEKA SC:** I cannot exactly recall the date. Maybe, *ja* I cannot recall.

**CHAIRPERSON:** *Ja*, but what was his reaction to your statement in the flight when you said you think you should step down? What was his reaction to that?

**DR RAMONTJA:** He; we never concluded. He said when. I said look we can talk about it. We can talk about it *ja*, but we never concluded. We just left it as it is.

**CHAIRPERSON:** Okay.

**DR RAMONTJA:** Yes.

**CHAIRPERSON:** And then the next thing was this particular day when Mr Mabaso said  
10 the Minister.

**DR RAMONTJA:** *Ja*.

**CHAIRPERSON:** Wanted your resignation letter?

**DR RAMONTJA:** *Ja*.

**CHAIRPERSON:** Okay, alright.

**DR RAMONTJA:** And.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** To conclude that part of.

**CHAIRPERSON:** Yes.

**DR RAMONTJA:** Mine at the department.

20 **CHAIRPERSON:** Yes.

**DR RAMONTJA:** And then sometime in January he said to me DG I am offering you a job as a CEO of one of the entities, South African Diamond and Precious Metal Regulator. So I declined the offer.

**CHAIRPERSON:** Yes.

**DR RAMONTJA:** I declined the offer. I said thank you so much Minister.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** But I am fine.

**CHAIRPERSON:** Ja.

**DR RAMONTJA:** I am fine.

**CHAIRPERSON:** Ja. If I could ask was your decision to decline it connected in anyway with the fact that you may have thought that the two of you did not have, had not been able to achieve a good rapport with each other? You said earlier on that you.

**DR RAMONTJA:** Ja.

**CHAIRPERSON:** Could tell that there was no good rapport between the two of you.

10 **DR RAMONTJA:** Ja.

**CHAIRPERSON:** Was it connected with that or it was simply because you had other arrangements/

**DR RAMONTJA:** No, I did not have other arrangements.

**CHAIRPERSON:** Yes.

**DR RAMONTJA:** Nothing.

**CHAIRPERSON:** Yes.

**DR THIBEDI RAMONTA:** I did not have any plans.

**CHAIRPERSON:** Yes.

**DR RAMONTJA:** I just reflected over it during the holidays.

20 **CHAIRPERSON:** Yes.

**DR RAMONTJA:** I reflected it. I remember in my, if I can recall my family went on holiday. I did not go holiday.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** I just stayed alone.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** During the holidays.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** I reflected on it and then I said let me start a new life.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** It will be there.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** And I am glad that I started a new life.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** I am working as a consultant.

10 **CHAIRPERSON:** Hm.

**DR RAMONTJA:** In South Africa and outside South Africa and also.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** I am an Honorary Adjunct Professor.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** At the University of Witwatersrand.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** I sit on the Advisory Committee.

**CHAIRPERSON:** Hm.

20 **DR RAMONTJA:** Of the School of Mining and Engineering to advise them. So there  
are many things which.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** Are happening with my life.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** It took time, but you can see that things are happening.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** There will always be possibilities if you work hard in life.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** Yes.

**CHAIRPERSON:** No, thank you Dr Ramontja for that, but there is just one part which I would like you to expand on if you are able to. You did say that the role that Minister Zwane's advisors were playing in the department was not the role that they should be playing.

**DR RAMONTJA:** Yes.

**CHAIRPERSON:** So I would like you to expand on that and tell me more in terms of  
10 what it is that they were doing at a factual level which really should not have been done by advisors should have been left to you or other officials and so on. I would like you to.

**DR RAMONTJA:** Hm.

**CHAIRPERSON:** Expand on that if you are able to.

**DR RAMONTJA:** Yes. I think Chairperson the heart of everything is you cannot work via advisors as a DG, you know. You have to directly talk to the Minister. You have to directly talk to the Deputy Minister. You cannot work through advisors. It just becomes impossible. It does not work and that is the gist of everything which I experienced, you know and maybe that is how he wanted things to be done and maybe it is how he  
20 wanted that is fine, but it is difficult for me. It was difficult then for me to accept that. Then I said look I cannot, but there are other things which I heard after, you know. At some point I was told that the advisors would tell the Chief Inspector of Mines, okay to go and inspect mines, you know and maybe the Chief Inspector can explain that, you know because I was marginalised. Nobody came to me and tell, but he told me that look I was supposed to, I have been asked to go and inspect mines. I said what, what

is this. In fact when you look at those things they are not supposed to be done that way. I cannot even tell the Chief Inspector of Mines go and inspect this mine. It is not right, okay. The Chief Inspect of Mines has got powers in terms of the Mine Health and Safety Act. He is the one who must decide and they have got their own program and once you start to say go to this mine, go to this one. It is not the work of the Minister. It is not the work of the DG. It is the work of the Chief Inspector of Mines which rules at the DDG level. So when he told me this I said hey, what can I do. It was a very, very, you know it is one of those things and there was this project maybe we will cover, the Optimum Project okay. The Optimum Project Chairperson during Mr Ramathodi's time  
10 okay it was run by officials. The DDG responsible for it Mr Joel Raphela was the one who come to me and tell me what is happening DG and you know we understood what was happening okay, but then when Mr Zwane came on board they centralised that project inside the office of the Minister. There is.

**CHAIRPERSON:** Oh.

**DR RAMONTJA:** Yes.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** Yes. It was centralised. I was not aware what was now happening.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** Yes. That was how it was.

20 **CHAIRPERSON:** And when you say it was centralised in Minister Zwane's office what do you mean? Is that where certain decisions were being taken or what exactly do you mean?

**DR RAMONTJA:** I was in the dark. I was.

**CHAIRPERSON:** As DG?

**DR RAMONTJA:** As DG.

**CHAIRPERSON:** Huh-uh.

**DR RAMONTJA:** I was totally in the dark about what is happening.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** Totally, totally and the DDG would come to me and almost whispering to me, you know we were there you know and I said what is happening, you know. We were there. There is this thing. I think we even went to Zurich.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** And you know there was, you know the environment was just.

**CHAIRPERSON:** Yes.

10 **DR RAMONTJA:** For me I think the style was not the way I expected.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** And I cannot force a Minister to operate in a particular way.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** It is up to the Minister to decide how he or she wants to run.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** Her or his office.

**CHAIRPERSON:** You said you referred to when they went, even when they went to Zurich.

**ADV MALEKA SC:** Chair I would like to explore that topic in detail.

20 **CHAIRPERSON:** Okay, explore it.

**ADV MALEKA SC:** So if I can get to it in time.

**CHAIRPERSON:** *Ja.*

**ADV MALEKA SC:** Get to it in time.

**CHAIRPERSON:** *Ja.*

**ADV MALEKA SC:** If you do not mind.

**CHAIRPERSON:** Okay, alright explore it.

**ADV MALEKA SC:** Yes. Well.

**CHAIRPERSON:** Or you want to lay a foundation first?

**ADV MALEKA SC:** Yes, I want to discuss other background issues.

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

**ADV MALEKA SC:** If you do not mind I will get to it.

**CHAIRPERSON:** That is fine.

**ADV MALEKA SC:** Yes.

**CHAIRPERSON:** Okay.

10 **ADV MALEKA SC:** Yes.

**CHAIRPERSON:** Okay.

**ADV MALEKA SC:** Yes.

**CHAIRPERSON:** But let us do this, so you have finished the circumstances surrounding your stepping down as far as you are concerned in terms of giving us?

**DR RAMONTJA:** Yes, I have.

**CHAIRPERSON:** Okay.

**DR RAMONTJA:** I have Chairperson.

**CHAIRPERSON:** Okay.

**DR RAMONTJA:** I have.

20 **ADV MALEKA SC:** Chair thank you. Do you know Mr Enoch Godongwana?

**DR RAMONTJA:** Yes, I know him very well. He was at some point advisor to Minister Susan Shabangu when I was the DG.

**ADV MALEKA SC:** Yes. So it is someone who you would fairly know well and have had some communication with?

**DR RAMONTJA:** Yes. He is a leader within the ANC and I would interact with him.

**ADV MALEKA SC:** Yes.

**DR RAMONTJA:** On many issues especially in terms of mining issues because he was responsible for economic issues.

**ADV MALEKA SC:** Yes.

**DR RAMONTJA:** So we would talk and talk about issues.

**ADV MALEKA SC:** Yes. Mr Fuzile came here and to say something which was communicated to him.

**DR RAMONTJA:** Okay.

**ADV MALEKA SC:** By Mr Enoch Godongwana.

10 **DR RAMONTJA:** Yes.

**ADV MALEKA SC:** I wonder whether you had followed what his testimony before the Chairperson was, because it was a public testimony. Do you know what Mr Fuzile said to the Chairperson about Mr Godongwana?

**DR RAMONTJA:** I missed that, but my brother told me and said he, I did not hear what he said, but my brother mentioned something like Mr Fuzile phoned Mr Godongwana and Mr Godongwana if you want to know more about these issues go and consult.

**ADV MALEKA SC:** Well let me recap it for you.

**DR RAMONTJA:** Yes.

20 **ADV MALEKA SC:** So that at least you would be able to comment it as closely as possible to the accuracy of his testimony.

**DR RAMONTJA:** Okay.

**ADV MALEKA SC:** Chair as I recall he said that after Minister van Rooyen was appointed, remember after the fateful 9 December 2015 announcement Mr Godongwana called him and said to him you are going to get a Gupta Minister and that Minister would come with his advisors or her advisors and generally he or she

would not know those advisors and if it is necessary he, Mr Fuzile, must ask you about those things. What I want to establish, of course we will call Mr Godongwana to come and put his version in due course. We are making arrangements in that regard.

**DR RAMONTJA**: Okay.

**ADV MALEKA SC**: What I want to understand is did you ever have?

**CHAIRPERSON**: Maybe before that Mr Maleka I do not know whether your recollection is correct to the extent that you say it was after the appointment. My recollection was that one of the things that was intriguing was that as I understood it Mr Fuzile said he had that conversation with Mr Godongwana before the announcement was made.

10 **ADV MALEKA SC**: Oh, yes you could be correct Chair.

**CHAIRPERSON**: And the intriguing thing was how he would have known in advance.

**ADV MALEKA SC**: Yes.

**CHAIRPERSON**: *Ja*.

**ADV MALEKA SC**: And that is the only issue I want to explore.

**CHAIRPERSON**: *Ja*.

**ADV MALEKA SC**: Thank you for that reminder. So what I want to establish is did you ever have a discussion with Mr Godongwana about the appointment of so called Gupta Ministers and the advisors?

**DR RAMONTJA**: No, Chairperson I cannot recall. I cannot recall, *ja*. I cannot recall.

20 **CHAIRPERSON**: Or maybe let me put it like this. As far as I can recall Mr Fuzile testified that I think on the day on which the announcement for, the announcement about the dismissal of Mr Nene and the appointment of his replacement on the day before that announcement was made and if I recall correctly it was made in the evening in terms of the evidence and he was on his way I do not know whether he was on his way home in the afternoon or somewhere and he received a call from Mr Godongwana

and in their conversation Mr Godongwana talked, I think they had already been rumours that Mr Nene was going to be fired and Mr Godongwana said that Mr Fuzile was going to get a Gupta Minister and that the Gupta Minister would arrive with advisors and that that Minister would not even be knowing those advisors and he suggested that Mr Fuzile should talk to you. My impression was that he, Mr Godongwana, was saying to Mr Fuzile if you want to know more about what I am talking about or about these situations talk to Dr Ramontja. That was my impression of the evidence. So I think in that context, it is in that context that Mr Maleka is asking whether there is anything that you are able to tell us on that order from the basis for  
10 Mr Godongwana to think that you could assist Mr Fuzile to understand what was about to happen in his department.

**DR RAMONTJA:** Chairperson we never discussed this with Mr Fuzile, no we never discussed that.

**ADV MALEKA SC:** No, we understand that, but the point is the pain that you are going through in the department at that point in time. Did you ever discuss it with anyone?

**DR RAMONTJA:** With Mr Godongwana?

**ADV MALEKA SC:** Anyone.

**DR RAMONTJA:** No, my family, I discussed with my family mostly, but my staff in my office they knew it. I think the corridors people would see it, *ja*. I did not discuss it. I  
20 cannot remember discussing it with anyone, but I discussed it with my family. I said this what is happening and what can I do.

**ADV MALEKA SC:** Chair I would like now to move to the substance of.

**CHAIRPERSON:** Yes.

**ADV MALEKA SC:** Dr Ramontja's evidence. Dr Ramontja you were called by the Commission to explain circumstances leading to the letter that was sent to Eskom

under your name. You annexed that letter as TR1 to your statement. Chair you will find TR1 on page 13 of U3. Are you there Dr Ramontja?

**DR RAMONTJA:** Yes.

**ADV MALEKA SC:** You will see if you go to.

**CHAIRPERSON:** Let me try and find it. Is U 3 an annexure in the same file?

**ADV MALEKA SC:** In the same file where you find the statement of Dr Ramontja.

**CHAIRPERSON:** Because behind the statement there is no annexure.

**ADV MALEKA SC:** Oh, my word.

**CHAIRPERSON:** And this is not a file where you can tell me a paginated page number,  
10 where to find it.

**ADV MALEKA SC:** Paginated page number on my documentation is TR13 and TR14.

**CHAIRPERSON:** Well something really needs to be done about these things. I have got TR12. You said TR14.

**ADV MALEKA SC:** 13 and 14.

**CHAIRPERSON:** *Ja*, something just needs to be done with regards to even the pagination, you know. It is quite convenient if there is a pagination that covers the whole lever arch file, because then that makes it easier. Okay, I have got it.

**ADV MALEKA SC:** Can I ask you to go to page 2 of that letter which is TR14? Do you see that?

20 **DR RAMONTJA:** Yes.

**ADV MALEKA SC:** You will see that your name appears on that page. Correct?

**DR RAMONTJA:** Yes.

**ADV MALEKA SC:** And there is a signature above that name/

**DR RAMONTJA:** *Ja*.

**ADV MALEKA SC:** Is that your signature?

**DR RAMONTJA**: Certainly so, Chairperson.

**ADV MALEKA SC**: I therefore assume that you signed this letter?

**DR RAMONTJA**: Yes.

**ADV MALEKA SC**: But there was no date to that letter. There is provision for dates, but it had not been completed.

**DR RAMONTJA**: Yes.

**ADV MALEKA SC**: Do I take it that you signed the letter without putting the date to indicate when you signed it?

10 **DR RAMONTJA**: Well when I signed this letter I then thought that I could revisit the letter.

**ADV MALEKA SC**: We will come to the circumstances.

**DR RAMONTJA**: Okay.

**ADV MALEKA SC**: But all I want to confirm at this stage is that you did not put a date.

**DR RAMONTJA**: Yes.

**ADV MALEKA SC**: To indicate when you signed it.

**DR RAMONTJA**: Yes, Chairperson.

20 **ADV MALEKA SC**: Correct. We will get to the circumstances and I am not trying to exclude you from explaining the context and circumstances why you did not put the date, but can I remind you of this context? That you signed this letter as a result of a letter that was sent to you by Eskom under the hand of Mr Koko. That is the letter that I asked you to look at. It is not part of your statement. Is that letter which is marked MMK20?

**DR RAMONTJA**: Yes, Chairperson.

**ADV MALEKA SC**: And you will see that page 2 of MMK20 is signed by Mr Koko on 6 December 2015. Correct?

**DR RAMONTJA:** Yes, Chairperson.

**ADV MALEKA SC:** So your letter TR13 and TR14 was an attempt to respond to Mr Koko's letter?

**DR RAMONTJA:** Yes, Chairperson.

**ADV MALEKA SC:** We will get to the context, to the contents of, but let me establish matters of context one of which we will deal with a topic the Chairperson raised and I said I will like to deal with and that is a trip of Minister Zwane to Zurich. The context at that point in time as I understand is that one of Eskom's coal suppliers, Optimum Coal Mine, and I take it that you know that mine. You know who operates it. Correct?

10 **DR RAMONTJA:** Yes.

**ADV MALEKA SC:** You also indicated in your statement that Minister Ramatlhodi tried to intervene in regard to attempts by Optimum Mine at the time to reduce their staff. Did you know at that point in time that Optimum Coal Mine was under business rescue?

**DR RAMONTJA:** At what time?

**ADV MALEKA SC:** When you received the letter of Mr Koko?

**DR RAMONTJA:** Okay. Yes I know because it was in the news, the Department was involved and the issues of Optimum in fact started to come to the Department during Mr Ramatlhodi's time and I remember at some point I was even in a meeting where Minister Ramatlhodi was there there was Dr Ngubane, there was Mr Molefe and my  
20 DDG, Mr Raphela, was also there so we were four in that meeting, then when also they discussed this issue, so I knew that there were issues.

**ADV MALEKA SC:** Yes, and yesterday the Chairperson heard the evidence of one of business rescue practitioners, Mr Marsden, had you met him during the stage when Optimum Coal Mine was in business rescue?

**DR RAMONTJA:** No I never met him, my DDG, Mr Raphela, was the person who was

busy interacting with all the stakeholders which are involved in this, which was natural, it is his area so he was the person who would be interacting with them. I do not know if he did meet them one to one, but he used to tell me that they are holding meetings and these things are happening, it is fine.

**ADV MALEKA SC:** When you received that letter it was after Tegeta had made an offer to purchase amongst others Optimum Coal Mine and that offer had been accepted by Optimum Coal Mine and it is line of current companies, including Glencore, were you aware of the fact that there had been a sale agreement?

**DR RAMONTJA:** No I was not aware.

10 **ADV MALEKA SC:** When you received that letter Minister Zwane had five days earlier had gone to Zurich to meet with Mr Glassenbergh who at the time was the head of Glencore, were you aware of the trip?

**DR RAMONTJA:** I was aware because the way it works in the Department when the Minister goes overseas he gets permission from the President then the Minister will then decide who she wants to accompany her or him, and in this case my DDG was asked to accompany the Minister so the documentations which I signed to this effect which we will come to and we recommend to the Minister for the Minister to approve the DDG to go abroad, and also I will be sort of approving the costs which will be incurred.

**ADV MALEKA SC:** Indeed because you are the accounting officer.

20 **DR RAMONTJA:** Yes.

**ADV MALEKA SC:** So the costs relating to that trip to the extent that they will be paid by your department you have to authorise them.

**DR RAMONTJA:** Yes.

**ADV MALEKA SC:** And I take it that you authorised them and you became aware that Minister Zwane was travelling to Zurich?

**DR RAMONTJA:** Yes.

**ADV MALEKA SC:** The Chairperson received evidence that at that meeting when Mr Zwane met Mr Glassenbergh he was accompanied by someone called Mr Salem Essa who – let me first ask you this, do you know Mr Salem Essa.

**DR RAMONTJA:** No I do not know him.

**ADV MALEKA SC:** Had you met him before?

**DR RAMONTJA:** No, no.

**ADV MALEKA SC:** Mr Essa was introduced at that meeting with Mr Glassenbergh as the advisor to the Minister. Do you or do not you know that Mr Essa at some or other  
10 point played a role as advisor to the Minister, Minister Zwane?

**DR RAMONTJA:** No, as I said there were two advisors, then there was this third one also, when I left but she was not fully appointed also.

**ADV MALEKA SC:** You have looked at the documentation relating to that trip, you know the costs and we know who is going there, did the documentation ever indicated to you what was the purpose of the trip to Zurich?

**DR RAMONTJA:** No, that is why I said it did not specify the issues of Glencore, it was like Ministers going abroad, I think if I can recall, this thing happened long time ago, that they are going there to meet investors, I am speaking under correction but it did not have the details about Optimum what-what no.

20 **ADV MALEKA SC:** It did not have those details?

**DR RAMONTJA:** Yes as far as I can recall I will have to really look at it, but I can not remember having those things in that, there will be a meeting whereby the Minister will meet with people of Optimum together with the people of Glencore, I can not remember, I will have to double-check that.

**ADV MALEKA SC:** Could you because it is important to understand precisely

whether you as the DG knew what was the purpose of the trip.

**DR RAMONTJA**: Okay.

**ADV MALEKA SC**: The Chairperson received evidence from amongst others a witness called Mr Clinton Ephron who indicated that the sale of the Optimum Mine was discussed at two meetings in Zurich, the first was the meeting of 1 December 2015, the second was the 2<sup>nd</sup> of December 2015, do you know anything about those meetings?

**DR RAMONTJA**: No, no, no. Chairperson when it comes to the issue of Optimum it was basically run in the office of the Minister and things would come in drips and drabs to me you know and that is how that was the situation.

10 **CHAIRPERSON**: You said that your department began to be involved in – on issues relating to Optimum during Minister Ramatlhodi's time.

