

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

12 MARCH 2021

DAY 360



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Recording & Transcriptions

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TRANSCRIBERS:

B KLINE; Y KLIEM; V FAASEN; D STANIFORTH



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PROCEEDINGS RESUME ON 12 MARCH 2021

CHAIRPERSON: Good morning Mr Myburgh, good morning everybody.

ADV MYBURGH SC: Good morning Chairperson.

CHAIRPERSON: Yes are we ready?

ADV MYBURGH SC: Yes thank you. Chairperson the first business of the day is Mr Gigaba and his Counsel are here.

CHAIRPERSON: Yes.

ADV MYBURGH SC: I think it was indicated yesterday that
10 the hearing of his evidence would be postponed.

CHAIRPERSON: Ja.

ADV MYBURGH SC: I assume you want to set a date or address him and his Counsel.

CHAIRPERSON: Yes I assume you have briefed them – his legal team about the – the discussion yesterday in their absence?

ADV MYBURGH SC: Yes I think they are aware of the discussion.

CHAIRPERSON: They are aware of it.

20 **ADV MYBURGH SC:** I had a brief discussion with Mr Solomons I cannot say that I acquired – it was very lengthy I hope I conveyed to him.

CHAIRPERSON: Yes okay.

ADV MYBURGH SC: That Mr Gigaba would not be giving evidence today.

CHAIRPERSON: Yes.

ADV MYBURGH SC: And that he will be setting another date.

CHAIRPERSON: Ja. Ja. We have taken longer with previous witnesses than was anticipated and we are now on Friday having had – having heard only two witnesses Mr Myburgh is that right from Monday? We have had only two witnesses?

ADV MYBURGH SC: Because I – I think that is correct. It
10 seems like a lot more but it has only been two yes.

CHAIRPERSON: Ja so the – we find ourselves at the end of the week with more witnesses who were scheduled to give evidence this week. We had a discussion in your absence yesterday with regard to what should happen whether it should be Mr Gigaba who would take the witness stand this morning or Mr Singh and it seems that we should that Mr Singh take the witness stand this morning particularly because we are aware that there are some new developments which Mr Gigaba might wish to have time to
20 look at so that when he takes the witness stand he can deal with all matters including recent ones.

So – but I said arrangements should be made for you to be here this morning so that we should not just discuss in your absence and finalise things and we should hear if you have anything to say but that is what we

propose to do.

Counsel for Mr Gigaba would you like to say something? You can speak from where you are if your microphone is working and that is convenient otherwise you can go to the podium after they have sanitised.

MR SOLOMONS SC: Chair we could – yes.

CHAIRPERSON: Yes.

MR SOLOMONS SC: First good morning Chair.

CHAIRPERSON: Good morning to you.

- 10 **MR SOLOMONS SC:** Yes, no the only thing we would like to add is we appreciate we will not be heard today – this session he had kept himself available this week.

CHAIRPERSON: Hm.

MR SOLOMONS SC: We are not sure what the new developments are but we – we trust we will be timeously advised of – of these new developments so that we can respond in terms of 3.3 if necessary.

CHAIRPERSON: Yes.

MR SOLOMONS SC: 3.3.6.

- 20 **CHAIRPERSON:** Yes.

MR SOLOMONS SC: And – and then also we had received kindly from evidence leader Myburgh SC an email on the 3rd of March which set out fairly the areas that he intended to cover and the material that we would need to apply our minds to in order to prepare Mr Gigaba for that

examination which we have obviously done.

If there is material to be covered on the next occasion we would kindly ask that he then communicate with us in writing as to what these other areas are so that we can proper prepare and then whenever Mr Gigaba is then to be expected if those dates could be arranged with myself and my junior Advocate Gumbi within reason I mean we are not – but within reason I mean we are not going to – to – the commission has got its work to do within reason.

10 **CHAIRPERSON:** Ja.

MR SOLOMONS SC: That is all I have to say. Thank you Chair.

CHAIRPERSON: Yes, no that is fine. I said developments maybe that is not the right term but Mr Myburgh would share with you what I am talking about. Maybe it is just a matter not a development. But thank you for your cooperation we – I appreciate that it is not the best arrangement where you wait for a whole week you have a legal team ready and then you are not able to be heard.

20 But obviously we are just trying to do the best we can in a very difficult situation where there are very serious time constraints. So we – we appreciate your cooperation. We are going to fix a date soon. The approach we adopt is that if we are going to fix a date that we think is within a short space of time we will – the legal team will negotiate

those dates but if we think we are giving you reasonable time we will just fix the dates. But I have no doubt that all attempts will be done by everybody to try and make things happen. Thank you for your understanding.

MR SOLOMONS SC: No thank you Chair and we appreciate the work the commission does and we continue to offer our cooperation.

CHAIRPERSON: Thank you very much. Okay. To the extent that you may need to be excused you are excused.

10 **MR SOLOMONS SC:** Thank you Chair.

CHAIRPERSON: Okay.

ADV MYBURGH SC: Mr Chairperson the next order of the day is the evidence of Mr Singh. Might I just say this? On Wednesday we received a short supplementary affidavit from Mr Singh but it included over 400 pages of annexures pleadings in a series of civil claims. Yesterday we received a 70 page supplementary affidavit from Mr Singh. We also received three emails that may impact upon the proceedings today. And then this morning we received
20 another 30 page supplementary affidavit from Mr Singh together with what I understand is an expert report.

Now we need to make our position very clear we are not objecting to this in fact up until today and I hope it continues we have had a very constructive relationship with Mr Singh and his legal advisors for which we are

thankful. But you will appreciate Chair that we need to consider this new material simply with a view to determining what should be left out today and what should be dealt with next time. We hope that that is something that we can do in half hour or an hour but I think it would – it would be appropriate if we could be afforded that time otherwise I might start dealing with issues that give rise to objections and we go around and around the mulberry bush I am very sorry to ask but if we could have maybe a half an
10 hour adjournment I think it probably speed up things.

CHAIRPERSON: Okay. I think that is fine. I am sure they have no problem ja – we are at about twelve minutes to ten shall we make it half past ten – half past ten?

ADV MYBURGH SC: Thank you Chairperson.

CHAIRPERSON: No I am sorry. Ja half past ten. Okay. Okay we will adjourn until half past ten. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

20 **CHAIRPERSON:** Did that help Mr Myburgh.

MR SINGH: Yes, thank you Chairperson.

CHAIRPERSON: Okay, okay, okay.

ADV MYBURGH SC: Chairperson, Mr Singh is legally represented. I wonder whether you would like his counsel to place herself on record before we proceed further?

CHAIRPERSON: Yes.

ADV VAN DEN HEEVER: Good morning Chairperson.

CHAIRPERSON: Good morning.

ADV VAN DEN HEEVER: Anneline van den Heever. I represent Mr Singh on instructions of Mr Tshepo Mathopo of Mathopo Attorneys. He is sitting next to me.

CHAIRPERSON: Thank you very much.

ADV VAN DEN HEEVER: Thank you

CHAIRPERSON: Thank you. Okay Mr Myburgh.

10 **ADV MYBURGH SC:** Yes, Chair.

CHAIRPERSON: I think administer the oath, registrar, or affirmation.

REGISTRAR: Please state your full names for the record.

WITNESS: Anoj Singh.

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

WITNESS: No, Ma'am.

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

20 **WITNESS:** I do.

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

WITNESS: So help me God.

ANOJ SINGH: (d.s.s)

CHAIRPERSON: Thank you. You may be seated Mr Singh.

ADV MYBURGH SC: Chairperson, further to our discussions. What we have decided is that for the purposes of today's evidence, we will ring fence and not deal with the acquisition of the locomotives. The relocation of the OEM's, the issues in relation to the transaction advisors and consultancy contract but
10 effectively we ring fence everything to do with the locomotives.

CHAIRPERSON: Okay.

ADV MYBURGH SC: There is also, Chairperson, an agreement that – and we will not refer to certain limited documentation and that we will not refer to one or two specific affidavits.

CHAIRPERSON: Okay.

ADV MYBURGH SC: What we then intend to deal with today is, of course, something to that three topics relating
20 to Mr Singh's personal circumstances. We will explore any relationship that he might have had with the Gupta's. We intend to deal with Witness 3, the driver. We intend to deal with certain contextual topics, like, the MDS, BADC and the Delegation of Authority.

Then we will leave out the locomotives and we

will then to auxiliary things, like for example, the Neotel contracts, the Manganese Expansion Project, Mr Gama's legal fees, Abalozi and that sort of thing but you are not going to be hearing anything about the locomotives.

CHAIRPERSON: Okay. No, that is fine. That will be dealt with at some other time?

ADV MYBURGH SC: Yes, once we have had an opportunity to look through the affidavit and then we will come and deal with that specifically.

10 **CHAIRPERSON:** Okay alright.

ADV VAN DEN HEEVER: Chairperson, sorry to interrupt.

CHAIRPERSON: Yes.

ADV VAN DEN HEEVER: I have indicated to Mr Myburgh that my client does not intend to do any opening statement. He does, however, a remark that he wish to make before the proceedings commence.

CHAIRPERSON: Yes.

ADV VAN DEN HEEVER: Thank you very much.

CHAIRPERSON: Yes. And the remark will not implicate
20 anybody?

ADV VAN DEN HEEVER: No, it does not implicate anybody.

CHAIRPERSON: [laughs] Okay alright.

ADV VAN DEN HEEVER: Thank you.

CHAIRPERSON: Mr Myburgh, is this the right time for him

to do that?

ADV MYBURGH SC: I have discussed this with my learned friend. I am satisfied that he does not intend to implicate anyone. So we are happy.

CHAIRPERSON: Yes.

ADV MYBURGH SC: Subject to your direction for him to do that now.

CHAIRPERSON: Yes, okay alright. Mr Singh.

MR SINGH: Thank you Mr Chairman. So the remark
10 relates to me, like, to make an opening statement. We are in possession of the Chairman's ruling in this regard and given the fact that we need to comply with your ruling, we have not been in a position to submit the opening statement to you as required in the ruling. We would, however, like to place on record that we would like to make certain comments at an appropriate time during the proceedings.

CHAIRPERSON: Let me make sure I follow that. You would like to make some statement at some stage during
20 the proceeding?

MR SINGH: That is correct, sir.

CHAIRPERSON: Not today?

MR SINGH: Not today.

CHAIRPERSON: Okay. Some stage?

MR SINGH: At some stage.

CHAIRPERSON: Ja, okay after I have been given the documents?

MR SINGH: Yes.

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

ADV MYBURGH SC: Thank you, Chairperson. Chairperson, Mr Singh's various affidavits appear in Transnet Bundle 5(b) and it is marked Exhibit BB-23. There are a series of four affidavits in that bundle which I would ask you to admit and I will deal with each of them in
10 turn. Mr Singh, could you please ...[intervenes]

CHAIRPERSON: Just one second. Registrar. Yes, Mr Myburgh.

ADV MYBURGH SC: Thank you.

CHAIRPERSON: There is file that I need which apparently is not here but that is not a file that you would have known about. I am sure there is another one but I just want one on which I have worked which will be much more... to look at that.

ADV MYBURGH SC: Certainly.

20 **CHAIRPERSON:** But we can proceed in the meantime.

ADV MYBURGH SC: Alright.

CHAIRPERSON: Ja.

ADV MYBURGH SC: Thank you, Chairperson. Mr Singh, could I ask you to turn to page 436, please?

MR SINGH: I am there sir.

ADV MYBURGH SC: There you will find an affidavit if you turn forward. That affidavit runs from 436 to page 468 and it appears to have been deposed to on the 26th of January 2020. That you will see at the foot of page 467. Would you confirm that?

MR SINGH: I do so.

ADV MYBURGH SC: And would you confirm the truth and accuracy of this affidavit?

MR SINGH: I do so sir.

10 **ADV MYBURGH SC:** Chairperson, may I ask you to admit Mr Singh's affidavit that commences at page 436 as Exhibit 23.3.1?

CHAIRPERSON: The affidavit of Mr Anoj Singh, starting at page 436 is admitted and it will be marked as Exhibit 23.3.1.

FIRST AFFIDAVIT OF ANOJ SINGH IS ADMITTED AND MARKED AS EXHIBIT 23.3.1

ADV VAN DEN HEEVER: Chairperson, sorry.

CHAIRPERSON: Yes?

20 **ADV VAN DEN HEEVER:** Just a point of correction.

CHAIRPERSON: Yes.

ADV VAN DEN HEEVER: The date is 2021 and not 2020 as Mr Myburgh indicated.

ADV MYBURGH SC: I beg your pardon.

CHAIRPERSON: Okay what is the correct date?

ADV MYBURGH SC: The correct date is 26th of January 2021.

CHAIRPERSON: Oh, that is the date of the affidavit?

ADV MYBURGH SC: Yes.

CHAIRPERSON: Okay. No, no. That is fine.

ADV MYBURGH SC: Mr Singh, if you can ...[intervenes]

CHAIRPERSON: Hang on, hang on. Oh, I think there are two affidavits following each other.

ADV MYBURGH SC: Yes, I will come to the second one.

10 **CHAIRPERSON:** Ja, okay alright.

ADV MYBURGH SC: Mr Singh, could I ask you, please, to turn now to page 469?

MR SINGH: I am there sir.

ADV MYBURGH SC: There you will find another affidavit that runs from 469 through to 484.

MR SINGH: That is correct.

ADV MYBURGH SC: And it appears at 484 and hopefully I will get the year right this time. It was deposed to on the 2nd of February 2021. Do you confirm that?

20 **MR SINGH:** That is correct sir.

ADV MYBURGH SC: And you confirm the truth and accuracy of this affidavit?

MR SINGH: I do.

ADV MYBURGH SC: Chairperson, could I ask you, please, to admit Mr Singh's affidavit that commences at

page 469 as Exhibit 23.3.2?

CHAIRPERSON: The affidavit of Mr Anoj Singh that starts at page 469 is admitted as an exhibit and will be marked as Exhibit 23.3.2.

SECOND AFFIDAVIT OF ANOJ SINGH IS ADMITTED AND MARKED AS EXHIBIT 23.3.2

ADV MYBURGH SC: Mr Singh, could I then ask you, please to turn forward to page 1013?

MR SINGH: I am there sir.

10 **ADV MYBURGH SC:** Thank you. You will see that at 1013 the supplementary affidavit commences. It is relatively short. It runs up until 1051.

MR SINGH: Correct.

ADV MYBURGH SC: It contains a large number of annexures, pleadings in a number of cases. Those annexures run all the way up to 1430. Can I ask you to confirm that, please? So up until 1430.

MR SINGH: I confirm sir.

20 **ADV MYBURGH SC:** Could I then ask you, please, to go back to page 1015 and ask you, please, to confirm that this supplementary affidavit was deposed to you by on the 10th of March 2012?

MR SINGH: That is correct.

ADV MYBURGH SC: Can you confirm the truth and accuracy of this affidavit?

MR SINGH: I do so.

ADV MYBURGH SC: Mr Chairperson, could I ask you to admit Mr Singh's affidavit commences at page 1013 as Exhibit BB-23.6?

CHAIRPERSON: BB...?

ADV MYBURGH SC: 23.6.

CHAIRPERSON: The affidavit of Mr Anoj Singh together with its annexures is admitted as an exhibit and will be marked as Exhibit BB-23.6.

10 **SUPPLEMENTARY AFFIDAVIT WITH ANNEXURES OF ANOJ SINGH IS ADMITTED AND MARKED AS EXHIBIT BB-23.6**

ADV MYBURGH SC: Mr Singh, could I then ask you, finally, to turn, please, to page 1431?

MR SINGH: I am there sir.

ADV MYBURGH SC: That is the further supplementary affidavit that commences there and ends at page 1501. It has a few annexures. Those annexures run up until 1505. Would you confirm that?

20 **MR SINGH:** 150... Ja, 1506.

ADV MYBURGH SC: I beg your pardon. It is in fact 1506. I see there is a page at the back. Thank you. If you could go back, please, to page 1501. Would you confirm that you deposed to this affidavit on the 10th of March 2021?

MR SINGH: That its correct sir.

ADV MYBURGH SC: And would you confirm the truth and accuracy of the affidavit?

MR SINGH: I do so.

ADV MYBURGH SC: Chairperson, I would ask that you admit Mr Singh's further supplementary affidavit commencing at page 1431 as Exhibit 23.7.

CHAIRPERSON: The supplementary affidavit of Mr Anoj Singh that starts at page 1431 is admitted as an exhibit and will be marked as Exhibit 23.7.

10 **FURTHER SUPPLEMENTARY AFFIDAVIT OF ANOJ SINGH IS ADMITTED AND MARKED AS EXHIBIT BB-23.7**

ADV MYBURGH SC: Thank you. Mr Singh, I would like to just start out by asking you one or two questions about your personal details. Am I understanding correct that you were the acting CFO of Transnet for a period of time?

MR SINGH: That is correct sir.

ADV MYBURGH SC: 2009 to 2012?

MR SINGH: That is correct.

20 **ADV MYBURGH SC:** And you were then appointed as the CFO of Transnet, as I understand, on the 1st of July 2012. Is that correct?

MR SINGH: That is correct sir.

ADV MYBURGH SC: And you then continued in that position until you moved to Eskom.

MR SINGH: That is correct.

ADV MYBURGH SC: When was that move?

MR SINGH: On the 1st of August 2015.

ADV MYBURGH SC: Were you initially seconded to Eskom?

MR SINGH: That is correct sir.

ADV MYBURGH SC: So that secondment took up or took place on the 1st of August 2015?

MR SINGH: That is correct sir.

ADV MYBURGH SC: As we understand it, Mr Molefe's
10 secondment to Eskom preceded yours by three or four months. Does that accord with your recollection?

MR SINGH: I am not exactly sure of the number of months but he preceded mine.

ADV MYBURGH SC: And prior to Mr Molefe's secondment, I take it that you then reported to him in his position as the Group Chief Executive?

MR SINGH: Of Transnet, that is correct.

ADV MYBURGH SC: Yes.

MR SINGH: And after he was seconded to Eskom before
20 you were seconded, you reported for that short period of time to Mr Gama?

ADV MYBURGH SC: Yes.

MR SINGH: Mr Singh, what are your qualifications?

ADV MYBURGH SC: I hold a Bachelor of Accounting Degree from the University of Durban Westville at the time.

I also hold a Postgraduate Diploma in Accounting from the same said university ...[intervenes]

CHAIRPERSON: Speak up a bit Mr Singh.