**DR RAMONTJA**: Yes.

**CHAIRPERSON**: During Minister Ramatlhodi's time who was dealing with those issues, I mean you just told us that if I recall correctly issues relating to Optimum became centralised in Minister Zwane's time during Minister Zwane's – in Minister Zwane's office during his time. During Mr Ramatlhodi's time were they being handled by the Department's officials in the normal course?

**DR RAMONTJA**: Certainly so Chairperson the DDG Mr Raphela was driving them, but you know ...(intervention)

20 **CHAIRPERSON**: And was keeping you informed?

**DR RAMONTJA**: Oh so much, he will tell me there is this meeting, they are meeting the unions, there is this thing so it was so transparent that you get comfort and that is how you must be because as a DG you can not be everywhere, you can not attend all these meetings but he used to tell me there is this and this and also I remember at some point there was even a block consortium which approached me, we were in a

meeting so at the Department and they said look we want to acquire Optimum, can you just assist us DG. We do not often get involved in those things but I then said look I will see what I can do if there are challenges, let – especially if it is a black-owned company let us see if we cannot assist, to address the issues of transformation and I called Mr Ephron, Mr Clinton Ephron and I discussed this issue with him, and he said okay fine, it seems they do not have money those people, and then I left it there, the two gentlemen who were interested, Mr Sipho Dube, and Mr Peter Demane.

**CHAIRPERSON:** Yes.

**DR RAMONTJA:** Yes, so that was – everything was transparent, I knew what was  
10 happening, it was fine, Minister Ramatlhodi would be informed about issues, he would come in when you know there are serious issues which have to be tackled, but he would leave everything to us ja.

**CHAIRPERSON:** Okay, going back to the trip to Zurich so did your DDG go with the Minister?

**DR RAMONTJA:** Certainly so Chairperson, he ...(intervention)

**CHAIRPERSON:** The one who was dealing with issues relating to Optimum?

**DR RAMONTJA:** Yes and if I may add Chair?

**CHAIRPERSON:** Yes.

**DR RAMONTJA:** And then some time after he came back, I can not remember which  
20 day, he came to my office, we were talking about other things and then I said look how was your trip there, and then he said yes it was fine and we went to Glencore but he was not allowed to enter into a meeting.

**CHAIRPERSON:** Into the meeting?

**DR RAMONTJA:** Yes so he was outside, so this is the environment so I just left it as it is, I said okay, that is fine.

**CHAIRPERSON:** Do you know whether that DDG is still there?

**DR RAMONTJA:** No the DDG is no longer there.

**CHAIRPERSON:** Ja, what was his name again?

**DR RAMONTJA:** Mr Joel Raphela.

**CHAIRPERSON:** Mr Joel Raphela?

**DR RAMONTJA:** Yes.

**CHAIRPERSON:** Okay.

**ADV MALEKA SC:** What I find surprising is that an important project such as Optimum Coal Mine was something that you were involved in during the time Minister  
10 Ramatlhodi was Minister and when Mr Zwane takes over you are not involved in that project.

**DR RAMONTJA:** Yes.

**ADV MALEKA SC:** Can you explain to us why you as the DG did not become involved in that project during the Ministerial position of Mr Zwane?

**DR RAMONTJA:** It perplexed me Chairperson, I just thought that is the style, I mean Ministers have got powers to decide how they run a department, okay.

**ADV MALEKA SC:** No, no with respect, it is not the Minister who runs the Department, it is you as the DG who runs the Department.

**DR RAMONTJA:** I agree Chairperson but then ...(intervention)

20 **CHAIRPERSON:** You are telling us what happened when he started.

**DR RAMONTJA:** Yes, there are certain things you can do as DG Chairperson but there are certain things if your Minister wants to do things this way you can not stop that person, so when they decided to centralise it there I just said what can I do, there is nothing I could do but it is what happened, I am just relaying what happened.

**ADV MALEKA SC:** I understand. Chair with your leave I would like to probe this

question further.

**CHAIRPERSON:** Ja. Do.

**ADV MALEKA SC:** I understand the difficult and the oppressive circumstances you are working in, okay, I am empathise with them, do not misunderstand me, but it seems to me from what you are telling us that there was a takeover of your functions and duties as the DG to run the department, is that a fair reflection of what happened during that time?

**DR RAMONTJA:** I think yes to some extent, not all functions but to some extent this one was one of the projects which was basically taken away from me.

10 **ADV MALEKA SC:** Beyond the style of Mr Zwane as a minister to interface with you as the head of the DMR can you think of any reason why the Optimum Project will be excluded from your line of responsibilities?

**DR RAMONTJA:** I do not know why would this happen but with all this enquiry happening we started to say look you know perhaps some people had to be favoured you know I do not have clear evidence but now you to start to put, to join the dots now you start to see with this enquiry say okay this is – this looks like perhaps the Gupta people were basically being assisted – sorry for using that word – Mr Gupta’s family was trying to be assisted that is how I view it now.

20 **ADV MALEKA SC:** And I suggest to you that that must have been the reason because when I look at the letter of Mr Koko and your response to that letter your letter talks to things which Mr Koko did not raise at least expressly in his letter to you.

**DR RAMONTJA:** Ja.

**ADV MALEKA SC:** We will get to the precise details of how your letter raised things which even Mr Koko did not raise.

**DR RAMONTJA:** Okay.

**ADV MALEKA SC:** But do you accept as a general proposition that your response was talking about detail which were not in Mr Koko's letter.

**DR RAMONTJA:** Yes.

**ADV MALEKA SC:** Before we get to those details can I ask you to simply explain to us the process of formulating this letter because I sense from your statement that you did not prepare that letter.

**DR RAMONTJA:** Yes.

**ADV MALEKA SC:** Can you just take us through the basic steps as far as you can recall, who started with the draft, how it was presented to you for signature.

10 **CHAIRPERSON:** Maybe before that let us talk about Mr Koko's letter to you, you said or at least maybe your statements says you do not remember how it got to you but it got to you at a certain stage, is that right?

**DR RAMONTJA:** Sorry?

**CHAIRPERSON:** The letter addressed to you from Mr Koko.

**DR RAMONTJA:** Yes.

**CHAIRPERSON:** Your statement says if I recall correctly that you do not recall how it got to you but it did get to you, is that right?

**DR RAMONTJA:** Certainly so Chair.

20 **CHAIRPERSON:** Yes now did you at any stage give it to – or a copy thereof to the Minister, Minister Zwane or any of his advisors or any of his staff?

**DR RAMONTJA:** No, I did not, I did not.

**CHAIRPERSON:** Yes, and before you signed your response to Mr Koko at the time that you did were you aware that maybe some – the Minister might be having this letter or somebody, or one of his advisors might be having it?

**DR RAMONTJA:** It was my presumption ja.

**CHAIRPERSON**: But you did not know for sure.

**DR RAMONTJA**: Yes. It can happen that a letter comes to me, there is a copy of it going to the DDG or to the Office of the Minister.

**CHAIRPERSON**: Yes, but ...(intervention)

**DR RAMONTJA**: But I just assume that ...

**CHAIRPERSON**: But would not normally the letter show that it is been copied to somebody else?

**DR RAMONTJA**: Yes.

**CHAIRPERSON**: That is what normally happens.

10 **DR RAMONTJA**: Yes.

**CHAIRPERSON**: Okay Mr Maleka you can take continue.

**ADV MALEKA SC**: Thank you Chair. Can I ask you to turn to the letter that you signed, and again before I get to the contents of it I would ask you to clarify for us how this letter was formulated, in other words did you sit behind the computer, dictate it or type it or did someone present a draft to you?

**DR RAMONTJA**: No, it came as a draft to my office.

**ADV MALEKA SC**: And do you know who formulated that draft?

**DR RAMONTJA**: I do not know who formulated the draft. I just assume that it comes from the office of Minister, because they had been working on these issues.

20 **ADV MALEKA SC**: Alright, so you knew nothing about who formulated the draft, did – do you know who gave it to you in draft form, as far as you can recall?

**DR RAMONTJA**: No, I found it in my in-tray.

**ADV MALEKA SC**: In-tray?

**DR RAMONTJA**: Yes.

**ADV MALEKA SC**: And was there any expectation that you should look at it and sign it

as a reflection of a response to Mr Koko's letter.

**DR RAMONTJA:** Yes you know when you get into your office you find documents, you look at them and you assess the risk associated with that document, you sign it or sometimes you say look let me clarify and sometime I used to take work home and go through the things over the weekend and some of them I signed, some of them I go and get clarity on them, so this is the situation, I saw it, I looked at this letter, I looked at this letter of Mr Koko and I knew that there were issues which are happening with regards to this project and I just said look let me just see if this cannot help. I just signed it.

**CHAIRPERSON:** Was it normal for you to as DG to receive draft letters from the Office  
10 of the Minister or any of the previous ministers in circumstances where you had not known in advance that somebody would prepare a draft for you.

**DR RAMONTJA:** It is not normal and what also comforted me when I looked at the letter it also had the name of my DDG as enquiry, then I said okay perhaps you know they have been working together on this thing, that is what comforted me.

**CHAIRPERSON:** Was it normal for you to receive draft letters, draft responses to letters addressed to you from any of your officials in circumstances where you had not discussed the possibility of them doing a draft for you?

**DR RAMONTJA:** No it is normal, we can find, maybe there is a project they are waiting on, and they will discuss issues and say let us prepare this letter for the DG to sign.

20 **CHAIRPERSON:** But I am talking about the circumstances where you had received a letter, in other words somebody had addressed a letter to you, somebody from outside maybe to be specific, and then you have not discussed with anybody the possibility of that person drafting a response for you and then suddenly you get a response, a draft response.

**DR RAMONTJA:** It is the – the abnormality, it is not normal and you know the way

things are we could see that there is something not right.

**CHAIRPERSON**: Because I see, I can understand as DG you just said a while ago that as DG you can not be everywhere and you can not do everything, obviously you have to rely to DDG's, you have to rely on other officials and I can understand that very often maybe on a daily basis one or other official is dealing with a matter where they need you to make some decision or they need you to do some – write some letter to somebody, and therefore they might draft it for you, that I can understand so I am more concerned about the situation where you receive a letter from outside the department, that is addressed to you, and then you get a draft response from somebody without that  
10 person having had any discussion with you or you having had any discussion with that person about the possibility of them drafting a response for you.

**DR RAMONTJA**: It is not normal Chairperson, it is not normal, it may be it could have happened but it is not something which is normal. What was normal is what you refer to earlier, that was – it is common.

**CHAIRPERSON**: Okay, thank you. Mr Maleka?

**ADV MALEKA SC**: Thank you Chair. Dr Ramontja you are quite correct, when you look at the letter of – the letter that you signed right at the top does indicate that enquiries must be directed to Mr J Raphela and his email is given so that is the assurance that gave you that you could look at this letter and deal with it.

20 **DR RAMONTJA**: Yes.

**ADV MALEKA SC**: Fair enough. Now I am going to take you through the contents of that letter and I am going to do so on the premise that you are quite comfortable that someone formulated the draft without talking to you and someone formulated a draft on matters that you have not been previously involved about Optimum Coal Mine. Is that a fair premise to proceed from?

**DR RAMONTJA**: Yes Chairperson.

**ADV MALEKA SC**: Look at paragraph 1, the unnumbered paragraph, Chair I am at TR13.

**CHAIRPERSON**: Yes.

**ADV MALEKA SC**: It says receipt of your letter addressed to the Department pertaining to the intervention required from the Department refers, correct?

**DR RAMONTJA**: Yes.

**ADV MALEKA SC**: And it was quite clear when you read Mr Koko's letter that he required the Department to intervene broadly in all the coal supply problems Eskom  
10 had regarding various mines and various power stations.

**DR RAMONTJA**: Yes.

**ADV MALEKA SC**: And then the second unnumbered paragraph reads as follows:

“Having regard to the above we would like to advise as follows:

In respect of Hendrina Power Station the Department will prioritise and fast track approvals for the transfer of mining right on an urgent basis should this be launched.”

Can I stop there, there is nothing in the letter of Mr Koko to which this letter is a response, that raised questions around transfer of mining rights, do you accept that, that when you read Mr Koko's letter it does not refer at all to transfer of a mining right,  
20 correct?

**DR RAMONTJA**: I agree so, I agree he does not refer to that.

**ADV MALEKA SC**: And secondly it does not even request the department to intervene on an urgent basis regarding a mining right, correct?

**DR RAMONTJA**: Yes, it does not refer to that.

**ADV MALEKA SC**: So that that part of the response drafted by someone without your

engagement it responds to something that had not been asked by Mr Koko, correct?

**DR RAMONTJA:** Okay, that is fine.

**ADV MALEKA SC:** Yes, let us proceed then:

“We have already requested an urgent meeting with the Competition Commission to go and plead the case and explain the urgency with which it must be treated as it is indeed a special case given the consequences for the country.”

Again Mr Koko’s letter does not even talk about the Competition Commission, correct?

**DR RAMONTJA:** Yes.

10 **ADV MALEKA SC:** It does not even talk about an urgent approach to the Competition Commission, correct?

**DR RAMONTJA:** Yes.

**ADV MALEKA SC:** There is nothing in that letter referring to the importance of National interest relating to an urgent approach to the Commission, correct?

**DR RAMONTJA:** Yes.

**ADV MALEKA SC:** So in sum from the beginning to the end this second paragraph responds to nothing that Mr Koko had requested by way of intervention from the Department, correct?

**DR RAMONTJA:** Yes.

20 **ADV MALEKA SC:** Why then as far as you are aware someone would ask you to sign a letter purporting to respond to the urgent intervention by the Department, requested by Mr Koko and raise issues which Mr Koko did not seek intervention on, can you think of any reason why that would happen?

**DR RAMONTJA:** Well the reason would be that there are people who have been discussing this issue of Optima and they then said let us come with a proposal, let us

come with a letter to be sent to Eskom and that is what I would say, there would be people who would be looking at all these issues discussing them and they said okay let us respond to this letter in this manner.

**ADV MALEKA SC:** That is a heightened deception by whoever formulated this letter.

**DR RAMONTJA:** Certainly so Chairperson when I look now, where I am now, I looked at the letter of Mr Koko, the letter of Mr Koko I mean I had no reason to distrust a person of Mr Koko's stature, standing, he was the head of Electricity Generation in the country, so when you get a letter like this and the letter paints a very dire situation for the country, if you look at that letter it basically- it was a precarious environment for the

10 country that is coming, it has got deadlines, that I mean by end of January 2016 it will be the end of the end for this country in terms of electricity supply and now you can see that these things are connected. He painted that there are at least three power stations which are at risk of not supplying electricity to the country if urgent issues are not addressed, if no interventions are put in place. Hendrina he say 2000 megawatt is at risk, he talked about Arnot power station that come at end of December the contract is at risk and when you look at the letter it says the only available coal which will suit them is coal from Optimum I think or something like that and then he talks about Komati Power Station also at risk, so it painted this dire situation for the country that when I saw this thing I say hey you know what can I do, maybe this thing can help and I am

20 saying this Chairperson because I have in the past been involved in addressing issues, crises issues, okay. We have gone out to look at issues of saving jobs and this also touched on saving jobs, because Optimum had plus minus 3 700 I think employees including contractors who were working there.

It was also a dire situation from my point, not from the electricity situation, the electricity situation Mr Koko then talked about it, but from our side was can we save

jobs, so there were two issues which I looked at when I saw the letter, that is the issues of the job, I said you know if this thing can help let me sign it, okay, because in the past we have done unconventional things and conventional things to save jobs. In 1999 for instance if I may expand on that Chairperson there was a gold crises in the country, the gold price was at around 290 and now I mean today it is about 1 300 dollars so jobs were lost and I was appointed to be the Secretariat to address this. We did conventional things, Ministers were meeting every Monday you know, we went to the mines, things which we often never did. In 2014 I think – so 2014 – ja 2014 or so there were about 14 000 jobs which were going to be lost at Anglo Platinum. We did a  
10 unconventional thing, I stopped whatever I was doing, I sat with all the stakeholders for two weeks, we find alternatives to job losses.

In fact at the end of it when we signed that agreement we had almost saved all the jobs, okay, so unconventional things have been done in the past. So when I saw this letter I reflected on what we have done and said as long as things are done within the law Chairperson it is fine, and I want to address the issue maybe right now of the relationship between us and Eskom Chairperson. Okay as a Department of...

**CHAIRPERSON:** Yes.

**DR RAMONTJA:** Department of Mineral Resources. Eskom 1 does not report to the Department of Mineral Resources that is number 1.

20 **ADV MALEKA:** Yes.

**DR RAMONTJA:** Eskom reports to the Department of Public Enterprise okay.

**ADV MALEKA:** Indeed.

**DR RAMONTJA:** 2. A DG of any department cannot give directives to Eskom. In fact I could have just not signed this letter.

**ADV MALEKA:** And that is a point DR RAMONTJA.

**DR RAMONTJA:** Yes.

**ADV MALEKA:** That the request for intervention.

**DR RAMONTJA:** Yes.

**ADV MALEKA:** Is sent to your department.

**DR RAMONTJA:** Ja.

**ADV MALEKA:** Which you were the head at that point in time.

**DR RAMONTJA:** Ja.

**ADV MALEKA:** And yet it is not sent to the executive authority who is responsible for Eskom for intervention because normal Minister to Minister protocol relationship ...

10 **DR RAMONTJA:** Yes.

**ADV MALEKA:** Would have required that any intervention ought to begin with that executive authority responsible for Eskom for him to approach your department for any possibility of intervention. Here is Eskom approaching you directly for intervention and yet it is not doing the same thing to its Minister.

**DR RAMONTJA:** Ja.

**CHAIRPERSON:** Before you answer that. Please do not forget that question.

**DR RAMONTJA:** Okay.

**CHAIRPERSON:** Mr Maleka intervened while you were telling me something, had you finished telling me about the relationship between Eskom and your department?

20 **DR RAMONTJA:** Okay.

**CHAIRPERSON:** I want to give you a chance to finish telling me that if there was still if you had not finished.

**DR RAMONTJA:** Okay.

**CHAIRPERSON:** Okay.

**DR RAMONTJA:** The relationship between the Department of Mineral Resources and

Eskom is an indirect one. It is indirect in the sense that the Department of Mineral Resources regulates the mining industry. Okay. Including the coal mining industry. So Eskom gets coal from the mines to generate electricity. That is the relationship which is there okay. I – also I am surprised now that I hear that Advocate Maleka says a letter was not even sent to the Department of Public Enterprises. It is actually bringing certain things to me how I thought maybe they also sent something like that asking for assistance. So that is why I am saying Eskom cannot even get a directive from a DG of Department of Mineral Resources. Even from the Minister of Mineral Resources. The only person who can give a directive to Eskom is the Minister of Public Enterprise in

10 terms of corporate governance issues and the Minister of Energy in terms of policy issues. Okay that is how it is but this issue now would be a corporate governance issues any directive that comes from the Minister of Public Enterprise. Even then the Minister of Public Enterprise would have to take that information and give it to the Chairperson of the board of Eskom. Who would have to give it to the board and discuss it and say this is what is in front of us what do we do? So after signing this letter and maybe I must touch on something else when...Is it fine Chair?

**CHAIRPERSON:** Ja if it explains more the relationship tell me.

**DR RAMONTJA:** Okay. And the letter will just – I do not know how it went out of my office that is one thing. And...

20 **CHAIRPERSON:** Oh the one you signed?

**DR RAMONTJA:** Yes.

**CHAIRPERSON:** Ja.

**DR RAMONTJA:** I did not know how it went out of my office and I spoke to my former secretary and I ask her to just to find out and trace because what happens in my former office is we used to record incoming mail and outgoing mail. But this one she could not

find it, it is very strange you know. And I just – you know I was busy with other things and I just heard that it is surfaced in Parliament when some officials of Eskom were defending their actions using this letter.

**CHAIRPERSON**: So you had – although you had signed the letter.

**DR RAMONTJA**: Ja.

**CHAIRPERSON**: You had not intended it to leave your office as yet when it left?

**DR RAMONTJA**: No.

**CHAIRPERSON**: And that is why you had not put the date on which you signed it because you wanted to revisit it?

10 **DR RAMONTJA**: Yes.

**CHAIRPERSON**: From what you have said before.

**DR RAMONTJA**: Yes.

**CHAIRPERSON**: So you did not authorise it being sent away, sent off to the addressee?

**DR RAMONTJA**: No, no, no.

**CHAIRPERSON**: It was taken from your office under circumstances that you do not know?

**DR RAMONTJA**: Yes.

20 **CHAIRPERSON**: And you tried to find out afterwards by asking your secretary whether there had been any recording as to when it was taken and you could not find anything?

**DR RAMONTJA**: Very strange because especially letters coming from outside where we record that this letter came in on such and such a date, this went out. So there is a record which is kept in the DG's office you know.

**CHAIRPERSON**: Okay.

**ADV MALEKA**: Mr Ramontja – DR RAMONTJA we will explore later on whether this

letter had the authority of the board of Eskom or even the Minister of Public Enterprises. I am not going to ask you to comment on this but I am grateful that you have tabled the governance process around how Eskom should officially communicate with your department. Now Chair I had raised yesterday with Mr Marsden the condition precedents relating to the sale of agreement requiring the approval of the Competition Commission requiring the consent of the Minister of Mineral Resources for the transfer of the mining right.

**CHAIRPERSON:** Yes.

**ADV MALEKA:** And also requiring the consent of Eskom to the transaction. All of  
10 those things in terms of the agreement had to be achieved.

**CHAIRPERSON:** Yes.

**ADV MALEKA:** By the 31 December – 31 January 2016. And you would recall that that agreement imposing those conditions precedents was signed on the 10 October – sorry 10 December 2015. Of course DR RAMONTJA does not know anything about this. But what I find surprising is that even at that point in time when this response is sent to Eskom the obligation to implement these conditions of precedent – conditions precedents had not yet kicked in so the response is anticipating matters in the agreement which had not yet been included. So it seems if I may suggest this to DR  
20 RAMONTJA against the context of what I have raised with the Chairperson. That someone who was writing this response must have had some understanding of what was required in terms of this agreement relating to the approval of the competition Commission, the consent of the Minister and also the consent of Eskom. And that is why that paragraph I have read to you talked to those matters even though Mr Koko did not raise them. Of course you did not know anything about these things?

**DR RAMONTJA:** Yes I did not.

**ADV MALEKA:** Okay. Chair I would like to go to the next part of the letter unless you have some questions?

**CHAIRPERSON:** Before you do so – so there is something quite strange about these letters. The one that was addressed to you by Mr Koko reached you but if I recall correctly you said you do not remember who brought it to you, is that right?

**DR RAMONTJA:** Yes Chairperson.

**CHAIRPERSON:** Do you know whether it came to you by – it would have come to you through the normal mail – post or –or it would have been delivered by hand or anything, do you know?

10 **DR RAMONTJA:** It looks now that it has been delivered by hand but as I said you know we have got a system in the DG's office when I was still a DG whereby all the mails would be recorded as they come in and they go out. Very few mails maybe you know of the corporate services because we on the same floor the DG corporate service would come to me and say DG there is this thing then we look at it. But generally especially mails from outside they would have been recorded it came here. Mails from the Ministry would be recorded then as it goes out it would have to be recorded. So strange when I asked my former PA to investigate that she said no there is nothing, you cannot trace it.

**CHAIRPERSON:** So the one from Mr Koko was also not recorded?

20 **DR RAMONTJA:** Yes.

**CHAIRPERSON:** And your PA also did not know how it came to – to be on your desk or ...

**DR RAMONTJA:** She cannot recall anything I spoke to her after I...

**CHAIRPERSON:** But at that time did you ask her that time or you only asked her recently?

**DR RAMONTJA**: No recently yes.

**CHAIRPERSON**: Oh at that time you did not ask her about how it came?

**DR RAMONTJA**: No I did not ask Chairperson yes.

**CHAIRPERSON**: Yes. But the one that you signed in response you did ask her about whether anything was recorded about how it left your office?

**DR RAMONTJA**: Yes I did ask her.

**CHAIRPERSON**: That one you did ask her at that time?

**DR RAMONTJA**: Yes. No not at that time.

**CHAIRPERSON**: Only recently?

10 **DR RAMONTJA**: Only recently. As I said Chairperson if my – if I may add? But after that I just you know continued with my work until these things surfaced in Parliament. I just said what is this now? You know. Ja.

**CHAIRPERSON**: But what – what I – what I am trying to understand from your side is if you received – if you receive a letter such as the one you received from Mr Koko and you did not know how it came and then the next thing without you having spoken to anybody about the contents of that letter and having asked that person to draft a possible response for you you find a drafted response on your desk without knowing who brought it. You sign it. You do not put a date when you signed it. You intend to revisit it. Before you revisit it it disappears. All of those things seems strange to me. I

20 am wondering why you should not have been quite concerned and take steps to really establish what was happening?

**DR RAMONTJA**: Chairperson I agree with you and in hindsight I should have looked at it differently but as I said you know after I signed it I thought I could revisit it but then I got caught up with other things in the office you know. And until...

**CHAIRPERSON**: I can understand being caught up and forgetting.

**DR RAMONTJA:** Yes.

**CHAIRPERSON:** That there was a letter that you wanted to revisit that I can understand but I am concerned about a situation where at some stage you remember that there was this letter which I had signed but I did not date it because I wanted to revisit it. But it is no longer there and I do not know who took it. And I did not intend that letter to leave my office as yet because I still wanted to satisfy myself about certain things that is why I wanted to revisit it. It is gone. You do not know who has taken it and well you do ask your secretary and she gives you an answer that suggests that she does not also know who took it. And then you do not follow up. I mean – when you  
10 received that draft or the response or the draft you I think you said that you – you realised that it was saying enquiries Mr J Rapella. Now that was your DDG who was dealing with matters relating to Optimum as I understand and or Eskom. So I would have expected that he would have been the first person or at least one of the people you would approach to say I got a draft response which was left in my office for my signature. I read it. I signed it but I did not date it because I did not want it to go yet. I was – still wanted to revisit it. It has disappeared. Do you know anything about it because you are in charge of Eskom issues or Optimum issues?

**DR RAMONTJA:** Ja I think Chairperson in hindsight one could have done better. One could have been vigilant. But sometime you never expect that people can use a  
20 government system for their own ulterior motives. But these things have happened. Perhaps they saw weaknesses somewhere in the system and it looks like some people had their own ulterior motives and when you look at the two letters Chairperson you can clearly see that there were people you know working on these things without the department especially myself knowledge. So in hindsight perhaps I should have revisited this and done it better than I did and I accept that that I could have done it

better Chairperson. I did not do it as I should have done. As I think now I would do it.

**CHAIRPERSON**: Okay Mr Maleka I see that we are...

**ADV MALEKA**: Yes.

**CHAIRPERSON**: About 19 minutes past.

**ADV MALEKA**: Yes.

**CHAIRPERSON**: Let us take the short – the tea adjournment and we will resume at twenty-five to.

**ADV MALEKA**: Thank you Chair.

**CHAIRPERSON**: We adjourn.

10 **INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON**: Yes you may proceed Mr Maleka.

**ADV MALEKA SC**: Thank you Chair. Chair I would like to go to the next part of the letter.

**CHAIRPERSON**: Yes.

**ADV MALEKA SC**: TR13 and I would like to do so quickly, because I promised my colleagues who are waiting in the wings.

**CHAIRPERSON**: Oh, yes. I actually forgot about.

**ADV MALEKA SC**: Yes.

20 **CHAIRPERSON**: That part, okay.

**ADV MALEKA SC**: They are waiting for your attention Chair.

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

**ADV MALEKA SC**: Dr Ramontja you are still at TR13. The letter that you signed. I would like to deal with the last paragraph of that letter. Are you there?

**DR RAMONTJA**: Yes, Chairperson.

**ADV MALEKA SC:** It reads as follows:

“Financial provision due to historical liabilities at OCH level is estimated at 1.7 billion. The amount still has to be confirmed through a process which will involve the parties concerned. We would also request Eskom to play an active role in providing support for the project to proceed.”

Can I stop there? Firstly the letter of Mr Koko says nothing about financial liabilities of OCH. Correct?

**DR RAMONTJA:** Yes, Chairperson.

10 **ADV MALEKA SC:** That letter did not even request Eskom to intervene at all. Sorry, it did not request DMR to intervene at all regarding questions around financial liabilities of OCH. Correct?

**DR RAMONTJA:** Yes, Chairperson

**ADV MALEKA SC:** The letter of Mr Koko did not even suggest that Eskom would have to play an active role in any project. Correct?

**DR RAMONTJA:** Yes, Chairperson.

**ADV MALEKA SC:** And yet this paragraph talks about a request to Eskom to play an active role in some project. The question is did you understand what project this letter was referring to?

20 **DR RAMONTJA:** Okay. The project I took it that, you know, the people who had been involved in the discussions they are basically discussing on how they could rescue Optimum or whatever at that point and I thought that could be the project which they are referring to, but it was just the mist in my mind. I was not sure exactly what are they referring to.

**ADV MALEKA SC:** Yes.

**DR RAMONTJA:** But then I just said look let us see, but obviously there were people who came together, discussed, constructed the letter.

**ADV MALEKA SC:** Yes.

**DR RAMONTJA:** So I said they probably have got other things which they are working on.

**ADV MALEKA SC:** No, I understand, but you were here yesterday when Mr Marsden testified?

**DR RAMONTJA:** Yes.

**ADV MALEKA SC:** And you heard his evidence?

10 **DR RAMONTJA:** Yes.

**ADV MALEKA SC:** He made it quite clear that at that point in time when your response was formulated.

**DR RAMONTJA:** Hm.

**ADV MALEKA SC:** OCM did not require any support at all, because its parent companies had decided to take it out of business rescue and they had decide to make sure that it will comply with its obligations under CSA. So in hindsight having heard Mr Marsden it should be clear to you now that OCM did not require any assistance whatsoever.

20 **DR RAMONTJA:** No, Chairperson I agree with you. I mean things are now getting revealed.

**ADV MALEKA SC:** Oh, yes.

**DR RAMONTJA:** And then it was a different environment. It is like there was a crisis. I have never, I mean if you reread the letter of Mr Koko it just paints a crisis of crisis for the country, you know. I do not know why would a person draft a letter like that and now this are now clear that there is something not correct in the whole scheme of

things. Things are not fine Chairperson.

**CHAIRPERSON:** Well as you heard from my questions before the break I am also concerned about the fact that after you became aware that this letter that you had signed on the basis of assumptions and you did not know had brought it to your desk and you had not asked anybody to draft a response for you and it disappeared from your desk under mysterious circumstances. You did not even as I infer from your evidence you did not phone Mr Koko and say Mr Koko you wrote me a letter and there was a response that I had signed to go to you, but I did not intend it to leave my desk yet and it had left my desk. Have you by any chance got it? Please do not act on it, because I had not intended to leave yet. I still wanted to revisit it or something like that. You did not do anything like that?

**DR RAMONTJA:** Not, yes Chairperson.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** I did not do that.

**CHAIRPERSON:** And that concerns me, you know.

**DR RAMONTJA:** Okay.

**CHAIRPERSON:** Particularly in circumstances, if it was your own letter in the true sense. You had drafted it, you knew exactly what the whole thing was about and it left, but you knew that there was nothing for you to continue to look at that may have been fine, but you presumed that certain people had discussed certain things that were dealing with Optimum, Eskom and the letter says certain things will be done and it says them under your own hand and you do not even know whether those things will be done I assume, because you do not know who drafted it and there is no assurance that what you say is correct.

**DR RAMONTJA:** If I may come in Chair.

**CHAIRPERSON:** Yes.

**DR RAMONTJA:** I think Chair at that time and as I said you know earlier on the communication channels.

**CHAIRPERSON:** Yes.

**DR RAMONTJA:** In the department had changed.

**CHAIRPERSON:** Yes.

**ADV MALEKA SC:**

**DR RAMONTJA:** And you know I do not want to repeat this. There was like a mist, you know, in front [background of noise].

10 **CHAIRPERSON:** *Ja.*

**DR RAMONTJA:** So when things come you just get discouraged. You do not know what is happening. You are trying to add the dots. In a normal environment Chairperson, in a normal environment every single person who would be in the Mineral Regulation Branch, okay assigned to this task would transparently relate it to everybody. So you will probably have your DDG who will work on something and say DG here is a problem, let us solve this. Here is another.

**CHAIRPERSON:** Hm.

**DR RAMONTJA:** But the way things were operated they were totally different.

**CHAIRPERSON:** But you see my point is exactly that.

20 **DR RAMONTJA:** Yes.

**CHAIRPERSON:** That because on your own evidence you have said that the situation was not normal.

**DR RAMONTJA:** *Ja.*

**CHAIRPERSON:** Issues relating to Optimum had been centralised in the Minister's office.

**DR RAMONTJA:** Yes.

**CHAIRPERSON:** You were marginalised. You were excluded from decisions that were being taken, you know, and you own DDG whereas before Minister Zwane's time when he spoke to you about issues falling under him he would talk to you and update you properly. On your own evidence you have told me he was now whispering to you about what was happening. All of these things I am suggesting to you should have put on the alert and to have been even more concerned about a letter that you had not authorised to be taken out of your office having left without your knowledge in circumstances where you had not dated it. So I am saying those strange and abnormal circumstances

10 that you have told me about are the very circumstances that should have made you more worried and if you were more worried you ought to have taken steps to say well that letter whoever took it must be stopped, because it did not leave my office without, with my authorisation and you know who it was addressed to, Mr Koko. So whoever took it must have intended to send it to Mr Koko and there is no reason why you could not have phoned Mr Koko and say disregard such and such a letter if it comes to you, because I have not, I did not intend it to leave. You will see it does not have the date when I signed it and that is because I was still going to revisit it. Maybe I will respond with another letter or something like that. So I just want to mention that and to give you a chance to say something and I am mentioning it simply because I am quite concerned

20 about it.

**DR RAMONTJA:** Chairperson I think as I said earlier I in hindsight when I look at it I should have done better. I should have been more vigilant than I was then, but I never thought that there are ulterior motives which are associated with the letter and it is sad that now with all these things coming to the light you start to see that you know people can use the system of Government for their own benefit and I think I should have done

better.

**CHAIRPERSON:** Thank you. You should may proceed Mr Maleka.

**ADV MALEKA SC:** Chair can I ask you to go to page 227 of Mr.

**CHAIRPERSON:** Of the bundle in front of me?

**ADV MALEKA SC:** No, of Mr Marsden's file. If you do not have it let me read it out to you.

**CHAIRPERSON:** *Ja*, just read.

**ADV MALEKA SC:** It is Clause 12 of the Sale Agreement.

**CHAIRPERSON:** I have got it, but you can just read.

10 **ADV MALEKA SC:** Yes and maybe for the benefit of Dr Ramontja. It provides the following:

“The investments held by Optimum Mine Rehabilitation Trust and Koorfontein Rehabilitation Trust shall on 31 January 2016 comprise cash or cash equivalents with an aggregate value of no less than R1.750 billion.”

Now Dr Ramontja when someone in the letter that you signed talks about the estimated liabilities of OCH with regards to the Rehabilitation Trust Funds and pen down the estimate at R1.75 billion which amount is more or less the one that is contemplated in the in the clause of the Sale Agreement I have just read out to you. It suggests that  
20 someone in DMR who was party to the formulation of this letter would have had information around the estimate of those liabilities. Do you accept that?

**DR RAMONTJA:** Yes, I accept so.

**ADV MALEKA SC:** Yes.

**DR RAMONTJA:** It can only come from within the department.

**ADV MALEKA SC:** Indeed. Were you aware when you were called upon to look at

this letter and sign it what were the estimate liabilities or OCH relating to the Rehabilitation Trust Funds of both OCM and Koorfontein?

**DR RAMONTJA:** At that time I was not aware, because I would not be involved in the details of each and every mind what is the financial provision.

**ADV MALEKA SC:** Yes.

**DR RAMONTJA:** So I was in the way. Those things, it means someone actively went and checked it, because even if you go to a Regional Office now and say there is mine X. Regional Manager tell me what is the financial provision he would not know or she would not know.

10 **ADV MALEKA SC:** Yes.

**DR RAMONTJA:** She will have to go and look at the documents. So that means there was someone who actively went and looked at those things and look at the values and say let us put this in this letter.

**ADV MALEKA SC:** Indeed. Without even responding to Mr Koko's letter?

**DR RAMONTJA:** Yes.

**ADV MALEKA SC:** Yes. Chair I am going to move to the next part of the letter, hopefully the last one.

**CHAIRPERSON:** Yes.

**ADV MALEKA SC:** It begins at the end of TR113. If I may read it out to you  
20 Dr Ramontja. The last sentence there Chair says:

“In return for the new owners honouring the current contract up  
to 2018...”

Of course Mr Koko's letter does not talk about new owners. Correct?

**DR RAMONTJA:** Yes.

**ADV MALEKA SC:** “...and driving formation.”

Mr Koko's letter does not even talk about transformation. Correct?

**DR RAMONTJA:** Yes.

**ADV MALEKA SC:** “We would like to propose that consideration be made for some prepayment to be made for up to one year of coal supply.”

Let me stop there. Mr Koko's letter does not even talk about prepayment in order to accommodate whoever was running the mine at that point in time. Correct?

**DR RAMONTJA:** Hm.

**ADV MALEKA SC:** When did you become aware for the first time that Eskom had  
10 arranged a prepayment to be made to Tegeta?

**DR RAMONTJA:** Shoo.

**ADV MALEKA SC:** And we now know that on record it is about R659-odd million.

**DR RAMONTJA:** When it was in the news.

**ADV MALEKA SC:** Before that you did not know?

**DR RAMONTJA:** Yes. No.

**ADV MALEKA SC:** And then it proceeds as follows:

20 “...prepayment be made up to one year for coal supply. Understanding the upfront capital injection to be made to ramp up production to meet coal supply requirements from these mines.”

We now known that as a matter of fact the prepayment which was extended by Eskom to Tegeta was not even for the capital or operational requirements of any mine.

**DR RAMONTJA:** Okay.

**ADV MALEKA SC:** Correct?

**DR RAMONTJA:** Yes.

**ADV MALEKA SC:** In fact it was used to provide for the shortfall for the purchase of Optimum Coal Mine. Correct?

**DR RAMONTJA:** Okay.

**ADV MALEKA SC:** So this representation in this letter is false. Of course you did not know, but whoever wrote this letter at that point in time was misstating the facts.

**DR RAMONTJA:** Hm, *ja*.

**ADV MALEKA SC:** Do you agree that whoever formulated the letter at that point in time without your knowledge was simply misleading you as the DG?

**DR RAMONTJA:** Yes. I agree and after listening to yesterday's statements which  
10 were made here I now, with regards to the letter from Mr Koko, I now see that you know there were some ulterior motives associated with the two letters. It is quite clear from where I am now I do not want to make conclusions, but that there were people who were working on the two letters and unfortunately it is when I saw this statement I said what it is, I understood the letter to be saying that this is a proposal, okay and I will also go back to my statement Chairperson of saying Eskom cannot get a directive from the department or another department. Can only get a directive from the Department of Public Enterprise and the management of Eskom if they want to say that was a directive I have got a problem with that. They do not understand how corporate governance works, okay. This I just saw it as a proposal and said look there is a crisis.  
20 When is a crisis, which was painted by them by Mr Koko, when is a crisis you can do, you can look at other innovative ways of addressing the crisis. We have done it in the past in a department, you know, when we did things unconventionally within the law to address the crisis. So I looked at this letter. I assessed the risk. To me there was nothing illegal on my part in the letter. There was nothing which I saw that you know it is not, it is untoward. I just thought this can be a proposal. A proposal which will help

the country. We have gone through power cuts, load shedding in the past and I just said if this man is painting that there will be load shedding, there will be power cuts, perhaps this letter can assist, but I knew the corporate governance if they had to implement anything there they will have to go through the processes of Eskom. So I just left it as it is and I am surprised now that they did not have contact their department on this issue. They only contacted the Department of Mineral Resources, very strange.

**ADV MALEKA SC:** Chair two concluding remarks.

**CHAIRPERSON:** *Ja*, you may proceed.

**ADV MALEKA SC:** Two concluding remarks Dr Ramontja, the first is we now know  
10 from your evidence you do not know what happened to this letter?

**DR RAMONTJA:** *Ja*.

**ADV MALEKA SC:** Do you know whether or not this letter yours and the preceding one of Mr Koko were ever used by Tegeta in order to accelerate fulfilment of the condition precedents in the share sale agreement it concluded with OCM, OCH with the support of Glencore?

**DR RAMONTJA:** No, I am not aware. As I said I was not privy to these issues totally.

**ADV MALEKA SC:** Are you aware whether or not this letter could have been presented to the Competition Commission with a view to aid it to accelerate the merge assessment and approval of the OCH transaction?

20 **DR RAMONTJA:** I am not aware.

**ADV MALEKA SC:** Are you aware whether or not this letter could have been presented the Bank of Baroda in order to ensure that Tegeta would comply with its obligation to fulfil the condition precedent?

**DR RAMONTJA:** Chairperson this is news to me. I.

**ADV MALEKA SC:** I am not saying that they have done it. I am just asking you

whether or not are you aware that these matters?