MR SINGH: Oh, I am sorry sir.

CHAIRPERSON: Yes.

ADV MYBURGH SC: And I am sorry. Mr Singh, one other thing. Perhaps I should have told you before. I will ask you the questions, if you can direct your answers to the Chairperson?

10 **MR SINGH:** Okay.

ADV MYBURGH SC: It is more important for him to hear than me and I am sitting closer to you.

MR SINGH: That is right.

ADV MYBURGH SC: Alright. So let us start again. Your qualifications?

MR SINGH: So I hold a Bachelor of Accounting Degree from the University of Durban Westville at the time. I also hold a Postgraduate Diploma in Accountancy from the same said university. And I was for a period of time admitted as
20 a Chartered Accountant at South African Institute of Chartered Accountants until, I think, December 2010(?) or so.

ADV MYBURGH SC: And so just from a broad perspective. What is that you did before you took up the position as CFO of Transnet or acting CFO of Transnet in

2009?

MR SINGH: Mr Chairman, I was – post obtaining my degrees at the University of Durban Westville, I served a traineeship with *B Origin Technology(?)* for a period of three years. I stayed with the firm, thought, for around four years. Post that, I took up a position with the Spar Group in KZN until 2002. In 2003, I relocated to Johannesburg and took up a position with the then Spoornet which was, obviously, a division of Transnet as a
10 Senior Manager or a position as Senior Manager, Corporate Financial Services.

ADV MYBURGH SC: Just one other introductory point. Are you in a position to be able to confirm that after you moved to Eskom, your successor was Mr Pita as the CFO?

MR SINGH: That is correct sir.

ADV MYBURGH SC: Could we turn to the topic of your relationship, if any, with the Gupta's. Could I ask you, have you ever had an occasion to go to the Saxonwold residence of the Gupta's?

20 **MR SINGH:** Mr Chair, I did on occasion had opportunity to go to the Gupta residence.

ADV MYBURGH SC: And when you say on occasion. How many occasions?

MR SINGH: Mr Chair, the reasons for my visit to the Gupta residence was based on culture reasons. There

were religious functions that were held. In the Indian community, you are normally invited to these functions and based on my availability, I would on occasion...

ADV MYBURGH SC: Yes. Well, the first question I asked you is. On how many occasions did you go to the Gupta residence?

MR SINGH: Mr Chair, I would have to hazard a very, very wild guess and I would think that it is probably, I think less than ten times. Probably less than ten.

10 **ADV MYBURGH SC:** But I am sorry. Perhaps I did not get the first part of your answer. I recall you saying you attend religious functions. I think you mentioned that you also had occasion to go there for other reasons?

MR SINGH: No, sir.

CHAIRPERSON: Cultural.

ADV MYBURGH SC: Oh, I beg your pardon. Culture.

MR SINGH: Culture and religious.

CHAIRPERSON: Religious. Oh, yes, ja.

ADV MYBURGH SC: Cultural and religious... So those –
20 that was the cause of you going to the Gupta residence and you say you estimate about ten times?

MR SINGH: Ten times would be the maximum. It is probably less. Between five and ten.

ADV MYBURGH SC: And over what period ...[intervenes]

CHAIRPERSON: Over what period?

ADV MYBURGH SC: I beg your pardon?

CHAIRPERSON: I think we are asking the same question, ja.

ADV MYBURGH SC: [laughs]

CHAIRPERSON: Over what period?

MR SINGH: Mr Chair, my first interactions with the Gupta family would have been as a result of attendance to the TNA Breakfast which Transnet would have sponsored. So I assume it would be that period of time which probably
10 would have been around 2011/2012...

CHAIRPERSON: H'm?

MR SINGH: In terms of timing. And then I would assume infrequently in between from that period of time.

CHAIRPERSON: H'm?

MR SINGH: My association was not very intimate. I mean, for example, I did not... Sorry sir.

CHAIRPERSON: I am sorry, was not?

MR SINGH: Very intimate with the family.

CHAIRPERSON: Oh, okay.

20 **MR SINGH:** I knew them. I knew of them. My... For example, I did not attend the wedding, for example. The Gupta wedding or the Sun City wedding. So from that perspective I did not see any need for me to... myself with them or for them to do the same with me.

ADV MYBURGH SC: So you started going there in 2011

or 2012?

MR SINGH: Sorry, sir. My association with them?

ADV MYBURGH SC: Yes.

MR SINGH: The first time I met them was as a result of the TNA Breakfast which I would assume started around...

ADV MYBURGH SC: And then you continued to go there occasionally. Up until when?

MR SINGH: I would again hazard to give you a guess. I would say probably 2015 or so, 2016 or so.

10 **ADV MYBURGH SC**: And what caused you to stop going there in 2015 or so?

MR SINGH: At that point in time, there were all of these allegations and all of these media speculation relating to the family at the time and not that I believe that any of the speculation or issues relating to our relationship between mine and theirs is irregular but I just thought at that point in time it would be prudent to not visit.

ADV MYBURGH SC: Now did you have occasion to reciprocate? Did you ever invite the Gupta's out for dinner
20 or to your house or was it only you going to theirs?

MR SINGH: No, sir, I did not invite the Gupta's to my house.

ADV MYBURGH SC: And which member of the Gupta family would you interact with on these occasions that you attended the Saxonwold residence?

MR SINGH: Mr Chair, the religious functions were attended by a number of people and this is normally the case. So I had occasion to meet Mr Athol Gupta, Mr Rajesh Gupta, Mr AJ Gupta as well, not...

ADV MYBURGH SC: And let me then turn to... Well, perhaps I could just ask you. These cultural and religious functions that you attended, would they typically be after hours, on the weekends? Obviously, on any particular religious day.

10 **MR SINGH:** Well, the ones that come to mind is obviously the Diwali functions and the Diwali function would depending on when the occasion of Diwali would fall in the...

ADV MYBURGH SC: Alright. Did you, Mr Singh, have occasion to visit the offices of Sahara Computers?

MR SINGH: Mr Chair, I did have occasion to visit the – not enter into the offices of Sahara but I certainly knew where Sahara Computers was. I did visit the – how can I say – the entrance of the office in that my current wife
20 used to work for Sahara. So on occasion, I used to either pick her up...

ADV MYBURGH SC: So you say your current wife worked at Sahara Computers?

MR SINGH: Yes, sir.

ADV MYBURGH SC: For what period of time was that?

MR SINGH: I would think that it would have been sometime in 2014 or so, I think that she would have started there or 2013. I am not too sure of the date. And then, she left, I think in 2015.

ADV MYBURGH SC: So she worked there for approximately a year?

MR SINGH: A year and a half or so if not two.

ADV MYBURGH SC: And just so that I understand your evidence. Do I understand that you would go there to fetch
10 her. I mean, you say you did not go into the office.

MR SINGH: Yes, I would go to fetch her or I would drop her off.

ADV MYBURGH SC: Okay. So you never, if I understand your evidence correctly, you never entered the offices of Sahara Computers?

MR SINGH: No, sir.

ADV MYBURGH SC: And then Mr Essa. Did you have occasion to meet him?

MR SINGH: Mr Chair, I met Mr Essa on probably one or
20 two occasions at his request and it was for the purposes of just having a discussion associated with business opportunities that he may have had in relation to Transnet but it was of no interest to either of us and that was the end of that relationship.

ADV MYBURGH SC: So where did you meet with Mr Essa

on these one or two occasions?

MR SINGH: I do not – because it was a relatively long time ago. So I do not remember exactly where but it would have – it was certainly not at the Transnet offices. So it would have been an outside venue. I am not sure.

ADV MYBURGH SC: Perhaps Melrose Arch?

MR SINGH: It may have been.

ADV MYBURGH SC: And you say that these one or two meetings occurred at Mr Essa's request?

10 **MR SINGH**: Yes, sir.

ADV MYBURGH SC: To discuss, if I may note of your evidence is right, business opportunities at Transnet?

MR SINGH: That is correct sir.

ADV MYBURGH SC: Now what sort of things did you discuss there with Mr Essa during these one or two meetings?

MR SINGH: At that time, I think he – I am not too sure what the exact details of those discussions were but as I said, Mr Chair, the discussion actually never went any
20 further than those one or two meetings. So I did not really pay any attention to any issues that emanated from these meetings.

ADV MYBURGH SC: But can you not recall the topic or content of the meetings?

MR SINGH: If I recall correctly, Mr Chair, it would have

been what Mr Essa would have been involved in at the time and how he would have probably in wanting to provide services to Transnet... And I can only conclude that given the fact that he was not actually involved in much Transnet related business at the time, we never pursue the discussions any further.

ADV MYBURGH SC: So what business did you understand Mr Essa to be involved in?

10 **MR SINGH:** Mr Chair, at that time, I think he was looking at opportunities in oil and gas if I recall correctly. Opportunities in terms of being able to supply same to Transnet.

ADV MYBURGH SC: But what company did Mr Essa purport to work for or represent?

MR SINGH: Mr Chair, I do not recall those details.

ADV MYBURGH SC: I would like now, please, to take you to the evidence of Witness 3. If I could ask you, please Mr Singh, to turn behind you and to pull out Bundle BB-14(d).

20 **MR SINGH:** You said little D?

ADV MYBURGH SC: [No audible reply]

MR SINGH: Sorry, you said little D?

ADV MYBURGH SC: BB-14(d).

MR SINGH: [No audible reply]

ADV MYBURGH SC: And if I could ask you, please, to

turn up page 122?

MR SINGH: Are you doing the red numbers, sir?

ADV MYBURGH SC: I think there is only one number. Ja, if it – there is only one number. So I think I have referred to the red ones here, yes.

MR SINGH: 122?

ADV MYBURGH SC: 122.

MR SINGH: I am there sir.

ADV MYBURGH SC: Now Mr Singh, no doubt you had
10 careful regard to this affidavit and the evidence of Witness
3?

MR SINGH: I have sir.

ADV MYBURGH SC: Now the affidavit deals - has two parts to it. Firstly, it deals with Mr Gigaba and the CPO services rendered to him and then in the second part if I could ask you to go to page 127, it deals with the CPO services rendered to you and that runs from page 127 through to 132, five pages or so.

MR SINGH: I note that, sir.

20 **ADV MYBURGH:** Now perhaps before I take you to the content of this affidavit and we may go through it on a paragraph by paragraph basis, what is your overall response to the evidence of witness 3?

MR SINGH: Mr Chair, when we first heard of witness 3 it was actually via the media, so the Commission was not

gracious enough to advise us in advance that witness 3 was going to testify in this matter so we were relatively perplexed by his evidence and concerned by his evidence given the inferences and the allegations that he levied against us, against me.

ADV MYBURGH: Yes, but my question was, what is your overall response to the content of his evidence?

MR SINGH: In dealing with the fact that we were relatively concerned – well, not relatively, very concerned
10 about the allegations contained in his affidavit. I studied his affidavit quite closely and found that his evidence was really not very credible and spurious in nature and hence my level of concern was relatively diminished and I also had opportunity to have been forewarned about this affidavit by witness 3 himself probably, I would say – in timing-wise I am not too sure but I think probably six to eight months in advance and this had originated in a telephone call that I received from witness 3 that basically
20 described the fact that he was requested to provide an affidavit or provide evidence or testimony regarding his activities with me as the CPO or close protection officer that he was and he did reference individuals at Transnet that were pressurising him to provide this type of information and he also referenced the Commission or the investigators of the Commission and so I then asked – I

said so, witness 3, what type of information are they looking for? And he then did not directly reference the visits or the alleged visits, all he said was you know what information they are looking for. And I then said okay – sorry, again, I said witness 3, but that is of no issue or concern, you are employed by Transnet, if there is an official request that Transnet is making of you, you should comply and again, the Commission is a legally constituted body, if there is a need for you to provide any information

10 please do so and, at the end of the day, whatever information that you provide to them, as far as it relates to our activities, you and I both know that the information they seek does not exist because I have never taken you and if I had gone there on my personal account, it has got nothing to do with you, so please provide whatever information you are required to do so. And he then said - he sought assurance from me if that was really what I wanted him to do and I said yes, please proceed. He said listen, they are looking for log books, they are looking for

20 the information from his cell phone , they are looking for information from, you know, car tracking system and again I said, witness 3, to the extent that that information exists, please provide it to the Commission or to Transnet because you are under an obligation to do so and if it is that there are issues that emanate there from for me, I

have the obligation to deal with that, not you. So that was the context behind me also being perplexed by the affidavit that I then was provided with from the Commission in that the discussion that – the telephonic discussion that I had with witness 3 vis-à-vis the affidavit that was then provided was completely – how can I say, completely different, so – but that is the context behind which I viewed the witness 3 affidavit.

In addition to that, Mr Chair, the reason why I
10 believe that witness 3's affidavit and testimony is a complete fabrication, there are no objective facts that he actually relies on to be able to make the allegations he does.

Conveniently, there are no log books, when patently from witness 1's testimony there was a requirement to maintain log books. Mr Chair, log books cannot be dismissed as a mere piece of paper. Mr – I am sorry, witness 3, did not report to me within the Transnet structure, he reported into the general manager of Group
20 Security. So these log books and time sheets and all of these administrative pieces of paper would have been required for witness 3 to justify any claims of overtime, any claims of working over the weekend, any issues relating to incidents that may have happened with the official Transnet vehicle, so it is very curious for me to understand

that these documents actually do not exist because they had to exist. Transnet was subject to internal and external audit processes, these documents must have been reviewed, they must have been filed somewhere. In comparison, witness 1 was very diligent in keeping this document. So that is relating to the log books.

Mr Chair, if you look at one occasion that he describes, he describes an occasion where I was summoned to the Gupta residence, or he alleges that I was
10 summoned to the Gupta residence, via a telephone call that I received. According to him, I visit the residence, I am there for about an hour or so, I think, according to his affidavit, I come out and I am irate and I use certain vulgarities and he then proceeds to drive me home But curiously Saxonwold to my home is probably less than 10 kilometres and in being in this irate state he then says I fell asleep in this space of 10 kilometres. That does not – it is inconceivable that I would fall asleep in an irate state in a space of less than 10 kilometres.

20 So, Mr Chair, those are aspects of this affidavit that was issue for me. In addition to the actual studying of the affidavit itself, we had occasion to view the cross-examination of witness 3, which was led, I think, on Monday – I may be incorrect in the day. But again, under cross-examination, Mr Chair, witness 3 did not really –

well, did not perform well in that his evidence, I think in my view, was completely dispelled.

ADV MYBURGH: Now, Mr Singh, you filed four affidavits in this Commission which the Chairperson has admitted and we have another one which is in the process of being processed and will be admitted. Can you point out to me where do you deal in the series of affidavits with the evidence of witness 3?

MR SINGH: Mr Chair, we deal with the evidence of
10 witness 3 in the latest affidavit that we have commissioned this morning.

ADV MYBURGH: This morning? So is that then the first time that you have dealt with the evidence of witness 3?

MR SINGH: That is correct, sir.

ADV MYBURGH: Why did it take so long?

MR SINGH: Mr Chair, as I mentioned originally, we were not provided with the affidavit of witness 3 by the Commission prior to this testimony. Subsequent to that we did have access to the affidavit at the Commission. Upon
20 analysis of that affidavit my legal team and myself had engaged with the Commission on a number of occasions trying to obtain the affidavit that was actually admitted into evidence on the day that witness 3 actually testified because the affidavit that was provided to us was actually deposed to post a date on which witness 3 testified.

We also had concern in that the testimony that – or the transcripts and the testimony that he had led was in some instances inconsistent with the affidavit that we had been provided with so we were trying to ascertain which version of the truth was actually the truth, was it the affidavit that was entered into the records of the Commission, was it his transcripts or was it the affidavit that we were actually provided with post the testimony of witness 3?

10 And, Mr Chair, just for the record, we still have not been provided with the requested document or an explanation as to why this was the case but nonetheless, notwithstanding that, we have provided the response to the Commission in our very last affidavit.

ADV MYBURGH: And just to confirm, you were asked to respond to the evidence of witness 3 in a Regulation 10.6 notice dated the 12 November 2020. Would you confirm that?

MR SINGH: I do so.

20 **ADV MYBURGH:** And you did so this morning?

MR SINGH: That is correct, sir.

ADV MYBURGH: Alright. Now just so we understand this, Mr Singh ...[intervenes]

CHAIRPERSON: I am sorry, Mr Myburgh, the issue of documents that he says have not been provided to them,

do you know anything about that, but he says in relation to witness 3 there are still some documents that the Commission has not provided to him.

ADV MYBURGH: I think that the issue of witness 3 – I am not sure if that is what Mr Singh is saying.

CHAIRPERSON: Oh.

ADV MYBURGH: That he still does not have the documents. Mr Singh?

CHAIRPERSON: Oh. Mr Singh, did I misunderstand you?

10 I thought you said in relation to witness 3 there are still some documents that you have not been provided with by the Commission.

MR SINGH: That is correct, Mr Chair.

CHAIRPERSON: Oh.

MR SINGH: We still await the affidavit of witness 3 that was admitted into the records of the Commission.

CHAIRPERSON: The one that you say – or that was admitted on the date he testified?

MR SINGH: He testified.

20 **CHAIRPERSON:** Yes.

MR SINGH: Because the affidavit that we were provided with ...[intervenes]

CHAIRPERSON: Was after.

MR SINGH: Was dated after.

CHAIRPERSON: Ja.

MR SINGH: The date on which he actually provided evidence.

CHAIRPERSON: Yes and you have been waiting for that for quite some time?

MR SINGH: Indeed so.

ADV MYBURGH: As I understand it, that was subject to a moving that you made, Chairperson, in relation to further redacting and the like.

CHAIRPERSON: Well, let – well, sometimes what I know
10 and what the legal team knows and what the investigation team knows are different things because I am the last one to know certain things because of the way the Commission works. The investigators will have information, then that information will go the legal team, things will come to me only when they are ripe for that but as far as I know, there ought to be only one affidavit relating to each one of the three witnesses except for any supplementary affidavit that may have been provided by anyone to them but the ruling of course was to the effect that their affidavits should be
20 redacted but I – if it is the same – if it is a redacted affidavit of the previous affidavit then there should not be a problem and, in any event, somebody should be able to explain to Mr Singh's team, legal team, if the position is simply that the affidavit that was given to him had to be redone. It was still the – it was the previous one but

maybe had to be redone and deposed to afresh after – for purposes of redaction. Mr Pretorius should know something about that.