**DR RAMONTJA:** No, I am not aware Chairperson.

**ADV MALEKA SC:** Yes. There must have been a purpose to this letter and I am not going to bore you with what I consider to be the purpose. When Eskom through Mr Koko presents a situation of crisis and your department responds to this situation in a manner that does not relate to Mr Koko's request the two are not talking to each other. In fact I suggested to you that there is a clean deception. Eskom's letter deceives you. Correct?

**DR RAMONTJA:** Yes.

10 **ADV MALEKA SC:** And this letter that we have seen you have written.

**DR RAMONTJA:** Hm.

**ADV MALEKA SC:** Deceives.

**DR RAMONTJA:** Hm.

**ADV MALEKA SC:** Eskom.

**DR RAMONTJA:** Hm.

**ADV MALEKA SC:** Because it does not talk to its requirements. Correct?

**DR RAMONTJA:** No, I agree. I agree. I agree Chairperson, yes.

**ADV MALEKA SC:** What do you think is the reason for this scale and scope of deception?

20 **DR RAMONTJA:** Well with what is transpiring now you can see that it looks like to me that there were people who were trying to favour Tegeta to acquire this asset of Optimum and this is just my perception Chairperson and they used the system of Government to try to do that, okay and with the letter why did they go to the Department of Minerals to do this, I do not know why they did that. Maybe it was an easier route for them to do that or they were part of whatever they were planning, but it

is quite clear that there is a linkage of some kind and the enquiry will probably find out those linkages.

**ADV MALEKA SC:** From our part I agree with you. Chair that is the end of our questions to Dr Ramontja.

**CHAIRPERSON:** Thank you. Dr Ramontja, this letter is not dated, but do you recall more or less round what date you would have signed it?

**DR RAMONTJA:** It is around.

**CHAIRPERSON:** The one to which you were responding was signed by Mr Koko on.

**DR RAMONTJA:** *Ja.*

10 **CHAIRPERSON:** 6 December 2015. So, and on 10 December you were asked to resign, to put in your letter of resignation

**DR RAMONTJA:** *Ja.*

**CHAIRPERSON:** But you only left at the end of January.

**DR RAMONTJA:** *Ja.*

**CHAIRPERSON:** So are you able to say more or less around what date you think you must have signed it?

**DR RAMONTJA:** It was before I submitted my letter of resignation.

**CHAIRPERSON:** So.

**DR RAMONTJA:** Around the 7<sup>th</sup>, around there.

20 **CHAIRPERSON:** Around the 7<sup>th</sup>?

**DR RAMONTJA:** *Ja.* Just after.

**CHAIRPERSON:** Just after the 6<sup>th</sup>?

**DR RAMONTJA:** *Ja,* just after the Minister. I think they had gone to Zurich. I think they came back on the 7<sup>th</sup>.

**CHAIRPERSON:** Yes.

**DR RAMONTJA:** So it is on the 6<sup>th</sup>.

**CHAIRPERSON:** It was.

**DR RAMONTJA:** Around there.

**CHAIRPERSON:** Around.

**DR RAMONTJA:** Those dates.

**CHAIRPERSON:** Yes. Okay and in preparation for coming here, did you ask Mr Raphela about whether he ever knew anything about this letter?

**DR RAMONTJA:** I tried now because when I was with the investigators I asked them. I said I can contact Mr Raphela, because I know at some point when that letter surfaced

10 in Parliament.

**CHAIRPERSON:** Yes.

**DR RAMONTJA:** I sent it to him, but we never went into its details. So, but when the investigators were discussing this issue I asked them, I said can I contact people to prepare for my responses. They then said yes it is fine. Then I tried to phone Mr Raphela. He did not return my calls, yes.

**CHAIRPERSON:** Yes, thank you. Thank you Dr Ramontja for coming.

**DR RAMONTJA:** Okay.

**CHAIRPERSON:** To give your evidence. I am going to excuse you for now. Should a need arise for you to come back we will ask you to come back.

20 **DR RAMONTJA:** Thank you.

**CHAIRPERSON:** Thank you, you are excused.

**DR RAMONTJA:** Thank you. Thank you Chairperson.

**CHAIRPERSON:** Thank you.

**ADV MALEKA SC:** Chair, may we ask for a short adjournment for our colleagues who are going to deal with Minister Nene's evidence to set up and

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

**ADV MALEKA SC:** Prepare themselves.

**CHAIRPERSON:** Will five minutes be enough? Shall we say five minutes?

**ADV MALEKA SC:** Shall I suggest 10 minutes? So then you should not move in and out. I am doing it for a convenience, but we may not be ready. We have to go and.

**CHAIRPERSON:** Okay. Let us say we will resume at 10 past 12.

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

**CHAIRPERSON:** We adjourn.

**REGISTRAR:** All rise.

10 **INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Yes Mr Pretorius?

**ADV PRETORIUS SC:** Good after DCJ.

**CHAIRPERSON:** Good afternoon Mr Pretorius, good afternoon Mr Nene, thank you.

**ADV PRETORIUS SC:** Chair you have before you or should have before you Exhibit K2 which is the second bundle now dealing with matters relevant to former Minister Nene. There are three bundles here and they have been bundled unfortunately into one file because of stationery issues but I would not bother you with that Chair.

**CHAIRPERSON:** Yes.

20 **ADV PRETORIUS SC:** There are two applications for condonation, one of which at least is now moot, being an application for postponement, that postponement having already occurred. May I ask Ms Sello to deal with the two applications before you and then I will lead the supplementary evidence of Mr Nene.

**CHAIRPERSON:** Okay, thank you.

**ADV SELLO:** Morning Chair.

**CHAIRPERSON:** Yes Ms Sello, some of us who have been working from quite early know that it is afternoon now.

**ADV SELLO:** Chair it is morning until the sun goes down. Chair based on what Mr Pretorius has just said perhaps the best place to start would be with the second application for postponement, the one he says is moot, it is under tab 2 of your file, of K2.

**CHAIRPERSON:** Yes.

**ADV SELLO:** That was an application that was filed on behalf of Mr Nene for a postponement due to ill-health and just to place on record that that application was  
10 actually heard on the 15<sup>th</sup> of November.

**CHAIRPERSON:** Yes that was my recollection, so what is it doing here?

**ADV SELLO:** It so happened in the compilation of the file these two have always been together and I think the error occurred in duplicating both of them for purposes of K2. It really should not be in the file Chair.

**CHAIRPERSON:** Okay, alright.

**ADV SELLO:** So that one has been granted on the 15<sup>th</sup> of November so it is deposed of. So what I stand to address you on primarily Chair is the application brought by the legal team for non-compliance with the provisions of Rule 33 and that would be under Tab 1.

20 **CHAIRPERSON:** Yes.

**ADV SELLO:** Now just to briefly give you a background Mr Nene testified on the 3<sup>rd</sup> of October 2018 his statement having been received on the 1<sup>st</sup> of October and the annexures thereto, the complete annexures on the 2<sup>nd</sup> of October. This made it impossible for the legal team to comply with their 14 day 33 notice The notices were however issued immediately upon receipt of the complete file and they appear as

Annexures B1 to B4 in your file. The reasons for the delay are well articulated in paragraph 14.8 and Chair we submit that they are reasonable under the circumstances.

**CHAIRPERSON**: I do not what they are.

**ADV SELLO**: At paragraph 14 point 8 at page 17 ...(intervention)

**CHAIRPERSON**: Let us deal with this properly. Is this in respect of the supplementary statement or the original statement.

**ADV SELLO**: No it is in respect of the original statement.

**CHAIRPERSON**: Okay, so just take me back what had happened then?

**ADV SELLO**: Okay let start with the date on which Mr Nene appeared before you  
10 Chair, that was the 3<sup>rd</sup> of October.

**CHAIRPERSON**: Yes.

**ADV SELLO**: If the Chair would have regard to page 17 of the bundle at paragraph 14.8 the legal team states that the statement was only received on the 1<sup>st</sup> of October and the complete annexures on the 2<sup>nd</sup> of October when Mr Nene was due to testify the following day, on the 3<sup>rd</sup>. That meant that the legal team could not comply with the requirements of the 14 day notice period in terms of 33. From paragraph 14.8.1 also on page 17 we set out the reason why the statement was late in the first place.

**CHAIRPERSON**: Yes, and what were those reasons?

**ADV SELLO**: The reasons were, a few reasons, it was – apologies, Minister Nene's  
20 busy work schedule at the time, he was doing a whole lot of travelling, there was – the issues he had to deal with, the volume was increasing and he had to apply his mind thereto, the availability of his legal representatives to complete the statement including the voluminous issues that were raised subsequent to the first draft and then there was ...(intervention)

**CHAIRPERSON**: And the statement was supposed to have arrived when?

**ADV SELLO:** The statement was supposed to have ...(intervention)

**CHAIRPERSON:** So in other words how long was the delay?

**ADV SELLO:** If the Chair has regard to paragraph 14.5 that is where we set the timelines.

**CHAIRPERSON:** Yes, just tell me what it says?

**ADV SELLO:** It says that on 29<sup>th</sup> August 2018 it was contemplated that Mr Nene would give evidence on the 10<sup>th</sup> of September. The date was later changed to the 14<sup>th</sup> of September in light of Mr Nene's unavailability and on 7 September a new date was arranged for the 3<sup>rd</sup> of October. So if one then has regard to the 3<sup>rd</sup> of October which is  
10 the new scheduled date the statement should have come, should have been received by us as a bare minimum 14 days prior to that date, that would have been mid-September, around the 15<sup>th</sup> of September Chair.

**CHAIRPERSON:** Yes, yes, it ended up arriving on the 2<sup>nd</sup> of October?

**ADV SELLO:** It arrived in two parts, the statement itself arrived on the 1<sup>st</sup> of October and the complete set of Annexures to the statement arrived on the 2<sup>nd</sup> of October.

**CHAIRPERSON:** Okay, so the delay was about two weeks.

**ADV SELLO:** The delay was about two weeks Chair.

**CHAIRPERSON:** Yes for the reason that you have given.

**ADV SELLO:** Indeed Chair.

20 **CHAIRPERSON:** Okay.

**ADV SELLO:** Now the persons implicated by Mr Nene's statement former President Zuma, Mr Mahlobo, Ms Joemat-Pettersen and Ms Nkoana Mashabane.

**CHAIRPERSON:** Yes.

**ADV SELLO:** If you permit me Chair I am going to hand up a few documents which were received after the compilation of the application which are the responses from the

various implicated person,

**CHAIRPERSON**: Ja, I may not need you to hand them up. I just need you to tell me whether you sent out the notices, when you sent them out, whether there has been reaction to them and when that was.

**ADV SELLO**: Let me start with former President Zuma, there has been . Notice was delivered in terms of B1 of the file and there has been no response. Ms Nkoana Mashabane responded on the 19<sup>th</sup> of October to indicate that she had received the notice, perused the notice together with the attachments and in particulars 58 to 106 and she drew her conclusion that she is not implicated by the allegations made by Mr  
10 Nene, so that was the position she took and no further correspondence has been entered into.

The second one Chair would be Mr Mahlobo, Mr Mahlobo's view was to confirm that he did receive the notice of the 12<sup>th</sup>, and he too draws the conclusion that he is not implicated by the evidence of Mr Nene, he therefore elects not to give evidence, to call any witness or to cross-examine Mr Nene.

**CHAIRPERSON**: Okay.

**ADV SELLO**: He however indicated that he has no objection to the granting of the condonation application that we sought to bring.

**CHAIRPERSON**: Yes.

20 **ADV SELLO**: Lastly communication was received from Ms Joemat-Pettersen's attorneys, it was a fairly long letter, basically requesting a range of documents much along the lines of better discovery to enable her to deal with the Rule 3.3. She confirmed however in that letter that she had received the notice, together with Mr Nene's statement and the annexures thereto, requested this list of documents, which we considered irrelevant for purposes of Rule 3.4 and should she be interested to

receive those further documents she is at liberty to get in touch with Mr Nene's attorneys to receive them directly.

In light of that – of that long list, she then – she indicated that the 14 days period has not started to run against her, we indicated that everything that the Commission received from Mr Nene on the basis of which we issued a 3.3 has been made available to her and that under the circumstances we are of the view that she is able to make a determination whether to invoke her rights in terms of the rules, and we have not received a response thereto.

10 In her original response she had however made indicated her willingness to appear before you and to answer any questions that the Chair may have and that is the status of the implicated persons Chair.

**CHAIRPERSON:** Yes okay, no that is fine. The **REQUIRED CONDONATION IS GRANTED.**

**ADV SELLO:** I am indebted to the Chair.

**CHAIRPERSON:** Yes Mr Pretorius, I think ...(intervention)

**ADV PRETORIUS SC:** It is perhaps appropriate given the lapse of time to swear the witness in.

**CHAIRPERSON:** Just administer the oath, thank you.

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

20 **WITNESS:** Nhlanhla Musa Nene.

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

**WITNESS:** No objection.

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

**WITNESS:** Yes.

**REGISTRAR:** Do you swear that the evidence you will be the truth, the whole truth,

nothing but the truth, if you say so please raise your right hand and say so help me God.

**WITNESS:** So help me God.

**NHLANHLA NENE:** (duly sworn states)

**CHAIRPERSON:** I understood Mr Nene it was end of last year that you had injured your foot, I hope it has fully recovered.

**MR NENE:** Chair it is 97.3% recovered and I called in the benefits of old age, I turned 60 a few months ago, so it takes slightly longer for a person of my age to recover, to head.

10 **CHAIRPERSON:** Thank you. Yes Mr Pretorius.

**ADV PRETORIUS SC:** Thank you. Mr Nene in the file K2 before you after the second divider you will see a document entitled supplementary affidavit of Nhlanhla Musa Nene signed, do you see that? It is after the third divider. That part of the bundle has been separately paginated and if you would go to page 15 please. Whose signature is that on page 15?

**MR NENE:** It is my signature Mr Chairperson.

**ADV PRETORIUS SC:** And the statement pages 1 to 15 is that your statement?

**MR NENE:** It is indeed my statement.

**ADV PRETORIUS SC:** Are you aware of the contents of that statement?

20 **MR NENE:** I am fully aware of the contents.

**ADV PRETORIUS SC:** Are they true and correct?

**MR NENE:** Absolutely.

**ADV PRETORIUS SC:** Before dealing with the contents of your statements it is perhaps necessary to explain Mr Nene why you are here today. You gave evidence before this Commission on the 3<sup>rd</sup> of October 2019, you obviously recall that.

**MR NENE:** That is correct.

**ADV PRETORIUS SC:** However in the one or two days before you testified several things took place, firstly an article appeared in electronic media and the press making certain what appeared to be serious allegations against you. In the bundle before you they appear, and I will refer to them in detail in due course, from page 50 and following, all these articles to which I am now going to refer were provided to your legal representatives in order to allow you an opportunity to consider them.

Secondly on the 2<sup>nd</sup> and 3<sup>rd</sup> of October the Economic Freedom Front, the EFF released public statements also making quite serious allegations against you, these appear at page 59 and 61 and we will refer to them in a moment, and then various other allegations appeared in social media for example the allegation at page 69.

Now on the 3<sup>rd</sup> of October – and we will come to them in a moment Mr Nene – on the 3<sup>rd</sup> of October there were discussions between the Commission’s legal team and your legal representatives, the result of which was that you were informed by the legal team that it would be unfair to confront you with these allegations at that stage when you had not had a chance to consider them and to consider your response, and in response to that information you undertook to come back to give evidence before this Commission for two main reasons, one so that these allegations could be put to you, you having had a chance with your legal representatives to consider their detail, and secondly to allow you to put your own response to what is contained in these allegations, and that is the purpose of your evidence today.

If I can take you then to page 50 so that we may understand these allegations, on page 50 and it appears that this is an article that appeared in Business Live and it was derived from internet sources, its source is less important for the

moment at least than what is said in the article.

The first paragraph reads:

“Towards the end of last May a former colleague of mine, John Gludlu, who writes a column for Business Day wrote something that made my hair stand on end ...”

Says the author of this article.

10 “Julius Malema is at it again, he wrote “this time he has set his sights on Finance Minister Nhlanhla Nene, holder of probably the most important cabinet portfolio after the President. During the debate on the Presidency’s budget vote Malema accused Nene, who was reappointed to his old job in February of impropriety, suggesting that the EFF is in possession of a dossier of meetings he had with dodgy business people during his tenure as deputy to then Finance Manager Pravin Gordhan.”

That is the first allegation that is quoted in this article, you deal with it in your statement.

**MR NENE:** I do.

**ADV PRETORIUS SC:** The second allegation that arises in this particular article is a quote from a former employee of the Mail & Guardian newspaper, one Zukile Majova, and he apparently circulated the following on Facebook and that statement appears later, once again Chair we seem to be offline. Chair we seem to be offline?

20 **CHAIRPERSON:** Oh, I was looking at ...

**ADV PRETORIUS SC:** Yes, perhaps the allegations be ...

**CHAIRPERSON:** We might have to take a short adjournment, let us take a five minutes adjournment while that is being attended to.

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

**CHAIRPERSON:** We will adjourn.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Yes Mr Pretorius?

**ADV PRETORIUS SC:** Thank you DCJ. I am told that I omitted to inform you that the legal representative of Mr Nene are before you, may she put herself on record?

**CHAIRPERSON:** Did not they before, or maybe – well let them do it, it is okay.

**ADV ADILA HASSIM:** Thank you Chair, that might have been on behalf of Mr Fezile the last time.

**CHAIRPERSON:** Oh, okay.

10 **ADV ADILA HASSIM:** I appear, together with my learned friend Ms Rajah for Mr Nene.

**CHAIRPERSON:** Thank you very much. Yes, you may proceed.

**ADV PRETORIUS SC:** Thank you Chair. Mr Nene before the break we were dealing with the allegations that appeared in the article that is on page 50 of the bundle before you, and we were referring to a report that was circulated on Facebook, apparently authored by one Zukile Majova, and this person wrote:

20 “Amon Bongani : Finance Minister Nhlanhla Nene issues his son’s successful oil company funded by PIC while he was the Finance Deputy Minister and Chair of PIC. Raymond Siphiso Debengwa and Kingdom are both Zimbabwean friends of Nhlanhla Nene and were funded by the PIC for an IPP project, approved by Nhlanhla Nene hence Debengwa is now sitting on the Eskom Board. Mail & Guardian will soon run this story. They even have traces of money through Dubai (same banks as the Guptas). They say Nhlanhla Nene was not only linked to the Guptas but instrumental in funding many of their business deals. Some money went through Switzerland bank to RSA into the account of Nhlanhla Nene’s wife. Apparently Nhlanhla wants

to resign as Finance Minister.”

Those allegations you deal with in your statement?

**MR NENE:** That is correct Chairperson.

**ADV PRETORIUS SC:** We should note that Amon Bongani subsequently denied that they were the source of this report, although Mr Majova purports this report to be an Amon Bongani press release, is that correct?

**MR NENE:** That is correct.

**ADV PRETORIUS SC:** Then on page 51 and I am not going to read the whole of these allegations, but just to highlight the important ones, in the middle of page 51 reference  
10 is made to a damaging narrative abroad that Nene pressed Survé, Iqbal Survé, to consummate the agreement with the Gupats and that he did that because the Guptas had something on him and then reference is made to an accusation made by the EFF, Mr Malema, that he, Mr Malema has got a scandal that they have got on him, that is Mr Nene, that involves his daughter which they gave to him and they never reported it, that too you deal with in your statement, is that correct?

**MR NENE:** That is correct Commissioner.

**ADV PRETORIUS SC:** The Majova Facebook report appears in the following pages in small print but in the terms that have just been read onto the record, it appears at page 58. Do you see that?

20 **CHAIRPERSON:** What page is that Mr Pretorius?

**ADV PRETORIUS SC:** Page 58, that is the Majova report that appeared on Facebook, it is printed in smaller form on page 58.

**CHAIRPERSON:** Okay, I see it ja.

**ADV PRETORIUS SC:** And we have read that onto the record.

**CHAIRPERSON:** Ja okay.

**ADV PRETORIUS SC:** And then on page 59 is a press release at the hands of the EFF headed “our case against Nhlanhla, and we will come to that in detail in due course and the allegations made in it, but it was released on Tuesday 2 October 2018, the day before you gave evidence, and the first paragraph reads:

“The Economic Freedom Fighters, EFF, notes the reports that the Minister of Finance intends to reveal his conditions and close working relationship with the Guptas when he was Deputy Minister of Finance and Chairperson of the State-owned asset management company, the Public Investment Corporation.”

- 10 They then refer to a letter written to you and the allegation is made that you refused to respond to the questions in the letter, you deal with that in your statement, is that correct?