ADV MYBURGH: Yes, I have a ruling that deals with that. Perhaps I can share that with my learned friend during the break but to answer your question directly, Chairperson, if I could ask you perhaps to turn to bundle 5B, to page 414, there you will see at paragraph 1.17 that Mr Singh was asked to respond to witness 3's affidavit dated the 14
10 September.

CHAIRPERSON: Yes.

ADV MYBURGH: That affidavit was provided and that is the affidavit that finds its way into bundle BB14(b) that I am questioning him about now.

CHAIRPERSON: Yes, yes.

ADV MYBURGH: If there is any other issues in relation to that we will sort that out.

CHAIRPERSON: Ja, I think it is something that should – can be sorted out, there may be just some I
20 misunderstanding and maybe your junior might, while you are busy, try and get whatever clarification is necessary including speaking to the evidence leader at the time, Mr Pretorius, and then sharing information with Mr Singh's legal team. There may be just some I misunderstanding.

ADV MYBURGH: Could I please, Mr Singh, just take you

back to the evidence that you gave? Do I understand you to have said that witness 3 conveyed to you that he was being placed under pressure by Transnet and the Commission to provide an affidavit?

MR SINGH: Mr Chair, my recollection of the conversation was as Mr Myburgh has outlined.

ADV MYBURGH: And do I understand your evidence then to say or least what you are inferring is that the product of this or this affidavit, which you say is false, is the product
10 of that pressure? Is that essentially what you are telling us? Is that how would describe the falsity, on your version, of this affidavit?

MR SINGH: Mr Chair, that would be one of the reasons, as I have testified, the conversation and the conclusion that witness 3 and I had regarding the discussion was that we were of one mind that he needed to comply and there would be no issues because the factual nature of the allegations did not exist and that was the conclusion of the conversation, is he never took me to the residence. So
20 ...[intervenes]

CHAIRPERSON: Is your suggestion that to the extent that in his affidavit witness 3 talks about taking you to the Gupta residence, one, that is false and two, it must be that he has given that false evidence because of the pressure that he says was brought to bear upon him by Transnet

people and Commission people?

MR SINGH: That is correct, sir.

CHAIRPERSON: Okay.

ADV MYBURGH: So I assume you must then deal with that issue of pressure in the affidavit you filed this morning when dealing with witness 3?

MR SINGH: Mr Chair, we do not go into the detail in the affidavit relating to the pressure, it was a discussion that counsel and I had and we have decided to provide the
10 information that we have provided in the affidavit.

ADV MYBURGH: Yes but the nub of your case is the pressure which you do not deal then with the nub of your case in your affidavit.

MR SINGH: Mr Chair, in terms of the reasoning behind the exclusion from the affidavit is as follows. Counsel had requested that I provide the details of the alleged telephone call. I am terrible with dates so I do not actually remember the dates and the times of these things and given the fact that we wanted to be completely and utterly
20 factual we thought it best be dealt with in this forum.

ADV MYBURGH: So in your affidavit do you mention anything about the telephone call that you had with witness 3?

MR SINGH: No, sir.

ADV MYBURGH: And you have said you mention nothing

about the pressure.

MR SINGH: No, sir.

ADV MYBURGH: So then perhaps I can ask you why – why did you never make application ...[intervenes]

CHAIRPERSON: I am sorry, Mr Myburgh?

ADV MYBURGH: Yes.

CHAIRPERSON: If you do not mention the telephone call that you had with witness 3 and you do not mention the pressure in your affidavit, may I know what is – whether in
10 your affidavit you say what reason witness 3 had to effectively falsely implicate you in visits to the Gupta residence?

MR SINGH: We do deal with that, Mr Chair.

CHAIRPERSON: You deal with it, ja, but it is different from pressure and the telephone call conversation.

MR SINGH: Mr Chair, we do not allude to the telephone conversation.

CHAIRPERSON: Ja, okay.

MR SINGH: The pressure was a discussion that emanated
20 from the telephone discussion.

CHAIRPERSON: Ja.

MR SINGH: So as a result both of those matters do not find its way into the affidavit.

CHAIRPERSON: Okay, alright. Mr Myburgh?

ADV MYBURGH: Mr Chairperson, I do not know if you do

intend to take a tea adjournment this morning but it does strike that perhaps we need to put this affidavit before you even informally, it will then be formally introduced at lunchtime.

CHAIRPERSON: Yes.

ADV MYBURGH: But it is only a page and a half.

CHAIRPERSON: Ja. No, that is fine. I was undecided about taking the tea adjournment because we had that time.

10 **ADV MYBURGH:** Yes.

CHAIRPERSON: Is it fine with everybody if we skip the tea adjournment? Mr Singh, is that fine with you?

MR SINGH: No problem with me, sir.

CHAIRPERSON: Counsel?

ADV VAN DEN HEEVER: No problem, Chair, we can go ahead.

CHAIRPERSON: Okay, Mr Myburgh ...[intervenes]

ADV MYBURGH: So if I could perhaps ask my learned friend if she has got another copy of this affidavit that we
20 could then hand up to you but on the basis that it would be formally introduced.

CHAIRPERSON: In due course.

ADV MYBURGH: After lunch.

CHAIRPERSON: Ja, okay.

ADV VAN DEN HEEVER: Chairperson, if I am just given

an opportunity I will see if I can find...

CHAIRPERSON: No, that is fine, ja. Are we going to continue in the meantime or we will wait for – oh, there it is. Registrar ...[intervenes]

ADV VAN DEN HEEVER: Yes, Chairperson, I have got a copy for yourself and I have got a copy for the witness.

CHAIRPERSON: Okay, thank you.

ADV MYBURGH: Chairperson, subject to your direction, could we simply refer to this as for present purposes Mr
10 Singh's affidavit, it was deposed to on the 12 March 2021, which will be admitted into evidence I would imagine after lunch.

CHAIRPERSON: Yes.

ADV MYBURGH: I tend to refer him only presently to paragraphs 143 to 152, the last two pages of the affidavit.

CHAIRPERSON: Yes, we can refer to it as the 12 March 2021 affidavit of Mr Singh, ja.

ADV MYBURGH: Thank you, Chair, thank you. Mr Singh, you have a copy?

20 **MR SINGH:** Yes, sir, I do.

ADV MYBURGH: Before we get to this affidavit of yours, can I ask you – I mean, in the light of this telephonic discussion that you say you had with witness 3 and the assumption that pressure was brought to bear on him, why did you not exercise your right to cross-examine witness 3?

MR SINGH: Sir, again, the discussions between the legal team and myself regarding this matter of cross-examination was communicated to the Commission and again emanated from the. let us call it, I misunderstanding, as you put it, Mr Chair, relating to the versions of the affidavit that we needed to be able to understand whether we would need to cross-examine or not at that stage.

ADV MYBURGH: So if we have regard then to your affidavit – and you will bear with me that I have not studied
10 this so perhaps I am doing it for the first time as we go through. So perhaps we could just go through each paragraph, it is not very long. Now paragraph 143:

“I wish to briefly comment on the evidence of witness 3 and the subsequent dated affidavit by witness 3 provided to my legal team.”

And then you say – you deal with this issue of the affidavit and the like which you have already addressed, which we hope to clarify with your legal representative and you then say at 145:

20 “I thus comment on the affidavit so provided and the evidence hereinafter.”

146:

“I deny the allegation contained in his affidavit and the evidence he provided the Commission regarding my visits to the Gupta residence in Saxonwold with

specific reference to paragraphs 37 to 45. In addition to the aforesaid, I deny that allegation that he took me to the Knox Vault subsequent to visits to the Gupta residence, paragraph 41 to 43.”

147:

“I further deny the fact that I collected any money from the Gupta residence as alleged by witness 3.”

148:

10 “It is inconceivable that I would expose myself to taking cash from a bag “that was stacked with R100 and R200 notes” from him to buy lunch and thereby compromise myself. Regards the bag received at the Three Rivers Lodge, I wish to state again that it is inconceivable to suggest that I would in full view of a large contingency of Transnet employees meet these persons of Asian descent in the conference room during working hours thus again compromising my integrity and expose myself in such a manner. The Commission should note that these breakaway
20 sessions was attended by a large number of employees at any given time and had free access to the conference room and parking.”

150:

“There is no confirmatory affidavit attached to his affidavit which can confirm the allegations made by

witness 3 such as Molefe's driver."

151:

"There was nothing sinister in my visit to Sahara Computers as I did not attend any meetings as alleged by witness 3."

And then you say at 152:

10 "Lastly I wish to state that witness 3's performance under cross-examination proved that he is not a reliable witness and the Commission cannot rely on his evidence."

That is your response, is it?

MR SINGH: That is correct, Mr Chair.

CHAIRPERSON: It looks like you may have been mistaken, Mr Singh, in saying that in the affidavit you do give a reason why witness 3 would falsely implicate you in these visits. Of course I am only looking at it as Mr Myburgh is reading, I do not know if I have missed anything. Other than denying that what he has said is true, I do not seem to have picked up any specific reason
20 that you may be advancing why he would fabricate all these stories.

MR SINGH: Sorry, Mr Chair, I may have I misunderstood your question.

CHAIRPERSON: Question, yes.

MR SINGH: But if that was the question then I do agree

with you.

CHAIRPERSON: Yes.

MR SINGH: That affidavit does not contain that [inaudible – speaking simultaneously]

CHAIRPERSON: Okay, no, that is alright. Thank you, Mr Myburgh?

ADV MYBURGH: Thank you. Well, let go then to the affidavit of witness 3 and can I take you to page 127 of bundle BB14(d). I want to pick up, Mr Singh, at paragraph
10 29, under the heading CPO services to Anoj Singh. Are you there?

MR SINGH: Yes, I am.

ADV MYBURGH: Witness 3 says:

“During January 2014 I was a security manager to provide security services at Transnet Offices in the Carlton Centre.”

Would you agree with that?

MR SINGH: Mr Chair as I testified witness 3 did not actually report to me directly. He reported to the General
20 Manager, Group Security and would have then been deployed to me, from the Security Department, so the date on which he actually would have started at Transnet I would not be able to confirm.

ADV MYBURGH SC: Paragraph 30:

“After some time, I received a call from witness 1,

we informed me that Tolka had assigned me to the office of the Group Chief Financial Officer, the GCFO to perform driver and CPO duties for Anoj Singh, I occupied this position during July 2014”

You confirm that?

MR SINGH: Mr Chair, I confirm that witness 3 did perform driver and CPO services for me, I do however, dispute the date of July 2014. My recollection would have been that that date would have been closer to around March 2014.

10 **ADV MYBURGH SC:** 2014?

MR SINGH: 2014, the reason therefore, Mr Chair that I mentioned is that there was a particular incident that led to CPO services being provided to myself, and it was the incident related to actually not to me it actually related to Mr Brain Molefe at the time, and he was travelling home from a meeting which was relatively late in the evening, and he had occasion to travel on the N1 and he was passing under a bridge, and there was a stone that was then thrown onto the car from the bridge above.

20 And this obviously perplexed Mr Molefe and the next morning, he called me and he said, listen this was the incident that happened, and he does not know why this happened. But at the end of the day, he was concerned for his and our security, and we were at that point in time negotiating the local contracts.

And that is why it actually sticks in my mind, and that was the reason why witness 3 was then allocated to me for security reasons at that time, which followed this incident that occurred to Mr Molefe.

ADV MYBURGH SC: So you have it as him having started to provide those services in about March of 2014?

MR SINGH: That is correct.

ADV MYBURGH SC: And continued up until when Mr Singh?

10 **MR SINGH:** He would have continued until I – well actually I think he continued a month into my secondment to Eskom, if I recall correctly.

ADV MYBURGH SC: So that takes us into?

MR SINGH: Let us say, end of August 2015, give or take.

ADV MYBURGH SC: Then at paragraph 31 witness 3 says:

20 “On a normal working day, I used to pick Singh up at his home in the morning at around 6:30 in Wendywood and from their driving to the Carlton Centre after work I would drop him off at his home again.”

You confirm that?

MR SINGH: That is correct, sir.

ADV MYBURGH SC: At paragraph 32:

“During the course of the day I would drive him to

meetings or to whichever destination he would instruct me to, Singh's personal assistant would usually provide me with his meeting schedule for the following week on a Friday afternoon."

You confirm that?

MR SINGH: Mr Chair, I would confirm that he did drive me to meetings, I am not too sure about the arrangements he had with my personal assistant.

ADV MYBURGH SC: Paragraph 33:

10 "It sometimes happened that his meetings lasted until late in the evening, which caused me to arrive home after 22h00 or even later."

Comment on that?

MR SINGH: Mr Chair on occasions if we had client dinners or the like yes, it would occur.

ADV MYBURGH SC: Paragraph 34:

"During the period to which I was assigned as CPO for Singh, I can recall that I used the following two Transnet vehicles to transport him on official duties
20 namely a white Mercedes Benz C220."

He gives the registration number.

"And secondly a white Mercedes Benz E350."

And he gives the registration number, do you confirm that?

MR SINGH: I do, sir.

ADV MYBURGH SC: Paragraph 35 he says:

“I kept logbooks of trips undertaken with the
aforementioned two vehicles, used logbooks were
given to witness 1 for safekeeping.”

You want to comment on that?

MR SINGH: Yes, Mr Chair as I mentioned, I think the
issue of the logbooks is actually quite an important one,
especially given the context that he raises in at paragraph
33, given the fact that he admits that he used to work
overtime. And the fact that these logbooks do not exist,
10 creates a problem for us to be able to verify his version of
the allegations.

In addition to that, Mr Chair, I find it strange that
witness 3 will be very diligent to keep the log books that he
refers to, but do not or was not able to save that log books
that were provided to him by witness 3 that relate to
myself.

ADV MYBURGH SC: Then he says a 35.1:

“I have subsequently attempted to obtain the
logbooks for these vehicles in order to substantiate
20 the trips undertaken for Singh but was informed that
the logbooks could not be located.”

You already addressed that.

MR SINGH: I think we have addressed that, sir.

ADV MYBURGH SC: “In instances – at paragraph 36,
Singh

would drive to the office with his private vehicle, a blue BMW M3 on Monday mornings and on Friday afternoons, he would travel home with his vehicle. The vehicle would be parked in the basement of the Carlton Centre during the week.”

You confirm that?

MR SINGH: I confirm that, sir.

ADV MYBURGH SC: “Now Singh’s visits to the Gupta residence and Knox Vault.”

10 What do you know about Knox Vault, what is it?

MR SINGH: Mr Chair it is an organisation or business or company that provides vault services.

ADV MYBURGH SC: And if we thinking of the same thing I see it there opposite the Killarney Mall at the old American embassy I think it is.

MR SINGH: That is correct, sir.

ADV MYBURGH SC: Paragraph 37:

20 “During the period of performing CPO duties for Singh, I transported him to the Gupta residence in Saxonwold Drive in Johannesburg on more than 10 occasions. None of these meetings were prior scheduled or recorded in his diary.”

Now that you deny.

MR SINGH: I deny it, I do deny that, yes.

ADV MYBURGH SC: So do I understand your evidence

correctly you say witness 3 never took you to Saxonwold?

MR SINGH: No, he did not.

ADV MYBURGH SC: Those ten odd occasions or approximate ten odd occasions that you went there, would my understanding be correct you attend cultural and religious functions you would have driven in your own car?

MR SINGH: That is correct, sir.

CHAIRPERSON: Well, I see that I think in a paragraph that Mr Myburgh is still going to come to if I am not wrong,
10 that witness 3 when he estimates how many times he took you to the Gupta residence and he also refers to ten. He says, he thinks he must – but he says more than ten times, you said he must have gone there for cultural/religious function maximum ten times, it is just interesting that you used ten and he uses ten.

MR SINGH: Well Mr Chair if you had to look at the detail of witness 3 transcripts, he actually vacillates between five, ten, seven, 12, so I would not place any reliance on the ten.

20 **CHAIRPERSON:** Yes, I see he uses six or seven in relation to the visits to the Knox Vault but maybe somewhere he also uses another number other than more than ten in relation to the visits to the Gupta residence.

MR SINGH: Yes, Mr Chair.

CHAIRPERSON: It is somewhere.

MR SINGH: In my assessment, I am also taking also from his transcripts.

CHAIRPERSON: Ja, okay.

MR SINGH: And the responses that his provided in that in that testimony itself.

CHAIRPERSON: Yes, okay Mr Myburgh.

ADV MYBURGH SC: Yes, of course you also vacillate on the number of times you went to the Gupta residence to attend - and I do not mean that in a pejorative way, but you
10 say five, ten, ten maybe more maybe less.

MR SINGH: Well it is over a period of time, so yes.

ADV MYBURGH SC: Yes, absolutely, at paragraph 38:

“Upon arrival at the Gupta residence I parked the vehicle in the parking area inside the premises and I would wait in the vehicle for him to return. The meetings usually did not last longer than 20 to 30 minutes.”

I take it that all of this is then denied?

MR SINGH: I deny those.

20 **ADV MYBURGH SC:** 39:

“After each of the meetings, Singh would usually appear from the residence with a sports bag, which appear to be full. I suspected that the bags contained money, Singh would knock on the boot of the vehicle and I would open it from the inside, he

would then put the bag in the boot.”

Any comment on that?

MR SINGH: Mr Chair, I deny the allegations contained in paragraph 39 where it relates to the bag, witness 3 fails to describe the bags or the colour of the bags or even provide any details relating the bag.

ADV MYBURGH SC: But Mr Singh how does that help you, you say it did not happen at all.

MR SINGH: No, no that is why I am saying, that is why I
10 am saying it did not happen because it fails to provide any evidence and to suggest why it happened.

ADV MYBURGH SC: Would a better description of the bag change your defence?

MR SINGH: Not it will not but it would at least add some credibility in terms of what he was trying to achieve.

ADV MYBURGH SC: Alright, at paragraph 40:

20 “My suspicion that the bags that Singh collected from the Gupta residence contained money was confirmed when on one occasion I opened the bag, which he had he had earlier collected from the Gupta residence inside the boot of our vehicle to give me some money to buy lunch. He opened the bag, when he opened the bag, I could clearly see that the bag was stacked with 100 and 200 notes.”

I think this is something you have dealt with in your

affidavit.

MR SINGH: Yes, and for the record, I also deny the contents of paragraph 40.

ADV MYBURGH SC: 40?

MR SINGH: Yes, the one that you just read and again, Mr Chair if on witness 3's version, I was providing money for him to buy lunch, which I occasionally did and it was not only for him, it was for the office staff. There was no need for me to go and access money from this bag.