**MR NENE:** Indeed I do.

**ADV PRETORIUS SC:** And then in the middle of the page the EFF make the following statement:

- 20 “What the Nhlanhla Nene developments reveal is that throughout his tenure as Deputy Minister of Finance and Chairperson of the PIC Nhlanhla Nene was captured by the Guptas and worked for them. He negotiated business deals for them and bullied those who sought money from the PIC to submit to the demands of the Guptas. The reason Nhlanhla Nene was appointed as Minister of Finance by a captured Jacob Zuma was because he was working with the Guptas. When he was Minister of Finance he stopped taking their calls and tried to work independent of the Guptas. That is the reason they approached Ncebisi Jonas and later Des van Rooyen to be Minister of Finance because their appointee was no longer cooperative.”

So in summary Mr Nene it seems that the allegation made by the EFF in regard to your conduct was that whilst you were Deputy Minister of Finance you cooperated with them but thereafter you refused to cooperate, that is their allegation and you deal with that as well in your statement.

**MR NENE:** That is correct.

**ADV PRETORIUS SC:** And then at the bottom of the page in the last paragraph the following allegation appears:

10                   “The EFF is aware of many other dealings and dark secrets that compromises Nhlanhla Nene and will reveal all if he does not voluntarily step down as a Minister of Finance.”

And then over the page the first paragraph reads:

                  “The people of South Africa should know that there is no one credible and honest in the entire leadership of the ANC, they have dark and dodgy secrets, that is why the ANC must be removed from power in 2019 and replaced by a revolutionary corrupt-free economic emancipation movement.”

The next paragraph reads, which is a direct allegation:

20                   “Mr Nene what the Nhlanhla Nene developments reveal is that throughout his tenure as Deputy Minister of Finance and Chairperson of the PIC Nene was captured by the Guptas and worked for them. He negotiated business deals for them and bullied those who sought money from the PIC to submit to the demands of the Guptas]”.

And then there is a repeat of what appears on the previous page, and that appears to have been issued the day before you gave evidence.

The following documents are really repetitions in one form or another of documents that we have already referred to, but if I may just finally take you to page 69

there appear again sourced from social media a number of allegations and a summary of those allegations, there is nothing new there and we have already dealt with those allegations in summary and on page 70 lastly is an email addressed from one Mr Ancu Shamar to Duduzane Zuma concerning a project called Brakfontein, do you see that?

**MR NENE:** That is correct sir.

**ADV PRETORIUS SC:** That is then copied to Siyabonga, Nene, your son I believe, who acknowledges receipt and you deal with allegations in relation to that project as well in due course, is that correct?

**MR NENE:** That is correct.

10 **ADV PRETORIUS SC:** Those are in short the allegations that were brought to your attention by the legal team that you were then given an opportunity to consider and form the background of your presence here today. May we then please go to your statement, at page 1, and if I could just ask you to express your sentiments in your own words is there anything to add, or that you would wish to add about why you are here today, other than what we have already dealt with, and what may appear in paragraph 1.

**MR NENE:** Thank you Chair. There is not much to add on the statement because as I indicated that I would be quite prepared to return to the Commission in order to answer on these matters and that these matters be put to me but I also at the end of the term,  
20 submission, I did deny the allegations being levelled against me by the Economic Freedom Fighters and others and that it had any basis in truth, I therefore agreed to come back and be able to – and that is the reason why I am here today.

**CHAIRPERSON:** Thank you, thank you for coming back.

**ADV PRETORIUS SC:** May I just add Chair that the work of the investigators is ongoing, issues relating to the PIC will be dealt with by a separate work stream and

obviously political parties including the EFF will have an opportunity to give evidence, but I may say that we have not received from any party any evidence to this – at this stage, or until now in regard to the allegations made, other than our own investigations.

**CHAIRPERSON:** Ja no that is fine. Issues that fall under the PIC will have to be looked at carefully in the light of the fact that there is a Commission chaired by Justice Mpathi which is looking at certain issues relating to the PIC so the legal team of the Commission will need to apply their minds to the question whether it is not appropriate for those issues to be dealt with exclusively by the PIC Commission to avoid a situation where same issues are dealt with in two different Commissions with the risk that may  
10 arise of different findings being made. The legal team will need to apply their minds to those issues because if and when they come before me I will ask for argument on those issues.

**ADV PRETORIUS SC:** Yes Chair. We do know – I do not have the terms of reference of the party Commissioned here.

**CHAIRPERSON:** Yes.

**ADV PRETORIUS SC:** But the terms of reference do restrict.

**CHAIRPERSON:** Yes.

**ADV PRETORIUS SC:** Their own work.

**CHAIRPERSON:** YEs.

20 **ADV PRETORIUS SC:** To a particular time period commencing 2015.

**CHAIRPERSON:** Yes.

**ADV PRETORIUS SC:** So insofar as there is evidence before that period relative to the work of this Commission we may need to deal with it independently. But we are aware of the possibility of duplication.

**CHAIRPERSON:** Yes no that is fine but you might need to do more than just relying on

your understanding of the terms of reference because I seem to remember reading in the media and I do not know if it was true but I seem to remember reading in the media that that Commission had taken the view that its mandate is wider than what seems to be generally understood. So some communication might be necessary to understand whether there is a different understanding of the terms of reference whether that is based on a different interpretation of the terms of reference so that we can be fully informed before we make up our own minds. Ja okay.

**ADV PRETORIUS SC:** That will be thoroughly examined.

**CHAIRPERSON:** Yes.

10 **ADV PRETORIUS SC:** For the moment

**CHAIRPERSON:** Yes.

**ADV PRETORIUS SC:** I am reliably informed ...

**CHAIRPERSON:** Yes.

**ADV PRETORIUS SC:** By the legal team.

**CHAIRPERSON:** Ja.

**ADV PRETORIUS SC:** Whose sources are ordinarily impeccable Chair.

**CHAIRPERSON:** Ja thank you.

**ADV PRETORIUS SC:** If we may then go to page 2 of your statement Mr Nene. What position did you hold between the dates 8 November 2008 and 25 May 2014?

20 **MR NENE:** I held the position of Deputy Minister of Finance and I was also the non-executive director and chairperson of the PIC board. And as stated in the statement so although this is not required by law it has become practice that the deputy ministers serves as chair of the Public Investment Commission board or Cooperative board.

**ADV PRETORIUS SC:** Now would you then please deal with the allegation that you knowingly acted to promote funding from the PIC to benefit your son or any business in

which your son was involved in at the time?

**MR NENE:** These allegations were made as you have correctly pointed out in the media before I appeared before this Commission that I acted improperly concerning investments made by the PIC in particular that I knowingly acted to promote funding from the PIC to benefit businesses that my son Siyabonga Nene is involved in. My response at that stage and it remains that I did not promote any financing from the PIC to any companies involving my son and I go further to say that I was not aware that the PIC funded a business that my son was involved in during my tenure as Deputy Minister and Chair of the board and he had never shared any information with me  
10 either.

**ADV PRETORIUS SC:** Alright before you go on this issue was also the subject of a – of an investigation by the current Public Protector.

**MR NENE:** Public Protector yes.

**ADV PRETORIUS SC:** Resulting from the a complaint lodged with her by the Democratic Alliance, the DA.

**MR NENE:** That is correct.

**ADV PRETORIUS SC:** We will deal with that in a moment.

**MR NENE:** That is correct.

**ADV PRETORIUS SC:** You say that in your capacity as Chair of the PIC you were not  
20 aware of any financial assistance given to your son or to any business in which your son was involved at the time, is that correct?

**MR NENE:** That is correct. That is correct.

**ADV PRETORIUS SC:** Did your son ever tell you about any business benefit that he might have received from the PIC?

**MR NENE:** Not during my tenure as Deputy Finance Minister but he did share this with

me at a later stage where he was indicating that they had applied for funding with the PIC and I do cover that in the statement.

**ADV PRETORIUS SC:** Ja we will come to that in a moment. Did you ever attend a meeting of the board of the PIC where a decision was made to fund a business in which Siyabonga Nene was involved?

**MR NENE:** Not according to my recollection and I trust the PIC board records would bear me out on that.

**ADV PRETORIUS SC:** And did you ever receive any information from any official or board member of the PIC that such an application for assistance from the PIC was  
10 being considered by the PIC?

**MR NENE:** No.

**ADV PRETORIUS SC:** Do you know whether at the time or did you know let us split that issue up into two what you knew then and what you know now. At the time you were chair of the PIC did you have any knowledge of any grant to your son of any benefit from the PIC?

**MR NENE:** No I did not.

**ADV PRETORIUS SC:** What came to your knowledge after you took office as Minister of Finance and after your relationship with the PIC board had come to end?

**MR NENE:** Well that was after I had actually taken office as Minister of Finance after I  
20 also left the board my son and his – my son informed me that he himself and his business partner Mr Mirza who had applied to the PIC...

**ADV PRETORIUS SC:** Is that M-i-r-z-a?

**MR NENE:** That is correct yes. That they had applied for financing of an investment in Mozambique Oil Refinery and I reminded him of my previous admonishments that he could not be involved in business with government because of my role in government

that I also would never use my position for the private benefit of myself or any family member.

**ADV PRETORIUS SC:** So you knew your son was involved in businesses at the time you were chair of the PIC?

**MR NENE:** Yes Sir.

**ADV PRETORIUS SC:** Just bear with me a minute Chair please?

**CHAIRPERSON:** Okay.

**ADV PRETORIUS SC:** I am informed Chair that once again technical problems have arisen and that we have been asked by our support team to request a short break. I  
10 am not sure what the problems are and what affect they will have.

**CHAIRPERSON:** Well let us rather find out what the problems are because we see we are still online. Will somebody talk to Mr [indistinct] Stimella

**ADV PRETORIUS SC:** Yes he has spoken to us Chair and asked that.

**CHAIRPERSON:** Oh he does not know?

**MR STIMELLA:** [indistinct] because there is a technical glitch with the vans outside the SABC vans have got a challenge they are tripping to give the live feed at home but we are live here but at home is a problem

**ADV PRETORIUS SC:** At home?

**MR STIMELLA:** Ja if the [indistinct] are not coming through.

20 **ADV PRETORIUS SC:** Well apparently Chair although we are “live” here everything else outside is dead so that is the problem in a non-technical sense. I do not have the fancy words to describe it. But apparently the feed is not operative.

**CHAIRPERSON:** Oh okay then we may as well take the lunch break we are five minutes before one o'clock and hopefully those who need to attend to it will attend to it even during the lunch hour so that when we come back we can resume and proceed

smoothly. We will take the lunch adjournment and we will resume at two o'clock. We adjourn.

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

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Yes you may proceed Mr Pretorius.

**ADV PRETORIUS SC:** Thank you Chair. Mr Nene we were at paragraph 7 of your statement. You would have at some stage read the news report or the news reports to which we made reference earlier today and particularly the statement regarding your  
10 alleged role in the PIC.

**MR NENE:** That is correct.

**ADV PRETORIUS SC:** Did you speak to your son about those allegations once you had read the report?

**MR NENE:** Indeed I did speak to him and he assured me that he never received any benefit from the Public Investment Corporation and [intervenues].

**ADV PRETORIUS SC:** When did you discuss his alleged partner Mr Mirza?

**MR NENE:** Yes. We did and he did indicate that Mirza may have benefitted but the extent of the benefit is unknown to me because it was now through his company where my son was not involved.

20 **ADV PRETORIUS SC:** Right. Did he tell you what his relationship was with any business in which Mr Mirza might have been involved when Mr Mirza might have received funding from the PIC?

**MR NENE:** Look the relationship originally when they applied for funding was that they were partners, but when it reached a point of whatever benefit might have accrued to Mirza my son was no longer party to that.

**ADV PRETORIUS SC:** So did your son break with Mr Mirza?

**MR NENE:** Yes, from the company that was doing business.

**ADV PRETORIUS SC:** Yes. Did you receive a communication from the Public Protector during October 2018?

**MR NENE:** That is correct. I did receive a complaint from the Public Protector.

**ADV PRETORIUS SC:** And did that complaint or did the communication refer to a complaint received from the Democratic Alliance particularly Mr David Maynier?

**MR NENE:** That is correct.

**ADV PRETORIUS SC:** If you look at Annexure NN1 please which is on page 16.

10 **MR NENE:** Yes, I [intervenes].

**ADV PRETORIUS SC:** That is a letter which appears to come from the Public Protector's Office addressed to yourself and it is dated as most public documents or communications are date at the end 24 October 2018. That appears on page 18.

**MR NENE:** That is correct.

**ADV PRETORIUS SC:** Yes. The complaint, I might as well just go there, is in paragraphs 3 and four which read:

20 "In his letter of complaint Mr Maynier alleged that "I am writing to request an investigation in terms of Section 4(2) of the Executive Members Ethics Act into the conduct of the Minister of Finance Nhlanhla Nene whose son Siyabonga Nene allegedly may have benefitted from an investment made by the Public Investment Corporation."

Paragraph 4 reads:

"Mr David Maynier also stated in his letter of complaint that "the Minister was variously the Finance Minister, Deputy Finance

Minister and Chairperson of the Public Investment Corporation at the time his son allegedly may have benefitted from the investment made by the Public Investment Corporation.””

And so the question put to you in essence appears at page 17 of the bundle at paragraph 6.2 an indication:

“Whether you had any involvement and/or influence in the granting of an investment by the PIC to your son Mr Siyabonga Nene and/or Mr Muhammad Amir Mirza and/or any entities or companies related to Mr Siyabonga Nene and  
10 Mr Muhammad Amir Mirza.”

That is the communication received in relation to an investigation conducted by the Public Protector. Did you respond?

**MR NENE:** Indeed I did respond Commissioner and the response is attached as Annexure NN2.

**ADV PRETORIUS SC:** You responded in writing?

**MR NENE:** I did, yes.

**ADV PRETORIUS SC:** Did you attempt to respond in any other way?

**MR NENE:** In the letter the Public Protector had indicated that she would be amenable also to a one on one engagement and I had preferred that, because I thought that  
20 would answer all the questions, but then she felt that perhaps I just need to respond in writing if there is a need for a one on one we would be able to do that.

**ADV PRETORIUS SC:** Did you ever have a one on one meeting/

**MR NENE:** No, we did not.

**ADV PRETORIUS SC:** Alright.

**MR NENE:** Since she was not available for a one on one, but I submitted the written

response.

**ADV PRETORIUS SC:** Would you look at page 19 Annexure NN2 please?

**MR NENE:** Yes, correct.

**ADV PRETORIUS SC:** Is that your response?

**MR NENE:** That is my response, sir.

**ADV PRETORIUS SC:** It reads in paragraph 2 or three:

10                   “During my tenure as a Deputy Minister of Finance and the  
                          Chairperson of the Public Investment Corporation I in no way  
                          tried to influence the investment process and decision  
                          regarding the PICs consideration of investment in Mozambique  
                          Oil Refinery or its funding of the equity participation of  
                          Mr Amir Mirza and Mr Siyabonga Nene via Indiafrec Trade &  
                          Investment (Pty) Ltd or any other investment for that matter.”

Now was that information regarding the partnership or the equity participation of your son and Mr Mirza? Your recordal or was that the Public Protector’s recordal of the position?

**MR NENE:** That was the allegation, but also what I was stating in the letter was that I had not tried to influence the investment process into this company at all.

20                   **ADV PRETORIUS SC:** Well did you know of Indiafrec Trade & Investment (Pty) Ltd or  
                          any investment in the Mozambique Oil Refinery by a concern in which both Mirza and  
                          Siyabonga Nene had equity?

**MR NENE:** Indeed I had been informed later after my departure from PIC as Chairperson.

**ADV PRETORIUS SC:** At the time it is alleged to have been made?

**MR NENE:** At the time, no.

**ADV PRETORIUS SC:** Right. What did your son tell you about the allegation?

**MR NENE:** He.

**ADV PRETORIUS SC:** In the paragraph above.

**MR NENE:** He informed me that he derived no benefit from the investment by the PIC in the oil refinery and also that subsequent to them having applied for financing he had also resigned from that company, but also whatever benefit might have accrued, would have accrued to the company that his partner alone was.

**ADV PRETORIUS SC:** Alright. Do you know whether that company in which Mr Mirza had equity ever received a benefit from the Public Investment Corporation?

10 **MR NENE:** I am not sure sir.

**ADV PRETORIUS SC:** Did you then invite the Public Protector to engage the PIC directly on the matter?

**MR NENE:** Absolutely.

**ADV PRETORIUS SC:** And you offer in the last paragraph or the penultimate paragraph to meet with the Public Protector?

**MR NENE:** That is correct.

**ADV PRETORIUS SC:** The communication that we have just referred to is dated 26 November 2018. Do you see that? That is on page 19.

**MR NENE:** Yes, the NN2 of that document.

20 **ADV PRETORIUS SC:** Since then have you heard anything further from the Public Protector?

**MR NENE:** Indeed I did receive an acknowledgement of receipt from the Office of the Public Protector I think two days after that. I think it is NN3.

**ADV PRETORIUS SC:** Right. In that document on behalf of the Public Protector you are thanked for your assistance. Has anything transpired since?

**MR NENE:** No, nothing sir.

**ADV PRETORIUS SC:** Right. Let us move onto paragraph 11 please. Annexure A is dealt with in that paragraph and the paragraph that follow and Annexure A appears at page 50. We have summarised the allegations in that already. Generally speaking what do you say about the allegations made on page 50?

**MR NENE:** Sir.

**ADV PRETORIUS SC:** And on the following pages up to page 52.

**MR NENE:** Categorically I deny all allegations made in Annexure 1 of this Commission's questions and I truly can only describe this report and social media  
10 commentary as baseless and unfounded.

**ADV PRETORIUS SC:** Alright. It is a rather general allegation, but requires a response nevertheless. You were alleged to have had meetings with quite "dodgy business people" and the EFF states that it has a record of these meetings. What is your response to that/

**MR NENE:** Again my response is simply that I never had any meetings with those dodgy business people and I invite the EFF to provide such evidence to the Commission and to myself.

**ADV PRETORIUS SC:** What about the allegation concerning Iqbal Survé and the Independent Group? Now one of the underlying facts that might be relevant is that we  
20 know that the PIC invested up to R1 billion in the Independent Group of Mr Survé [intervenes].

**MR NENE:** Again I would perhaps refer the Commission to the processes that are followed by the PIC and I strongly refute any allegations that I might have anything to do with that, but the processes of the PIC would also, you know, bear testimony to what role as a Chairman and at that time personally and what Chairman is supposed to do in

that instance.

**ADV PRETORIUS SC:** This might well be a matter that is currently being dealt with by the Mpati Commission.

**MR NENE:** Absolutely.

**ADV PRETORIUS SC:** Dealing with PIC affairs and according to press reports that is in fact the case.

**MR NENE:** Correct.

**ADV PRETORIUS SC:** But let us take it step by step please. Did you have any role in bringing about the transaction which led to the investment in the Independent Group?

10 **MR NENE:** Absolutely none, sir.

**ADV PRETORIUS SC:** What role did you play in relation to Mr Survé and Mr Ajay Gupta or the Gupta family?

**MR NENE:** Because I stated in my, when I appeared before this Commission that around August 2014 Mr Gupta asked me whether an arrangement or an agreement between the PIC and Mr Survé would preclude the family from participating in the deal and I was able to confirm that that was not the case and that is about my only involvement in this matter.

**ADV PRETORIUS SC:** Right, would you speak up a little please. I think [intervenes].

20 **MR NENE:** I am saying as I stated in my submission on 3 October that during August Mr Ajay Gupta had asked me whether an agreement between the PIC and Mr Survé would preclude them from participating in any arrangement with him and I was able to explain to him that was not the case.

**ADV PRETORIUS SC:** Alright. The news report refers to a letter that you allegedly wrote to the PIC. Again it is not a very precise allegation, but I quote:

“For certain people to get the money...”

And it is alleged that Mr Malema is in possession of the letter, firstly have you ever seen such a letter?

**MR NENE:** I have never seen such a letter and I have no doubt that there would not be such a letter, but I would again invite Mr Malema to produce that letter, because it might assist in clarifying.

**ADV PRETORIUS SC:** Whilst you were Chairman of the Board of the PIC would you have ever had occasion to write a letter to the PIC asking for people to get money?

**MR NENE:** Absolutely not.

**ADV PRETORIUS SC:** Right. After that period did you ever communicate in writing  
10 with the PIC?

**MR NENE:** No, sir.

**ADV PRETORIUS SC:** When this article was published had you been asked to respond to its contents?

**MR NENE:** No, I was not asked and I mean it would have helped if I was, because I would then have been able to explain my side of the story.

**ADV PRETORIUS SC:** Right. You have said that you did advise the Guptas that they were not prevented from entering into a partnership with Mr Survé arising out of any establishment by him in the Independent Group?

**MR NENE:** That is correct.

**ADV PRETORIUS SC:** Other than that did you ever facilitate any business transaction  
20 and I use facilitate in its most general sense for the Gupta family?

**MR NENE:** None whatsoever.

**ADV PRETORIUS SC:** Let us deal with the Facebook posing please apparently by one Zukile Majova and that appears in legible form at page 53. This contains some far reaching allegations. Perhaps you should go to page 58 where the legible version is

please. Firstly it purports to be a quote from the press entity amaBhungane. Now we know that amaBhungane from other information in this bundle have denied their [indistinct]. In any event let us deal with the allegations. The first is that:

“His son Siya Nene...”

And I am going to read as it stands here.

“...successful oil company funded by PIC while he was the Finance Deputy Minister and Chair of PIC.”

You have dealt with that?

**MR NENE:** I have dealt with that sir.

10 **ADV PRETORIUS SC:** It follows:

“Raymond Sifiso Dabengwa and Kingdom are both Zimbabwean friends of Nhlanhla Nene.”

Let us stop there. Is that correct?

**MR NENE:** That is incorrect. As I indicated also in my statement that I only Mr Dabengwa as Sifiso Dabengwa because he was Chief Executive of MTN, but I have never made any personal contact with him.

**ADV PRETORIUS SC:** And.

**MR NENE:** Let alone being friends.

**ADV PRETORIUS SC:** Alright and the person known as Kingdom?

20 **MR NENE:** Kingdom is not known to me as at all unless he trades under a different name, but I do not know him.

**ADV PRETORIUS SC:** Right. It says that these two persons were funded by the PIC for an IPP Project approved by Nhlanhla Nene. Is that correct?

**MR NENE:** It is not correct and I do not understand how I could have approved an IPP Program.

**ADV PRETORIUS SC:** Right. Is it correct that Dabengwa was at a time a member of the Eskom Board?

**MR NENE:** I would not know, but on investigation I think he was, I mean earlier last year or late in 2017, I think he does feature because we only did that when we were checking on the records because when we saw his name we wanted to check whether he ever was on the Board, but it is not something that I knew prior to this allegation.

**ADV PRETORIUS SC:** Well what you say of the at least implied suggestion here that you were somehow influential in bringing Mr Dabengwa onto the Eskom Board?

**MR NENE:** That would be incorrect, because as I said I mean also in my capacity I do  
10 not understand how I would have actually influenced his appointment, because at that time I was not in Government and when the Eskom Board was appointed and I only knew about his appointment when I was actually following up on whether he ever was on the Board.

**ADV PRETORIUS SC:** Following up from your being made aware of the statement?

**MR NENE:** Correct.

**ADV PRETORIUS SC:** It is then says:

“Mail & Guardian will soon run the story.”

Do you know of any Mail & Guardian article dealing with these issues?

**MR NENE:** I did not see it in the Mail & Guardian.

20 **ADV PRETORIUS SC:** Then there is a reference to “they” presumably Mail & Guardian

“...even have traces of money through Dubai same banks as the Guptas. They say Nhlanhla Nene was not only linked to the Guptas but instrumental in funding many of their business deals.”

What do you say to that in particularly the allegation that you funded it through a bank

or funded the Guptas businesses through a bank in Dubai?

**MR NENE:** That Chair I also did deny this under oath before the Commission and goes on to say that my wife also received money in a foreign account and judging by how often my wife is broke I would have really, I would have really celebrated if she had a foreign account, because I would also share on that one.

**ADV PRETORIUS SC:** Then it says apparently:

“Nhlanhla Nene wants to resign as Finance Minister.”

When did you decide to resign?

**MR NENE:** That was only in October last year.

10 **ADV PRETORIUS SC:** Right and we will come to those circumstances.

**MR NENE:** Correct.

**ADV PRETORIUS SC:** In due course.

**MR NENE:** Yes.

**ADV PRETORIUS SC:** Right. Then if we go back then please to paragraph 18 and well perhaps 17. You do state there that:

“You know Mr Dabengwa only as the, or a CEO of MTN and you never had personal contact with him and you disavow any knowledge of Kingdom.”

Do you see that?

20 **MR NENE:** That is correct, yes.

**ADV PRETORIUS SC:** And then in paragraph 18 you deal with the fact that your wife does not have an offshore account. Is that correct?

**MR NENE:** That is correct, sir.

**ADV PRETORIUS SC:** And again you invite evidence to this effect?

**MR NENE:** Absolutely.

**ADV PRETORIUS SC:** You repeat in paragraph 19 that you were in anyway instrumental in funding any business owned by the Gupta family. Have you ever been blackmailed by any member of the Gupta family?

**MR NENE:** Definitely not, sir. I cannot remember or recall any such blackmail.

**ADV PRETORIUS SC:** Yes. There is a reference to a scandal involving your daughter. Do you know anything about that?

**MR NENE:** Not that I know of, but you know I mean any issue involving my daughter would actually be private and, but as far as I know there was no blackmail, but I mean if there is a need also to.

10 **ADV PRETORIUS SC:** Again you invite that evidence?

**MR NENE:** Absolutely.

**ADV PRETORIUS SC:** It is also alleged that you were appointed Minister of Finance on 24 May 2014 in exchange for a promise to deliver benefits to the Guptas. Is that statement correct?

**MR NENE:** It is definitely not correct, sir and again if there is any evidence to that effect. It would be appreciated.

**ADV PRETORIUS SC:** Generally what do you say about the contents of the EFF press statements of the 2<sup>nd</sup> and 3 October 2018 as annexed to your statement?

20 **MR NENE:** Look I mean it is, I find it very strange and I must say that it can only be speculation that I suspect one that this might have been political more than anything and as you have seen in the statement it does indicate that it goes further to say that there is no one who is clean in the ANC and the only solution to this would be to remove the ANC from power and elect a revolutionary force which is the EFF, but also sir I must indicate that while though this is speculation among other things that I was involved in it is common knowledge that there was a link between the EFF and VBS at

some point where it turned out it is common and public knowledge that Mr Floyd Shivambu's brother benefited from the.

**ADV PRETORIUS SC:** Alright, well let us just pause there for a moment, before we get there.

**MR NENE:** *Ja.*

**ADV PRETORIUS SC:** There was an accusation in the press reports that you failed to respond to a parliamentary question put to you by Mr Floyd Shivambu of the EFF on 12 June 2018. Do you recall that allegation?

**MR NENE:** I do recall that allegation and I have provided evidence that that was also  
10 not true, because the parliamentary question was responded to and there is evidence of that.

**ADV PRETORIUS SC:** Right and there is an email chain at pages 40 to 41 which assert the hand delivery of the response to the questions?

**MR NENE:** That is correct.

**ADV PRETORIUS SC:** And at page 42 is a letter addressed to Mr Shivambu which goes on to page 45 which on the face of it at least responds to his questions. Is that correct?

**MR NENE:** That is correct.

**ADV PRETORIUS SC:** Alright. Now if you were asked why do you think the EFF or  
20 anyone else for that matter, but in this case the EFF would want to publish allegations about you shortly before you came to this Commission to give evidence?

**MR NENE:** As I said I strongly believe that there might have been an attempt at tarnishing my integrity before appearing before the Commission and therefore bring my evidence into question, but also these attacks on the National Treasury and myself in particular and other members of staff at the Treasury had actually started mounting

even prior to that. There is a; as I was beginning to indicate that it is common knowledge and public knowledge that one of Mr Floyd Shivambu's brothers or his brother had benefitted from the VBS matter. A matter of which.

**ADV PRETORIUS SC:** Sorry what was your role in relation to VBS at around this time?

**CHAIRPERSON:** Mr Pretorius.

**MR NENE:** I.

**CHAIRPERSON:** I am sorry. Do you want to let him finish properly before you follow up? I thought you had not finished, Mr Nene had you finished answering that question?

**MR NENE:** I had, but I think the second question also links quite [intervenes].

10 **CHAIRPERSON:** Oh, okay. I just want to be sure that you have been able to answer.

**MR NENE:** *Ja.*

**CHAIRPERSON:** Fully, okay.

**MR NENE:** I am comfortable Chair, thank you. You know, my role was as Minister of Finance putting a bank like the VBS in that situation was the task of the Minister of Finance which is what I did a few days after I had been appointed and.

**CHAIRPERSON:** I am sorry. Can I ask you to?

**MR NENE:** Yes.

**CHAIRPERSON:** Go back to your first sentence in answer. I did not hear some of the words in your answer.

20 **MR NENE:** It started from my role.

**CHAIRPERSON:** No, just this last, the last two sentences I think.

**MR NENE:** Okay. I said one of what I needed to do as Minister of Finance was to put, it was going to be my duty as Minister of Finance to take a decision on whether to put a bank like the VBS with its challenges under curatorship.

**CHAIRPERSON:** Okay.

**MR NENE:** So the application that was made by the Governor of the Central Bank was sent to the Minister of Finance and during that weekend a few days after I had been reappointed as Minister of Finance one of the things I had to do to engage with was dealing with VBS and I have it on record here that there was an SMS that was or a text message that was sent to me by Mr Floyd Shivambu and I have made a copy of the transcripts and my legal team will be able to provide you with the transcript of that SMS and if I.

**CHAIRPERSON:** Yes.

**MR NENE:** And if you allow me I would, it is not very long. I can actually just read it  
10 out to you.

**CHAIRPERSON:** *Ja*, you may do so, but just remind me again when was your reappointment of Minister of Finance [intervenes]?

**MR NENE:** I was reappointed as Minister of Finance on the 20<sup>th</sup>, I think 28 February 2018.

**CHAIRPERSON:** And soon after appointment you received a request or application from the Governor of the Reserve Bank or when you were reappointed it was already pending in your office?

**MR NENE:** No the application was, when I was appointed I am sure the processes were under way.

20 **CHAIRPERSON:** Okay.

**MR NENE:** Because a report had already been received that the Bank was facing liquidity challenges.

**CHAIRPERSON:** Yes.

**MR NENE:** But the process had not reached.

**CHAIRPERSON:** The decision had not been taken yet?

**MR NENE:** Correct.

**CHAIRPERSON:** You were going to be the person to make a decision?

**MR NENE:** Absolutely.

**CHAIRPERSON:** Okay. No, thank you. You may read the SMS.

**MR NENE:** And the short SMS which was copied also to the National Treasury DG reads as follows. It says:

10 “Greetings Minister, it looks like VBS will be placed under curatorship mainly due to something that National Treasury had not clarified in terms of the accounts of municipalities which were withdrawn due to National Treasury’s instruction. It becomes sad when a Black owned bank gets to be placed under curatorship because of things that can be managed differently. Please assist, because it looks like the whole thing will need your final approval. Regards, Floyd.”

**CHAIRPERSON:** And what was the date of that SMS?

20 **MR NENE:** This was received either on the 9<sup>th</sup> or the 10<sup>th</sup> of March because it was copied to the DG, the DG was able to confirm that and when we met on the Saturday of that weekend we met at the airport because I was travelling to the UK for the first road show and we had to take this decision, but when we met both myself and the DG had received this communication so it was part of our discussion when we met on the Saturday prior to our departure.

**CHAIRPERSON:** So it was a week or two, within a week or within two weeks after your reappointment?

**MR NENE:** After my reappointment, that is correct.

**CHAIRPERSON:** Okay, did you say around the 10<sup>th</sup>.

**MR NENE:** The 9<sup>th</sup> or 10<sup>th</sup> of March, either Friday or Saturday.

**CHAIRPERSON:** Okay thank you.

**ADV PRETORIUS SC:** Just in relation to this, do you have personal memory of having received the sms in these terms?

**MR NENE:** That is correct, yes I do.

**ADV PRETORIUS SC:** You do have that sms any longer on any of your devices?

**MR NENE:** I do not have it on my devices but we were fortunately able to get it from the DG's cell phone who was copied on this one. When I left the National Treasury I needed to clean my phone of all the information that was on the phone so that I do not  
10 leave with confidential information from the Treasury.

**ADV PRETORIUS SC:** Where does this – did you forward this message to anyone?

**MR NENE:** We had a discussion because the DG had the message, I also had the message, it was not forwarded.

**ADV PRETORIUS SC:** And that message is still on his phone?

**MR NENE:** On his phone yes. So this is but one of those reasons that I think might have actually, because I did not succumb to this kind of pressure because this was meant to influence my decision based on something that I do not think Mr Shivambu understood what was the reason because putting the bank under curatorship was not because we actually wanted to destroy the bank which was black-owned, the purpose  
20 was actually to make sure that we close the leakage because if we did not do that come Monday that bank would actually have collapsed, so the purpose here was to actually remedy the situation and it was a decision that I found strange that somebody would want to influence my decision on that.

**ADV PRETORIUS SC:** In any event your evidence as I understand it is that you had certain responsibilities in relation to the VBS Bank which you duly carried out in the

period before and after receipt of that sms.

**MR NENE:** That is correct.

**ADV PRETORIUS SC:** Is there any other reason that you can think of that you might have been a target at that time?

**MR NENE:** Look I mean though it is also mere speculation but I would really want the perhaps the Commission to look into the issue of SARS of which I was also responsible for assisting the Presidency in terms of putting together the terms of reference, because as we all know that at the beginning the EFF was in support of dealing with issues at SARS but all of a sudden there was a change of heart and they were

10 defending the then Commissioner of SARS and the first point I would like to put on the table is that it is known that a gentleman by name of Adriano Mazzoti was under investigation by SARS during Minister Gordhan's tenure and it is now known and admitted by Mr Malema that he had funded and supported the EFF, but also that the investigation into this particular gentleman was stopped when Mr Monyane was Commissioner of SARS and it is also known that the EFF has now vigorously defended Mr Monyane against his suspension and eventual removal. I would really love the Commission to look into the matter because these are some of the things that in the course of doing our work we might have trampled on people's toes and the vicious attacks might have been necessitated by some of this.

20 **CHAIRPERSON:** You seemed to be reading from something just now, is that something that is part of what we have here or is it something ...(intervention)

**MR NENE:** Chair it is not, it was just a reminder of the facts that I would want to bring to the attention of the Commission.

**CHAIRPERSON:** No that is fine.

**ADV PRETORIUS SC:** So in short during 2018 and before your resignation you under

your watch as it was Minister were responsible for dealing amongst other things with the matters related to the South African Revenue Services?

**MR NENE:** That is correct sir.

**ADV PRETORIUS SC:** Did you play any role in the decision to appoint the Nugent Commission?

**MR NENE:** Well our role was to assist the President and put together the terms of reference and assist the Presidency also in identifying Commissioners so the National Treasury under my leadership was directly responsible for supporting the President and assisting in putting that together.

10 **ADV PRETORIUS SC:** In your last answer you mentioned the name of someone who had allegedly supported the EFF in relation to the matters raised by you regarding SARS, we may have lost that on the record, you spoke very quickly, what was his name?

**MR NENE:** It is a gentleman known Adriano Mazzoti.

**ADV PRETORIUS SC:** Mazzoti?

**MR NENE:** Correct.

**ADV PRETORIUS SC:** Did you support the establishment of Nugent Commission in your role as Commissioner, in your role as Minister?

**MR NENE:** Absolutely yes.

20 **ADV PRETORIUS SC:** Then at the instance of the legal team we have asked you to deal in more detail with your visit to the Gupta residence and the Gupta business at Sahara Computers, do you see that at the bottom of page 7?

**MR NENE:** That is correct Chair yes.

**ADV PRETORIUS SC:** You do deal with it in your statement of 5 October 2018 on pages 47 and 48, but what I would like to emphasize please is two points, which you

deal with in that statement and perhaps when you deal with your reasons for the visit you can deal with these two issues, the first is why would a Minister visit businessmen at their residence and without accompaniment by any Treasury official, and secondly why would those visits take place after allegations in the press regarding the at least questionable business dealings of the Guptas, so would you tell the Commission please in detail of your visits, why you visited, and deal too with those two issues that I have just highlighted please.

**MR NENE:** Yes Chair as I indicated at my previous appearance to the Commission that I visited them on several occasions and when I did that of course there were other  
10 occasions when I got the invite that I was not able to honour the invitation, it was not always honoured, but it was difficult not to honour an invite because it is public knowledge that the family were friends with the President and they personally stated that they even provided employment to his son, so you know your – it is not easy to antagonise your boss's friends, but having met with them they had also claimed to be advising him on economic matters and that Mr Ajay Gupta had served in the Economic Advisory of former President Thabo Mbeki and it was for those reasons that they invited me to – I mean that we were invited to events as they would, but also that they would invite me to have a conversation on these matters.

**ADV PRETORIUS SC:** May I just stop you there, this is a general explanation you are  
20 giving together with some detail of your visits, I think the Chair would prefer you just to tell him without necessarily reading the statement. You say you made visits to the Gupta family on a number of occasions, can you recall how many?

**MR NENE:** We were able to obtain these from a – because I mean it was not something that I kept a record of but we were able to obtain proof from my protectors' logbook during that period in order just to try and ascertain as to the number, it turned

out to be about eight times, eight occasions, but again in response to your original question ...(intervention)

**CHAIRPERSON:** Maybe before you do that can we just get the dates if possible that the first visit may have been around, what time and the last time around what time, if at all possible?

**MR NENE:** The dates are not very clear but I would imagine as I have said when I obtained it from my protectors diary but I do try and cover that in the subsequent paragraphs as to ...(intervention)

**CHAIRPERSON:** Yes, if you do cover it somewhere you can just mention, I just want  
10 as you give the explanation I just want to know what period we are talking about.

**MR NENE:** In my statement in paragraph 30 I do indicate that I was invited twice to have a tour of the Sahara Computer offices in Midrand in 2010, and we were informed that he was an economist and an advisor to President Zuma, I recall that he specifically told me on the first visit also that they – which is one of the points that I would like to emphasize that they do not do business with government, but the purpose of the invites and the engagements were mainly to portray themselves as good corporate citizens, paying taxes but not doing any business and try to dispel the notion that they are getting favours from government.

**ADV PRETORIUS SC:** Let us go back to paragraph 25 if we may, you say there you  
20 made six visits when you were Deputy Minister of Finance and two visits when you were Minister of Finance, is that correct?

**MR NENE:** That is what I was able to establish from my protectors logbook yes.

**ADV PRETORIUS SC:** Yes, the two visits that you made when you were Minister of Finance would in all probability have been after the press releases dealing with the Guptas business dealings?

**MR NENE**: That is correct yes.

**CHAIRPERSON**: And in particular it would have been after also the landing of the aircraft at Waterkloof because you became Minister of Finance as I understand for the first time in 2014, is that right?

**MR NENE**: That is correct.

**CHAIRPERSON**: And I think the landing of the aircraft was in 2013 based on some of the evidence, yes.

**MR NENE**: That is correct.

**CHAIRPERSON**: You may proceed Mr Pretorius.

10 **ADV PRETORIUS SC**: When you made these six visits as Deputy Minister of Finance and the two visits when you were Minister of Finance did you go alone.

**MR NENE**: Well as I said it would mainly be with the protectors but I was indeed alone yes.

**ADV PRETORIUS SC**: Yes you give your view in hindsight of the advisability of that and we will deal with that later.

**MR NENE**: That is correct.

**ADV PRETORIUS SC**: Why would you visit as Minister of Finance firstly to their home and secondly unaccompanied by any Treasury official after the Waterkloof landing or after the scandal or alleged scandal had appeared in the press.

20 **MR NENE**: Look as I have also indicated even in my letter or public statement that I made after the appearance to the committee, or to the Commission, in hindsight I do think that perhaps that was an oversight and an error of judgment on my part, but I must also indicate that you know in the spirit of being accessible and not passing judgment on people only because of media reports, at times you continue to be – to remain accessible even to you know the people that you would rather prefer not to but it

becomes difficult if you have paid visits to particular individuals and I must say there are quite a number of people that one does visit and when you are invited it is not always that I would take somebody with, all in the interest of being accessible, because you know one of the things that we are accused of as politicians or people in the position that I occupied was that of not being accessible and I have always thought that you know engaging with a person does not immediately constitute any form of impropriety unless I do something improper that arises out of that engagement and I mean perhaps it is my nature that I remain open to engagements even with people that perhaps one should actually try and keep a distance of, and I was talking to the legal team the other

10 day, I said maybe I have read too much of Sun Tzu's book on the Art of War of subduing your enemies you know without necessarily antagonising them, but I think in hindsight and I do say this with all the humility that I think perhaps one could have done differently.

**ADV PRETORIUS SC:** At the time these visits were made did you know or did you have reason to suspect that there were allegations of influence being exercised over the former President and government officials?