10 I had access to money from my wallet, I could have gone to the ATM, I could had another, a number of alternatives to be able to do that. Why would I access money from an alleged bag in his presence?

CHAIRPERSON: Well, let us assume like all of us, well, maybe not all of us but some of us there are occasions when your wallet does not have enough cash and you need to pay for something or to give somebody a certain amount and you look at your wallet and it has got too little in it.

If that was the case and you knew there was a bag
20 in the boot that had cash. Why would you have to drive to an ATM instead of using the cash that is in the boot?

MR SINGH: Mr Chair, again, if I was making the offer to him, as he suggests, and it was an offer, it was not an obligation, I would not offer if I did not have it.

CHAIRPERSON: No, but on his version, you had money in

the boot, is it not?

MR SINGH: I agree Mr Chair but on his version as well he suggested that I offered this money for him to buy lunch. In my case, I am saying there was no obligation for me to offer this lunch, so if I did not have the cash on me, there was no need for me to do it or access the money in the boot.

CHAIRPERSON: If the cash is in the boot one would - assuming his version is correct for purposes of this
10 argument. I do not understand why you would not have said oh there is not enough money here and then use the money in the boot.

MR SINGH: Mr Chair, with all due respect I think the version is not correct.

CHAIRPERSON: Yes, no it is one thing to say the version is not correct but I thought you were attacking it on the basis that this version, you know, has this flaw I would not use cash in the boot, I would use cash in my wallet, if I did not have enough cash in the wallet or enough cash then I
20 would not offer the lunch.

MR SINGH: That is correct sir, I would not offer it if I did not have it in my wallet, I would not offer lunch.

CHAIRPERSON: Okay, alright Mr Myburgh.

ADV MYBURGH SC: Yes, thank you. Now, before we get to this issue of Knox Vault's. Did you have a safety

deposit box at Knox Vault?

MR SINGH: Mr Chair, I did.

ADV MYBURGH SC: And how many did you have?

MR SINGH: Mr Chair, that exact number I do not recall, but it will probably be four, maybe four to five.

ADV MYBURGH SC: And how large were these safety deposit boxes that you had four of?

MR SINGH: Mr Chair, I do not recall.

ADV MYBURGH SC: So you went presumably and can
10 you estimate for us, show us?

MR SINGH: There were varying sizes, there were one's that were probably this big...[intervene]

ADV MYBURGH SC: So would that be say 15 centimetres by 40 centimetres, 60 centimetres?

MR SINGH: Probably I mean, they were relatively thin, this wide.

ADV MYBURGH SC: Please, can you speak close to the mic?

MR SINGH: Sorry, sir they were relatively thin.

20 **ADV MYBURGH SC:** Right.

MR SINGH: And they were long.

ADV MYBURGH SC: And then long, and the other one?

MR SINGH: There was also a one that was relatively long, but also relatively deep.

ADV MYBURGH SC: So there was a bigger one.

MR SINGH: Yes.

ADV MYBURGH SC: And you say relatively long, are we talking 90 centimetres a meter?

MR SINGH: No, I think the length of the boxes were the same is just the depth was bigger.

ADV MYBURGH SC: So how high what was the depth of the second box 30 centimetres, 40 centimetres.

CHAIRPERSON: Was it half a metre?

MR SINGH: No Chair, it is probably 30 centimetres.

10 **CHAIRPERSON:** Oh, 30 centimetres, is that more or less about the length, what is the length...[intervene]

ADV MYBURGH SC: Of a ruler.

MR SINGH: Of a ruler, yes.

CHAIRPERSON: So you say the height was about 30 centimetres?

MR SINGH: Yes.

ADV MYBURGH SC: And the depth?

MR SINGH: But when you say depth?

CHAIRPERSON: The height would be the depth.

20 **MR SINGH:** I think all of them were all the same size, I think all of them were the same size.

ADV MYBURGH SC: And what would you estimate that?

MR SINGH: As we said it was probably...[intervene]

ADV MYBURGH SC: 60?

MR SINGH: Probably not, it was probably 50.

ADV MYBURGH SC: So 30 by 50, somewhere along there., sorry if need to take you back. So that was the safety deposit box two, the first one you said was smaller than that.

MR SINGH: Sorry Sir, I am saying there were probably four to five of them, I do not know the exact number of how many were big and how many were small.

ADV MYBURGH SC: Okay.

MR SINGH: But I do recall that they were varying sizes.

10 **ADV MYBURGH SC:** So let us go - alright, so you had four boxes of varying sizes, you have described the one size to us, 30 by 50, and did you have all four boxes at the same time?

MR SINGH: On occasion, I think they probably would have been there at the same time.

ADV MYBURGH SC: And how much did you pay now to rent these four boxes from Knox Vault on a monthly basis?

MR SINGH: Mr Chair, I would not recall that.

20 **ADV MYBURGH SC:** Well are they - you would presumably be able to estimate, is it expensive to hire these and especially four of them?

MR SINGH: Mr Chair, they - I mean, the cost is relative given the fact that the nature of the reason for having the boxes is security or safety and so on, I mean at the end of the day in terms of quantum, I would think that they were

not more than R2 500,00 a year or R2000,00 or R3000,00 a year.

ADV MYBURGH SC: A year?

MR SINGH: Yes.

ADV MYBURGH SC: R2 500,00 not a month?

MR SINGH: No.

ADV MYBURGH SC: So Mr Singh...[intervene]

MR SINGH: Each.

ADV MYBURGH SC: Each?

10 **MR SINGH:** H'm

ADV MYBURGH SC: Per year?

MR SINGH: As I said I do not recall this Chairperson, I am probably estimating and probably badly so.

ADV MYBURGH SC: But you are going to come back and give evidence presumably this is something that you could look into for us and perhaps look at your records, and then determine what it is that you paid.

I mean, I presume you conclude a contract with an entity like Knox Vaults. It is quite a serious thing to hire
20 your safety deposit box presumably there is a lot of protocol and paperwork, is that so?

MR SINGH: Yes it is.

ADV MYBURGH SC: And for how long did you then have these four safety deposit boxes at Knox Vault?

MR SINGH: I am not too sure exactly when they were

there from, but in I would say 2016 or '17 I stopped using the services of Knox Vault.

ADV MYBURGH SC: So what years did you have these boxes?

MR SINGH: Probably from 2013 I would say.

ADV MYBURGH SC: Until 2016, did you say?

MR SINGH: 2016/2017.

ADV MYBURGH SC: Right, and what is it that you did with these boxes, why did you need four of them?

10 **MR SINGH:** Mr Chair, they were basically for safety and security purposes well in South Africa, you really require safety and security at least, at any given point in time. They were to store valuables, jewellery, documents, anything that we thought that we need to store and that is it basically.

ADV MYBURGH SC: And cash?

MR SINGH: There was an occasion to store some cash.

ADV MYBURGH SC: How much cash?

MR SINGH: I would be speculating.

20 **CHAIRPERSON:** I am sorry, what was that answer?

MR SINGH: I said, I would be speculating if I was to estimate that.

CHAIRPERSON: Yes, would - I guess maybe one could ask, what kind of amount do you recall having deposited there at some or other stage?

MR SINGH: I would say that I think it is probably in the region of maybe at any given point in time, maybe a 100 000.

CHAIRPERSON: And what would be the biggest amount that you even deposited there that you can recall?

MR SINGH: Mr Chair, this would have been an accumulation over a period of time, so it would have been relatively small amounts.

CHAIRPERSON: Small amounts?

10 **MR SINGH:** Yes.

CHAIRPERSON: And the R100 000,00 might have been the biggest or not - you do not know?

MR SINGH: I really do not recall Mr Chair.

CHAIRPERSON: Ja, there could have been an amount higher than that or lower?

MR SINGH: Yes.

CHAIRPERSON: Okay, alright and the period when you kept – you had these boxes there would it have been from when to when if you are able to say?

20 **MR SINGH:** I think I responded to Mr Myburgh probably between 2013'ish to 2016/17'ish.

CHAIRPERSON: Okay, no I may have missed that, okay thank you Mr Myburgh.

ADV MYBURGH SC: Thank you, Mr Singh, I am not familiar with this sort of thing. I have a safe at home, just

explain to me what it is that you needed to - why did you need four of these boxes? What is it that you were keeping in these four boxes?

MR SINGH: Mr Chair, the four boxes is easy to explain. There was a box for each one of the members of the family in terms of being able to access the requirements, whenever we needed something for someone. So it was jewellery for, let us say he wife then it was in a box, documents was in a separate box and alike.

10 **ADV MYBURGH SC:** And...[intervene]

CHAIRPERSON: Remember to speak closer to the mic.

MR SINGH: Yes, Mr Chair.

ADV MYBURGH SC: Why was it not sufficient to keep those things at home in a safe, a typical safe?

MR SINGH: Mr Chair, as I mentioned, the safety situation in South Africa was is - was an is a serious concern for everybody, and as I mentioned before, I was deployed with a close protection officer for safety and security reasons. In addition to that, or again, for safety and security
20 reasons there was security guards that were deployed at my home by Transnet. So from that perspective, safety and security was a serious concern.

ADV MYBURGH SC: And how often would you go then to Knox Vault?

MR SINGH: Not very often, sir.

ADV MYBURGH SC: What do you mean by that?

MR SINGH: Maybe once a month, maybe once in two months.

ADV MYBURGH SC: Once a month, so approximately 12 times...[intervene]

CHAIRPERSON: I am sorry, that was a yes, I think you nodded.

MR SINGH: Oh, sorry.

CHAIRPERSON: That will not be recorded, so I think your
10 answer was yes.

MR SINGH: Yes.

CHAIRPERSON: Ja.

ADV MYBURGH SC: So that would be 12 times or so a year, is that right?

MR SINGH: Yes.

ADV MYBURGH SC: And then what caused you to give up these four safety deposit boxes in 2016 or 2017.

MR SINGH: Mr Chair, I think it was – it coincided with my suspension at Eskom and I needed to access – well not
20 having a salary beyond that, it was obviously going to be a problem to maintain these boxes, and that also coincided with my ex-wife and family moving to Durban and living in Durban. So we needed to access the information and the documents and stuff that was stored for them. So that was then the reason for us to give up the boxes.

ADV MYBURGH SC: And you going to provide details of the rental costs of these boxes when you come back?

MR SINGH: To the extent that I can retrieve the information I will do so.

ADV MYBURGH SC: You could also make inquiries via Knox Vault.

MR SINGH: That is what I plan to do.

ADV MYBURGH SC: Alright, so let us go to paragraph 41 then:

10 "In a few instances after this...[intervene]

CHAIRPERSON: I am sorry Mr Myburgh so going back to the rent you paid for these boxes or each one of these boxes per year. Would it be fair to say, if you were paying I think you said about 2000 something rand for each per year. So it would be 2000 something times four?

MR SINGH: Yes.

CHAIRPERSON: So that that is what you would pay for it, so it was probably between eight and R10 000,00.

20 **MR SINGH:** Mr Chair, as I said I was qualifying that by saying it might be that that approximation might actually be very wrong.

CHAIRPERSON: No, no I accept that I just wanted to - so that is what more or less you think you were paying as rent for the boxes annually.

ADV MYBURGH SC: So just so that we have it on the

record your estimate, as you sit here now, is these four boxes did not cost you more than R10 000,00 a year for all of them?

MR SINGH: As I recall, yes which might actually be very wrong, as I said,

ADV MYBURGH SC: But Mr Singh, do you want to revise that figure or is that the best you can do?

MR SINGH: Mr Chair, I think maybe for the purposes of today, I think it is probably best for me to reserve comment
10 in terms of what the value is until I actually engage and find the appropriate number else we would be pickling.

ADV MYBURGH SC: So let us then go to paragraph 41:

“In a few instances after visits to the Gupta residence, Singh would instruct me to drive to Knox Vault at the corner of Riviera and River streets across the road from the Killarney Mall.”

Is that the same Knox Vault that we have been speaking about?

MR SINGH: That is correct.

20 **ADV MYBURGH SC:** “Singh would then take the full bag from the boot of our vehicle and go into the Knox Vault building whilst I would wait for him in the vehicle in the parking area. After a few minutes, he would return to the vehicle and I could see that the bag that he carried was now empty. I suspected

that Singh had deposited the contents in a safe at
Knox Vault.”

You want to comment on that?

MR SINGH: Mr Chair, as we have discussed, I deny this
allegation by witness 3.

ADV MYBURGH SC: Did witness 3 ever take you to Knox
Vault?

MR SINGH: No, he did not, sir

CHAIRPERSON: Did you ever talk to him about your
10 deposit boxes at Knox Vault?

MR SINGH: No, I did not sir and I think maybe Mr Chair
just to give the Commission some background or my nature
Mr Chair I am a relatively private person and you will
notice as well that from witness 3 testimony, I normally
used to take my car, private car to work on a Monday and
then take it back on a weekend. Now that was the reason
for that was that so I have my weekends to myself.

So witness 3 would not have for example driven me
on a weekend to anywhere, maybe there was one or two
20 rare occasions when that was required, but by and large,
that never happened. So from a perspective of him taking
me to deal with my private affairs, whether it be visits to
the Gupta residence or whether it be to Knox Vaults or
whether it be to - anything that I deemed private I would
not use witness 3 for any or any transitory source for that

matter.

CHAIRPERSON: And you would not discuss personal or private ...[intervenes]

MR SINGH: No.

CHAIRPERSON: ...matters. So as far as you know he did not know that you had these deposit boxes at Knox Vault?

MR SINGH: No Sir.

CHAIRPERSON: Okay. Alright Mr Myburgh.

ADV MYBURGH SC: Yes just to pick up on the
10 Chairperson's question then you never spoke to Witness 3 about you having a – a facility at Knox Vault – where does he come up with this from?

MR SINGH: Mr Chair I am just as startled as you as to how he comes up with this allegation.

ADV MYBURGH SC: But Mr Singh it should be quite a coincidence it seems that you had a series of boxes at Knox Vault.

CHAIRPERSON: And you went there once a month.

ADV MYBURGH SC: You went there once a month, you did
20 not tell you say your driver about this but somehow he comes up with this paragraph 41 it seems quite coincidental.

CHAIRPERSON: Hm. You see how it – how it looks I mean.

MR SINGH: Mr Chair I will – I will afford...

CHAIRPERSON: Just hang on one second.

MR SINGH: I will afford...

CHAIRPERSON: He comes up with his version which you say is a fabrication. It includes going to the Gupta residence, those visits and it includes him saying on certain occasions he will take you to Knox Vault. Now I assume there are a number of businesses which do the same business as Knox Vault. He says he would take there to say that is fabrication but on your version it so happens that indeed you do have not one box – deposit box but four at Knox Vault. It so happens on your version that actually you
10 do visit – you did visit Knox Vault regularly once a month your estimate. On your version it must be such a coincidence.

MR SINGH: Mr Chair

CHAIRPERSON: I think that is what Mr Myburgh is raising with you.

MR SINGH: Yes.

CHAIRPERSON: Mr Myburgh.

ADV MYBURGH SC: Yes certainly Chair.

MR SINGH: Mr Chair if I again can follow a response?

20 **CHAIRPERSON:** Hm.

MR SINGH: Mr Chair my – my under – my – my view in terms of witness 3's testimony regarding the Knox Vault emanates from again an issue that was raised from the commission.

CHAIRPERSON: Hm.

MR SINGH: I had occasion to read in the media that the commission had taken possession or in some way, shape or form got information relating to the fact that certain individuals implicated in state capture had boxes at Knox Vault and the person in question then had legal issues with the commission and therefore there were legal outcomes associated there from.

So again Mr Chair the issue of Knox Vaults and Witness 3 as it relates to myself could have only emanated
10 from the commission itself visa vie those issues that existed within the commission and the knowledge the commission had relative to any individuals that had boxes at Knox Vaults.

CHAIRPERSON: Are you saying somebody within the commission must have told Witness 3 to say that he used to take you to Knox Vaults because that person in the commission was aware that somebody else had kept deposit boxes at Vault Knox is that what you are saying?

MR SINGH: Mr Chair in terms...

CHAIRPERSON: Are you saying he was spoon fed by
20 somebody in the commission to make this false allegation against you?

MR SINGH: Mr Chair that is my assertion because as we have been discussing with 00:04:31 thus far as I said his entire testimony is a relative fabrication and at the end you asked me the question why would he fabricate and I have no

idea why.

CHAIRPERSON: And you think – you think there is somebody in the commission who just had something against you so much that they would ask somebody to falsely implicate you in these visits to Vault Knox – Knox Vault?

MR SINGH: Mr Chair the only thing that I know is that the – the commission was in possession of a list of individuals that did have boxes at Knox Vault.

CHAIRPERSON: Hm.

10 **MR SINGH:** Subsequent to that I then get this affidavit that effectively implicates me in alleged wrongdoing visa vie Knox Vaults coming from Witness 3. Under the let us say the pressure that had come from as he described it either Transnet or the commission.

CHAIRPERSON: Mr Myburgh.

ADV MYBURGH SC: Yes thank you. Just before we move on can I ask you this? You say at a point in time you might have kept up to R100 000.00 at Knox Vault you recall that evidence?

20 **MR SINGH:** Yes.

ADV MYBURGH SC: Where did that money come from?

MR SINGH: Mr Chair there was a number of sources I think the – from time to time had occasion to be involved in a family business. I did in some instances engage in gambling from now 00:06:13 I did gamble in casinos and occasionally

house raising. I did also do some consulting work visa vie financial consulting.

ADV MYBURGH SC: Some moonlighting?

MR SINGH: Ja.

ADV MYBURGH SC: For cash?

MR SINGH: Yes Sir.

ADV MYBURGH SC: While you were the Group Chief Financial Officer of Transnet?

MR SINGH: Sir and it was maybe the – the activities that I
10 describe was probably in leading up to the Chief Financial Officer position as well as 00:06:53. The fact that I was Chief Financial Officer of Transnet at the time obviously gave me exposure and because of that exposure and because of the experience that I had gained at the time yes people were interested in what I knew.

ADV MYBURGH SC: Well you were appointed as the Chief Financial Officer on the 1st of July 2013 and you as I understand it took up a facility at Knox Vault in 2013, correct?

20 **MR SINGH:** Yes.

ADV MYBURGH SC: Alright. The – the investigator that the commission's investigator that was involved in relation to the Drivers has just sent me a Whatsapp to say and we can confirm this if necessary that the commission learnt about Knox Vault from Witness 3. The first time the commission

heard about Knox Vault I do not suppose you can comment on that?

MR SINGH: I cannot comment on that Sir.

CHAIRPERSON: Ja the – I mean the effect of what Mr Myburgh is putting to you is that contrary to what you say because you – you were suggesting that it would only have been after...

ADV VAN DEN HEEVEER: Chairperson

CHAIRPERSON: Yes.

10 **ADV VAN DEN HEEVEER:** I am sorry you can finish. You can finish then I will deal with an issue.

CHAIRPERSON: Okay but you must tell me if you cannot hear me. What Mr Myburgh is putting to you based on what the investigator is saying is that contrary to what you are saying which is that the commission Witness 3 must have been given information by somebody in the commission about Knox Vaults and your involvement with them. The information that he is putting to you is that the investigator is saying actually the person who – from whom the commission
20 heard for the first time about the Knox Vaults was Witness 3 so which suggests it seems to me that the discovery of the individual or individuals that you were talking about in respect for whom there was – there were legal proceedings and so on came either at the same time or after but Witness 3 was the first person to tell the investigators about Knox

Vaults and so on.

ADV VAN DEN HEEVEER: Chairperson

CHAIRPERSON: Yes.

ADV VAN DEN HEEVEER: If you are finished at this stage I..

CHAIRPERSON: I am.

ADV VAN DEN HEEVEER: I wish to raise some concerns.

CHAIRPERSON: Yes.

ADV VAN DEN HEEVEER: By the statement that comes
10 from Mr Myburgh.

CHAIRPERSON: Yes.

ADV VAN DEN HEEVEER: First of all this version is not under oath we do not know who the investigator is and if it is correct what Mr Myburgh is suggesting I would have thought that that would form part of Witness 3's affidavit or the evidence that he gave. All we would have been provided at some stage with an affidavit by the investigator stating same and that of course in return would have had legal ramifications pertaining constitutional rights to privacy
20 etcetera. So at this stage I want to almost go to the point where I say I object to this line of – of questioning. I do not think it is fair to the witness more so having regard to the fact that it comes via a Whatsapp message from an unknown investigator with the greatest of respect.

CHAIRPERSON: No I think that – I think that things happen

in this way because Mr Singh is making this allegation for the first time that the commission – somebody in the commission must have fed this information to Witness 3. But what would be legitimate is for you to say the investigator who has given Mr Myburgh the information should go on affidavit under oath to pro – I think that would be legitimate.

ADV MYBURGH SC: Yes certainly.

CHAIRPERSON: Ja.

ADV MYBURGH SC: I think I had mentioned that of course

10 **CHAIRPERSON:** Yes.

ADV MYBURGH SC: It is not just a Whatsapp Mr Pierre Leonard is sitting in the gallery.

CHAIRPERSON: Yes.

ADV MYBURGH SC: And sent it to me he would be in a position to confirm that immediately.

CHAIRPERSON: Yes.

ADV MYBURGH SC: But if you want an affidavit DCJ of course we would do that.

20 **CHAIRPERSON:** Ja it would be provided. But as I say you know I think Mr Singh is making this allegation for the first time. If the – if he had made it before I am sure the legal team would have explored the option of getting an affidavit from the investigators.

ADV VAN DEN HEEVEER: Chairperson thank you very much. Just one further issue we might be on different pages

but I could not see what Mr Singh said as an allegation made as such I saw it as an inference that he drew from information that he got. But I will leave it at that for the point I need – I am thankful I think if the information is supplied under oath.

CHAIRPERSON: Yes.

ADV VAN DEN HEEVEER: We can then prudently and properly deal with that.

CHAIRPERSON: Ja no, no that is fine. Okay Mr Myburgh.

10 **ADV MYBURGH SC:** Thank you. And then at paragraph 42 the – Witness 3 goes on to say:

“To the best of my recollection I had taken Singh to the Knox Vaults on six or seven occasions after visits to the Gupta residence.”

So on his version the majority of times that you went to the Gupta residence you would then go to Knox Vault, you want to comment on that?

MR SINGH: I deny that allegation.

20 **ADV MYBURGH SC:** Incidentally Mr Singh perhaps and I am sure we can get the exact distance but how far is it from Saxonwold residence of the Gupta’s to the Knox Vault? Not far?

MR SINGH: Probably say it is five kilometres.

ADV MYBURGH SC: How long would it take you to drive there?

MR SINGH: Five minutes you know.

ADV MYBURGH SC: Five or ten minutes. Do you know of any...

CHAIRPERSON: Okay I am sorry. Just remember Mr Singh nodding is not good enough.

MR SINGH: Sorry Sir.

CHAIRPERSON: Ja if you want to say yes you just say yes.

MR SINGH: Yes.

CHAIRPERSON: Ja.

10 **ADV MYBURGH SC:** Five or ten minutes. Do you know of any equivalent facility closer to the Gupta residence?

MR SINGH: No Sir.

ADV MYBURGH SC: And then just one last question on this. You say you had occasion to go to your safety deposit boxes once a month, why?

MR SINGH: Mr Chair I cannot recall the exact details I said it was an approximate once maybe twice a month – sorry maybe once a month or maybe once in two months but I cannot recall the exact details of why I would visit these
20 boxes.

ADV MYBURGH SC: Alright. At paragraph 43:

“It should be noted that we never discussed what happened at the Gupta residence or what the bags that he collected from the residence contained or the reasons for visits to the Knox Vault.”

Any comment on that?

MR SINGH: Mr Chair as I have testified we have never discussed any issues regarding to Knox Vaults and in terms of the visits to the Gupta residence as I testified he has never taken me.

ADV MYBURGH SC: Paragraph 44:

“I furthermore recall a day sometime in 2015 when I was driving Mr Singh to a scheduled meeting on the way he received a call on his cellular phone. After he had finished
10 the call he instructed me to divert from my route and immediately drive to the Gupta residence. I could hear that there was some panic in his voice. We consequently rushed to the Gupta residence and on our arrival Singh got out in a hurry. I waited in the parking area for approximately an hour and a half for him to return from the meeting.”

Any comment on that?

MR SINGH: Mr Chair I have dealt with this paragraph in my testimony I deny it and I find it relatively conspicuous that in the next paragraph he basically says I fell asleep.

20 **ADV MYBURGH SC:** That you what?

MR SINGH: That I fell asleep.

ADV MYBURGH SC: Yes.

MR SINGH: In the next paragraph.

ADV MYBURGH SC: Well let us get to the next paragraph.

“When Singh returned from the meeting at approximately

17:30 he appeared to be nervous and stressed. When he got into the vehicle he said F that thing. He then instructed me to drive him home and turn off the radio. Shortly thereafter he fell asleep. This was unusual behaviour from him.”

What do you say?

MR SINGH: Mr Chair this is – this is the paragraph that I had referenced previously. It is – it is for me it is inconceivable that I would be in an irate state, get into a car, listen to the radio and fall asleep within a distance of –
10 travel distance of less than twenty minutes at 5:30 in the afternoon.

ADV MYBURGH SC: But Witness 3 himself as you say says it was unusual.

MR SINGH: But I am saying to you it is unusual from a perspective that I would fall asleep. I would not fall asleep.

ADV MYBURGH SC: That is what he says.

MR SINGH: So why would I fall asleep if I was irate Sir?

ADV MYBURGH SC: You accept though this is unusual behaviour if it happened?

20 **MR SINGH**: For me yes.

ADV MYBURGH SC: And he himself says it is unusual.

MR SINGH: Well if it happened.

ADV MYBURGH SC: Yes.

MR SINGH: And I am saying it did not happen.

ADV MYBURGH SC: Alright. So let us then deal with the

Three Rivers Lodge.

CHAIRPERSON: So he must have on your version he must have sat down and fabricated all of these stories you went to the Gupta's, you went in, when you came back he was upset and then got into the car said put off the radio and then fell asleep. He must have sat down and say how am I going to frame Mr Singh, fabricate a story and he went to this extent of all of these details?

MR SINGH: Mr Chair if I again may offer my view?

10 **CHAIRPERSON:** Yes.

MR SINGH: In this regard.

CHAIRPERSON: Yes.

MR SINGH: If you look at in my view what Witness 3 is trying to allude to or infer from this is that I was under instructions of the Gupta's. So soon as they phone I would go. Because he said this was unscheduled – we changed direction from a scheduled meeting.

CHAIRPERSON: Yes.

MR SINGH: Based on a phone call.

20 **CHAIRPERSON:** Yes but that does not necessarily mean you were instructed. You might have decided.

MR SINGH: No, no indeed.

CHAIRPERSON: After the call.

MR SINGH: I am saying his inference.

CHAIRPERSON: Ja.

MR SINGH: I am saying his inference is – is such that I would have left whatever meeting we were going to which was Transnet business and deal with this matter whatever the matter was. And having gone to that meeting dealt with the subject matter of that meeting, whatever the subject matter of that meeting was created me to be in a state of anxiety. Then fell asleep. Right. If you then go to Witnesses – Witness 3's testimony relative to Mr Pita you find the same inference that he draws. That they were on a
10 way to a meeting Mr Pita gets a call and there they reverted to Saxonwold. So in my view again I would suggest that it is probably the reverse coincidence that I am going to fold in terms of saying but it is coincidental that two CFO's of the organisation gets the same call and they act in the same way.

CHAIRPERSON: Hm. Hm. Mr Myburgh.

ADV MYBURGH SC: I think the question that was posed to you by the DCJ if I could just pick up on that? I think why would the driver – firstly – first of all from you have said you
20 seem to have had a good relationship with this driver.

MR SINGH: Indeed Sir.

ADV MYBURGH SC: In fact on your version he tips you off about the fact that he is going to give an affidavit against you.

MR SINGH: Mr Chair he did not tip me off that he was going

to give an affidavit. He sought my guidance in terms of what he should do and again I have a view about that but if you would like it I can give it to you but I do not know but no, no he does not tip me off.

ADV MYBURGH SC: Alright but ...

CHAIRPERSON: Ja but I am sorry. Was he not saying whether he would have said he had been approached by Transnet or had been approached by the commission or he – whether he was saying he was volunteering to give some
10 information to the commission but was he not in effect saying I may soon be making a statement or affidavit to the commission that may talk about when I was driving you. Well in effect was he not saying that?

MR SINGH: Mr Chair I do not think the context of the conversation was in the – in the light of him tipping me off.

CHAIRPERSON: Hm.

MR SINGH: It was more in the light of...

CHAIRPERSON: Asking for guidance.

MR SINGH: Asking for guidance of what should be done.

20 **CHAIRPERSON:** Oh okay.

MR SINGH: And – and that is the context in which the conversation then happened.

CHAIRPERSON: But you say you had a good relationship with him.

MR SINGH: Ja I had a cordial relationship with him.

CHAIRPERSON: Ja okay.

ADV MYBURGH SC: If you did not have something negative to say about you why would he have called you on your version?

MR SINGH: Mr Chair again I will be called on to – to give you my view in relation to this matter. It was also a very, very strange occurrence for me and the reason why it was strange it is for a couple of reasons.

The first reason is the fact that I do not normally
10 answer phone calls that I do not know who they are from. Lately it has been from the media so hence I do not answer those calls but anyway it was an 012 number that – it was landline number from which he had called on the day and the reason for me to having answered that landline call and not knowing who it was that I had occasion to be in a meeting in Pretoria. And the individuals that I was meeting in Pretoria on the day was actually a bit delayed. So I – my view was this 012 number was them that was calling to say that they are a bit late and they will be there or something like that.
20 So when – when the call – when I eventually answered the call it was then Witness 3 and so that is the second reason why I found it strange. One was that I answered the landline number but then it was Witness 3. And then the conversation went on as I suggested. Now in my conspiracy theory, my 00:23:34 based on the evidence that I have led

here in terms of how and why Witness 3 has done what he has done in my view it is not inconceivable that Witness 3 was probably attempting to tape the conversation to be able to understand what would I say when I was approached regarding the visits to the Gupta residence and is involvement therein. But as I said in the – my responses to him were cordial, it was basically to say **Witness 3** you – Witness 3 you are under obligation to do certain things please continue to do it as you are required to do so.

10 **CHAIRPERSON:** I think we must take a five minutes adjournment.

ADV MYBURGH SC: Thank you Chair.

CHAIRPERSON: Let us adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay let us continue.

ADV MYBURGH SC: Thank you. Mr Singh I just got two more questions before we go to the Three Rivers Lodge.

20 Can you think of why Witness 3 would frame you given the constructive relationship that you had with him?

MR SINGH: It baffles me Sir I have no explanation.

ADV MYBURGH SC: And perhaps one other question. If he wanted to frame you he seems to have come up with a very elaborate and detailed version, why?

MR SINGH: Well Mr Chair I am sorry Mr Chair the only view that I have in terms of a reason why Mr – I am sorry Witness 3 would undertake such an exercise is if he was fearing for his job or was under duress relating to his employment at Transnet. That is the only reason I can prefer at this stage. In terms of the detailed nature of his evidence if he was as I have suggested been influenced by either Transnet or the commission investigators then he would end up with relatively compelling and detailed account of his version.

10 **ADV MYBURGH SC:** Alright.

CHAIRPERSON: So as far as Transnet is concerned is your version that for the Witness 3 to frame you like this it must mean that somebody or some people at Transnet must have put pressure on him to say things about you that he told them were not true.

MR SINGH: Chair I did...

CHAIRPERSON: And he – he – they put pressure and he did this because he thought his job would be in danger.

MR SINGH: Mr Chair you will – I did not hear for a period of
20 time.

CHAIRPERSON: Oh okay. Let me repeat. So I am asking whether what you are saying is that insofar as Transnet is concerned Witness 3 would have framed you like this if somebody at Transnet or some people at Transnet put pressure on him to falsely implicate you even if he told them

that these things that they would have said he must say about you did not happen.

MR SINGH: That is correct Sir.

CHAIRPERSON: Okay.

ADV MYBURGH SC: Thank you. Mr Singh the bags received from men of Asian descent at Three Rivers Lodge paragraph 46 at page 130.

10 “During July of 2014 the Transnet Executive Committee attended a week long strategy session at the Three Rivers Lodge in Vereeniging.”

Would you confirm that?

MR SINGH: Mr Chair I do not have direct recollection of the date but I do concede that we did have breakaways as the [indistinct]

ADV MYBURGH SC: 47

 “I dropped Singh off at the venue early in the week and picked him up on the Friday afternoon again.”

20 **MR SINGH:** Mr Chair if we did have these breakaways that would be the way that it would happen.

ADV MYBURGH SC: 48

 “While I waited for Singh on the Friday afternoon to finish the session I noticed four men who appeared to be from Asian descent

(they looked like Chinese men to me) standing around a Hyundai H1 vehicle in the parking area. Two of the men appeared to be busy with a conversation on a cellular phone.”

Any comment on that?

MR SINGH: Mr Chair I do not recall his giving evidence relating to something that he had seen. I have no comment.

ADV MYBURGH SC: 49.

10 “The next thing I noticed how the two men (who spoke on the cellular phone) took two luggage bags from the vehicle. One black the other one maroon and went inside the lodge area where the executive management meeting was held.”

Any comment on that?

MR SINGH: Mr Chair again he is relaying events that I have no recollection of or first-hand knowledge of.

ADV MYBURGH SC: At 50.

20 “At around 15h00 I received a sms from Singh requesting me to come to the conference room where the meeting was held. As I entered the room the two men who took the luggage bags into the lodge were in the room together with Molefe and Singh.

Singh pointed to the maroon luggage bag and requested me to take the bag to our vehicle.

I took the bag and put it in the boot of the vehicle.”

Any comment on that?

MR SINGH: Mr Chair I deny this allegation.

ADV MYBURGH SC: And if you had a bag with you in the conference room that you wanted to be put in the boot of your vehicle would you typically contact your driver and ask
10 him to help you?

MR SINGH: Mr Chair typically that would not be the case. I would not have a maroon luggage bag in the conference itself. The conference room itself would be for obviously an EXCO break away or whatever the agenda for the day was so that bag would be a work bag so it would contain work related information.

ADV MYBURGH SC: So that is – that is not what I am asking you Mr Singh.

MR SINGH: Yes Sir.

20 **ADV MYBURGH SC:** I am asking you take a typical work day; you have a bag.

MR SINGH: Yes.

ADV MYBURGH SC: With you at a conference centre.

MR SINGH: Yes.

ADV MYBURGH SC: And you want it to be put in the boot of

your vehicle my question is would you typically contact your driver you knew that he is in the parking lot to come and fetch the bag to put it in the vehicle?

MR SINGH: No Sir.

ADV MYBURGH SC: Not you would go and do that yourself?

MR SINGH: Yes Sir.

ADV MYBURGH SC: Well you heard the evidence for example of Mr Molefe when he was sitting in the Carlton Centre conference centre or room and he did not have his
10 cell phone with him and it was in the bag in his office he contacted his driver to go fetch the cell phone. You used the drivers on a more limited basis.

MR SINGH: As I testified Sir I said I normally try and keep myself private so to the extent that I will have the ability to do stuff I do it on my own.

ADV MYBURGH SC: So you telling the Chairperson that if you had a bag in a conference room and your driver was outside in the parking lot with your car you would not get his assistance to take the bag and put it in the boot you would
20 walk that way yourself out of the conference room?

MR SINGH: Yes Sir because in all of my instances all my bags are trolley bags so I will it myself. Even on travels if I travel with a bag I take my bag myself.

ADV MYBURGH SC: Alright Mr Singh. So he says that at
50.1:

“That I need to mention that the bag was really heavy however I did not know what it contained at the time.”

The next sub-paragraph.

“I recognised that the bag – sorry I recognised that the bag as one of the luggage bags that the Chinese men had earlier taken into the meeting room.”

Any comment on that?

10 **MR SINGH**: Sorry Mr Chair I deny these two paragraphs.

ADV MYBURGH SC:

“While I was seated in our vehicle waiting for Singh after putting the maroon luggage bag in the boot of the vehicle I saw Molefe’s driver; (I cannot clearly recall if it was Witness 1 or a colleague) putting a black luggage bag from the same lodge venue to the vehicle that was used to transport Molefe.”

20 Want to comment on that?

MR SINGH: Mr Chair I cannot comment on this as he does not refer to me in any way.

ADV MYBURGH SC: But a very detailed version again is it not?