**MR NENE:** Look I actually took their assertion of not doing business with government at face value, but the only time that I got aware of them doing business with government was when I realised that National Treasury in 2013 was investigating the

20 matter of the Daily in the Free State and at that time I actually you know had an indication that it might not necessarily be correct that they do not do business with government, but I did not want to raise that as an issue since there was a formal investigation that was on and I did not want to raise that in an informal setting when people invite you to say by the way you guys are being investigated for this because that would actually send the message that I already have – made my conclusion

without allowing the investigation to run its course.

**ADV PRETORIUS SC:** Well the allegations were pretty overwhelming, particularly when seen in the light of the landing at the Waterkloof Airforce base was it not a good idea to stay at arms length at that stage?

**MR NENE:** I would imagine that was the reason why after that that there were only two of those visits and after that I declined most of the invites.

**ADV PRETORIUS SC:** Alright. You will recall last time you gave evidence here in October of 2018, notwithstanding politicians, certain politicians view to the contrary I did ask you a series of questions dealing with probabilities, let me put them to you again in  
10 case they were not hurt. We know from the evidence that the Gupta family is alleged to have made not one but several untoward approaches to senior government officials and politicians asking amongst other things for favours, raising expectations and even offering money in return there for, you know of those allegations?

**MR NENE:** Correct.

**ADV PRETORIUS SC:** Now to the extent that that evidence is accepted by the Chair it would seem quite improbable that similar approaches were not made to you, quite apart from the Iqbal Survé approach, what do you say to that, do you have anything to add to our answer given last time.

**MR NENE:** Again I would have thought that it would not have been easy for them  
20 having portrayed themselves as these good corporate – because it seems like they employed a tactic of they charm offensive on the others and I am not too sure how many of my other colleagues may have actually been subjected to a similar approach, but it is unlikely that you will get any volunteers after the price I paid, but they would actually have those approaches, the charm offensive on the other side but on the other side also being arrogant and actually demanding favours from the other colleagues and

just ...(intervention)

**ADV PRETORIUS SC:** Can I just – what was the position in regard to any influence sought to be exercised over yourself apart from the matter you have raised in connection with Independent Group and Mr Survé?

**MR NENE:** Other than that I think all they needed to do was to play this I mean PR exercise of appearing to be good corporate citizens and I think if they actually even made any attempt of an approach it would have actually been contrary to the view that they had actually been – or the projection that they have been putting forward.

**ADV PRETORIUS SC:** Did you ever have a discussion with any of the Guptas at one  
10 or other of their premises, residential or business in regard to the launch of the television channel ANN7?

**MR NENE:** Yes they did allude to that.

**ADV PRETORIUS SC:** What happened?

**MR NENE:** Well again they had to, they told me that they are going to be launching this TV channel and seeing that the ANC administration was under severe attack from the current media houses they would want to launch a TV channel and they were in the process of launching it, which would give a completely different perspective, they would give a balanced view of government, which is what according to Mr Ajay Gupta was what they would want to do once the new channel has been launched.

**ADV PRETORIUS SC:** Then just to provide the detail insofar as the detail may be  
20 relevant I understand from your statement that you visited the Gupta Family on about eight occasions, six visits while you were Deputy Minister of Finance and two visits when you were Minister of Finance, and those visits were at the home in Saxonwold and at the Midrand offices.

**MR NENE:** That is correct.

**ADV PRETORIUS SC:** Once you were Minister of Finance did you have occasion to visit the Saxonwold home of the Guptas, and I am at paragraph 39 of your statement.

**MR NENE:** Indeed in 2014 as Minister of Finance I did and again as I indicated it was just casual business.

**ADV PRETORIUS SC:** And was it on one of those visits that you were asked to intervene in a dispute between themselves and Dr Iqbal Survé.

**MR NENE:** That is correct ja.

**ADV PRETORIUS SC:** And then the second visit?

10 **MR NENE:** Again it was to respond to the matter and I would imagine that was the last one.

**ADV PRETORIUS SC:** Right. You will recall at the beginning of your evidence we referred to the email chain at page 70 of the bundle.

**MR NENE:** That is correct Chair.

**ADV PRETORIUS SC:** There appears there to be at least on the face of it some relationship between your son, Siyabonga Nene, and Duduzane Zuma in relation to a project called the Brakfontein Project, would you tell the Chair about what you knew of that and your interactions with your son in that regard please?

20 **MR NENE:** Again this is a matter that only came to my attention when this email was forwarded to me, it is only then that I again engaged my son who then informed me that whilst they were looking for business opportunities they came across this opportunity where the owners were selling a stake in the mine, and they then embarked on a process of due diligence which led them to not proceed with the transaction because the mine was overpriced and a number of things that would not have made business sense.

**ADV PRETORIUS SC:** So did your – firstly this series of emails as they appear on

page 70 were they drawn to the attention of yourself and your legal representatives by the Commission's legal team?

**MR NENE:** That is correct.

**ADV PRETORIUS SC:** Right, and you were asked then by your legal team to respond to this issue that had been raised by the legal team of the Commission?

**MR NENE:** That is correct.

**ADV PRETORIUS SC:** And you say that as I understand it there was in fact according to your son at least contemplation of a project involving your son and Duduzame Zuma and perhaps others called the Brakfontein Project?

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

**ADV PRETORIUS SC:** But it never eventuated.

**MR NENE:** No it did not.

**ADV PRETORIUS SC:** Why did you resign after giving evidence Mr Nene?

**MR NENE:** Chair you would recall that after my appearance ENCA played a previous interview which I had given three years ago where I had not disclosed my formal engagements with the Gupta Family and I felt that the office that I occupied should remain beyond reproach and it is integrity should be unquestioned and realised that I did not respond honestly in my previous interview with ENCA after my dismissal from the position in 2015, I felt that it was inappropriate of me, you know if it was not a  
20 position of Minister perhaps I would have asked for special leave so that I have time to clear my name, but I felt that due to the nature of this impropriety of having not been honest at that time and although I say this message came, this question came as a number of questions as I always put it, from a journalist who otherwise had indicated that the discussion was only going to about what I am doing after my dismissal and I had thought that it is not appropriate, it was not the appropriate time for me to discuss

some of those issues but when the question arose I think I took an easy way of not being honest at that time and I felt that it is inappropriate for a person occupying my position as I first issued a public apology and after that public apology judging by how unforgiving South Africans are I felt I would rather vacate the position and make life easy for the President rather than – because as I say if it was another position I would asked for special leave, but being a minister appointed by the President I would rather make life easy for the President and ask the President to release me.

**ADV PRETORIUS SC:** Did you consult the President in relation to your resignation?

**MR NENE:** I did, over that weekend sir I made several attempts to get hold of the  
10 President who was not reachable until the Monday after. You would know Chair as it appears in the statement that during that Monday or Tuesday I was supposed to be travelling to Bali for an IMF World Bank meeting as a representative of the country I felt that it would be inappropriate of me to leave the country on such an important trip and assignment having not cleared this with the President and in my attempts to reach the President the communication was very clear that whatever it is that we do should be in the best interests of the country and I would strongly believe that with this cloud hanging over my head perhaps I should vacate the position but the President was unreachable until the Monday when he did come back to me, I shared this with him and he said I must give him a bit of time and then he returned and said you know with a  
20 heavy heart well he agrees with me, perhaps he should accept my resignation.

**ADV PRETORIUS SC:** Mr Nene your statement, public statement to fellow South Africans is at page 47 and 48 of the bundle, if you wish to I am going to invite you to read it because you deal there with at least two questions raised in relation to your relationship with the Guptas that we have discussed in evidence, the fact that they were visited at their private residence and secondly at the time in relation to at least some of

the visits when there was public controversy regarding the Guptas. So if you wish to read it onto the record it will take a minute, you may.

**MR NENE:** Chair would you want me to read me the entire ...(intervention)

**ADV PRETORIUS SC:** Well certainly paragraphs 2 and 3.

**MR NENE:** Yes, well in the – in this media statement I said:

10 “Part of my duty as a Public Office Bearer is to meet fellow South Africans and other stakeholders when they request to do so. However I was wrong in meeting the Guptas at their residence and not in my office or at least a public place. I say this being mindful of the fact that it is quite common practice not only in South Africa but globally for public office bearers to attend gatherings including dinners at residences of business people, fellow politicians and other stakeholders, but context matters, as soon as I became aware of the controversy swirling around the family’s business dealings I should subject to there being a legitimate reason for doing so have met the Gupta’s at my office accompanied as is customary by a Ministry of Finance or National Treasury official. In return for the trust and faith that you have placed on me I owe you conduct as a public office

20 bearer that is beyond reproach but I am human to. I do make mistakes including those of poor judgment. However it is reasonable of the public to expect public office bearers to own up fully and timeously to the mistakes they make in the course of carrying out their public duties. I should also have disclosed early and fully the details of these meetings in particular those

that took place in Saxonwold.”

**ADV PRETORIUS SC:** In that paragraph you set a standard that you say you should have adhered to and public office bearers should adhere to and then in the final paragraph the statement of paragraph – on page 48 you encourage anyone who has evidence in regard to the work of this Commission to come forward and hand it over to the Commission, do you see that?

**MR NENE:** That is correct yes.

**ADV PRETORIUS SC:** A question that has been raised and perhaps I am pre-empting a question that you would ask Chair so stop me if I am.

10 **CHAIRPERSON:** No, no continue.

**ADV PRETORIUS SC:** The invitation has been made several times by the Chair for people in government and people who have been members of the executive to come forward to the Commission and to tell the Commission what they know of the matters which this Commission is investigating. The response has been present but hardly overwhelming. Can you explain from your own experiences why this should be so?

**MR NENE:** You mean why the other office bearers are not coming here – forward?

**ADV PRETORIUS SC:** Well not in the quantity that the Chair I think would have liked and the Chair has expressed that very sentiment this morning in a public interview.

**MR NENE:** Well I can only speculate again Chair that we are not wired the same.

20 There is always a price to pay and I do not think we are all prepared to pay the price. We also have you know having taken the oath of office to be contentious in what we do our consciences might also not necessarily be the same to lead us to come forward and own up if there is any wrongdoing on your part. But also there is – I would want to say that there is fear of you know – you know the positions at times become more important than us. The titles we are given some of us would like – would want to die for. You

know and it becomes therefore difficult for some of us I am only – I am merely speculating Chair. But also for fear of retribution and what might come as a result of that and I always believe that there is nothing as liberating as being able to go to bed with a conscience that you can live with but also we are parents you do also want to be able to say to your kids if there is anything untoward that you have done own up so that we can move on. And I do not think I can be able to do that if I do not own up myself. So I do not have a direct answer to your question but I think you know as a nation these are some of the things that if we want to build a society we should all do some introspection into how we conduct ourselves.

10 **ADV PRETORIUS SC:** Thank you very much Mr Nene. Thank you Chair.

**CHAIRPERSON:** Thank you Mr Pretorius. I am going to want to talk more on the last topic that Mr Pretorius asked you a question on but before that I just want to ask a few questions in regard to other aspects of your evidence. You said that you have been able to establish that you visited the Gupta residence 8 times, is that right?

**MR NENE:** About 8 times yes.

**CHAIRPERSON:** Yes. Six times when you were Minister – Deputy Minister of Finance and two times when you were Minister of Finance.

**MR NENE:** That is correct Chair.

20 **CHAIRPERSON:** Yes. Now that seems to me that – that seems to me to be quite a few times and I think you used the word several times a while ago and each time at the residence, is that right?

**MR NENE:** Each time at their residence but also I think that includes the visits to the – to their businesses.

**CHAIRPERSON:** Oh ja , ja.

**MR NENE:** Ja.

**CHAIRPERSON:** But basically at their places?

**MR NENE:** Mostly yes.

**CHAIRPERSON:** Ja, ja. Now that may be concerning to some people to say was that not too many times. What would you say if anybody thought along those line?

**MR NENE:** Chair I might say that you know as I said earlier that perhaps it is in the spirit of being accessible and I can attest to – I mean I can say without fear of contradiction that there are other you know business people I might have visited more than those times.

**CHAIRPERSON:** Yes.

10 **MR NENE:** Because I did not see anything wrong in visiting them. Of course with the controversy around them I think – around this particular family I do think and it is for that reason that I say perhaps I could have you know limited that. But if you get an invitation from somebody as I say I do not think it is only – it is just the visit that matters. I think it is what comes out of the visit that matters. And if I am invited to your house Chair and we have a casual chat about what you do especially people who would always say look I am in this kind of a business and this is you know my contribution to the economy but I would like us you know to have a conversation because of my experience in business because of my close proximity to government in terms of advising you know the president economically so it is important to hear those

20 people out but not necessarily that and I am not – I can assure you that it was for me there never was a real issue with whether we can engage or not. But we never – I never got that advice except things like when you talk about a deficit that you know your officials are too concerned with a deficit you know countries run as huge deficits as they possibly can. You do not have to be concerned so much about the deficit. And with the little experience that I had I would actually be able to you know have such a

discussion and explain the reason why a huge deficit can be a risk and what is it that we are doing as a country but other than that you know a casual discussion that you know translate into some kind of engaging with regards to how the economy is run for me I thought it is something one could handle. Of course the number of visits and as I say that on hindsight perhaps I could have limited that.

**CHAIRPERSON:** Well I think you are right to say in principle a visit to somebody even at their residence as a minister on its own you know should not be a problem. But I think in the context of this family there may be part of the concern might be in the minds of some South Africans might be that we have heard evidence in this Commission for  
10 example and I think it was in the media even before this Commission that members of this family would sometimes boast that they call Ministers to their residence whenever. So partly when one has regard to evidence or allegations along those lines one then gets concerned if there are many visits to that family.

**MR NENE:** I do.

**CHAIRPERSON:** You understand where out of the concern maybe it might not be just a visit but the more visits there are to the family in the context of allegations such as these then the greater the concern might be. Do you understand that?

**MR NENE:** No I accept that Chair but I think the point I was making earlier was that prior to the Commission and prior to some of the evidence that has surfaced other than  
20 the media reports you actually would not be able to say we think you guys are guilty of an act of impropriety and therefore it was – it was the difficulty one had was of how do you then suddenly when you get a call all of a sudden you say no I cannot come to you you guys are you know in the media as having done XYZ but with no evidence. But at the same time as I said that the whole purpose of the engagement would mainly be from their side all these things that are about us in the media are not true. So unless

there is a particular matter either before the courts Chair I see the TV has switched off I hope ...

**CHAIRPERSON**: You hope it is not you?

**MR NENE**: I hope I have not done anything untoward.

**CHAIRPERSON**: Ja.

**MR NENE**: I do not know whether I should – I should proceed Chair or...

**CHAIRPERSON**: Do not proceed. I do not know what is happening today. I think we will just have to take a few minutes adjournment again.

**MR NENE**: It is back on Chair.

10 **CHAIRPERSON**: Okay maybe it is what you said.

**MR NENE**: Ja. Whatever it is I will not repeat it.

**CHAIRPERSON**: Okay let us continue. You were making the point that they were saying whatever you read about or you heard in the media about them the allegations they were not true.

**MR NENE**: That is correct Chair. And of course at that time I did not have any evidence to say but you know these matters are either before the courts or wherever but you know other than that – and I actually cannot rule out and it is for that reason that I actually regret having not heeded you know or having you know done things differently because one would have thought that when people keep on inviting you you would not even know whether you are even being filmed as one of those people that  
20 are you know the regulars here. And your name could have even been used to say look he is a frequent visitor here. So all of that I do not think one was alive to what they – what the consequences of that might be. The – around there is a lot of name dropping when people drop your name and there is evidence that you are a frequent visitor here. It makes sense which might have been the reason why you get invited just

in order to demonstrate that you know I have got him on my side. But without necessarily asking for any favour from you but making sure that as long as you a regular here then I can always drop your name.

**CHAIRPERSON:** But you did stop accepting invitations from them and when you stopped I guess nothing had been proved in court about them?

**MR NENE:** I did Chair and I must say...

**CHAIRPERSON:** So why did you stop?

**MR NENE:** And I must say that it was on realisation that perhaps it is indeed not appropriate because it could not continue indefinitely. This was now as I said in 2013  
10 there was an investigation already on the [indistinct]

**CHAIRPERSON:** [inistinct]

**MR NENE:** Yes on the dairy farm but again in 2014 and as I said when I declined an invitation it would not be just declining an invitation because I think you guys are corrupt it would actually be very polite you know I am unavailable because of the work schedule as well as Minister then which was different when one was Deputy Minister but as Minister the responsibilities were you know also much more heavier. But it would be very polite declining. I am not too sure whether if they had persisted I perhaps would not have again paid one ...

**CHAIRPERSON:** Ended up...

20 **MR NENE:** One or two visits again but ja.

**CHAIRPERSON:** You know what I want to understand is for a certain period of time part of the explanation you gave for going there was your desire to be accessible number 1. Number 2 saying that you know there may have been allegations against the family in the media but nothing had been proved in court as yet and therefore you know your attitude was well there is nothing wrong with the visits as such as long as

you did not do anything improper during that visit – during those visits. So but I am saying then at a certain stage you decided no I am not accepting the invitations anymore from them. So had that view changed about because about saying look the allegations have not been proved?

**MR NENE:** Look the allegation were actually getting stronger and stronger Chair and I – one needed to actually draw a line as to how long you actually would want to be associated with people who are always in the media for the wrong reasons. But again as I said it would be a very polite declining of the invitation with the hope that that would not – they would not draw not any inferences with regards to whether I have already  
10 found them guilty which – because I had not. But I felt you know there needs to be a line you need to find the right balance between being accessible but also a – between being accessible and your accessibility being abused for reasons that you believe might actually arise out of that.

**CHAIRPERSON:** Yes the investigation that was conducted by the – by the National Treasury which I think you said was in 2013 when was it concluded do you remember and what was the outcome of the ...

**MR NENE:** I am not sure other than what ended up being in the public domain as well.

**CHAIRPERSON:** Yes.

**MR NENE:** But I am not sure whether it – because once the investigation had been  
20 concluded by the National Treasury whatever wrongdoings had been identified had then to be referred to the law enforcement agencies to deal with the matter. I would not have the dates but I would imagine that the National Treasury would be able to provide us with the dates.

**CHAIRPERSON:** Would National Treasury after concluding the investigation have briefed you on the – on what had been found or would they not?

**MR NENE**: Chair I cannot recall whether there was – because there were a number of investigations that the National Treasury was working on and I am not sure whether – I cannot recall a briefing on this particular...

**CHAIRPERSON**: A briefing on it ja.

**MR NENE**: Not on this particular one.

**CHAIRPERSON**: Ja but normally it is something that they would not do when they have done certain investigations to make sure that the Minister is briefed maybe anything goes to law enforcement agencies?

**MR NENE**: Yes under normal circumstances.

10 **CHAIRPERSON**: Normally they would do that?

**MR NENE**: That is correct.

**CHAIRPERSON**: You just do not remember whether in this particular case they did it.o not remember whether in this particular case they did it.

**MR NENE**: That is correct, yes.

**CHAIRPERSON**: Ja. Now with the eight visits my understanding of your evidence is that the Gupta family never asked you to do anything for them really, is that right?

**MR NENE**: That is correct other than the one that I mentioned where they wanted me to clarify...

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

20 **MR NENE**: Ja.

**CHAIRPERSON**: And these meetings or these visits when you visited them it was just discussions on economic – the economic situation or other issues connected with the economy and so on and maybe personal – just personal issues or – I just wonder how you can describe the topics that were being discussed because the evidence that I have heard from some witnesses suggest that they were very vigorous in trying to get

government business that is the Gupta family. So I am just wanting to establish the kinds of issues they discussed with you what they were other than issues of the economy?

**MR NENE:** Look as I said earlier I think it would have been difficult for them to talk about any business with government after they have portrayed themselves as not doing business with government. And I would want to believe that they wanted me to also buy into the story so that even if I hear issues of them having done business with government I would be under the impression that but they do not business with government. So I do not think they would have been able to say anything about doing  
10 business with government. But other than that Chair they would actually be very casual and I know for a fact that trying to promote their publications I remember in one of the engagements there was a request that I do a piece in their magazine The Thinker which is you know still in publication you know. And I do not remember where we left that matter but it was one of the discussions that you know it would be good to do a piece that would feature in their publication. But also when the – their newspaper was in circulation it would also be one of those opportunities to market themselves as – you see the stories that we write you know are publication are presenting a different narrative from what we would see in the you know media in general which means we i.e. a [indistinct] you know be publishing house. But also that it is important for the  
20 public to get this different view. So it would actually range from those issues without any particular matter other than on specific ones like I said when one was invited to the Sahara business to show how many youngsters they employ that are in the technology space and what they produce and what they you know – what their contribution is to the economy both in terms of building this young and nurture this young talent but at the same time promote business.