MR SINGH: Mr Chair I think as Mr Myburgh has pointed out

that Mr Molefe did use his drivers in a certain way I think he has testified to that and Witness 3 would have known that. So it is not unusual behaviour for Witness 3 to have given a statement like this.

ADV MYBURGH SC: Sorry that was not my question.

MR SINGH: Yes Sir.

ADV MYBURGH SC: It is a detailed version that he is putting forward in this affidavit.

MR SINGH: I agree.

10 **ADV MYBURGH SC:** Correct. 51.1

“I recognised this bag as the other bag which the Chinese men had earlier taken into the meeting room.”

Any comment on that?

MR SINGH: As it relates to the inference that these bags were related in – to me in any way I deny that.

ADV MYBURGH SC: So that was a Friday I take it what would happen is you have explained is he would drive you back to the Carlton Centre, you would get into your blue
20 BMW M3 you would go home for the weekend and you would bring your blue BMW M3 back to the Carlton Centre basement on a Monday. Is that right?

MR SINGH: That is correct.

ADV MYBURGH SC: At paragraph 52.

“The next Monday Singh drove to the Carlton

Centre with his BMW M3 he left the vehicle
in the basement for the week.”

That would be consistent with what you have said correct?

MR SINGH: That is correct.

ADV MYBURGH SC:

“That Friday afternoon I was about to take
Singh’s vehicle to the car wash.”

Any comment on that?

MR SINGH: He would occasionally do that. I am not too
10 sure if it was exactly in this instance but he would
occasionally do that.

ADV MYBURGH SC: So you could have a nice clean car?

MR SINGH: Yes.

ADV MYBURGH SC: Over the weekend as we all enjoy.

“As usual I checked that there was no
valuables – that there were no valuables in
the boot that could go missing.”

You accept that he would usually do that before taking your
vehicle to be washed?

20 **MR SINGH:** I do not recall him actually returning any
valuables to me at any given point in time when he took the
cars to the carwash.

ADV MYBURGH SC: Well perhaps it is because there were
not any before this incident.

MR SINGH: Well there may have occasion to leave stuff in

the car like all of us do.

ADV MYBURGH SC: Okay.

“I ope – as I opened the boot I saw the maroon bag that I had collected from the Three Rivers Lodge the previous Friday. When I picked up the bag I realised that it weighed less than before. I opened the bag to see what was inside and I noticed a couple of rolls of R200 notes. I sms’d Singh and informed him that the bag was still in the car. He immediately came down to the basement and collected the bag from me.”

You want to comment on that?

MR SINGH: I deny the contents of this paragraph.

ADV MYBURGH SC: Now did you and your driver communicate by way of sms?

MR SINGH: Probably Whatsapp but very rarely.

ADV MYBURGH SC: But would you communicate electronically in that way it would be easier than phoning the man?

MR SINGH: Well the reason why we would communicate either in Whatsapp or sms is because of the fact that I would be in meetings.

ADV MYBURGH SC: Yes absolutely.

MR SINGH: So it would be easier for us to communicate in

that way.

ADV MYBURGH SC: And he would not want to disturb you?

MR SINGH: Yes.

ADV MYBURGH SC: And that was the mode that you communicated with one another typically?

MR SINGH: Typically if we needed to.

ADV MYBURGH SC: Of course he says that he received a sms from you at the Three Rivers Lodge to come to the conference room. That would be how you would contact him

10 and ...

MR SINGH: Well in that case I would have just called him on the phone because I would not have been engaged in any activity. It was obviously under his version it was the end of the day. So there was no formal meetings that were un – that was being conducted. So I would have called him.

ADV MYBURGH SC: But Mr – Mr alright. I suppose it must be quite difficult to work out when one would sms someone and when one would phone them. I mean all of us work with this all the time.

20 **MR SINGH:** Mr – well Mr Chair in my view if I was busy I would either sms my PA or Whatsapp my PA or Whatsapp **Witness 3** - Witness 3. But else I would either pick up the phone and discuss issues with my PA or alternatively call Witness 3.

CHAIRPERSON: I think we must take the lunch break.

ADV MYBURGH SC: Thank you Chair.

CHAIRPERSON: Ja. We will adjourn until two.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay let us continue.

ADV MYBURGH SC: Thank you, Chairperson. Mr Singh, could I ask you, please, to go to page 131 of Exhibit BB-14(d)? The ...[intervenes]

10 **MR SINGH:** Sorry, 131?

ADV MYBURGH SC: Yes, the statement of Witness 3.

MR SINGH: I am there sir.

ADV MYBURGH SC: I want to deal with what Witness 3 says under the heading, Visits to Sahara Computer Offices.

“I came prepared.

That I provided CPO Services to Singh.

I took him to the Sahara Computer offices in Midrand on a number of occasions to attend meetings.

20 I do not know with whom he met as I always waited for him in the vehicle in the parking area...”

You want to comment on that?

MR SINGH: No, Mr Chair, I deny this comment.

ADV MYBURGH SC: You say you went there but you did

not go inside?

MR SINGH: No, not for meetings.

ADV MYBURGH SC: Alright. You know who owned Sahara Computers?

MR SINGH: Yes, Chair.

ADV MYBURGH SC: Who?

MR SINGH: It was the Gupta family.

ADV MYBURGH SC: And you know who worked in these offices?

10 **MR SINGH**: No, sir.

ADV MYBURGH SC: Well, did any of the Gupta's worked there? Your now wife worked at Sahara Computer's offices.

MR SINGH: Yes, sir.

ADV MYBURGH SC: Do you know which any of the Gupta's worked in those offices?

MR SINGH: Mr Chair, I do not but I am assuming that some of them would have been there. The family would have been there.

20 **ADV MYBURGH SC**: I see.

CHAIRPERSON: Mr Myburgh, I omitted to say, today we will not be able to go beyond four o'clock as we normally do.

ADV MYBURGH SC: That is a relief Chairperson.
[laughs]

CHAIRPERSON: [laughs] And ...[intervenes]

ADV VAN DEN HEEVER: And we are quite happy too
Chair.

ADV MYBURGH SC: [laughs]

CHAIRPERSON: Yes, okay alright. So maybe around
quarter to ten to four we can adjourn.

ADV MYBURGH SC: Thank you.

CHAIRPERSON: Okay alright.

ADV MYBURGH SC: Mr Singh, if you go over the page to
10 paragraph 54:

“On a few occasions he would instruct me to
drive to Sahara Computer’s offices after hours
where he would pick up a close friend.

I would usually drop them off at his close
friend’s residence in Midrand...”

Do you have any comment on that?

MR SINGH: As I have stated before. Ms Naicker(?)who is
now my wife. That is who he is referring to.

ADV MYBURGH SC: And then at 55:

20 “It seems the close friend initially worked for
Transnet. She was later employed at
Sahara...”

We have dealt with that.

MR SINGH: Yes, sir.

ADV MYBURGH SC: Now, just a few general questions.

You have read this whole affidavit?

MR SINGH: Yes, sir.

ADV MYBURGH SC: And you have noticed, no doubt, that Witness 3 implicates Mr Gigaba, yourself and Mr Pita.

MR SINGH: That is correct.

ADV MYBURGH SC: In different ways and to different degrees, correct?

MR SINGH: I would agree.

ADV MYBURGH SC: If we go to Mr Pita. You would have
10 read that Witness 3 says at paragraph 62, when talking about Mr Pita's meetings at the Gupta's, that:

“I did not see him returning from these meetings carrying any bags...”

But then at 63, he goes on to describe the cash delivery at Knox Vaults in very much the same terms as he described yours. Do you see that?

MR SINGH: I do sir.

ADV MYBURGH SC: Do you have any idea how Mr Pita, your successor, that came to have a facility at Knox Vaults,
20 at least on this version?

MR SINGH: Mr Chair, I would not able to explain that. However, I did allude to the fact that the coincidences between the similarities of Witness 3's allegations between myself and Mr Pita is quite stark.

ADV MYBURGH SC: Mister... Chairperson, I had just

been advised that an urgent technical break for five minutes is required.

CHAIRPERSON: Okay. No, that is fine. We will take a short adjournment.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay let us continue.

ADV MYBURGH SC: Thank you. Mr Singh, I wanted to end off by just asking you this. Can you think of any
10 reasons why Witness 3 would potentially put his life in danger by fabricating this version?

ADV VAN DEN HEEVER: Chairperson, at this stage, I do not want to object but it is, with the greatest of respect, an unfounded statement that is put to the witness and for him to answer that cannot be fair in any form or manner.

CHAIRPERSON: Well, I do not know if Mr Myburgh had finished his question or proposition. I... Do you want to repeat it Mr Myburgh? Let me hear what it is.

ADV MYBURGH SC: I just want to ask Mr Singh as to
20 whether he could think of any reason why Witness 3 might potentially put his life in danger by fabricating a version against Mr Singh. That is all that I wanted to ask him.

CHAIRPERSON: H'm.

ADV VAN DEN HEEVER: Chairperson, my objection is to the first part of the question. It is a bit of a loaded

question and especially in the manner in which it is put to the witness.

CHAIRPERSON: H'm?

ADV VAN DEN HEEVER: As you yourself said on many occasions, you are here to interrogate the veracity of some – we cannot just make statements where we have no factual foundation for it.

CHAIRPERSON: Maybe let me put it this way. Mr Singh, you have said that you and Witness 3 had – were on good
10 terms, a very good – had a cordial relationship. Is that right?

MR SINGH: That is correct Mr Chair.

CHAIRPERSON: Do you know of any reason why he would want to portray you in such a bad light with regard to the Gupta family, your alleged relationship with them and say that you visited them and came out with bags, I think he says and you must just correct me if I am missing on, which later on I think he says he, at least on one occasion, found that money and that you – he visited with you or you
20 visited Knox Vault when in fact there was – there were no such visits at all?

Or is the answer the one you gave earlier, namely, you think that somebody within the Commission fed him information and influence him to falsely implicate you in this. There may be somebody in Transnet pressured

him to make these false allegations against you?

MR SINGH: Mr Chair, my response would be that my view in terms of the motive behind Witness 3's allegations or the motive behind his allegations could only stem from the fact that he was concerned about job security.

CHAIRPERSON: H'm, h'm.

MR SINGH: And bow to the pressure that he alluded to that he was under in the telephone call with myself.

CHAIRPERSON: H'm?

10 **MR SINGH**: Uhm....

CHAIRPERSON: H'm. And maybe if you do have a name or names, do not mention them now. Maybe you can look at – we can look at the names later. Is there somebody at Transnet that you think would really want you to be falsely implicated by Witness 3 in things that you were not involved in? Do you know somebody who would really desire that at Transnet?

MR SINGH: Mr Chair, I do not have a name.

CHAIRPERSON: You do not have a name?

20 **MR SINGH**: I do not have a name.

CHAIRPERSON: Yes.

MR SINGH: And I do not think I will ever come up with a name.

CHAIRPERSON: Yes, okay.

MR SINGH: Because I am not in the business of

speculation or tarnish somebody's credibility and images.

CHAIRPERSON: Yes.

MR SINGH: But as you will see, Mr Chair. In the course of leading the evidence to the Commission, you will find that there will be a continuous – how can I say – challenging of the evidence presented to drive a certain narrative.

CHAIRPERSON: H'm, h'm.

MR SINGH: Who and why that was done, Mr Chair, I do
10 not know. I do not wish to know.

CHAIRPERSON: H'm?

MR SINGH: But my obligation to you is to come here and point out these difference and to the extent I can and to the best of my ability and so.

CHAIRPERSON: I do not know whether Mr Myburgh you...

ADV MYBURGH SC: No. May I just have two more questions...?

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

ADV MYBURGH SC: Mr Singh, could I ask you, please, to
20 go to page 135, paragraph 72.1 where Witness 3 says that:

“I am concerned about my own and my family's safety and security, specifically during and after my testimony...”

I presume you cannot comment on that?

MR SINGH: I cannot to the extent that I never threatened

Witness 3 and I will never do so.

ADV MYBURGH SC: And then one just last thing. It came to light in the Commission's proceedings earlier this week and you might have read about this, that there was allegedly an attempt on Witness 1's life. Did you read about that?

MR SINGH: I did sir.

ADV MYBURGH SC: Alright. Could I ask you then, please, to turn to...

10 **MR SINGH:** Sorry, Mr Chair. Are we done with Witness 3, sir?

ADV MYBURGH SC: Yes, we are done with Witness 3.

MR SINGH: I just wanted to make a comment on your general ...[intervenes]

ADV MYBURGH SC: Sure.

MR SINGH: ...analysis of Witness 3's statement in its entirety. Mr Chair, I would just like to point you to paragraph 20 of his affidavit which is on page 125. And it relates to the period when Witness 3 was providing
20 services to Minister Gigaba and you will notice that it is the period between July and December 2013.

If you then move on to page 126 at paragraph 22, one would then note that Witness 3 is waiting in a vehicle at the residence and describes certain individuals that he sees at paragraphs 21.1, 21.2, 21.3 and 21.4.

Mr Chair, my point that I would like to try and make here is. As it relates to Mr Molefe and Mr Ngubane, in my view, I think they are public figures and Witness 3 would be able to recognise them in 2013.

My personal view is, in 2013 I did not know who Mr Matshela Koko was. I only really got to know him or if I saw him in this room, I would not have not recognise him in 2013. Equally so, Mr Chair, Ms Linda Mabaso the former Chairperson of Transnet. I did not know. I do not know
10 until she was the Chairperson of Transnet because she was ostensible not a public figure.

The reason why I raise this is because Witness 3 recognises these people way back in 2013 yet these people become public figures in 2015. So it is just another anomaly that I thought I should bring to the ...[intervenes]

CHAIRPERSON: So you raise the question how he may have known ...[intervenes]

MR SINGH: How did he make this connection.

CHAIRPERSON: ...all of these people?

20 **MR SINGH:** People at that time.

CHAIRPERSON: Ja, okay. H'm. You are obviously not in a position to positively say he did not know them then but you are just raising an issue to say it would be interesting to know how he knew people that, as far as you are concerned, were not in the public eye?

MR SINGH: Especially, Mr Chair, and in particular Ms Linda Mabaso because he refers to her as the Chairperson of Transnet.

CHAIRPERSON: But was she not the Chairperson of Transnet at the time?

MR SINGH: No.

CHAIRPERSON: She became ...[intervenes]

MR SINGH: She became Chairperson of Transnet sometime, I think ...[intervenes]

10 **CHAIRPERSON:** After?

MR SINGH: After in 2015 or so.

CHAIRPERSON: Okay. Okay. Was that the only point?

MR SINGH: Chair, that was my only point.

CHAIRPERSON: Oh, okay. Okay thank you, thank you.

ADV MYBURGH SC: I am going to come back to ...[intervenes]

CHAIRPERSON: I think it might be useful to get Witness 3 to comment on the point raised.

ADV MYBURGH SC: Yes.

20 **CHAIRPERSON:** And maybe by way of an affidavit.

ADV MYBURGH SC: As you please Chairperson.

CHAIRPERSON: Ja, ja.

ADV MYBURGH SC: Mr Singh, I am going to come back to the evidence of Witness 3 and I am going to come back to the allegations that you went to the Gupta's, the

allegation that you collected money and that you deposited it at Knox Vaults, once I have completed my examination of you and dealt with the transaction advisors, the awarding of tenders, et cetera. I will come back to that at the end.

If I could ask you, please, to turn back to your exhibit, BB-23(a).

MR SINGH: Can I return this stuff?

ADV MYBURGH SC: The driver's you can put away, yes.

MR SINGH: [No audible reply]

10 **CHAIRPERSON**: Mr Myburgh, at some stage you intimated that Mr Singh's affidavit for today might be admitted after lunch or something?

ADV MYBURGH SC: It has been included in your bundle now, DCJ.

CHAIRPERSON: Yes, okay. You wanted it to be admitted as an exhibit?

ADV MYBURGH SC: Yes, thank you.

CHAIRPERSON: Now or later? As long as you do not forget this. You might do it later if that is convenient.

20 **ADV MYBURGH SC**: Alright. My junior will remind me. Perhaps we could that just before we break.

CHAIRPERSON: Ja.

ADV MYBURGH SC: I am indebted to you Chairperson.

CHAIRPERSON: Ja, okay.

ADV MYBURGH SC: Mr Singh, could I ask you to turn to

the second 10.6 Directive that was issued to you? That you will find at page 420.

CHAIRPERSON: What is the page number again?

ADV MYBURGH SC: 420 Chairperson.

CHAIRPERSON: Ja, okay.

ADV MYBURGH SC: And at 421, you see you were told to deliver within seven weeks of receipt, thereafter the Secretary or acting Secretary of the Commission at the address given, et cetera, the declaration in which you
10 specifically address your involvement or you knowledge of the following. Do you see that?

MR SINGH: Yes, sir.

ADV MYBURGH SC: And if I could ask you then to turn to page 425 amongst the issues that you were asked to address under that head at the foot of the page, paragraph 1.12. Do you see that?

MR SINGH: I do so sir.

ADV MYBURGH SC: And you were asked to address the frequency and reasons for visits to the Saxonwold
20 residence of the Gupta family.

MR SINGH: I do so sir.

ADV MYBURGH SC: Now let us turn to your answer. That you will find at page 1500. And if I can direct your attention, please, to paragraph 300? You will see under the heading at para 1.12. Do you see that?

MR SINGH: Yes, sir.

ADV MYBURGH SC: You say at paragraph 300:

“The only person/witness that places me at the Saxonwold residence of the Gupta’s is Witness 3.

In respect of Witness 3’s evidence, I wish to state that I deny his assertion that I visited the Gupta residence as alleged.

10 I do not believe that a finding can be made that he is a credible witness, especially, based on his performance under cross-examination on Monday, 8 March 2021...”

301:

“Moreover, I wish to point out that there is no... of objective evidence to substantiate his allegation pertaining to my visit to the Saxonwold residence of the Gupta’s”

302:

20 “Insofar as I might not have been made aware of any other persons making similar allegations. I will deal with same if and when the Commission produces the evidence in this regard.”

303:

“I do not believe it is fair to ask me to answer

to unsubstantiated allegations, speculation
and innuendo.”

Right? That is what you said, correct?

MR SINGH: That is correct sir.

ADV MYBURGH SC: Where do you tell the Chairperson
you are under a summons about the frequency and reasons
for your visit to the Saxonwold residence?

MR SINGH: Sorry, I do not understand your question sir.

ADV MYBURGH SC: You were asked, in what was a
10 summons, to tell the Commission about your frequency and
reasons for visits to the Saxonwold residence.

MR SINGH: Yes, sir.

ADV MYBURGH SC: You do not do that.

MR SINGH: I guess it is an omission sir but I made full
disclosure to you which I apologise for sir.

ADV MYBURGH SC: Mr Singh, you were issued with a
summons to answer that question and you land up saying
at 303:

20 “I do not believe it is fair to ask me to answer
to unsubstantiated allegations, speculation
and innuendo.”

What were you talking about there?

MR SINGH: This is the allegations relating to or the
inferences that I drawn as it relates to individuals that
visited the Saxonwold residence.

ADV MYBURGH SC: But why... Well, why did you not tell the Chairperson, because of course, we are not dealing with Witness 3 there. You were given a 10.6 to deal with Witness 3. And then you were asked about the frequency and reasons for your visits. Why did you not in this affidavit, if you were going to be completely transparent, why did you not simply tell the Chairperson what you said when I started asking you questions?

And I asked you, how many times did you go
10 there and why did you go there. Why did you not put it in your affidavit that: I went there about ten times to attend religious and cultural functions. Why did you not say that?

MR SINGH: As I said, Mr Chair, I think it was omission on my part which I apologise for.

ADV MYBURGH SC: No. An omission on your part?

MR SINGH: Yes, sir.

CHAIRPERSON: Well, one gets the impression from your answer here that it was not an oversight on your part, not to give this information because you had been asked to
20 indicate how many times you may have visited the Gupta residence and what the reasons were for your visits. Your answer seems to object to being asked those questions. You say:

“I do not believe it is fair to ask me to answer to unsubstantiated allegations, speculation

and innuendo.”

But you are simply being asked to the extent you may have visited the Gupta residence: Tell us how many times and what were the reasons? That is what you had been asked. And your answer seem to be: Do not ask me about that. You accept this interpretation of your answer?

ADV VAN DEN HEEVER: Chairperson, again, I do not wish to object but I think the answer in the affidavit must be read in the context of who he responds to.

10 **CHAIRPERSON:** Well ...[intervenes]

ADV VAN DEN HEEVER: It is not like it is suggested by Mr Myburgh that he responds – that response relates to the frequency of the visits to the Gupta residence. I think the witness tried to make that point and say: I deal with this in relation to the heading that is there.

CHAIRPERSON: Yes-no, but the – this is a directive. It seeks certain information and in his answer he does say ad paragraph 1.12 of the Regulation 10.6 Directive. Is not an answer to an affidavit. It is a question that is being put by
20 the Chairperson to – through a directive to get information as part of the Commission’s investigation. You understand that?

ADV VAN DEN HEEVER: [No audible reply]

CHAIRPERSON: Do you want to say anything about my interpretation that your answer to – seems to be: Do not

ask me about that.

MR SINGH: No, sir.

CHAIRPERSON: Okay alright. Mr Myburgh.

ADV MYBURGH SC: Well, perhaps I could just ask you one more question. If you read 300 to 303.

MR SINGH: Yes, sir.

ADV MYBURGH SC: And that is a fact, is, you are telling the Chairperson that you have never been to the Gupta's.

MR SINGH: No, sir.

10 **ADV MYBURGH SC**: Well, if you read it, you say:

“The only person who places me there is
Witness 3 and he is not to be believed...”

So the net effect is, you did not go there.

MR SINGH: No, sir, I would not. If that was the case, I would not have led the testimony I led.

ADV MYBURGH SC: But let me ...[intervenes]

CHAIRPERSON: Actually... I am sorry. Actually, Mr Singh, if you will look at paragraph 301. You say:

20 “Moreover, I wish to point out that there is
no... objective evidence to substantiate his
allegation pertaining to my visit to the
Saxonwold residence of the Gupta's”

That seems to me to be saying: Any allegation that I visited the Gupta's is not substantiated. As opposed to saying: Look, I have been to the Gupta's but not under

the circumstances that he says I went there.

MR SINGH: Mr Chair, I might be misunderstanding you but I think the response in paragraph 301 relates to the allegations that he was making to my business.

CHAIRPERSON: H'm, h'm. Yes, Mr Myburgh.

ADV MYBURGH SC: Yes, thank you Chairperson.

CHAIRPERSON: But of course, I am sure you accept that it would have been better for you to say: Well, I deny the allegations that I visited the Gupta residence under the
10 circumstances that he outlines but I did go there for cultural occasions and for religious occasions. So visiting there is not denied. It is visiting there under the circumstances that he gives that is being denied. I am sure that would have been much better, is it not?

MR SINGH: I concede that that would have been a better way to contextualise the subject Chair.

CHAIRPERSON: H'm. Okay. Mr Myburgh.

ADV MYBURGH SC: Yes, thank you. Now, DCJ, whilst we are in this file, we were at page 1500. Could I ask you...
20 Perhaps I should just deal with the affidavit now because it is in the same file.

CHAIRPERSON: That is fine, ja. That is fine.

ADV MYBURGH SC: Mr Singh, could you please go to page 1507?

MR SINGH: 1507?

ADV MYBURGH SC: 1507. There you will find an affidavit. If you go to page 1 – of yours – go to page 1539. That is the signature page and it contains a series of annexures that run up until 1563. Would you confirm that?

MR SINGH: Yes, sir.

ADV MYBURGH SC: Now if you go back to page 1539, would you confirm that you swore to this affidavit on the 12th day of March 2021?

MR SINGH: I do sir.

10 **ADV MYBURGH SC:** I presume earlier this morning?

MR SINGH: Yes, sir.

ADV MYBURGH SC: And would you confirm the truth and accuracy of this affidavit?

MR SINGH: I do so.

ADV MYBURGH SC: Thank you. Mr Chairperson, if I could ask you, please, to admit Mr Singh's affidavit that commences at page 1507 as Exhibit BB-23.8?

CHAIRPERSON: Mr Anoj Singh's affidavit starting at page 1507 is admitted as an exhibit and will be marked as
20 Exhibit BB-23.8.

ANOJ SINGH'S AFFIDAVIT STARTING AT PAGE 1507 IS ADMITTED AND MARKED AS EXHIBIT BB-23.8.

ADV MYBURGH SC: Thank you. Mr Singh, on these ten or so occasions that you went to the Gupta residence, who did you see there?

MR SINGH: Mr Chair, other than the family that was present and other invitees, no one of significance or that I recall.

ADV MYBURGH SC: Well, did you, for example, see Mr Molefe there? By his own admission, he went often including to family functions.

MR SINGH: I do not recall.

ADV MYBURGH SC: I see. You cannot recall anyone that worked at Transnet there on those ten occasions?

10 **MR SINGH:** Not off hand Mr Chair. As I said it was probably ten occasions over a period of five to six years. So I do not...

ADV MYBURGH SC: Yes. Alright. I want to turn to another topic and that relates to the Manganese Expansion Project. Can I ask you please to turn to Transnet Bundle 4 behind you and Exhibit 19?

MR SINGH: [Indistinct] [speaker moved away from microphone]

CHAIRPERSON: Somebody must just help the witness,
20 please.

ADV MYBURGH SC: Someone will help you now.

MR SINGH: Thank you.

CHAIRPERSON: You might wish to repeat the bundle Mr Myburgh. I think your attorney might not have heard it.

ADV MYBURGH SC: Transnet Bundle... [speaker moves

away from microphone – unclear] At page 31.

MR SINGH: The black numbers sir?

ADV MYBURGH SC: Yes. So this is the affidavit of Mr Henk Bester. You will recall that at the time he worked for Hatch Consulting.

CHAIRPERSON: Did you say 21 or 31?

ADV MYBURGH SC: I had. I wanted to go to 31 but then I see that inadvertently went to start at the statement. it actually starts at page 24.

10 **CHAIRPERSON**: Okay. So you will go to 31, that is where your questions ...[intervenes]

ADV MYBURGH SC: Yes.

CHAIRPERSON: Okay, I have 31.

ADV MYBURGH SC: Alright.

MR SINGH: Sorry?

ADV MYBURGH SC: 24. It starts at 24.

MR SINGH: The black numbers?

ADV MYBURGH SC: BB-19.

20 **CHAIRPERSON**: Yes, use the black numbers. Check on the spine whether it is the correct one.

ADV MYBURGH SC: Mr Singh, BB-19. I can see it from here. It is the next divider.

CHAIRPERSON: Okay let us start afresh. Mr Singh, the first thing is to check if it is the right bundle and you will see that on the spine where it says, this one is Transnet

Bundle 4. Transnet Bundle 4. And then you will go to the right page.

MR SINGH: Yes.

CHAIRPERSON: And I think the right page 31. Have you got it?

MR SINGH: [No audible reply]

CHAIRPERSON: Have you got it, the black 31?

MR SINGH: So we are going to 31 sir?

ADV MYBURGH SC: Sorry, Mr Singh?

10 **MR SINGH**: Are we going to 31?

ADV MYBURGH SC: Yes.

MR SINGH: Thank you.

ADV MYBURGH SC: You – this is the affidavit or statement of Mr Henk Bester. You have read it, presumable and you have read it carefully?

MR SINGH: Yes, sir.

ADV MYBURGH SC: And you have noted that there are many references to you in this statement?

MR SINGH: Correct, sir.

20 **ADV MYBURGH SC**: You have noted as well that he alleges that you attended a meeting together with Mr Essa.

MR SINGH: I do so.

ADV MYBURGH SC: I want to then deal with those passages if I could?

MR SINGH: Sure.

ADV MYBURGH SC: The first paragraph where you are implicated is paragraph 23 at page 31. And he says that on the 26th of July, I met with Rudi Basson, Transnet Capital Projects... [audio recording ended] ...time to inform him of the visit that I had from Padayachee and Reddy and the apparent insight they seem to have into Transnet matters as outside companies.

MR SINGH: Sorry, Mr Chair. I apologise for interrupting Mr Myburgh but I seem to have a cramp.

10 **CHAIRPERSON:** Sorry?

MR SINGH: I seem to have a cramp on my leg.

CHAIRPERSON: Oh.

MR SINGH: Is it possible to just take a break?

CHAIRPERSON: A break?

MR SINGH: Two minutes?

CHAIRPERSON: Okay alright. Let us adjourn for five minutes. We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

20 **CHAIRPERSON:** Are you feeling better, Mr Singh?

MR SINGH: Thank you, Mr Chair, I am.

CHAIRPERSON: Okay, alright, let us continue, Mr Myburgh.

ADV MYBURGH SC: Thank you. So, Mr Singh, we were at page 33 of Transnet bundle 4A, EXHIBIT 19. Sorry,

page 31, paragraph 23. So I am going to fast-forward just a little bit. What Mr Bester says is that he has a meeting together with Mr Basson and Ms Strydom, this is what he says at 23. At 24 he says that:

“Basson told me that Singh wanted a confinement approval condition included which stipulated that PM Africa and DEC would form part of the SD component for phase 1. According to Basson, him and Mr Gerhard Bierman, CFO of TCP told Singh
10 that it would not be advisable to stipulate specific companies to be used in SD initiatives. Basson said that this condition was subsequently dropped.”

Do you have any comment on that paragraph?

MR SINGH: Mr Chair, firstly, in terms of paragraph 24 we note that there is no confirmatory affidavit that is submitted of Mr Basson to this extent. In addition, Mr Chair, Mr Basson does correctly state that the stipulation as suggested by Mr Bester was in fact dropped.

CHAIRPERSON: Well, the question is what do you have
20 to say about the statement by Mr Hank Bester that Mr Basson told him that you wanted the confinement approval condition included which debated that PM Africa and DEC should form part of the SD component. You have said that there is no confirmatory affidavit by Basson, is that where you stopped or you would say yes, I know about that, I did

1 speak to Basson or you say you did not say that to
2 Basson?

MR SINGH: Mr Chair, the context behind this issue
emanates from the fact that the issue of SD and SD being
supplied with – or empowerment, as you would describe it,
was a particular problem within the environment within
which Mr Basson and Mr Bierman operated. They operated
in a division of Transnet called Transnet Capital Projects
and Transnet as an state owned company has an obligation
10 and it is contained in its, you know, shareholder compact
with the Minister and so on in the corporate plan as well
but it would advance the empowerment and supply
development objectives and this comment was made in that
context primarily because of the fact that the Transnet
Capital Projects, as the name suggests, was involved in
construction-related activity and one of the issues that was
highlighted relating to empowerment and supply
development was that Transnet Capital Projects was
relatively lagging behind because of the specialist nature
20 of the work that is conducted by the construction company
or the engineering consultants. So in this case, Mr Chair,
we are talking about the manganese expansion project.
Now the manganese expansion project after the locomotive
project was probably one of the biggest projects that
Transnet would undertake. It was, I think, in the region of

about 20 billion if I am not mistaken in terms of the estimated total cost of the budget.

So we really saw this as an opportunity to be able to drive supply development using this project as it relates to the size and the magnitude of the project. So this is the context within which this request was made from a procurement procedure manual perspective which is the document that guides the procurement within Transnet it would not allow it. So from that perspective it was used as
10 an example for Mr Basson and Mr Bierman because Mr Bierman was the Chairperson of the acquisition council at Transnet Capital Projects to be able to explore opportunities, options, alternatives, to be able to improve TCP's SV scores, to enable them to be aligned more to our targets and also then try and transform the engineering and the construction industry space as it relates to supply development.

So it was not a direct instruction to say listen, you must do this. As Mr Basson concedes that once Mr
20 Bierman and Mr Basson had briefed me regarding their deliberations, the idea was brought. The issue was, I was trying to convey to them the seriousness with which they need to look at this aspect to allow us to be able to meet Transnet's objectives.

CHAIRPERSON: Okay, so the answer is yes, you did

make that statement but you are saying you are providing the context with which you made.

MR SINGH: Context.

ADV MYBURGH SC: Yes, so a hearsay and a lack of a confirmatory affidavit is a non-issue because you accept you said this, this is what you wanted.

MR SINGH: As to whether I said it to Mr Basson or Mr Bierman, that I am not too sure.

ADV MYBURGH SC: Well, Mr Bierman, we know that he
10 put in an affidavit and he deals with it as well.

MR SINGH: Yes.

ADV MYBURGH SC: So just that we understand this, you wanted a confinement approval condition, you must correct me if I am wrong, included which stipulate that PM Africa and DEC should form part of the SD component for phase one.

MR SINGH: No, that I deny, Mr Chair.

ADV MYBURGH SC: Well, what did you want?

MR SINGH: As I have explained, Mr Chair, I wanted them
20 to explore opportunities, alternatives of methods to enable Transnet Capital Projects to meet its mandates as it relates to transformation and supply development. As an example, I said why do you not explore this?

ADV MYBURGH SC: You would accept that it would be improper to impose on someone like Hatch the appointment

of particular SD partners.

MR SINGH: Yes, I will.

ADV MYBURGH SC: Alright. So let us go to paragraph 25.

CHAIRPERSON: Well, maybe I should say this in fairness to you, Mr Singh. You see, when you said Mr Basson had not provided a confirmatory affidavit it came across as you were denying, you were going to dispute that you made that statement ...[intervenes]

10 **MR SINGH:** Yes, Chair, I dispute the context of the statement that I requested DEC to be...

CHAIRPERSON: Yes.

MR SINGH: Or to be SD partners of Hatch.

CHAIRPERSON: Yes, okay.

MR SINGH: My view has always been site development partners are the choice of the main contractor.

CHAIRPERSON: Yes.

ADV MYBURGH SC: Alright. Then at 25:

20 “Later that same day I received a call from Basson, says Bester who requested that Hatch sign an MOU with PM Africa and DEC. Basson did not give me a reason for this request and I would be speculating if I were to say I knew the reason. I can only imagine that there must have been pushback when he informed Singh of what I had told him about

Padayachee and Reddy approaching Hatch. Singh must have insisted that the MOU be signed.”

Do you want to comment on that?

MR SINGH: Mr Chair, I deny this allegation and on Mr Bester’s own version he is speculating as to what the reason could be. Secondly, as Mr Bester already conceded in paragraph 23, which I was led on, the requirement was not even enforced.

ADV MYBURGH SC: So you accept though or do you
10 dispute that Mr Bester was requested to sign an MOU with PM Africa and DEC?

MR SINGH: Mr Chair, I cannot comment, I was not party to those discussions between Mr Bester and DEC or PM Africa. I do not recall this request, the request never came from me.

ADV MYBURGH SC: Then let us get to paragraph 29 at page ...[intervenes]

MR SINGH: I think also, Mr – sorry, sorry, just one further comment. Mr Chair, at the outset I would like to draw the
20 Commission’s attention to one fact. These interactions, whether it be Mr Basson with Mr Bester and Mr Bester with Ms Strydom because I am sure we are going to led with Ms Strydom’s evidence as well, is highly irregular in its nature because these things actually happening, as the Chair will see, these things are happening as a tender process of the

provision of these EPCM services unfolding. It is highly irregular for Mr Bester to engage in this type of behaviour equally so for Mr Basson and for Ms Strydom given the positions that they have in the project. Mr Bester would have reported to Mr Basson as a Transnet equivalent. Ms. Strydom was the project manager relating to the MEP, project, the manganese expansion project. So they had very senior positions and for them to be interacting with Mr Bester, a potential service provider on these matters
 10 during a live procurement process is highly irregular.

ADV MYBURGH SC: Now, Mr Singh, perhaps I could just ask you to keep that bundle open and move to Mr Bester's affidavit – sorry, Mr Bierman's affidavit. This is Transnet bundle 4, EXHIBIT BB21.

MR SINGH: I am there, sir.

ADV MYBURGH SC: Can I ask you please to turn to page 928? Just in relation to your evidence that you were not proposing specific SD partners, you would have seen at paragraph 18 at 928 that Mr Bierman says that he gave you
 20 feedback via a Whatsapp.

MR SINGH: Indeed, sir.

ADV MYBURGH SC: And it says:

“Anoj, on manganese confinement, my procurement team wants to strangle me. The view is that be designating a specific company as SD of

subcontracting the process will fail fairness transparency and equitable test. We have considered options and investigated this previously. It would be great to do this but we are not allowed to. If Transnet chooses to go this route we will still have to apply this consistently.”

Do you see that?

MR SINGH: I do, sir.

ADV MYBURGH SC: Does it not appear from that
10 Whatsapp that you were proposing specific SD partners?

MR SINGH: Again, Mr Chair, it comes back to the issue of me requesting a principle to be explored or alternatives to be explored and later on you will see that there is a long Whatsapp message from Mr Bierman again dealing with this topic. But again from that Whatsapp message you will see that the issue that was being discussed was an issue of principle.