**CHAIRPERSON:** Do you recall your first visit to them, do you recall how that came about, what the reason was, did somebody phone you and invite you, was there a formal invitation for some function, how did that come about if you recall?

**MR NENE:** The first visit arose I think out of the encounter that we had at one of the government functions when ...

**CHAIRPERSON:** While you were Deputy Minister?

**MR NENE:** Whilst I was Deputy Minister yes.

**CHAIRPERSON:** Yes.

**MR NENE:** When we - when he introduced himself and told me what he does and  
10 then he indicated that we must meet for some – for tea sometime.

**CHAIRPERSON:** Yes.

**MR NENE:** Yes and then I got a call some time later.

**CHAIRPERSON:** Yes.

**MR NENE:** I think a few months or a few days later inviting me for tea.

**CHAIRPERSON:** Yes.

**MR NENE:** Ja.

**CHAIRPERSON:** On the other occasions what was the reason given for the invitation?

**MR NENE:** It actually would be I would say it has been some time we have not met, do  
you mind popping in for tea?

20 **CHAIRPERSON:** Yes okay.

**MR NENE:** Ja it would always be popping in.

**CHAIRPERSON:** Something along those lines?

**MR NENE:** Absolutely.

**CHAIRPERSON:** Yes, yes. Now I heard evidence from Mr Masego last year in the - in  
this Commission where if his evidence is true what appeared to have happened is that

the Gupta family was really fighting hard to get more government business and if his evidence is true they even or one of the Gupta brothers threatened him or said made a statement to the effect that either they would sort him out or they would deal with him and my recollection of Mr Masego's evidence is that the circumstances under which that statement was made according to Mr Masego were that they must have seen him as not co-operating with them to make sure that they got business – more government business. And that was early in 2011, that was early in 2011 and Mr Masego's evidence further suggested or was to the effect that when he was subsequently moved I think in October or thereabout 2010 he – a threat was made or statement was made

10 that he would be dealt with or he would be sorted out and in late January or early February of 2011 he was transferred from the GCIS where he was Director General and he was transferred to DPSA Department of Public Service and Administration in a rush and his evidence was that he heard from his then minister, Minister Chabane that the former President – former President Zuma had called from outside the country because he had been outside of the country and had called and had a conversation with Minister Chabane and according to Mr Masego Minister Chabane told him that the former President had said to him, by the time he came back Mr Masego should no longer be there as Director General of GCIS and Mr Masego made it clear that at no stage had either the former President or Minister Chabane complained about his job, his

20 performance and he said Minister Chabane was very sympathetic him and he acutally said something to the effect that he was feeling for him because he knew he had not done anything wrong. And he said he would try and organise something for him and an arrangement was made in terms of which Mr Masego was transferred to be DG of DPSA and according to Ms Masego the transfer was all done so quickly that the Minster of DPSA at that time Minister Baloyi apparently had not even been consulted. Mr

Masego might have said he doubted that Minister Baloyi was consulted I am not sure but that is what had happened and that was 2011. So if that evidence is true then – and I do not know if it is true I will decide that much later if that evidence is true then already in 2011 this family was acting very vigorously in getting government business. And indeed maybe were intimidating and threatening people who seem to stand in their way and trying to make sure that they were removed. And actually it was Mr Masego who testified that when he had a meeting with Mr Ajay Gupta at the – at Saxonwold I think he said Mr Gupta made a statement to the effect that Minister – they call ministers to their residence and actually that the former President would do what they wanted. I  
10 hope I am remembering the evidence correctly. So if that evidence given by Mr Mashigo is true would it not be strange that when they had the opportunity of meeting with the Minister of Finance they would not want to talk to him about you know getting business or facilitating things. Maybe particularly because we, I also heard evidence now I cannot remember from whom which suggested that Treasury was seen as a stumbling block in regard to certain issues and you may well have given evidence to that effect as well. So I am just looking at this. I wonder what comment could be on this. So just, seeing one would expect that people, if this evidence by Mr Mashigo is true people who acted like that already in 2011 would really want to talk business with the Minister of Finance if they were talking business with other Government officials  
20 and so on.

**MR NENE:** I think, as I said earlier I find, I think it was their style of playing differently with different Ministers. As we explained also what the role of the Treasury is. I think it would be difficult for anybody to think that you can influence the Treasury, because the best way of doing that would be to influence a department that would be approaching the Treasury rather than trying to influence the Treasury, because the Treasury

normally does not initiate processes. Treasury would be approached by various departments and I think one of the reasons why I think it would be difficult for them to do that is precisely because of the image they were trying to project that they do not do business with Government and that they are this good corporate citizen. So that I mean I think in their minds it was that if anything comes to the Treasury if you are a good, you know, if you are in good terms with them then you would be, you know, you would have a soft heart if anything comes your way, but they never got around to be able to say exactly what they would and I would imagine that they would either depend on the Ministers they have spoken to or in some instances perhaps that the former

10 President would do their bidding and in our view we actually had very clear processes of dealing with things and focussing on the processes would actually be our best line of defence. It is only after Deputy Minister Jonas', you know, story that when he came to me in 2015 when he actually explained what they had said because of my refusal to do something which I did not know had anything to do with. So my question was but in my view this had nothing to do with them. It is a matter that we were dealing with, with the former President and not them. So if they now are in a position to be able to advocate for my removal only because of that refusal it actually sounded very strange, but from their side I think they actually steered away from trying to influence directly rather than using either the other Ministries or perhaps even the Presidency to get through to the

20 National Treasury to.

**CHAIRPERSON:** Subject to the question of roundabout when it was when you started declining their invitations one would have expected that their thinking would have been we need to approach the Minister of Finance rather than the Deputy Minister if we want somebody who is going to do, to help us. Why go to the Deputy Minister but of course if they had tried with the Minister of Finance and failed one could understand them

going to the Deputy Minister because then by then they would be wanting to have the Minister of Finance removed, but somehow one would have thought that at some stage they would have tried with the Minister of Finance before they got to, they went to the Deputy Minister, but you say they never tried?

**MR NENE:** They did not try and think they probably must have got the word from the highest office that there is no way you are going to crack this one. I mean I am not sure I do not want to claim to be that powerful, but.

**CHAIRPERSON:** Yes.

**MR NENE:** I suspect that they actually that was the only reason why.

10 **CHAIRPERSON:** Yes.

**MR NENE:** They felt if it cannot be cracked from the highest office.

**CHAIRPERSON:** Yes.

**MR NENE:** Then they must find other ways, but.

**CHAIRPERSON:** Hm.

**MR NENE:** *Ja.*

20 **CHAIRPERSON:** Well the other point I want to raise is this, you said also in your evidence that I think part of the reason why you went to see them was that you did not want antagonise the boss' friends. Now I am a little surprised by that because the impression I got from your evidence last time was that you would stand up to even those friends boss when you thought that you were not comfortable with doing something like the nuclear deal. You would stand your ground even when it was clear to you what he wanted, which direction he wanted the whole thing to go. You would stand your ground. So I wonder whether that can be reconciled with that kind of Mr Nene. Namely going to the visits because you do not want to antagonise them whether that can be reconciled with the Mr Nene who according to the evidence I heard

last year in Russia stands his ground and comes back in here, stands his ground against the nuclear deal.

**MR NENE:** Yes. Again Chair I think it depends on whether they had raised anything, because if they had I would have stood up, but having not raised anything directly with me you know there was nothing to stand ones ground, to stand my ground on, because if there was nothing put on the table that this is perhaps the favour we would want you to do for us I would have been able to deal with that but you know having these light conversations without knowing what the underlying, you know, motive might have been one would not have actually just simply decided no I am not having a conversation with  
10 you. Unless if they raise something which I think was in conflict with my principles and what the law requires of us to do.

**CHAIRPERSON:** No, I think my point is this when you say as I understand you have said I went to, I honoured these visits these invitations in, I am not going to say wholly because you did not want to antagonise the boss' friends, but maybe in part because you did not want to.

**MR NENE:** Hm.

**CHAIRPERSON:** To antagonise the boss' friends. That can only mean because you think the boss' friend will talk to the boss if he is unhappy with you and there may be some consequences. Otherwise I would not understand why that would be a factor to  
20 you. In other words I would, the manner that I heard about last year in regard to the nuclear deal would only have gone, would only have honoured these invitations if he thought there was nothing wrong not because he thought I do not want to antagonise the boss' friends. I thought that manner would have said well let the boss' friend be antagonised if he is antagonised. If I am uncomfortable going to his residence I am not going.

**MR NENE:** Ja, but maybe as I am saying Chair I might have put it badly just saying that could be the only reason. That was not necessarily the only reason.

**CHAIRPERSON:** No, no you did not say it is the only reason.

**MR NENE:** Yes, but.

**CHAIRPERSON:** No, you did not say that.

**MR NENE:** Ja, but it.

**CHAIRPERSON:** But I nevertheless.

**MR NENE:** Ja, but it was it was one.

**CHAIRPERSON:** [Intervenes].

10 **MR NENE:** Of those things were you think why because there is nothing that you think is behind the invitation would you want to do that. If these people are in a good relationship with your boss why would you all of a sudden say I mean I cannot accept your invitation, but I do think that perhaps I mean it is the manner in which you know it came across, but that is not necessarily the reason the only reason?

**CHAIRPERSON:** Yes. No that is fine. Then the other question before we talk about the last topic that you dealt with is, did you understand why this family was so interested in having this good image to you that they are good corporate citizens and they were not doing business with Government which on the evidence that I have heard if it is true could not have been true. As at the time that you were Minister of Finance  
20 because already if that evidence was true already in 2011 they had some business, Government business and they wanted more.

**MR NENE:** Well.

**CHAIRPERSON:** Did you have an understanding why it was so important to them that they should have this image with you that they are good corporate citizens and they are not doing business with Government?

**MR NENE:** I think it was a matter of actually getting a person in my position to understand things differently other than what is portrayed in the public domain and portray themselves as these good corporate citizens when indeed it is clear that they were not, but at that time as I said earlier other than the media reports most of the stuff had not been tested in any given environment like we do have the evidence now.

**CHAIRPERSON:** So as at 2014 when you became Minister of Finance, maybe 2015 depending on when you stopped accepting the invitations, you were not aware that they were doing business with Government. You accepted what they told you that [intervenes].

10 **MR NENE:** With Government entities no, I had.

**CHAIRPERSON:** Yes.

**MR NENE:** I did not have any.

**CHAIRPERSON:** Yes.

**MR NENE:** Evidence of that.

**CHAIRPERSON:** No that is fine. Then on the last topic that you dealt with when Mr Pretorius was asking you questions, it is indeed quite difficult to attract as many people particularly in Government who ought to know quite a lot of things that happened to come forward. As Mr Pretorius indicated there, there have been a number of people who have come forward and you are one of them. You came forward without  
20 any hesitation last year and you supported the Commission and there are other Ministers who have come forward, past and present, but when one has regard to the numbers of Ministers who people who have said there are Ministers during some of the years that we are talking about and at the moment one thinks that there ought to be you know a much greater number of Ministers who have come forward and Directors-Generals, past and present, who have come forward and said no, I know

something. I want to help the Commission. I want the Commission to get to the bottom of what was happening. So it is quite difficult and you have given some of the reasons that you think might be behind that. We will be going to elections and some of the people who are Ministers who probably know something and should have come forward might well continue to be Ministers and it is difficult to accept that out of so many Ministers who have not come forward there are not any who really know things that happened that should be brought to the Commission and it is a pity because they should be, because of their leadership role and the positions they occupy they should be exemplary to the rest of the people of South Africa. I do not know, you might know.

10 I do not know whether there is a possibility that some of the people who know something and should be coming forward do not come forward because maybe they, if they give evidence they might be seen to be putting their organisation or their Government in a bad light. I know that the ruling party has said many times that people must come forward. The President has said many times that people must come forward, but they are not coming forward in the numbers in which one would expect them to come forward, but I guess that you have said what you have said and you appreciate the difficulty and among other things you think people might be feeling that they might lose jobs and so on, *ja*.

**MR NENE:** Yes Chair I think that what I have said is about all I can say on this matter,  
20 because I said we are not wired the same, but also that for some of us our positions and our titles are actually much more important than us as human beings and you know without these titles perhaps we are nothing. Forgetting that at the end of the day we actually acquire these titles for a reason and that is why we actually take an oath which we should live by our Constitution and our oath of office should actually be the guiding principle, but at times and as I said earlier we are able to perhaps this is one of the

reasons why I always say I would not make a very good politician, because I do not believe in the language that say I was quoted out of context. I believe in having not been honest and there is a need to be honest, but always coming forward to assist a Commission like this is an opportunity for our country you know to deal with issues of the past and be able to move forward and I think it is indeed tragic that we are not getting many of our colleagues coming forward, but again as I said earlier South Africa is very unforgiving. So if you are prepared to pay the price that your fellow colleague has paid you can join in, but if you are not prepared to pay that price you might as well stay far from this Commission unless you are subpoenaed. Well that is unfortunately

10 the position.

**CHAIRPERSON:** And it is very possible that part of the reason why certain things happened and happened the way they did in the proportions in which they did in this country and for as long as they happened, it is possible that part of the reason is that people who could have made a difference, who could have helped to stop certain things happening did not stand up because they may have been concerned about the kinds of things that you have just mentioned.

**MR NENE:** [Intervenues].

**CHAIRPERSON:** And now there is an opportunity, there is a Commission which seeks to find out exactly what happened, who could have helped to stop things and they know

20 things that happened that were wrong and some of them may have taken the oath. Some of them may have maybe going around saying they have the best interest of South Africa in their hearts, but here is an opportunity for them to come forward and they are not coming forward and people want to help rebuild the country and people are not coming forward because maybe they are just concerned about among others the things that you are talking about. It is a great pity.

**MR NENE:** I could not agree with you more Deputy Chief Justice.

**CHAIRPERSON:** No, I do not know if there is anything Mr Pretorius [intervenes].

**ADV PRETORIUS SC:** Yes Chair two issues.

**CHAIRPERSON:** Huh-uh.

**ADV PRETORIUS SC:** As a matter of some controversy both within the Commission and outside in the public eye, I would just like to summarise with Mr Nene at least a view of the questions that we have asked both on the first occasion now and the questions that you have covered.

**CHAIRPERSON:** Yes.

10 **ADV PRETORIUS SC:** And then I would like to put a request before you on behalf of Ms Hassim.

**CHAIRPERSON:** Okay.

**ADV PRETORIUS SC:** And I will deal with that second.

**CHAIRPERSON:** Okay.

**ADV PRETORIUS SC:** Mr Nene just to summarise the position in regards to the visits to the Guptas. We know of eight visits to residence and business of the Guptas. We know that those visits were made alone and at least in relation to some of the visits at a time when controversy surrounded the Guptas business dealings. We know those as fact. You have said that various topics were discussed including the Iqbal Survé  
20 interaction, but you have said and I think this the crucial point around which some controversy arises, you have said that no influence was sought to be exercised over you by the Guptas.

**MR NENE:** Correct.

**ADV PRETORIUS SC:** Now in relation to that we have no evidence to the contrary. The only evidence that we have of what happened during those visits is your evidence

and it is perhaps unlikely that we will get any other evidence to the contrary. We have though evidence from amongst others Messieurs Mashigo, Jonas and Ms Mentor which is evidence which would strongly suggest that it is very improbable that when you visited the Gupta residences and businesses no attempt would have been made to exercise influence over and you have given your explanations in regard to that. Of course the legal team can only put that to you as evidence rather than as factual findings of the Commission because those factual findings have not been made, but we must conclude that there is at least a question mark albeit a qualified question mark concerning the probabilities as to whether influence was sought to be exercised or not

10 and that is as far as we can take it and I presume you will accept that that question mark must remain?

**MR NENE:** Absolutely. I do not have a problem with that Chair, but I would imagine perhaps linked to the point you made earlier with not enough people coming forward because I would have thought that the approach that the family used to me might have been used on some of my colleagues but who have not come forward because you are not getting enough of that, because if there are some of my colleagues who are willing to come forward to testify that they were on the, you know, invited for casual visits and could not were not asked for any favours or coerced to do anything that would have helped, but it is unfortunate that I also cannot you know be able to encourage and I

20 actually would want to use this platform to encourage some people who actually might have had similar experiences like the one I did, because that would help to put this into perspective because I have no doubt that I cannot be the exception the only exception to not being coerced but being used, you know, to project a completely different [intervenes].

**ADV PRETORIUS SC:** That is an avenue that we might well explore then.

**MR NENE:** Absolutely.

**ADV PRETORIUS SC:** Chair I have a request from Ms Hassim to ask three questions.

The regulations do allow re-examination. Technically this would not be re-examination, but we would support it.

**MS HASSIM:** Thank you Chair I will be very brief.

**CHAIRPERSON:** Thank you.

**MS HASSIM:** Mr Nene did you attend the wedding of a Gupta family member?

**MR NENE:** No, I did not.

**MS HASSIM:** Why did you not?

10 **MR NENE:** That was in 2013. Exactly as I said that was the time when I began to be, you know, weary of the relationship with the family.

**MS HASSIM:** Did you receive an invitation to the wedding?

**MR NENE:** I did, yes.

**MS HASSIM:** Are you aware of any other of your colleagues, Government officials who did attend the wedding?

**MR NENE:** I think there is a parliamentary record where there was a question that was posed in Parliament that would be useful that there were people who attended.

**MS HASSIM:** And what did you understand at the time when you first visited the Gupta family what did you understand to be their relationship with former President Zuma?

20 **ADV PRETORIUS SC:** Well it is public knowledge and they themselves said it was public knowledge that they were friends to the former President and the President had also gone public to say that they were his friends who had offered his son a job when nobody wanted to employ him. So I did understand them to be very close to the President.

**MS HASSIM:** Were they advisors to the President in any form?

**MR NENE:** He did say that they do play an advisory role in terms of the economy.

**MS HASSIM:** Did you have any personal expectations from these visits?

**MR NENE:** Not really other than as I said that for me being accessible is one of the things that I actually you know do without at times checking even the blind spots and on hindsight I would really think that perhaps as I said I could have avoided that.

**MS HASSIM:** Did you receive any payment or gifts from the Gupta family?

**MR NENE:** No, I did not.

**MS HASSIM:** Did the Gupta family or any one of the Guptas offer you the position of Minister of Finance?

10 **MR NENE:** No, I was not offered by the Guptas any position.

**MS HASSIM:** And are you satisfied as we stand and sit here today that your conscience is clear? Is there anything else you would like to saying relation to your resignation?

**MR NENE:** Crystal clear.

**MS HASSIM:** Those are my questions.

**CHAIRPERSON:** Thank you very much. Nothing further Mr Pretorius.

**ADV PRETORIUS SC:** Yes Chair.

**CHAIRPERSON:** Okay, alright.

**ADV PRETORIUS SC:** There is three minutes to go Chair.

20 **CHAIRPERSON:** But you say you have nothing further to ask?

**ADV PRETORIUS SC:** Nothing further.

**CHAIRPERSON:** Okay. Mr Nene thank you very much for coming back to the Commission. From what I was told earlier on it appears that nobody has applied for leave to cross-examine you as yet although what I was told suggests that maybe Ms Joemat-Pettersson did right letters that may suggest that maybe she might want, I

am not sure, she might want to but she has not submitted any application. So you are excused. Maybe we will not ask you to come back. Maybe we will, but you are excused and thank you very much for coming.

**MR NENE**: Thank you Deputy Chief Justice.

**CHAIRPERSON**: Thank you, thank you. We have nothing further for today?

**ADV PRETORIUS SC**: No Chair.

**CHAIRPERSON**: And tomorrow it is Mr Jonas' evidence?

**ADV PRETORIUS SC**: Yes Chair.

**CHAIRPERSON**: And is he the only witness tomorrow?

10 **ADV PRETORIUS SC**: Thus far Chair.

**CHAIRPERSON**: *Ja*.

**ADV PRETORIUS SC**: I was previously informed that he may well take the whole day. I have received a message.

**CHAIRPERSON**: *Ja*.

**ADV PRETORIUS SC**: From Mr Makwena who says that might not be the case, but at the very least there is no need for the Chair to start early.

**CHAIRPERSON**: Oh, okay. Well maybe we, *ja* maybe we can just start at half past nine. That I fix for this week at the request of the legal team and then we will see when we finish.

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

**CHAIRPERSON**: *Ja*. We will adjourn then the proceedings for today and we will start at half past nine tomorrow morning. We adjourn.

**REGISTRAR**: All rise.

**INQUIRY ADJOURNS**

**TRANSCRIBER'S CERTIFICATE FOR COMMISSION OF INQUIRY INTO STATE  
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