CHAIRPERSON: Well, the question is whether when you read paragraph 18 of Mr Bierman’s affidavit with the
20 quotation of that message, you say a Whatsapp message.

MR SINGH: Sorry, Mr Chair?

CHAIRPERSON: You cannot hear me?

MR SINGH: Yes, sorry.

CHAIRPERSON: I am sorry. You see, I am used to a situation where my – everybody hears me because my

voice is rather loud but lately there have been complaints that I cannot be heard, so - okay. No, I was saying Mr Myburgh's question to you was whether you do not concede that a reading of paragraph 18 of Mr Bierman's affidavit with that quotation of a Whatsapp message you do not concede that appears that you had spoken to him about designating a specific company as a subcontractor or SD, Just from the message in that paragraph.

MR SINGH: Mr Chair, this again refers to a principle,
10 correct? It does not mention them by name.

CHAIRPERSON: Well, the second sentence says:

"The view is that is that by designating a specific company as SD or subcontracting the process, the subcontracting process will fail fairness, transparency and equitable test."

That sentence comes after the first sentence where he says"

"Anoj, on manganese confinement, my procurement team wants to strangle me."

20 **MR SINGH:** Agreed, sir.

CHAIRPERSON: Why do they want to strangle him? It would seem on the face of it that it is because of the view which is contained – which he refers to in his second sentence because of the view that a specific company must be designated as SD or subcontractor.

MR SINGH: I think ...[intervenes]

CHAIRPERSON: Since he is writing to you...

MR SINGH: Yes.

CHAIRPERSON: It gives the impression, *prima facie* at least to me that he is writing to you because you are the one who may have wanted that a specific company be designated as SD. So the question from Mr Myburgh was whether you do not concede that a reading of this message such as that.

10 **MR SINGH:** Mr Chair, I concede that after the reading the ...[intervenes]

CHAIRPERSON: The second sentence.

MR SINGH: The first sentence of that [inaudible – speaking simultaneously] which says:

“After concluding our profile of the two companies.”

CHAIRPERSON: Yes.

MR SINGH: Which I will assume is DEC and there is one other, I cannot remember its name.

CHAIRPERSON: Ja. Okay, alright. Mr Myburgh?

20 **ADV MYBURGH SC:** So now you concede what?

MR SINGH: That there was a request from me to co-hire two companies.

ADV MYBURGH SC: Right, I see. Mr Singh, can I just perhaps – I meant actually to start out by asking you more general questions. Was there a time when you were

employed as Transnet where you became at least suspicious of the fact that this SD partner, provision for SD partners was being exploited and manipulated?

MR SINGH: I do not recall the exact events.

ADV MYBURGH SC: Yes, but you have no doubt reflected carefully on your time at Transnet, backwards, not so?

MR SINGH: You mean since I have left?

ADV MYBURGH SC: Yes.

MR SINGH: And in terms of how things have now
10 unfolded?

ADV MYBURGH SC: Yes.

MR SINGH: Okay, yes.

ADV MYBURGH SC: And you have paid attention to evidence that has been given. Do you have any sense at the time that there were problems with SD partners and that they were being used in an irregular way?

MR SINGH: No, sir, I do not think I can agree with you on that one.

ADV MYBURGH SC: No, I am not asking you to agree, I
20 am asking you did you have a sense, did you have any suspicion that SD partners were being used in an irregular way?

MR SINGH: No, sir.

ADV MYBURGH SC: Now in relation to this affidavit of Mr Bester, as I understand it you want to essentially delete

your involvement ...[intervenes]

MR SINGH: Sorry, sir?

ADV MYBURGH SC: You say you were not involved, I mean essentially when you take issue with the places where you refer to.

MR SINGH: Yes.

ADV MYBURGH SC: But you accept from an overall perspective this reflects a very serious situation, does it not, of an abuse of the SD partner process.

10 **MR SINGH:** On whose – on whose side, sir?

ADV MYBURGH SC: What Mr Bester's version.

MR SINGH: In terms of the actions of DEC or the actions of Transnet or the actions of Hatch?

CHAIRPERSON: No, I think Mr Myburgh what he is asking is when you say – when you ask him whether he does not accept that this evidence reflects very – reflects an abuse of the system, I think he wants to know abuse by whom. I think you wanted to know abuse by whom? Is that right?

MR SINGH: Yes, yes, exactly, yes.

20 **CHAIRPERSON:** Ja, okay.

ADV MYBURGH SC: Well certainly by the SD partners.

MR SINGH: Mr Chair, in terms of I cannot comment on the actions of DEC or any other SD partner that I have not engaged with but certainly the environment is one where people would ordinarily understand that there are projects

that are about to be launched by Transnet, whether it be locomotives, whether it be the manganese expansion project, the port expansion project, pipeline project and they know when these, you know, RFPs go out into the market and they engage actively with potential service providers and that is as far as I know as to how this industry operates. Like in all industries maybe there are people that, you know, are unscrupulous and would probably use it for other purposes but if you look at this
10 specific example, this specific example, as we, from a Transnet perspective, we wanted to advance the objectives of enhancing the SD criteria and we achieved that. Hatch was appointed, they agreed to a 50% threshold and it came with an opinion, so from Transnet's perspective we achieved all of the objectives that we wanted and it was a desirable outcome for us as Transnet.

ADV MYBURGH SC: Whilst we are in the Bierman file, if you still have it there, could you turn to page 935 please?

MR SINGH: Yes, sir.

20 **ADV MYBURGH SC:** Here you see that Mr Bierman send you, it seems, a profiling of DEC, is that correct?

MR SINGH: Correct.

ADV MYBURGH SC: That is what you wanted him to do, to profile this particular SD partner.

MR SINGH: And apparently one other.

ADV MYBURGH SC: Yes. Alright, if we go back then to paragraph 29 at page 33 of bundle 4A.

MR SINGH: This is Bester.

ADV MYBURGH SC: So paragraph 29, on or about 1 August ...[intervenes]

CHAIRPERSON: Hang on, we are going back to Mr Bester's one.

ADV MYBURGH SC: Mr Bester's affidavit, yes.

MR SINGH: The paragraph?

10 **ADV MYBURGH SC:** 29.

MR SINGH: Yes, sir.

ADV MYBURGH SC:

20 "On or about 1 August I received a call from Padayachee who indicated he would like to see me again. We agreed to meet on 5 August 2013. At the meeting Padayachee and Reddy advised that the confinement approval was imminent but Hatch needed to sign an addendum to the MOU that Hatch had amended. Before confinement could be finalised it was clear that they were not happy with Hatch's proposed amendments, I understood this to mean that either Singh would not approve the confinement in order for Molefe to give final approval. Alternatively, both Molefe and Singh would not give the necessary approvals."

Do you want to comment on that?

MR SINGH: Mr Chair, I deny the allegations contained in this paragraph, it is clearly and patently obvious that Mr Bester is speculating again. He does not – when he is confronted by Padayachee and the other gentlemen he does not enquire from them as to why they say this, so he is now professing and spurious allegation that implicates myself and Mr Molefe.

ADV MYBURGH SC: Alright, so let us then go please to
10 paragraph 35.

MR SINGH: Sorry?

ADV MYBURGH SC: No, we need to just give some context to this. At paragraph 34:

“On the morning of 7 August Gray and I met with Strydom at Woodmead to advise her more fully of the situation. This resulted in Strydom calling Sisheke(?), general counsel for TFR at the time. Sisheke requested that we, Gray, Strydom and me come to the Carlton Centre immediately to brief her.
20 We met Sisheke at the Wimpy at Carlton Centre and provided her with a full debrief of what had transpired up to date. Sisheke indicated that Hatch had done the right thing to elevate the matter to TFR. We showed the Sisheke the proposed addendum by Mr Padayachee and Reddy which she

photographed using her iPad. Sisheke then indicated that she will inform the right people at Transnet and that Hatch should take no further steps. She further advised that Hatch should send her in due course an affidavit via email to a private Gmail account setting out exactly what had transpired.”

35 – so that is the background.

10 “However, I was later informed by Strydom that the matter was elevated to Singh who considered the matter closed and that no further action is to be taken. This was the same message that Strydom told me received from Bouwer.”

Do you want to comment on that?

MR SINGH: Mr Chair, again I would just like to highlight that it is again very irregular for now not even Mr Bester but Mr Gray, who is even more senior than Mr Bester, to engage in again these discussions with Ms Strydom during a period of time when this is a live procurement event that
20 is being conducted, every single Transnet tender that is issued with a qualification or a highlight or emphasises the fact that if they are any issues relating to any irregularities that anyone finds whether it be on the employer’s side, whether it be on the employee’s side. When I say employer, employee, I am talking about it in EPCM terms.

They are compelled to report this through the Transnet tip-off anonymous hotline.

ADV MYBURGH SC: Well, assuming you are right, I mean, do you think that adds or subtracts from this version?

MR SINGH: Sorry?

ADV MYBURGH SC: Do you think it adds or subtracts from Mr Bester's version?

MR SINGH: Mr Chair, it subtracts from Mr Bester's
10 version because he was aware of the appropriate procedure to use.

ADV MYBURGH SC: But he is nevertheless telling his story, Mr Singh, and perhaps I could just ask you – you have already given us that version, you have told us of the irregularities, can you now deal with paragraph 35 where you refer to?

MR SINGH: Mr Chair, I have not mentioned any irregularities that involve myself.

ADV MYBURGH SC: No, no, no, I am not suggesting that.

20 **MR SINGH:** Yes.

ADV MYBURGH SC: But you have told us about how you think Mr Bester conducted himself in an irregular fashion.

MR SINGH: Yes and I am highlighting it now that even the more senior person in Hatch is engaging in the same activities.

ADV MYBURGH SC: Deal with paragraph 35.

MR SINGH: Oh, okay, yes.

ADV MYBURGH SC: It is late on Friday but really the purpose of this is for you to answer the paragraphs where you are implicated.

MR SINGH: Well, that is the reason I go back to 34.

ADV MYBURGH SC: Yes.

MR SINGH: Is that the avenues that Ms Strydom was also aware of was that she should have followed the Transnet
10 trip-off anonymous hotline. There is a record of this, it is outsourced, it was outsourced I think Deloitte or one of the companies to be able to take record of these things, there was complete – there was a complete policy in how these issues must be dealt with. So if this complaint, as it is recorded in paragraph 35, for example, reached the tip-off anonymous hotline, that tip-off would have been automatically escalated to Mr Molefe and escalated to the Chairman of the audit committee.

ADV MYBURGH SC: Could I ask you please to answer
20 paragraph 35?

MR SINGH: Based on what I have said, I am responding to paragraph 35 by saying I do not believe that that was Mr Bouwer's response.

ADV MYBURGH SC: What about yours?

“However I was later informed by Strydom that the

matter was elevated to Singh who considered the matter closed.”

That is really what I am trying to ask you to deal with.

MR SINGH: But that is my point, sir.

ADV MYBURGH SC: Right.

MR SINGH: If there were irregularities that they were responding to...

ADV MYBURGH SC: Yes?

MR SINGH: They would have not raised it with me, I was
10 the one that was implicated. There would have been alternatives that they would have explored, which is the tip-offs anonymous hotline. Ms Strydom has access to Mr Gama who is her direct report.

ADV MYBURGH SC: Who it was raised was Sisheke the general counsel of TFR.

MR SINGH: Exactly, so that is my point, if she did not get an appropriate response and this which is being elevated to me, the implicated person, and me making a decision about what implicates me and closing the matter in my view
20 in an inappropriate response, so she would have went and elevated it to Mr Gama.

CHAIRPERSON: I am sorry, Mr Singh, is it true or is not true that the matter was elevated to you and you were going to consider and you consider the matter closed?

MR SINGH: Mr Chair, that matter was never elevated to

me.

CHAIRPERSON: Okay, alright. Mr Myburgh?

ADV MYBURGH SC: Thank you, perhaps I could deal just with one more paragraph. At 47 please at page 41, paragraph 47.

MR SINGH: 47. Yes, sir.

ADV MYBURGH SC:

10 “To the best of my knowledge says Bester – sorry to my recollection the meeting with Pita which was set up to include Singh was held on 22 October 2013. I annex a meeting invite from Pita as HP14. This meeting was attended by Graham and me and started almost an hour late after Singh had not arrived. Pita said that Singh requested that he speaks to us as he, Singh, was busy, but we could see him, Singh, pacing up and down in his office and even pass us on his way to the restroom.”

Do you have anything to say about that.

20 **MR SINGH:** Mr Chair again I do not have a direct recollection of this meeting, but I assume that the meeting did occur, because Mr Bester attaches a meeting invite for that meeting. Given the date of this meeting in the procurement – in the timeline of the procurement events that was being, that was unfolding, in terms of the award to Hatch, I can only understand that this meeting was not for

us to discuss DEC and whether they included or excluded. This meeting was particularly called for Hatch to understand the need for us to meet a 50% SD special and for them to actually agree that the 100 or 150million or 200million premium that they had included in the tender all that criteria was unacceptable. And that is the reason why Mr Pita, who was the Chief Document Officer at the time, attended that meeting.

ADV MYBURGH SC: You feel you have answered what I
10 put to you?

MR SINGH: You asked, you read this paragraph and you asked me my thoughts.

ADV MYBURGH SC: Alright, thank you. And then finally can I just take you please to page 44, so ...[intervenes]

MR SINGH: Sorry page 44?

ADV MYBURGH SC: Yes, we can fast forward as lot of this, paragraphs 54, 55, 56 your name is mentioned but effectively what is contended is that Mr Reddy must set up a meeting with you, and I want to get to that meeting,
20 paragraph 57.

“On my arrival at Melrose Arch as I walked towards the restaurant I was met by a gentleman who introduced himself as Mr Salim Essa. He said that he was there to meet with us as part of the discussion with Singh and needed to see if the

restaurant is clean. I asked him where Mr Singh was and he said he will call him when he, Essa, is ready. I asked Essa whether he himself works for Transnet and he responded that he is “doing a lot of things” or something to that effect of I have a lot of businesses. He clearly had no intention of answering my question in detail. I was surprised at the time but as soon as Essa called Singh arrived a few minutes later.”

10 Do you want to comment on that?

MR SINGH: Thank you Mr Chair. Again Mr Chair I deny the allegations contained in this paragraph as it is made by Mr Bester and I do so for the following reasons. Mr Chair as Mr – or Advocate Myburgh has introduced this paragraph he makes reference to 54, 55, and 56. These paragraphs need an understanding of how this meeting came about, so by and large on Mr Bester’s version this meeting came about as a result of the fact that Hatch was having problems in settlement of their invoice with
20 Transnet Capital Projects. At the time Transnet Capital Projects was involved in the new market project pipeline project and those are the invoices that they had a problem being settled. I don’t recall the exact issue, I do not recall the fact that they were not paid, but that is what Mr Bester says.

Now there is two issues, the first issue is Mr Bester in terms of his title was a director for Rail, now why would a director for Rail try and settle ostensibly pipeline invoices, which I would assume within the Hatch hierarchy would be dealt with by somebody else.

So he references two other colleagues of his that were invited to this meeting. He does not attach any meeting invites for these two individuals, as in an organisation as big as Hatch you would expect that these
10 things would happen as a matter of course through invites, or emails. He did attach in the meeting with Mr Pita as we just heard a meeting invite. He does not attach the same here.

Secondly ...[intervenes]

ADV MYBURGH SC: I think you mean thirdly.

MR SINGH: Thirdly he attends the meeting on his own initiation, on his own, allegedly with the CFO of Transnet discuss disputed invoice. For a person that is emanating from the Rail business unit to discuss disputed invoices
20 related to a pipeline project without the benefit of any finance people from Hatch.

ADV MYBURGH SC: So Mr Singh did you attend the meeting with Mr Essa or not?

MR SINGH: Mr Myburgh I have denied the allegations in its totality and I am explaining to you why I have done so.

ADV MYBURGH SC: Well perhaps we should first start with that. He says that the meeting was called, Mr Essa was there, Mr Essa called you arrived at the meeting.

MR SINGH: Mr Chair I deny that the meeting was called. I deny that Mr Essa was there. I deny that I met Mr Bester for the reasons he sets out, for the reasons that I indicated. It is even further very spurious or again it questions Mr Bester's objectives or character, having highlighted all of the issues that he highlighted in terms of
10 manner in which he was dealing with him on the confinement matter he now seeks assistance from Mr Padayachee to be able to resolve a problem for him, and you will see Mr Chair as we go through Phase 2 you will find a similar problem in that the same, very same DEC that Hatch is now complaining about is included as part of Manganese Phase 2 as a sub-contractor and that is after two additional interactions with Mr Essa, or related interactions with Mr Essa.

ADV MYBURGH SC: Mr Chairman I see that it is ten to
20 four, if this is an appropriate time to adjourn ...[intervenes]

CHAIRPERSON: To adjourn, ja no I think let us adjourn, Mr Molefe is done except a very limited portion of his evidence that we must still deal with then Mr Singh still has quite a lot to deal with.

What is your estimate of how much time you would

need with Mr Singh ...[intervenes]

ADV MYBURGH SC: Two days.

CHAIRPERSON: About two days, okay, no that is fine. I will try and two days somewhere.

ADV MYBURGH SC: And please Chairperson don't forget about Mr Gama.

CHAIRPERSON: Oh yes Mr Gama too, and what is our estimate?

ADV MYBURGH SC: I think he could also be two days.

10 **CHAIRPERSON:** Two days, okay, I will have to do a miracle and find ...[intervenes]

ADV MYBURGH SC: We are flexible and I am sure we can convince our opponents to sit at night and to get squeezed into those night sessions if that would be more convenient for you.

CHAIRPERSON: Ja, ja, no, no I think everybody is cooperative about the evenings as well. Counsel for Mr Singh?

20 **ADV VAN DEN HEEVER:** Chairperson as far as possible we will definitely cooperate – you might not be aware sometimes there is prearranged meetings but we will deal with it as they come up.

CHAIRPERSON: Yes, ja, okay no that is fine. I am sure it is the same with you Mr Singh?

MR SINGH: That is correct Mr Chair.

CHAIRPERSON: Yes okay, I will try and make sure the dates are sorted out as soon as possible.

Thank you to everybody, we will adjourn for the day, just for the benefit of the public on Monday there will be no hearing but on Tuesday and the days after that next week there will be evidence relating to Eskom.

We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS TO 16 FEBRUARY 2021